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## **Dedictory**

This work would have never been finished without the support and insistence of my parents, to whom I give my infinite gratitude for their patience during the long years of my academic preparation and enabling me to contribute to society. Likewise, I also thank my professors for their teachings during this stage of my life, especially to Fabián Carvallo, my thesis director, whose unconditional help I relied on throughout this project. Finally, I thank the public functionaries of Asfaltar EP, who were of great support in obtaining key information for this project.

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## **Abstract**

This document proposes an investigative and exploratory plan used in import process of a public business in Ecuador. It is applied for the acquisition of machinery abroad by the business annexed to the Provincial Government of Azuay called Asfaltar EP. The following analysis was carried out to determine the needs of the business in relation to their established objectives, an analysis of current regulations applicable to the project and an analysis of the operational process to be implemented for the import process. Thus, it was possible to determine that the business in question has the legal capacity to carry out imports. Additionally, the investment project will generate significant savings in economic resources for the administration of AsfaltarEP, its functionaries, and its beneficiaries. The financial resources could be used in other projects without ignoring the urgent needs of the company.

## **Resumen**

El presente documento propone de manera investigativa y exploratoria el plan para la importación de una empresa pública en el Ecuador aplicado a la adquisición de maquinaria en el extranjero por parte de la empresa anexa al Gobierno Provincial del Azuay, Asfaltar EP. Se llevó a cabo un análisis situacional de las necesidades empresariales en relación a sus objetivos planteados, un análisis de normativas vigentes aplicables al proyecto y un análisis operativo del proceso a implementarse para una importación. Determinando así que la empresa en estudio está en la capacidad legal de realizar una importación y que el proyecto de inversión generará ahorros significativos en recursos económicos para la administración de dicha empresa, sus funcionarios y beneficiarios. Los mismos que podrán ser utilizados en otros objetivos sin dejar de lado las necesidades urgentes de Asfaltar EP.



## **General Introduction**

The present investigation was carried out in order to analyze and to demonstrate the operational process for the direct import for a public business in Ecuador. It considers the current regulations that control this process and applies it to the needs of the business, Asfaltar EP. Internal and external market factors were analyzed to find the suppliers who fulfill the needs of the company and can adjust to its contract specifications. Also, an analysis of the regulations applied to this case study will be carried out and the operational process for the import of the equipment of the public business will be detailed.

The reasons that motivated this topic choice were primarily the current needs of this business in investing in machinery, which has not been acquired since the company started, and the possible failure to fulfill contracts caused by the shortage of machinery. Similarly, the economic situation of the country related to the increase of prices due to safeguards and international economic policies that generated scarcity also motivated the interest in this topic. This phenomenon encouraged the business's functionaries to search for other forms of fulfilling their objectives, leading them to venture into other fields of business activity.

Furthermore, the main objective of this investigation is to find favorable financial results for the company and to highlight the feasibility of the investment project. This pilot plan has been carried out so that it can be used for the benefit of public functionaries on a national scale as an entrepreneurship project and as a future reference for public enterprises around the country. This project will demonstrate how the business will be able to diversify its functions while saving economic resources.

# **CHAPTER 1**

## **ASFALTAR EP BUSINESS ANALYSIS**

### **Introduction**

The first chapter of this undergraduate project has the objective of carrying out an analysis of the current situation of Asfaltar EP in order to have a better understanding of its functions, its objectives, and its goals. Later, an evaluation of the acquisition of capital goods will be carried out, which focuses on the need to diversify the business scenario and to improve customer satisfaction. The methodology used in this chapter will be investigative and exploratory, containing primary and secondary sources as references.

### **1.1 History Review**

The Republic of Ecuador is politically and territorially divided into 24 provinces, among them is the province of Azuay in the south of the republic's territory. Declared during the process of independence as the Department of Azuay, it later formed part of the Province of Cuenca. By June 25, 1824 it was declared the Province of Azuay. Cuenca being its capital founded on April 12, 1557. Azuay is located in the Andean region of Ecuador and possesses great natural, cultural, touristic, commercial, and industrial diversity. (GPA, 2015)

The etymology of the word Azuay according to Julio Maria Matovelle has its origins in Cañari, which means: rain of heaven; Azu: corn beer or liquor; and ay: from above, coming from heaven. Historically, the current territory of Azuay belonged to the Cañari culture. In the colonial period it became a key site for civil and ecclesiastic activity. Additionally, it is traditionally known as the Austro Region together with other provinces such as Cañar, Morona Santiago, Loja, and Zamora Chinchipe.

According to the INEC, in 2001 the population of Azuay was 599,456 inhabitants and by the year 2010 it went up to 712,127 inhabitants. 69.4% of the province's population is

concentrated in the county of Cuenca. (INEC, 2016) The Province of Azuay is bordered on the north by Cañar, on the south by Zamora Chinchipe and Loja, on the east by Morona Santiago and Zamora Chinchipe, and on the west by Guayas and Oro. Its surface area is 8,718.82 Km and consists of the following fifteen counties: (GPA, 2015)

- Camilo Ponce Enríquez
- Chordeleg
- Cuenca
- El Pan
- Girón
- Guachapala
- Gualaceo
- Nabón
- Oña
- Paute
- Pucará
- San Fernando
- Santa Isabel
- Sevilla de Oro
- Sígüig

Furthermore, each province of the Ecuadorian territory is politically administrated by a Province Government, which is formed by county governors and represented by a Prefect elected by popular vote. As a historical review we have the political letter of Isidro Ayora in 1929, that in Title XI of the Interior Administrative Regime, Article 139 states: "In each capital of the province there shall be a Provincial Council." Its inaugural session took place on November 25<sup>th</sup> of the same year. (GPA, 2015)

## **1.2. Business Information: Province Government of Azuay**

The current Prefect of the Azuay Province is Ing. Paúl Ernesto Carrasco Carpio for the period of 2014-2019, this being his third period. Previously he has presided by popular vote for the periods of 2004-2009, and 2009-2014. (GPA, 2015)

### **1.2.1 Mission**

“To construct a territory governed by absolute democracy understood as: the right to an opinion, the capacity to decide, and the influence of the community in the development of the government`s territory, with equality and good living”. (GPA, 2015)

### **1.2.2 Vision**

“Become the integrated center for the southern region of the country, which drives a social model of participative production, competitive and inclusive based on the territory capacities, in a healthy atmosphere respecting the rights of nature”. (GPA, 2015)

### **1.2.3 Quality Policy**

The Province Government of Azuay is committed to:

“Exercise government administration in the Province within the limits of its powers. Promoting citizen participation, providing equality, sustainable development of the environment through collaborative administration. Committed to continual improvement and transparency”. (GPA, 2015)

### **1.2.4 Company Values: (GPA, 2015)**

- Respect
- Responsibility
- Ethics

- Honesty
- Transparency
- Openness
- Communication
- Equality
- Solidarity
- Social Responsibility

#### **1.2.5 Strategic Components of Basic Democracy: (GPA, 2015)**

- Participation
- Rights and Freedoms
- Social Awareness
- Social Production Model
- Eco-Democracy
- Territory and Institution

#### **1.2.6 Competencies of Autonomous Decentralized Governments (GADs): (GPA, 2015)**

- Plan Provincial Development and create the corresponding plans for territory organization
- Maintenance and construction of Highways
- Maintenance of Basins and Micro Basins
- Promote Provincial Environmental Development
- Manage Risk Systems
- Promote Agricultural Activity
- Promote Productive Activity
- Manage international cooperation in order to fulfill duties

### **1.2.7 Specific Objectives: (GPA, 2015)**

- To responsibly assume the functions and competencies that contribute to the decentralized development of the province and support the decentralization of the state.
- To conduct the interactive participation of the distinct social actors of the province: local governors, public institutions, private institutions, universities, and other developmental actors, giving continuity to the process of planning undertaken by the provincial council.
- To create provincial policies in systems and social integration of the territory, commonwealths and watersheds; promotion of "good living"; interconnectedness and knowledge management (communication and information) and strengthening local capacities.

### **1.2.8 Department Objectives and Lines of Action (GPA, 2015)**

#### **ANNUAL OPERATIONS PLAN (AOP)**

#### **1. PLANNING OVERVIEW**

##### **DEPARTMENT OBJECTIVE**

- The Province Government of Azuay has an Institutional Strategic Plan, which is constantly implemented and evaluated.

##### **LINES OF ACTION**

- Planning, Follow-up, and Evaluation
- Plans and Projects
- Community Relations

## 2. FINANCIAL MANAGEMENT

### DEPARTMENT OBJECTIVE

- To efficiently facilitate the economic resources needed to achieve budget goals, according to the objectives and goals discussed in the Provincial Development Plan.

## 3. DEPARTMENT OF LEGAL ASSESSMENT

### DEPARTMENT OBJECTIVE

- To assess all areas according to the plans in benefit of the community; legalize contracts and agreements; create and update ordinances and regulations according to the needs of the entity within the new development vision of the Azuay Province Government.

### LINES OF ACTION

- Modernization and Decentralization
- Public Contracting
- Assessment of processes and trials

## 4. SUPERVISION OF PROVINCIAL DEVELOPMENT

### DEPARTMENT OBJECTIVE

- Promote citizen's construction processes, consolidate a compartmentalized controlled system with decentralized management, and expand the democratization process of the Provincial Government and of social life in general.

## 5. ADMINISTRATIVE MANAGEMENT

### DEPARTMENT OBJECTIVE

- To optimize processes and tools which improve control and efficiency in the administration of material, data, and administrative resources, which contribute to institutional development.

### LINES OF ACTION

- General Services
- Institutional Development
- Network Systems

### GENERAL SECRETARY COMMUNICATION SECTION

### DEPARTMENT OBJECTIVE

- Achieve demographic - socioeconomic welfare by improving the overall road systems of the province.

### LINES OF ACTION

- Road Construction
- Road Improvement
- Road Maintenance



## 6. ADMINISTRATION OF HUMAN DEVELOPMENT

### DEPARTMENT OBJECTIVE

- Contribute to the improvement of educational quality, the strengthening of the health and cultural expression systems, to facilitate the exercise of rights and the development of the people`s capacities.

### LINES OF ACTION

- Primary and Basic Education
- Literacy
- Province Educational Policies
- School Infrastructure

## 7. ADMINISTRATION OF ECONOMIC DEVELOPMENT

### DEPARTMENT OBJECTIVE

- To boost the economy of the province of Azuay through the coordination of actions between social, public, and private entities, so as to generate processes and opportunities to improve territorial competitiveness while respecting the environment.

### LINES OF ACTION

- Touristic Development
- Agricultural Development
- Production Development
- Financial Access
- Commercialization

- Connectivity

## 8. ADMINISTRATION OF ENVIRONMENTAL MANAGEMENT

### DEPARTMENT OBJECTIVE

- To formulate and implement the environmental policy of the Azuay Province Government, seeking harmony between living things and their habitats through consensual strategies for managing our natural and biodiversity assets, and contributing to sustainable human development.

### LINES OF ACTION

- Forest Resources and Biodiversity
- Environmental Quality
- Hydraulic Resources

### UNIT OF ROAD DECENTRALIZATION

#### DEPARTMENT OBJECTIVE

- To achieve, in the process of decentralization, the preservation of narrow roads for the province government in optimum conditions for transportation, security, and comfort to those using them; support the productive sector and public access for service centers together with participation of the community.

### RAW MATERIAL UNIT

#### DEPARTMENT OBJECTIVE

- To produce a sufficient quantity of raw material for the Province Government to

provide for all the projects it carries out while using environmentally friendly extraction systems.

## LINES OF ACTION

- Raw Material Production
- Material Extraction
- Geologic-mining Prospecting

## REPAIR UNIT

## DEPARTMENT OBJECTIVE

- To ensure that all units that are part of the mechanical systems are always operating.

### **1.2.9 Businesses Related to GAD**

The community layout of Azuay province is the following: 15 municipalities, 60 township councils, 246 township organizations, 287 neighborhood organizations, 832 community organizations, 18 indigenous organizations, 1 drinking water committee, 4 drinking water projects, and 1 sanitation project.

One of the principal objectives of the Azuay Province Government is to foster decentralization, and consequently, the proper management of its resources to direct strategies that balance the political and administrative institution of Ecuador. For this reason, the Prefecture of Azuay creates the public businesses derived from it, which are: Asfaltar EP, Lactjubones, GPA Tours (GAD), and Agroazuay. (GPA, 2015)

### **Agroazuay**

It is a joint venture created for logistic services, which commercializes and provides supplies to the agricultural sector while seeking to improve productivity and quality of agricultural products in the Azuay province. (GPA, 2015)

### **GPA tours**

It is a junction company focused on increasing tourism in the Azuay province, using planning as a basis for creating touristic attractions. (GPA, 2015)

### **Lactjubones**

It is a community company that supports the creation of quality dairy products sustainably produced with application of fair trade. (GPA, 2015)

### **1.2.10 Legal Structure**

Regarding the legal structure of the Azuay Province Government, the previously mentioned entity is primarily governed as stipulated by the Natural Code of Territorial Institution, Autonomous and Decentralization COOTAD, of the Republic of Ecuador.

In Chapter II, article 40 of COOTAD; the meaning and legal character of an Autonomous Decentralized Province Government is explained. The headquarters of the Province government will be the capital of the province, in this case, the city of Cuenca (COOTAD, 2012)

Article 40. - Juridical Nature: These are legal persons of public right, with political, administrative, and financial autonomy. They are integrated by the functions of citizen participation, legalization, audits systems and executive branch. (COOTAD, 2012)

In articles 41 and 42 functions and competencies are stipulated, respectively. Article 42 Section b, considered relevant to the present undergraduate work states; it corresponds to

the Azuay Province Government to plan, construct, and maintain roadway systems of the province environment, which do not include urban zones. (COOTAD, 2012)

Furthermore, every GAD is required to create a Province Council as established in Article 43 of COOTAD, becoming the legislative and supervisory body of the decentralized autonomous government. Within the Province Council, a governor, the maximum authority at a county level, shall represent each county. (COOTAD, 2012)

Moreover, in article 49, COOTAD describes the province's representative as the primary executive authority of the decentralized autonomous government. He/she must be chosen jointly with the vice prefect by popular vote, in accordance with the requirements and regulations pre-established by law in the elective code. (COOTAD, 2012)

### **1.3 Asfaltar EP**

#### **1.3.1 Business Turnover**

In the province of Azuay the public business Asfaltar EP offers production and commercialization services of dry and mixed concrete. With services for laying and mixing asphalt and double treating bituminous surfaces. Founded in the year 2010 and currently directed by Economist Rubén Benitez, this company of the Azuay Province Government will be the case study of this undergraduate thesis. (AsfaltarEP, 2015)

The business has an asphalt processing plant in Chican, Uzhupud of the county Paute. The administrative offices are located on 3 de Noviembre Avenue 1-32, and Unidad Nacional Avenue.

#### **1.3.2 Mission**

“To Produce and commercialize raw materials and mixed asphalt, with services of mix preparation and double treatment of bituminous surfaces with quality standards at competitive prices. It is aimed towards public and private businesses in the austral region; carrying out environmentally friendly activities, with professional permanently trained

staff”. (AsfaltarEP, 2015)

### **1.3.3 Vision**

“A business that leads to sustainable roadway improvement in the austral region and offers quality public services. Pushing forward the roadway development in the region, by renewing equipment with cutting edge technology to improve materials and production offered by the business.” (AsfaltarEP, 2015)

Asfaltar EP offers various products and services to private and public entities alike and has extensive experience in its business environment with highly trained personnel, with the training and technical knowledge needed to fulfill contracts given in trust by its clients.

### **1.3.4 Services offered by Asfaltar E.P.**

Among the services offered by the company are the following: (AsfaltarEP, 2015)

- Sale of asphalt: We produce and commercialize asphalt in the quantities that individuals and companies require.
- Placement of asphalt: We place asphalt on roads as we are contracted in accordance with international technical standards of quality.
- Asphalt Patching: With our machines we can carry our patching work for road maintenance.
- Horizontal Marking: We have the equipment to make horizontal and vertical road markings.
- Raw Materials: For public and private sale as well as for accomplishing out our contracts. We offer clean gravel (crushed) and granular bases in our Uzhupud plant.
- Audits Systems: With our technicians we are trained to perform audits control for new roads in order to guarantee the correct execution of contracted jobs. Those responsible for quality control closely follow the extension and compacting work, thus giving the clients security and tranquility.

- Laboratory Tests: Our modern laboratory equipment allows us to carry out all the tests needed to verify density, granulometry, and asphalt stability with which we guarantee the quality and durability of our work.

