

GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

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ACCESSION OF HONDURAS

Question 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.

CHAPTER I: THE HONDURAN ECONOMY

1.2 Structure and performance of the Honduran economy

1. Please describe any price and trade controls associated with the production and export of coffee, and indicate the rationale for these measures. Please discuss any future plans for trade controls in this sector.

Honduras currently prohibits the export of coffee berries and parchment coffee because the products in that state are highly perishable and therefore very difficult to market. Exports of raw coffee and roasted coffee, in beans or ground, are subject to a levy according to prevailing international prices, at a rate of 20 per cent on each 46 kg. sack once the price exceeds US\$70.

Owing to the severe crisis in the coffee industry as a result of the collapse in world prices, a subsidy of L 50 per quintal produced is granted so as to soften the blow for the large number of coffee producers; this subsidy is funded by means of special bonds issued by the Ministry of Finance and Public Credit, and is provided only for the current harvest (1992-1993).

At the domestic level, roasted and ground coffee for household consumption is subject to price control by the Ministry of the Economy and Trade on the grounds that it is a major item in the Honduran basic basket of consumer staples.

As for future plans for this sector, the Government is favourable to an agreement among the main producing and consuming countries to control the world coffee supply. This agreement would enter into force with the 1993-1994 harvest.

2. Concerning financial services described in this section, please describe the scope and nature of private and State ownership and control in this sector.

Financial services in Honduras are governed by various laws covering the activities of enterprises and institutions in this sub-sector. They all grant access for foreign investment to the domestic market. At present, fifteen commercial banks operate in the country, two of them being subsidiaries of foreign banks and two State development banks, one aimed at the agricultural sector and the other at municipal development. There are also eight insurance institutions operating in the country (two of them foreign), six saving and loan associations and seven pension funds.

The present Government's economic policy includes the goal of modernizing the financial sector, which implies overhauling and updating the existing laws, and enacting new legislation to support activities that have developed recently. The aim is to achieve higher levels of efficiency in the sector, reducing the cost of financial intermediation, increasing the range of services provided hitherto and their coverage, through greater openness, updating the laws and redefining the functions of the State entities involved.

1.4 Structural Adjustment Programme

3. Please outline the specific measures concerning price controls and trade measures provided for in Decree-Law No. 18-90.

4. What price controls are currently applied in Honduras?

Chapter I of Decree No. 18-90 lays down the measures amending the national tariff and customs régime, which include the following:

- Reappeal of customs exemptions and duty-free treatment for imports of goods for State institutions;
- Reappeal of all tax exemptions for private voluntary non-profit organizations;
- Elimination of all tariff surcharges applied to imports, with the exception of Decree No. 54 (10-per-cent surcharge), which is amended by the attachment of a list of the exempted products;
- Reform of import duties, with the establishment of a time-table for the entry into force of the progressive tariff-cutting process, culminating in the setting of a maximum tariff of 20 per cent and a minimum tariff of 5 per cent as from January 1992.

Chapter VI repeals the decrees containing the Export Promotion Laws, thus eliminating the financial, tax and promotion mechanisms therein.

As far as price controls are concerned, the structural adjustment programme launched by Decree No. 18-90 provides for the gradual liberalization of the regulations established concerning the prices of some products that are considered sensitive. This process is carried out through executive decrees issued by the Ministry of the Economy and Trade. At present the prices of only six products are subject to controls: roasted and ground coffee, iron bars, petroleum products, cement, fertilizers and airline tickets.

The Ministry of the Economy, through the Directorate of Production and Consumption, supervises the products in question to ensure that they are traded at the established prices; nevertheless, the mechanism is flexible and allows for an increase in the price of a product if a request to that effect is submitted to the Directorate concerned and the latter approves it after studying the matter.

5. Are there currently in existence in Honduras any State-operated or State-sanctioned monopolies on the production or trade of certain goods, e.g., on fertilizers, cement, petroleum products, tobacco products, alcoholic beverages, dairy products, meat, forest products or agricultural commodities?

- In particular, please describe the domestic and foreign trading activities of COHDEFOR, COAPALMA, IHMA, and BANADESA.
- Please describe how Government participation in these enterprises is effected and how Government views are incorporated in enterprise operation.

Since the privatization of Cementos de Honduras S.A. (CEHSA) in September 1992, there are no State-operated enterprises engaged in the production or marketing of such goods as cement, petroleum products, tobacco products, meat or dairy products in the country. The Government does intervene in the marketing and exploitation of forestry products, and the marketing of certain staple grains and fertilizers, through institutions such as COHDEFOR, IHMA and BANADESA. However, these functions were totally redefined and restricted by the Law for the Modernization and Development of the Agricultural Sector, enacted in April 1992.

Originally, the Honduran Forestry Development Corporation (COHDEFOR) included among its functions the exploitation, processing and marketing of forestry products, whether the forests concerned were in public or in private areas. The Corporation had exclusive responsibility for the export of wood and resin distillation products as well as for marketing them domestically at the wholesale level. It was also responsible for setting up and operating industrial and commercial forestry enterprises. However, the new Law for the Modernization and Development of the Agricultural

Sector repealed the articles of the COHDEFOR Act that gave it the above-mentioned powers, and provided that the exploitation, processing and internal and external marketing of wood and other forestry products may be carried out solely by private natural or legal persons, subject to the relevant provisions in force.

Nevertheless, COHDEFOR remains a semi-autonomous institution carrying out the other functions provided for in the Law that set it up, namely to make optimum use of forestry resources, ensure their protection, improvement, conservation and development, and act as the executing agency of forestry policy.

The law creating the Honduran Agricultural Marketing Institute (IHMA) provides that it is responsible for formulating government agricultural marketing policy, promoting the improvement of marketing systems for staple grains, and stabilizing their prices on the domestic market. The law empowered IHMA to establish maximum and minimum guarantee prices for purchasing basic grains, buying and selling them depending on local market conditions, importing or exporting, and providing storage services, among other things.

However, the Law for the Modernization and Development of the Agricultural Sector repealed the articles of the IMHA Act giving it the above-mentioned powers and functions, thus limiting its market regulation powers. In the redefinition of the Institute's functions, it was given responsibility for executing the policy adopted by the competent State bodies with regard to the marketing of staple grains; accordingly, it has been entrusted with new functions, including those of identifying problems in the execution of grain pricing and marketing policy, the constitution and management of the strategic reserve of basic grains, and co-ordination with other public and private entities in the management of donations of staple grains. In addition, it is intended shortly to privatize the grain storage facilities and services and other activities relating to the provision of such services for which the Institute is currently responsible.

Finally, the National Bank for Agricultural Development has as its primary objective the channelling of financial resources for the development of domestic agricultural output, productivity and marketing. The Bank is empowered to carry out banking operations of all kinds, in co-ordination with government development policy for the sector. Nevertheless, as a result of the Law for the Modernization and Development of the Agricultural Sector, various articles of the Act setting up the bank were reformed so that the institution's operations would match its specific functions under the new agriculture law. The reforms are wide-ranging, and include the prohibition of granting credit to State, municipal or decentralized entities; prohibition on the guaranteeing of the Bank's credits by other State institutions; changes in the membership and functions of the Board of Directors; and financial re-organization of the institution.

The Agro-industrial Co-operative for African Palm Agricultural Reform (COAPALMA) is not a State entity but rather a private enterprise formed by a group of co-operatives engaged in the extraction and processing of crude African-palm oil, most of which is marketed domestically. The Government does not participate in any way in the decision-making bodies or management of this enterprise.

CHAPTER II: TRADE POLICY REGIME: FRAMEWORK AND OBJECTIVES

2.2 Institutional framework

6. What fiscal or trade measures are currently in place to defend Honduras's balance of payments (BOP)? What authority exists to apply such measures, e.g., laws, decrees, regulations? Will Honduras commit to notify those measures applied for BOP purposes that affect trade and consult with the contracting parties as provided for in the General Agreement?

Natural or legal persons who export goods must submit a prior declaration to the Central Bank of Honduras of the quantity, value and destination of the goods to be exported. This makes it possible to obtain from exporters a series of data facilitating the estimation of the country's foreign currency needs.

Article 10 of the Tariff and Customs Régime Law enacted by Decree No. 213-87 of 29 November 1987 empowers the Ministries of Finance and Public Credit and of the Economy and Trade, after consulting the National Tariff Commission, to take the necessary and appropriate measures to counter trade practices that might cause serious injury to domestic industry. This is in keeping with Articles XVIII and XIX of the General Agreement on restrictions to safeguard the balance-of-payments and on emergency action on imports of particular products. If measures of this kind were to be applied, Honduras undertakes to notify the GATT Secretariat and conduct the relevant consultations with contracting parties in accordance with the provisions of the General Agreement.

7. Please describe the authority of the Government of Honduras to alter import or export tariffs or to restrict imports or exports without additional legislation, and how such authority is applied.

Under Article 7 of the Law on the Tariff and Customs Régime of Honduras (Decree No. 213-87), the National Congress has exclusive power to modify the existing tariff in special cases after hearing the opinion and justifications of the Executive power as represented by the Ministries of Finance and Public Credit and the Economy and Trade. It should be stressed here that such modifications must respond to situations of serious injury to domestic industry, be aimed at ensuring domestic supply or promoting the establishment of new industries, or serve the purposes of international negotiations.

8. What agency of the Government of Honduras has responsibility for agricultural policy. Does this agency or Ministry have a rôle in the Economic Cabinet?

The agency with responsibility for agricultural policy is the Ministry of Natural Resources, which does participate in the National Economic Cabinet by the presence of the Minister concerned.

9. Please list the products in the "basic basket". In addition to exemption from the 7 per cent value-added type sales tax, are these products exempted from any other taxes or trade measures? Are imports and exports of these products specifically regulated, and if so, how?

The products included in the basic basket are the following:

Dairy products: Cream, cheese, pasteurized milk, natural milk, powdered milk;

White sugar

Fats: Vegetable fat, vegetable oil;

Meat: Dressed chicken, pork chops, beef steak, beef ribs, white fish;

Vegetables: Cabbage, tomatoes, onions, potatoes, manioc (cassava);

Hen's eggs

Red (kidney) beans

Fruit: Citrus fruit, bananas, plantains;

Cereals: Second-quality rice, maize tortillas, bread;

Other: Coffee, salt, bottled soft drinks, tomato sauce.

These products are not exempted from any other tax or trade measures, nor is there special treatment for imports or exports of such products.

CHAPTER III: EXPORT POLICY

3.2 Legal provisions

10. Please describe more fully the purpose of the Export Processing Centre (CENTREX). What "institutions concerned" are involved in CENTREX operations?

The purpose of the Export Processing Centre (CENTREX) is to facilitate and simplify export formalities. It currently operates as a Unit of the Directorate-General for Enterprise Management within the Ministry of the Economy and Trade. Its functions include dealing with export-related formalities, co-ordinating procedures and actions to facilitate and simplify investment and exports, providing information and advice to

exporters concerning export formalities and procedures, and monitoring and keeping a register of export operations carried out.

The CENTREX centralizes all the formalities to be carried out in the various State institutions or agencies connected with exports of goods, to which end the latter have seconded officials who may issue decisions, certificates, permits or other documents required for export operations in accordance with the relevant laws and regulations. The State institutions with officials seconded to CENTREX are the Ministries of Natural Resources, Public Health, and the Economy and Trade, and the Central Bank of Honduras.

11. Why does Honduras require the submission of an Export Declaration and a commercial invoice to the Central Bank prior to export? Is this an administrative requirement only, e.g., for statistical purposes, or are there other reasons, e.g., enforcement of foreign exchange regulations? Is a fee charged for this process? If so, please provide the fee schedule. Does the Government retain the right to deny export approval at the time of submission? If so, please outline the criteria applied.

The submission of an export declaration to the Central Bank prior to export is a requirement established for statistical purposes, because Honduras does not have sufficient technical resources to do this by other means. This declaration indirectly serves the application of the Law on the Repatriation of Foreign Exchange from Exports.

The Government does not employ any approval mechanism over such declarations, which do not constitute a permit of any kind, nor does it charge any fee for this process.

