

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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## CENTRAL AMERICAN FREE-TRADE AREA

### Request by Nicaragua

The following is the text of the proposed system for the integration of Central American industries, submitted by the Government of Nicaragua for the information of the contracting parties.

### DRAFT REGULATIONS FOR THE INTEGRATION OF CENTRAL AMERICAN INDUSTRIES

The Governments of the Republics of Guatemala, El Salvador, Honduras, Nicaragua and Costa Rica,

Considering Resolution No. 26 adopted by the Committee for Central American Economic Cooperation on 26 January 1956, and Article XXI of the [draft] Multi-lateral Central American Free-Trade and Integration Treaty

Being anxious to strengthen the bonds of fraternity which naturally and traditionally have united their countries and to cooperate jointly to resolve the economic problems which affect them in common,

Being convinced that advantages will ensue from the economic integration of the Central American Isthmus for the subsequent development and expansion of trade between their countries as a result of the implementation of a gradual process of industrialization, carried out on a mutually advantageous basis and within the framework of an adequate distribution of the manufacturing activities and of free trade in their products;

Have resolved to conclude the present Agreement which lays down regulations for Central American integration industries and to that effect have designated their respective plenipotentiaries as follows:

H.E. the President of the Republic of Guatemala, .....

H.E. the President of the Republic of El Salvador, .....

H.E. the President of the Republic of Honduras, .....

H.E. the President of the Republic of Nicaragua, .....

H.E. the President of the Republic of Costa Rica, .....

who, having exchanged their respective Full Powers and having found those in order, have agreed as follows:

## CHAPTER I

### CENTRAL AMERICAN INDUSTRIES FOR INTEGRATION

#### Article I

The Contracting States undertake to stimulate and promote the establishment of new industries and the specialization and expansion of existing industries within the framework of Central American economic integration and agree that the development of the various activities which are, or may be, included in such a programme shall be effected on a reciprocal and equitable basis in order that gradual economic advantages may accrue to each and every Central American country.

## Article II

The Contracting States, through supplemental agreements annexed to this Agreement and in conformity with the recommendations laid down by the Committee for Economic Cooperation in the Central American Isthmus, shall determine those branches of industrial activity which may be subjected to these regulations, and the number, manufacturing capacity and location of industrial integration plants necessary to meet the joint Central American demand in the products of such industries within a reasonable period. Similarly, they shall agree as to the successive expansion stages required to meet future increase in such demand.

## Article III

In making the determination referred to in Article II above, the Contracting States shall regard as being Central American Integration industries those industries that comprise one or more industrial plants which, in order to manufacture a product or products in reasonably economic and competitive conditions, given the conditions obtaining in Central America, require to use individually a set-up of installations of machinery and equipment the minimum capacity of which significantly exceeds the demand for their products on the domestic market of the Central American country where they are located.

Those industrial plants which belong to Central American Integration industries and are subject to these Regulations shall be called Industrial Integration Plants (Plantas Industriales de Integración).

## Article IV

The industries referred to in Article III above may be new or existing industries.

The term new industries shall be construed as meaning those industries which do not exist in any Central American country, or those industries which exist already in an elementary state in one or more Central American countries and modify their structure by installing new plants or by reorganizing existing ones and to that effect resort to more advanced production processes and techniques, as a result of which their characteristics are fundamentally changed.

Existing industries may be covered by the Regulations provided for under this Agreement when, as a result of a coordinated plan previously examined by the Central American Commission on Industrial Initiatives and approved by the Contracting States, the plants which they comprise:

- (a) specialize in the manufacture of given types of products, intended for the Central American market, provided however that such specialization is likely to result in a higher volume of production, a qualitative improvement of production and lower cost levels, or
- (b) raise their production level for the purpose of developing their sales on the Central American market and, as a result of such expansion, achieve levels of efficiency and economy that would not otherwise be attainable within the framework of the domestic market of the country where they are located.

## Article V

The products manufactured by enterprises which own industrial integration plants shall enjoy the benefits of the free-trade system established under the multilateral Central American Free Trade and Economic Integration Treaty and such exemptions as ensue from this Agreement.

#### Article VI

The Signatory States shall, within a reasonable period complete the harmonization of the duties and other charges which each of them individually levies upon imports of the products manufactured by Central American integration industries or of like products or substitutes, and upon imports of the principal raw materials and containers necessary for their production and distribution.

In any case, the supplemental agreements referred to in Article II of this Agreement shall lay down the minimum rates of duty which shall be applicable to such products, raw materials or containers.

#### Article VII

Save in cases of emergency, with respect to imports from countries outside Central America of goods which are also produced or manufactured in any Central American country by Industrial Integration plants, or with respect to such imports of like products or substitutes, the Governments of the contracting parties shall not grant duty exemptions or rebates below the minimum referred to in Article VI or apply preferential exchange rates amounting to such duty exemptions or rebates.

Similarly, the Governments of the contracting parties shall refrain, except where justifiable, from importing such products from countries outside the Central American area when destined for official use.

The provisions of this Article shall be applied without prejudice to acquired rights.

#### Article VIII

In their respective territories the Signatory States shall grant national treatment to capital imported from other Central American countries to be invested in Central American integration industries and to personnel and workers coming from the other Signatory Countries to work in said industries.

#### Article IX

Where there exist in any Central American country restrictions upon international transfer of payments, the companies or enterprises owning industrial integration plants shall receive most favourable treatment with respect to purchases of the foreign exchange necessary to pay for imported goods and services essential to the establishment and operation of such plants, or for the payment of dividends, interests, royalties and amortization quotas payable in foreign currencies.

#### Article X

In their requests for international technical assistance in the industrial field, the Contracting Parties agree to grant preference to activities related to Central American integration industries.

Article XI

The Contracting Parties undertake to exchange information concerning the expansion of the activities of industrial integration plants and to grant one another, on a basis of reciprocity, all the facilities necessary for the purpose of assessing the development of Central American integration industries.

CHAPTER II

LOCALIZATION AND RECIPROCITY

Article XII

The Contracting States shall endeavour to ensure that the programme of Central American economic integration be implemented in such a way that, within a reasonable period, each and every Central American country may share in the economic and social advantages ensuing from the establishment of Central American integration industries and in order that the liabilities or obligations resulting from such programme should also be shared equitably.

To that end, the Signatory States, when concluding the supplemental agreements related to the establishment, specialization or expansion of industrial integration plants, shall take into account in particular the total amount of investment, the volume of exports or products manufactured by industrial integration plants to the Central American market and the loss of revenue, calculated on the basis of the minimum rates of duty instituted in conformity with the provisions of Article VI above, suffered by each country on account of duty-free imports of such products.

Article XIII

In determining the geographical distribution of industrial integration plants as between Central American countries, the Contracting States shall take account of technical and economic factors applicable to the location of the undertakings, in order to secure the greatest possible economic advantages for the region as a whole, and to ensure efficient distribution of such products. The Contracting States shall also take account of any other factors which have, or may have, an incidence on the relative economic appropriateness of every possible location, or on an assessment of the benefits and liabilities resulting for each country from the establishment of industrial integration plants.

Article XIV

With a view to facilitating the attainment of the objectives laid down in Articles XII and XIII of this Agreement, the Contracting States agree that those countries which derive the smallest advantages from the programme shall have preference, as regards the establishment of industrial integration plants in their territories, the technical and economic features of which shall be such that they can supply the Central American market in conditions of equal or similar economic soundness, regardless of the Contracting country in which they are located.

Article XV

Wherever the evolution of the joint Central American demand in products manufactured by an integration industry justifies an additional expansion of the latter, the Contracting Parties, in considering whether it were more advantageous to establish new plants or to expand the capacity of existing ones, shall duly take into account the principles of location and of the equalization of the benefits and liabilities referred to in this Chapter.