#### **1.3.5 Business Strategic Points: (AsfaltarEP, 2015)**

- Production Management
- Sales Management
- Investment Plan
- Financial Information
- Human Talent
- Tolls
- Goals
- Achievements

#### **1.3.6 Analysis of road network**

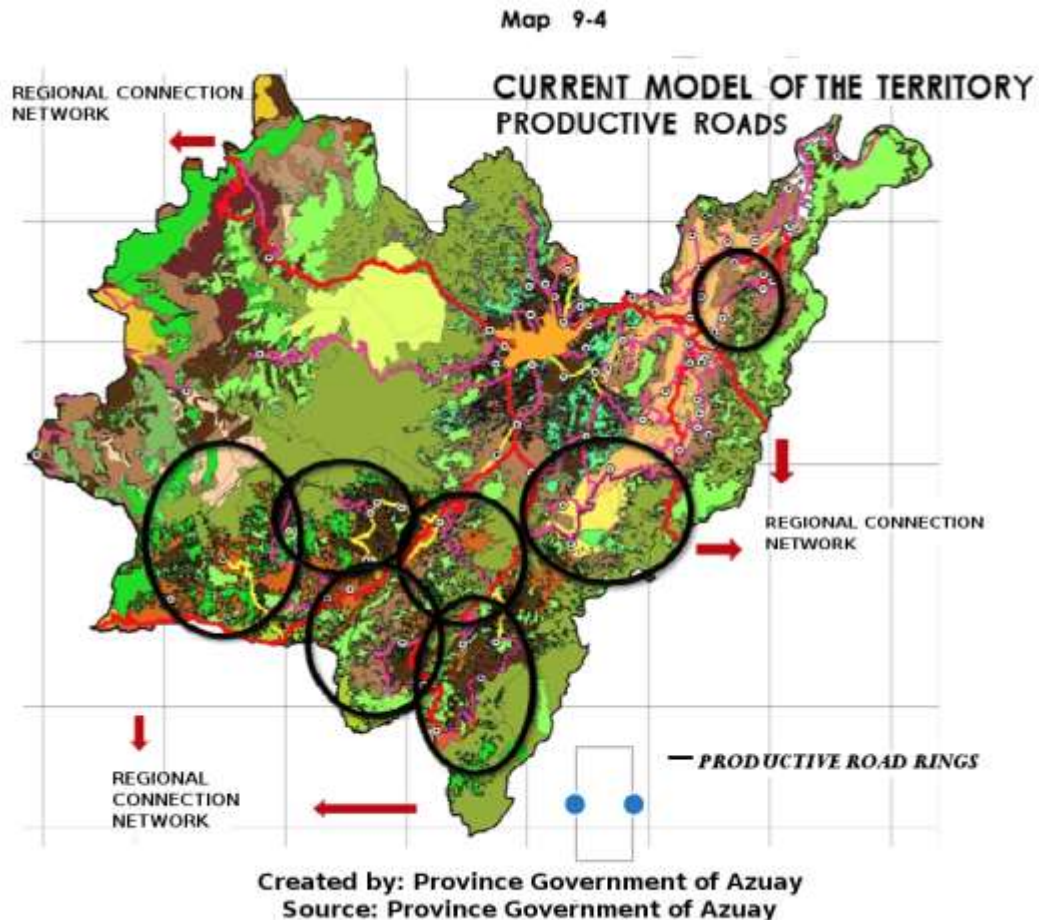
The following points will make an analysis of the company Asfaltar E.P., regarding the current situation of the province roadways, to later apply a SWOT matrix to make a projection. According to the Azuay Province Territorial Development and Systematization Plan, there are 4090km of roads at the province level. The roadway distribution of the province is the following: (Gobierno Provincial del Azuay, 2011)

- |                         |            |
|-------------------------|------------|
| • Primary Network:      | 586.12km   |
| • Secondary Network:    | 152.30km   |
| • Tertiary Network:     | 939.90km   |
| • Neighborhood Network: | 2 411.68km |

From the previously mentioned distribution, it is considered that the primary network was found in a good state thanks to the support of the Ministry of Transportation and Public Works. Regarding the remaining networks; secondary, tertiary, and neighborhood

networks, the following conditions are stated; 644.60km in a good state, 1999.98km in a regular state, and 586.30km in a bad state. In conclusion, the quality of the road network in the province is 25% good, and 75% between regular and bad. (Gobierno Provincial del Azuay, 2011)

**Image No. 1: State of Road Network in Azuay**



Source: (Gobierno Provincial del Azuay, 2011)

### 1.3.7 SWOT Matrix

A SWOT matrix is a basic method that a business uses for a general evaluation. It is based on a periodic analysis of its micro and macro environment. It is also considered a strategic



information system. (Chapman, 2004)

This methodology is ideal for establishing and defining the external and internal aspects of a business in relation to its environment and the factors that affect its daily performance.

The parameters under which a SWOT matrix is created are the following: (Chapman, 2004)

- Strengths: strengths are considered the strong points or the conditions or characteristics that support the completion of objectives.
- Opportunities: opportunities are considered the situations that demonstrate favorable factors for the business regarding the fulfillment of its objectives.
- Weaknesses: weaknesses are considered the weak points or characteristics that are obstacles for fulfilling objectives.
- Threats: Threats are considered situations that occur in the environment outside the business that can negatively affect the fulfillment of objectives.

For the reasons previously mentioned, it is clear that a SWOT analysis is an essential step to facilitate decision-making in a business. A company can benefit from the understanding of the specific advantages it has and the obstacles that it faces, in a way that this can reduce the impact of these factors in the decision-making process.

**Table No. 1: SWOT Situational Analysis Matrix**

<b>SWOT</b>	
<b>STRENGTHS</b>	<b>WEAKNESSES</b>
The province government of Azuay takes responsibility of the competencies established in the constitution. It establishes processes of autonomy and regional integration.	The poor state of the internal connection roads that make up the secondary, tertiary, and neighboring networks
Commitment to strengthen roadway infrastructure.	The concentration of goods, services, equipment, and power in Cuenca county, that report to other county headquarters.

Service Provision of infrastructure (ASFALTAR, LACTJUBONES)	Low levels of knowledge of national legislation and the exercise of competencies by municipal and township governments.
The province turns into a connective element between the coastal, mountain, and central regions of the country.	Outdated technical application and administrative ordinances.
<b>OPPORTUNITIES</b>	<b>THREATS</b>
The Constitution of Ecuador and COOTAD, designate competencies for the Autonomous Decentralized Governments.	National policies and laws that centralize actions and the exercise of competencies.
Territory system and development planning to guarantee a better condition and quality of life for the population of Azuay.	Lack of economic resources
The road system will connect and structure productive links which will allow the articulation of the primary and secondary systems, generating connectivity for productive areas and reducing transit time for the population and product delivery in the destined zone.	Centralization of competencies
	Demographic growth
	Unplanned urban growth

Source: (Gobierno Provincial del Azuay, 2011)

### 1.3.8 Analysis of key points

In this section, an analysis of three important tools for determining the needs of improvement of the Azuay province road systems will be carried out. Those tools are the following: The Territorial Development and Systematization plan for the Province of Azuay, the Province of Azuay Government Annual Operative Plan, and the three key points of the Strategic Planning announced by the same entity. These mechanisms are the primary axes for the present thesis work.

The planning carried out by the Province of Azuay Government functionaries establishes key points for fulfilling short, medium, and long-term objectives. Each of them with an aim to satisfy the population's economic and demographic needs. Because of their relevance and their direct relation to the public sector, the following objectives are detailed. The objectives support the emerging need to acquire foreign equipment benefiting from the current legislation applied to this case study.

**Key Points:**

- Decentralized Autonomous Government Competencies: development plan for the province, formulation of territorial systematization plans, encouragement of productive activity and the development of roadways.
- Specific Objectives: support the decentralized development of the province and the interactive participation of the distinct stakeholders. This is key for the present thesis work because of the need of interaction with public and private institutions in order to give continuity to the process.
- Province Government Annual Operative Plan: proposes the plan for the province in order to achieve public and socioeconomic well-being, and it is necessary to improve roadways.
- Roadway Decentralization Unit: establishes the obligation of the Province Government to preserve the roads in optimum conditions.
- Asfaltar EP Vision: manifests that in order to boost the roadway development of the region, cutting-edge technology equipment is needed to secure the services offered.
- Article 42 Section B of COOTAD: guarantee that the Province Government of Azuay is responsible for planning, constructing, and maintaining the road system, with the exclusion of urban zones.

### **1.3.9 Determining needs and historical purchase analysis**

The business was created under the ordinance of AsfaltarEP signed by the President of the

Republic of Ecuador, Economist Rafael Correa Delgado in the year 2010. Its Chapter II refers to its assets, establishing the following:

Article 5.– the assets of the company are composed of all tangible and intangible goods that the Province of Azuay Government transfers to the public business of Gravel and Asphalt of Azuay, ASFALTAR EP through this ordinance. The detailed list of equipment, machinery, and vehicles which are assets of Asfaltar is annexed to this ordinance.

The following table is an illustration of the current assets that Asfaltar EP has. Its interest is based on the company's need to provide asphalt materials to the Province of Azuay, where 75% of its road network is found in a regular state and shows the need for improvement. Keeping in mind the well-being of the population is one of the main objectives of the company. In the following table, it is shown that no purchases have taken place of the machinery to be acquired and that the company inventory has remained identical since its creation. (Merchán, 2015)

**Table No. 2: Inventory History of Asfaltar EP.**

Asset Code	Description	Value
0004-03-022-24851	Asphalt Plant ADM SPL110-2B	\$698.999.00
0004-03-021-24850	Asphalt Paver BOMAG BF600P	\$400.000.00
0004-01-009-24848	Double Tandem Roller BOMAG BM161AD-40	\$135.000.00

Source: (AsfaltarEP, 2015)

**Image No. 2: Asphalt Plant**



Source: (Merchán, 2015)

The asphalt plant is the machinery that mixes, combines, heats, and dries the rocky material at high temperatures to convert it into asphalt and thus produce asphalt surfaces.

**Image No. 3: Asphalt Finisher**



Source: (Merchán, 2015)

The asphalt finisher is the machine that gives form to the asphalt when the mix is poured onto a surface such as a highway where it is later compacted.

**Image No. 4: Double Tandem Roller**



Source: (Merchán, 2015)

The Double Tandem Roller or Double Drum is a machine that compacts the asphalt layers and rocky surfaces.

#### **1.4 Scopes**

Asfaltar EP is an annexed company of the Province Government of Azuay with autonomy and decentralization. When this public institution was created it was granted the responsibility to maintain and to create road infrastructure for the province of Azuay. Despite this, the company has serious difficulties fulfilling its objectives due to economic reasons or insufficient equipment for producing quality results. An aspect of great importance is the stagnation of its machinery inventory throughout the years. This contradicts the company's objectives which are to create asphalt material for road maintenance. Currently, Asfaltar EP is in possession of one item of each of the equipment required for producing asphalt and paving roads since 2010, leading to the conclusion that no purchases have occurred.

The environment in which a public business develops in Ecuador can be classified as

bureaucratic because of the great quantity of legislation to which they are subject to. Additionally, the process is frequently obstructed by political situations. However, the business can opt to find legal support for submerging itself into the foreign acquisition process. If AsfaltarEP follows the process step by step the legal feasibility of this project will be positive.

Regarding the investment project that is mentioned in the objectives of the company and in its vision, the project can face both risks and opportunities during its implementation. In regards to the risk factors, these can include the bureaucratic problems or limitations that can be found along the way. Another important possible risk is the financial capacity of the business to purchase the machinery. On the other hand, the opportunities to execute this project represent savings in very important quantities for the company which generates opportunities to use these funds in various other sectors that need them. The financial analysis and benefits of a direct purchase versus a national purchase is detailed in chapter 3 of the present graduate work.

For all the reasons previously mentioned and analyzed, Asfaltar EP is motivated to acquire the already stated machinery. In order to fulfill its goals and to optimize economic resources the company has decided to turn to foreign trade for the supply of the equipment.



## **CHAPTER 2**

### **PUBLIC PURCHASE REGULATIONS**

#### **Introduction**

The aim of this chapter is to analyze the current standards and processes within Ecuadorian legislation that make this project achievable. Consequently, the processes and formalities that public businesses must follow within Ecuadorian territory will be detailed. The following standards can be applied to Asfaltar EP as well as to any other public company. The stated legislation is mentioned in a hierarchical pyramid, so that the information can be passed through the system from top to bottom until it reaches its specific criteria, for imports in the Republic of Ecuador.

#### **2.1 Constitution of Ecuador 2008**

In the first place, it should be kept in mind that the supreme regulation in the Republic of Ecuador is the 2008 Constitution, in which the seventh chapter refers to public administration.

##### **2.1.1 Related Articles**

Article 225 establishes that the public sector consists of: (CONSTITUTION, 2008)

1. The institutions and dependencies of the Executive, Legislative, Judicial, Electoral, and of Transparency and Social Control branches of government.
  2. The entities that make the autonomous decentralized regime.
  3. The institutions and entities created by the constitution or law for the exercise of state authority, for lending public services or for economic development activities taken over by the state.
  4. Those legal persons who by judicial authority are established by regulation acts of the autonomous decentralized government in order to offer public services.
- (CONSTITUTION, 2008)

Article 226 indicates that the institutions should exercise the established competencies appointed to them by the supreme law, as public servants for the citizens. (CONSTITUTION, 2008)

Furthermore, Article 315 determines that it is an attribute of the Ecuadorian State to create public businesses for the management of strategic sectors, to offer public services, to sustainably use natural resources or public goods, and to develop economic activities. (CONSTITUTION, 2008)

It is determined that public companies will be under the regulation and specific control of the relevant institutions. In accordance with the law, they will function as societies with public rights and with judicial personality, having financial, economic, administrative, and management autonomy. They are expected to perform with high standards of business, economic, social, and environmental criteria.

## **2.2 Institutional Code of Autonomous, Decentralized Territory Organizations**

The COOTAD is a law created by the Ecuadorian State, whose objective is to regulate the distinct levels of territorial decentralization. It establishes their competencies and procedures. (COOTAD R. d., 2012)

The objectives of the Code are:

- a) Political, administrative, and financial autonomy of the decentralized autonomous governments, within the framework of the Ecuadorian State. (COOTAD R. d., 2012)

- b) The strengthening of the autonomous and decentralized process of the State, with the purpose of promoting fair, shared, and sustainable development of the territory. Citizen participation and integration, as well as social and economic development of the population

- c) The reinforcement of the role of the State through the consolidation of each of

the levels of government. Additionally, the administration of its territory districts, with the purpose of boosting national development and guaranteeing the full exercise of rights without any form of discrimination, including the availability of public services.

d) The equitable and shared solidarity of the Ecuadorian State, which compensates existing injustice or marginalization between territory districts.

e) The intercultural and multicultural affirmation of the Ecuadorian State.

f) The democratization of the actions of the central government and the decentralized autonomous governments, through boosting citizen participation.

g) The delimitation of the role and jurisdiction of every level of government, in order to avoid the duplication of functions and optimize state administration.

h) The definition of the mechanism of communication, coordination, and co-responsibility between the different levels of government for an adequate planning and public management

i) The distribution of resources in the distinctive levels of government, according to the criteria established in the Constitution of the Republic to guarantee its effective use; and.

j) The consolidation of the central government capacity within the jurisdiction of its competencies; coordinator and articulator of the intermediate governments; and, of managing the different levels of government. (COOTAD R. d., 2012)

### **2.2.1 Related Articles**

Autonomy is defined in Article 5 of the Constitution as granting political, administrative, and financial autonomy to the decentralized autonomous governments and special regimes. It also grants the capacity to govern themselves following the regulations established in the supreme law and other applicable regulations. (COOTAD R. d., 2012). This autonomy should be exercised for the benefit of the population and in a responsible manner. The decentralized companies are controlled by national institutions that regulate the use of their competencies

It is important to indicate the definition in article 17, which states: "provinces are territorial

districts integrated by the counties that they are legally composed of". (COOTAD R. d., 2012)

In chapter II, the Decentralized Autonomous Province Government is defined, together with its judicial nature, headquarters, and functions.

Article 40. - Judicial Nature. - The Decentralized Autonomous Provincial Governments are legal persons of public right, with political, administrative, and financial autonomy. They are integrated by the functions of citizen participation, legalization, audits systems and the executive branch, for the execution of their corresponding functions and competencies. (COOTAD R. d., 2012)

The headquarters of the Decentralized Autonomous Province Government headquarters will be the capital of the province as anticipated by the law.

Article 41. - Functions. - Within the various functions of the decentralized autonomous provincial government the two most relevant for the present undergraduate work, are the following: (COOTAD R. d., 2012)

a) To promote sustainable development in its province, to guarantee the fulfillment of good living through the implementation of public policies, within the scope of its constitutional and legal competencies. (COOTAD R. d., 2012)

e) To execute the exclusive and concurrent competencies recognized by the Constitution and the law. In their jurisdiction to offer public services, to construct public works, to encourage productive activities, such as road: work, environmental management, irrigation, agricultural development, and others that are expressly delegated or decentralized. Possessing quality criteria, effectiveness and efficiency, observing principals of universality, accessibility, regularity, continuity, solidarity, intercultural values, subsidiarity, participation and equity; (COOTAD R. d., 2012)

Article 42. - Exclusive competencies of the decentralized autonomous Province Government. The most relevant of the various powers that the decentralized autonomous provincial government has is indicated for the present undergraduate work, which is the following:

"b) Plan, construct, and maintain the road system throughout the provincial area, which do not include urban zones". (COOTAD R. d., 2012)

### **2.3 Institutional Law of Public Businesses**

The Institutional law of Public Businesses, which is currently being applied, defines in its 4<sup>th</sup> Article the term public businesses as: legal entities that belong to the State, with public rights, with their own assets, granted a budget, financial, economic, administrative, and managerial autonomy. They are destined for the management of strategic sectors, offering of public resources, the usage of natural resources or public goods, and in general for carrying out economic activities. (LOEP, Ley Orgánica de Empresas Públicas, 2011)

In Article 5 the procedures through which a public business is created and its jurisdiction are stated: (LOEP, Ley Orgánica de Empresas Públicas, 2011)

1. By an executive decree for businesses formed through Executive Function.
2. By regulatory act, legally issued by decentralized autonomous governments;
3. Through public deeds for companies that are formed between the Executive function and the decentralized autonomous governments. In which case an executive decree and the decision of the maximum authority of the decentralized autonomous institution is required. (LOEP, Ley Orgánica de Empresas Públicas, 2011)

Asfaltar EP was created by implementing the second procedure. The Ordinance of Creation of Asfaltar EP was signed in the Official Registry on October 27<sup>th</sup>, 2010.

### **2.3.1 Related Articles**

Furthermore, V title of the System for Contracting in a Public Business manifests the following general provisions.

Art. 34. - Public Business Hiring. - All hiring processes shall be subject to the National Development Plan, with the observance of national and company budgets. In addition to the Strategic and Annual hiring plans that must be properly approved. Public companies are subject to the provisions of the Institutional Law of National Systems of Public Accounting, their Regulations, and other applicable administrative provisions. (LOEP, Ley Orgánica de Empresas Públicas, 2011)

Likewise, priority is given to acquiring national products as long as they are offered in the same technical condition and quality as imported products. This is a key point for the analysis of national production for goods to be imported for Asfaltar EP.