12. Does Honduras ban export of any products? If so, please indicate which ones.

At present, the only export prohibition concerns coffee berries and parchment coffee, due to the problems involved in marketing coffee in this state. Apart from these, there are no other products subject to any kind of mechanism aimed at controlling or limiting the volume of exports. However, exports of certain animals or animal products are banned for reasons of wildlife conservation.

13. Which products, if any, are currently subject to quotas, permits or licences that monitor or restrict the quantity exported?

No products are currently subject to any kind of mechanism aimed at monitoring or restricting the quantity exported.

14. This section indicates that Honduras' requirement that exporters submit an Export Declaration and a commercial invoice does not apply to exports originating in the Free Zones or Industrial Processing Zones for Export Trade (ZIP), small exports, and the operations of inward-processing enterprises. Concerning these exemptions:

- Why are these products exempted?

Exports originating in the Free Zones or ZIPs are exempt from having to submit the declaration required by the Law on the Repatriation of Foreign Exchange from Exports, but they do have to comply with the requirements relating to statistical monitoring and customs control carried out by the officials of the Directorate-General of Customs present in these zones in accordance with the decrees that created the Free Zones and ZIPs. In other words, regulations of this kind are established specifically for these zones in the legal instruments setting them up.

- **What is the value limit defining exempted small exports?**

By Resolution No. 13-90 of 27 March 1992 the Central Bank of Honduras established that exports of a value of less than US\$3,000 do not require submission of an export declaration.

- **There is evidence that textile products from third countries are being transshipped to the United States through Honduras in order to circumvent United States textile import restrictions. If export declaration requirements for the free trade and other export trade processing zones are to be waived, what other measures does Honduras have in place to prevent such transshipment?**

First of all, it is completely untrue that Honduras has ever been a party to operations aimed at outmanoeuvring United States restrictions on textiles. As mentioned above, the interpretation that there are no controls of any kind on exports effected by enterprises operating in the Free Zones or ZIPs is mistaken. The control procedures for exports of goods originating in these zones are stipulated in the decrees and regulations that establish the legal framework for their constitution and operation, namely Decree No. 356, Law for the Creation of the Free Zone of Puerto Cortes, of 19 July 1976, and its regulations, and Decree 37-87, Law on the Industrial Processing Zones for Export Trade, of 7 April 1987, and its regulations.

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 National Customs Service 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 offences 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.

3.4 System of export incentives

3.4.1 Export promotion

15. Are any of the provisions of the Export Promotion Act still in effect in Honduras?

The Export Promotion Act was entirely repealed by Decree No. 18-90 of 12 March 1990.

16. Please describe the CENTREX Organization and its functions, and how it is intended to promote exports.

See the reply to Question 3.2 above.

17. Does the Honduran Government offer any official trade credits or export credit guarantees to finance Honduran exports? If so, at what terms and under what circumstances?

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

1. Pre-export and export rediscount:

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

2. 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

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

Amount:	L: up to L 16 million
	US\$: up to 1.6 million
Term:	24 months
Interest:	L: 24 per cent per annum
	\$: negotiable

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

Amount:	L 540,000
Term:	Working capital - 18 months, investment - 5 years
Interest:	24 per cent per annum

18. Please indicate which, if any, commodities currently benefit from domestic income and price supports, or from other domestic subsidies which might affect trade.

A daily subsidy is granted to public transport bus owners so as to keep the price of this service within the reach of the poorest strata of the population. The subsidy was introduced by Decree 18-90, and amounted to US\$14.4 million in 1992.

With the same objective, there are also subsidies to sales of oil products, which act both as direct subsidies and as cross-subsidies. The former directly subsidize consumption of liquefied petroleum gas (LPG) for household consumption in twenty-five-pound cylinders, in accordance with Article 2 of Decision No. 303-92 of 5 August 1992, as follows: "The price fixed for LPG-distribution companies ... shall be subsidized at the terminal by the Government as follows":

TABLE 1

Honduras: Value of the LPG Subsidy

Terminal	L/gallon
Tegucigalpa	1.9948
San Pedro Sula	1.8632
Puerto Cortés	1.8361
La Ceiba	1.9476
Santa Rosa de Copan	1.9476

Source: Ministry of the Economy and Trade.

This subsidy has been in effect since April 1990, but its level has been changed a number of times to take into account the adjustment of the maximum sales price, owing to the changes in world LPG prices, the interbank foreign exchange rate and the Customs Valuation Factor.

Cross subsidies are not specific government expenditures, but consist in the maintenance of higher-than-normal prices for superior and regular gasoline (petrol) and jet fuel in order to be able to maintain lower prices for household kerosene, diesel and fuel oil (Bunker C), so that they do not substantially affect the poorer sectors of the population, industries using diesel as a fuel (especially passenger and goods transport by road) and

cement production in the case of Bunker C. The scale of these cross-subsidies is estimated currently as follows:

TABLE 2
Honduras: Fuel Subsidies

Product	Subsidy per gallon	Selling price
	L	L
Household kerosene	4.1200	2.97
Other kerosene	1.0640	6.18
Diesel	0.7584	6.44
Fuel oil (Bunker C)	0.7671	3.38

Source: Ministry of the Economy and Trade.

Furthermore, to lessen the impact of the sharp drop in coffee prices on the world market, the Coffee Industry Emergency Law (Decree No. 126-92, of 23 September 1992) provides a payment of L 50 per quintal of raw coffee or the equivalent sold by the producer during the 1992-1993 harvest. This financial support to producers is financed by the issue of "Coffee-Growers' Bonds" for up to a maximum of L 125 million, which will be sold to the public by public auctions or through the Honduran Stock Exchange.

19. Does Honduras consider the ten-year income tax exemption for export profits under temporary import régimes or the various benefits provided in connection with the industrial processing zones for export trade and the banana export incentives to be export subsidies? If not, please explain.

The benefits granted by the Government of Honduras to enterprises covered by these régimes are aimed at increasing investment, employment, vocational skills and industrial development in the country. Honduras therefore considers that such régimes are compatible with the provisions of Articles XVI of the General Agreement and the Tokyo Round Code in this respect. Honduras also hopes that its entitlement to special and differential treatment as a developing country will be recognized.

20. Are there any special subsidies or incentives for non-traditional exports?

There are currently no subsidies or special incentives for exports of non-traditional products.

3.4.2 Export promotion customs régimes

3.4.3 Temporary Import Régime (RIT)

3.4.4 Industrial Processing Zones for Export Trade (ZIP)

21. Please explain the difference in the operations of Free Zones, Industrial Processing Zones for Export Trade, and the Temporary Import Régime, i.e., how would a firm decide which régime covered its operations or where to locate?

The Free Zones and Industrial Processing Zones for Export Trade basically grant the same incentives for the operation of national and foreign enterprises engaged in export activities. The difference lies in the fact that the Free Zones were created under State administration, a situation which will now be reversed with their privatization, and operate under a different customs régime, which is the exceptional régime provided for in the Customs Law; whereas the ZIPs have been run since their creation by private management companies and their trading activities are carried out under the Temporary Import Régime (RIT), one of the inward-processing régimes likewise provided for by the Customs Law.

The incentives provided by the Temporary Import Régime (RIT) are granted to enterprises already established or to be established in the country, that are located within its customs territory.

Enterprises interested in enjoying the benefits of these régimes decide to opt for a particular régime in accordance with their requirements and their own expectations, and provided they meet the requirements laid down by the national laws and the regulations for each specific zone.

22. Does Honduras consider the favourable tax and tariff treatment for capital goods and other items used in the production of exported goods which were not "physically incorporated" in such goods a subsidy? If not, why not?

The favourable treatment applied to such goods is provided by the special régimes mentioned above, and therefore this question has already been answered in the reply to question N^o 19 in Section 3.4.1.

23. Are normal taxes, tariffs, and other customs charges applied to "imports" into Honduras's customs territory from the Free Trade Zones, other export processing zones (e.g. RIT and ZIP), and from bonded warehouses? Are there specific criteria for inclusion of a firm in these zones?

Goods entered or produced under the RIT cannot be sold on the domestic or Central American market. If any enterprise covered by the RIT engages in such operations, it must pay the tax obligations concerned and is liable to a fine equivalent to 100 per cent of the assessed taxes.

Goods entered into a Free Zone and not subject to any industrial processing therein may be imported for final consumption or use in the country after complying with all the requirements and formalities laid down in the customs legislation and regulations.

As far as ZIPs are concerned, goods entered into them and not subjected to any processing may not be imported for final consumption or use in the country. However, merchandise subjected to any form of processing in the ZIPs may be imported for final consumption or use in the country, provided there is no national industry of such goods, subject to authorization by the Ministry of the Economy and after payment of the customs duties and other relevant charges.

For an enterprise to be entitled to the advantages of the RIT, it must submit an application to the Directorate of Production and Consumption of the Ministry of the Economy and Trade, specifying the machinery, equipment and tools to be used, the goods and inputs to be imported under the régime, and the description of the products to be exported, among other things. The Directorate of Production and Consumption will analyse, evaluate and decide on the request. In the event of a favourable decision, it issues an authorization resolution granting entitlement to the régime. Natural or legal persons wishing to establish themselves in a Free Zone must obtain authorization from the institution that administers it.

In order to operate in an Industrial Processing Zone for Export Trade, the applicant must submit a request to the Directorate of Production and Consumption of the Ministry of the Economy and Trade, together with the required documentation. The attached documentation is forwarded to the Directorate of Customs for analysis, evaluation and decision. Once a favourable decision has been taken and the duly certified and registered articles of incorporation of the firm have been submitted, the relevant authorization is issued by the Ministry of the Economy and Trade.

- **Are firms locating in Honduras's Free Trade Zones or the other export processing zones (e.g. ZIP and RIT) required to export a certain percentage of their output or to meet a local content requirement in their production?**

The RIT is an advantage granted to exports of products destined for non-Central-American countries. The supervision exercised over enterprises operating under this régime monitors the ratios of inputs used in the exported goods.

The law creating the Free Zones stipulates that in such zones there may be established operational, commercial and industrial enterprises basically engaged in export activities or engaged in related or complementary activities. An enterprise basically engaged in export activities in these zones is considered to be an enterprise for which exports or re-exports account for not less than 50 per cent of annual sales in the case of a commercial enterprise, and not less than 95 per cent of annual output in the case of an industrial enterprise.

ZIPs were created in order to encourage, through job creation, manufacturing and service industries aimed exclusively at exports. To be exported, goods entered into the ZIPs must undergo processing which alters

their nature. However, goods introduced into a ZIP that have not undergone any processing may be re-exported retaining the certificate of origin with which they entered.

24. Does Honduras apply any export performance or local content production requirements to foreign firms that invest in Honduras?

Honduras does not apply any such regulations.

25. Is there an export commitment required or requested of firms to qualify for tariff duty exemption for imports of machinery and equipment, etc. by firms investing in Honduras?

Apart from the advantages granted by the special régimes described above, there are no such requirements.

IV. IMPORT POLICY

4.1 Introduction

Concerning non-tariff import restrictions:

26. Which Honduran imports, if any, are currently subject to import bans, quotas, or import licensing restrictions? Could Honduras please explain the reasons for these restrictions? Could Honduras please list the laws and other regulations that authorize such measures and indicate which Ministries administer these restrictions? Please describe and explain the relationship of these measures to GATT Article XI.

At present, Honduras does not have any restrictions such as bans, quotas or licences. However, the Government of Honduras reserves the right to apply restrictions to imports in accordance with the provisions of Articles VI, VIII, XII, XVIII, XIX, XX and XXI of the General Agreement for reasons of hygiene, health, balance of payments, unfair competition, promotion of the domestic economy or national security.

The following laws authorize the adoption of the types of restriction mentioned above: the Health Code, the Law on Plant Health, the Health Regulations for the Import and Export of Animals, and Animal Products and By-Products, the Law on the Honduran Tariff and Customs Régime, the Multilateral Framework Agreement for the Trade Liberalization Programme among the Governments of Costa Rica, El Salvador, Guatemala, Honduras, Mexico and Nicaragua (for trade with these countries), the Partial-Scope Agreement between the Republic of Colombia and the Republic of Honduras (for trade with that country), the Partial-Scope Agreement between Venezuela and Honduras (for trade with Venezuela), the Transitional Multilateral Free Trade Agreement between Honduras and other Central American Countries (for trade relations with Central America under free trade agreements). The competent Ministries are the Ministries of the Economy and Trade, of Public Health, and of Natural Resources. The restrictions are applied through the Directorate-General of Customs and the Ministry of Finance and Public Credit.

