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GENERAL TREATY ON CENTRAL AMERICAN ECONOMIC INTEGRATION

Biennial Report on the Operation of the Agreement

Communication from the Parties

The following report, dated 25 May 1999, presents the information received from the Permanent Mission of Nicaragua, also on behalf of the Member States, Costa Rica, El Salvador, Guatemala and Honduras. The report has been drawn up in line with the standard format for information on regional trade agreements (WT/REG/W/6).

1. BACKGROUND INFORMATION ON THE AGREEMENT

The Member States of the General Treaty on Central American Economic Integration are Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua. It entered into force in 1961 and was subsequently amended by the Protocol to the General Treaty on Central American Economic Integration, known as the Guatemala Protocol, in 1993.

1. Membership and dates of signature, ratification and entry into force

The General Treaty on Central American Economic Integration was signed in 1960 by El Salvador, Guatemala, Honduras and Nicaragua. The instruments of ratification were deposited on 5, 8 and 26 May 1961 by Guatemala, El Salvador and Nicaragua, respectively, and on 27 April 1962 by Honduras. It came into force on 4 June 1961 for the first three States and on 27 April 1962 for Honduras. Costa Rica acceded on 23 June 1962 and the instrument came into force for it when its ratification was deposited on 23 September 1963.

2. Type of agreement

The objective of the General Treaty is to establish a common market between the five countries and with this in mind those countries have undertaken to bring a free-trade area into full operation as well as to create a customs union in respect of their territories.

3. Scope

The General Treaty deals with trade in goods. From the outset it established free trade for all products originating in the Member States, with a few exceptions listed in Annex A of the General Treaty. Of the products in Annex A, only roasted coffee, alcoholic beverages and petroleum products are subject to customs duties, while the rest are subject to import controls.¹ This Annex covers just a few products which represent a very small proportion of trade.

¹ Resolution No. 24-96 (COMRIEDRE IV) of 22 of May 1996, as amended by Resolution 18-98 (COMIECO-VI) of 24 February 1998.

4. Trade data

Data on intra- and extra-trade, according to major products and partners, will be distributed at a later date as an addendum to this report.

II. TRADE PROVISIONS

1. Import restrictions

1.1 Duties and charges

In accordance with the provisions of Article III of the Treaty, all products originating in the Member States are freely traded except for those included in Annex A. The list of products not entitled to free-trade treatment has been getting progressively shorter and currently consists merely of the following:

ANNEX A

Common Rules for all Five Countries

0901.1	Coffee, not roasted
17.01	Cane sugar, refined or unrefined
1701.11.00	Cane
1701.91.00	Containing added flavouring or colouring matter
1701.99.00	Other
27.10	Petroleum products. Exception is made for mineral solvents, included in subitem 2710.00.1/ and asphalt, in subitem 2713.20.00, (petroleum bitumen), which are accorded free trade treatment between contracting States.
27.12	
27.13	
27.15	

Bilateral Regimes

<i>Guatemala – El Salvador</i>	
1101.00.00	Wheat
22.07	Ethyl alcohol, denatured or undenatured
2208.90.10	
<i>Guatemala – Honduras</i>	
0901.2	Roasted coffee
1101.00.00	Wheat
22.08	Distilled alcoholic beverages
<i>Guatemala – Nicaragua</i>	
0901.2	Roasted coffee
1101.00.00	Wheat
<i>Guatemala – Costa Rica, El Salvador – Nicaragua</i>	
0901.2	Roasted coffee
1101.00.00	Wheat
22.07	Ethyl alcohol, denatured or undenatured
2208.90.10	
<i>El Salvador – Honduras, Costa Rica – Honduras</i>	
0901.2	Roasted coffee

1101.00.00	Wheat
22.07 2208.90.10	Ethyl alcohol, denatured or undenatured
22.08, Except 2208.90.10	Distilled alcoholic beverages
<i>El Salvador – Costa Rica, Nicaragua – Costa Rica</i>	
0901.2	Roasted coffee
22.07 2208.90.10	Ethyl alcohol, denatured or undenatured
<i>Honduras – Nicaragua</i>	
0901.2	Roasted coffee
22.08	Distilled alcoholic beverages

Although no timetable has been set for the removal of these exceptions to free trade, the Council of Ministers for Economy and Trade has been given the task of revising the list at least once a year with this mind.

