

Commerce and Navigation Treaty Between the Governments of the Republic of Peru And the Republic of Ecuador

The Governments of the Republic of Peru and the Republic of Ecuador, in line with Article VI of the Rio de Janeiro Protocol of the 29th of January, 1942, agree to sign this trade and navigation treaty:

Article 1

Ecuador will enjoy, allowing peaceful navigation and trade in the Amazon and its northern branches, rights set forth in the present Treaty, in addition to those covered in article 6 of the Rio de Janeiro Protocol.

Article 2

In order to facilitate the navigation and trade referred to in the preceding article, Ecuador may use rivers that, along the border with Peru, allow it to use waterways that connect directly to the Amazon. The parties, by joint agreement, will enable any necessary border crossings.

For the same purposes, Ecuador will also enjoy the right of land-based transit on corresponding public access roads (that currently exist or that are to be built in the future) that connect the territory of Ecuador with fluvial spots enabled for loading and unloading goods in the rivers subject of this Treaty. Ecuador will enjoy rights of use, on a non-discriminatory basis, of any port services that are provided in the aforementioned fluvial spots.

These rights will be exercised in a free, continuous, and perpetual manner, without prejudice towards the provisions of Article 32.

Article 3

The present Treaty is without prejudice towards the Amazonian Cooperation Treaty.

Article 4

The coastal and warship navigation will be governed by the relevant national legislation and by usual international practices .

Article 5

Ships are considered to be under the Ecuadorian flag when registered as such in line with its domestic legislation. The Ecuadorian competent authority will provide the Peruvian competent authority with the list of the ships under Ecuadorian flag that can operate under this Treaty.

Article 6

Ships sailing under the Ecuadorian flag that make use of the rights referred to in this Treaty will receive the same treatment as the ships sailing under the Peruvian flag.

Article 7

This regime also applies to all cargos from third countries travelling to Ecuador, and those travelling from Ecuador to third countries, those travelling through Peruvian territory or stopping temporarily, whether it is cargo transported by land, river, or air, regardless of the nationality of the vehicle, vessel, or aircraft transporting it.

Article 8

The navigation between both countries of smaller settler vessels, especially of natives of the Peruvian or Ecuadorian border areas contained in this Treaty, will continue, for the purpose of exchange, without any formalities other than local customs.

Article 9

If hiring vessels under a third flag for river transport is necessary, they will be deemed vessels under the flag of the Party that hires them, and will enjoy the same facilities of these, provided that the hire contract has been registered with the competent authority of the respective party.

Article 10

Ships sailing under the Ecuadorian flag will enjoy freedom to transport passengers, cargo, and mail destined to third countries, from Ecuador through Peru, and towards Ecuador through Peru, from third countries.

In exercising the right of commercial navigation, transshipment will be allowed without affecting the normal movement of ships, as well as loading additional cargo in any enabled river port.

Article 11

The cargos referred to in this Treaty will not be subject to any cargo reservation regime.

Article 12

Ships sailing under the Ecuadorian flag must not be forced to participate in any Freight Conference.

Article 13

The competent authorities of both countries will agree on the simplification and standardization of documents and formalities regarding receipt and dispatch of ships, as well as passengers, cargo, and crew in order to facilitate maximum commerce and navigation between the two countries and towards third states, taking as a reference the FAL Convention (1965) of the International Maritime Organization (IMO), as well as its possible future reforms and the applicable international conventions.

Article 14

Ships sailing under the Ecuadorian flag in Peruvian waters will enjoy the same regime that applies to ships under the Peruvian flag and have access on the same terms of the latter to fuel supplies, port and health services, communications facilities, navigation assistance, and any other provision necessary for navigation and for entering and leaving ports.

Article 15

Ecuadorian ships will be able to navigate rivers referred to in this Treaty with its own practices or drivers, authorized under Peruvian legislation, and may only be obliged to follow local practices when entering or leaving a port.

Article 16

Except for causes that are not attributable to port operation, and on a non-discriminatory basis, the wait times for embarkation, disembarkation, storage operations, and for the implementation of administrative procedures in Peruvian ports, may not exceed three calendar days in the case of perishable or easily deteriorable products, or seven calendar days in the case of ordinary cargos.

Article 17

The competent authorities of both countries will inform each other on signage that has been established to facilitate river navigation, as well as on other factors which have an impact on navigation safety in rivers referred to in this Treaty. In the same way, they will inform each other of the navigable sections of these rivers.

These authorities will promote the spread of this information through the various means of communication available.

Article 18

The competent Peruvian authority, with the means available to it, will provide assistance and rescue to ships sailing under the Ecuadorian flag that require it, in the rivers referred to in this Treaty that run through Peruvian territory, with the international practices for providing such assistance to seagoing ships applied mutatis mutandis to river navigation. The Ecuadorian competent authority will have identical obligations with respect to the ships sailing under the Peruvian flag in rivers that run through Ecuadorian territory.

Article 19

With regard to navigation safety, protection of the river environment, pollution from ships and collisions, the rules in force in the respective territories will be applied on a non-discriminatory basis, for which the competent authorities of both countries will notify each other on existing standards.

Article 20

For multimodal transport, use of the air mode will be taken into particular consideration. To this effect, the Parties will promote the respective studies, so that, in line with current practice, the aeronautical authorities of both Parties agree to establish the corresponding facilities.

Article 21

Ships sailing under the flag of either country will be subject to immigration, health, and cargo documentation checks.

Article 22

For a renewable period of fifty years, two "Commerce and Navigation Centres" will be established, for the storage, processing, and marketing of goods in transit, from or towards Ecuadorian territory. Goods originating or with destination in these centres will have free access to existing facilities in fluvial spots enabled for loading and unloading in the rivers subject of this Treaty.

The Government of Ecuador will designate for the administration of each of these centres, a private company registered in Peru. The Government of Peru, through the respective concession contract, will cede the land for the operation of the Centre to the company appointed by the Government of Ecuador, within the scope of this Treaty. The time period referred to in the first paragraph of this article will begin from the date of signing of this contract. This company will finance and execute the construction of the respective centre, which will be subject to the relevant Peruvian standards, on a non-discriminatory basis.

Article 23

These centres will be governed by the principle of full compliance to the provisions of this Treaty and to the legislation of Peru. Private contractual obligations may be governed by law agreed to by the contracting parties.

Article 24

Goods in transit referred to in Article 22 will not be subject to customs duties, except those that are staying permanently in Peru. In this case, duties and taxes set by Peruvian law will be applied.

Article 25

The Centres, which include the land, constructions, and respective installations, will have adequate space for fulfilling its objectives, as determined by the Parties. The land on which these centres are established will be property of the Peruvian State. Each centre will have an area of 150 hectares, unless they are suited to a smaller area. The Parties will jointly implement the necessary technical studies to determine the location of such centres, which will be agreed by an exchange of diplomatic letters. The exchange must be carried out within a period of one hundred and twenty days from the date that this Treaty comes into force. For this decision the following will be taken into account: access to public services necessary for its functioning, proximity to populated centres, as well as facilities that are provided in the enabled fluvial spots.

Article 26

The functions and powers assumed by the company under the concession contract referred to in Article 22 will be exercised exclusively within the area of the respective centre. This company will hire other private enterprises, also registered in Peru, to perform activities related to storage, processing, and marketing of goods, within the concession period and the Centre's perimeter.

Article 27

In the centres, the storage of the following will not be allowed: goods whose importation is prohibited in Peru, and goods which endanger health, morals and good customs, animal, plant, or natural resources, or national security. The same applies to the storage or manufacture of weapons and ammunition or the exploitation of hydrocarbons or other activities that are State concession matters in Peru.

Article 28

Ecuadorian capital investments in the centres will enjoy rights no lesser than those currently in force in Peru.

Private companies installed in the centres that allocate their production to Ecuador or to third countries will be exempt from all taxes, including income tax.

Article 29

For each centre, Ecuador will credited to the Ministry of Foreign Affairs of Peru a Commerce and Navigation Agent who will enjoy the facilities, privileges, and immunities set forth in Chapter II of the Vienna Convention of the 24th of April, 1963, which both States are part of. The function of this agent will be to facilitate the operation of the Centre and activities related to goods in transit to and from Ecuador. Other functions include issuing trade documents, including origin certificates; issuing documents required for the entry and exit of goods in the centre; assisting vessels sailing under the Ecuadorian flag and their crew members; issuing the on-board documents; fostering trade and economic relations between Peru and Ecuador, issuing passports and, when applicable, visas; ensuring the interests of its nationals within the scope of the respective centre, and performing notary and civil registry for acts whose provisions must be met exclusively in Ecuador.

Article 30

Provided that they comply with the conditions established in the transit system, goods in containers will not be subject to customs checks throughout the course of the trip. Without prejudice to the provisions of article 31, the customs authorities are limited to checking the seals or customs stamps and to taking other measures to ensure the inviolability of the transported content at entry and exit points, except when having to apply laws and regulations relating to safety, morality, or public health.

Article 31

In applying the present Treaty, measures for police and monitoring, health, preservation of the environment, migration and, in general, prevention and suppression of offenses under Peruvian legislation, will be applicable to nationals and to goods of both countries without discrimination, and will not in any case impede freedom of navigation and transit.

Article 32

On the basis of non-discrimination, none of the provisions of this Treaty will cause exoneration of fares, fees, or payments for services that may be incurred by the use of ports, roads, facilities, or any other service or consumption.

Article 33

General measures which the parties feel the need to adopt to respond to states of emergency may involve the temporary suspension, for the shortest possible time, of the exercise of navigation and land-based transit, on the basis of non-discrimination. The other party will be informed of such measures as soon as they are taken.

Article 34

This Treaty will be interpreted according to treaty interpretation rules. No interpretation will not prevent any of its clauses from being applied nor adversely affect the sovereignty of the Parties.

Article 35

The Parties agree to give each other the most-favoured-nation treatment . If one of the Parties grants Brazil or Colombia higher rights, powers, and facilities, they will be automatically be applicable in favour of the other.

Article 36

The Parties will give each other equal treatment and reciprocity when it comes to river navigation, land-based transit, and trade referred to in this Treaty.

Article 37

A Peru-Ecuadorian Trade and Navigation Commission will be established, in charge of resolving disputes that might arise from the application of this Treaty.

Article 38

The Commission will know of and resolve any disputes that are submitted to it by either Party. If within sixty days the Commission has not succeeded in resolving the dispute, it will be escalated to the Ministries of Foreign Affairs of Peru and Ecuador for a diplomatic solution.

Article 39

The present Agreement will enter into force simultaneously with those others that are signed on the same date and are part of the global and definitive solution referred to in the Timetable, agreed by the Parties on the 19th of January, 1998, and under the conditions set out in it.

This Treaty will be signed in two equally valid Spanish copies in the city of Brasilia, on the twenty-sixth day of the month of October in the year nineteen ninety eight.

Fernando de Trazegnies Granda
Minister of Foreign Affairs of the Republic of Peru

Jose Ayala Lasso
Minister of Foreign Affairs of the Republic of Ecuador