27. Is Decree No. 340 (10 June 1974) regarding the Honduran Institute of Agricultural Marketing (IHMA) import monopoly for corn, rice, beans, sorghum and potatoes, still in effect?

Chapter II, Article 20 of the Law on the Modernization and Development of the Agricultural Sector, Decree No. 31-92 of April 1992, provides for the free domestic and foreign marketing of agricultural products, including staple grains, without the need for prior authorization or administrative permits, subject only to customs, tax, foreign exchange, hygiene, public health and international trade agreements.

28. Honduras recently blocked the import of a shipment of chicken previously contracted. Under what legal authority and for what reason was this importation blocked? Has Honduras exercised this authority on any other imports since March 1990?

Decree No. 128-91 of December 1991 (see Annex 3) temporarily modified the tariffs in the Import Tariff for a number of headings and sub-headings, including the tariff on poultry meat, with the objective of ensuring an efficient and regular supply of food products of prime necessity and taking into account the need to complement domestic meat production with imports (subject to a permit by the Ministry of the Economy and Trade in accordance with the provisions of the above-mentioned Decree) without harming domestic producers. In January 1992, the Ministry of the Economy and Trade authorized the import of partial consignments of 42,000 lb. each in conformity with the provisions of the above-mentioned Decree. In March 1992, the Ministry's enquiries showed that the circumstances which had led to the authorization of the imports in question had been eliminated and it therefore issued Decision No. 053-A-92 annulling the decision authorizing the import. The decision cancelling the import permit was in accordance with the powers given by Decree No. 129 of March 1971 (see Annex 4) setting out the responsibilities of the Ministry, namely, regulation of foreign trade, regulation and administration of economic controls and restrictions necessary for stability and economic order. Annulment of the decision authorizing the import in question was also in conformity with paragraphs 2 and 3 of Article 121 of the Law on Administrative Procedure, Decree No. 152-87 (see Annex 5) which authorizes State Ministries to annul decisions when the circumstances which justified them no longer exist or when situations arise which, if they had existed prior to the decision, would have made it unnecessary. Decisions can also be annulled or modified when they are no longer expedient or appropriate for the purposes for which they were taken. No other imports have been blocked under the above-mentioned legal framework.

29. Please list farm products whose importation is restricted or banned for animal or plant health reasons.

The Ministry of Natural Resources is currently drawing up and harmonizing at the regional level a list of agricultural products whose import will be restricted or banned for plant health reasons; this list will be approved by the Council of Ministers during the first half of 1993. Once it has been approved, a copy will be transmitted to the GATT Secretariat for the information of the contracting parties.

30. Does Honduras maintain any other non-tariff barriers to trade? Please describe.

Honduras does not apply any non-tariff barriers to trade other than those concerning health and plant health controls, protection of wildlife and plants, archaeological monuments and works of national heritage or for reasons of national security.

31. Will Honduras adhere to the Licensing Code?

Honduras intends to accede to the Code on Import Licensing and, once it has become a contracting party to the General Agreement, within the meaning of Article XXXIII, it will notify the Secretariat of its intention to accede to the Code.

32. Will Honduras commit to apply its laws and regulations which provide for import prohibitions, import licensing, import permits or other quantitative limitations on imports in a manner consistent with the provisions of the General Agreement, including Articles XI, XII, XIII, XIX, XX and XXI?

Once it has become a contracting party, within the meaning of Article XXXII of the General Agreement, Honduras will apply to other contracting parties Parts I, III and IV, as well as Part II, to the extent that it is compatible with the legislation in force at the time of acceding, subject to the provisions in the Protocol of Accession resulting from the relevant negotiations.

4.2 Legal Provisions

33. Are all laws, regulations, requirements, decrees, etc., affecting trade published prior to implementation and in a manner allowing traders to be aware of them? Where does Honduras publish such information? Where can importers and exporters go to determine which products are under quota or licensing restriction?

All laws, rules and regulations of a legal nature are published in the official journal, La Gaceta, when they are adopted and they enter into force at the time of publication unless there is a provision to the contrary fixing another later date. Once a law, rule or regulation has been approved by the competent authority, it is sent for publication in the next issue of the Official Journal. Importers who seek information on products subject to restrictions, quotas or licences can address themselves to the Ministries of the Economy and Trade, of Natural Resources or of Public Health.

34. What authority does the Honduran Government have to administratively alter tariff levels or to apply import or export surcharges without recourse to legislative approval? In what Ministry or Ministries would such authority be vested?

Article 7 of the Law on the Honduran Tariff and Customs Régime (Decree No. 213-87) specifies that it is the exclusive responsibility of the National Congress to modify the prevailing tariff in special cases subject to justification given by the Executive Power through the Ministries of Finance and Public Credit and of the Economy and Trade. In this connection, it should be emphasized that any modifications must correspond to situations where there is serious prejudice to domestic production, or must be necessary to ensure domestic supplies, promote the creation of new production activities or for the purpose of international negotiations.

35. L/7028 states that "imports of products of vegetable or animal origin must meet [the] sanitary conditions" which are specified in this section.

- Do the same laws and/or the same requirements apply to like products produced domestically? What Ministry or Ministries administer such requirements for domestic goods?
- Please describe how importers and domestic producers acquire the necessary Honduran certificates.

The provisions on the sanitary conditions which must be met by imported or domestic animals and plants are set out in the Health Regulations for the Import and Export of Animals and Animal Products and By-products and in the Law on Plant Health, respectively. Domestic legislation does not contain any measures distinguishing between imports of products of plant or animal origin and similar products produced domestically.

Imports of products of plant or animal origin require a health permit issued by the Ministry of Natural Resources and they must meet the health requirements laid down by the Ministry of Public Health, in addition to specifying inter alia the nature of the product, the country of origin, the port of shipment and the means of transport. The provisions contained in the Health Code also apply and must be met. In the case of foodstuffs, therefore, the registration provisions and requirements laid down for domestically produced foodstuffs must be met.

The sanitary certificate for the import or export of animals, and animal products and by-products and for any form of plant material must be applied for on first-class stamped paper at the offices of the Animal Health and Plant Health Departments, respectively, of the Ministry of Natural Resources. For exports and imports of animal products, the application must be made no less than seven days or fifteen days respectively before their despatch.

36. Please describe how importers or foreign exporters of food products go about satisfying the domestic requirements for safety and purity listed in this section. How does this process differ from that applied in the case of domestic food products?

Both exporters and importers of food products must respect the provisions on purity and quality contained in the Health Code,

Decree No. 65-91 of August 1991, as well as the relevant provisions laid down by the Ministries of Public Health, of Natural Resources and of the Economy and Trade. The latter Ministry is responsible for setting quality standards and ensuring their observance, without prejudice to the responsibilities of other public bodies.

Importers and exporters of food products must hold a Sanitary Licence issued by the Ministry of Public Health and, in addition, importers must have the corresponding sanitary certificate issued by the health authorities in the country of origin. The Ministry of Public Health, through the National Referral System (which brings together all official and private health laboratories), verifies the quality and purity standards of products for human consumption whether imported or produced locally. Furthermore, any establishment dealing with the production, handling and marketing of foodstuffs, water and beverages must have a sanitary licence issued by the Ministry of Public Health before it can be set up and function.

37. Please describe in general terms Honduras's standards régime in areas other than veterinary and phytosanitary regulations. What agency/groups are responsible for setting national standards; what rôle does Honduras play in international standards bodies? How do trading partners have input into national standards setting process?

As far as standards and specifications for purity and quality are concerned, the sanitary standards of the Pan American Health Organization (PAHO) are used, together with the provisions contained in the Health Code, Decree No. 65-91 of August 1991, and its regulations, as well as the relevant provisions laid down by the Ministries of Public Health, of Natural Resources and of the Economy and Trade. The latter Ministry is responsible for setting quality standards and ensuring their observance, without prejudice to the responsibilities of other public bodies. When adopting official quality standards and health measures and verifying compliance with them, the Ministries benefit from the advice and collaboration of an inter-governmental committee composed of public and private bodies competent in this field. The control of the quality and purity standards of imported and locally produced products is carried out by several national laboratories, for example, the Food Control Laboratory, the Centre for the Study and Control of Contaminants, the Laboratory of the Ministry of Natural Resources, the Laboratories of the Autonomous National University of Honduras and other laboratories in the State's institutional network.

In addition, special provisions on quality, purity and transport requirements, etc., can be found in the Health Code and its regulations, which deal with sanitary requirements for foodstuffs and beverages, articles for domestic use, medicines, herbicides, pesticides, insecticides, rodent killers, explosives, corrosive and radioactive substances, inflammable substances and other hazardous substances, pharmaceutical products and medical equipment, cosmetics, chemical and biological products and raw materials for pharmaceutical use. In this connection, it should be noted that it is the responsibility of the laboratory of pharmaceutical

specialties of the Chemical-Pharmaceutical College of Honduras, as an official laboratory, to carry out the qualitative-quantitative chemical and other analyses to control the quality of drugs. Regarding cosmetics, the proportion of the substances used for their preparation must be specified so as to distinguish them from medicaments and determine their safety.

The following could be mentioned as general standards:

- Both exporters and importers of food products, drugs or pharmaceuticals must hold a sanitary licence issued by the Ministry of Public Health and, in addition, importers must have the corresponding sanitary certificate issued by the health authorities in the country of origin. If the products marketed have specific trademarks or names, these must be registered with the said Ministry. The same requirement applies to food products which, before being marketed, undergo preparation or processing or are broken up, or are presented to the public in any type of packaging, in which case the packaging must be authorized by the above-mentioned Ministry.
- Import of any food product whose sale is banned in the country of origin is prohibited. The customs authorities will not allow food products which do not have the required sanitary certificates to enter the country.
- Provisions applicable to any type of bottled, canned, packaged or otherwise wrapped product stipulate that the packaging, containers, recipients and other adjuncts of products marketed must bear a label, tag, sign or inscription affixed, engraved, stamped or printed in Spanish with the name of the product, the manufacturer, the date of manufacture and sell-by date, contents, weight or measure, information on its toxicity or addictiveness, as well as the other particulars laid down in the law. The use of packaging for pharmaceutical products is also regulated, as is their safe storage.
- Imported foodstuffs must meet the health requirements laid down for locally produced foodstuffs. The marketing of food products, their recipients, contents and packaging processes are prohibited without prior authorization by the Ministry of Public Health.
- The export and domestic marketing of any foodstuff which has spoiled or been contaminated, adulterated or falsified or which for any other reason is technically deemed to be harmful to health is banned.
- There is a ban on the import of foodstuffs, food additives, substances used in the preparation of foodstuffs, substances used in the making of packaging that will be in contact with foodstuffs and packaging of a quality that allows the organoleptic, physical-chemical or biological characteristics of the foodstuffs to be modified or permits any form of contamination.

- The authorities of the Ministry of Public Health decide whether or not a product is fit for human consumption and fix the maximum amounts of chemical, physical and biological residues permitted in water, foodstuffs and beverages. There are also regulations on the contents of flavour enhancers, preservatives, colouring matters, shelf life, methods and systems, equipment and means of transport. In addition, the use of radiation for the preservation of foodstuffs is allowed only when authorized by the Ministry of Public Health.
- In order to carry out the necessary controls, the health authorities have free access to any premises where foodstuffs are manufactured, handled, stored, kept, transported, deposited, distributed or sold, whether they are of imported or domestic origin; where necessary, the authorities may take samples for analysis in accordance with the rules laid down.
- It is prohibited to attribute medicinal, preventive, therapeutic, nutritional or special properties to foodstuffs or beverages which might be misleading concerning their true nature, origin, composition or quality.
- It is prohibited to transport foodstuffs and beverages in the same vehicle as any other dangerous substance which might contaminate them.
- Pharmaceutical products may only be sold in places authorized by the Ministry of Public Health. The sale of pharmaceutical products whose sell-by date has expired is banned.

