

[Crest]
Department of Industry and Commerce
Republic of Honduras

EXECUTIVE AGREEMENT No. 32-2007

The Constitutional President of the Republic

WHEREAS: The National Congress through Decree No. 10-2995 dated March 03, 2005, wholly approved the Dominican Republic – Central America – United States Free Trade Agreement, published in the Official Newspaper la Gaceta No. 30,738 dated July 02, 2005, and ratified by the Executive Branch on March 30 of the same year.

WHEREAS: Article 3.3 of the Treaty establishes that the administration and implementation of the quota for chicken for each country must be based on transparent, appropriate and non-discriminatory procedures which respond to market conditions.

WHEREAS: Pursuant to Note 4, Appendix I, Annex 3.3 of the Schedule of the Republic of Honduras contained in the Treaty, the country has granted access to its market through a Duty free tariff-rate quota for the importation of chicken leg quarters.

WHEREAS: Honduras and the United States of America agreed according to subparagraph e) of Note 4, Appendix I, Annex 3.3 of the Schedule of the Republic of Honduras contained in the Treaty that the quantities under the Duty free tariff-rate quota for chicken leg quarters will be assigned according to a Commercial Export Certificate approved according to the provisions of the "Export Trading Company Act of 1982, 15 U.S.C. Sec. 4011-4021 (2000) of the United States.

WHEREAS: Pursuant to the provision of the "Export Trading Company Act of 1982, 15 U.S.C. Sec. 4011-4021 (2000) of the United States, the Central America Poultry Export Quota, Inc., henceforth "CA-PEQ", was established.

WHEREAS: The Secretariat of State in the Offices of Industry and Commerce and CA-PEQ signed an *Understanding for the Awarding of the Duty free tariff-rate quota for Chicken Leg Quarters within the Framework of the Dominican Republic – Central America – United States Free Trade Agreement (DR-CAFTA)*.

WHEREAS: It was ordered that the opinion of the Attorney General's Office of the Republic be heard under the terms establishing such in Article 41 of the Law of Administrative Procedure, and a Ruling was issued favoring approval and publication of this Regulation.

THEREFORE, acting under the powers granted to it by Articles 16, 18 and 245, Paragraphs 1, 11, 13, 23, 30 and 34 of the Constitution of the Republic; Articles 7, 29 and 36, Paragraphs 2, 5 and 6 of the General Law of Public Administration, and Article 57 of the Regulation on Organization, Functioning and Jurisdictions of the Executive Branch and other applicable Laws, he issues the following:

**REGULATION ON THE DISTRIBUTION AND ALLOCATION OF THE QUOTA
FOR CHICKEN LEG QUARTERS ESTABLISHED IN THE FREE TRADE AGREEMENT
BETWEEN THE DOMINICAN REPUBLIC, CENTRAL AMERICA AND THE UNITED STATES**

Article 1 – This regulation explains the procedures related to implementation of the duty free tariff rate quota for chicken leg quarters established in Note 4, Appendix I, Annex 3.3 of the schedule of the Republic of Honduras for the Treaty.

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Article 2 – The Secretariat of State in the Offices of Industry and Commerce, henceforth SIC, is the authority responsible for administering and applying the provisions established in this regulation.

Article 3 – The applicable tariff for the quantities imported within the quota for chicken leg quarters shall be zero percent (0%).

Article 4 – The quota for importation of chicken leg quarters to which this regulation refers shall take effect during the period comprised between January 1 and December 31 of each calendar year, pursuant to the provisions of the General Notes of the schedule for Honduras included in Annex 3.3 of the Treaty.

If, due to justified causes, the importation of chicken leg quarters is not carried out before December 31 of the year for which the Certificate of Tariff – Rate Quota Allocation is issued, the SIC shall award an extension of up to thirty days, so long as the interested party requests such from the SIC before December 31 of that year, while accompanying such a request with all the appropriate information that will support the delay in importation.

Article 5 – Any individual or legal entity may carry out volume importations of the duty-free tariff-rate quota for chicken leg quarters established in Note 4, Appendix I, Annex 3.3 of the schedule of the Republic of Honduras contained in the Treaty so long as it fulfills the requirements and procedures established in this regulation and others which may apply.