Article 8 of the previously mentioned regulations establishes that it is the responsibility of the general management or administrator to carry out the hiring process, when it comes to decentralized businesses. (LOEP, Ley Orgánica de Empresas Públicas, 2011)

In reference to the division of public businesses, as in the case of Asfaltar EP, upon being created by the Province Council of Azuay in Title X, it is established in Article 49 that based on the recommendation requested by the public business director, the President of the Republic, by executive decree, or by the highest tier of the decentralized autonomous government, can establish the division of a public business into more public businesses. (LOEP, Ley Orgánica de Empresas Públicas, 2011)

Additionally, Article 50 states that a division should have the following requirements: (LOEP, Ley Orgánica de Empresas Públicas, 2011)

1. The division of assets of the public business between itself and the new

public business. The negotiation of the corresponding assets, which can be done at their current value or at market value. Any excess in assets above the company's possessions could be compensated with liabilities by the newly formed public business.

2. The proposed structure of the new public businesses should be created conforming to the provisions of Article V of this law. (LOEP, Ley Orgánica de Empresas Públicas, 2011)

The creation ordinance of Asfaltar of 2010 indicated in Article 5 that the assets of the company constitute all of the tangible and intangible goods, that the Province Government of Azuay transferred to the Public Business of Gravel and Asphalt of Azuay, Asfaltar EP. The annexed document details the ordinance and the goods transferred to the new company. (See annex 1)

## **2.4 Institutional Law of the National Public Hiring System**

The National Public Hiring System was created in 2008, when it was necessary to organize and link all the instances of a public business. Its main objectives are to audit the planning framework, budget planning, the control and administration of the acquisition of goods and services, and the implementation of public works paid with public resources. (LOSNCPR. d., 2014)

The previously mentioned law aims to establish the principles and norms that regulate the public hiring procedures related to the acquisition and rent of goods, implementation of public projects, services offered, including consulting services. It regulates the institutions of the State, which make up the Autonomous Sectional Regime.

### **2.4.1 Related Articles**

Article 4 details the principles by which this law shall be applied, these being the following: principles of legality, fair treatment, equality, quality, up-to-date technology,

opportunity, concurrence, transparency, publicity, and national participation. (LOSNCPR. d., 2014)

Regarding the general definitions, the most relevant to this undergraduate project are found in Article 6. (LOSNCPR. d., 2014)

1. Adjudication: is the administrative act by which the maximum authority or competent institution grants the rights and obligations directly to the selected candidate. It is made effective upon notification, and shall only be made void through procedures established by Law.
2. Public Hiring: refers to all procedures concerning the acquisition or rental of goods, implementation of public works, or services offered, including consulting.
3. Contractor: the natural or juridical person, citizen or foreign, or otherwise affiliated, hired by Hiring Institutions in order to provide goods, public works, and provide services.
4. Technological Disaggregation: an in-depth study carried out by Hiring Institutions in the pre-contract phase...
5. National Public Hiring Service: this is the technical name for the Public Hiring institution. The Law refers to it simply as, "National Institute."
6. National Origin: for the purposes of the present law, this refers to projects, goods, and services that incorporate Ecuadorian components in the defined percentages by the National Public Hiring Service, SERCOP. In accordance to the parameters and methodology established by the regulations in the present law.
7. Specifications: Pre-contractual documents prepared and approved for each procedure that shall be bound by the models established in SERCOP.
8. Public purchase portal: [www.compraspublicas.gob.ec](http://www.compraspublicas.gob.ec). This is the official website of the public hiring system database of the Ecuadorian State. (LOSNCPR. d., 2014)



The Institutional Law of the National Public Hiring System establishes the processes to follow for an import process to be authorized by the National Public Hiring Service. This law is effective since 2009. The complete procedures are found in annex 2 of the present undergraduate project. (See annex 2)

Moreover, this law has changed in a few aspects. In the first place, it is ordered to substitute the acronym with the following words or acronyms "Institute", INCP", or "INCOP", with the letters "SERCOP". Secondly, it is manifested that "in compliance with numeral 6 of Art. 10 of the Institutional Law of the National Public Hiring System, INCOP has to administrate the procedures for the certification of national production and the authorization of the import of goods and services through the State" (LOSNCPR. d., 2014)

Finally, it has also changed in a way that the Resolution INCOP No. 016-09 dated 10 of March 2009 has expedited the regulations for national certification and production and authorization of imports through the State. It establishes priority for national products, so that Institutions in all public contracting procedures of public hiring, shall apply preferential national production margins as anticipated in Art. 25.1 of the Institutional Law of the National Public Hiring System. (LOSNCPR. d., 2014)

In annex 2 of the present undergraduate project the steps to follow and import procedures are detailed. (LOSNCPR. d., 2014)

1. Application: ...for the import of goods made directly by the listed Institutions in article 1 of the Institutional Law of the National Public Hiring System...
2. Electronic Request: ...the contracted bodies shall publish their requirements for imported goods through the site [www.compraspublicas.gov.ec](http://www.compraspublicas.gov.ec), before carrying out the proceedings of foreign selection for the import process.
3. Publication Content: technical specifications of goods whose import process is required, the reference to technical regulations published by the

Ecuadorian Institute of Standardization, INEN.

4. Invitations: the site shall send invitations to the suppliers of goods of national origin registered in the Unique Registry of Providers, RUP. The corresponding category of the goods is required, for the purpose of making their interest known through the site, within the span of three days.
  5. Signs of interest: All suppliers enabled within the conditions of selling the required goods for national production, shall send the article within the referenced terms... Within the term of five days, the Institution shall make an analysis of the sign of interest, that shall include verification of the following aspects:
    - That the goods are classified as having a national origin, conforming with the current mandatory parameters, applicable to the national hiring system.
    - That the goods comply with the required quality and technical specifications.
    - Capacity to fulfill the contract by the supplier, in the case of dispute.
  6. Qualification: If the contractor verifies that a national offer exists then it shall begin the hiring proceedings according to the Law.
  7. Verification by SERCOP: ...once the publication is carried out, it shall be verified in the databases or in other bases that have interconnection if a national offer exists. In that case, the required entity shall be notified as required by law. Information could also be required of both public and private Institutions, in order to verify national production.
  8. Import Authorization: If the analysis concludes that no national offer exists and if no later verification is made that establishes the existence of national production, SERCOP shall authorize the corresponding imports, with which the public business could begin the selection of a supplier abroad.
- (LOSNCPR. d., 2014)

## **2.5. Institutional Code of Production, Commerce, and Investment**

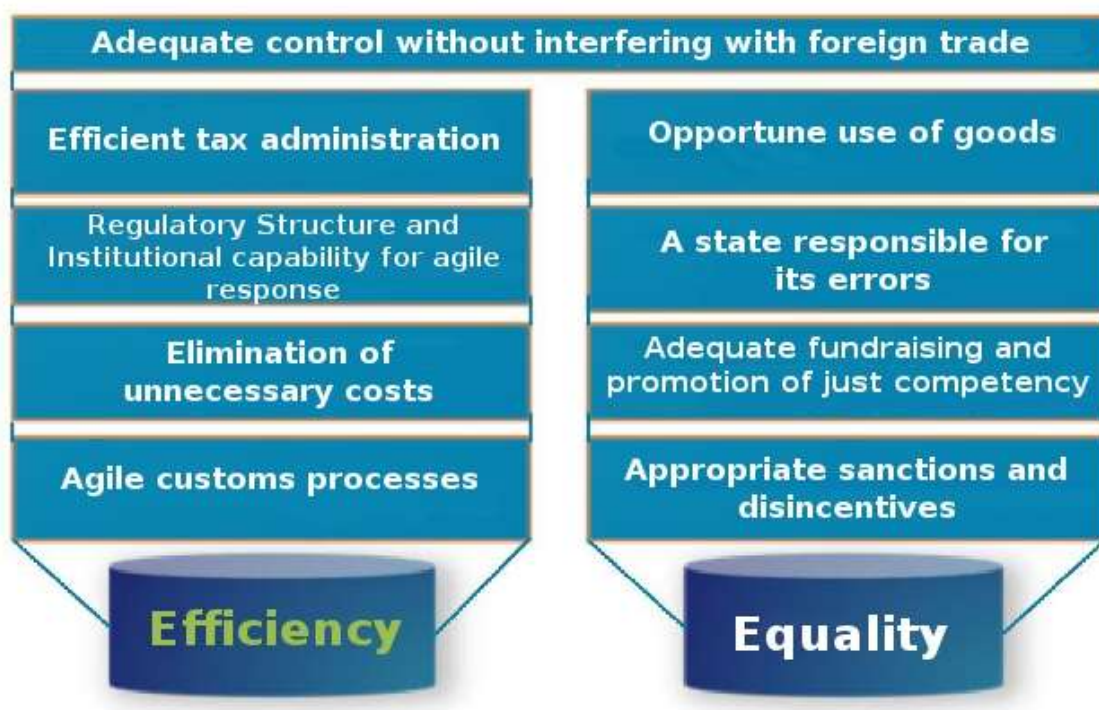
The current Code created on December 29<sup>th</sup>, 2010, replaced the Institutional Law of Customs, LOA. This law needed to adjust to the realities of external commerce which is

a tool for economic development but at the same time it had to maintain harmony with the social order. Therefore, an integrated reform of the law previously in force became necessary. (COPCI, 2015)

Within the primary modifications are the following:

1. Zero use of paper
2. A one-only portal
3. Guaranteed dispatching
4. Absolute facilitation
5. Intelligence controls
6. Strong sanctions
7. Effective actions against contraband

**Image No. 5: Improvements from LOA to COPCI**



Source: Att. Claudia Campoverde

Created by: Andrea Vintimilla, 2015.

### **2.5.1 Related Articles**

Article 3 of this Code defines its objective: this Code has the purpose of regulating the productivity process in the stages of production, distribution, trade, commerce, consumption, management of externalities and productive investments oriented towards quality living. Additionally, this law seeks to generate and consolidate regulations that make possible, promote, and encourage production with a greater surplus value. It establishes the conditions to increase productivity and to promote the transformation of the productive matrix, facilitating the application of instruments of development, that allows the creation of quality and balanced employment, as well as equal, eco-efficient, and sustainable development, with care for the environment. (COPCI, 2015)

COPCI is divided into six books that are based on each one of its areas of application. The fifth book, Systematic Competitiveness and Customs Facilitation is the most significant for this project. (COPCI, 2015)

Book I: Productive Development, Mechanism, and Institutions of Competency

Book II: Productive Investment Development and its Instruments

Book III: Business Development for Micro, Small, and Medium Enterprises, and the Democratization of Production

Book IV: Foreign Trade, its Institutions of Control and Instruments

Book V: Systematic Competitiveness and Customs Facilitation

Book VI: Production Sustainability and its relationship with the Ecosystem

In relation to the case study and focusing on book V of COPCI, it is important to note that Article 218 defines the duties of the district directors and their attributes. Section C supports the objective of AsfaltarEP to benefit from tax exemptions applicable to public Institutions in the Republic of Ecuador. According to the previously detailed regulations, it is the district director's attribute to concede tax exemptions that apply to the case conforming to current regulations. (COPCI, 2015)

Finally, as a central axis we have Art. 125 of COPCI, which refers to the waivers of all taxes on foreign trade, exemptions of customs and import service fees for the consumption of the following sector. In relation to the present project analysis, section D entitles the Public Business Asfaltar to make use of this regulation. (COPCI, 2015)

- d) Public sector institutions, businesses, and organizations, including decentralized autonomous governments, the societies with at least 50% of their capital owned by public institutions, the Guayaquil Board of Beneficence and the Society of the Fight against Cancer (SOLCA), are of concern to the State. Imports of mixed economy businesses shall be exempt from the percentage that corresponds to participation in the public sector. (COPCI, 2015)

The exemptions foreseen in this article shall be granted by the public server responsible for the district address. Except for the letters a), b), c), d), g), j), k), and l); in which cases an administrative resolution shall not be required. They shall be regulated as determined by the present Code. The resolution issued in the present year expedites administrative processes by eliminating the need for an authorization in order to benefit from the tax exemption. (COPCI, 2015)

"g) Capital Goods. - Merchandise not destined for consumption, but rather for a production process, either directly or indirectly to increase the material or financial assets". (REGCOPCI, Regulations for the Customs Facilitator for Commerce, of book V and institutional production, commerce, and investments code, 2011)

## **2.6 Regulations for the Institutional Code of Production, Commerce, and Investments**

The Regulation for COPCI is the regulatory instrument that details the processes to be followed established in the COPCI. It includes a definition of exemptions in customs material customs in article 6. (REGCOPCI, Regulations for the Customs Facilitator for

Commerce, of book V and institutional production, commerce, and investments code, 2011)

### **2.6.1 Related Articles**

Art. 6. - Exemptions. - Tax exemptions for foreign trade shall be understood as those imports whose qualifications requirements are established in the Institutional Production, Commerce, and Investments Code. They shall be verified by the functionary designated for revision, whether in person or electronically, except when an administrative resolution by the District Director or his/her delegate, is required. (REGCOPCI, Regulations for the Customs Facilitator for Commerce, of book V and institutional production, commerce, and investments code, 2011)

Tax exemptions for foreign trade shall not be reserved only for merchandise imported directly from abroad. It also applies to products under other customs jurisdiction, for example if they go under any change of jurisdiction process for consumption. In which case, the conditions for exemption should be fulfilled by the individual who performs the import process. (REGCOPCI, Regulations for the Customs Facilitator for Commerce, of book V and institutional production, commerce, and investments code, 2011)

Section III of REGCOPCI, article 9 establishes that foreign trade imports made by the State are exempt from taxes. The institutions and organizations are considered public based on the Constitution of Ecuador, under which they should be registered as such in the Unique Registry of Contributors. The correct management of this process is key to avoid inconveniences. The procedure needed for the import process via public entities is detailed in the following paragraphs. (REGCOPCI, Regulations for the Customs Facilitator for Commerce, of book V and institutional production, commerce, and investments code, 2011)

Art. 10. - Procedures. - The applicant shall present to the District Director the arrival of the merchandise, the imports Customs Declaration and the accompanying and supporting

documents. (REGCOPCI, Regulations for the Customs Facilitator for Commerce, of book V and institutional production, commerce, and investments code, 2011)

In addition, common supporting documents must be attached to the Customs Declaration of goods subject to this exemption, that include the following: the import authorization of the merchandise given by the National Institute of Public Purchases (INCOP) or an equivalent document recognized by law when it is considered to be necessary. In the case of mixed economy businesses, the certificate of the Superintendence of Companies that accredits shareholder participation is required, as the sole justification for the partial tax exemption. (REGCOPCI, Regulations for the Customs Facilitator for Commerce, of book V and institutional production, commerce, and investments code, 2011)

Definitions according to REGCOPCI:

"Art. 63. - Customs Declaration. - The Customs Declaration shall be presented either electronically or physically, according to the procedure and format established by the National Customs Service of Ecuador". (REGCOPCI, Regulations for the Customs Facilitator for Commerce, of book V and institutional production, commerce, and investments code, 2011)

Art. 66. - Places for Declaration presentation. - In the case of imports, the Customs Declaration can be presented physically or electronically, in a period no greater than fifteen calendar days previous to the arrival by transport, and until thirty calendar days following the date of its arrival. (REGCOPCI, Regulations for the Customs Facilitator for Commerce, of book V and institutional production, commerce, and investments code, 2011)

The Customs Import Declaration is considered the official document to be presented at the customs office for the disposal of the merchandises declared in customs jurisdictions.

Art. 72. - Accompanying Documents. - These constitute those that as a form of previous control, meaning that these should be processed and approved before the merchandise is

shipped. They can be presented physically or electronically, together with the Customs Declaration, when required. (REGCOPCI, Regulations for the Customs Facilitator for Commerce, of book V and institutional production, commerce, and investments code, 2011)

Art. 73. - Supporting Documents. - These are the documents that constitute the base of any import procedure. These original documents, whether physical or electronic, should hold an archive of the declaring parts and the Customs Agent and it must be under his/her responsibility. (REGCOPCI, Regulations for the Customs Facilitator for Commerce, of book V and institutional production, commerce, and investments code, 2011)

Furthermore, within the supporting documents, we can find the Commercial Invoice, Certificate of Origin, Document of Transport, and any other document that the SENAE or the Foreign Trade Regulation Institution considers necessary.

## **2.7. National Customs Services of Ecuador**

The National Customs Services of Ecuador (SENAE) is a public institution oriented to the service and facilitation of foreign trade operations. Its web page is the digital center through which its users benefit from all the recorded information in order to correctly carry out an import process. (SENAE, 2015)

In order to support the present undergraduate work we can indicate that according to the SENAE all Natural or Legalized Persons can make imports, being them Ecuadorian or foreigners located in the country, who have been registered as importers in the ECUAPASS system and approved by the National Customs Service of Ecuador. The first requirement is to have or create a RUC in the Internal Revenue Service. Once that process is completed the following guidelines must be taken into consideration to be registered as an importer: (SENAE, 2015)



- Step 1

Acquire a Digital Certificate for the electronic signature and authentication granted by the following entities:

-Central Bank of Ecuador: <http://www.eci.bce.ec/web/guest/>

-Security Data: <http://www.securitydata.net.ec>

Documents required for business registration in the CBE (BCE):

1. A copy of the RUC of the businesses or organization.
2. A copy of the designation of the Legal Representative, (if a delegation exists it needs be presented attached to the designation in PDF format)
3. A copy of the ID Card or color copy of the passport

Documents required for request of electronic signature in the CBE (BCE):

1. The business should be previously registered in the system
2. Know the RUC number of the business
3. A copy of the ID Card or color copy of the passport
4. A copy of the current voting certificate, (except for persons older than seventy-five years, Ecuadorians that live abroad, members of Armed Forces and National Police, and disabled persons)
5. A copy of the designation or a labor certificate signed by the Legal Representative
6. Authorization signed by the Legal Representative. (In case of subrogation or delegation, attach the document)

- Step 2

Register in the ECUAPASS site: (<http://www.ecuapass.aduana.gob.ec>)

Functions:

1. Update database
2. Create a user name and password
3. Accept terms of use
4. Register electronic signature (SENAE, 2015)

After adequately following these steps, the business Asfaltar EP can engage in commercial operations of foreign trade.