Honduras belongs to the following standardization organizations:

- Central American Institute of Research and Industrial Technology (ICAITI);
- Commission of the Codex Alimentarius.

38. Will Honduras adhere to the Standards Code?

Once Honduras is a contracting party to the General Agreement, within the meaning of Article XXXII, it will notify its intention to accede to the Standards Code. Honduras considers that the Code breaks new ground in the standards field and it is therefore being studied.

39. Concerning legislation on the application of safeguard or countervailing measures to protect Honduran goods from injury by subsidized or excessive levels of imports, or other safeguard provisions:

40. Do draft or formal laws and regulations yet exist in Honduran law in these areas? If either laws or drafts exist, please provide them.

At present, there is no legislation providing a regulatory legal framework for the adoption of emergency measures. However, Article 10 of the Law on the Tariff and Customs Régime empowers the National Tariff Commission to take the necessary and appropriate measures to halt trade practices which could cause serious prejudice to domestic production. The Commission is composed of two members from the Ministries of Finance and Public Credit, of the Economy and Trade, of Planning, Co-ordination and Budget, the Central Bank of Honduras and three members of the Honduran Private Enterprise Council (COHEP). The relevant provisions are consistent with those of Article XIX of the General Agreement.

In the case of trade covered by the various trade agreements signed by Honduras, these agreements provide for safeguard clauses in certain specified cases when it has been proved that there is a serious threat to production.

In the context of the Central American integration process, it is expected that on 1 March 1993 Central American Regulations on Unfair Trade Practices and Safeguard Clauses will enter into force after approval by the Ministers responsible for integration and regional development in Central America.

41. Could Honduras supply translated English texts of its laws or draft laws concerning protection against dumped, subsidized, or excessive imports?

A Spanish copy of the Central American Regulations on Unfair Trade Practices and Safeguard Clauses will be made available to contracting parties for consultation as of 1 March 1993.

42. Will Honduras adhere to the Anti-Dumping Code?

Honduras intends to accede to the GATT Anti-Dumping Code. At the moment, Central American countries have adopted the Central American Regulations on Unfair Trade Practices and Safeguard Clauses and these are consistent with the relevant provisions in GATT. The regulations are expected to be implemented as of 1 March 1993.

43. In reference to the Law on Government Procurement, are preferences of any kind given to national suppliers? Does this law apply to purchases by State-owned enterprises engaged in international trade?

The conclusion, interpretation and execution of contracts, whether they are for services or goods, always take into account the public interest, the legal framework and the principles of good administration. In practice, therefore, national or foreign enterprises wishing to conclude contracts with the State receive national treatment.

The Government Procurement Law, Decree No. 148-85 (see Annex 6 to this document) also governs the contractual relations of autonomous State bodies under the specific modalities of their structure and budget implementation;

in such cases, their procurement is audited by the internal audit body, without prejudice to the auditing responsibilities of the Controller-General of the Republic and other competent organs.

4.3 Characteristics of the tariff régime

44. Has Honduras provided a current copy of its customs tariff for the review of the contracting parties? Will Honduras provide a HS-based tariff schedule and concordance for the establishment of its GATT Schedule?

In Annex 9 to document L/7028, Honduras submitted a copy of its current Import Tariff, which is available to contracting parties at the GATT Secretariat. In the context of tariff negotiations, Honduras will submit the concordance of the Tariff based on the CCCN Nomenclature with the Harmonized Commodity Description and Coding System (HS) for the establishment of its Schedule.

45. Does Honduras have any plans to alter the rates applied in its customs tariff from the current structure?

In 1990, following implementation of the Law on the Structural Reorganization of the Economy, Decree No. 18-90, Honduras commenced a tariff reform process which concluded in 1992 with ceiling and floor duties of 20 per cent and 5 per cent respectively. No modification of the current tariff structure is envisaged in the short term except for changes made within the context of Central American integration.

46. Will Honduras please submit import statistics for a recent representative period, by tariff item, by supplier country?

A breakdown of imports by tariff item and supplier country for the period January-December 1991 is annexed to this document (see Annex 7).

47. Concerning the average level and distribution of Honduras's tariff rates:

- **What portion of Honduras's imports are currently subject to preferential tariff rates, i.e. non-m.f.n. tariffs, under its various free-trade agreements and other preferences? Are there any sectors of Honduras's trade schedule which are exempted from such preferences?**

Imports to Honduras under the Central American Transitional Multilateral Free-Trade Agreement, which replaced the various bilateral free-trade agreements which previously governed trade in the region, benefit from preferential tariff rates. The other bilateral trade agreements signed by Honduras provide for different treatment; however,

these preferential rates are unilateral and applicable to exports from Honduras to countries which have granted preferential rates. Table 3 below shows the situation:

Table 3

HONDURAS: IMPORTS FROM CENTRAL AMERICA AND PANAMA
UNDER PREFERENTIAL AGREEMENTS
(US\$ million)

Year	Imports from Central America	Total imports	Percentage
1988	33.4	870.4	3.8
1989	31.8	834.9	3.8
1990	39.1	869.7	4.5
1991	60.6	853.2	7.1

Source: Ministry of the Economy and Trade.

The tariff headings covered by the Agreement belong to all chapters of the tariff schedule with the exception of the following:

- Chapter 27: mineral fuels, mineral oils and products of their distillation, bituminous substances, mineral waxes.
- Chapter 45: cork and articles of cork.
- Chapter 86: railway or tramway locomotives, rolling stock and parts thereof; railway or tramway tracks, fixtures and fittings and parts thereof; non-electrical traffic signalling equipment.
- Chapter 88: aircraft.
- Chapter 93: arms and ammunition.
- Chapter 95: worked carving and moulding material and articles thereof.
- **In a recent representative period, what percentage of non-preferential import trade entered at rates of duty of 5 per cent or less, at 10 per cent, at 15 per cent, and at 20 per cent?**

The period to which tariff rates between 5 per cent and 20 per cent correspond is 1992 and at present we do not have the relevant statistics because of data-processing problems.

- **What is Honduras's current average trade-weighted tariff as applied to m.f.n. trade?**

For 1991, the average weighted tariff was calculated to be 14 per cent, and the ceiling and floor rates were 4 per cent and 35 per cent respectively. For the moment, technical problems in compiling statistics prevent us from estimating the average weighted tariff for 1992, however, taking into account the tariff structure which existed during 1992 it will be lower than that for 1991.

- 48. Please specify those tariff exemptions still in force, and indicate which ones are specified in Honduras's Constitution.**

The tariff exemptions still in force do not apply to imports of specific goods but rather to institutions or persons entitled to these privileges under international agreements, such as with the United Nations and its specialized agencies, the Organization of American States (OAS) and its specialized bodies, Central American integration entities; European Economic Community; conventions subject to the criterion of strict reciprocity, such as those applicable to diplomatic missions and international bilateral conventions signed by the Government of Honduras; natural or legal persons who signed contracts with the State prior to the entry into force of the Law on the Structural Reorganization of the Economy under which they were entitled to customs exemptions; and the Autonomous National University of Honduras, in accordance with the Constitution of the Republic.

Other customs exemptions are those in favour of Hondurans residing abroad, in accordance with Decree No. 185-86 of 31 October 1986 and the provisions of the Customs Law, Decree No. 212-87 of 29 November 1987; enterprises covered by the régime for Free Zones, RITs and ZIPs; and non-profit-making public-interest voluntary private organizations duly registered in the country.

- 49. Concerning the price band mechanism:**

- **Please explain in detail how it works.**
- **Please define the term "basic agricultural products" as it relates to the application of this mechanism. What products are currently covered by the mechanism and what products could be covered if the Government decided to expand the programme?**
- **What are Honduras's plans regarding the use of a price band mechanism to regulate imports? Does Honduras plan to expand the programme, alter it, or eventually eliminate it? Please indicate a time frame for any such future plans.**

"Basic agricultural products" means products of primary origin closely related to primary production activities which are essential to ensure

economic stability, as understood from the standpoint of the well-being both of the producers of the goods included in the mechanism and of the consumers by guaranteeing their food security.

The price-band mechanism concerns basic agricultural products. The products currently subject to this mechanism are yellow maize, sorghum, whole and brown rice and rice in the husk. However, similar basic products consumed in the place of the ones mentioned or processed from them could be included so as to ensure the effectiveness of the mechanism. No modifications of the system are envisaged in the near future.

To set the maximum and minimum prices for a specific product, the international f.o.b. prices for the last sixty months are used, adjusted by the United States Producer Price Index on the basis of the last month of the series. Prices are ranked from highest to lowest and the top and bottom fifteen are eliminated. The lowest of the remaining thirty prices becomes the floor price and the highest the ceiling. Prices falling between the floor and ceiling are subject to a 25 per cent tariff. In the case of prices higher than the ceiling, a tariff is applied that is less than 25 per cent and diminishes as the price increases, but can never be less than 5 per cent. In the case of prices below the floor price, a tariff is applied that is in inverse proportion to the price, but can never exceed 45 per cent.

The Honduran Agricultural Marketing Institute (IHMA) is the independent entity responsible for determining and preparing the tables of prices and tariffs using the above mechanism; these are subsequently submitted for approval to the Agricultural Development Council (CODA), the body responsible for consultation and harmonization of activities carried out by public sector agricultural institutions. After these steps have been taken, the ensuing customs tariffs are submitted for consideration by the National Congress and then published in the country's information media. The tariffs thus set are valid for twelve calendar months from the first day of September of each year.

There is no special timetable for modifying this price mechanism, which was established for reasons of food security for the population and seeks to insulate the domestic market from abrupt price fluctuations on world markets, thus protecting consumers and producers alike.

50. With regard to duty exemptions, are military personnel exempted from duty payment when importing on a private basis?

Decree No. 18-90 Law on the Structural Reorganization of the Economy eliminated the customs exemptions and concessions for exempted imports provided for in special and general laws, including those in favour of State authorities, the Armed Forces, decentralized institutions and State enterprises. The only exemptions and concessions remaining in effect are those granted to persons and institutions entitled to these privileges under international agreements such as with the United Nations, the OAS, Central American integration entities; European Economic Community;

conventions subject to the criterion of strict reciprocity; natural or legal persons who have signed contracts with the State prior to the entry into force of the Law on the Structural Reorganization of the Economy under which they are entitled to customs exemptions; and the Autonomous National University of Honduras (UNAH), in accordance with the Constitution of the Republic.

Other customs exemptions are those in favour of Hondurans residing abroad, in accordance with Decree No. 185-86 of 31 October 1986 and provisions of the Customs Law, Decree No. 212-87 of 29 November 1987; enterprises covered by the régime for Free Zones RITs and ZIPs; and non-profit-making public-interest voluntary private organizations duly registered in the country.

In accordance with the foregoing provisions, no person is entitled to tax exemptions in a personal capacity if his legal status is not one of those mentioned above.

51. L/7028 states that, due to tariff reform, Honduras's levels of effective protection have dropped from highs of 200 per cent on some items. What are the current levels of effective protection on imports?

In accordance with the tariff-cutting programme initiated in 1990 under the Law on the Structural Reorganization of the Economy, Decree No. 18-90, effective protection levels have been radically reduced in recent years, see Table 4.

Table 4

HONDURAS:

EFFECTIVE PRODUCTION LEVELS¹ BY ISIC ACTIVITY²

1991-1992

ISIC activity	1990	1991	1992
31 Food products, beverages and tobacco	56.1	45.8	31.3
32 Textiles, clothing and leather goods	81.0	65.9	34.9
33 Wood and its products	57.0	48.2	31.3
34 Paper manufacture and paper products	149.8	109.0	50.1
35 Manufacture of chemical substances, petroleum and coal	76.2	61.8	37.1
36 Manufacture of non-metallic mineral products	41.2	34.8	27.4
37 Basic metal industry	42.9	35.4	28.5
38 Manufacture of metal products, machinery and equipment	50.9	42.6	30.8
Overall total	62.4	51.0	32.9

¹Exchange rates are not included in the calculation of effective protection. It is also assumed that there are no quantitative restrictions nor tariff overlap.