Article 6 – The duty-free tariff-rate quota for chicken leg quarters shall be administered according to the terms of the Certificate of Tariff – Rate Quota Allocation issued by the CA-PEQ, which administers an open and public bidding system to assign the quantities of the duty free tariff-rate allocation.

All imports under the allocation for chicken leg quarters classified in tariff subsections 0207.13.99B, 0207.14.99B and 1602.32.00A of the schedule of the Republic of Honduras contained in Annex 3.3 of the Treaty must be accompanied by a Certificate of Tariff – Rate Quota Allocation Issued by the CA-PEQ, a corporation that awards the Certificate of Tariff – Rate Quota Allocations. For chicken leg quarters, according to the Export Trading Company Act of 1982, 15 U.S.C. SEC. 4011-4021 (2000) of the United States, to assign the quantities of the duty free tariff-rate quota for chicken.

The importation of chicken leg quarters in the area of the Treaty which fails to comply with this requirement shall be the subject of the applicable Customs tariff outside the quota as specified in Paragraph (b) of Note 4, Appendix I, Annex 3.3 of the schedule of the Republic of Honduras.

Article 7 – The standards which shall be applied in the bidding process administered by CA-PEQ are those appearing in the Understanding signed between the SIC and CA-PEQ and which appear as Annex I to this Regulation.

Article 8 – The format of the Certificate of Tariff – Rate Quota Allocation and the security papers, signatures and legible seals, notified by CA-PEQ to the SIC and which appear as Annex II of this Regulation, are approved as valid.

The SIC shall notify the Executive Revenue Office (DEI) of the provision of this article in writing.

Article 9 – The Executive Revenue Office (DEI), in joint agreement with the SIC, shall establish a system for the registration, control and follow up of the quota for chicken leg quarters.

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The DEI shall provide the SIC the receipt for the importations under quotas made during the calendar year no later than December 31 of each year.

In case there is a discrepancy, the DEI must give immediate notification of this to the competent authority so it can proceed according to the Law.

Article 10 – For the first year of the quota implementation, economic agents who are interested in importing chicken leg quarters under the duty free tariff-rate quota must file a registration request in writing before the SIC and provide the following information for this purpose:

- a) Name, brand or business name, photocopy of the articles of incorporation and a brief description of its economic activity;
- b) Name of the legal representative and certification of the item of the proceedings of its appointment when dealing with a legal entity;
- c) Photocopy of the identity card when dealing with an individual. In the case of foreigners, they must submit a photocopy of the residence card;
- d) Photocopy of the National Tax Registration;
- e) Address to receive notifications, telephone number, fax and email; and
- f) Photocopy of the prevailing operational health license issued by the National Farming and Livestock Health Service (SENASA);

When there are changes in the information that has been supplied, the SIC must be notified within a period of no greater than twenty (20) calendar days.

Incomplete requests for registration will be accepted.

For the remaining years during which the quota which is the subject of the Regulation will be implemented, those economic agents registered in the first year must notify their intention to participate in the importation in writing year by year. New economic agents who are interested must carry out the registration according to what is shown above and notify their intention to participate in the importation procedure in subsequent years.

Article 11 – Following each bidding, the SIC shall send the CA-PEQ the list of economic agents interested in importing chicken leg quarters and who are included in the registry of importers to which Article 10 of this Regulation refers.

Article 12 – All information supplied by the applicants shall be subject to verification by the SIC, notwithstanding the legal responsibilities.

Article 13 – During the period comprised between November 1 to 15 of the year after which the quota for chicken leg quarters is offered, the SIC must publish the volume of the duty free tariff-rate quota for chicken leg quarters which is in effect for the following year in the Official Newspaper La Gaceta and in the daily newspapers with the highest national circulation. During that period interested parties must fulfill the provision of Article 10 of this Regulation.