After the appropriate analysis, the documents requested by the Central Bank of Ecuador for the business registration were gathered, which can be found in annex 3 and 4. (See annex 3 and 4)

While uploading the documents, it was determined that the company had previously created a RUC in the Internal Revenue Service and had been registered as such in the Central Bank, only requiring to update the information because of the recent change in Legal Representative, RUC, and copies of the ID Card or color copy of the passport and legal representative were uploaded to the CBE system.

Regarding the request for electronic certification, the delegation of two Asfaltar EP employees was made, those being: Franklin Vintimilla and Carlos Alvarez. Two employees were delegated to improve management and control of the TOKEN (electronic signature). The value to be paid for TOKEN is 54.88 American Dollars including taxes. (See annex 3 and 4)

## **2.8 Institutional Law of Incentives for Public/Private Associations and Foreign Investment**

The Institutional Law of Incentives for Public/Private Associations and Foreign Investment has the objective of giving incentives for the implementation of projects through a public/private association. In this law, specific incentives are established for financing projects and promoting foreign investment. (LONAPPI, 2015)

### **2.8.1 Related Articles**

Article 2. - General rules for the application of incentives for public/private associations. (LONAPPI, 2015)

1. Public/private association is understood as the management of a group delegated by the State for the provision of goods, jobs or services under their responsibility. Entrusted to an individual of private rights is the implementation of the specific

public project and its total or partial financing, in exchange for his/her investment and work, in accordance with the terms, conditions, limits, and stipulations anticipated in the delegated management contract.

2. The individual of private rights responsible for the progress of the public project is known as a "private developer". This individual should have a unique registry for tax purposes of specific contributors for the construction of the public project.
3. The public entity responsible is the delegated institution and shall be in charge of evaluating public projects, pre-contractual aspects, the subscription of management contracts, and their administration, supervision, and control. It is responsible for its delegated authority to request approval of the Inter-institutional Committee for public projects and application of the incentives and benefits. (LONAPPI, 2015)

4. A public project may consist of the following:

4.1 The construction, the provision of equipment when necessary, the operation and maintenance of a new public project.

4.2 Rehabilitation or improvement, the provision of equipment when necessary, the operation and maintenance of an existing public project.

4.3 Equipping (when the investment required to do so is substantial), the operation, and maintenance of an existing public project. (LONAPPI, 2015)

5. For the purpose of applying this law, services of general interest shall only include roadways, harbor infrastructures and airports. Those who benefit from the law would grant them control from the state without exclusivity. As an exception, the Inter-institutional Committee could, for the application of this law, prioritize and approve public/private associations in matters of public services within the framework of constitutional allowances. The sectorial laws establishes a specific regimen to which the delegation or private participation are subject to for the implementation of projects, acquisition of goods, the offering of services in strategic sectors. If this is the case, the provisions of this law shall not apply in these situations. (LONAPPI, 2015)

"The provisions of this chapter referring to tax incentives do not apply in these cases". (LONAPPI, 2015)

Under the public/private method of association, it is not possible to delegate to private management the audits procedures, regulation, and control of facilities in charge of the government, as well as, the management of general interest services for those that would have constitutionally or legally excluded private participation. (LONAPPI, 2015)

6. Regardless of the nomenclature, for the purposes of this law, the contracts through which the private individual delegation operates are considered delegated management contracts. (LONAPPI, 2015)

8. The delegation and feasibility of the public project must be evaluated economically, financially and legally by the delegating entity. In the case that the Inter-institutional Committee has issued general guides or technical notes, the delegating entity must adjust these instruments. (LONAPPI, 2015)

"In all cases, the evaluation, structuring, and implementation of public projects under the method of public/private association will be applicable and should follow these guidelines": (LONAPPI, 2015)

8.1 Fiscal sustainability

8.2 Adequate risk distribution

8.3 Value for money

8.4 Respect for the interests and rights of users

8.5 Rights and property

8.6 Social coverage and inclusion

The Inter-institutional Committee in the exercise of its duties shall employ the same guidelines.

11. The obligations and rights of the private manager in his/her commission are to be defined in the corresponding project and management contract. To that effect, it needs to

be determined by risk distribution between the parts and level of service and/or the fulfillment of indicators and objectives established by the State. The selection of a private manager should be carried out by public hearing, except in cases specifically anticipated in the judicial ordinance. (LONAPPI, 2015)

### **2.8.2 Reforms of the Institutional Production Code, Commerce, and Investments in the Institutional Production Code, Commerce, and Investments.**

By the end of Article 125, includes the following paragraph: COPCI

Imports directly destined for the execution of public projects through the method of public/private association, carry out responsibilities through accountable private participants. All management contracts delegated and entered with the State and its institutions, shall enjoy the same benefits, be they tax or of any other nature. Public entities will enjoy the same benefits with their imports, on the condition that the sum of them is adjusted to the criteria determined by the Public/Private Association Committee for each privatized sector. As a result, the public delegating institutions shall issue a certificate for the private participant responsible for the corresponding imports that accredits the destination of the goods to be imported. Also, the results of this evaluation that is studied in the pre-contractual stage concerning the quantity and quality of the goods to be imported must be informed. (LONAPPI, 2015)

### **2.8.3 Reforms to the Institutional Law of Internal Tax Regime**

After article 9.2, add the following:

"Art. 9.3. - Exempting the income tax in the development of public projects in a public/private association". (República del Ecuador, 2015)

The societies that are created or structured in Ecuador for the development of public projects in public/private associations ("APP"), are exempt from income taxes during the term of ten years, starting with the first fiscal exercise in which operational income is

generated. According to the economic-financial plan added to the delegated management contract, the project is carried out in one of the sectors prioritized by the Public/Private Associations Committee and fulfills the requirements established by law. The APP shall be exempt from the following income taxes during ten years beginning with the first fiscal exercise: the dividends or utilities that the societies constitute in Ecuador for the development of public projects in an APP, and the pay for beneficiaries, regardless of their residence. (LONAPPI, 2015)

#### **2.8.4 Reforms to the Reformation Law for Tax Equity in Ecuador**

In the reformation law for tax equity in Ecuador, published in the Official Supplement Registry 242, on December 29<sup>th</sup>, 2007, its reform substitutes article 159 with the following. (LONAPPI, 2015)

Art. 159.1.-In the implementation of public projects in public/private associations, they are to be exempt from the tax on foreign exchange payments that are carried out in societies which are created or structured for the development of public projects in public/private associations if they fulfill the requirements of law that regulate the application of incentives of the APP, regardless of the place of residence. (República del Ecuador, 2015)

1. "In the importing of goods for the implementation of public projects, regardless the regime of imports used". (República del Ecuador, 2015)

### **2.9 Scopes**

In chapter 2 of this undergraduate project a hierarchal analysis was carried out of several of the laws that describe what a public business is and what its duties are. It details the process of public purchases and the resolutions of government institutions that enable the public businesses to carry out importing procedures, assuming that a public business fulfills the requirements established by regulations and that the operations are handled

with legality and fluidity. This allows a public business to make a direct import in cases where national production or quality is limited on behalf of the Institute of Public Purchases. Therefore, an opportunity was detected by following Ecuadorian laws that support the implementation of this to the present investment project, while benefiting from the exemption of tax payment in foreign trade for public businesses. As a result, this benefits the company AsfaltarEP by saving economic resources. The Institutional Code of Production, Commerce, and Investments gives the specific processes to follow in Ecuadorian legislation to be implemented for importers as a public business, encouraging the use of foreign trade tools to satisfy acquisition needs.

It can be concluded that this undergraduate project demonstrates in its second chapter that this investment project generates savings. The fulfillment of established processes for the obtainment of tax benefits with the verification of national production of SERCOP and the authorization of its director for direct foreign acquisition are substantial. This helps the customs processes in digital services to run smoothly and demonstrates the ability of the company to show transparency in the documents presented to public officials. A key point is the financial capacity of the company regarding the payment method of the machinery which needs to be defined. This can be achieved through credit with a banking system or through the use of the new Institutional Law of Public/Private Associations. This last option will allow the creation of a strategic alliance between the two branches of the business and will allow both parts to share responsibilities, but it can also increase the value of the merchandise upon adding the earnings of the Private Company. Therefore, the use of the previously mentioned law could facilitate the financing of the investment project but will not generate the same savings. Acquiring it directly without any third parties generates more benefits to AsfaltarEP compared to buying them from a national supplier.

## **CHAPTER 3**

### **OPERATIONAL IMPORTS PROCESS**

#### **Introduction**

This chapter's main objective is to outline the operational process applied to the company Asfaltar EP based on the existing needs of the business. These needs are based on the objectives outlined in its Annual Operative Plan and the Development Plan established to improve the province road systems within its zones of influence. The company also has the need to acquire three machines that will allow them to achieve their objectives. These are the following:

- Asphalt Plant
- Asphalt Paver or Finisher
- Double Tandem Roller

These three machines work together to produce, compact, and smooth the asphalt mortar. The equipping of the machinery is of vital importance for AsfaltarEP because no purchase history has existed since the creation of the company several years ago. Moreover, the bad state of the provincial roadways generates an emergency situation for the Province Government of Azuay that must be resolved. Asfaltar EP, in search of optimization of its economic resources has shown interest in carrying out the present project that allows it to expand its horizons, by applying legislation for appealing to foreign trade, with regulations and processes detailed in chapter 2 of the present undergraduate project. The most important step is the authorization granted by SERCOP for the direct acquisition of foreign merchandise due to the lack of national production. The second most relevant step is the tax exemptions that apply to a public company in Ecuador. Finally, the creation of Asfaltar EP as importers in the ECUAPASS system is another significant step. Based on the previously stated facts, chapter 3 will specify the details of the import plan and the completion of the requirements needed for the correct functioning of the process, while unifying the legislative and situational data of the company.



### **3.1 Introduction to Foreign or International Trade**

In March 2015, the Resolution No. 011-2015 of the Exterior Commerce Committee entered into effect, creating a surcharge for consumable goods. This caused scarcity for products in the national market, and for this reason the present undergraduate work seeks to analyze the feasibility of importing machinery for AsfaltarEP in order to fulfill current and future contracts. A pilot plan will be implemented which will be executed by its functionaries where the process to be followed is clearly detailed.

Foreign trade exists because of the unlimited needs of natural or legal persons that must be satisfied with limited resources. Those demands are not satisfied with the resources available in the territory, which consequently lead philosophers and economists to develop theories that justify commerce between nations. Taking this principle as the basis for foreign trade, imports and exports are considered means of compensation for the national production apparatus. Originally the theory of absolute advantage was attributed to Adam Smith but David Ricardo redefined this theory, converting it into a competitive advantage, meaning that a nation can import goods in which another nation is relatively more productive. (Domingo, 2015)

The concept of economy, which will be served as a reference, states that: "It is a social science that is based on the efficient use of limited or scarce resources, to achieve maximum satisfaction of the unlimited needs of human beings". (Campbell, 2000)

Foreign trade takes place when commercial transactions exist, whether these are transactions of purchasing or selling between two or more countries. Therefore, a constant exchange of goods and services exists at an international level, understanding them as merchandise. The theory supports the development of the present project due to the current needs that must be fulfilled by the public business Asfaltar EP. The company has the alternative to turn to foreign trade to satisfy the needs stipulated in its objectives due to a lack of national production of the equipment.

### **3.2 Importing Regimes**

After having analyzed the theoretical basis of the import process, it is necessary to have a clear concept of its meaning. According to the SENA, importing refers to the entering of foreign merchandise into a country under the fulfillment of customs obligations and formalities that vary depending on the importing regime in which they were declared.

The importing regimes in the COPCI are detailed between articles 147 and 153 of the previously named regulation code. Thus, there are seven different ways in which merchandise can enter Ecuadorian territory.

1. Imports for consumption (Art. 147 COPCI)
2. Temporary Admission for Re-Exportation in the same state (Art. 148 COPCI)
3. Temporary Admission for Active Improvement (Art. 149 COPCI)
4. Merchandise Repositioning with Franchise Tax (Art. 150 COPCI)
5. Transformation under Customs control (Art. 151 COPCI)
6. Customs Deposit (Art. 152 COPCI)
7. Re-import process in the same state (Art. 153 COPCI)

The present undergraduate project will only focus on the importing regime for consumption, being defined as follows:

Art. 147. -Imports for Consumption: "Imports for consumption refer to the nationalization of foreign merchandise admitted into the country for free disposition, definitive use or consumption, once the respective payment of foreign trade tax is made." (COPCI, 2015)

### **3.3 Foreign Trade Taxes**

Foreign trade taxes are established in the tax legislation of a country in which the amount levied is detailed in the transactions taking place within its territory. As the Importing for Consumption Regime establishes in COPCI, the payment of taxes is obligatory and

necessary for foreign trade to make use of the goods. The following details the established Ecuadorian Foreign Trade legislation applicable:

- AD-VALOREM (Tariff Charged for Merchandise) Tax administered by Ecuadorian Customs. It refers to a variable percentage according to the type of merchandise and applied to the sum of Cost, Insurance, and Freight (tax base for imports).
- FODINFA (Development Fund for Infants) Tax administered by INFA. 0.5% applied on the taxable base for imports.
- ICE (Special Consumption Tax) Administered by the SRI. Percentage variable according to the goods and services that are imported.
- IVA (Value Added Tax) Administered by the SRI. 12% tax over: tax base + AD-VALOREM + FODINFA + ICE

For a better comprehension it is important to insist that the CIF value is termed as a taxable base, which is composed of the following values: the FOB value + the FREIGHT value + INSURANCE value. (SENAE, 2015)

Moreover, for international transactions tax rates must be paid in order for the product to pass through customs, thus considered an obligatory tax. Despite this, for the current project the understanding of the following regulation is fundamental, as it allows Asfaltar EP to free itself from the tax obligations through its public business status.

### **3.3.1 Related Articles of the LOEP**

Art. 41. -Tax Regime. - For public businesses the Tax Regime applies to the corresponding institutions that make up the public sector, including exonerations, anticipated in the Tax Code, in the Internal Tax Regime Law, and other tax laws. The previously mentioned businesses can benefit from the indicated regime, and it is an essential requirement to be registered in the Unique Contributor Registry to keep accounting, and fulfill all other formal duties considered in the Tax Code. (LOEP, Institutional Law of Public Businesses, 2009)

The public businesses that offer public services shall be exempt from the payment of royalties, tributes, or any other kinds of tax for the use of public space or public roads and state air space, regional, provincial, or municipal, for the placement of structures posts and fences. (LOEP, Institutional Law of Public Businesses, 2009)

Art. 41 of the Institutional Law of Public Business is of vital importance because it establishes that foreign taxes commonly paid by natural or legal persons would not be a legal obligation for Asfaltar EP thanks to its connection with the public sector.

In addition to the LOEP, it is manifested in Art. 41 public businesses are subject to the Tax Regime Code, in which chapter V mentions exemptions. The following articles indicate the relevant articles for the present undergraduate project.

### **3.3.2 Related TRC (CRT) Articles**

"Art. 31. - Concept. - Exemptions or tax exonerations are the exclusion or the legal exemption of tax obligations, established for public order, economic, or social reasons". (CRT, 2013)

"Art. 32. - Foresight of the law. - Only through express provision of law can tax exemptions be established. This law specifies the requirements for the recognition or concession of the beneficiaries, if the tax exemption is partial, permanent, or temporary. (CRT, 2013)

Art. 33. - Limits of exemptions. - "Extensions shall only include those taxes that are in effect on the date of the issuing law. Therefore, they shall not extend to taxes instituted afterward, except by express provision of the contrary". (CRT, 2013)

Art. 34. - Repeals or modifications. - "An exemption, even when it could have been granted in attention to certain situations, could, in fact, be modified or abolished". (CRT, 2013)

Art. 35. - General exemptions. - Within the limits established by law but without prejudice of the provisions of special laws. Tax exemptions payment is authorized but not in tax rates for special contributions". (CRT, 2013)

1. "The State, municipalities, provincial councils, public rights entities, and public businesses supported by the Institutional Public Business Law, and private right entities with social or public purposes". (CRT, 2013)
2. "The State institutions, municipalities or other government entities, sectional or local, constituted with administrative and economic independence as entities of public or private right, for the offering of public services". (CRT, 2013)

Art. 36. - Prohibitions. - "It is prohibited that beneficiaries of tax exemptions take charge of obligations, and the benefit of exemption shall not be extended to non-exempt taxpayers". (CRT, 2013)

When contracts include parts of beneficiaries of exemption and for others who are not exempt, the tax obligation shall be proportionate.

### **3.4 Commercial Terms or Incoterms**

The globally recognized Incoterms refer to standardized commercial terms accepted by merchants all around the world. "The Incoterms are issued by the International Chamber of Commerce with headquarters in Paris-France. It's primarily role is to create rules for international commerce." (ICC, 2010). These rules establish the responsibilities of the contracting businesses and vendors at the moment of carrying out a purchase or sale of merchandise throughout borders. Incoterms are established as part of the contract between the negotiators and they are used daily around the world. Their function is to distribute the responsibilities and risks between the parties by mutual agreement. In 2010, the International Chamber of Commerce set eleven commercial terms or Incoterms for general use. "They are considered a support for the professional associations, such as importers, exporters, lawyers, carriers, insurers, and students". (ICC, 2010)

The eleven Incoterm rules created in 2010 are presented in two different groups:

7 Rules for any Mode or Modes of Transportation: (ICC, 2010)

- EXW. - In Factory
- FCA. - Free Carrier
- CPT.- Transport Paid Until
- CIP. - Transport and Insurance Paid Until
- DAT.- Delivered in Terminal
- DAP. - Delivered on Site
- DDP. - Delivered Duty Paid

4 Rules for Maritime Transport and Navigable Inland Waterways

- FAS. - Free Alongside Ship
- FOB. - Free On Board
- CFR. - Cost and Freight
- CIF. - Cost, Insurance, and Freight. (ICC, 2010)

Among the most common rules are FOB (Free On Board), which means that the merchandise placed is aboard the ship in its port of origin and CIF (Cost, Insurance, and freight), which refers to the cost of the merchandise in origin, the insurance contracted to safeguard the merchandise and the value of the freight or transport until its destination. CIF value is the taxable base for the calculation of tax value as was previously explained.

### **3.5 Harmonized System of Merchandise Designation and Codification**

The Harmonized System of Merchandise Designation and Codification is the principal instrument in the international community since the 80's, which facilitates customs operations around the world. Previous to the creation of the Harmonized System and the Codification of merchandise each country used their own codification system, which caused difficulties for operators. The main advantage is the standardization of the customs nomenclature under the care of the Global Customs Organization (OMA). The OMA is

based in Brussels, the organization supports the homogenization of this instrument with access to close to 200 institutions worldwide.

The OMA is dedicated to the study and renovation of commercialized merchandise on an international level. This entity transmits its resolutions only in English and French, for this reason Latin American and Spanish speaking countries created the Unique Version in Spanish of the Harmonized System (VUESA). (SADCM, 2003)

The Harmonized System (SA) is a list of tangible goods in groups systematically and progressively organized according to their origin, grade of construction, use, application, and destination. It consists of 97 chapters, subdivided in sections and sub-sections that create a common numeric code containing six digits. For example, 01 (chapter). 20 (section). 10 (sub-section). This code is identical for all the countries or institutions governed by this system (SADCM, 2003). This nomenclature or codification serves to establish tariff rates for every customs competent, commonly known as tariff headings. The tariff headings help foreign trade operators in a variety of situations such as: having a uniform interpretation, homogenizing statistics, use of computing tools, and facilitating negotiations, among others.

The following nomenclature shall establish the tariff headings of the goods to be imported by Asfaltar EP, and the adequate explanation based on the fourth amendment of the Explanatory Notes of the Harmonized System.

**Table No. 3: Asphalt Plant Tariff Heading Classification**

<b>Tariff Heading Section</b>	<b>Chapter</b>	<b>Description</b>
84.74.32	84.	Nuclear Reactors, Boilers, Machines, Mechanical Artifacts, and Appliances; parts of machines and apparatuses. (VUENESA, 2007)
Tariff Heading Section	Section	Description

84.74.32	74.	Machines and appliances for classifying, sifting, separating, washing, breaking, crushing, mixing, kneading, earth, rock or other solid minerals. (VUENESA, 2007)
Tariff Heading Section	Sub-section	Description
84.74.32	32.	Machines for mixing mineral material with asphalt. (VUENESA, 2007)

Source: (VUENESA, 2007)

Created by: Andrea Vintimilla, 2015

Explanatory Notes; the chosen classification or codification is the one that best defines the merchandise to be imported. The Asphalt Plant is supported in part 2 of section C, of the rate section 84.74.32.

c. The machines and appliances used for mixing, or kneading. Referring to machines and appliances that essentially consist of a tub or basin in which materials are agitated by paddles or other appropriate devices until the consistency has acquired the desired homogeneity.

d. The machines for mixing raw materials (broken rocks, gravel, limestone, etc.) with tar for preparing bituminous coatings of road surfaces. They can be presented in the form of installations constructed by a variety of different elements (Dosing-feeders, dryers, dust extractors, blenders, elevators, etc.) Mounted on a common chassis, or rather, functional units whose elements are simply juxta-positioned (fixed or mobile asphalt plants). (VUENESA, 2007)



**Table No. 4: Asphalt Paver or Finisher Tariff Heading Classification**

<b>Tariff Heading Section</b>	<b>Chapter</b>	<b>Description</b>
<u>84.74.39</u>	84.	Nuclear Reactors, Boilers, Machines, Mechanical Artifacts, and Apparatuses; parts of machines and appliances. (VUENESA, 2007)
Tariff Heading Section	Section	Description
84. <u>74.39</u>	74.	Machines and appliances for classifying, sifting, separating, washing, breaking, crushing, mixing, kneading, earth, rock or other solid minerals. (VUENESA, 2007)
Tariff Heading Section	Sub-section	Description
84.74. <u>39</u>	39.	Others. (VUENESA, 2007)

Source: (VUENESA, 2007)

Created by: Andrea Vintimilla, 2015

Explanatory Notes; the chosen classification or codification is the one that best defines the merchandise to be imported. The Asphalt Paver or Finisher is supported in part 1 of section C, of the rate section 84.74.39.

c. The machines and appliances used for mixing, or kneading. "This refers to machines and appliances that essentially consist a tub or basin in which materials are agitated by paddles or other appropriate devices until the consistency has acquired the desired homogeneity". (VUENESA, 2007)

1. The cement mixers or appliances for mixing the mortar, with the exclusion of the permanently mounted mixers in a mobile chassis, which are classified in section 86.04 or constitute vehicles for special uses in section 87.05". (VUENESA, 2007)

**Table No. 5: Double Tandem Tariff Heading Classification**

<b>Tariff Heading Section</b>	<b>Chapter</b>	<b>Description</b>
<u>84.30.61</u>	84.	Nuclear Reactors, Boilers, Machines, Mechanical Artifacts, and Apparatuses; parts of these machines and appliances. (VUENESA, 2007)
Tariff Heading Section	Section	Description
84. <u>30.61</u>	30.	Other machines and appliances Machines and appliances for grading, flattening, crushing, excavating, compacting, tamping, extracting or perforating earth or minerals... (VUENESA, 2007)
Tariff Heading Section	Sub-section	Description
84.30. <u>61</u>	61.	Compacting or smoothing (tamping) machines and appliances. (VUENESA, 2007)

Source: (VUENESA, 2007)

Created by: Andrea Vintimilla, 2015

Explanatory Notes; the chosen classification or codification is the one that best defines the merchandise to be imported. The Double Tandem is supported in part 1 of section C, of the tariff heading classification section 84.30.61.

c. The machines and appliances for compacting, which are not self-propelled, the

machines for tamping ground or pavement and the machines for tightening the ballast under the railroad rails, with the exception of the tools in the sections 84.67. (VUENESA, 2007)

### 3.6 Considerations of merchandise to be imported

The following tax considerations should be acknowledge regarding the merchandise to be imported, such as: estimating the value of tax exemptions, restrictions and requirements of products to be imported as technical regulations, and other supporting and accompanying documents to streamline the importing process.

**Table No. 6: Considerations of Merchandise to be imported**

<b>Merchandise</b>	<b>IVA</b>	<b>Fodinfra</b>	<b>Advalorem</b>	<b>Safeguard</b>	<b>NTE</b>
Asphalt Plant	12%	0.5%	5%	0%	N/A
Asphalt Roller	12%	0.5%	10%	15%	N/A
Double Tandem Roller	12%	0.5%	5%	45%	N/A

Source: (SENAE, 2015)

Created by: Andrea Vintimilla

A safeguard of 45% due to the Resolution No. 011-2015 of COMEX since March 11th, 2015 affects the double tandem roller. It entered into effect establishing a tariff surcharge that is temporary and non-discriminatory to the list of sections and sub-sections that make up the resolution. This increase adds to the currently applicable tariffs. Even though, it is important to reiterate that the safeguards were taken as a temporary measure for the problems and inconveniences in Ecuador's balance of payments. It has been stipulated that for the year 2016 the Resolution No. 011-2015 should be progressively eliminated.

The following table details the way in which the safeguard of the double tandem roller and the asphalt paver will be eliminated in 2016.

**Table No. 7: Progressive Elimination of Safeguards in the year 2016**

<b>Merchandise</b>	<b>Safeguard</b>	<b>January- 2016</b>	<b>April- 2016</b>	<b>May- 2016</b>	<b>June- 2016</b>
Asphalt Paver	15%	15%	10%	5%	0%
<b>Merchandise</b>	<b>Safeguard</b>	<b>January- 2016</b>	<b>April- 2016</b>	<b>May- 2016</b>	<b>June- 2016</b>
Double Tandem Roller	45%	40%	26.7%	13.30%	0%

Source: OMC, 2015

Created by: Andrea Vintimilla

Additionally, according to the National Institute of Regulation of Ecuador, INEN, no technical regulations are necessary as accompanying documentation for the merchandise to be imported analyzed in the present undergraduate work. (INEN, 2015)

### 3.7 Process flow for import phases

**Image No. 6: Negotiation Flow for International Purchases**

MERCHANDISE STUDY	Market analysis, budget for general costs
INTERNATIONAL QUOTATION	Negotiation of terms
IMPORT PERMISSION OR APPROVAL	SERCOP Authorization, SENAE Registration, ECUAPASS Confirmation
FREIGHT NEGOTIATION	Port of Destination, ship selection, cost of shipping
INSURANCE CONTRACT	Budget, terms of contract
ESTABLISHING PAYMENT METHODS	Begin with bank or financing organizations
MERCHANDISE SHIPMENT	Notification of shipment, BL
CARRIER OBLIGATION	Arrival notice, discharge, document delivery
MERCHANDISE DEPOSIT	Receive the shipment, upload data to the system, deadline for

OR RECEPTION		leaving customs
NATIONALIZATION MERCHANDISE	OF	Appraisal Channel, tax payment, merchandises discharge.
LEGALIZATION MERCHANDISE	OF	Declaration form, finishing contract with banking entity

Source: Andrea Vintimilla, 2015

Created by: Andrea Vintimilla, 2015

Image No. 6 represents the import phases to be carried out by foreign trade operators; each of the steps should be followed for the process to be carried out correctly.

Furthermore, to begin an international purchase, the search for trustworthy suppliers must take place. They must fulfill the budgeting and technical expectations of the company. Once the market has been analyzed and the dealer is selected, conversations are held by telephone or through email, in which agreements are made regarding the terms of the contract, such as: prices, quantities, incoterms, and methods of payment, among others. Previous to or simultaneously to the negotiation, relations with the SENAE, ECUAPASS and customs agents should be established.

Additionally, as part of the contract, the freight should be determined depending on the negotiated Incoterms. The purchase of insurance with international coverage is mandatory for the merchandise. The insurance shall also include the arrival of the machinery until delivery in Asfaltar's warehouses. On the other hand, the customs agent is in charge of the legal process of the merchandise, which includes processes of revision and document delivery, arrival notification, follow-up for shipment channels, and movement of merchandise, among other things.

Moreover, once the processes and legal formalities have been concluded, the link with banking entities for the issue of the payment should be the responsibility of the importing company. It should be specified that each company possesses the autonomy to decide how to carry out an import process but the phases previously described are the basis for a proper plan and the way to avoid inconveniences in the process.

### **3.7.1 Supplier Analysis**

The main reason for analyzing only one supplier in this investment project is to make it easier for the negotiation process and it allows more openness of for national dealer, as it is in the case of making a direct purchase without generating a profit and the willingness to make an up-to-date technology contract, which is mandatory for Asfaltar, adding this to previous business relations between Karnataka SA and the Government of the Province of Azuay, which thanks to the confidence between the parties, took Asfaltar to request aid to the company for the project implementation.

Karnataka is a private business based in Cuenca, Ecuador that deals the brand Shantui around the country. Shantui is a company founded in 1980, in China. Historically, it has participated in the Bulldozer market since its creation, occupying 65% of the market in its country of origin, becoming the number one vendor and producer in the world. However, during these last years the company has focused on the diversification of the products they offer, which is aimed at manufacturing construction machinery for highways. Nowadays, the following products are included in their offer: excavators, mechanical shovels, road rollers, levelers, forklifts, trucks and cement mixers, tow trucks, pipe layers, and many others. (Shantui, 2015)

Due to its great diversification, the company has benefited from greater profit over the past years. One of Shantui's principal advantages is its efficient management, control of the supply lines and customer services. The company is not simply an assembler, but is also in charge the manufacturing of parts and structural components. The majority of their operations take place in their industrial complex in Jining, China. "As of today, the brand is currently present in more than 120 countries around the world, including Ecuador". (Shantui, 2015)

It is of vital importance to acquire goods from suppliers that have dealers in the country due to the obligation of public purchases to have an up-to date technology contract. The RESOLUTION N° RE-INCOP-2013- 0000090, of July 5, 2013 takes into account the

following points.

"The principle of up-to-date technology is expressly anticipated in article 4 of the Institutional Law of the National Public Hiring System, LOSNCP. Therefore, it should be followed in the contracts that derive from its application". (INCOP, 2013)

"The Principle of up-to-date technology guarantees the use of goods with state of the art technology in optimum functioning conditions in order to enhance and maintain public services efficiently and effectively". (INCOP, 2013)

Based on these principles all public businesses in the Republic of Ecuador are obligated to make a maintenance contract for the merchandise acquired directly. It is recommended to have a contract with an authorized distributor to maintain adherence to the up-to-date technology principal. This way assistance can be provided during the post-sale stage and it can also serve as a guarantee for merchandise subject to unknown future events.

#### **Image No. 7: Key points of up-to-date technology**

8.1 In the acquisition of goods:

8.1.1 Time and conditions for immediate repositioning

8.1.2 Validity of technical guarantee during useful lifetime

8.1.3 Periodic and preventive maintenance during useful lifetime; and,

8.1.4 Temporary repositioning of goods during maintenance work that impedes its use

Source: (LOSNCPG. d., 2008)

Created by: Andrea Vintimilla, 2015

### **3.7.2 Order Placement**

Once a supplier is selected and a relationship is established, the necessary documentation should be emitted, specifically the invoice.

"The vendor or buyer should be in charge of sending the following documents according to the negotiated terms": (Silvia Rosas, 2013)

1. Commercial Invoice: containing the necessary information and primary data of the negotiation
2. Packing List: detailed description of the shipping content
3. Shipment Information: issued by the transport company representative upon delivering the merchandise
4. Insurance Policy: based on the negotiated Incoterm, the policy shall be issued by the appropriate authority

### 3.7.3. Merchandise Pricing

**Table No. 8: Quotation of machines to be imported according to technical files**

S/N	Description	Quantity	FOB USD (Qingdao-Tianjin)	CFR USD (Port of Manta)	CIF USD (Port of Manta)
1	Shantui JLB1000 Asphalt Mixing Plant	1	280,980.00	330,980.00	332,953.00
2	Shantui SR13D-3 Tandem Roller	1	117,810.00	120,470.00	123,120.00
2	Shantui SRP95M Multifunctional Asphalt Concrete Paver	1	223,000.00	232,270.00	233,490.00
	<b>TOTAL</b>	<b>3</b>	<b>621,790.00</b>	<b>685,720.00</b>	<b>689,563.00</b>

Source: (Shantui, 2015)

Created by: Andrea Vintimilla, 2015



According to the needs of Asfaltar EP, the search for a supplier was made in compliance with the merchandise and its specifications. Which means that the three products presented in table no. 7, fulfill the company`s expectations.

#### **3.7.4. International Transport**

International Transport is known as the movement of goods from a place of origin to a determined destination abroad, complying with commercial formalities and customs. "Various types of international transport exist such as: air transport, land transport, riverways, rail, and vehicles". (Silvia Rosas, 2013) (Larrea, 2013) For this undergraduate project, maritime transportation will be analyzed, being the most common mode of transportation on an international level because of the price and the cargo capacity. The transportation is carried out by ships classified as: bulk, liquid cargo, reefer, rolling cargo, and container ship. A container is understood as the cargo unit that carries merchandise from one place to another. For that reason, and because of the physical conditions of the merchandise that is being studied, the ideal transportation for the machinery is maritime, in a cargo container ship. For a better understanding refer to the meaning of cargo units established in Art. 2 of REGCOPCI.

"Cargo Unit. - A container used for merchandise with the purpose of allowing or facilitating its transportation, which can be towed, but lacks its own means of propulsion". (REGCOPCI, Regulations for the Title of Customs Facilitator for Commerce, of book V and of the institutional code of production, commerce, and investments, 2015)

There exist various types of containers that should be analyzed for later negotiation depending on the conditions of each purchase.

**Table No. 9: Types of Containers according to characteristics**

TECHNICAL CHARACTERISTICS OF CONTAINERS					
CONT. 20'		CONT. 40'		CONT. 40' HC	
CBM	WEIGHT	CBM	WEIGHT	CBM	WEIGHT

	(Kg)		(Kg)		(Kg)
33.00	28,230.00	66.00	26,700.00	76.00	26,460.00

Source: (Torres, 2015)

Based on this information the freight rate can be calculated, depending on the units, weight or volume of the merchandise to be transported from its place of origin to its destination.

### 3.7.5. Insurance against damages to merchandise

An international insurance is understood as a bilateral contract regulated by customs law between the buyer and the seller. The parts establish a sum to protect themselves from the possible occurrence of risks to which goods may be exposed during their national and international transit. It is always recommended to hire international transport insurance to avoid any losses or problems. The value of the insurance must be acceptable, within the budget and value of the merchandise.

Table No. 7 is based on the costs provided by the supplier to the buyer. According to Ecuadorian legislation it is an obligation to acquire a national insurance. Therefore, the purchase should be made in CFR and the cost of the insurance shall be the following:

**Table No. 10: CIF costs by merchandise with national insurance purchase**

Description	Quantity	CFR USD (Port of Manta)	CIF USD (National Insurance to the Port of Manta)
Shantui JLB1000 Asphalt Mixing Plant	1	330,980.00	332,349.84
Shantui SR13D-3 Tandem Roller	1	122,470.00	122,976.87

Shantui SRP95M Multifunctional Asphalt Concrete Paver	1	232,270.00	232,270.00
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Source: (Donoso, 2015)

Created by: Andrea Vintimilla, 2015

### 3.7.6. Delivery of Documents to Customs Agent

**Table No. 11: State of Negotiations previous to document delivery**

STATE	ITEM 1	ITEM 2	ITEM 3
CFR Negotiation	330, 980.00	122,470.00	232,270.00
CIF Negotiation	332,349.84	122,976.87	232,276.02
Registration as an importer CBE (BCE) and ECUAPASS	Bill of Landing, Packing List, Commercial Invoice	Bill of Landing, Packing List, Commercial Invoice	Bill of Landing, Packing List, Commercial Invoice

Created by: Andrea Vintimilla, 2015

In the SENAE website, there is a list provided from which you can choose customs agents. All of them offer services of importing or exporting companies. It is suggested to make negotiations with COMAR or Julio Villagómez due to previous commercial relations with the company in question, Asfaltar EP, and with the dealer company of the brand, Karnataka S.A.