²ISIC: International Standard Industrial Classification of all Economic Activities.

Source: Ministry of Finance and Public Credit.

4.4 Other import levies

52. Will Honduras commit to apply its laws and regulations which provide for the application of taxes, charges, and tariff surcharges to imports in a manner consistent with the provisions of the General Agreement, including Articles III, VI, XVIII and XIX?

Once it is a contracting party within the meaning of Article XXXII of the General Agreement, Honduras will apply to the contracting parties Parts I, III and IV of the Agreement and Part II to the extent that it is compatible with the legislation in force at the time of accession resulting from the negotiations on the accession of Honduras to GATT.

53. What are the fees associated with "consular invoices"? Do these fees differ depending on the location of the Consulate issuing the certificate? If so, why? How does Honduras inform traders of the fee schedule and of any changes in the schedule?

The amount of the consular fees in trade-related transactions is

established by the Law on Consular Fees, Decree No. 27-91. The Law provides that the amounts to be paid under this heading in all Honduran Consulates is as follows:

For certification of bills of lading for
a f.o.b. value exceeding US\$500.00 US\$10.00

For commercial invoices:

Up to US\$	500.00	Free	
From	501.00	to US\$1,000.00	US\$10.00
From	1,001.00	to 2,000.00	15.00
From	2,001.00	to 5,000.00	20.00
From	5,001.00	to 20,000.00	25.00
	20,001.00 and over		30.00

Pursuant to Honduran legislation, once laws and decrees have been published in La Gaceta they are deemed to be public knowledge and no person may plead ignorance of them.

4.4.1 Surtaxes

54. Does Honduras intend to extend the 10 per cent surtax beyond its scheduled elimination on 1 January 1993?

Imposition of the 10 per cent surtax will be extended beyond the date planned for its elimination mainly due to financial problems, even though tariff equalization is essential within the Central American integration process in order to eliminate differences in import duties which directly affect the costs of enterprises and prices to the consumer, and to create conditions which increase competitiveness. The list of tariff headings exempt from payment of this surtax has been expanded by Decree No. 18-90 (see Annex 8), which contains the List of Products Exempt from the 10 per cent Surtax established by Decree No. 54. This list is annexed.

55. Are there charges placed on imports at the time "consular invoices" are issued? If so, please list these charges. What is the purpose of these charges? As appropriate, please indicate how these charges are related to the cost of the services rendered.

It should be emphasized that Honduran Consulates abroad do not issue consular invoices but legalize commercial invoices submitted by importers. With the exception of consular fees for the legalization of commercial invoices laid down for the operations referred to in the Law on Consular Fees, Decree No. 27-91, which fixes the amounts to be paid under this provision in all Honduran Consulates as mentioned above, there is no other additional charge.

56. At what point is the 5 per cent levy for customs administrative services levied? Why is this charge applied? How are these revenues used? How is this charge related to the cost of customs administrative services for individual entries. If this is a customs service charge, why are

imports for government procurement exempted? Why are enterprises covered by the Law on Intellectual Expression, donations, agricultural inputs, medicine and raw materials for medicaments, computers and their accessories exempted?

This levy is applied when the importer settles the relevant import document, either in the customs office or in the bank designated for this purpose.

The 5 per cent levy for customs administrative services was established in order to cover the costs incurred in providing customs services and its application is in accordance with the provisions of Article VIII of the General Agreement. However, we recognize that the revenue stemming from the application of this surcharge has exceeded the costs for which it was established. Consequently the Government of Honduras is prepared to carry out a gradual reduction in order to bring it down to levels that will cover the costs incurred under this heading, within the time frame established by GATT for developing countries. This gradual reduction will make it possible to find an alternative source of domestic revenue that will be consistent with the relevant requirements laid down in the General Agreement, while at the same time enabling the country to ensure that it fulfils its international financial obligations.

Enterprises covered by the Law on Intellectual Expression are exempt from payment of the levy because it is considered that the right to duty-free import of books, magazines, newspapers, pamphlets, non-musical recordings, short films for television and other publications not banned under the law is part of freedom of expression. In addition, the import of machinery, spare parts, accessories, including ink and newsprint, whether in sheets or rolls, and other materials which are used as means for the manifestation and dissemination of intellectual expression are also exempt from payment of customs duties and taxes provided that they are not used for trade.

The conditions which characterized the Honduran economy at the time of preparation of the Law on the Financial Adjustment of the Public Sector, Decree No. 85-84, which established the levy for customs administrative services, were sufficient reason to justify the exemptions listed in document L/7028. The reason for the exemption of medicine and inputs necessary for its manufacture was the fact that Honduras does not have a developed pharmaceutical industry that could fully satisfy the large demand for medicinal products, as well as the need to promote the industry already in place and to facilitate its diversification. With regard to agricultural inputs, Honduras does not produce basic inputs for agriculture domestically, although this activity is vital for economic development and food security. Computers and their accessories were included because it is the State's responsibility to promote the development of education, the conservation, promotion and dissemination of culture and the improvement of the economy as a factor of progress on the basis of the public and social interest.

Finally, only grants/donations officially authorized by the State are exempt from payment of this levy.

57. Please describe in more detail the warehousing service fee described in section 4.5. Since it is applied to imports on an ad valorem basis, it would appear that this charge is unrelated to the cost of the service provided. If this is not the case, please explain.

The fee for warehousing in warehouses belonging to the Directorate-General of Customs is calculated as follows:

Once the merchandise unloading requirements established by the customs authorities have been completed, the owner of the goods has a period of fifteen calendar days, after the customs house manifest has been stamped, in which to clear the goods without having to pay for this service. After these fifteen days, the daily warehousing service charge per gross kilo is as follows:

The first 10 kg.	L 0.00133
The next 10 kg.	0.00266
The next 10 kg.	0.00399
The next 10 kg.	0.00532
The next 10 kg.	0.00665
The next 10 kg.	0.01000

Goods not deposited within the customs premises owing to the nature of the merchandise pay half the above-mentioned rates. The above rates are applied up to the date of assessment of the customs clearance document, whether or not the articles are entering the country duty free, save in the case of governmental imports which are exempt from the warehousing fee.

Once the import document has been stamped, the owner of the goods has four working days (for which no warehousing is charged) to complete the necessary formalities, settle the amount payable and withdraw the goods from customs premises. If he fails to do so, he will pay L 0.05 per kilo per additional day after the above-mentioned four days as long as the goods remain in customs jurisdiction. After fifteen working days following the above-mentioned four days, the goods will be considered abandoned and will be sold off by public auction after the owner has been notified. The fee for this service is never calculated on an ad valorem basis.

58. Does Honduras plan to change the structure of its customs and warehousing fees to reflect the actual cost of services as required by Article VIII, Section 1(a) of the General Agreement?

The 5 per cent customs administrative services levy is applied in accordance with the provisions of GATT Article VIII. However, we recognize that the revenue stemming from the application of this surcharge has exceeded the costs for which it was established. Consequently, the Government of Honduras is prepared to carry out a gradual reduction in order to bring it down to levels that will cover the costs incurred under this heading, within the time frame established by GATT for developing countries. This gradual reduction will make it possible to find an

alternative source of domestic revenue that will be consistent with the relevant requirements laid down in the General Agreement, while at the same time enabling the country to ensure that it fulfils its international financial obligations.

Regarding modification of the warehousing fees, these are applied in conformity with the provisions of Article VIII. However, at present no up-to-date study of the approximate costs of warehousing services is available.

4.4.2 Selective consumption tax

59. Please submit a list, in translation and by tariff line item, of all products subject to this tax. How are these items selected and who approves their inclusion for assessment of the tax?

A breakdown in Spanish of the products subject to this tax was given in Annex 16 to the document of accession, L/7028. It is also to be found in Annex 10, Customs Laws, in the same document. The classification of non-essential products on the basis of which this levy is applied is basically motivated by the consideration that the particular product's consumers are able to pay a levy for it and the products taxed are not included in the staple consumption basket. The National Congress of the Republic is responsible for approving the tariff headings which are subject to this tax. The legal basis for the creation of taxes and payments, as well as public expenditure, is the Constitution of the Republic and the creation or modification of taxes requires a law submitted to the National Congress by the Ministry of Finance and Public Credit.

60. Does Honduras apply a selective consumption tax rate of 50 per cent to any goods? If so, please indicate which ones.

At present, the highest rate applied under this tax is 30 per cent. The majority of products subject to this tax pay a rate of 10 per cent.

61. Approximately what portion of the revenue of this tax is collected from imports and from domestically produced goods?

One per cent of the total revenue from the Selective Consumption Tax comes from domestic production. Imported goods provide 99 per cent, although 48 percent of this is for automobiles.

62. The text in L/7028 indicates that the basis of application of this tax to imports is "the value resulting from the application of import duties with 15 per cent imputed profit added to the c.i.f. value of the goods".

- Please give a specific example of how this tax would be applied to a domestic article and an imported article, both with an invoice value of L 50.
- Why is a 15 per cent uplift applied to the valuation of imports subject to this tax?
- Why is the 15 per cent profit adjustment uniform amongst products as different as automobiles and perfume?
- Is the 15 per cent imputed profit calculation also applied to domestic products, and if not, why not?

The following is an example of how the Selective Consumption Tax is applied to a domestic product and an imported product:

<u>Imported Product</u>	
Invoice value	L 50.00
20% duty on c.i.f. value	10.00
10% surtax of Decree 54	5.00
5% customs administrative services	2.50
<hr/>	
Value following application of tariff duties	L 67.50
15% imputed profit as per Decree 58	10.10
<hr/>	
Basis for application of the Selective Consumption Tax of Decree 58	L 77.60
10% Selective Consumption Tax	7.76
<hr/>	
Value after application of Decree 58 and tariffs	L 85.36
<hr/>	
<u>Domestic Product</u>	
Invoice value	L 50.00
15% imputed profit as per Decree 58	7.50
<hr/>	
Basis for application of the Selective Consumption Tax of Decree 58	L 57.50
10% Selective Consumption Tax	5.75
<hr/>	
Value after application of Decree 58	L 63.25
<hr/>	

This is just given as an example and it should not be taken as proof that application of this tax is discriminatory because if the price of an imported product was similar to that of a domestic product, it would not be competitive and would therefore not be imported.

Market surveys carried out during the period when the tax was instituted showed an average gross profit margin of around 30 per cent and an average net margin of 20 per cent. Taking into account these parameters and with a view to equalizing domestic prices and the prices of these products, whether they are imported by large, small or future importers, it was decided to add to the tax base the 15 per cent imputed profit so as to ensure that the different agents in the market were competing on an equal footing.

In addition, the 15 per cent imputed profit adjustment is also applied to domestic producers of articles subject to its payment in accordance with Article 6 of Decree No. 58 of the Law on Selective Consumption Taxes, which states that the following are subject to this tax: producers, manufacturers and importers who market goods subject to this levy and they must register with the Directorate-General of Taxation. Any other natural or legal person who happens to produce or import goods subject to this levy is also liable to this payment.

4.4.3 Production and consumption tax

63. Has the Government of Honduras made any progress in transforming this tax from a "specific" to an ad valorem levy, as described in this section of L/7028? Is the list of products subject to this tax in Table 6 complete, or are there other products? Please update and expand Table 6 of L/7028 as necessary to make it current and comprehensive.

As stated in section 4.4.3 of document L/7028, the Production and Consumption Tax is applicable to matches, sugar, beer, petroleum products, spirits and their products, carbonated drinks and cigarettes. Currently all of these products are subject to an ad valorem duty. The list shown in Table 6 of the afore-mentioned document is complete.

64. Approximately what portion of the revenue of this tax is collected from imports and from domestically produced goods?

Revenue from the Production and Consumption Tax is as follows:

Table 5

HONDURAS

REVENUE FROM THE PRODUCTION AND CONSUMPTION TAX

	Imported product %	National production %
Production of beer	2	98
Production of spirits	-	100
Production of liqueurs	25	75
Production of matches	3	97
Consumption of petroleum products	-	100
Consumption of sugar	-	100
Consumption of carbonated drinks	2	98

Source: Ministry of Finance and Public Credit.