Article 14 – For the purposes of this regulation, the following shall be understood:

Certificate of Tariff – Rate Quota Allocation: Document issued by CA-PEQ pursuant to Subparagraph (e) of Note 4, Appendix I, of the General Notes for the schedule of the Republic of Honduras for Annex 3.3 of the Treaty.

Duty Free Tariff-Rate Quota: The aggregate amount of chicken leg quarters for importation free of tariffs, according to what is established in Subparagraph (a) of Note 4, Appendix I, of the General Notes for the schedule of the Republic of Honduras for Annex 3.3 of the Treaty.

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Chicken Leg Quarters: Chicken parts classified in tariff subsections 0207.13.99B, 0207.14.99B and 1602.32.00A according to subsection (c) of Note 4, Appendix I of the General Notes of the schedule of the Republic of Honduras of Annex 3.3 of the Treaty.

Article 15 – The provisions of this Regulation do not exempt the importer of products under duty free tariff –rate quotas from fulfilling other applicable legal provisions, among others, in the matter of Customs, taxes, animal health and public health.

Where no provision is expressly made in this regulation, the regulations and principles of the international business agreements signed by Honduras, the General Law of Public Administration, the Law of Administrative Procedure and other applicable laws and regulations, shall apply.

Article 16 – This Regulation shall take effect from this date forwards and shall be published in the official newspaper "La Gaceta".

Given in the city of Tegucigalpa, Municipality of the Central District, on the twenty-eighth day of the month of December in the year two thousand seven.

JOSE MANUEL ZELAYA ROSALES
President of the Republic

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JORGE ALBERTO ROSA ZELAYA
Secretary of State in the Offices of Industry and Commerce

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Department of Industry and Commerce
Republic of Honduras

ANNEX I
UNDERSTANDING
BETWEEN
THE DEPARTMENT OF INDUSTRY AND
COMMERCE OF HONDURAS
AND THE
CENTRAL AMERICA POULTRY EXPORT
QUOTA, INC.

[Crest]
Department of Industry and Commerce
Republic of Honduras

**UNDERSTANDING
BETWEEN**

**THE DEPARTMENT OF INDUSTRY AND COMMERCE OF HONDURAS
AND THE
CENTRAL AMERICA POULTRY EXPORT QUOTA, INC**

**FOR THE AWARDING OF THE DUTY FREE TARIFF-RATE QUOTA FOR CHICKEN
LEG QUARTERS WITHIN THE FRAMEWORK OF THE DOMINICAN REPUBLIC, CENTRAL
AMERICA AND UNITED STATES FREE TRADE AGREEMENT (DR-CAFTA)**

The Secretariat of State in the Offices of Industry and Commerce of Honduras, a centralized State institution, which has as one of its legal capacities that of directing the national and internal commerce of goods and services, economic integration and business development and the CENTRAL AMERICA POULTRY EXPORT QUOTA, INC. ("CA-PEQ"), a non-profit organization, constituted in the United States under General Corporate Law of the State of Delaware and located at 1209 Orange Street in the city of Wilmington, New Castle County, Zip Code 19801, whose principal office is located in the District of Columbia and which operates exclusively to promote and support the interests of businesses in the United States and Central American industries for chickens and certain poultry business associations serving the needs of these industries, who henceforth shall be called the SIC and CA-PEQ, respectively.

Bearing in mind the need to establish a procedure with clear and transparent rules for implementation of the duty free tariff-rate quota for chicken leg quarters pursuant to what is set forth in paragraph e), Note 4 of the General Notes of Honduras of Annex 3.3 of the Dominican Republic – Central America – United States Free Trade Agreement, henceforth DR-CAFTA, both the SIC and the CA-PEQ agree to sign this understanding on the procedures under which the mechanism shall be governed for operating an open and public bidding administered by CA-PEQ and by which the Certificate of Tariff – Rate Quota Allocation will be awarded .

In accordance with the above, the following is hereby established:

1. Product

The quota applies for the importation of chicken leg quarters, classified in tariff subsections 0207.13.99B, 0207.14.99B and 1602.32.00A of the schedule of the Republic of Honduras contained in Annex 3.3 of the Dominican Republic – Central America – United States Free Trade Agreement.

2. Allocation Total

The aggregate quantity of duty free chicken leg quarters in any specified calendar year shall not exceed the specific amount below for the United States for each year. The unused portion of the quota in a year is not transferrable to the following year.

Year	Metric Tons
2006	0
2007	0
2008	534
2009	1,069

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Year	Metric Tons
2010	1,603
2011	2,138
2012	2,672
2013	3,206
2014	3,741
2015	4,275
2016	4,810
2017	5,344
2018	To Be Determined *
2019	To Be Determined *
2020	To Be Determined *
2021	To Be Determined *
2022	To Be Determined *

* To be determined between the Government of Honduras and the Government of the United States of America.

3. CA-PEQ Operating Methods

- A. Bid Opening Process:** CA-PEQ will award Certificates of Tariff – Rate Quota Allocation to bidders who have submitted the highest bids.
- B. Frequency:** Frequency of the open and public bidding process by CA-PEQ shall be up to three times per year.
- C. Notification and Public Notice:** CA-PEQ shall communicate to the SIC on the opening of each bidding process, sending the bases for this process. The notification will be made through a designated contact, which will be the General Department of Economic Integration and Business Policy of the SIC. The notices will be published on the SIC and CA-PEQ websites, respectively, in the Journal of Commerce in the case of CA-PEQ, in the Official Newspaper “La Gaceta” and two nationally circulated newspapers in Honduras. The costs of publication will be assumed by CA-PEQ. Publications will be made on the first day of each auction.
- D. Eligibility:** Any individual or legal entity constituted or domiciled in the United States of America shall be eligible to participate in the bidding process.
- E. Content of the Bids:** The bids must be made in a format established by CA-PEQ and must contain:
- i) Name, address, telephone, fax number and email address of the bidder;
 - ii) Quantity of chicken leg quarters it wishes to tender.
The total must be a multiple of “1” and expressed in Metric Tons (MT);
 - iii) Price bid per metric ton in United States dollars and cents, without including fractions of cents. CA-PEQ will communicate the minimum price for bidding to the SIC prior to each bidding.
 - iv) Total value of the bid;
 - v) Bidder’s signature; and

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- vi) Consent of the bidder that any dispute which may arise regarding the bidding process will be resolved through arbitration at the American Arbitration Association according to the rules of business arbitration.

F. Guarantees: The bidder must accompany each bid he makes with a Letter of Credit from a United States bank, an electronic transfer or equivalent security to an account designated by CA-PEQ, by the amount of fifty thousand American dollars (USD 50,000.00) or the total value of the bid, whichever is lower.

The bidder shall lose his guarantee if the bidder who has been favored with a certificate of exportation for chicken leg quarters does not pay the total bid amount within the five working days agreed upon for the payment. If a bidder is not a winner, he may choose to apply the guarantee to the price of any successful auction or retain the guarantee for a following auction process.

G. Confidentiality of Information: CA-PEQ will treat the information about the bids and their contents with due confidentiality and will only make it public to another third party who is neutral or to authorized members of the United States Government or the Government of Honduras whenever necessary in order to ensure effective operation of the bidding mechanism or whenever required by law. Nevertheless, after all the bidding certificates are issued, CA-PEQ will notify all bidders and reveal: (i) the total tons authorized through the certificates; and (ii) the lowest price and average per metric ton for all successful bids.

H. Assignment of Certificates: CA-PEQ shall assign Certificates of Tariff – Rate Quota Allocation to the bidders who have submitted the highest prices in the bidding. If two or more bidders have submitted identical prices and there is insufficient available volume to satisfy their bids, CA-PEQ will divide the available tonnage between them in equal parts, unless one of the bidders has bid less than said equal part, in which case CA-PEQ will assign the bidder the amount submitted in his bid and assign any remainder in equal parts among the other bidders with equal prices.

I. Payment of the Certificates: If the bidder does not make payment of the total amount of his bid by electronic transfer, certified check or by check certified to a designated account after five working days of having been notified about the accreditation of a Certificate of Tariff – Rate Quota Allocation, CA-PEQ will revoke the right of the accredited Certificate and will award it to the following bidder who has submitted the next best bid.

J. Period of Effectiveness for the Certificate: CA-PEQ will give the Certificate of Tariff Rate Quota Allocation to each bidder who has been certified according to the tonnage shown on each bid. The Certificate will be valid throughout the calendar year corresponding to the quota.

K. Transfer of a Certificate: The Certificates of Tariff – Rate Quota Allocation may be freely transferred by the initial holder. CA-PEQ must give notice to the Department of Industry and Commerce no more than five working days after having made the transfer, indicating who is making the transfer and to whom it has been transferred, as well as the tonnages transferred. Valid transfer procedures are established in CA-PEQ regulations.

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- L. Arbitration and Disputes:** Controversies resulting from or related to operation of the open and public auction administered by CA-PEQ shall be resolved through arbitration administered by the American Arbitration Association according to its rules of business arbitration.
- M. Reports:** CA-PEQ will send the Department of Industry and Commerce a report on the assignment and distribution of the quota for chicken leg quarters for each auction process made during the year no later than within the next three work days. The report must show, when appropriate, the detail of the bearers of the accredited certificates with their respective number and the certificate transfers, whenever these may occur.
- N. List of Registered Importers:** Prior to each bidding, the SIC will send the CA-PEQ the list of registered economic agents who are interested in importing chicken leg quarters. CA-PEQ shall make this list available to the auction bidders.
- O. Review of the Mechanism:** Whenever necessary, the SIC and CA-PEQ will meet to carry out a review of how the auction mechanism is functioning.
- P. Modifications:** The SIC and CA-PEQ may propose modifications to this understanding. They must be approved by consensus.
- Q. Effective Period:** This Understanding shall be in effect during the period of time when the quotas for importation of chicken leg quarters are established according to the provisions of paragraph (e) of Note 4 of the General Notes for Honduras, Annex 3.3 of the DR-CAFTA, unless the signatories agree otherwise.

Done in Tegucigalpa, M.D.C. on the twenty-eighth day of the month of December in the year two thousand seven in four originals in English and Spanish, with both documents being equally authentic.

For the SIC
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JORGE ALERTO ROSA ZELAYA
Secretary of State in the Offices of
Industry and Commerce

For CA-PEQ
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BENJAMIN BOGRAN
Identity Number: 0501-1963-06452

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ANNEX II

**CERTIFICATE OF TARIFF –
RATE QUOTA ALLOCATION**

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Department of Industry and Commerce
Republic of Honduras

Export Certificate No.

UNITED STATES OF AMERICA

Central America Poultry Export Quota, Inc. (CA-PEQ)

CERTIFICATE OF TARIFF-RATE QUOTA ALLOCATION

Tariff Rate Quota for CHICKEN LEG QUARTERS
Established by the Government of Honduras
HTS Nos. 0207.13.99B; 0207.14.99B; 1602.32.00A

This certificate allocates to the person named below, or to its transferee, a share, in the amount specified below, in the duty free tariff - rate quota for U.S.-produced chicken leg quarters established by the Government of Honduras in accordance with paragraph 4 of Appendix I of the General Notes to the Schedule of Honduras to Annex 3.3 of the Dominican Republic – Central America – United State Free Trade Agreement and allocated pursuant to the terms of the Export Trade Certificate of Review granted to CAPEQ.

Issued To

Amount (metric tons):

Name:

Address:

Importer *(To be completed by importer)*

Name:

Address:

Date Issued:

Date of Expiration:

CAPEQ Administrator

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Central America Poultry Export Quota, Inc.
Certificate of Tariff-Rate Quota Allocation / Transfer of Ownership

1. Transferor	Transferee
Name: _____	Name: _____
Address: _____	Address: _____
_____	_____
_____	_____
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Address: _____	Address: _____
_____	_____
_____	_____

2. Transferor	Transferee
Name: _____	Name: _____
Address: _____	Address: _____
_____	_____
_____	_____
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Address: _____	Address: _____
_____	_____
_____	_____

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