

GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

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ACCESSION OF HONDURAS

Questions and Replies to the Memorandum on Foreign Trade Régime (L/7028)

Addendum

As foreshadowed in document L/7160, additional questions submitted by contracting parties in connection with the foreign trade régime of Honduras and the replies thereto provided by the authorities of Honduras are reproduced hereunder. Further questions and replies will be circulated in due course.

General

1. What trade policy objectives does Honduras have concerning its GATT membership?

The economic policy of the Government of Honduras is undergoing thorough reform aimed at achieving sustained social and economic development. To that end, Honduras is striving towards a better participation in world trade in order to benefit from its advantages, achieve greater levels of efficiency, diversification and competitiveness in national production, and modernize economic structures by eliminating superfluous administrative regulations and updating their legal framework.

Honduras views the General Agreement as the most suitable framework for implementing its plans for economic growth sustained by increased exports of goods and services and by a greater participation in the world economy, since GATT is simultaneously a set of rules and a body working towards the elimination of restrictive and unfair trade practices, accords differential treatment to developing countries and guarantees the existence of multilaterally-agreed rules to settle possible international trade disputes by juridical means.

Import policy

2. Honduras has stated that its import substitution policy was abandoned in 1990. Nonetheless, the tariff structure seems to carry vestiges of that policy: the duties on machinery and equipment (capital goods) are still lower than those applied to intermediate and consumer goods. Is there a classification of imported goods into major groups in terms of their "economic" destination?

By the Law on Structural Reorganization of the Economy of 1990, the Government of Honduras took steps to open its economy even further by means

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of a substantial reduction of tariff levels. Nonetheless, owing to the need to promote the country's development, it has set lower tariffs for inputs and goods needed for production. There is in fact a Foreign Trade Classification According to Use or Economic Destination (CUODE), which is used to compile import statistics based on these criteria.

3. What taxes of a fiscal character remain in addition to the harmonized customs duties under the common external tariff?

The remaining taxes over and above the harmonized customs duties are the 10 per cent surtax, the 5 per cent customs administrative service levy on imports, the selective consumption tax, the sales tax and the production and consumption tax.

4. Are all taxes and surtaxes considered cumulative?

No, the taxes and the only two surtaxes applied are not cumulative but are levied based on the c.i.f. value of goods.

5. It is understood that in the past customs duty exemptions or suspensions were granted not in respect of specific products but to private or public enterprises. Has this practice been terminated?

Decree No. 18-90 of 3 March 1990 put an end to the granting of customs duty exemptions or suspensions that had been granted to State institutions and non-profit voluntary private organizations by means of special laws and decrees.

Agricultural sector

6. Could you describe the import system for agricultural products (licensing procedures, import quotas, import prohibitions and restrictions, import treatment of processed products)?

The current economic policy of Honduras involves no prohibitions, quotas or other types of special restrictions on imports of agricultural products, nor does it accord different treatment to processed agricultural imports. Imports of agricultural products must be covered by a phytosanitary permit that must be requested from the Ministry of Natural Resources and must also be accompanied by a similar permit issued in their country of origin, depending on the nature of the product. The provisions of the Health Code are also applicable, and such imports must meet the requirements contained in it. Therefore, in the case of food, the registration requirements and provisions established for domestically-produced foods as regards residual content of chemicals and physical elements permitted in water, food and beverages for human consumption, among other regulations, must be observed. Finally, an import declaration must be submitted to the Central Bank of Honduras, for the purpose of facilitating the statistical registration of the import transaction.

Moreover, there is a price-band mechanism which establishes tariffs that vary inversely with the world price of the product in question, and is currently applied to some staple grains such as sorghum, yellow maize, whole and brown rice and rice in the husk. The mechanism is designed to protect both producers and consumers from sharp fluctuations in the world prices of these products, with a view to assuring a margin of food security for the Honduran people.

7. What are the phytosanitary conditions applied to plants and vegetable products other than foodstuffs? Are they meant solely to protect the health of consumers?

Seeds, plants and parts of plants for export are inspected by representatives of the Department of Plant Health of the Ministry of Natural Resources, who issue the relevant phytosanitary certificates, which are in turn countersigned by the Chief Plant Health Officer. These controls are carried out in order to avoid the spread of any disease affecting plants and other vegetable products, as well as to guarantee the soundness and quality of agricultural products exported from the country.

Consumer protection

8. Is there any legislation governing labelling, packaging, etc.?

There is no specific legislation on the labelling or packaging of products, although there are provisions covering the subject in the Law on Consumer Protection, enacted on 7 April 1989 by Decree No. 41-89, and its Implementing Regulations. This law requires suppliers of goods and services to comply with the conditions in terms of quantity, quality and efficiency established by the competent authorities for their products. Packaged products sold in the country must carry the following information printed on their retail packagings:

- Brand name.
- Name of the manufacturer.
- Country of production.
- Selling price to the public.
- Date of manufacture and expiry.
- Content, weight or measure.
- Ingredients.
- Warning in the case of possible illness or addiction as a result of use.

In the case of foreign products, these particulars must be the same as those required in the country of origin. Rules also exist concerning publicity and promotion, guarantees and credit sales in respect of goods and services.

Other trade regulations

9. What are the safeguards applied so far by Honduras in case of market disruption? Does Honduras have legislation concerning actions in case of market disruption?

Honduras has not applied safeguard measures. Recent measures aimed at averting unfair trade practices are described in the reply to question 32 in document L/7160.

Although Honduras has no legislation dealing specifically with market disruptions and unfair trade practices, Article 10 of the Law on the Customs Tariff Régime empowers the Ministers of Finance and Public Credit and of the Economy and Trade, after hearing the opinion of the National Tariff Commission, to take the necessary and appropriate action to remedy trade practices that cause or threaten injury to the domestic industry. Discussions are also underway on the Central American Regulations on Unfair Trade Practices and Safeguard Clause, which is based on the GATT provisions in this sphere, and which it is hoped will enter into force simultaneously with arrangements for Central American economic integration in March 1993.

10. Does the national legislation include and if so what types of rules and provisions that affect companies (e.g. concerning competition, State aid, anti-trust legislation)?

There is no legislation in Honduras specifically regulating the constitution and operation of monopolies, or regulating competition among companies or the granting of State aid. However, Article 338 of the Constitution prohibits monopolies, monopsonies, oligopolies, hoarding and similar practices in industrial and commercial activity.

11. Does Honduras have State monopolies and, if so, in which fields are they operating? Could you describe how monopolies are regulated in your legislation?

In view of the strategic nature and social importance of some activities, the Honduran State reserves the right to run and provide such services as telecommunications, electricity, port services, drinking water and drainage. The autonomous State entities responsible for these services are:

- Honduran Telecommunication Company (HONDUTEL)
- National Electricity Company (ENEE)
- National Port Company (ENP)
- Autonomous National Water Supply and Drainage Service (SANAA).

The description of their activities appears in the reply to question 44 in document L/7160.

In regard to the way in which they are regulated, decentralized State entities are monitored by the Superintendency of Decentralized Institutions

(SED), which oversees their economic and financial activities with a view to gauging their efficiency in implementing programmes and projects, periodically evaluating the implementation of programmes and their financial performance, and verifying whether their activities are in keeping with the provisions of their charters, regulations and by-laws. These entities are furthermore audited by the National Audit Office and by the Directorate-General for Administrative Probity.

Government Procurement

12. Could you give the approximate annual value of Government procurement? Do foreign suppliers have access on this market? What share of the procurement have foreign suppliers? What procedures are applied in Government procurement (tendering, information, thresholds)? Are any sectors excluded from general procurement procedures?

The approximate value of Government procurement of goods and services for the years 1987-1991 is given below:

HONDURAS: CURRENT CENTRAL GOVERNMENT SPENDING ON GOODS AND SERVICES

(in million dollars)¹

Year	1987	1988	1989	1990	1991
Spending on goods and services	146.2	139.5	133.7	103.4	92.1

¹Converted at the average exchange rate for each year.

Source: Ministry of Finance and Public Credit and Central Bank of Honduras.

There is no statistical data available at present on the percentage of State purchases coming from foreign suppliers; nevertheless, the bulk of such purchases are made from foreign trade representatives established in the country.

Under Article 1 on the Law on Government Procurement, Decree 148-85, all duly constituted national or foreign, natural or legal persons, shall be eligible for all Government contracts to supply services or goods. That Law regulates the contractual relations arising from the transactions mentioned above. It is also applicable to autonomous public-sector institutions, in keeping with their particular structure and budget procedures, in which case such purchases are verified by their internal

audit body, without prejudice to auditing by the Inspectorate-General of the Republic and of other competent authorities. Those eligible for Government contracts shall be national or foreign natural or legal persons having legal capacity who are not included under sub-paragraphs 1-6 of Articles 11, 12 and 13 of the aforementioned Law.

National bidders must furnish evidence of their status in the form of their documents of incorporation duly registered in the Register of Real Estate and Commercial Concerns, and their representatives should furnish adequate powers to enter into contracts with the Government. Foreign bidders must obtain due authorization to engage in business in Honduras, and must also be registered in the Register of Real Estate and Commercial Concerns. Their legal representative must also show proof of legal residence in the country. Foreign companies must provide proof that in their country of origin equal access conditions are accorded to Honduran companies in government procurement, subject to exceptions provided for in international treaties or loan contracts entered into by the Government of Honduras.

Contracts for the provision of services or goods between the Government and natural or legal persons are subject to domestic law, as well as to the jurisdiction of national courts.

Through its Directorate-General for Budget, the Government maintains a Register of Contractors of Public Works and Consultancy Services, while the Government Procurement Office keeps a National Register of Government Suppliers listing those wishing to be awarded Government contracts. For that purpose they must furnish evidence of their commercial activity, financial standing, previous experience, including evidence that they have no claims outstanding in relation to the Government, or, as appropriate, compliance with the Law on Commercial Representatives and Distributors of Trading Companies and other applicable laws.

It should be pointed out that the conclusion, interpretation and performance of contracts, for the supply of services or of goods, will always be guided by considerations of the public interest, existing legal provisions and the principles of sound administration. It shall be deemed to be in the public interest to encourage and develop technical and professional activities relating to the supply of consultancy services, to foment national entrepreneurial capabilities and experience in the execution of public works and to provide incentives to national production. To that end, the Government shall take the measures necessary and appropriate to facilitate the greatest possible use of Honduran firms and professionals.

The procedures require that contracts for the supply of goods or services must be awarded by tender, which may be public or private, and the terms and conditions of which are contained in the Law on Government Procurement and the General Regulations on Purchases, Supplies and Surplus Goods. Open tendering is necessary when the amounts of the tenders are greater than the threshold established annually in the national budget.

Calls for public tenders are published in the Official Journal, La Gaceta, and at least two national mass-circulation dailies, with such frequency and notification periods as stipulated in the relevant regulations, depending on the nature and scale of the contract for which tenders are being invited.

A call for international public tenders may be issued in cases where this is required by foreign funding or when special technology is needed, or where there are reasons that warrant participation by foreign contractors. The competent administrative body will draw up a document outlining the administrative basis and technical specifications for each call for tenders.

Calls for private tenders are made when prices are below the threshold established annually in the national budget. Private tenders will also be invited when there are not more than three companies with sufficient capacity to carry out the contract listed in the Register of Government Suppliers, when it is desirable to limit the number of bidders, whether for reasons of public interest, security or on other grounds provided for in the regulations. Private tenders may also be invited in cases where there could be a shortage of certain products, or if open tendering has attracted no bidders or failed for reasons not attributable to the officials responsible for the procedure and, if for properly defined reasons of urgency, it were not possible to repeat the call for public tenders.

By way of exception, provision exists for urgent and emergency purchases to be made, circumventing the usual bidding procedures. The purpose is to provide the necessary rapid mechanisms for immediate action to restore essential services that may be unexpectedly interrupted for reasons beyond the direct control of the institution concerned or its staff.

Export policy

13. Will the present export tax of 1 per cent be maintained?

Honduras does not envisage modifying the present 1 per cent export tax on almost all export products in the near future.

14. In regard to paragraph 3.3: Does Honduras intend to retain the export duty? Maintaining it would seem inconsistent with the aims of the export promotion programme.

Export duties currently in force are dictated by fiscal considerations and there is no plan to modify them in the near future. However, the export duty could be adjusted should further studies so justify.

15. Are banana exports exempted from export duties by virtue of the tariff (paragraph 3.3) or exclusively under the system of incentives established in April of 1987 (paragraph 3.4.5)?

Banana exports are subject to a specific duty of US\$0.50 per 40 lb.-box, as established by the export tariff. Nevertheless, pursuant to the Law on Incentives to Banana Production, banana exports from new plantations are exempt from the payment of this duty for a period of three years, and

pay US\$0.20 per box as of the fourth year up to and including the sixth. Likewise, in the case of exports originating from areas fully restored by the producer (the North Coast of Honduras suffers from annual flooding which damages crops) half the export duty is levied during the following three years.

16. Are there in fact no quantitative export restrictions?

At present there are no products subject to any kind of mechanism aimed at controlling or limiting export volumes. However, the exportation of certain animals or animal products is prohibited, for the sake of wildlife protection.

17. Does Honduras maintain export restrictions on, for example, weapons? How does the export control system applied by Honduras operate and what products are subject to it?

The traffic in weapons and other items such as drugs and gunpowder is considered illegal and constitutes an offence in Honduran law: it is therefore prohibited. Such activities are governed by the Law on Contraband and Tax Fraud.

In order to export vegetable or animal products or by-products, an export permit must be obtained from the Ministry of Natural Resources, which requires compliance with the phytosanitary conditions laid down in the Law on Plant Health and in the Sanitary Regulations for the Import and Export of Animals and Animal Products, as well as with regulations on wildlife protection. Exports of food products must also satisfy the requirements of the Health Code which are supervised by the Food Control Division of the Ministry of Public Health. In addition, natural or legal persons wishing to engage in an export operation must submit an Export Declaration to the Central Bank of Honduras. All these formalities are carried out at the Export Processing Centre (CENTREX) of the Ministry of the Economy and Trade, where all the above-mentioned departments have their delegated officials.

18. What is the difference between the Free Zones covered in paragraph 3.4.2 and the Industrial Processing Zones for Export Trade dealt with under paragraph 3.4.4?

The Free Zones and the Industrial Processing Zones for Export Trade (ZIPs), provide basically the same incentives for national and foreign export companies. The difference is that the former were originally under State administration, a situation which is now changing with the privatization of the only Free Zone set up under this scheme, and that they operate under a separate tariff régime, namely that of Exceptional Treatment established in the Customs Law. ZIPs, on the other hand, have been run since their creation by private companies and their trade is conducted under the Temporary Admission System, one of the Inward-Processing Régimes, within the framework of the Customs Law of Honduras.

19. Could you describe the export surveillance system applied for statistical purposes? According to the report, goods exported from the so-called Free Zones and ZIP-zones do not need an export surveillance declaration. How is the surveillance of the exports from these areas arranged? What rôle do the ZIP-zones (Industrial Processing Zones for Export Trade) and Free Zones play in the economy in general and in exports in particular?

In general, Export Declarations must be submitted to the Central Bank of Honduras. They must state the quantity, value and destination of the goods to be exported, as well as the probable date of export and the currency in which the corresponding payment will be received. This Declaration is submitted to the Export Processing Centre (CENTREX), which comprises a delegated official of the Central Bank.

The administration of the Free Zones maintains a system of permanent surveillance within the restricted area, ensuring that the operations taking place there are in conformity with the law. The Directorate-General of Customs is responsible for surveillance outside the restricted area, paying special attention to and supervising its points of entry and exit. The exportation of goods requires documentary evidence attesting to compliance with tax obligations and the presentation of an exit document for the operation.

In the case of the ZIPs, a customs administration has been set up in each one to be responsible for the formalities involved in the movement of goods to and from them. It is also empowered to carry out the necessary inspection activities in order to prevent abuses or infringements of customs regulations. The transfer of goods from the ZIPs to export customs offices is approved by the ZIP customs authorities, who also exercise appropriate supervision over the movement of such goods. The export customs office thus permits the shipment of the goods concerned upon receipt of the authorization issued by the ZIP customs authority.

The Free Zones and ZIPs have become increasingly important in the Honduran economy from the standpoint of production, exports and job creation. In 1986 there were 14 companies employing 2,453 workers, while in 1991 the number of enterprises operating amounted to 59, employing a total of 20,121 workers.

In 1991, total exports from Free Zones and ZIPs amounted to US\$192.2 million, equivalent to 23.8 per cent of the country's total exports of goods.

The products that generate the highest gross value of output are, by order of importance, clothing, non-metallic furniture and accessories, and plastic products.

Economic programmes

20. What kind of export incentives are applied by Honduras? What types of support measures are used in the export promotion programmes applied by Honduras (the amount of support and sectoral allocation)?

The Government of Honduras accords special benefits to enterprises

establishing themselves in the Free Zones or ZIPs, such as exemption from import and export duties, exemption from the payment of internal taxes such as income tax and sales tax, among others. Companies operating under the Temporary Import Régime (RIT) are also exempted from the payment of import and export duties, and allowed a ten-year income tax holiday. Similarly, new banana plantations are exempt from the export tax for a period of three years, and banana exports from restored areas pay only half of that tax for the same period.

The Government of Honduras provides four lines of credit for export financing and these are channelled through the Central Bank of Honduras:

i. Pre-export and export rediscount:

Amount: Variable
Term: Up to 6 months
Interest: 24 per cent per annum

ii. Revolving credit between the Inter-American Development Bank (IDB) and the Central Bank of Honduras (BCH):

Amount: Variable
Term: Up to 6 months
Interest: 24 per cent per annum

iii. Financing in lempiras and US dollars under the Economic Recovery Programme of the International Development Agency (IDA):

Amount: L: up to L 16.0 million
US\$: up to 1.6 million
Term: 24 months
Interest: L: 24 per cent per annum
\$: negotiable.

iv. Funding by the European Community and the Latin American Confederation of Saving and Loan Co-operatives:

Amount: L 540,000
Term: working capital-eighteen months, investment-five years
Interest: 24 per cent per annum

Trade relations and international agreements

21. To what extent have the projects outlined in paragraph 5.2 been implemented?

In keeping with the objectives set within the framework of Central American economic action, there have been significant achievements in the implementation of the proposed projects, both as regards measures to revitalize Central American integration as well as additional action to facilitate transition towards the Central American Community.

I. Revitalization of Central American Integration

- Progress has been made in establishing a legal and institutional framework for integration, with the setting-up of the Central American Integration System (SICA), which replaced the Organization of Central American States (ODECA).
- With a view to liberalizing trade among the five countries of Central America, a single window and collection in all land customs offices have been implemented, a single customs declaration form has been adopted, the International Transit Way-Bill has come into effect, and the Anti-Dumping Code is awaiting approval by the Ministers responsible for integration.
- With regard to the harmonization of the import tariff, the Central American Import Tariff and the new Central American Uniform Customs Code (CAUCA) have been negotiated. The economic authorities have also approved the Free Payments System without Central Bank intervention.
- The Central American countries have been co-ordinating their participation in trade negotiations and negotiations on co-operation with other groups of countries and international bodies.

II. Additional action to facilitate transition towards the Central American Community

- Efforts are underway to implement a price-band system for staple grains in Central America; this has been adopted by the countries in the region with the exception of Costa Rica, and a programme of reconversion and modernization of the agricultural sector is being drawn up.
- Programmes are being studied with a view to industrial reconversion.
- With the support of friendly countries and the Central American Bank Economic Integration (CABEI), programmes have been developed for financing small, medium-sized and micro-enterprises in the Central American region.
- Efforts are being co-ordinated to modernize and harmonize Central American industrial property legislation.

22. What is the current situation as regards the application of the Transitional Multilateral Free-Trade Agreement (AMT) signed in July 1991?

All the Central American countries have been fully applying the Transitional Multilateral Free-Trade Agreement since 7 February 1992 in their free trade (with the exception of Panama). Pursuant to Article 1 of the AMT, the list of liberalized tariff headings was expanded in October 1992 to include 19 headings in addition to the 1618 originally

negotiated. The new tariff headings are annexed to this document. The definitive agreement will enter into force on 1 March 1993, superseding the Transitional Multilateral Agreement automatically.

Trade Related Intellectual Property Rights

23. The Memorandum states that the legislation on intellectual property is under revision. Within which time-frame do you envisage enacting the new Industrial Property Bill and Copyright Bill?

At the present time both laws are being prepared, though the preliminary draft Industrial Property Law is the more advanced. The Government of Honduras hopes that both preliminary draft laws will be ready for approval by Congress in the course of 1993.

Investment and services regulations

24. Are investments in the services sector (banking, insurance, telecommunications) covered by the new law on investments?

The Investment Law covers investments in any sector of the economy. All commercial investments, irrespective of the nationality of the investors, are therefore registered by the Ministry of the Economy and Trade, which issues an "investment certificate", upon the mere presentation of documentation attesting to such investments. Nonetheless, under the restrictions contained in Chapter VI of the afore-mentioned law, the Government may draw up a list of activities in which investors may invest only after obtaining its authorization. These activities are described in Articles 50 and 51 of the implementing regulations of the Law, and, include the following services:

- (a) Health:
 - health services provided by the private sector.
- (b) National security:
 - Telecommunications;
 - Electricity generation, transmission and distribution;
 - Air transport;
 - Economic activities carried out within 40 km. of the border with another country or the sea coast or on islands, keys, reefs, rock formations and sandbanks as delimited under the Constitution of the Republic.
- (c) Financial and insurance services.
- (d) Educational services provided by the private sector.

The services sector is regulated by a very broad legal framework, comprising various general laws, including the recently enacted Law on Investments, as well as specific laws for its different sub-sectors. Studies are currently being carried out to pinpoint the problems affecting the different sub-sectors and to draw up suitable policy guidelines for achieving their sustained development.