4.4.4 Sales tax

65. At what point of sale is this tax applied on domestic and imported goods?

Pursuant to the Law on the Sales Tax, Decree Law No. 24, and its amendment, Decree No. 287 (see Annex 9), the Sales Tax is not cumulative and is imposed at the import stage as well as at any stage of sale of the goods or services subject to this tax. Sale means any act which implies transfer of ownership against payment of any goods or services from one person to another.

4.4.5 Customs rules and procedures

66. Please describe in some detail how and why "consular invoices" must be obtained by exporters. There are few other countries that require such procedures for importation. Why is this complex, time-consuming, expensive, and difficult process required by Honduras? Will Honduras reform or replace this system to minimize the barrier to importation that it represents?

According to the Law on Consular Fees, Decree No. 27-91 of March 1991, the reason for the payment of consular fees is that Honduran

Consulates abroad fulfil important administrative functions and that acts carried out by Honduran consular officials in fulfilment of their obligations and responsibilities incur the payment of consular duties and fees. The imposition of these consular fees is consistent with the provisions of GATT Article VIII, although when Honduras becomes a contracting party it will review the tax if any other party so requests.

67. Can Honduras indicate, approximately, what portion of its imports are covered by the six types of customs régimes listed in this section?

Honduran statistical records are not at present able to provide this information.

68. Concerning the Temporary Import Régime (RIT) and the Export Processing Industrial Zones (ZIP):

- What sort of special tax and tariff régimes, if any, are applied to the capital goods and other means of production used under these régimes that are not ultimately directly incorporated in exports? What sort of special taxes or tax exemptions, if any, are applied to persons or enterprises producing exports under these régimes?

The Temporary Import Régime (RIT) allows the suspension of payment of customs duties and other taxes and fees, including the Sales Tax, for imports of the following:

- machinery, equipment, tools, spare parts and accessories if they are exclusively used to assemble, process, modify or manufacture articles for export under this régime;
- sample books, instructions, patterns and models needed to adapt production to the standards and design requirements of the international market and for demonstration, research or educational purposes.

"Machinery and equipment" means goods which are used to produce other goods or services or to provide some other kind of production service and which are not consumed in a single production cycle, with the exclusion of passenger vehicles and office equipment.

Profits from exports under the RIT are totally exempt from payment of income tax for a period of ten years from the date on which production for export commences, when the enterprises under the RIT meet the following requirements:

- they are an industrial or agro-industrial enterprise;
- they directly employ at least twenty-five people.

Nevertheless, exemption from income tax does not apply to foreign natural or legal persons whose country of origin allows them to deduct or credit the income tax paid in Honduras.

The ZIP régime allows the import of goods or merchandise (including capital goods) with total exemption from payment of customs duties, charges and surcharges, internal consumption, production and sales taxes, as well as other levies, taxes and surtaxes. In addition, the production and sale of goods generated with ZIPS, as well as the industrial and commercial buildings and establishments within ZIPs, are exempt from payment of State and municipal taxes.

Profits earned by enterprises in ZIPs are exempt from payment of income tax provided that the enterprises are not allowed to deduct or credit this tax in their countries of origin.

Companies operating ZIPs enjoy the following tax benefits:

- The right to import free of duty, tariffs, charges and surcharges, domestic consumption and sales tax and other taxes and levies directly or indirectly related to customs import operations, all goods or merchandise (meaning any product, article, raw material, packaging, wrapping, manufactures and in general any goods without exception) which they import and which are used or incorporated exclusively in the development and exploitation of the ZIP, including building materials, equipment, spare parts, machinery and office equipment, provided that these goods are not produced locally, and subject to prior authorization by the Ministry of the Economy and Trade.
- Exemption from income tax for a period of twenty years and from municipal taxes for a period of ten years.
- **What tax and tariff treatment is applied to goods produced under these régimes that are ultimately sold in Honduras?**

Goods entering or produced under the RIT cannot be sold on the domestic or Central American markets, therefore, any beneficiary enterprise which does this has to pay the relevant taxes in addition to a fine equivalent to 100 per cent of the taxes assessed.

Regarding ZIPs, merchandise which has entered a ZIP and not been subject to any processing there cannot be imported for final use or consumption in Honduras. However, goods that have been processed or manufactured in ZIPs may be imported for final use or consumption in Honduras provided that such goods are not produced locally and subject to authorization by the Ministry of the Economy and Trade as well as payment of the duties and other relevant charges.

69. Concerning the Free Zone of Puerto Cortes and other territories covered by the "exceptional régimes" specified in this section:

- What sort of special tax and tariff régimes, if any, are applied to the capital goods and other means of production used under these régimes that are not ultimately directly incorporated in exports. What sort of special taxes or tax exemptions, if any, are applied to persons or enterprises producing exports under these régimes?

Merchandise entering the Free Zone (meaning any product, article, raw material, packaging, wrapping, manufactures and in general any movable tangible property without exception, including capital goods) is exempt from payment of tariff duties, charges, surcharges, internal consumption and other taxes and levies directly or indirectly related to customs import and export formalities. Sales and production inside the Free Zone and commercial and industrial buildings and establishments therein are also exempt from payment of municipal taxes and charges.

Profits earned in the Free Zone by enterprises established there are exempt from payment of income tax provided that the enterprises are not subject to taxes in other countries which render this exemption invalid.

- What tax and tariff treatment is applied to goods produced under these régimes that are ultimately sold in Honduras?

Merchandise which has entered a free zone and has not been subject to any industrial processing there may be imported for domestic use or consumption provided that it meets the requirements and formalities set out in the customs legislation and regulations. Merchandise produced in free zones can be imported for final use or consumption in Honduras after the relevant tariff duties have been paid.

In both cases, once the merchandise has entered national customs territory it is subject to the ordinary tax treatment.

70. Are the "Single Window for Customs Formalities", the single charge for customs services, and the "Single Customs Declaration" noted in this section available for the importation of goods from all countries, or are they available for only some imports?

Agreements were signed at meetings of Ministers of Transport of the Central American region and the members of the Central American Transport Commission aimed at dismantling obstacles to the movement of vehicles within Central America, with the creation of a single charge for customs administrative services at the land customs offices where the Single Window System operates. This single charge is applied to any person or vehicle crossing a Central American frontier and consists of a charge negotiated at the Central American level for the provision of immigration and vehicle inspection services as follows:

Private motorcar	US\$ 1.00
Pickup, van or microbus	1.50
Loaded truck	11.00

Loaded lorry	7.00
Unloaded truck or lorry	1.50
Motorcycles and bicycles	0.50
Per person	0.50

In Honduras, payment of these charges in local currency is based on the Customs Valuation Factor established by the Central Bank of Honduras. The Single Customs Declaration has been in force since 1992 for all imports regardless of the place of origin of the goods.

71. Please describe in detail how imports are valued for customs purposes.

- Honduras states that customs valuation is based on the "normal price", the price prevailing in a transaction considered to have taken place under conditions of free competition. How would Honduras apply this "normal price" criterion to transactions between related parties?

In the case of related parties, the customs valuation based on the normal price is calculated by comparing a like or identical product from the same place of origin in approximately the same quantities.

- Does Honduras refer to price lists or other valuation references in determining the value of imports for customs purposes?

In conformity with the Law on the Customs Valuation of Goods, the customs authority is responsible for verifying and, where necessary, investigating the declared customs value and for this purpose it utilizes price lists, catalogues and pro-forma invoices. If it does not have sufficient information, it requests the supplier to provide it. Investigation and verification of declared customs values can be done even after the customs duties have been calculated and paid when, after the period of six-months, errors or previously unknown facts came to light.

- Under what circumstances does the Government of Honduras require valuation of imports on a basis other than invoice value?

For valuation purposes, a basis other than invoice value is required under the following circumstances:

- there is no information on the product which is the subject of valuation;
- there have been no previous sales of the product which is the subject of valuation;
- the invoice submitted is not the original and it is deemed to be false;
- the price has been reduced as a result of a discount and this does not apply to all possible purchasers of the product in question.

72. What agency of the Government of Honduras makes determinations of customs valuation? Please describe the process by which an importer may dispute the valuation as determined by this agency. How do importers appeal valuation and classification decisions of the Honduran customs service?

The entity responsible for fixing the customs value is the Directorate-General of Customs of the Ministry of Finance and Public Credit.

Regarding appeals against customs valuations, Article 25 of the Customs Valuations Law sets up a National Customs Valuation Committee composed of representatives of the Government and the private sector. This Committee is responsible for hearing and deciding upon the complaints made regarding valuation. The Committee's activities are governed by the provisions contained in rules of procedure. All complaints against action by the customs authorities are subject to the provisions of Chapter X of the Customs Law, which relates to complaints and appeals. Appeals may be made orally or in writing to the competent Administrator of Customs who will deal with the matter. If the party concerned disputes the latter's decision, he may appeal in writing to the Director-General of Customs for a review at a higher level. As a last resort, an appeal against the decision taken by the Director-General of Customs may be made to the Ministry of Finance and Public Credit.

If the dispute has not been resolved after all the aforementioned administrative procedures have been exhausted, appeals may be made before the competent courts which, in this case, are in the first instance the Administrative Courts. The Court of Appeal and the Supreme Court of Justice are the second and final instances, respectively.

73. Will Honduras adhere to the Customs Valuation Code?

Honduras will adopt the Customs Valuation Code, under the special time frame laid down in the Code for developing countries because it needs sufficient time to train customs personnel and obtain the technical resources needed to implement the Code.

CHAPTER V. TRADE RELATIONS AND AGREEMENTS WITH OTHER COUNTRIES

5.2 Economic Community of the Central American Isthmus

74. Are any aspects of the bilateral agreements that governed Honduras's trade with the members of the Central American Common Market until February 1992 still in effect? If so, please describe them.

No, the Transitional Multilateral Free-Trade Agreement automatically repealed the bilateral trade conventions, agreements or treaties signed by Honduras with the other signatory countries, in accordance with Article 22 of the Agreement.

75. Concerning the trade coverage of the Transitional Multilateral Free-Trade Agreement:

- **What portion of Honduras's trade volume and value with the members of the Central American Common Market is covered by this Agreement?**

Approximately 85 per cent of the products included in Honduran trade with other Central American countries are covered by the Transitional Multilateral Free-Trade Agreement.. Precise figures on the portion of trade volume and value they represent are not currently available.

- **Does the Transitional Multilateral Free-Trade Agreement include non-tariff measure preferences among signatories? If so, please describe.**

The Agreement does not include non-tariff-measure preferences.

- **Please indicate into which tariff chapters the 1,600 lines covered by this Agreement are classified, and indicate which chapters are not covered by this Agreement.**

The 1,600 tariff lines covered by the Agreement are classified in all tariff chapters with the exception of the following:

- Chapter 27: mineral fuels, mineral oils and products of their distillation; bituminous substances; mineral waxes.
- Chapter 45: cork and articles of cork.
- Chapter 86: railway or tramway locomotives, rolling stock and parts thereof; railway or tramway tracks, fixtures and fittings and parts thereof; non-electrical traffic signalling equipment.
- Chapter 88: aircraft.
- Chapter 93: arms and ammunition.
- Chapter 95: worked carving and moulding material and articles thereof.

76. On what date will this Agreement be superseded by the "Definitive Multilateral Agreement"?

This Agreement is transitional and will automatically lapse when the Central American Import Tariff comes into force, the planned date being 1 March 1993.

77. Concerning plans for a full free-trade agreement for Honduras and the members of the Central American Common Market:

- Will the completed free-trade area be implemented on 1 January 1993, or is a longer transition to completion of the FTA contemplated?

It is planned to implement the full free-trade area on 1 March 1993.

- Will this free trade agreement cover aspects of Central American trade other than tariffs, e.g. non-tariff measures, services, investment, government procurement?

The new Central American Integration Treaty is intended to cover not only free trade in goods but also agreements on movement of services, capital and labour. The Agreement of Nueva Ocotepeque, signed by Honduras, El Salvador and Guatemala, provides for measures for the establishment and operation of branches and subsidiaries of national banks and finance companies in the territories of the other countries, as well as the integration of the securities markets and harmonization of financial legislation and tax treatment of these institutions.

78. Does Honduras have any plans to join the Central American Common Market?

Yes, the Transitional Multilateral Agreement was a major step towards Honduran membership of the Central American Common Market, the main instruments of which are to come into force on 1 March 1993.

79. Concerning exemptions to the common external tariff with the other members of the planned free-trade area:

- To what degree are the tariff structures of the signatories to the Transitional Multilateral Free-Trade Agreement already externally aligned?

The tariff structures of the signatories to the Transitional Multilateral Free-Trade Agreement are almost entirely externally aligned, save for a few exceptions in the case of goods which the countries classify as "fiscal", and which will not circulate freely in the region. Standardization of fees for customs administrative services is also pending.

- Does Honduras anticipate any delays to a January 1993 date for full implementation of the common external tariff?

As the integration instruments and mechanisms of the Central American Common Market have not been ratified by the legislative bodies of the countries concerned, the entry into force of the common external tariff has been postponed until 1 March 1993.

- Approximately how many tariff lines and what portion of intra-Central American imports into Honduras does Honduras expect

will be covered by the exemptions to the common external tariff for "goods deemed essential and duties of a fiscal character?"

Eighty-five tariff lines for what are considered essential goods, and approximately twenty lines for goods classified as "fiscal" are expected to be excluded from the common external tariff.

80. Could Honduras please indicate what products will be subject to these exemptions?

Goods considered essential are basically medicine and agricultural inputs, which are dutiable at a rate of 1 per cent. "Fiscal" goods are articles such as vehicles, perfume and jewellery, which are dutiable at a rate of 25 per cent.

81. Please elaborate on the character of the regional instruments being drawn up to regulate and co-ordinate certain aspects of economic policy.

The regional instruments that regulate and co-ordinate aspects of economic policy are the following:

- The Central American Uniform Customs Code, which seeks to modernize customs clearance by establishing the basic customs law that is mandatory in signatory countries.
- The Central American Regulations on Unfair Business Practices and Safeguard Clauses, which establishes provisions designed to counter unfair business practices and regulate the application of safeguard clauses with respect to goods from third countries.
- Regulations on the Central American origin of goods, designed to determine the origin of goods.
- The Central American Uniform Customs Convention (CAUCA), which is an instrument that serves as a framework for defining the future customs regulations of the region, and will enter into force on 1 March 1993.
- The Law on the Customs Valuation of Goods, which establishes the system and the elements to be taken into account for the customs valuation of goods, and is to enter into force on 1 March 1993.
- The Central American Import Tariff, which will enter into force on 1 March 1993 and contains the Harmonized System and all the tariffs that will govern regional trade: tariff ceiling of 20 per cent, floor rate of 5 per cent and intermediate rates of 10 and 15 per cent.

The last three instruments are part of what is known as the Central American Tariff and Customs Régime.

82. Please describe the regional institutions contemplated to facilitate and carry forward the integration process.

The Protocol of Tegucigalpa of December 1991 established the Central American Integration System (SICA), replacing the Organization of Central American States (ODECA), as the organic structure for all aspects of regional integration. The following organs have been established to achieve the goals of the SICA:

- The Central American Parliament, an organ having functions of proposal, analysis and recommendation, governed by its own constituent treaty and protocol which are in force.
- The Central American Judicial Council, which will begin functioning when the Central American Court of Justice is formed and will be responsible for managing disputes arising in connection with the interpretation and implementation of the Protocol of Tegucigalpa.
- The Central American Court of Justice, whose purpose is to ensure legality in the interpretation and implementation of the protocol and its supplementary or derivative instruments.
- The Consultative Committee, made up of representatives of business, labour, academic and other major sectors involved in the Central American integration process.

In the course of the integration process, various specialized institutions have been established in the monetary, transport, port development and customs fields, with a view to underpinning the integration effort. The following are the main institutions:

- The Central American Bank for Economic Integration (CABEI), set up in 1961, is the financial arm of the economic integration programme, and has international legal personality. The regional members are Honduras, Guatemala, El Salvador, Nicaragua and Costa Rica, while Mexico, Venezuela and Chinese Taipei have joined as non-regional members. It has a double rôle, as an integration bank and a development bank, although its credit and investment policy is guided by economic integration objectives.
- The Central American Monetary Council, which is the organ established by the central banks, through an Agreement they have signed among themselves, to implement fully the provisions on monetary matters included in the General Treaty. Its main functions are:
 - (a) to promote the uniformity of exchange systems and the stability and convertibility of Central American currencies;

- (b) to expand the Central American multilateral clearing system, encouraging the use of national currencies in transactions among Central American countries;
 - (c) to facilitate financial assistance to correct temporary balance-of-payments difficulties and forestall adverse tendencies in regional exchange systems;
 - (d) to attain uniformity of monetary, exchange and credit legislation, structures and conditions in member countries;
 - (e) to create favourable conditions for co-ordination of monetary and fiscal policy;
 - (f) to establish a system of constant information and consultation in order to harmonize monetary, exchange and credit policy measures and instruments.
- Central American Institute of Public Administration (ICAP), which was set up in 1963 for the purpose of training civil servants of Central American countries in administering development and integration programmes.
 - Central American Industrial Research and Technology Institute (ICAITI), set up in 1955 to support the advancement of production technology as well as technical research and training.
 - Nutrition Institute of Central America and Panama (INCAP), set up in 1949, which carries out very wide-ranging research in the field of nutrition, including education and training, as well as supporting national nutrition programmes.
 - Central American Higher University Council (CSUCA), established in 1948 with the principal aims of ensuring that the universities of the region contribute to its cultural, social and economic enhancement, and spreading the ideal of Central American union. It is responsible for the Central American university publishing company (EDUCA).
 - Central American Corporation for Aerial Navigation Services (COCESNA), set up under the Agreement signed by the Governments of the five countries in February 1960, with the essential objective of providing services for civil air navigation and technical assistance.
 - Central American Telecommunications Confederation (CONTELCA) which, unlike the preceding institutions, is the product of the Telecommunications Treaty signed by the Central American States in April 1966. It is responsible for running the Central American telecommunications network and provides advice and technical assistance in this sphere.

5.3 Partial-scope agreements

83. Approximately what percentage of Honduras's imports are covered by trade preferences under the partial scope agreements under the auspices of ALADI?

Honduras does not grant tariff preferences to the countries with which it has signed partial-scope agreements, and therefore there are no imports covered by trade preferences of this kind. Honduras and the countries with which it has signed these agreements intend to establish free trade by 31 December 1996. This was agreed in such a way because those countries have a higher degree of development than that currently attained by Honduras, and have granted this preferential treatment to Honduras in order to contribute to the development of the country and the region.

84. Please specify the nature of the benefits accruing to Honduras under the régime of access to the southern frontier strip of Mexico.

The régime of access to the southern frontier strip of Mexico grants tariff benefits allowing free access for Central American products to Mexican territory within an area of twenty kilometres and for an amount of up to US\$100 million per year.

The products exempted from this treatment are those included in a list drawn up annually, the contents of which may vary from year to year. The list for 1992 is given in Annex No. 10.

85. How deeply does this "strip" extend into the Mexican customs territory? Has this arrangement been notified to the GATT?

The strip has a depth of 20 kilometres from the international frontier with Guatemala; the customs houses of entry are those for the jurisdiction of Tapachula, in the State of Chiapas.

Honduras has not notified this Agreement to GATT because it is not yet a member of GATT. However, in the LAIA Report for 1989/1990 (document L/6946) of 20 December 1991, the list of agreements signed mentions the agreement between Mexico and non-member countries, including Honduras, original Protocol of 3 December 1984.

5.4 Other trade agreements

86. Please describe in more detail Honduras's current preferential tariff arrangements with Mexico and Venezuela, and its plans to move towards a free-trade area with these countries by 31 December 1996. Is it contemplated that free trade with Mexico will be fully implemented by 31 December 1996?

Honduras signed a partial-scope agreement with Mexico in December 1984, which entered into force in June 1985. This agreement is based on the granting of preferences as regards the tariffs and other

restrictions applied by Mexico on imports of negotiated products; these products must originate in and come from the territory of the parties and be covered by certificates of origin issued by the public sector bodies designated by the Governments.

Mexico unilaterally granted preferences to 128 Honduran products, while maintaining the following non-tariff restrictions:

- (a) requirement of a prior import licence for some of the products concerned;
- (b) health certificates issued by the Honduran Government for agricultural products;
- (c) the Mexican Ministry of Trade and Industrial Development will set annual import quotas for some of the products concerned. The parties reserve the right to apply, unilaterally and temporarily, safeguard measures on imports of products covered by the Agreement. The Agreement has a duration of four years, extendable for similar periods, and while it is in force the preferences granted may not be withdrawn.

On 22 September 1986 the partial-scope agreement with Venezuela came into force for a period of three years, extendable for similar periods.

The purpose of this agreement is to boost regional integration as provided for in the 1980 Treaty of Montevideo, through the grant of tariff preferences and elimination or reduction of non-tariff restrictions. The signatory countries agree to grant each other tariff preferences for specific lists of products for each signatory to the Agreement; these preferences will be extended exclusively to products originating in and coming from signatories.

By this agreement, the signatories agreed to reduce or eliminate tariffs or other restrictions applied to products covered by the agreement, while refraining from introducing non-tariff restrictions for imports of negotiated products or tightening the restrictions that have been declared, with the exception of measures aimed at protecting public morals, national security, the safety of the population and natural resources and avoiding the movement of gold and other metals; as well as radioactive materials; and also measures aimed at protecting the national artistic, historical and archeological heritage.

The signatory countries may apply safeguard clauses for balance-of-payments reasons, in a temporary and non-discriminatory manner, but they must expire at the end of the pre-announced period.

A framework free trade agreement is currently being negotiated for the establishment of free trade areas between Guatemala, El Salvador and Honduras, known as the Northern Group, and Mexico, which is to be attained by 31 December 1996. The aim is to raise to the highest possible level and diversify mutual trade among signatories, achieve a sustained increase in

the exportable supply of the signatory Central American countries, stimulate investment and encourage the creation and operation of bilateral and multilateral firms of a regional character. Meetings have already been held among the three Central American countries to draw up the lists of exceptions to be included in this agreement.

Negotiations are also under way on a framework agreement on trade and investment between Central America and Venezuela, which would enter into force on 31 December 1996. The goal is to intensify economic and trade relations among these countries and promote their economic complementarity, by the creation of a free trade area and the establishment of mechanisms to facilitate mutual trade in goods and services, as well as to promote and protect investment among signatory countries.

87. What objectives and obligations (including preferential tariff arrangements) are included in the Central America/Mexican Framework Agreement on Free Trade signed on 20 August 1992? Will additional Central America/Mexico trade agreements be negotiated under the framework? If so, what issues will they address?

The Multilateral Framework Agreement for the Programme of Trade Liberalization between Central America and Mexico, signed on 31 March 1992, has the following objectives:

- To strengthen economic and trade relations between the signatories through the gradual establishment of a free trade area, to be achieved by 31 December 1996.
- To increase and diversify reciprocal trade and improve access for the signatories' products to the world market.
- To expand sustainably the exportable surplus of the signatory Central American countries.
- To co-ordinate and complement economic activity, particularly in the production of goods and services.
- To stimulate investment aimed at intensive use of the markets and competitiveness of the signatories.
- To encourage the creation and operation of bilateral and multilateral enterprises of a regional character.

The countries undertake to:

- eliminate all export subsidies or any other type of subsidy having equivalent effects;
- apply the measures provided in their domestic legislation, in conformity with the GATT rules, if situations of dumping and other unfair business practices arise;

- take the necessary measures to ensure that the technical standards on industrial, commercial, animal health, security and public health matters existing in each country do not become a barrier to trade among them;
- grant imports of the other countries treatment no less favourable than that applied to the like domestic product as regards taxes, charges and other internal levies;
- keep one another informed as to their foreign trade régimes and statistics; any change in foreign trade régimes must be communicated within thirty days of promulgation.

This agreement establishes the reference framework for bilateral negotiations between Mexico and the Central American countries. It establishes rules on unfair business practices, safeguard clauses, dispute settlement, technical standards and internal taxes.

Bilateral negotiations will have to be conducted concerning rules of origin, tariff-cutting, elimination of non-tariff barriers, trade in services and customs facilities.

88. What will be the legal relationship between the regional and bilateral agreements?

The framework agreement establishes the frame of reference to govern bilateral or partial-scope agreements signed between the Central American countries and Mexico. In addition, the tariff concessions in bilateral agreements signed prior to the entry into force of the framework agreement and not included in it will be maintained. It is intended that the tariff concessions granted under bilateral partial-scope agreements and the commitments covered by the Act of Tuxtla-Gutierrez - concerning the six work programmes that form the foundations for economic complementarity among the parties - which were signed between the Central American countries and Mexico prior to the signing of the framework agreement will remain in force during the transition period until the concessions in those agreements become part of the concessions included in the framework agreement. It has been agreed that tariff-cutting by the Central American countries will depend on the progress made in the other programmes contained in the Act of Tuxtla-Gutierrez, especially as regards promotion of investment, energy supply and technical training and co-operation.

CHAPTER VI: OTHER TRADE RELATED ASPECTS

6.1 Introduction

6.2 Exchange policy

89. L/7028 states that conversion to local currency for customs valuation purposes is carried out using a reference exchange rate or "Customs

Valuation Factor* which is regularly set by the Board of Directors of the Central Bank of Honduras.

- Please elaborate on the purpose of this mechanism which is used to estimate the value of foreign trade transactions.
- Is this reference exchange rate based on a rate of exchange recognized by the International Monetary Fund as required by Article VII, Section 4(a) of the General Agreement?

The Customs Valuation Factor is used to convert the value of goods expressed in foreign currency into lempiras, and it is established according to the inter-bank exchange rate in force on the date, for the purpose of applying the relevant customs charges.

As of June 1992, free negotiation among exchange dealers was established as the rule for determining the inter-bank exchange rate, so that in turn the Customs Valuation Factor would be fixed on the basis of the average exchange rate on the inter-bank market "at whatever intervals is considered advisable".

The inter-bank exchange rate used for the calculation of the customs valuation factor is based on the average of all the free exchange rates used in the banking system: this process is recognized by the International Monetary Fund.

90. Is the lempira convertible for all foreign trade transactions? What controls and procedures, if any, does the Government of Honduras maintain to regulate the level of the national exchange rate?

The lempira is convertible for all foreign trade transactions through the private institutions of the financial system at the free exchange rate prevailing at the time of the transaction. The Central Bank of Honduras intervenes only in situations where there might be abrupt fluctuations in the exchange-rate trend, and take the form of the placement or withdrawal of appropriate quantities of foreign exchange on the foreign exchange market.

91. How does the Honduran Government ration available foreign exchange, i.e., what measures are used, and what criteria are applied for applications to purchase foreign exchange? What portion of the value of applications for foreign exchange are rejected?

Access to foreign exchange in Honduras has been liberalized by Resolution No. 359 of the Board of Directors of the Central Bank of Honduras. Foreign exchange may be acquired by interested agents from banking institutions, foreign-exchange houses or selling agents, without any type of rationing or restriction on the purchase of foreign exchange.

92. Please describe any limits on the repatriation of foreign exchange

earned by foreign firms. Are there any limits on the amount of foreign exchange that can be brought into Honduras?

The Honduran Investment Law guarantees access for investors to the purchase of foreign currency in the banking system, foreign-exchange houses and other authorized institutions for the payment of dividends and repatriation of capital relating to foreign investments. There are no limits on the entry of foreign exchange into the country.

93. This section states that "There are no regulations regarding payment for services.". Does this mean that payments for services, including royalties, may be made without Government regulation?

Section 6.2 deals with the country's foreign-exchange policy, and therefore the statement that "there are no regulations regarding payment for services" refers to the fact that there are no specific regulations governing access to foreign exchange for payments relating to services. It is also important to note that the Law on Trademarks and Patents contains the provisions governing their use and working.

6.3 Legislation recently adopted or in the course of approval

94. Concerning the Law on Agricultural Modernization:

- Please describe the "existing policies and institutions" in this area that involved "bureaucratic procedures" and "direct State intervention." Does Honduras have any State-trading institutions or production enterprises in this area?

The existing policies to which document L/7028 refers in the section concerned are the policies relating to the marketing of basic grains, use and management of forestry resources, marketing of agricultural products, assignment of land, and credit management.

The institutions responsible for the design and implementation of public sector agricultural policies are the following:

- Ministry of Natural Resources;
- National Agrarian Institute (INA);
- Honduran Agricultural Marketing Institute (IHMA);
- National Agricultural Development Bank (BANADESA);
- Honduran Coffee Institute (IHCAFE);
- Honduran Forestry Development Corporation (COHDEFOR).

The responsibilities entrusted to these institutions, and their procedures and co-ordination mechanisms, in the framework of the above policies, were redefined by the Law for the Modernization and Development

of the Agricultural Sector, so that they match the new rôles established for them in the new national economic policy.

There are no State trading or production enterprises in this sector.

- **What is the clause of "discretionary assignment"? Please indicate what import permits are currently required for machinery and inputs.**

There is a misreading of this paragraph, which reads "(elimination of the) causes of discretionary assignment" and not "clause of discretionary assignment". What the paragraph means is that the possibility of discretionary assignment of land is eliminated.

In the context of the new law, any agricultural producer may import inputs for agricultural use, raw materials and machinery, without need of prior administrative permits or authorizations.

95. Does the State have a rôle in the acquisition and distribution of agricultural inputs? Please describe.

The Government of Honduras implements a programme of acquisition and sale of agricultural inputs such as fertilizers and agricultural implements through the National Agricultural Development Bank (BANADESA). This institution purchases agricultural inputs directly from distributors established in the country and sells them to local farmers. Owing to its larger purchasing volume, it obtains a buyer's discount which it uses to stabilize market prices, ensuring that input prices do not rise unusually as a result of demand pressure or discretionary criteria applied by other retail distributors. Consequently, producers are offered a price in line with international prices, without unfair competition for the other firms engaged in the sale of agricultural inputs, as the product is offered at cost price in accordance with market prices and in line with world price movements of the inputs.

It also administers grants of inputs, especially those received from the Government of Japan, which are made available to projects implemented by BANADESA on behalf of local farmers.

96. The new Investment Law of 20 June 1992 guarantees participation without restrictions on ownership except as noted in the Constitution. Please outline the Constitutional requirements. Does this law, or any other current law of Honduras, impose export performance requirements for foreign investors? Is any law in this regard contemplated for the future?

Under the Constitution of Honduras, the State recognizes, guarantees and promotes the freedoms of consumption, saving, investment, employment, initiative, trade, industry, recruitment and enterprise. However, the Constitution stipulates that the exercise of these activities may not be

contrary to the public interest nor harmful to public morals, health or security.

The Constitution establishes that private individuals are primarily responsible for carrying out economic activities, but the State may, for reasons of public order or the public interest, reserve to itself the exercise of specific basic industries, activities and services of public interest, and adopt economic, tax and public security measures and laws to channel, stimulate, supervise, orient and supplement private initiative, on the basis of a rational and planned economic policy.

The Constitution states that the technical and rational utilization of the nation's natural resources is a matter of public interest and necessity. Consequently, it empowers the State to regulate their use, in accordance with the public interest, and to establish the conditions for the grant thereof to private individuals. Reafforestation and forestry conservation are declared to be in the national and public interest.

It also stipulates that the law may establish restrictions or prohibitions on the acquisition, transfer, use and enjoyment of State and municipal property for reasons of public order or in the public or national interest.

It establishes the exclusive right for Honduran nationals by birth or companies formed entirely by them to acquire State, collective (ejidal), communal or private lands situated within an area extending 40 kilometres from the country's borders with neighbouring States.

Neither the Investment Law nor any other existing law imposes export performance requirements on foreign investors. No such law is contemplated for the future.

- **When will implementing regulations for the new Investment Law be promulgated?**

The regulations for the Investment Law were approved by Executive Decision No. 345-92 published in the official journal, La Gaceta, of 19 September 1992. A copy of the regulations has already been sent to the GATT Secretariat for consultation by contracting parties.

97. Did the Ministry of the Economy and Trade have a rôle in the actual conduct of international trade, i.e., physically control the quantities imported and exported in certain sectors? To what extent does the new Ministry of Economic Development retain participation in certain State-trading operations?

The Ministry of the Economy and Trade regulated international trade in goods through the grant of import and export permits for certain commodities, materials, finished products and other goods considered essential for the country's economic activity and to meet the population's basic needs.

It is important to mention that the process of restructuring the Ministry of the Economy has not yet been completed, and therefore its name has not yet been changed.

The functions of quantitative control of exports or imports are no longer exercised by the Ministry of the Economy and Trade, which confines itself to normative and administrative activities relating to international trade in goods and services.

The Law on the Tariff and Customs Régime of Honduras empowers the Ministry to take whatever measures it considers necessary with respect to goods coming from abroad in order to counter trade practices that cause or threaten to cause injury to domestic industry, after having heard the reasoned view of the National Tariff Commission.

Intellectual property rights

98. Honduran intellectual property rights laws in all areas - patents, trademarks and copyrights - allow varying interpretations and appear to be outdated. Is the announced plan to submit updated laws in this area to Congress by the end of 1992 still on course?

Significant progress has been made in the creation of a legal framework for the enforcement of intellectual property rights. Thus, the draft trademarks and patents bill is about to be completed, and is under discussion with the private sector in the country. It is planned to submit the bill to Congress in the first quarter of 1993. With regard to protection of copyright, a Commission consisting of public and private sector representatives has been set up to prepare a draft copyright bill which it is hoped will be approved by the legislature in early 1993.

99. Will the draft patent law, as currently contemplated, adequately protect chemicals and pharmaceuticals, which are now outlawed from protection? Does Honduras plan to offer transition (pipeline) protection for those products (like chemicals and pharmaceuticals) which are not patentable currently in Honduras, but which are under patent in other countries and have not been marketed in Honduras?

The trademarks and patents law will adequately protect chemicals and pharmaceuticals, since it has been drafted on the basis of the international regulations envisaged for the protection of such products. The provision of transitional protection to such products pending the adoption of the new law has not been considered as it is hoped that the new law will be completed and adopted shortly.

100. There is currently little protection in Honduras against the practice of registering foreign trademarks for the sole purpose of trading in the trademark, rather than using the mark for production. Will the proposed trademark law contain solid protection against the registration of well-known marks by parties unrelated to the holder of record in the country of origin?

The new legislation will provide proper protection for trademarks and well-known marks, and therefore a trademark will be inadmissible, owing to the existing rights of other parties, if it is the imitation or the total or partial reproduction of a distinctive mark well known to the public or to business circles at international level.

101. How does the Government of Honduras plan to address the draft cable law currently under consideration which would allow for compulsory licensing of programming?

This draft law was withdrawn from the National Congress on 9 October 1992, and was introduced without the knowledge or participation of any governmental agency.

102. Will the draft copyright law provide effective protection for foreign-source broadcast transmissions and retransmissions, including premium programming?

At the moment the Commission responsible for drafting the copyright law is studying whether foreign broadcast transmissions and retransmissions should be regulated by a specific law or in the framework of a comprehensive copyright law. Nevertheless, whatever the legal instrument of protection, it will adequately cover both national and foreign broadcast transmissions and retransmissions, including premium programming.

ANNEXES

1. Privatization Law, Decrees Nos. 161/85 and 197/85.
2. Investment Law, Decree No. 80/92 and its Regulations.
3. Decree Law No. 128/91.
4. Decree No. 129.
5. Law on Administrative Procedure, Decree No. 152-87.
6. Law on Government Procurement, Decree No. 148-85.
7. Import Statistics by Tariff and Country of Origin 1991.
8. Decree No. 222-92.
9. List of Products Exempted under the Régime of Access to the Southern Border Region of Mexico.