Temporary protection tariff (Arancel Temporal de Protección - ATP) applied by Nicaragua

In order to allow Nicaragua to tackle the reconstruction, rehabilitation and strengthening of its productive and financial capacity, the Council of Ministers adopted Resolution No. 3-93(CE-IEX), based on Transitory Article V of the Guatemala Protocol, giving Nicaragua permission to apply an ATP to 780 tariff items, subject to a timetable for phasing out this tariff by the end of the year 2000. The ATP consists of a variable surcharge levied on the imports concerned.

The ATP was established in July 1994, and applied in conjunction with a general fiscal stamp duty of 5 per cent until July 1997, when the latter was incorporated into the former in order to facilitate the tariff reduction process.

Since the tax was first introduced, the rates have been steadily reduced by means of 5 per cent cuts on a six-monthly or yearly basis. The process is due to be completed by the end of the year 2001. The ATP was phased out for the large majority of products by January 1999, and remained only for "fiscal goods".² Pursuant to Law No. 257, the Law on Fair Taxation and Trade, capital goods and intermediate goods not produced in Central America are not included in the phasing out of tariffs and a ATP of a rate of 5 per cent remains in place.

Duty on customs value in Costa Rica

Through Law No. 6946 in 1984, Costa Rica established a tax of 1 per cent of customs value. This has been incorporated into tariff duties and is included in the Schedule of Concessions for Costa Rica resulting from the Uruguay Round.

Customs administrative service charge in Honduras

The Government of Honduras levies a customs administrative service charge of 0.5 per cent on finished goods only.

² The term "fiscal goods" covers 28 eight-digit HS lines comprising mineral water (including flavoured waters), beer, ethyl alcohol, spirits (*aguardientes*), liqueurs, whisky, rum, gin and tobacco and tobacco products.

1.2 Quantitative restrictions

When the General Treaty came into force a number of quantitative restrictions or quotas between the States were included in Annex A. However, over the years the Council of Ministers gradually phased these out so that today they no longer exist.

1.3 Common external tariff

Through Resolution No. 13-95, dated 12 December 1995, the Council of Ministers for Economic Integration established as an immediate objective of Central American tariff policy a target of 0 per cent for raw materials and 15 per cent for finished products, with intermediate levels of 5 per cent and 10 per cent for raw materials and inputs produced in the region. It also authorized countries to gradually reduce the tariff at their discretion, in accordance with their particular circumstances, as from 1 January 1996.

Shortly afterwards the Council of Ministers passed Resolution No. 26-96, dated 22 May 1996, establishing the following general parameters for the revision of customs policy:

- Raw materials, intermediate goods and capital goods not produced domestically: 0 per cent;
- domestically produced raw materials: 5 per cent
- domestically produced intermediate goods and capital goods: 10 per cent; and
- finished goods: 15 per cent.

Consequently, the Central America Tariff on 31 December 2000 will consist of 5,506 lines with uniform tariffs, of which 50 per cent will be set at 0 per cent, 227 will be different tariffs authorized by the Council of Ministers and 149 will be other different tariffs set at national level, mainly targeting fiscal goods.

This situation is subject to a decision shortly to be taken by the Council of Ministers on the decision or intention of some countries to reduce the tariff ceiling below the target of 15 per cent.

2. **Export restrictions**

The Central American countries do not apply export restrictions.

3. **Rules of origin**

The Council of Ministers for Economic Integration and Regional Development adopted the Central American Regulations on Origin of Goods through Resolution No. 2-95 of 1 September 1995. These regulations have subsequently been amended by Resolutions No. 20-98, 27-98 and 30-98 of the Council.

These Regulations establish the rules for determining, declaring and certifying origin, as well as the corresponding procedures for checking origin in trade relations between the contracting States.

The rules of origin in these Regulations are based on the general principle of change in tariff classification, which may be accompanied by other requirements established in the Regulations or the Annex. The Regulations establish a Technical Committee for Rules of Origin to supervise the

application of the provisions of the Regulations and to facilitate cooperation in the administration of the Treaty's provisions.

4. Standards

Negotiations were recently concluded on two sets of Central American regulations: one relating to standardization measures, metrology and authorization procedures and the other relating to the application of sanitary and phytosanitary measures and procedures in intra-Central American trade. These will shortly be approved by the Council of Ministers and enter into force.

4.1 Technical barriers to trade

The Central American Regulations on standardization, metrology and authorization procedures establish the following main aspects:

- (a) No contracting party may prepare, adopt, maintain or apply standardization measures (conformity assessment procedures, technical regulations or standards) with a view to or the effect of creating unnecessary obstacles to trade.
- (b) With regard to standardization measures, the principle of national and most-favoured-nation treatment is guaranteed.
- (c) Contracting parties are authorized to prepare, adopt, apply and maintain technical regulations and related conformity assessment procedures which enable them to ensure that they achieve their legitimate objectives provided this does not create unnecessary barriers to trade.
- (d) International standards are to be used as the basis for preparing or applying standardization measures, except when these international standards do not constitute an effective or adequate means of achieving their legitimate objectives due to fundamental reasons related to climate, geography, technology or infrastructure, or for scientifically proven reasons.

The regulations establish that:

- (i) The contracting parties shall harmonize their respective standardization measures on as wide a basis as possible, taking into account the guidelines provided by international standardizing bodies.
- (ii) Two or more contracting parties may sign agreements for the mutual harmonization of their standardization measures, with a view to strengthening Central American integration and bringing about a regional system.
- (iii) Two or more contracting- parties may sign mutual recognition agreements concerning the results of their respective conformity assessment procedures with a view to facilitating intra-regional trade.
- (iv) The agreements referred to in paragraphs (ii) and (iii) shall be open to the participation of the other contracting parties.
- (v) Each State shall accept a technical regulation adopted by another of the contracting parties as equivalent to one of their own when, in cooperation with the other party, the

importing party decides that the technical regulations of the exporting party coincide sufficiently with the former's legitimate objectives.

- (vi) As far as possible, each contracting party shall accept the results of any conformity assessment procedures carried out in the territory of another contracting party, provided that, they offer a satisfactory guarantee, equivalent to that provided by the procedures carried out by the accepting contracting party (or carried out within its territory and the results of which it accepts), that the product or service concerned conforms to the technical regulation or applicable standard adopted or maintained in the territory of that contracting party.

4.2 Sanitary and phytosanitary measures

The Regulations relating to the application of sanitary and phytosanitary measures and procedures in intra-Central American trade aim to regulate sanitary and phytosanitary which may affect, directly or indirectly, trade between the contracting parties, and to make sure that these do not constitute unnecessary barriers to trade, as well as to create statutory provisions for the gradual and voluntary harmonization of sanitary and phytosanitary measures and procedures in intra- and extra-trade with a view to protecting human, animal or plant life or health. The general principles of the Regulations are transparency, harmonization and equivalence of sanitary and phytosanitary measures and procedures and the avoidance of arbitrary or unjustifiable discrimination.

The Regulations indicate that the contracting parties shall seek future harmonization of existing or new regional measures and procedures on a gradual and voluntary basis. They shall also seek to harmonize sanitary and phytosanitary authorization procedures, in accordance with established WTO requirements, for those products that require them; to harmonize procedures and requirements for sanitary and phytosanitary registration; and to adopt a mutually recognized system for the authorization of professionals and institutions involved in the implementation of sanitary and phytosanitary measures. The Regulations also seek mutual recognition of inspection, assessment, approval and control procedures.

Finally the Regulations also seek to consolidate a single regional risk management policy, including the procedures, planning and preparation of analysis which this would involve.

5. Safeguards

The Council of Ministers approved the Central American Regulations on Safeguard Measures on 22 May 1996, through Resolution No. 19-96. They establish authorities and procedures for the implementation of safeguard measures on imports from third parties on the basis of the substantive aspects of Article XIX of the GATT 1994 and the WTO Agreement on Safeguards.

6. Anti-dumping and countervailing measures

7. Subsidies and state aid

The general provisions of the Treaty on this matter were replaced with the entry into force of the Central American Regulations on Unfair Business Practices, approved by the Council of Ministers on 12 December 1995, through Resolution 12-95.

These Regulations were adopted with a view to developing the provisions of the Agreement on the Application of Article VI of the General Agreement on Tariffs and Trade 1994 and the Agreement on Subsidies and Countervailing Measures. This constitutes an essentially procedural

instrument since the substantive aspects of unfair business practices are governed by the provisions of the above Agreements.

8. Other

Convention on the Central American Tariff and Customs Regime

In 1985, the Central American countries signed the Convention on the Central American Tariff and Customs Regime, the main aim of which was to respond to the challenge of reviving and restructuring the process of Central American economic integration. The regime established by the Convention consists of the following instruments:

- (a) Central American Import Tariff, contained in Annex A of the Convention;
- (b) Central American Legislation on the Customs Value of Goods, contained in Annex B of its Regulations;
- (c) Uniform Central American Customs Code (CAUCA) and its Regulations (RECAUCA); and
- (d) Decisions and other common customs and tariff provisions which derive from it.

Three amendments have been made to this Convention:

- The First Protocol, which was signed on 9 January 1992 and came into force on 27 February 1993, introduced an amendment to the Nomenclature whereby as of 1993 the Central American countries adopted the Central American Tariff System (SAC), based on the Harmonized Commodity Description and Coding System;
- the Second Protocol, which was signed on 5 November 1994 and came into force on 15 January 1997 for Costa Rica, El Salvador and Nicaragua, amends Article 23 of the Convention allowing the Council to adopt tariffs of above 100 per cent for the products tariffed by the Central American countries in the Uruguay Round;
- the Third Protocol, which was signed on 12 December 1995 and came into force on 15 January 1997 for Costa Rica, El Salvador and Nicaragua, and on 27 August 1997 in the case of Guatemala, amends Article 23 of the Convention, enabling the Council to set 0 per cent tariffs.

In 1986, the Central American countries began to apply regional standards of customs valuation based on the Brussels definition of value. With the adoption of the WTO Agreements and side agreements, the countries exercised their right to delay application of the Agreement on Implementation of Article VII of GATT 1994, in accordance with Article 20 of that Agreement.

With the exception of Honduras, since 1965, the Central American countries have shared a Central American Uniform Customs Code (CAUCA) since 1965, which provides for the common procedures applied by these countries for the various customs regimes operating in the area. Honduras subsequently adopted the Code as amended by a Protocol adopted in 1992. This amendment has come into force for Costa Rica, El Salvador and Nicaragua.

Regulations on the International Customs Transit Regime

These Regulations were approved on 5 November 1994 by the Council of Ministers in Resolution No. 53-94. They aim to develop provisions in order to facilitate international goods transit within the Central American area, using a common declaration form called the Goods Declaration for International Inland Customs Transit.

III. GENERAL PROVISIONS OF THE AGREEMENT

1. Exceptions and reservations

Pursuant to Article 57 of the Guatemala Protocol, the Member States may request authority to suspend the application of particular provisions of the Protocol and its derivative and supplementary instruments on a temporary basis when they are having a serious effect on a particular sector of the economy. In such cases, the Council of Ministers shall examine the situation and either grant or deny the request. Should the authority be granted, the Council of Ministers shall indicate the period of suspension and the measures that the requesting State must adopt in order to overcome the abnormal situation.

Pursuant to its Article 64, the Guatemala Protocol does not allow reservations.

2. Accession

Article 60 of the Guatemala Protocol provides for the accession or association of any State from the Central American isthmus which has not already signed.

3. Dispute settlement procedures

In March 1999 negotiations were concluded for a Central American Treaty on Trade Dispute Settlement which seeks to establish a legal mechanism for the settlement of trade disputes through an open, sound and predictable procedure.

The Treaty is in accordance with WTO provisions on this matter and establishes a procedure for the prevention and settlement of disputes relating to the application or interpretation of the regional agreements or for cases in which one party considers a measure that is in force or planned in another party to be incompatible with the obligations of the regional instruments or, when benefits that could reasonably have been expected from the application of these instruments are nullified or impaired even in the absence of violation.

The Treaty stipulates that disputes arising in connection with the WTO Agreements or conventions negotiated in accordance with the WTO may be settled using either the procedures established in the Treaty or those established in the WTO Understanding on the Settlement of Disputes, as the complaining party chooses. The choice of one forum rules out the other.

4. Relationship with other trade agreements

In January 1991 the Central American countries signed the Tuxtla Gutiérrez Declaration and the Act and Basis for an Economic Complementation Agreement with Mexico, setting forth their intention to initiate a negotiation process with a view to establishing a free-trade area. In August 1992 the same countries signed a Multilateral Framework Agreement for a Trade Liberalization Programme. In the context of this latter Agreement, Costa Rica initiated and completed negotiations for a Free Trade Treaty with Mexico, which came into force in 1995, followed by Nicaragua whose

Free Trade Treaty with Mexico came into force in 1998. Currently, El Salvador, Guatemala and Honduras are concluding negotiations for a similar treaty with Mexico.

The Central American countries also signed a Free Trade Treaty with the Dominican Republic in November 1998. El Salvador, Guatemala and Costa Rica have concluded negotiations for the signing of a Protocol to this Treaty, and this instrument is currently undergoing the process of legislative approval in these countries. Honduras and Nicaragua have yet to sign the Protocol to the Treaty.

The Central American countries are currently involved in negotiations to conclude a free trade treaty with Panama. With regard to the structure of these negotiations, the Central American countries have negotiated jointly with each country on normative aspects, and individually with each country on issues relating to market access schedules.

The Central American countries are also participating actively in negotiations for the creation of a Free Trade Area of the Americas (FTAA), to begin in the year 2005.

5. Institutional framework

The institutional framework for Central American integration was amended by the Protocol of Tegucigalpa to the Charter of the Organization of Central American States (ODECA), signed in Tegucigalpa, Honduras, on 13 December 1991, which created the Central America Integration System (SICA). The institutional framework for the economic integration subsystem was established by the Guatemala Protocol, signed on October 1993:

- Bodies of the subsystem: the Council of Ministers for Economic Integration, the Intersectorial Council of Ministers for Economic Integration, the Sectorial Council of Economic Integration, and the Executive Committee for Economic Integration.
- Technical administrative body of the subsystem: the Secretariat of Central American Economic Integration (SIECA), the Secretariat of the Central American Agricultural Council (SCA), the Secretariat of the Central American Monetary Council (SCMCA) and the Secretariat of Central American Tourism Integration (SITCA).
- Institutions of the subsystem: The Central American Bank for Economic Integration (CABEI), the Central American Institute for Public Administration (ICAP) and the Central American Institute for Industrial Technology and Research (ICAITI).
- The Advisory Committee for Economic Integration (CCIE) is also part of the subsystem.

The Council of Ministers for Economic Integration consists of the Ministers for the Economy and Presidents of the Central Banks of the contracting parties, who will be responsible for the coordination, harmonization, convergence or unification of the States' economic policies. In a resolution adopted by the 19th Summit of Central American Presidents, dated 12 July 1997, it was agreed that the Ministers for the Economy, representing the national economic Cabinets, would make up the Council of Ministers for Economic Integration.

ANNEX³

- General Treaty on Central American Economic Integration.
- Protocol of Tegucigalpa to the Charter of the Organization of Central American States.
- Protocol to the General Treaty on Central American Economic Integration – Guatemala Protocol.
- Convention on the Central American Tariff and Customs Regime and its Protocols.
- Central American Uniform Customs Code (CAUCA), its Modifying Protocol and Regulations (RECAUCA).
- The Central American Countries Tariff-Cutting Programme.
- Central American Regulations on the Origin of Goods.
- Central American Regulations on Unfair Trade Practices.
- Central American Regulations on Safeguard Measures.
- Regulations of the International Customs Transit Regime.

³ Interested delegations may obtain copies of the relevant documentation in office 3006, in electronic or paper form.