

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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CONTRACTING PARTIES
Thirteenth Session

PARTICIPATION OF NICARAGUA IN A CENTRAL AMERICAN FREE TRADE AREA

Note by the Executive Secretary

1. At their Eleventh Session, the CONTRACTING PARTIES decided, in accordance with the provisions of paragraph 4 of Article XXIV of the General Agreement, that the Government of Nicaragua was entitled to claim the benefits of the provisions of Article XXIV relating to the formation of free trade areas. In arriving at this decision, the CONTRACTING PARTIES took into consideration, inter alia, the determination of the Government of Nicaragua to complete the formation of the free trade area within a period of ten years as from the entry into force of the Treaty. Moreover, the Government of Nicaragua undertook to furnish each year to the CONTRACTING PARTIES a report on the progress achieved towards the elimination of tariffs and other restrictive regulations of commerce within the free-trade area.
2. In a communication addressed on 17 September to the Executive Secretary the Government of Nicaragua reported that the Central American Free Trade and Economic Integration Treaty and the Agreement concerning the Régime applicable to the Integrated Industries of Central America had been signed in June last by the representatives of all Central American countries, but that these instruments had not yet entered into force. The Nicaraguan Government transmitted, for the information of the CONTRACTING PARTIES copies of the authentic text of these two instruments.
3. In certain respects, the Free-Trade Treaty differs from the draft of 1956 which was circulated in document L/508/Add.1.
4. As contemplated in the Decision of 13 November 1956, Article I of the Treaty has been amended so as to specify that the formation of the free-trade area would be completed within a period of ten years as from the date of the entry into force of the Treaty. The text of the amended Article I is reproduced in the Annex, together with the other articles of the Treaty which refer to the formation of the free-trade area. Additional provisions have been introduced in paragraph (a) of Article XIX and in Article XXVII to define more precisely the operation of the transitional period. It may be of interest to note that the Trade Commission is empowered, inter alia, to prepare a definite plan for the completion of the free-trade area, as contemplated by the CONTRACTING PARTIES in their Decision of 13 November 1956. Other changes have been introduced in other

articles, but they do not appear to modify the relation between the Treaty and the provisions of Article XXIV of the General Agreement. It should be noted that the text of the Treaty as finally approved requires three ratifications instead of two for the entry into force of that instrument.

5. The list of items for which free circulation is provided between the Member States is slightly different from the list annexed to the draft treaty of 1956. This list, as well as the text of the Agreement on the Régime applicable to the Integrated Industries, is available at the secretariat.

ANNEX

TEXT OF ARTICLES I TO XXVIII OF THE MULTILATERAL TREATY FOR
FREE TRADE AND ECONOMIC INTEGRATION OF CENTRAL AMERICA

CENTRAL AMERICAN MULTILATERAL FREE TRADE
AND ECONOMIC INTEGRATION TREATY *

Chapter I

TRADE REGIME

Article I

The Contracting States, with a view to creating a customs union between their respective territories as soon as conditions are favourable, hereby agree to establish a free-trade régime which they shall endeavour to perfect within a period of ten years from the date on which the present Treaty enters into force. To this end they resolve to abolish, as between their territories the customs duties, taxes and regulations hereinafter mentioned in respect of the commodities specified in the appended schedule which shall constitute Annex A of this Treaty.

Accordingly, the natural products of the Contracting States and the articles manufactured in their territories, provided they are included in the aforesaid schedule, shall be exempt from import and export duties as well as taxes, duties and charges levied on imports and exports or on the occasion of such importation or exportation, whether such duties, taxes and charges be of a national, municipal or other nature, and irrespective of their purpose.

The exemptions provided for in this article shall not include charges for lighterage, docking, warehousing and handling of goods or any other charges which may legitimately be levied for port, warehouse and transport services; nor shall they include exchange differentials resulting from the existence of two or more rates of exchange or from other exchange regulations in any of the Contracting States.

When a commodity or article included in the annexed schedule is subject to internal taxes, charges and duties of any kind, levied on production, sale, distribution and consumption in any of the Contracting States, the State concerned may levy an equivalent amount on similar commodities imported from another Contracting State.

Article II

Goods originating in the territory of the Contracting States and included in the schedule appended to this Treaty shall be accorded national treatment in all the Contracting States and shall be exempt from any restrictions or quantitative measures of control except for such measures as may be legally applicable in the territories of the Contracting States for reasons of public health, security or police control.

* Provisional translation

Article III

Goods originating in one of the Contracting States and which are not included in the annexed schedule shall be accorded unconditional and unlimited most-favoured-nation treatment in the territory of the other Contracting States.

The above treatment shall not, however, be extended to concessions granted pursuant to other free trade treaties concluded between Central American States.

Article IV

The Contracting States, convinced of the necessity of equalizing their customs tariffs and firmly determined to establish a customs union between their territories, undertake, after consideration by the Central American Trade Commission mentioned below, to equalize the duties and other charges imposed by them individually on imports of commodities mentioned in the schedule appended hereto or which may be subsequently included in the said schedule, and on their main raw materials and containers.

For the purposes mentioned in the preceding paragraph, the Commission shall prepare and submit to the contracting governments, within a period not exceeding one year, the draft contractual agreement or agreements for the equalization of import duties.

Article V

The Governments of the Contracting States shall endeavour to refrain from enjoying or granting customs exemptions on imports from outside Central America of articles produced in any one of the Contracting States and mentioned in the schedule appended hereto.

The Contracting States shall further endeavour to equalize the advantages granted by them to industries manufacturing articles which are mentioned in the schedule, to the extent that such advantages might, in the opinion of the Central American Trade Commission, entail unfair competition with respect to the said commodities.

Article VI

Subject to consideration by the Central American Trade Commission, the schedule appended to this Treaty may be extended by mutual agreement between the Contracting States, by means of subsequent protocols and in accordance with the constitutional procedures of the Contracting States.

Article VII

In order that the goods specified in the schedule appended hereto may enjoy the advantages deriving from this Treaty, a customs form shall be completed in respect of them, which shall be signed by the exporter and shall include a declaration of origin. This form shall be submitted to the customs officers of the countries of origin and of destination for inspection as provided for in Annex B of this Treaty.

Article VIII

The Central Banks of the Contracting States shall co-operate closely with a view to precluding currency speculations that might affect the rates of exchange, and maintaining the convertibility of the currencies of the respective countries on a basis which, in normal conditions, shall guarantee the freedom, uniformity and stability of exchange rates.

Should any of the Contracting States establish quantitative restrictions on international monetary transfers, it shall adopt the necessary measures so that such restrictions will not affect in a discriminatory manner the other States.

In the case of serious balance-of-payments difficulties which affect or might affect monetary and payments relations between the Contracting States, the Central American Trade Commission, ex officio or upon request from one of the Governments, shall immediately study the problem for the purpose of recommending to the Contracting Governments a satisfactory solution that is compatible with the multilateral free trade régime.

Chapter II

DISCRIMINATORY PRACTICES

Article IX

Subject to the provisions of the bilateral Central American treaties in force and to any provisions agreed to in subsequent treaties between Central American States, the Contracting States agree to the following provisions with a view to giving broad application to the principle of non-discrimination in their trading relations:

(a) Any commodity which is not included in the schedule appended to this Treaty and which is subject to quantitative control measures imposed by a Contracting State shall, upon importation from the territory of another Contracting State or upon exportation to such a territory, be accorded treatment no less favourable than that accorded to like commodities of any other origin or destination;

(b) No Contracting State shall establish or maintain internal duties, taxes or other charges levied on a commodity, whether or not included in the appended schedule, originating in the territory of another Contracting State, nor shall it enact or prescribe regulations regarding the distribution or sale of such a commodity, when such charges or regulations place or tend to place the said commodity in an unfavourable position with respect to like commodities of domestic origin or imported from any other country;

(c) Should a Contracting State establish or maintain an agency or service or grant special privileges to a specific enterprise to deal exclusively or principally, permanently or temporarily with the production, exportation, importation, sale or distribution of a commodity, the said

State shall grant to the trade of any other Contracting State equitable treatment with respect to purchases or sales carried out abroad by the said agency, service or enterprise. The entity concerned shall be required to act in accordance with private business practice and shall afford the trade of the other countries adequate opportunity to compete for participation in such purchases or sales.

Chapter III

INTERNATIONAL TRANSIT

Article X

Each of the Contracting States shall maintain full freedom of transit through its territory in respect of goods going to or coming from another Contracting State.

Such transit shall not be subject to withdrawal, discrimination or quantitative restrictions. Should there be traffic congestion or any other form of force majeure, each Contracting State shall give equitable attention to the forwarding of the goods intended for its own population and the goods in transit to the other States.

Transit operations shall be carried out by the routes prescribed by law for that purpose and subject to the customs and transit laws and regulations applicable in the transit territory.

Goods in transit shall be exempt from all duties, taxes and other fiscal charges of a municipal or other character imposed for whatever purpose, except charges generally applicable for services rendered and for reasons of security, public health or police control.

Chapter IV

EXPORT SUBSIDIES AND UNFAIR BUSINESS PRACTICES

Article XI

No Contracting State shall grant directly or indirectly any subsidy in favour of the export of any commodity intended for the territories of the other States, or establish or maintain any system resulting in the sale of such commodity for export to any other Contracting State at a price lower than the comparable price charged for a similar commodity to buyers in the domestic market, due allowance being made for differences in the conditions of sale, differences in taxation and other differences affecting price comparability.

Any measure which involves the fixing of prices or price discrimination in a Contracting State shall be deemed to constitute an indirect export subsidy if it involves the establishment of a sales price for a specific commodity in the other Contracting States which is lower than that resulting from normal competition in the market of the exporting country.

Tax exemptions or refunds of a general character granted by a Contracting State with a view to encouraging the production in its territory of certain commodities shall not, however, be deemed to constitute an export subsidy.

Likewise, exemption from internal taxes on production, sales or consumption levied in the exporting country on goods exported to the territory of another State shall not be deemed to constitute an export subsidy. Normally the differences resulting from the sale of foreign exchange in a free market at a rate of exchange higher than the official rate shall not be deemed to be an export subsidy; but in case of doubt on the part of one of the Contracting States, the matter shall be submitted to the Central American Trade Commission for its consideration and opinion.

Article XII

Each Contracting State shall, through the legal means at its disposal, prevent the exportation of goods from its territory to the territories of other States at a price lower than their normal value if this would jeopardize or threaten to jeopardize the production of the other States, or to retard the establishment of a domestic or a Central American industry, since exportation in such circumstances would be inconsistent with the purposes of this Treaty.

A commodity shall be considered to be exported at a lower price than its normal value if the price of the commodity exported is less than:

- (a) the comparable value in the ordinary course of trade, for a similar commodity when destined for consumption in the exporting country; or
- (b) the highest comparable price for a similar commodity for export to any third country in the ordinary course of trade; or
- (c) the cost of production of the commodity in the country of origin plus a reasonable addition in respect of the sales cost and profit.

Due allowance shall be made in each case for differences in conditions of sale, differences in taxation and other differences affecting price comparability.

Article XIII

If, notwithstanding the provisions of this chapter, there arises a case of unfair business practice, the State affected shall take steps with the competent authorities of the other State for the elimination of said practice and, if necessary, it may adopt protective measures, and thereafter it shall refer the matter to the Central American Trade Commission for its study and appropriate recommendations.

Chapter V

TRANSPORT AND COMMUNICATIONS

Article XIV

The Contracting States shall endeavour to construct and maintain lines of communication to facilitate and increase traffic between their territories.

They shall likewise endeavour to standardize the transport rates between their territories as well as the relevant laws and regulations.

Article XV

Commercial and private vessels and aircraft of any of the Contracting States shall be accorded the same treatment as that extended to national vessels and aircraft in ports and airports of the other States open to international traffic. The same treatment shall be extended to passengers, crews and freight of the other Contracting States.

Land vehicles registered in one of the Contracting States shall enjoy the same treatment in the territory of the other States, for the duration of their stay there, as that accorded to vehicles registered in the State of sojourn.

Enterprises in a Contracting State engaged in providing inter-Central American services for passenger and freight motor transport shall enjoy national treatment in the territory of the other States.

Private vehicles, and vehicles which are not used for the regular inter-Central American transport of persons and goods, shall be admitted to the territory of the other Contracting States under a temporary duty-free importation system, and shall be subject to the corresponding legislative provisions.

Vessels of any Contracting State plying between the ports of Central America shall be subject, in the ports of the other States, to the national coastal trading régime.

The provisions of this article shall be interpreted subject to compliance with the formalities of registration and control applied in each country in respect of the entry, sojourn and exit of the vessels, aircraft and vehicles, for reasons of public health, security or police control and for the protection of the public interest, and with fiscal requirements.

Article XVI

The Contracting States shall endeavour to improve the telecommunications systems between their respective territories and shall direct their combined efforts towards the attainment of this objective.

Chapter VI

INVESTMENTS

Article XVII

Each of the Contracting States, acting within the framework of its constitution, shall grant national treatment to capital investments by nationals of the other States; and shall accord in respect of such investments the same rights to organize and manage or to participate in producing, commercial and financial enterprises, as those accorded in respect of investments by its own nationals; each Contracting State shall likewise grant equitable and non-discriminatory treatment for transfers of funds accruing from capital investments by nationals of the other States.

Chapter VII

CENTRAL AMERICAN TRADE COMMISSION

Article XVIII

The Contracting States agree to establish a Central American Trade Commission which shall be composed of representatives of each Contracting State. The Commission shall meet as frequently as its work may require or at the request of a Contracting State.

The Commission, or any member of the Commission, may travel freely in the Contracting States to study in the field matters within the Commission's competence; the authorities of the Contracting States shall provide them with whatever information and facilities may be necessary for the proper discharge of their functions.

The Commission shall have a permanent secretariat, which shall be the responsibility of the General Secretariat of the Organization of Central American States.

The Commission shall adopt its rules of procedures unanimously.

Article XIX

The Central American Trade Commission shall perform the following functions:

(a) It shall propose to the Contracting States measures conducive to the development and perfecting of the Central American free-trade zone referred to in this Treaty, as well as measures designed to attain the objectives of Central American economic integration, and prepare a specific plan for such purposes, including a customs union and the establishment of a common market in Central America;

(b) At the request of one or several Governments, it shall study the questions and matters relating to the development of inter-Central American trade, in particular those connected with the implementation of this Treaty, and propose measures to solve any problem which may arise;

(c) It shall study production and trade in the Contracting States, recommend additions to the appended schedule and adopt appropriate measures to ensure:

- (i) the standardization of customs tariffs and regulations;
- (ii) the establishment of a single fiscal system for articles under State monopoly and for goods liable to production, sales and consumption taxes;
- (iii) the conclusion of agreements designed to avoid double taxation in respect of direct taxes;
- (iv) the improvement of inter-Central American transport through the conclusion of appropriate agreements;
- (v) the application of the decimal metric system of weights and measures.

(d) It shall collect and analyse statistics and other data relating to trade between the Contracting States.

In fulfilling these functions, the Commission shall avail itself of the reports and studies made by other Central American and international organizations and agencies.

The Central American Trade Commission shall give priority to the problem of equalizing customs tariffs and shall submit to the Economic Council of the Organization of Central American States, for consideration at its ordinary sessions, draft contractual agreements on the largest possible number of products.

Article XX

The competent authorities of the Contracting States shall collect, classify and publish the statistical data relating to import, export and transit operations carried out under the terms of this Treaty, in accordance with the rules laid down, by mutual agreement, by the Central American Trade Commission and the statistical organizations of the Contracting States.

Chapter VIII

INDUSTRIAL INTEGRATION

Article XXI

With a view to promoting industrial development consistent with the purpose of this Treaty, the Contracting States shall adopt, by mutual agreement, measures designed to further the establishment or expansion of regional industries directed towards a Central American common market, and offering particular interest for the economic integration of Central America.

Chapter IX

GENERAL PROVISIONS

Article XXII

The Contracting States shall adopt as a basis for the establishment of their customs tariffs and statistics, the Uniform Central American Customs Nomenclature (Nomenclatura Arancelaria Uniforme Centroamericana - NAUCA) and the Uniform Central American Nomenclature for Exports.

Article XXIII

The nationals of any Contracting State shall enjoy national treatment in respect of commercial and civil matters in the territory of all other Contracting States, in accordance with the internal legislation of each State.

Article XXIV

Considering that this Treaty is specifically Central American in character and is designed to lay the foundations for a customs union of the Contracting States and for the progressive integration of their economies, the Contracting States agree that prior to signing or ratifying multilateral agreements relating to commodities, trade or customs concessions, and prior to acceding to any international organization established under these agreements, or negotiating any arrangements within the purview of such organizations, they shall hold mutual consultations with a view to agreeing, if possible, on a common and united policy.

The Contracting States shall likewise endeavour to unify their views at inter-American or world economic conferences or meetings.

The Contracting States agree to maintain the "Central American exception clause" in any trade agreements they may conclude with third countries on the basis of most-favoured-nation treatment.

The Contracting States declare that, in concluding this Treaty, they are prompted by the desire to establish closer links between one another as States of Central America governed by the special principles of a Central American public law. To that end, they agree that, should any of the trade agreements they conclude with other countries or their participation in other international arrangements constitute an obstacle to this Treaty, particularly as a result of the provisions embodied in the other treaties permitting those countries to demand no less favourable treatment, they will renegotiate or, as the case may be, denounce them at the earliest opportunity with a view to avoiding the difficulties or prejudice which might ensue for the Contracting States as a result of claims of that kind.

The Contracting States undertake likewise not to conclude any new agreements with other countries which are contrary to the spirit and purposes of this Treaty and, in particular, to the provisions of this article.

Article XXV

The Contracting States agree to settle amicably, in conformity with the spirit of this Treaty, and through the Central American Trade Commission, any differences which may arise with respect to the interpretation or application of any provision of this Treaty. If 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 Secretariat of the Organization of Central American States three judges from 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 complete list of persons nominated, five arbitrators no two of whom may be nationals of the same State. The award of the arbitration tribunal shall require the concurring votes of no less than three members, and shall have the force of res adjudicata for all the Contracting States in respect of any ruling concerning the interpretation or application of the provisions of this Treaty.

Article XXVI

Any provisions of this Treaty that are broader in scope than those in other trade treaties between Central American countries shall take precedence over the latter.

With a view to promoting the consolidation and enlargement of the multilateral free trade régime, the Contracting States shall endeavour to extend the scope of the respective free trade zones established by virtue of bilateral treaties.

Chapter X

TEMPORARY REGIMES

Article XXVII

With a view to the gradual application, whenever advisable, of the free-trade régime established by virtue of the present Treaty, the Contracting States may conclude special protocols for the adoption of temporary régimes of progressive tariff reduction, to be implemented by stages and which shall be applicable to commodities not listed in annex A, for the ultimate purpose of incorporating them in the said annex.

The Contracting States may likewise adopt special temporary régimes for commodities not included in annex A and which may be subject to quantitative import or export restrictions.

In exceptional cases and for specified products there may also be established, through additional protocols between all Contracting States, a free trade régime among a smaller number of countries than the total of Contracting States, which, at the same time, provides for the progressive reduction of customs tariffs with the remaining country or countries, so as to ultimately incorporate said products in the schedule of annex A.

Chapter XI

FINAL PROVISIONS

Article XXVIII

This Treaty shall come into force, in the case of the first three States to ratify it, on the date of deposit of the third instrument of ratification; and in the case of the States which ratify it subsequently, on the date of deposit of the corresponding instruments of ratification.

The duration of this Treaty shall be ten years from the initial date of its entry into force; it shall be renewed by tacit extension for successive periods of ten years.

Any Contracting State may secede from this Treaty provided that notice is given not later than six months before the date on which the initial or any subsequent period of validity expires. Secession shall take effect in respect of the seceding State as from the date of expiry of the corresponding period of validity of the Treaty. The Treaty shall remain in force as between the other Contracting States so long as at least two States continue to be parties to it.

This Treaty shall be submitted for ratification by each Contracting State in conformity with its constitutional or legal procedures.

The General Secretariat of the Organization of Central American States shall act as depository of this Treaty, of which it shall send a certified copy to each of the Ministries of Foreign Affairs of the Contracting States. It shall also notify the latter of the deposit of the corresponding instruments of ratification and of any withdrawal which may occur within the prescribed time-limit. Upon the Treaty's coming into force, it shall also transmit a certified copy of it to the Secretary-General of the United Nations for registration in compliance with Article 102 of the United Nations Charter.

IN WITNESS WHEREOF the respective plenipotentiaries have signed this Treaty.

DONE at the City of Tegucigalpa, D.C., Honduras, this 10th day of June 1958.

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: