



Ecuador is the smallest of the Andean countries and is characterised by great geographical, economic and ethnic diversity. In the Andean highlands, whose major cities include the capital city of Quito and the commercial centres of Cuenca and Ambato, economic activity is dominated by small-scale farming and services.

Although Ecuador completed 25 years of civilian governance in 2004, the period has been marred by political instability.

Economy

Ecuador has substantial petroleum resources. Consequently, fluctuations in world market prices can have a substantial domestic impact. In the late 1990s, natural disasters and petroleum prices depressed, Ecuador suffered its worst economic crisis. The banking system also collapsed, and Ecuador defaulted on its external debt later that year. The currency depreciated by some 70 percent in 1999, and, on the brink of hyperinflation, the Mahaud Government announced it would dollarise the economy.

In March 2000, Congress approved a series of structural reforms. Ecuador benefited from higher world petroleum prices, but the government has made little progress on fiscal reforms and reforms of state-owned enterprises necessary to reduce Ecuador's vulnerability to petroleum price swings and financial crises.

At present, the country's situation is vulnerable. Whereas some macroeconomic fundamentals (notably growth rate and inflation) show signs of recovery after the 'El Niño' crisis, and good prospects in the oil business should generate revenues, the country also suffers from serious weaknesses.

The main internal problems are the level of poverty, which has been worsened by the structural changes imposed by

PROFILE	
Population:	13.2 million***
GDP (Current US\$):	30.3 billion***
Per Capita Income: (Current US\$)	24,3 billion (Atlas method) 45,65 billion (at PPP.)
Surface Area:	276 thousand sq km .***
Life Expectancy:	76.01 years **
Literacy (%):	93 (of ages 15 and above)**
HDI Rank:	100
Sources: - World Development Indicators Database, World Bank, 2005 - Human Development Report Statistics, UNDP, 2004 (**) For the year 2002 (***) For the year 2003	

the dollarisation of the economy; and the political and social instability of the country.

The other challenges are external, making it difficult for the Government to tackle them. The first external threat is the ongoing conflict in neighbouring Colombia. The second external threat is the international economic environment. At the Latin-American level, dollarisation imposes a very strict constraint, since competitors can choose to devalue their currencies.

Competition Law and Institutions

In Ecuador, competition policy has been limited to trade liberalisation and sectoral deregulatory efforts.

After the promulgation of the Political Constitution in 1998, while Ecuador was in process of adopting a competition law, which entered the Parliament in 2001, but was vetoed by the Government in November 2002.

* Original paper submitted in May 2005. Revised in July 2005 & March 2006.
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However, a new initiative has been taken up to develop a law of competition. Comunidad Andina (CAN or Andean Community), EU and the Ministry of External Trade, Industrialisation, Fishing and Competition started with a new project for 'harmonising the rules relating to competition in the Andean Region' for elaborating legislation on competition in Ecuador.

Responsibility of the formulation of project draft was given to an advisory technical team consisting of international and national experts. The final version of document entitled 'Organic Law of Competition' was submitted to the President of the Republic in February 2004. This proposal had an apt structure and included the basic content acceptable at the level but after incorporating the original text, some other issues remain with varying tendencies. A new version of draft law was presented in October 2004.

This new initiative refers certain inconsistencies in a substantive text as well as in the procedural structure for the confirmation of the controlling authority. Besides, it also stipulated the elimination of legal monopolies within a specific period, which was an issue that could be considered constitutional.

By the end of 2004, the political will was still lacking. In January 2005, a change of scenario came about. The Ministry of Foreign Trade, Fishing and Competition and the Corporation of Promotion of Exports and Investments of Ecuador (CORPE), called for working meetings of representatives from business, both private and public sectors, and consumers for considering the draft of organic law of economic competition by the President so as to build consensus on the basis of comments on the text of the new law.

Finally, the executive presented a draft law, which contained observations and comments of different actors resulting in the drafting of fairly acceptable text that could be presented to the legislature.

However, given the recent political problems in Ecuador and the resultant changes in the authority, the initiative will have to be reviewed so that the approval process of the law of competition can once again be speeded up.

Regulatory Framework

Ecuador is one of the most backward countries in Latin America in the subject of advocating regulatory reforms. The regulatory framework legislation has been approved during the nineties, and according to Stark (2001) it is clear. Nevertheless, it lacks strength. There are no adequate mechanisms to enforce the law. Inter-regional conflicts,

along with endemic corruption make markets unstable and uncertain.

Telecommunications Sector

Until the 1990s, the telecommunications sector was defined in the Constitution as a 'strategic area', and therefore only to be exploited and managed by governmental institutions. In August 1995, Congress approved the Special Telecommunications Reform Law establishing the transformation of the public company EMETEL into a stock company, EMETEL SA, and allowing the further restructuring of the company into two operating companies, ANDINATEL S.A. and PACIFICTEL S.A.

The Ecuadorian fixed-line market was liberalised in January 2002, but competition was considerably slow, hampered by the dominance of state-owned Andinatel and Pacifictel.

The National Telecommunications Council (CONATEL) was created in August 1995 in the Official Register resulting from the Reformation Law-770 of the Telecommunications Special Act. CONATEL represents the state to exercise, administer and regulate telecommunication services in Ecuador. This group also acts as the representative to the UIT, *la Union internacional de Telecomunicaciones*.

The Superintendency of Telecommunications, established by the law as an independent regulatory body, is responsible for ensuring private sector compliance with all telecommunications regulations and contracts. In addition, the Telecommunications Secretariat (Senatel) was created. Senatel is in charge of carrying out the national telecommunications policies dictated by CONATEL, including the development of the national telecommunications plans.

Energy Sector

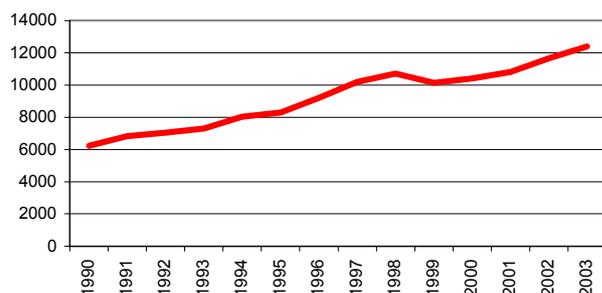
In 1996, the Law of the Electrical Regime (LRSE)¹ set the framework for state intervention in the electrical market, on the presumption that it would foster economic and social development through investments in this particular sector.

The same law created CONELEC. Operations started at the end of 1997. When a sector is regulated, investments may come due to clearer rules and, therefore, less uncertainty. Greater investments lead to higher output.

Using a simple proxy, the following chart (Chart 109.1) shows that the electrical output has not changed its long-term dynamics after the implementation of CONELEC. From this, it appears evident that there was no increase in electrical investments.

¹ *Ley de Régimen del Sector Eléctrico*

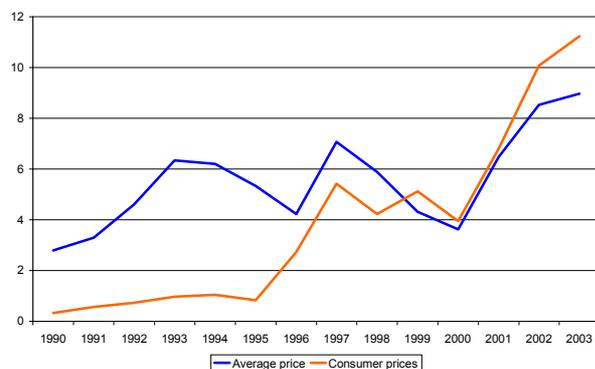
Chart 109. 1: Total Electrical Output in Ecuador (in GWh)



Source: CONELEC

In hypothesis, consumers benefit from regulation from decreasing prices. The following chart shows the price dynamics of the electricity sector.

Chart 109.2: Average Price and Consumer Prices, in US\$ ¢/kWh



Source: CONELEC

Prices have increased sharply after CONELEC began to operate. Evidently, there is no gain to consumers after the deregulation.

The two charts (109.1 and 109.2) show that the regulation of the electric sector has not resulted in improvements in the sector. The average price and consumer prices have increased after 1999, and output kept its previous pace.

Production trends have not changed, while prices have increased. If a time lag is considered between the creation of CONELEC and its effects on the electricity sector, there is no reason to believe that the deregulation of the electricity sector in Ecuador was benign.

Consumer Protection

The Organic law on consumer protection (Ro No. 116 of July 10, 2000) and the general regulation of the organic law of protection (Ro no. 287 of March 19, 2001) constitutes a forward step for protection of consumer rights. The law introduced some aspects that needed a separate regulation, such as the one referring to the domestic public services, contracts for compliance, computer guarantees etc.

Under the Ecuadorian consumer protection regime, a consumer affected by any violation has two ways to resolve their complaints: the extra-legal and the legal way.

The extra legal route is taken up by an organisation, called the 'Defence of the People', a consumer association, which intermediates in consumer disputes with offending businesses. On a failure they approach the authorities.

The legal route implies the initiation of a legal suit that has to be lodged in the contravention courts, which have still not been constituted. Therefore as a transitory measure this is taken care of by the Police Department called *intendencials* or at the national Comisserrates. Under this option, the authorities, besides insisting on the compliance of the law, also have powers to enforce their decisions.

Concluding Observations and Future Scenario

There has been a broad movement of governmental, non-governmental and by other parties to adopt the new Competition Law of Ecuador². The Ecuadorian model is intended to have penal instruments to persuade economic agents to operate in the markets on the basis of good competition principles. According to Chamorro (2002), the project will not have a repressive character. Meanwhile, it will also have means to enforce its decisions. These resources include corrective fees and administrative sanctions, among others. The proposed framework follows much of UNCTAD's recommendations. It contains possible measures to prevent harmful actions to competition, such as:

- cessation of anticompetitive acts;
- forcing conditions and obligations to the economic agent; and
- application of fees.

The competition authority will comprise of the following bodies: The Ecuadorian Competition Council (CECOM), the Superintendent and regional branches. CECOM will be the decision-making body.

There is no doubt that the project is a serious effort to promote competitive markets in Ecuador. However, internal conditions, enforcement capability, corruption and the economic efficiency of the proposed law cannot be assured in advance.

² The following organisations contributed to the competition law project: European Union, the Federal Trade Commission and the Department of Justice of the US, Andean Community, Consumers International, Competition Authority of Venezuela, Ministry of Economy of Argentina, UNCTAD, Chamber of Commerce of Pey and the Ministry of Economy of Uruguay