Customs Agents' details: (SENAE, 2015)

Co-partner Malo Arizaga

Cuenca-Ecuador

Av. Gil Ramírez Dávalos 1-31 and Armenillas

TEL: (+593)9-49-82-910

Email: smalo@comarecuador.com

Julio Villagómez León  
Financed Customs Agent  
Guayaquil- Ecuador  
TEL: 6039059  
E-mail: [juliovillagomez@cablemodem.com.ec](mailto:juliovillagomez@cablemodem.com.ec)

### **3.8 Process Flow of Customs Clearance**

To continue with the process of customs clearance once the merchandise is in the Ecuadorian territory, it is important to understand the procedures used in the system. Customs is defined as the public service of a State whose responsibility is the control of the entry and exit of persons and merchandise within a country's territory. "The places where their functions take place are divided into two: the primary zone, which are the airports or border entries, and the secondary zone, which is the rest of a country's territory". (Larrea, 2013)

For better comprehension it is important to define the frequently used word, merchandise. It refers to any movable good produced for national or international commercial purposes. Therefore, when speaking of nationalized merchandise, it discusses that foreign merchandise which has been object of international business, has been imported, has paid taxes, and has complied with customs formalities. (Larrea, 2013)

The following customs formalities must be followed so that merchandise may be nationalized.

#### **3.8.1 Delivery of customs documents**

To complete customs clearance formalities the assistance of authorized Customs Agents is necessary. The SENAE's website has a list of qualified agents who can be hired for these processes. (SENAE, 2015)

For an efficient flow of these processes, a customs import declaration (DAI) is mandatory,

which can be presented electronically or physically, depending on the case as determined by the General Direction National Customs Service of Ecuador. "The delivery of documents should occur at the end of thirty calendar days counted from the arrival of the merchandise in the primary zone". (SENAE, 2015)

Additionally, the supporting and accompanying documents mentioned in previous chapters of this project are needed, and they must be presented to the ECUAPASS portal; these documents supplement the DAI. After their reception, the portal shall grant a validation number to ensure the customs transaction.

Art. 72. - Accompanying Documents. - These constitute those named as previous control, meaning the ones that should be processed and approved before the merchandise is shipped. They can be presented physically or electronically, together with the Customs Declaration, when required. (REGCOPCI, Regulations for the Customs Facilitator for Commerce, of book V and institutional production, commerce, and investments code, 2011)

Art. 73. - Supporting Documents. - These are the documents that constitute the base of any import procedure. These original documents, be they physical or electronic, should hold an archive of the declaring person, the Customs Agent and be under his/her responsibility. (REGCOPCI, Regulations for the Customs Facilitator for Commerce, of book V and institutional production, commerce, and investments code, 2011)

- Commercial Invoice
- Certificate of Origin (when appropriate)
- Documents that the SENAE or a Regulatory Institution of Foreign Trade considers necessary

### **3.8.2. Channels of Customs Appraisal**

Once the DAI is completed, and the supporting and accompanying documents are

delivered to the customs agent, the SENAE shall proceed to establish a channel of appraisal through which the goods will be revised in the primary zone. A channel of appraisal is understood as a capacity to process or to revise any technical customs. For example: a comparison of the the filled information to the merchandise that arrived in port, representing both a qualitative and quantitative analysis. Art. 78 REGCOPCI establishes that the form of capacity at which a commodity will be submitted depends on the analysis of risk profiles implemented by the SENAE.

In Ecuadorian legislation there exist various forms of appraisal that an importer may choose from, those being the following:

Art. 80. - Automatic Channel. - Electronic validation of Customs Declaration through the computer system with the application of risk profiles. The imports that need previous control documents remain excluded from this channel. (REGCOPCI, Regulations for the Title of Customs Facilitator for Commerce, of book V and institutional production, commerce, and investments code, 2015)

Art. 82. - Document Channel. - Verification of the Customs Declaration, its accompanying documents, and supporting documents, with the purpose of determining the correct tax liquidation on foreign trade with compliance with customs requirements according to the declared regime of the merchandise. (REGCOPCI, Regulations for the Title of Customs Facilitator for Commerce, of book V and institutional production, commerce, and investments code, 2015)

Art. 83. - Physical Channel. - Physical recognition of merchandise, to verify its nature, origin, condition, quantity, weight, measurements, value in customs and/or customs classification, compared to the data in the Customs Declaration and its supporting and accompanying documents, with the purpose of determining the tax liquidation on foreign trade with compliance with customs requirements according to the customs regime and declared merchandise. (REGCOPCI, Regulations for the Title of Customs Facilitator for Commerce, of book V and institutional production, commerce, and investments code, 2015)

These methods of appraisal can be applied through intrusive inspections or physical verification of the merchandise, or through non-intrusive technological systems of inspection carried out personally by the customs functionary.

### 3.8.3. Customs Liquidation

The determination of tax is an act through which a tariff is to be paid by the foreign trade operator. In this project taxes will not be managed traditionally because of the exemptions to which public business benefit from. Therefore, the following tables have the purpose of demonstrating the savings on economic resources for AsfaltarEP.

**Table No. 12: Tax Liquidation Asphalt Plant**

<b>Asphalt Plant</b>		
FOB		280,980.00
FREIGHT		50,000.00
INSURANCE		1,369.84
<b>TOTAL CIF</b>		<b>332,349.84</b>
ADVALOREM	5%	16,617.49
FDI	0.5%	1,661.45
SAFEGUARD	0%	-
ICE	0%	-
<b>TAXES</b>		<b>60,354.73</b>
<b>% TAXES</b>		<b>17.5%</b>

Elaborated: Andrea Vintimilla, 2015.

Source: Andrea Vintimilla, 2015.

**Table No. 13: Tax Liquidation Asphalt Paver**

<b>Asphalt Paver</b>		
FOB		223,000.00
FREIGHT		9,270.00
INSURANCE		1,006.02
<b>TOTAL CIF</b>		<b>233,276.02</b>
ADVALOREM	5%	23,327.60
FDI	0.5%	1,166.38
SAFEGUARD	0%	34,991.40
ICE	0%	
IVA	12%	35,131.37
<b>TAXES</b>		<b>94,616.75</b>
<b>% TAXES</b>		<b>37.5%</b>

Source: Andrea Vintimilla, 2015.

Elaborated: Andrea Vintimilla, 2015.

**Table No. 14: Tax Liquidation Double Tandem Roller**

<b>Double Tandem Roller</b>		
FOB		117,810.00
FREIGHT		4,660.00
INSURANCE		506.87
<b>TOTAL CIF</b>		<b>122,976.87</b>
ADVALOREM	5%	6,148.84
FDI	0.5%	614.88
SAFEGUARD	0%	55,339.59
ICE	0%	



IVA	12%	22,209.62
<b>TAXES</b>		<b>84,312.94</b>
<b>% TAXES</b>		<b>62.5%</b>

Source: Andrea Vintimilla, 2015.

Elaborated: Andrea Vintimilla, 2015.

### 3.8.4 Release of the Merchandise.

As the final step in the process of complying with the customs regulations of the merchandise, Art. 88 of REGCOPCI establishes the procedure for a merchandise to be released from customs. Upon complying with the previous requirements, the completion of formalities and the hypothetical authorization for the tax payment, the withdrawal of merchandise to the primary zone shall be authorized.

In this manner Art. 2 of REGCOPCI is understood:

Release of Merchandise. - This is the act in which a Customs Authority, authorizes to the interested parties to make use of the merchandise according to the purposes anticipated in the DAI, once the merchandise has left the primary zone and has fulfilled the requirements and formalities required by customs.

### 3.8.5. Destination Costs

**Table No. 15: Asphalt Plant Destination Costs**

Customs Agent	\$214.40 (minimum tariff without IVA)
ISD to the issuing bank	\$16,549 (CFR*5%)
Internal Freight Manta-Cuenca	\$700 (per container *8)
Shipping Company Endorsement	\$107 (BL costs)
<b>TOTAL COSTS</b>	<b>\$22,470.04</b>

Source: (Donoso, 2015)

Created by: Andrea Vintimilla, 2015

**Table No. 16: Double Tandem Roller Destination Costs**

Customs Agent	\$214.40 (minimum tariff without IVA)
ISD to the issuing bank	\$6,123.5 (CFR*5%)
Internal Freight Manta-Cuenca	\$1400 (per machine)
Shipping Company Endorsement	\$107 (BL costs)
<b>TOTAL COSTS</b>	<b>\$7,844.90</b>

Source: (Donoso, 2015)

Created by: Andrea Vintimilla, 2015

**Table No. 17: Asphalt Paver or Finisher Destination Costs**

Customs Agent	\$214.40 (minimum tariff without IVA)
ISD to the issuing bank	\$11,613.5 (CFR*5%)
Internal Freight Manta-Cuenca	\$1,400 (per machine)
Shipping Company Endorsement	\$107 (BL costs)
<b>TOTAL COSTS</b>	<b>\$22,470.04</b>

Source: (Donoso, 2015)

Created by: Andrea Vintimilla, 2015

### **3.8.6. Recommendations to Consider**

It is important to emphasize the importance of control of the technical customs use in the Ecuadorian legislation. Control is a process of permanent supervision to the merchandise entering the national territory under any customs regime. There are three control phases: prior control, concurrent control, and subsequent control. (COPCI, 2015)

Prior Control: this control is exercised by the customs administration before the DAI is presented. It makes up the actions of inspection or direct investigation over the foreign trade operators. Selected merchandise goes through the risk profile system or is coordinated between customs administration and other institutions in charge of the control

previous to importing of merchandise.

The investigation can be extended to shipping companies, cargo units, temporary deposit and others. Physical inspection of the merchandise can be held in the presence of a consignee or his/her representative. (COPCI, 2015)

Concurrent Control: this control is exercised by customs administration from the moment that the Customs Declaration is presented until the moment merchandise is released. "It is made up of actions of control and investigation that are held by foreign trade operators and over selected merchandise through the risk profiles system". (COPCI, 2015)

These controls shall be carried out according to the methods of the corresponding offices. "Customs Authority can request the importers and other operators who may intervene in the process, accompanying and supporting documents which accredit the Customs Declaration. The controls during appraisal can be exercised in any place of the primary zone". (COPCI, 2015)

Subsequent Control: this includes all actions of verification of customs declarations or investigation that is initiated after the release of the merchandise, in a particular customs regime. Subsequent control to a customs declaration may be carried out within five years from the date in which taxes should have been paid. Every process of this specific type of control should culminate with the issuing of a definitive report to the responsible unit. The process should be closed within the term of one year from the date of notification of the respective process, and the results should be reported to the OCE. (COPCI, 2015)

The SENAE does not need judicial authorization to carry out any type of control to an OCE or persons involved in the traffic of international merchandise. Information and documentation can also be requested and examined related to the merchandise. If as a result of subsequent control it is verified that an infraction has been committed, sanctions and procedures described in COPCI should be enforced. (COPCI, 2015)

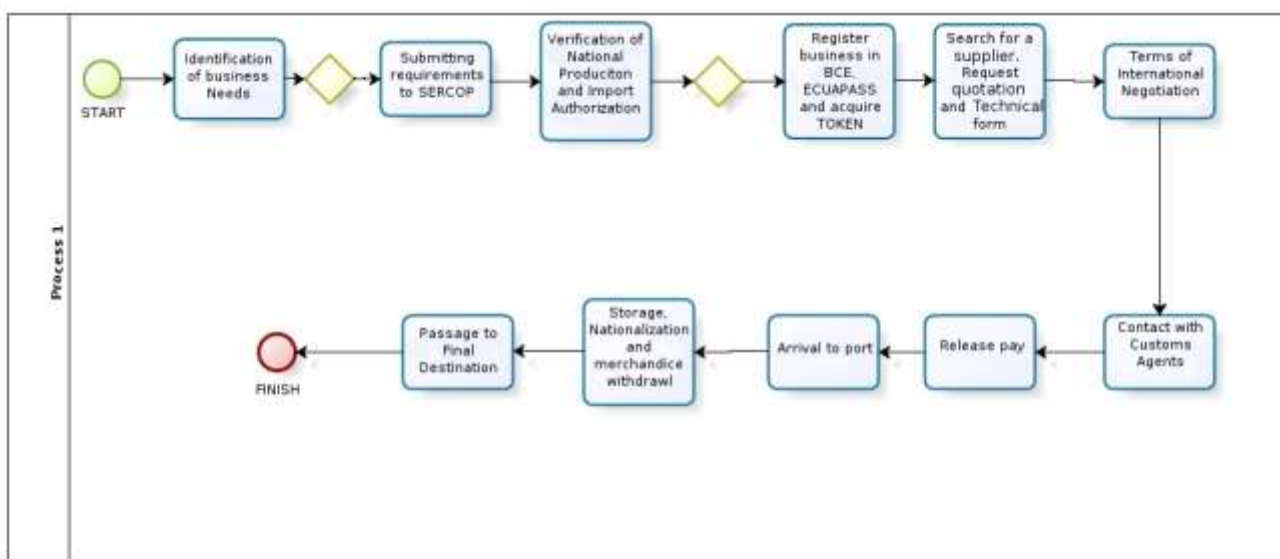
**Table No. 18: Steps to follow for the import of all Machines**

	<b>Step</b>	<b>Description</b>	<b>Authority Responsible</b>
1	Identification of Needs	Analysis of the current business situation and future objectives	Asfaltar Functionaries EP
2	Verification of National Production	Complying with public entities processes that authorize the direct purchase abroad, due to the lack of national production.	Asfaltar Functionaries and SERCOP EP
3	Central Bank of Ecuador	Input of documents to the electronic system, electronic certification request, and TOKEN payment	Professionals of COMEX
4	SENAE, Ecuapass	Registering into the COMEX system, creating a username and password, entering customs agent information.	Customs Agent
5	Search for merchandise	Search for merchandise abroad with the help of dealers and COMEX operators.	Professionals of COMEX
6	Negotiation Purchase-Sales Contract	Invoice request, technical requirements, incoterm negotiations, departure dates, shipment times, and payment forms.	Asfaltar EP and Suppliers
7	Payment Delivery	Bank relations for sending the payment abroad, according to with the established purchase sales contract.	Sending Bank and Provider
8	Arrival to Port	Delivery of Supporting and Accompanying Documents, Delivery of Customs Declaration, Delivery of BL and Packing List.	Customs Agent
9	Nationalization	National appraisal, document revision and merchandise release with the support of SERCOP authorization with zero taxes due.	Customs Agent

10	Delivery to Warehouses	Hire a national transport and send machinery to Asfaltar's warehouses.	Asfaltar EP
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Created by: Andrea Vintimilla, 2015

**Table No. 19: Importing Process Flowchart**



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Workflow

Created by: Andrea Vintimilla, 2016

### 3.9 Financial Analysis

For the acquisition of the goods to be imported, the Annual Public Hiring Plan from the year 2012 to 2015 was consulted. Public functionaries carried out the planning and a significant economic increase can be noted. In the 2015 PAC, the goods to be imported were added by Asfaltar EP as capital goods in an investment project.

The following table specifies the values to which the machinery were budgeted as. The

budgeting difference between the PAC and the present undergraduate work that benefits from tax exemptions is detailed:

**Table No. 20: Asfaltar 2015 Annual Public Hiring Plan**

Budget Section	Type of Budget	Procedure	Description	Quantity	Cost U.
840104	Investment Project	Electronic Investment Auction	Asphalt Finisher	1.00	\$360,000.0000
840104	Investment Project	Electronic Investment Auction	Asphalt Plant	1.00	\$850,000.0000
840104	Investment Project	Electronic Investment Auction	Smooth Roller	1.00	\$123,200.0000

Source: (AsfaltarEP, 2015)

Created by: Andrea Vintimilla, 2015

The total amount of the budget for Asfaltar EP in this investment project gives us a total of \$1,333.200. In addition, sales information, rental prices of machinery was gathered from the Ecuadorian company Karnataka S.A. The following table details the purchase prices of machinery made in national acquisition. The payment method is 30% of the total value at the sign of the contract and the difference against delivery. The Commercial Invoice can be financed with public or private bank sources. Karnataka offers the guarantees, maintenance, and replacements as part of their post-sales services for the purchase of machinery.

### 3.9.1. National vs. International Purchase Comparison

**Table No. 21: National Machinery Supplier Quotation**

PROVIDER	BRAND	TYPE	MODEL	UNITS	V/UNIT
KARNATA KA	SHANTUI	ASPHALT PLANT	JLB10000	1	\$706,000,00
KARNATA KA	SHANTUI	TANDEM ROLLER	SR13D-3	1	\$294,000.00
KARNATA KA	SHANTUI	FINISHER	SR 95M	1	\$462,000,00

Source: (Vintimilla, 2015)

Created by: Andrea Vintimilla, 2015

**Table No. 22: International Machinery costs in Asfaltar EP warehouses**

Description	CIF	CIF+Customs Costs	TOTAL
ASPHALT PLANT	33,349.84	22,470.04	354,819.88
TANDEM ROLLER	122,976.87	7,844.90	130,821.77
FINISHER	232,276.02	13,334.90	245,610.92

Source: (Vintimilla, 2015)

Created by: Andrea Vintimilla, 2015

The prices of the machinery to be purchased to the national dealer Karnataka S.A., is \$1,462,000 meaning that there is a negative difference of \$128,800.00 from what was budgeted in the 2015 PAC. The difference, in this case, is higher which means the business in question should analyze a way to find more economic resources to finance the purchase, which will cause financial problems for the company. On the other hand, when considering the direct import process it shows important savings as shown in Table No 21, with a total purchase value of \$731,252.57. Having a positive difference of \$730,747.43, it can be

concluded that if the acquisition is made from a national dealer it duplicates the value in a 100% compared to an international dealer. The difference of the international purchase is of \$601,947.43, which represents approximately 105% in savings in relation to the PAC of 2015. Finally, the financial benefits of implementing foreign trade tools are demonstrated with the different quotations provided in the undergraduate thesis. Moreover, as another source of financial analysis the price per hour of use or rental of the asphalt plant and roller was requested. The price of the finished product of an asphalt plant was also collected, the finished product is directly affected by the investment project because its prices and costs can also be significantly reducing, thus generating more profit.