CHAPTER III

CENTRAL AMERICAN FUND FOR INDUSTRIAL DEVELOPMENT

Article XVI

With a view to contributing to an equitable distribution as between the five Central American countries of the economic advantages accruing from the integration programme and to the expansion and financing of such programme, the Contracting States agree to set up a Central American Fund for Industrial Development, financed out of the annual quotas contributed to that end by the Central American governments.

In order to constitute the initial capital of the Fund, each contracting party shall supply 1 million dollars to be paid by yearly quotas within a period of 10 years as of the date of the setting up of the Fund; further, each contracting party shall contribute annually an amount in dollars equal to 2 per cent of the value of the products exported to other Central American countries by domestic industrial integration plants during the previous year.

The Contracting Parties shall conclude a special agreement which shall provide for the functions, the composition, operation and liquidation of the Fund.

CHAPTER IV

COMPOSITION OF CAPITAL

Article XVII

The registered capital of enterprises owning plants determined to be integration plants shall, in accordance with these Regulations, be composed preferably of Central American capital, and provision shall be made in order that joint participation of such capital as originates in the five countries in relation to the total capital of each enterprise shall not be less than 50 per cent of the registered capital.

Central American capital shall be understood to mean capital subscribed by national individuals or corporations of any of the Signatory countries or by nationals of other countries residing in Central American countries whose capital is regarded as national capital in conformity with the laws and regulations of the country concerned.

Article XVIII

On the occasion of the setting up of new enterprises , 30 per cent of the capital shall be offered for subscription in the country where it has been agreed the plant should be located and not less than 10 per cent in each of the other four Central American countries, the headquarter country being free to secure from outside the Central American area a proportion of the capital it is entitled to subscribe not exceeding two thirds. The distribution of the residual percentage of the registered capital shall be determined in the relevant supplemental agreement, in which, depending upon the conditions obtaining in the industry concerned, a percentage of the capital offered to foreign countries for subscription may be fixed or the percentage allocated to the headquarter country may be increased.

With respect to capital offered for subscription to Central American countries, such capital shall be constituted by the same types of shares or debentures as constitute the total capital of the undertaking and in identical proportions. If one or several Central American countries where an offer for subscription has been made do not subscribe the whole amount of capital which they are entitled or do not supply the capital they have subscribed within the time limit laid down to that effect, another offer for that part which has not been paid may be made, in the following order,

- a) in equal proportions as between those countries where the project is not located and those countries in which the first offer had been fully subscribed to,
- b) in the country where the project is located, and
- c) on any other financial market.

The time limit for subscription shall be 180 days as of the date on which the first offer is made, and 90 days in respect of the second offer. The time limit and form of payment of the capital subscribed shall be determined in each case depending upon the amount of the investment and the nature of the industrial project concerned.

Where undertakings already established in Central America and the production of which is destined for the domestic market decide, in conformity with these Regulations, to expand production or to specialize in specific types of products in order to constitute industrial integration plants and supply a multi-national market, the distribution of capital and other operating conditions shall be determined in the coordinated plans referred to in Article IV and in the relevant supplemental agreements.

Article XIX

Those undertakings that own new industrial integration plants shall constitute themselves into joint stock companies, in conformity with the legislation of the country where they are domiciled.

The offer of stock for public subscription shall be effected simultaneously and adequately, by means of current media of information in the five countries, with the necessary adjustment of form and procedures to comply with the national laws of each country concerning the sale to the public of shares or debentures.

## CHAPTER V

## THE SYSTEM OF COMPETITION

Article XXI

The Contracting States agree to enact the necessary orders and measures to prevent, in their respective territories and in respect of the products of Central American integration industries, any monopolistic practice such as limiting supply, fixing or allocating markets, or any other activity on the part of enterprises owning integration plants tending to fix prices different from those which would otherwise rule as a result of free competition on the Central American market.

Article XXII

When two or more industrial integration plants producing the same categories of goods are established simultaneously, or when additional plants are set up after the first plant has been established, the enterprises created for the operation of such plants shall be set up as independent companies and shall not effect consolidations or mergers which might result in perpetuating on the Central American market the single producer position which the integration plant first set up had otherwise enjoyed. However, where justifiable, the Contracting Parties may authorize the establishment of various plants within the framework of one enterprise.