**Table No. 23: Price of finished product by asphalt plant.**

Product	Type	Size	Units	Price
<u>Asphalt Concrete in Plant</u>				
1 - 12*			m3	113.00
13 - 36*			m3	110.00
36 - 60			m3	108.00
60 - 100			m3	105.00
100 and above			m3	100.00
<u>Asphalt Services</u>				
Asphalt for printing (in plants without recipients)		RC - 250	Lt	.98
Asphalt for placed printing		RC - 250	Lt	1.20
Laid asphalt carpet		1.5"	m2	8.40
Laid asphalt carpet		2.0"	m2	9.95
Laid asphalt carpet		3.0"	m2	11.76
Laid DTSB	1 <sup>st</sup> Irrigation 3/4", 2 <sup>nd</sup> 3/8"		m2	4.20

Source: (AsfaltarEP, 2015)

Created by: Andrea Vintimilla, 2015



In addition to the price list provided by Asfaltar, which entered into effect in October, it can be stated that during the interviews held during the project to Asfaltar's functionaries, it was indicated that there is a 40% profit of the price of the finished product in an asphalt plant, which means the earnings are doubled if buying abroad. This positive increase in profit demonstrates another advantage of the present analysis for Asfaltar EP.

**Table No. 24: Price per hour of machinery rental**

PRODUCT	PROVIDER	BRAND	TYPE	MODEL	YEAR	V/HOUR
Machinery	Karnataka	Shantui	Finisher	SR 95M	2015	\$95.00
Machinery	Karnataka	Shantui	Tandem Roller	SR13D-3	2015	\$55.00

Source: (Vintimilla, 2015)

Created by: Andrea Vintimilla, 2015

Furthermore, in conversations held with the head of sales and machine rentals of Karnataka S.A. it was indicated that they hold a 50% margin regarding machine rental. This criteria applies to the machinery in question in this project. Keeping in mind this profit percentage, it can be assumed that earnings can be doubled upon acquiring the machinery directly.

### **3.9.2. Financial Flow for the Project**

In the following section, a projected flow of the expected investment in the project in a period of ten years will be carried out. It will be projected with the information provided by Asfaltar EP functionaries and the information gathered during the investigation. Likewise, the respective analyzes will be held in the two different possible scenarios, national purchase versus international purchase. It is important to emphasize that even though the two flows are presented as feasible due to their positive net values and internal rate of return, the two scenarios show a difference in VAN of \$714,087.00 and in TIR of 1.74%, being the international purchase the best option.

### 3.9.2.1. National Supplier Flow

Referring to the values detailed in Table No. 25, these demonstrate that a national purchase is feasible for present project due to the positive value of VAN with \$1,183,569 and the TIR greater than 1, with 1.80.

**Table No. 25: Projected National Purchase Flow**

1. FINANCIAL INDEXES										
Description	(Initial Investment)	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9
Investor Flows	\$1.479.28 1	\$315.14	\$440.8	\$465.75	\$492.335	\$505.978	\$532.625	\$546.733	\$519.180	\$529.985
Accumulated Flow		\$315.114	\$755.4 94	\$1,221.2 38	\$1,713.5 73	\$2,219.51	\$2,752.1 76	\$3,298.9 09	\$3,818.0 89	\$4,348.0 74
Discount Rate	11.94%									
Payback	(Within term)									

Investment Recovery Year		Year	2							
Difference with Initial Investment		\$1.479.2	\$71.40	\$1.407.8						
		81	9	72						
Monthly Flow Average for Following Year		\$43.035	12	\$3.586						
Number of Months		\$1.407.8	\$3.586	392,57						
		72								
PAYBACK	2	Year(s)	393	Month(s)						

Average Rate of Yield (Countable rate)		(Greater than the Rate of Discount)		
Sum Total of Flows	\$4,887.890			
Years	10			
Initial Investment	\$1,479.281			
TRP	33.0%			
	DISCOUNTED INDEXES			
Sum of Discounted Flows	\$2,662.850			
Current Net Value (VAN) Projected		(Positive)		\$1,183.569
Profitability Index (IR)		(Greater than 1)		1.80
Real Yield (RR)		(Greater than the Rate of Discount)		80%
Rate of Internal Return (TIR)		(Greater than the Rate of Discount)		27.61%
2. FINANCIAL RATIOS				

Sales	\$745.811			
Direct Costs	\$184.749			
Indirect Costs	\$43.637			
Net Flow	\$505.978			
Payment of Dividends	\$12,127			
Financial Costs	\$680			
Personal Costs	\$46,548			
Net Fixed Assets	\$731,000			
Balance Point		(Less than 50%)		\$58,006
				8%
Liquid Index		(Greater than 1)		42.7
Value Added Tax on Sales		(Less than 50%)		6%
3. RISK				
Active Assets	\$1,724.526			
Total Assets	\$2,455.526			
Net Profit	\$236,656			

Liquidity Risk		(Less than 50%)		30%
Current Performance		(Greater than the Rate of Discount)		14%
4. REASONS				
Operative Profit	\$518,896			
Financial Costs	\$680			
Initial Investment	\$1,479.281			
Net Profit	\$1,026.245			
Credit Value	\$50,000			
Sales	\$745,811			
Total Assets	\$2,455.526			
Financial Coverage or Interest		(Greater than 1)		762.6
Total Investment		(Greater than 1)		0.4
Credit Sum		(Greater than 1)		20.5
Investment Sum		(Greater than 1)		0.7

Margin of Net Profit	(Greater than the Rate of Discount)	138%
Asset Rotation	(Greater than 1)	0.3
Dupont	Approximately 100%	41.79%
ROA	Industrial History	41.79%
ROE	Industrial History	41.79%
LEVERAGE	Industrial History	0.00%

Created by: Andrea Vintimilla, 2015

### 3.9.2.2. Flow of International Provider

According to the values detailed in Table No. 26, they demonstrate that making an international purchase is feasible for this project due to the positive VAN of 1,897,656 and the TIR being greater than 1, with 3.54.

**Table No. 26: Projected Flow of International Purchase**

1. FINANCIAL INDEXES											
Description	(Initial Investment )	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Investor Flows	-\$748.533	\$748.533	\$440.380	\$465.744	\$492.335	\$505.978	\$532.625	\$546.733	\$519.180	\$529.985	\$539.815
Accumulated Flow		\$288.624	\$729.004	\$1,194.748	\$1,687.083	\$2,193.061	\$2,725.687	\$3,272.419	\$3,791.599	\$4,321.585	\$4,861.400
Discount Rate	11.88%										
Payback		(Within term)									



Investment Recovery Year		Year	2								
Difference with Initial Investment		\$748.53	\$71.40	\$677.12							
		3	9	4							
Monthly Flow Average for Following Year		\$43.035	12	\$3,586							
Number of Months		\$677.12	\$3.586	188.81							
		4									
PAYBACK	2	Year(s)	393	Month(s)							
				)							
Average Yield Rate											
Sum of Flows	\$4,861.40										
	0										
Years	10										
Initial Investment	\$748,533										

Net Utility	\$1,259.17 1										
Number of Months		\$677,124	\$3,586	188.81							
PAYBACK	2	Year(s)	189	Month(s)							
Average Rate of Yield (Countable rate)		(Greater than the Rate of Discount)									
Sum Total of Flows	\$4,861.40										
Years	10										
Initial Investment	\$748,533										
TRP	64.9%										
	DISCOUNTED INDEXES										
Sum of Discounted Flows	\$2,646.18 9										
Current Net Value (VAN) Projected		(Positive)			\$1,897.656	\$2.646.189,37	\$1.897.656,13				
Profitability Index (IR)		(Greater than 1)			3.54						
Real Yield (RR)		(Greater than the Rate of Discount)			254%						

Rate of Internal Return (TIR)		(Greater than the Rate of		53.94%		
		Discount)				
2. FINANCIAL RATIOS						
Sales	\$745,811					
Direct Costs	\$184,749					
Indirect Costs	\$43,637					
Net Flow	\$505,978					
Payment of Dividends	\$12,127					
Financial Costs	\$680					
Personal Costs	\$46,548					
Net Fixed Assets	\$365,626					
Balance Point		(Less than 50%)		\$58,006		
				8%		
Liquid Index		(Greater than 1)		42.7		
Value Added Tax on Sales		(Less than 50%)		6%		
3. RISK						
Active Assets	\$1,592.07					
	8					
Total Assets	\$1,957.70					
	4					

Net Utility	\$283,241			
Liquidity Risk		(Less than 50%)		19%
Current Performance		(Greater than the Rate of Discount)		18%
4. REASONS				
Operative Profit	\$518,896			
Financial Costs	\$680			
Initial Investment	\$1,479.28			
	1			
Net Profit	\$1,259.17			
	1			
Credit Value	\$50,000			
Sales	\$745,811			
Total Assets	\$1,957.70			
	4			
Financial Coverage or Interest		(Greater than 1)		762.6
Total Investment		(Greater than 1)		0.7
Credit Sum		(Greater than 1)		25.5
Investment Sum		(Greater than 1)		0.7
Margin of Net Profit		(Greater than the Rate of Discount)		169%

Asset Rotation	(Greater than 1)	0.4
Dupont	Approximately 100%	64.32%
ROA	Industrial History	64.32%
ROE	Industrial History	64.32%
LEVERAGE	Industrial History	0.00%

Created by: Andrea Vintimilla, 2015

### **3.10 Scopes**

As was established in chapter 2 of this undergraduate thesis, regulations that can apply for the benefit of AsfaltarEP for obtaining tax exemptions were analyzed. The analysis was carried out on each law and procedure so that the company in question makes the right decision to use its economic resources.

Foreign trade has helped the optimization of resources in the past and it will continue to do so. It has facilitated the provision of merchandise when no national offer exists or it is limited. Historically, it has allowed public and private businesses to fulfill current needs within a set society, as is the case in the Province of Azuay. Asfaltar EP has recognized the necessity for purchasing machinery that allows the fulfillment of their objectives and duties as a public business. The analysis carried out in the present undergraduate project was made to evaluate the advantages of using foreign trade tools. The evaluation was carried out objectively and under close guidance by public functionaries in order to complete the final proposal detailed in this chapter, which clearly explains the meaningful economic benefits obtained through the acquisition of machinery abroad.

Finally, and as one of the most relevant points for the present chapter and this undergraduate project, the financial analysis shows the difference in financial resources between a purchase from a national dealer and an international supplier. There are savings of 105% of the budget established by the PAC of Asfaltar EP in 2015, which means that because it is a public non-profit business the resources can be directed to other strategic goals of the company. In addition to savings on merchandise, savings in other services such as the rental of machinery and sale of finished material can be applied, which establishes a current profit of 50%. If foreign trade tools are used, this profit can be doubled because of the price of purchase. Furthermore, the 10-year projected flow demonstrates that the two purchases are reasonable but the difference in positive values in VAN upon the completion of the import process justifies the current project.

To conclude, the synergy of all the established points in the chapter, the proper use of laws and regulations, and foreign trade tools will allow Asfaltar to achieve a successful purchase and import process, in relation to its business environment, its objectives and its economic resources.

## **CHAPTER 4**

### **CONCLUSIONS AND RECOMMENDATIONS**

#### **4.1 Conclusions**

In this investigation an analysis of the business situation was presented through a SWOT analysis, which helped to identify strengths, threats, opportunities, and weaknesses of the company. The analysis leads to the conclusion that the current situation of the company shows many weaknesses relative to its objectives and competencies established in the Annual Operative Plan. Among its duties, objectives, and facilities we find the improvement and maintenance of roadways, which are currently characterized as in a bad state.

The analysis of the Asfaltar EP Creation Ordinance was also necessary, since it helped define the needs in relation to the objectives analyzed based on the assets of the company. The equipment in question has not been renewed during the time of the company's creation, demonstrating the urgent need for the acquisition of machinery.

Once the business information had been analyzed, an investigation of laws and regulations, among others, was carried out to consolidate the legal panorama that faces a public business in Ecuador. This determined the process that a business must accomplish for the direct purchase abroad. In its quality as a public business, Asfaltar EP is subject to regulations that provide tax benefits that offer savings. The bibliographic sources indicated in chapter 2 of the present undergraduate project support these tax exemptions. Likewise, the company possesses the option to turn to laws like the "Public-Private Associations" to find other financing mechanisms if paying the resources directly becomes unmanageable.

Through the laws, the legal panorama was defined, which led to an analysis of foreign trade and the process to be carried out. Foreign trade is understood as the tool that helps supply merchandise for products that are not found in the national market, but are available in great amounts in international markets. The import process should be previously



planned by public functionaries, customs agents, or foreign trade operators in order to fulfill all the obligations associated with an import process. The documentation generated throughout the project should be archived both digitally and physically for internal and external business control, for a minimum of 5 years after the merchandise is released. Regarding the financial environment, it is important to reiterate that both national purchases and international purchases are presented as feasible because of their current net values that are greater than the internal rate of return. The difference found between the two scenarios of a VAN of \$714,087.00 being greater in an international purchase and a differential TIR of 1.74, which is greater than an international purchase, which justifies that the direct purchase from an international provider is more favorable for this project.

Finally, it can be concluded that this investigation has been of great use and relevance since it has helped me, on one hand, to put into practice the knowledge acquired in my university years, and on the other hand, acquire new knowledge through the direct interviews with the involved parties. Furthermore, I consider that this investigation is an important project for the public sector in the Province Government of Azuay, which makes me firmly believe in its validity and prosperity.

## **4.2 Recommendations**

For a correct process, it is suggested to complete the processes established by government entities step by step. Likewise, giving a continuous follow-up to the resolutions and reforms issued by the analyzed entities is recommended, as they can influence directly this undergraduate project.

Additionally, it is recommended for a business to keep files and documents of the import process to create an archive for a minimum of 5 years in the case that a subsequent control occurs. Finally, after analyzing the company, the investment project, and assuming the savings from buying the merchandise directly abroad will be significant, I suggest that public business makes use of this extra economic resource in other projects that need to be addressed urgently.

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## Annexes

### Annex 1: Asfaltar EP Creation Ordinance and its reforms

LAND AND BUILDINGS		
Code of Goods	Description	Value
0001-02-001-19088	CRUSHING PLANT SITE	\$ 28,574.12
0002-02-002-19596	CRUSHING PLANT BUILDING	\$ 157,901.64
0001-02-001-24527	SITE AT VIRGINIA DUG DUG PAUTE	\$ 129,696.22
<b>TOTAL</b>		<b>\$ 316,171.98</b>

LIGHT AND HEAVY VEHICLES		
Code of Goods	Description	Value
0005-05-002-24846	ASPHALT DISTRIBUTOR HEARTCAT BG501/CRC #01	\$ 172,000.00
0005-05-002-24847	ASPHALT DISTRIBUTOR BEARCAT BC501/CRC #02	\$ 172,000.00
0004-03-019-24529	TRUCK MAN #1	\$ 115,800.00
0004-03-019-24528	TRUCK MAN #2	\$ 115,800.00
0005-05-009-15848	MERCEDES BENZ #145	\$ 99,887.82
0005-05-009-15863	MERCEDES BENZ #143	\$ 99,887.82
0005-05-009-15854	MERCEDES BENZ #144	\$ 99,886.82
0005-05-009-22888	HINO TRUCK #154	\$ 63,251.00
0005-05-009-15533	NISSAN TRUCK PKC310 #118	\$ 37,746.35
0005-05-009-15538	NISSAN TRUCK PKC310 #119	\$ 37,746.35
0005-04-001-26499	MITSUBISHI VEHICLE MONTERO INCLUDES TOOL KIT #60	\$ 33,490.00
0005-04-002-26476	DOUBLE CABIN TOYOTA TRUCK (INCLUDES TOOL KIT #77)	\$ 25,616.00
0005-05-002-26472	MITSUBISHI TRUCK CANTER 5.6 TON #07	\$ 23,205.36
0005-05-009-15520	NISSAN TRUCK TX20 #115	\$ 22,808.77
0005-04-002-26491	CHEVROLET TRUCK LUV D-MAX 3.0L DIESEL INCLUDES TOOL KIT #76	\$ 20,830.00
0005-04-001-14546	MONTERO JEEP #45	\$ 14,274.06
0005-04-001-14531	MONTERO JEEP #30	\$ 12,360.61
0005-04-002-14175	MITSUBISHI TRUCK DC #47	\$ 11,418.65
0005-04-002-26481	4X4 CHEYENNE TRUCK MODEL 1999 (INCLUDES TOOL KIT)#75	\$ 10,640.00
0005-05-009-26477	NISSAN TRUCK PKC310- HHI 87 (INCLUDES TOOL KIT)	\$ 4,307.73
<b>TOTAL</b>		<b>\$ 1,191,970.34</b>

MACHINES AND EQUIPMENT		
Code of Goods	Description	Value
0004-03-022-24851	ASPHALT PLANT ADM SPL110-2B #01	\$ 698,000.00
0004-03-021-24850	ASPHALT PAVER BOMAG BF6D0F #1	\$ 400,000.00
0004-03-018-24075	AGGREGATE DISTRIBUTOR ETNYRE #2	\$ 219,000.00
0004-03-008-24853	KOMATSU ARTICULATED GRADER GD555-3 #19	\$ 205,000.00
0004-03-001-24854	KOMATSU FRONT-END LOADER ON WHEELS WA320-6 #18	\$ 182,000.00
0014-01-002-19460	PRIMARY COMBINED MOBILE CRUSHER (COMPONENTS)	\$ 136,296.54
0004-03-009-24848	DOUBLE TANDEM ROLLER BOMAG BW161 A0-40 #27	\$ 135,000.00
0004-11-002-00042	BOMAG ROLLER #24	\$ 119,617.26
0004-03-009-24852	BOMAG VIBRATIC SMOOTH ROLLER BW211D-40 #25	\$ 103,500.00
0004-03-009-24849	BOMAG PNEUMATIC ROLLER	\$ 95,000.00
0004-11-002-00001	BOMAG ROLLER #21	\$ 78,718.54
0004-03-026-26334	LINE MARKER SET, ROAD LASER MODEL	\$ 59,000.00
0004-03-009-16568	INGERSOLL ROLLER RAND #1	\$ 54,673.66
0004-11-009-00001	CATERPILLAR MINILOADER #2	\$ 41,000.00
0004-11-009-00025	CATERPILLAR MINILOADER #3	\$ 41,000.00
0004-03-017-26332	BOBCAT MINILOADER WITH EMERGENCY SCOOP AND TIRE	\$ 29,000.00
0014-01-004-19504	ELECTROGENIC GROUP 32DKV 22D1440 #1 WITH	\$ 28,940.24

0011-01-002-10100	EXCAVATOR ID #2	\$ 22,859.29
0004-23-102-24618	ASPHALT RESERVE TANK, 10,000 GLNS	\$ 18,750.00
0004-23-102-24619	ASPHALT RESERVE TANK, 10,000 GLNS	\$ 18,750.00
0005-05-002-26474	VEHICLE REMODELING PLATFORM, DIMENSIONS:5.50 M LONG X 2.25 M WIDE, 0.20 M HIGH	\$ 17,500.00
0004-03-025-26331	14" REFRESHER LEVELER STANDARD FLOW	\$ 13,500.00
0004-03-009-26479	DUPLEX ROLLER DVH 600L-2 AD ESEL	\$ 12,730.50
0004-03-011-17134	KOMATSU TRACTOR #18	\$ 9,143.72
0014-01-002-19483	1200 HP REPLACEMENT MOTOR WITH JOINED GRINDER	\$ 8,924.38
0004-03-001-16113	LOADER J.D. #12	\$ 7,657.86
0004-24-002-17811	COMPRESSOR STAGE AIR COLED UNLIADER TYPE ENGINE	\$ 5,825.10
0004-10-017-26329	VIBRACOMPRESSOR SRV66 COLEDUNLIADER ENGINE TYPE	\$ 3,152.48
0014-01-002-19487	DOUBLE BREAKER PLATE TIRED, EQ. TRANSFER, MANUAL	\$ 2,790.00
0004-10-017-26328	VIBRALEVELER	\$ 2,600.00
0004-10-003-17459	COMPRESSOR #6	\$ 2,145.83
0004-10-004-26325	S/M CONCRETE ODD BAGGER	\$ 2,008.13
TOTAL		\$ 2,773,708.33
<b>MOBILE AND SERIES</b>		
TOTAL		\$ 23,667.76
<b>EQUIPMENT, SYSTEMS, AND INFORMATION PACKAGES</b>		
TOTAL		\$ 63,891.72
<b>TOOLS, REPLACEMENTS, AND ACCESSORIES</b>		
TOTAL		\$ 397,154.22

## **Annex 2: Proccess for the Verification of National Production for a Public Business**

### **Step 1)**

Determine for the process of the project implementation for ACQUISITION OF... to be applied in the anticipated procedure or in INCOP with the resolution No. 016-09 dated March 10<sup>th</sup>, 2009. Regarding the regulations for national production certification and the authorization of imports by the State, establishing the priority for national production, so that the preference margins of national production can be applied, as stated in Art. 25.1 Of the Institutional Law of National Public Hiring System;

### **Step 2)**

Set the National Production Process timetable, the same to be carried out according to the following guidelines:

<b>STAGE</b>	<b>DUE DATE</b>	<b>HOOR</b>
PUBLICATION DATE	04-JUN-2014	16:30
QUESTIONS DUE DATE	07-JUL-2014	16:30
ANSWERS DUE DATE	08-JUL2014	16:30
MAXIMUM DATE TO DECLARE INTEREST	09-JUL-2014	16:30
OPENING DATE TO DECLARE INTEREST	10-JUL-2014	16:30
EVALUATION DATE FOR DECLARATION	11-JUL-2014	16:30
ESTIMATED DATE OF RESULTS	14-JUL-2014	16:30

### **Step 3)**

Make the process available and establish the National Production Hiring procedure, which is to carry out the ACQUISITION OF ... as is determined by INCOP Resolution No. 019-09, on March 10, 2009. The procedure is shown in the following articles:

**Art. 1. - Priority of national goods and services.** - The contracting entities, in all the public hiring proceedings, shall apply the margins of national production preferences

anticipated in Art. 25 of the Institutional Law of the National Public Hiring System, LOSNCP;

**Application.** - This chapter is of the mandatory application for the import of goods made directly by the entities listed in article 1 of the Institutional Law of Public Hiring System, in case they have not made a public hiring proceeding applied to the national preference margins.

**Step 4)**

**Electronic Request.** - For imports, the hiring entities shall publish the requirements for the goods they desire to import through the portal [www.compraspublicas.gob.ec](http://www.compraspublicas.gob.ec). The publication should always be made before completing the procedures of selection abroad or before completing the import process.

**Step 5)**

**Publication Content.** - The publication should contain technical specifications of the merchandise that is being imported, and if applicable, the reference to technical regulations issued by the Ecuadorian Institute of Regulations, INEN.

**Step 6)**

**Invitations.** - The portal shall make the invitations to the national supplier registered in the Unique Providers Registry, RUP in the corresponding category of the required goods, so that they can present their declaration of interest through the portal, within the space of three days.

Without prejudice, any supplier, even though they may not be invited, may present their declaration of interest within the same term.

**Step 7)**

**Declaration of interest.** - All suppliers enabled to administer the goods required for, shall send within the specified term in the previous article, their declaration of interest through

the portal, the same that should be analyzed by the entity.

Within the space of five days, the entity should carry out the analysis of the declaration of interest that shall include the verification of the following aspects:

That the goods are considered to be of national origin, conforming with the currently mandatory parameters, applicable to the national system of public hiring,

That the goods comply with the technical specifications and quality required,

Capability to fulfill the supplier's contract, in case they win the bid,

The results of the verification are published in the portal [www.compraspublicas.gob.ec](http://www.compraspublicas.gob.ec) and could be disputed in the terms established in Art. 102 of the Institutional Law of the National Public Hiring System, without suspensive effect;

#### **Step 8)**


**Import authorization.** - This occurs if the analysis of the signs of interest concludes that no national offer exists. If no later verification is made, this establishes the existence of national production. SERCOP shall authorize the corresponding import process, with which the public business could begin the selection of supplier abroad.

The National Production Process timetable, must be set and according to the process it shall be carried out according to the following terms:

NOTE: the business manager and the agent in charge of SERCOP procedures should sign the sent request.



### Annex 3: Documents necessary for importer creation



6730-I  
Cuenca, June 17, 2015

Ofc. N° 2228

Economist  
**Rubén Darío Benítez Arias** ✓  
**OFFICIAL OF THE PROVINCIAL GOVERNMENT OF AZUAY**  
His office.

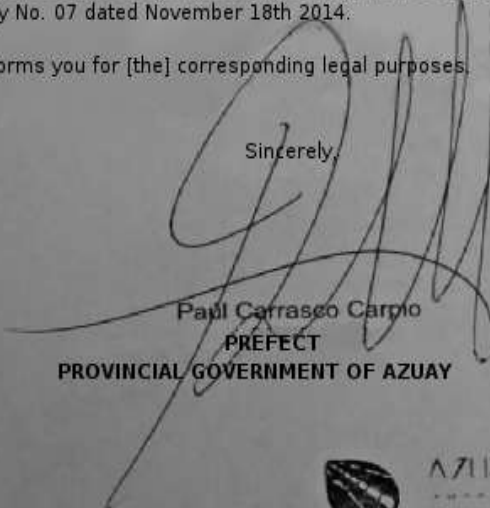
① Atchiso  
② Andrés Paredes  
③ Cespe ✓ TH  
Juntos



Dear Sir,

Allow me to inform you that in the session on June 17th 2015, the DIRECTOR OF THE PUBLIC BUSINESS OF AZUAY GRAVEL AND ASPHALT "ASFALTAR EP" within the second point of order of the day resolved to designate you as CEO OF THE PUBLIC BUSINESS OF AZUAY GRAVEL AND ASPHALT "ASFALTAR EP" obliged to fulfill the duties and powers established in Art. 11 of the Institutional Law of Public Businesses and Art. 15 of the "SECOND REFORMATION OF THE CREATION ORDINANCES CODEX AND FIRST REFORMATION OF THE PUBLIC BUSINESS OF GRAVEL AND ASPHALT OF AZUAY ASFALTAR EP", that was approved by the Provincial Council in two sessions of the first extraordinary No. 03-2014 the twelfth of August of 2014 and the second ordinary No. 07 dated November 18th 2014.


[The] individual who informs you for [the] corresponding legal purposes.

Sincerely,

  
**Paul Carrasco Carpio**  
**PREFECT**  
**PROVINCIAL GOVERNMENT OF AZUAY**

  
**RECIBIDO**  
  
Fecha 11 55 13/07/15

Bolivar 4-30 y Vargas Machuca  
Telf: (593) 7 842 588  
Cuenca - Ecuador  
[www.azuay.gob.ec](http://www.azuay.gob.ec)





# UNIQUE REGISTRY OF SOCIAL CONTRIBUTORS



NUMERO RUC:  
BUSINESS NAME:

0160060450001  
GRAVEL AND ASPHALT PUBLIC BUSINESS OF AZUAY  
ASFALTAR EP

## ESTABLECIMIENTOS REGISTRADOS:

No. ESTABLECIMIENTO:	001	ESTADO	ABIERTO	MATRIZ	FEC. INICIO ACT:	27/10/2010
COMMERCIAL NAME:	ASFALTAR EP				FEC. CIERRE:	
					FEC. REINICIO:	

## ECONOMIC ACTIVITIES

OFFER MAINTENANCE SERVICES, CONSTRUCTION AND ROAD WORK ADMINISTRATION, PRODUCTION  
COMMERCIALIZATION, SUPPLY AND MIXING OF ASPHALTIC CONCRETE, STONES, MIXES, CLEAN AND CRUDE  
GRAVEL.  
USE OF STONE MATERIALS  
PATCHING AND MAINTENANCE, PLACING ASPHALT LAYERS.

## ESTABLISHMENT ADDRESS

Province: AZUAY County: CUENCA Township: SAN SEBASTIAN Street: PASEO TRES DE NOVIEMBRE Number: 1-32  
Intersection: Ave. UNIDAD NACIONAL Reference: FIFTY METERS FROM THE COLLESEUM BRIDGE Email:  
asfaltarep@hotmail.com Web: WWW.ASFALTAREP.GOB.EC Work Telephone: 072843218 Work  
Telephone: 072838478 Work Telephone: 072832876

No. ESTABLECIMIENTO:	002	ESTADO	ABIERTO	LOCAL COMERCIAL	FEC. INICIO ACT:	10/02/2011
COMMERCIAL NAME	ASFALTAR EP				FEC. CIERRE:	
					FEC. REINICIO:	

## ECONOMIC ACTIVITIES

PREPARATION AND/OR PLACEMENT OF DOUBLE TREATMENT SURFACE OF BITUMINOUS SURFACE  
(DTSB) HORIZONTAL AND VERTICAL SIGN PLACEMENT FOR ROADS.  
INVOLVING THE AZUAYAN POPULATION THROUGH THE PARTICIPATION, EXECUTION, MAINTENANCE,  
AND COFINANCING OF THE PROVINCE MANAGEMENT.  
SUBSCRIBE TO COVENANTS OR CONTRACTS FOR ADMINISTERING REPAVING, CONTRIBUTIONS WITHIN  
THE SCOPE OF CURRENT ORDINANCES AND REGULATIONS.  
PRODUCTION, COMMERCIALIZATION, AND ADMINISTRATION OF CEMENT AND ASPHALT MIXING

## DIRECCIÓN ESTABLECIMIENTO:

Provincia: AZUAY Cantón: PAUTE Parroquia: CHICAN (GUILLERMO ORTEGA) Calle: ACCESO A PLANTA DE TRIPURACIÓN  
Número: S/N Reference: A UN KILOMETRO Y MEDIO DEL COLEGIO AGRONÓMICO SALESIANO Teléfono Trabajo: 072203  
Teléfono Trabajo: 073053476 Teléfono Trabajo: 072053477

FIRMA DEL CONTRIBUYENTE

SERVICIO DE RENTAS INTERNAS

Declaro que los datos contenidos en este documento son exactos y verdaderos, por lo que asumo la responsabilidad legal que de ella se  
deriva (Art. 97 Código Tributario, Art. 91 Ley del RUC y Art. 9 Reglamento para la Aplicación de la Ley del RUC).


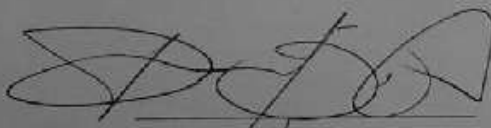
Usuario: CRBM020810

Lugar de emisión: CUENCA/NAV. REMIGIO

Fecha y hora: 24/06/2015 08:20:37



**Annex 4: Delegation the use of TOKEN by Asfaltar EP to administrative personnel**

 <b>ASFALTAR AZUAY</b>		<b>PERSONNEL ACTION</b>		N° <u>000051</u> Date: <u>17/08/2015</u>	
ALVAREZ VALENCIA		CARLOS REINALDO			
Last Name		Name			
Cédula Ciudadana 0102779122	Cédula Militar	Comprobante de Votación 001-0182		Valid Starting: 17/08/2015	
<input type="checkbox"/> Provisional Appointment <input type="checkbox"/> Regular Appointment <input type="checkbox"/> Promotion <input type="checkbox"/> Administrative Transfer <input type="checkbox"/> Unpaid License <input type="checkbox"/> Paid License <input type="checkbox"/> Resignation <input type="checkbox"/> Sanctioned Discipline <input type="checkbox"/> Bankruptcy <input type="checkbox"/> Administrative Change <input type="checkbox"/> Other		<b>EXPLANATION</b>  THE CEO, WITH THE AUTHORIZATION OF THE DIRECTORY DATED JUNE 17TH 2015, EMITTED BY THE PRESENTLY NAMED COMMISSION OF SERVICES FOR THE LAPSE OF 2 YEARS BEGINNING ON THE PRESENT DATE IN QUALITY OF PUBLIC PURCHASE COORDINATOR WITH THE OFFICE No. GPA-PREFECTURE 2015-3071 ISSUED BY DOCTOR MARIA CECILIA ALVARADO CARRION, PREFECT RESPONSIBLE.			
CURRENT SITUATION			PROPOSAL		
Department or Section: <u>PUBLIC PURCHASES</u> Post: <u>SECRETARIO DE COMPRAS PUBLICAS</u> Total Monthly Pay: <u>2115,00</u> Starting Date: <u>5.1.01.05</u>			Department or Section: _____ Post: _____ Total Monthly Pay: _____ Starting Date: _____		
TOTAL REMUNERATION					
GOD, COUNTRY, AND LIBERTY					
 GERENTE GENERAL					
DIRECCIÓN DE RECURSOS HUMANOS					
CPA: DIANA CASTILLO MERCHAN					
RESPONSABLE DE TALENTO HUMANO					
Registrado					



## PERSONNEL ACTION

N° 000042

Date: 27/07/2015

VINTIMILLA ZEA

FRANKLIN VICENTE

Last Name

Name

Cédula Ciudadanía  
170759975-7

Cédula Militar

Componente de Verificación

Registra a partir de:

053-0244

27/07/2015

- ☐ Provisional Appointment
- ☐ Regular Appointment
- ☐ Promotion
- ☐ Administrative Transfer
- ☐ Unpaid License
- ☐ Paid License
- ☐ Resignation
- ☐ Sanctioned Discipline
- ☐ Bankruptcy
- ☐ Administrative Change
- ☐ Other

### EXPLANATION

THE CEO, WITH AUTHORIZATION OF THE DIRECTORY DATED JUNE 17TH 2015, ISSUES THE PRESENT APPOINTMENT OF FREE ASSIGNMENT AND RELOCATION, SUPPORTED BY ARTICLES 11, NUMBER 11, 17, 18, AND 19 OF THE INSTITUTIONAL LAW OF PUBLIC BUSINESSES, IN ACCORDANCE WITH ARTICLE 17 OF THE INSTITUTIONAL LAW OF PUBLIC SERVICE (LOSEP) AND ARTICLES 16 AND THE FOLLOWING IN THEIR REGULATIONS.

### CURRENT SITUATION

Department or Section: FINANCIAL ADMINISTRATIVE MANAGEMENT

Post: GERENTE ADMINISTRATIVO-FINANCIERO

Monthly Total Compensation: 3798,00

Starting Date: 5.1.01.05

### TOTAL REMUNERATION

### PROPOSAL

Department or Section:

Post:

Monthly Total Compensation:

Starting Date:

GOD, COUNTRY, AND LIBERTY

GERENTE GENERAL

DIRECCION DE RECURSOS HUMANOS  
PA. DIANA CASTILLO MERCHAN  
RESPONSABLE DE TALENTO HUMANO




 REPUBLICA DEL ECUADOR  
 MINISTERIO DEL INTERIOR  
 DIRECCION NACIONAL DE IDENTIFICACION

CUBULA DE CIUDADANIA 170759975-7  
 VINTIMILLA ZEA FRANKLIN VICENTE  
 PICHINCHA/AUTO/SAN BLAS  
 24 ABRIL 1967  
 IDENTIFICACION 0095 03388 M  
 PICHINCHA/ QUITO  
 GONZALEZ SUAREZ 1967




ECUATORIANA\*\*\*\*\* VESTIBULAR  
 CASADO SENA CECILIA GONZALEZ ESPINOSA  
 SECUNDARIA EMPLEADO PRIVADO  
 HERNAN VINTIMILLA  
 ANIDA MELISA LETICIA ZEA  
 CUENCA 22/08/2007  
 22/02/2019  
 REN 0492830




REPUBLICA DEL ECUADOR  
 CONSEJO NACIONAL ELECTORAL CNE

CERTIFICADO DE VOTACION  
 ELECCIONES SECCIONALES 25-FEB-2014

053  
 053 - 0244 1707599757  
 NUMERO DE CERTIFICADO CUBULA  
 VINTIMILLA ZEA FRANKLIN VICENTE

AZUAY  
 PROVINCIA  
 CUENCA  
 CANTON

CIRCUNSCRIPCION 2  
 SAN SEBASTIAN 3  
 PARROQUIA 2364

  
 P. PRESIDENTE DE LA JUNTA