Any agreements concerning specialization, exchange of technical information, use of patents and manufacturing processes, or the participation of the stockholders of one integration enterprise in the capital of any other enterprise, shall not constitute, for the purpose of these Regulations, merger or consolidation factors.

Article XXIII

When operating on equal terms, the enterprises shall sell the products of industrial integration plants at the same ex-works price, whatever the Central American consumer country may be.

Article XXIV

Enterprises owning industrial integration plants shall not turn to unfair use the privileges and exemptions provided for under this Agreement.

Unfair use of such privileges shall be understood to mean any sale effected in violation of the provisions of Article XXII above, or involving rebates or advantages not extended to other countries, or any damaging action with a view to eliminating competitor plants from the Central American market.

CHAPTER VI

FISCAL EXEMPTIONS

Article XXIV

The Contracting Parties agree not to grant enterprises owning Central American integration plants established in their respective territories privileges in excess of those provided for in this Agreement.

They further agree not to grant fiscal exemptions, privileges or incentives for the development of activities in the field of Central American integration industries to plants which are not subject to these Regulations, unless the products they manufacture are destined solely for exportation outside Central America.

Article XXV

The enterprises or companies owning or operating industrial integration plants belonging to new industries shall enjoy, in the country in which they are located, the national and local fiscal exemptions listed hereunder:

- a) full exemption for a period not exceeding ten years from payment of national and local taxes, charges and consular fees relating to importation of building materials, plant installation materials, engines, machinery and all other production equipment, spares and accessories, designs, patterns and samples; laboratory and control instruments, raw materials and semi-finished products; fuels, not including petrol, to the extent that such building materials, materials, machinery, equipment and fuels are not produced in Central America in adequate quantities or at reasonable prices or that their technical specifications and their standards of quality do not meet the necessary standards required for the relevant production;
- b) total exemption for a period not exceeding five years, and 50 per cent reduction for a further period not exceeding five years, from national and local taxes on the capital invested in industrial integration plants;
- c) total exemption for a period not exceeding five years, and 50 per cent reduction for a further period not exceeding five years, from national and local taxes on sales ex-works or on production,
- d) total exemption for a period not exceeding five years, and 50 per cent reduction for a further period not exceeding five years, from national and local taxes on the income, profits and dividends distributed,
- e) total exemption from national and local duties, taxes and other charges upon exportation.

The exemptions provided for under paragraphs (a) and (e) above shall be granted for a period not exceeding ten years to existing industries whose plants specialize in the manufacture of specific types of products or expand production capacity in conformity with these Regulations, provided however that the exemptions provided for under paragraphs (b), (c) and (d) above may be granted on the basis of a different percentage.

The period relating to the exemptions provided for in this Article shall commence on the date on which the tax, charge or duty would first be levied if exemption were not granted. The period of exemption from income tax shall commence on the date when production begins.

## CHAPTER VII

## OBLIGATIONS ASSUMED BY THE ENTERPRISES

Article XXVI

Enterprises or companies owning industrial integration plants shall devote their activity solely to the administration and operation of such plants and their capital shall have been previously offered for subscriptions in conformity with the provisions of Chapter IV of these Regulations.

In case of assignment, transfer or administering agreement, or any other contracts involving the use of the exemptions and privileges provided for under these Regulations by persons other than the enterprise owning an industrial integration plant, the enterprise concerned shall previously inform the Contracting Parties in order that they may decide whether they regard the assignee as successor to the corresponding rights and obligations.

Article XXVII

Enterprises or companies owning industrial integration plants shall, within the period determined by the Contracting Parties, initiate those production activities which have been assigned to them. In every case, the period in question shall be determined taking into consideration the project concerned and can be prolonged, if necessary, for a further period not exceeding the initial period. Upon the expiration of the time limits laid down, the enterprises shall forfeit the rights accruing from these Regulations.

Article XXVIII

The products manufactured by industrial integration plants shall be of a quality comparable to the like products imported from outside Central America and shall be able to sell at competitive prices and in the conditions of competition laid down in Chapter V of these Regulations.

There shall be laid down Central American standards of quality with which the products manufactured by industrial integration plants shall be required to comply.

The "Instituto Centroamericano de Investigación y Tecnología Industrial" shall cooperate with the Contracting Parties in the determination of said standards and shall review them from time to time. Similarly, the Institute shall cooperate in technical controls concerning such standards.

Article XXIX

Industrial integration plants shall supply the markets for which they have responsibility and shall, in the sale and distribution of their products, give priority to the requirements of Central American consumers. Furthermore, they shall previously advise the Executive Board for the administration of this Agreement provided for under Article XXXV of any suspension of operations lasting over a period of three months, and shall state the reasons for such suspension in order that the Board may grant the necessary authority or cancel the related privileges.

Article XXX

Goods introduced under duty exemption in conformity with the provisions of Chapter VI shall not be used for any other purpose than that which gives rise to the exemption.

Article XXXI

Enterprises or companies owning industrial integration plants shall enter in their books and registers, which are subject to inspection by the competent authorities, detailed information concerning the importation of goods introduced under customs exemption and the use of such goods. They shall also supply, in due time, all the data and information which public authorities may request for the purpose of controlling the use of such goods.

Article XXXII

Industrial integration plants shall use Central American raw materials provided, however, this does not prevent them from operating economically and they shall encourage, to the greatest possible extent, production of such raw materials.

Article XXXIII

Enterprises or companies owning industrial integration plants shall submit and publish, in accordance with the laws of the country in which they are established, balance sheets and financial statements to demonstrate their situation. The Governments of the Signatory countries where such plants are located shall designate a national body to take cognizance from time to time of the situation of the corresponding enterprises which shall be under the obligation to submit to such authority all the data and information which may seem to be necessary to assess their degree of development, consumption of raw materials, production and financial situation.

Article XXXIV

Where any enterprise or company fails to comply with the obligations laid down in this Agreement, such enterprise or company may, as a result thereof, forfeit in whole or in part the privileges ensuing from this Agreement, after consultation between the Contracting States.

CHAPTER VIII

SUPERVISION AND CONTROL

Article XXXV

The Contracting States shall supervise and control the operation of this Agreement through the Executive Board for the administration of the Agreement which shall be composed of the Ministers for Economic Affairs. The main functions of the Board shall be inter alia:

- (a) to prepare at least every five years a general review concerning the implementation of the integration programme, for the purpose of determining whether the plants which have been established are fulfilling the purposes of this Agreement. The review shall be focussed in particular on production levels, costs, Central American standards of quality, prices and distribution;
- (b) to deal with any problem which the operation of this Agreement and supplemental agreements may raise, in particular in respect of failure to comply with or violations of its provisions, and to take resolutions in this respect.  
If agreement cannot be reached in such cases, the matter shall be referred to the arbitration procedures provided for under Article XXXVIII.
- (c) to lay down and authorize such measures as are essential to secure equitable prices, fair competition and a more efficient and economic distribution of products;
- (d) to determine and authorize a system for the coordination and harmonization of the various plants in the same branch of activity, where this may be necessary for an efficient operation of such plants.

The Executive Board for the administration of the Agreement may appoint Committees or sub-committees and delegate its functions to them in whole or in part.

## CHAPTER IX

### PROCEDURES

#### Article XXXVI

In order to secure recognition of an industry as a Central American integration industry, a Contracting State shall submit the case for consideration by the Committee for Economic Cooperation, composed of the Ministers for Economic Affairs of the Central American Signatory countries.

On the basis of the recommendations submitted by the Committee the governments shall enter into supplemental agreements annexed to this Agreement, in which they shall declare as Central American integration industries the industries mentioned in such supplemental agreements and shall lay down the requirements with which enterprises or companies owning corresponding industrial integration plants shall be required to comply. Such requirements shall include, inter alia, specifications relating to the number, productive capacity, and location of the plants, the products that they manufacture, free trade in their products, the composition of the capital of the enterprises or companies owning such plants, the periods

during which they shall enjoy fiscal and customs exemptions, minimum rates of duty, the competence and responsibilities of the enterprises or companies and any other requirements provided for in this Agreement which may be deemed necessary in order to attain its objectives.

Article XXXVII

With respect to specific projects for setting up industrial integration plants, the Contracting States shall take due account of the reports and decisions which may be submitted by the Instituto Centroamericano de Investigación y Tecnología Industrial within the exercise of its functions.

The Instituto Centroamericano de Investigación y Tecnología Industrial shall also cooperate with the Executive Board for the Administration of the Agreement in analyzing the functioning of industrial integration plants for the purposes of the periodic review referred to in Article XXXV.

Article XXXVIII

The Signatory States agree to resolve in a brotherly way, in conformity with the spirit of this Agreement, any differences which may arise with respect to the interpretation or administration of any of its provisions. If an agreement cannot be reached, they shall submit the matter to arbitration. For the purpose of constituting the arbitration tribunal each Contracting State shall nominate to the Secretary-General of the Organization of Central American States three judges from amongst its Supreme Court of Justice. The Secretary-General of the Organization of Central American States and the Government representatives in the organization shall select, by drawing lots from the full list of persons nominated, three arbitrators no two of whom may be nationals of the same state. The award of the arbitration tribunal shall be decided by the concurring votes of no less than two members; the award shall be final and without appeal and shall have binding force between all the Contracting States in respect of any point settled concerning the interpretation or administration of the provision of this Agreement.

CHAPTER X

FINAL PROVISIONS

Article XXXIX

This Agreement shall enter into force upon the deposit of the last instrument of ratification. It shall be valid for ten years and shall be renewed by tacit agreement for subsequent periods of ten years.

Any Signatory State may withdraw from this Agreement on the condition that notice shall be given not later than two years before the date on which the initial period of validity or any subsequent period expires.

If a Contracting State sends notice of withdrawal after expiration of the time limit laid down but before a new period of validity has commenced, such notification shall be valid but the Agreement shall remain binding upon the Contracting State concerned for two years after the beginning of the new period.

When a Contracting State withdraws from this Agreement the other Contracting State shall determine whether the Agreement shall remain in force between all the Contracting States or whether it shall be maintained between such Contracting States as have not withdrawn therefrom.

This Agreement shall be submitted for ratification by each Signatory State in conformity with its national constitutional or legal procedures.

#### Article XI.

Supplemental Agreements to this Agreement shall be approved in conformity with the constitutional or legal procedures existing in each Signatory country. If, in the Agreement concerning recognition of specific industries as Central American integration industries, as provided for under Articles II and XXXVI, any period laid down for the application of specific provisions in these Regulations to such industries exceeds the period of validity of this Agreement, such period shall remain in force until the date of expiration, even if this Agreement is no longer in force.

#### Article XII

The Secretary-General of the Organization of Central American States shall open this Agreement for signature after consulting the governments. He shall act as depositary of the relevant instrument and shall furnish certified copies of such instrument to the Chancelleries of each Contracting State and a notification of the deposit of each instrument of ratification or of any withdrawal therefrom which may occur within the time limits laid down to that effect. Upon ratification by all the Contracting States the Secretary-General shall also furnish a certified copy of this Agreement to the Secretary-General of the United Nations with a view to registration, in accordance with the provisions of Article 102 of the Charter of the United Nations.

In WITNESS WHEREOF the respective plenipotentiaries have signed the present Agreement.

DONE AT the Headquarters of the Organization of Central American States at the City of San Salvador this ... day of ..... 19 ...

FOR THE GOVERNMENT OF GUATEMALA:  
FOR THE GOVERNMENT OF EL SALVADOR:  
FOR THE GOVERNMENT OF HONDURAS:  
FOR THE GOVERNMENT OF NICARAGUA:  
FOR THE GOVERNMENT OF COSTA RICA: