GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED
Spec(93)34/Rev.1
21 September 1993

DRAFT REPORT OF THE WORKING PARTY ON THE ACCESSION OF HONDURAS

Revision

1. At its meeting on 3 October 1990 the Council established a Working Party to examine the application of the Government of Honduras to accede to the General Agreement under Article XXXIII, and to submit to the Council recommendations which may include a draft Protocol of Accession.

2. The Working Party met on 19-20 April, 5-6 July and **20 and 21** September 1993, under the chairmanship of H.E. Mr. J.A. Lanús (Argentina). The terms of reference and the membership of the Working Party are set out in document L/6735/Rev.1.

3. The Working Party had before it, to serve as a basis for its discussion, a Memorandum on the Foreign Trade Régime of Honduras (L/7028) and the questions submitted by contracting parties on the foreign trade régime of Honduras, together with the consolidated replies of the Honduran authorities thereto (L/7160/Rev.1 and Spec(93)23). In addition, the Government of Honduras made available to the Working Party the following material:

- Law on the Structural Re-organization of the Economy, Decree Law 18-20
- Law on the Central Bank of Honduras
- Export Tariff and amending Decrees
- Decree Law establishing CENTREX
- Sanitary Regulations for the Import and Export of Animals and Animal Products
- Law on Plant Health
- Health Code
- Law on Foreign Exchange Receipts from Exports, and Implementing Regulations
- Import Charges
- Customs Laws
- Law Establishing the Free Zone of Puerto Cortés
- Decree Law on the Temporary Admission Régime
- Law on Industrial Processing Zones for Export Trade
- Law on Incentives to Banana Production
- Law on Government Procurement
- Law on Selective Consumption Tax
- Law on Production and Consumption Tax
- Law on Sales Tax
- Declaration of Antigua
- Transitional Multilateral Free Trade Agreement of Central America
- Partial-Scope Agreement between the Republic of Colombia and the Republic of Honduras
- Partial-Scope Agreement between the Republic of Honduras and the United Mexican States
- Partial-Scope Agreement between Venezuela and Honduras
- Agreement between Honduras and the United States of America on the Establishment of the Trade and Investment Council

Declaration of Tuxtla Gutiérrez
Multilateral Framework Agreement between Mexico and Central America
Multilateral Framework Agreement between Venezuela and Central America
Law on Agricultural Modernization
Exceptions to Decree 54 (10 per cent surtax)
Exceptions to Decree 84 (5 per cent surtax), Annex A to Decree 134-91
Exceptions to the tariff floor bound for Central America, according to the Central American Harmonized System Nomenclature
Exceptions to the tariff ceiling bound for Central America, according to the Central American Harmonized System Nomenclature
Decree No. 81-92, Law on Support for the National Coffee-Growing Industry
Board of Directors Decision No. 008/92, Regulations for the grant of the Coffee-Growers Productivity Premium
Decree No. 14-92
Decision No. 303-92
Decision No. 371-A, Regulations for the Law on the Structural Reorganization of the Economy. Section I: Exemptions and Duty-Free Treatment
Decree No. 27-91, Consular Fee Law
Resolutions of the Central Bank of Honduras on Monetary Policy
Decree No. 41-89, Consumer Protection Law
Press release of the Honduran Agricultural Marketing Institute concerning the Import Price-Band System
Nuevo Ocotepeque Agreement on Trade and Investment
Central American Uniform Customs Code
Commercial Code
Labour Code
Central American Tariff and Customs Agreement
Agreement on the Exchange of Tax Information
Law on Consular Fees
Law on Foreign Exchange Bureaux
Law on Contraband and Tax Fraud
Law on Government Procurement
Law on the Honduran Forestry Development Corporation (COHDEFOR)
Law on the Autonomous Municipal Bank
Law on the National Agricultural Development Bank
Law Against the Unlawful Enrichment of Public Employees
Law Against the Illicit Trade in Narcotics, Psychotropic Substances and Other Dangerous Drugs
Law on Banking Establishments
Law on the Honduran Telecommunications Company
Law on the National Electricity Company
Law on the National Port Company
Law on Income Tax
Law on the Honduran Agricultural Marketing Institute
Law on the Honduran Tourism Institute
Law on Investment
Law on Trade Marks and Patents
Law on the Merchant Marine
Monetary Law
Law on the Financial Adjustment of the Public Sector

Law on the Modernization and Development of the Agricultural Sector
Basic Law on the General Supply Office of the Republic
Law on Privatization
Law on Administrative Procedure
Law on Consumer Protection
Law on the Protection of Hondurans Engaged in Small Scale Commerce
Law on the Temporary Admission Régime
Law on the Repatriation of Capital
Law on Representatives and Distributors of Commercial Companies
Law on Insurance
Law on the Autonomous Water Supply and Drainage Service
Law on the National Basic Product Supply Company
Law on Land Transport
Law on Industrial Processing Zones for Export Trade
Central American Regulations on Unfair Business Practices and Safeguard Clause
Sanitary Regulations for the Import and Export of Animals and Animal Products and By-Products
Regulations on the Central American Origin of Goods
General Treaty on Central American Integration

4. In an introductory statement, the representative of Honduras stressed his Government's adherence to the principles of non-discrimination, transparency, reciprocity and the rule of law in international economic and trade relations. As a democratic nation, Honduras aimed at achieving self-sufficient economic development, which would promote the conservation of the natural resources and increase employment and services, in a framework of full participation by the Honduran population. Following the deep economic crisis of the 1980s, since 1990 the Government of Honduras had begun the implementation of a Programme of Economic Adjustment which encompassed trade, exchange and fiscal measures, as well as price liberalization and the privatization of State-owned enterprises. As a result of this programme, resource allocations followed the principle of comparative advantage, investment and production had increased, and the rate of inflation had been stabilized. However, sharp price declines and import restrictions affecting some of the main export products of Honduras had been detrimental to the anticipated economic growth opportunities. As a member of the Central American Common Market, Honduras was actively promoting economic integration and cooperation in the area while at the same time seeking to increase trade, investment and cooperation links with other countries. Honduras had full confidence in the principles and rules of the General Agreement as a means to eliminate restrictive and unfair trade practices, to ensure the compliance with the commitments multilaterally agreed and to settle trade disputes peacefully. Therefore, Honduras supported fully the Uruguay Round Multilateral Trade Negotiations and was confident that the negotiations would be concluded successfully.

General Comments

5. Noting that Honduras had been implementing far-reaching reforms aimed at liberalizing the foreign trade régime and unilaterally bringing it closer to GATT provisions, members of the Working Party welcomed and supported the accession of Honduras to the General Agreement. It was to

be expected that, as a result of the accession to GATT, the economy of Honduras would be integrated more fully into the international trading system establishing a broader framework for its relations with other contracting parties and securing enhanced rights for its exports on a worldwide basis. In welcoming Honduras' application for accession to the General Agreement, some members of the Working Party participants in the Central American Common Market (CACM) noted that Honduras had also carried out substantial efforts to promote regional integration and stressed the complementarity of these efforts with the liberalization of the foreign trade régime pursuant to the principles of the General Agreement. These members expressed the hope that the process of accession of Honduras to the GATT would be carried out expeditiously and be concluded promptly and fairly, and that the terms of accession would be fully consistent with the financial, development and trade needs of Honduras.

Tariff Negotiations

6. Some members expressed their interest in carrying out tariff negotiations with Honduras. Other members indicated that the tariff negotiations were already underway. Their tariff requests included provision for a ceiling binding and a list of additional requests for below-ceiling bindings with the requests that, from the date of accession, these specific items would be free of import taxes, duties or charges in excess of bound rates of duty, and of quantitative restrictions, restrictive licensing provisions, bans or prohibitions, or other measures, unless in accordance with the provisions of the General Agreement. The Working Party invited members who had not yet done so to submit their request lists to Honduras at an early date and to make every effort to conclude the tariff negotiations as soon as possible. The representative of Honduras said that in the context of the tariff negotiations, his Government would undertake to maintain the degree of flexibility necessary to protect its productive structure and to fulfil the multilateral commitments undertaken in the context of the Central American Common Market, in a manner consistent with Articles XVIII, XXVIIIbis and XXIV of the General Agreement. **Some members of the Working Party noted that neither Articles XXIV nor the Enabling Clause precluded partners to regional integration arrangements to offer lower tariffs to third countries. In response, the representative of Honduras said that while the CAT generally bound its position, it hoped to reach agreement in bilateral market access negotiations and so could consider, in exceptional circumstances, the possibility of negotiating commitments below those agreed in the CAT on some tariff lines. The Working Party took note of the Honduran statement that the commitments undertaken in the framework of its accession regarding tariff concessions constitute the Honduran contribution to the Uruguay Round market access negotiations.**

Foreign Trade Régime

7. The Working Party reviewed the foreign trade régime of Honduras and the possible terms of a draft Protocol of Accession. The views expressed by members are summarized below in paragraphs 8 to **40.**

Tariff Régime

8. At the request of the members of the Working Party, the representative of Honduras described recent developments in the tariff régime. He confirmed that pursuant to Article 7 of the Law on the Honduran Tariff and Customs Régime (Decree No. 213-87), the National Congress had the authority to modify prevailing tariff rates in special cases subject to justification given by the Executive through the Ministries of Finance and Public Credit and of the Economy and Trade. In introducing changes in tariff rates, both the Government and the National Congress would have to comply with the international obligations accepted by Honduras in the context of the CACM and of the General Agreement. In accordance with the Law on Structural Reorganization of the Economy, Decree No. 18-90, Honduras had set ceiling and floor tariff rates of 20 per cent and 5 per cent, respectively; therefore, the effective protection levels had been reduced from an overall total of 62.4 per cent in 1990 to 32.9 per cent in 1992. For 1991, the average weighted tariff was 14 per cent. Currently, some 60 per cent of imports were subject to duties of 5 per cent or less, some 20 per cent of imports were subject to duties of 20 per cent, and the duties for the remaining 20 per cent varied between 10 per cent and 15 per cent. As part of the Central American integration process, certain goods considered to be essential had been excluded from the harmonization process and would be subject to rates of up to 1 per cent or 25 per cent. Some of the items subject to a 1 per cent duty included intravenous fluids, insulin, urea, animal or vegetable fertilisers, etc. comprising some **one hundred and thirty-six** tariff lines in various HS Chapters. The above-mentioned tariff rate levels were considered to be consistent with the production structure and the level of development of the CACM member countries, as well as with their need to participate in international trade. Finally, the Law on Structural Reorganization of the Economy, Decree No. 18-90, had eliminated customs exemptions and there only remained those exemptions accorded to certain international institutions such as the United Nations, OAS, CACM, EEC, etc.; to the Autonomous National University of Honduras in accordance with the Constitution; to the Hondurans residing abroad, in accordance with Decree 185-86, the Customs Law and Decree 212-87; to enterprises covered by the régime for free zones, RITs and ZIPs and to non-profit public interest organizations.

Import Levies

9. With reference to the replies to questions 104-111 in document L/7160/Rev.1, some members noted that the 10 per cent surtax had not been eliminated in January 1993 as scheduled but had also been extended from some 700 tariff lines to approximately 30 per cent of total tariff lines. In their view, Honduras should apply a single tariff; therefore, this surtax should either be eliminated unless justified under specific GATT provisions or be incorporated into the tariff rates included in the schedule of tariff concessions of Honduras. Some members of the Working Party said that it would be undesirable to incorporate the surtax into Honduras' final bound tariff rates because that would leave an additional gap between applied and bound rates as soon as the surtax was eliminated. In response, the representative of Honduras said that pursuant to Decree No. 18-90, the following levies had been eliminated: 8 per cent consular stamp tax; 12 per cent levy on non-equalized duties; 5 per cent levy on imports of machinery and

inputs; and 20 per cent levy on all imports. The 10 per cent surtax had been eliminated recently for some **one thousand** tariff lines. Noting that the surtax was of the utmost importance for the immediate financial requirements of the State, Honduras was prepared to undertake not to extend the surtax to further tariff lines and to reduce gradually the number of tariff lines subject to the surtax as the country's fiscal situation improved. Some members of the Working Party stressed that Honduras should commit itself to progressively eliminate the 10 per cent surtax or to incorporate it in its tariff schedule by an agreed date, such as 31 December 1993, and that any surtaxes still in place after the expiration of the agreed time-limit should not be applied in excess of the rates of duty bound in the GATT schedule of Honduras.

10. With reference to column 3 of the Import Tariff of Honduras and the replies to questions 106, 112-116 in document L/7160/Rev.1, some members said that the 5 per cent levy for customs administrative services appeared to be inconsistent with Articles III and VIII of the General Agreement because it could not be related to the customs clearance costs for individual entries. As more revenue was collected than the amount paid for import processing, the 5 per cent levy was not a customs charge but a tax on imports which Honduras should undertake to eliminate by an agreed date, consistent with the findings of the GATT panel which had examined the United States customs user fee. The representative of Honduras said that the 5 per cent customs administrative services levy established by the Law on the Financial Adjustment of the Public Sector, Decree 85-84 which was of general application constituted a transparent fiscal-type charge not intended to provide direct or indirect protection to domestic producers. In the absence of detailed statistical data on the costs of customs services, Honduras could not assess the exact implication of the levy in terms of the General Agreement. Nevertheless, the elimination of the levy would involve a loss of tax receipts of over US$20 million, or 5 per cent of total tax revenue. **Some members of the Working Party stressed that the Protocol of Accession of Honduras would contain a firm commitment to bring the customs administrative services levy into full conformity with the General Agreement by an agreed date, such as 31 December 1993, and not merely a commitment to bring the levy down gradually.**

11. At the request of the members of the Working Party, the representative of Honduras described the modalities for the application of the selective consumption tax, the products subject to the tax and the relevant tax rates. Some members of the Working Party noted that this tax was virtually applied only on imports. For example, a 10 per cent tax was applied to alcoholic beverages except beer, rum and "aguardiente", which were the alcoholic beverages produced in Honduras; that tax was only levied on olive oil but not on other cooking oils. In addition, the selective consumption tax was applied differently to imports from different sources and there was a 15 per cent valuation uplift applied to different valuation bases that artificially increased the incidence of the tax on goods imported from outside the Central American region. Ninety-nine per cent of the revenue collected on this tax accrued from imports. In their view, as a result of the above-mentioned modalities of application, the selective consumption tax was an import tax which should be applied in accordance with Articles

II, III and VIII of the General Agreement. Moreover, the differential application depending on the source of the imports was in conflict with the provisions of Article I. In response, the representative of Honduras said that the selective consumption tax applied to both domestic and imported products which were considered as non-essential on the grounds that the consumers of such products had the capacity to pay the additional tax. A breakdown of the products subject to the tax appeared in Annex 16 to document L/7028. These products were not in the basic basket of household consumption. The fourth column of the current Import Tariff comprised the products subject to the selective consumption tax. The rate of the tax was generally 10 per cent and exceptionally 30 per cent. Pursuant to Article 3, paragraph A, of Decree No. 58 of 29 July 1982, for domestic products, the tax is based on the ex-factory price plus a 15 per cent imputed profit. For imported products, the tax is calculated on the basis of the value resulting from the application of import duties, plus 10 per cent surtax where applicable, plus 5 per cent levy for customs administrative services, with the addition of a 15 per cent imputed profit. The 15 per cent imputed profit used in calculating the basis for the selective consumption tax had been established as a result of Government sponsored market surveys on the average margins of profit. For certain products such as automobiles and perfumes the imputed profit was 10 per cent. In the case of the Central American countries, the distinction between fob and cif values was due to the difficulty in determining the costs of insurance in Central America. He added that in the light of the comments made by the members of the Working Party, Honduras would be willing to revise the selective consumption tax legislation in order to make it fully consistent with provisions of the General Agreement. Some members of the Working Party said that Honduras should make a commitment either to eliminate the selective consumption tax by the date of accession or to restructure the tax eliminating its discriminatory aspects vis-à-vis imports.

12. The representative of Honduras stated that his Government will apply its taxes and charges on imports referred to in paragraphs 9 - 11 of this report in accordance with the provisions the General Agreement, in particular Article III. In addition, the representative of Honduras confirmed that by 30 June 1994, the Government of Honduras would alter the valuation criteria for the application of the selective consumption tax, eliminating differences in methods of valuation of imports from different sources and the imputed profit added to the valuation for application of the tax to imports. If by the dates indicated the above mentioned actions have not been taken, the matter will be reviewed by the CONTRACTING PARTIES.

Consular Fees

13. In response to some members of the Working Party who said that they could see no service provided that justified the charge for consular invoices required for the permission to export products to Honduras. **Some members of the Working Party reiterated that the consular fees were a fiscal measure on imports without link to any actual service rendered. In their view, Honduras should make a commitment either to eliminate the consular fees by an agreed date, such as 31 December 1994, or to bring them into conformity with Article VIII of the General Agreement.**

The representative of Honduras said that the Law on Consular Fees, Decree 27-91 established the consular fees for trade related transactions as follows:

(i) US$10 for certification of bills of lading for an fob value exceeding US$500;
(ii) US$10 to US$30 for commercial invoices exceeding US$500.

The Honduran Consulates abroad did not issue consular invoices but simply legalized the commercial invoices submitted by the interested parties. This was an expeditious and simple procedure which did not impede trade. The consular fee was a fixed charge which did not exceed the cost of the services rendered and did not constitute a source of fiscal revenue. Nevertheless, in the light of the provisions of Article VIII:4 (a) of the General Agreement, Honduras would review the possibility of minimizing the effects of these formalities for international trade.

14. The representative of Honduras stated that his Government will apply its charges, surcharges, and fees on imports referred to in paragraphs 9 - 13 of this report in accordance with the provisions the General Agreement, in particular Articles II and VIII. In this regard, he confirmed that, from the date of accession, his Government would not apply charges other than tariffs or customs charges associated with the cost of services rendered to imports in excess of the bound rates of duty established in Honduras's GATT schedule, unless such application can be explicitly justified under the appropriate GATT Articles. Honduras will eliminate the application of the 10 percent tariff surcharge currently applied to imports by 31 December 1994. In addition, the levy for customs administrative services of 5 percent will be reduced to 3 percent by 31 December 1994, to 1.5 percent by 31 December 1995 and will be eliminated or altered to bring it into conformity with Article VIII by 31 December 1996. Finally, the consular fees currently collected by Honduran consulates abroad for the legalization of commercial invoices will be eliminated by 30 June 1995, and any similar fees subsequently applied for import and export processing or legalization of commercial documents will be assessed at the point of importation or exportation, and in full conformity with Article VIII. If by the dates indicated these fees and charges are still in effect without the above mentioned actions having been taken, the matter will be reviewed by the CONTRACTING PARTIES.

Import Régime

15. A number of the members of the Working Party recognized that in recent years and notwithstanding the country's level of development and balance of payments situation, the Government of Honduras had undertaken far reaching liberalization, rationalization and structural reforms of the foreign trade régime. Noting that Honduras had stated that imports were not subject to quotas, licensing or other quantitative import barriers, and that since 1 April 1993, Decree 222-92, authorizing the adoption of Central American regulations on Unfair Trade Practices and Safeguards and other Central American instruments had superseded other legal provisions for import regulation, some members of the Working Party expressed the hope that Honduras would maintain the process of

economic transformations on a steady course fully consistent with the principles and rules of the General Agreement.

16. The Representative of Honduras stated that the authority of his Government described in paragraphs 9 to 15 of this report to levy taxes and surcharges on imports, and to suspend imports and exports would, from the date of accession be applied in conformity with the provisions of the General Agreement, in particular Articles III, VI, VIII, XI, XII, XVIII, XIX, XX and XXI.

17. Specific comments made by members of the Working Party concerning certain aspects of the import régime of Honduras are summarized below.

Customs Valuation Procedures

[18. The Representative of Honduras stated that his Government will apply Honduras's customs practices and procedures, including customs valuation, in accordance with the provisions of Articles VII and X of the General Agreement from the date of accession. He confirmed that his Government would give first priority in determining customs value to the "actual value" of imports, as provided for in Article VII:2 of the General Agreement, and would avoid the use of administratively determined or constructed prices for customs valuation purposes.]

Implementation of Article X

19. The representative of Honduras confirmed that all regulations and measures of an economic nature or affecting trade will be published in the "Gaceta Oficial" prior to implementation, and that Honduras will apply the provisions of Article X from the date of its accession to the General Agreement. The Working Party took note of this commitment.

Import Prohibitions, Licensing Requirements, and Other Quantitative Restrictions

20. The representative of Honduras declared that his Government does not use import prohibitions, licensing requirements, and other quantitative restrictions for reasons other than to protect human and plant health and public morals, or for national security purposes. In this regard, recent application of such measures to restrict imports of certain poultry products will not be repeated for such products or for any other products, except in conformity with specific Articles of the General Agreement. He confirmed that his Government will eliminate any remaining such measures that are in effect prior to the date of accession, or will justify them in accordance with specific provisions of the General Agreement, in particular Articles XI, XII, XVIII, XIX, XX, and XXI. This justification will be provided to the CONTRACTING PARTIES in an addendum to this report. From the date of accession, additional such measures will only be applied as provided for in the Articles of the General Agreement. If these actions have not been accomplished within six months of accession, the issue will be reviewed by the CONTRACTING PARTIES. In addition, Honduras will ensure that remaining restrictions and import permit requirements are applied in a way consistent with Article XIII of the General Agreement and shall apply all restrictions in accordance with the principle of nondiscrimination. The representative of Honduras further confirmed

that his Government would, if requested, consult with the contracting parties concerning the effect of these measures on their trade.

Price Controls

21. With reference to the replies to questions 6-11 in document L/7160/Rev.1, some members of the Working Party asked when would price controls be eliminated, the manner in which they were applied to imported products and whether the price controls which had been abolished recently could be reintroduced. In response to these questions, the representative of Honduras said that a substantial effort to liberalize prices had been undertaken by his Government recently. At the present time only **five** products and **one** service were subjected to price controls, namely: roasted and ground coffee, iron bars, petroleum products, cement, **fertilisers**, and airline tickets. Domestic prices for these items were adjusted periodically and broadly followed international market prices. As stated in articles 29-30 of the Consumer Protection Law, the purpose of the price controls was to stabilize economic conditions thus avoiding sudden changes which could disrupt supplies and lead to economic and social disturbances. In the case of petroleum products, wholesale prices were adjusted periodically when international market prices fluctuated by more than 5 per cent and the retail selling price had been deregulated. He noted that the price controls which were of a general application were not related to practices in any other sector, in particular the agricultural sector. With regard to grains and other agricultural products, he could confirm that the Honduran Government did not intend to reimpose the price controls eliminated recently. **Pursuant to the Law on the Modernization and Development of the Agriculture Sector, Decree 31-92, the legislation providing for minimum guaranteed State purchase prices for agricultural products had been abolished. Trade in all agricultural products was now free of all import restrictions, aside from SPS requirements.** Finally, the representative of Honduras assured the Working Party that in respect of price controls, Honduras would comply with the provisions of Article III of the General Agreement. The Working Party took note of these assurances.

Fair Trade Legislation

22. Some members of the Working Party said that they were puzzled by the apparent linkage between measures necessary to safeguard the country's balance of payments situation and measures necessary to counter trade practices such as subsidies and dumping that might cause serious injury to the domestic industry. This linkage had been made in the replies to questions 12 and 75-81 in document L/7160/Rev.1. The representative of Honduras confirmed that in the case of balance of payments difficulties, Honduras would comply with the provisions of Article XVIII of the General Agreement as well as the relevant CONTRACTING PARTIES' Decisions. In the case of unfair trade practices or emergency situations, the authority to take the necessary appropriate action contained in Article 10 of the Tariff and Customs Régime, Decree 213-87 had seldom been invoked, and, as of 1 April 1993, had been superseded by the Central American Regulations on Unfair Trade Practices and Safeguards, Decree 222-92. He added that the regulations were fully consistent with Articles VI, XVI and XIX of the General Agreement respectively. The Working Party took note of these assurances.

23. The representative of Honduras indicated that his Government would apply, from the date of accession, measures taken for safeguard or antidumping purposes or regarding subsidies and countervailing duties in conformity with the provisions of the General Agreement, including the serious injury test when applying safeguard measures. In this regard, Honduras would apply the Central American Regulations on Unfair Trade Practices and Safeguards, Decree 22-92 and the provisions of Decree 213-87 in full conformity with Articles VI, XVI, and XIX of the General Agreement, and in conformity with the Antidumping [and Subsidy] Code[s] after adherence to these [this] agreement[s]. The Working Party took note of the commitments given by the representative of Honduras.

Balance of Payments Restrictions

24. The representative of Honduras indicated that his Government did not consider Article XVIII:B provisions regarding the use of import restrictions to protect the balance of payments as offering an opportunity to provide protection for specific industries. Moreover, if quantitative restrictions were applied on specific products to foster the development of domestic capacity output, these restrictions would not be justified by Honduras on balance of payments grounds. If the need to use trade restrictions for balance of payments purposes should arise, such restrictions would only be applied on a temporary basis, in conjunction with appropriate corrective macroeconomic adjustment measures. He added that, in accordance with the Declaration adopted by the CONTRACTING PARTIES on 28 November 1979, when applying such measures, Honduras would [,taking into account its financial, development and trade situation,] give preference to those measures which have the least disruptive effect on trade, i.e., [for example] price-based measures, and that whenever practicable, it would also publicly announce a time schedule for the removal of the measures. He also confirmed that his Government intended to notify any restrictions taken for balance of payments purposes to the Balance of Payments Committee, and would consult with the CONTRACTING PARTIES according to the relevant provision of Article XVIII and other GATT instruments.

Agricultural Policy

25. Questions were raised with regard to certain agricultural policies of Honduras, including in particular the price band mechanism, the veterinary, sanitary and phytosanitary regulations and the current situation on imports of poultry products described in the replies to questions 101-102, 58 and 66-70, respectively, in document L/7160/Rev.1. The representative of Honduras confirmed that there were no prohibitions, quotas or other restrictions on imports of agricultural products. However, these imports had to be covered by a phytosanitary permit from the Ministry of National Resources and be accompanied by the similar permit issued in the country of origin of the product in order to assure the protection of domestic animal and plant health. In the case of food products, the requirements established in the Health Code for domestically produced foods were applicable. A price band mechanism was currently applied to some staple grains, such as sorghum, yellow maize, whole and brown rice and rice in the husk. For these products maximum and minimum prices based on a sixty month average were used. If the price was between the floor and the ceiling, the tariff rate was 25 per cent (includes the customs fee). If the price was higher than the

ceiling, the tariff rate diminished as the price increased, with the lowest rate being 5 per cent. If the price was below the floor, the tariff rate increased as the price diminished, with the highest rate being 45 per cent. This mechanism was designed to protect both producers and consumers from sharp fluctuations in world market prices with a view to guaranteeing a margin of food security concerning staple grains for the Honduran population. The Honduran Agricultural Marketing Institute prepared the tables of prices and tariffs which were submitted for approval to the Agricultural Development Council. The customs tariffs subsequently enacted by the National Congress were valid for 12 calendar months from 1 September of each year. The price band mechanism had been conceived as a regional instrument within the Central American integration system. He also recalled that pursuant to the Law on the Modernisation and Development of the Agricultural Sector, Decree 31-92, the guaranteed prices for agricultural products had been eliminated. Finally he confirmed that Honduras would review the price band mechanism. Some members of the Working Party reiterated that the price band mechanism used by Honduras to regulate grain imports was a variable levy which Honduras should gradually phase out in favour of fixed tariff levels and bindings. These members welcomed Honduras's intention to review the operation of the price band mechanism but noted that any adjustments in its application must establish secure and transparent methods of import regulation within GATT rules.

Basic Basket

26. Noting that the products included in the "basic basket" listed in the reply to question 15 in document L/7160/Rev.1 appeared to be selective because the "basic basket" encompassed only certain cuts of meat and certain fruits, some members of the Working Party asked about the procedures to establish and modify the list. In response the representative of Honduras said that the "basic basket" encompassed the list of products which reflected the consumer needs of the Honduran population and were also taken into account in establishing the consumer price index. This list included the 10 product categories essential for the subsistence of low income consumers. Monthly consumer surveys ensured the representativity of the list, which could be updated periodically. Currently, foodstuffs represented a majority of the "basic basket" products, some 42 per cent of which were constituted by corn and red beans. Because of social considerations these items were exempted from the sales tax and the selective consumption tax.

Sanitary Requirements

27. Some members of the Working Party enquired about the sanitary requirements applied by Honduras and questioned the refusal to grant the necessary certificate for the import of poultry parts. In their view, Honduras should give assurances that sanitary and phytosanitary restrictions would be applied equally to imported and domestic products and would not be administered in a way that unnecessarily delayed or inhibited imports. Furthermore, Honduras should indicate its intention to join the Agreement on Technical Barriers to Trade at the time of accession. In response the representative of Honduras referred to the reply to question 56 in document L/7160/Rev.1 and said that the sanitary conditions which must be met by imported and domestic animals and plants alike were set out in the Health Regulations for the Import and Export

of Animal and Animal Products and By-Products and in the Law on Plant Health, respectively. The Honduran legislation was fully consistent with internationally agreed phytosanitary standards. Exporters and importers of food had to comply with the Health Code, Decree 65-91, and with the relevant regulations laid down by the Ministries of Health, of National Resources and of the Economy and Trade. As described in the reply to question 58 in document L/7160/Rev.1, the imports of certain poultry parts were a substantial problem for the Central American region as a whole. This issue was currently being considered by the Central American Customs Council which pursuant to the authority granted by Decree 222-92 and based on the manuals produced by the International Office of Epizootics (IOE) might draw up the list of agricultural products restricted for phytosanitary reasons. Honduras expected that all the parties concerned would, in the near future, achieve a multilaterally agreed solution to this issue. Moreover, as a participant in the Uruguay Round multilateral trade negotiations, Honduras would be ready to subscribe to the agreements reached on sanitary and phytosanitary measures.

28. The representative of Honduras stated that his Government applies the same controls and rules regarding technical regulations, standards, certification, and labelling requirements to imported and domestic goods, and does not consider the use of such regulations to restrict imports as being in its best commercial interests. In this regard, he stated that Honduras would ensure that after its accession, its technical regulations, standards, certification, and labelling requirements, including those applied for sanitary or phytosanirary reasons, would not be applied to import in an arbitrary manner, in a way that discriminated between supplier countries where the same conditions apply, or as a disguised restriction on international trade. It would also ensure that certification requirements would be administered in a transparent and expeditious manner. The representative of Honduras confirmed that his Government would, if requested, consult with the contracting parties concerning the effect of these requirements on their trade with a view to resolving specific problems. The Working Party took note of these commitments.

Export Policy

29. The spokesman for a number of members of the Working Party said that the export declaration referred to in the replies to questions 12 and 27 in document L/7160/Rev.1, appeared to be a defensive trade measure not in keeping with the liberalization of the foreign trade régime of Honduras. With reference to the reply to question 3 in document L/7160/Rev.1, the same spokesman questioned the justification of the export prohibition on coffee berries and parchment coffee. In response the representative of Honduras recalled that Honduras not only had a substantial foreign debt but also that the country's imports had to be paid. Therefore, the export declaration was not an export approval mechanism but simply a statistical instrument aimed at securing compliance with the Law on the Repatriation of Foreign Exchange from Exports. He added that the export prohibition on coffee berries and coffee parchment was aimed at increasing value added having regard to the cost of transport and to ensuring to the consumers a product with homogeneous quality. Moreover, roasted and ground coffee for household

consumption were subject to price control and due to the collapse of world coffee prices, a production premium had been granted for the current harvest. The Honduran Government was seeking an agreement between producers and consumers which might make it possible to follow multilaterally agreed policies concerning coffee. The Working Party took note of this statement.

Export Incentives

30. Questions were raised with regard to the economic programmes pursued by Honduras in various areas and in particular the instruments used to encourage exports. The representative of Honduras said that special benefits were accorded to the enterprises established in the Free Zones and in the Industrial Processing Zones for Export Trade (ZIP) such as exemption from customs duties, charges and surcharges, internal production, consumption and sales taxes as well as other levies such as the income tax for a limited time period under certain conditions. The Temporary Import Régime (RIT) allowed the suspension of payment of customs duties and other taxes and fees, including the sales tax for certain imports as well as an income tax holiday for a limited time period under certain conditions. With regard to trade credits, the policy of the Central Bank was to apply realistic rates of interest both for credits in Lempiras and in foreign currencies. The free zones and ZIPs had become increasingly important for the Honduran economy representing in 1991 some 23.8 per cent of the country's total exports of goods. The representative of Honduras added that the export promotion programme was considered to be consistent with the provisions of Article XVI of the General Agreement as well as with Article XVIII and the 1979 Decision concerning the participation of developing countries in the multilateral trading system.

31. While recognizing the status of Honduras as a developing country, some members of the Working Party said that some aspects of the export promotion programme were not consistent with Article XVI of the General Agreement or the Subsidies Code. In their view the free zone régime, the temporary import régime (RITs) and the Industrial Processing Zones for Export Trade (ZIPs) provided for the exemption from direct taxes such as income or profit taxes, and allowed the exemption from tariffs or indirect taxes on imports that were not directly incorporated in the exported product. These practices were considered countervailable subsidies under the GATT. In addition, the requirement that entities in the RIT zones export virtually all their output in order to benefit from the tax and tariff exemptions available constituted an export programme requirement that distorted trade and should be eliminated.

Free Trade Zones

32. The representative of Honduras noted that sales to the national customs territory by firms established in Honduras's Free Zones and Industrial Processing Zones for Export Trade (ZIP), and by firms subject to the Temporary Import Regime (RIT) are subject to the payment of all taxes, duties, and customs charges on their imported component that are applied to other imports into the national customs territory.

33. The representative of Honduras stated that it is the intent of his Government that the subsidy programs described in paragraphs 29 - 31 in

this report would be notified and justified on a regular basis to the GATT CONTRACTING PARTIES as called for in Article XVI:1. He also indicated that it is his Government's intent to avoid serious prejudice to the interests of other contracting parties as set out in Article XVI:1, as well as to consult upon the request of any contracting party on the possibility of limiting the subsidization. [He further stated that Honduras, in accordance with its economic development plan, intended to progressively eliminate the application of the export subsidies described in paragraphs 29 - 31 of this report, and that the use of such measures would be eliminated by 31 December 1993. During this period, the margin of subsidy afforded by such measures to exports would not be increased, and Honduras did not intend, in the future, to use export subsidies as part of its development plan. The Working Party took note of these commitments.]

State Trading Activities

34. With reference to the replies to questions 17-20 in document L/7160/Rev.1, some members noted that even though Honduras had undertaken a far reaching privatization effort in recent years, in a number of important economic sectors including petroleum products, alcoholic beverages, coffee, cement, electricity and telecommunications, State agencies appeared to have a predominant if not exclusive role. For instance, BANADESA (National Agricultural Development Bank) not only carried out banking activities but also sold agricultural inputs. COHDEFOR (Honduran Forestry Development Corporation) was the executing agency for forestry policy. IHMA (Honduran Agricultural Marketing Institute) was responsible for the marketing of staple grains and the constitution and management of the strategic reserve. BANASUPRO (National Basic Products Supply Company) was responsible for supplying basic goods to the poor urban and rural sectors in sufficient quantities and at reasonable prices. BANASUPRO operated through its own sale outlets or concessions and could import products if shortages arose. The representative of Honduras said that the enterprises which produced or traded cement, petroleum products, tobacco products and dairy products had already been privatized, thus the State had ceased to take part in these activities. The distribution or marketing of coffee, iron bars or vegetable oils was not handled by State enterprises. BANADESA did not have any monopoly rights and its trading section **had already been** privatized. Pursuant to Article 71 of the Law on Modernization and Development of the Agricultural Sector, certain functions of COHDEFOR had been suppressed and wood products could be traded freely. IHMA did not have a monopoly for trade on staple grains. BANASUPRO performed an essential role for the economic and social well being of the poorer sectors of the population through the purchase and sale of consumer goods. In taking note of these comments, some members said that pending the privatization of the above mentioned State entities, a mechanism to monitor their involvement in trade might be set up and Honduras should make a commitment to notify and comply with the obligations provided for in Article XVII in respect of the State agencies and enterprises listed in the replies to questions 17-20 in document L/7160/Rev.1. The representative of Honduras said that pursuant to the Government Procurement Law, Decree 148-85 of 29 August 1985, contracts for public works, the provision of services or the supply of goods concluded by the Central Government and decentralized institutions were awarded by public

tender called through notices published in the Official Journal and other daily newspapers. Both national and foreign bidders could participate in these tenders. Honduras was ready to make a commitment concerning the maintenance of full transparency in the activities of the State enterprises relevant to international trade as provided for in the General Agreement. The Working Party took note of these commitments.

35. The representative of Honduras stated that his Government will apply laws and regulations governing the state-trading activities of the enterprises described above in conformity with the provisions of Article XVII, including provisions for nondiscrimination, the application of commercial criteria for trade transactions, notification and other procedures. In this regard, the State-owned and operated enterprises described in paragraph 33 will be notified to the CONTRACTING PARTIES under Article XVII. Purchases by these agencies for the manufacturing process or for resale are not considered government procurement under the General Agreement. The Working Party took note of this commitment.

Economic Community of the Central American Isthmus

36. In response to some members who requested clarifications concerning developments in the transition towards the Central American Community and the GATT justification of the respective free trade agreements, the representative of Honduras submitted the report mentioned in document L/7197 concerning the status of the Central American integration process and noted, inter alia, the following developments: (i) establishment of the Central American Integration System; (ii) establishment of a single window and collection mechanism; (iii) adoption of a single customs declaration; (iv) harmonization of the Import Tariff; (v) approval of the Free Payments System and (vi) expansion of the liberalized tariff headings to 1637 headings. On 1 March 1993, the definitive Free Trade Agreement had entered into force as well as the following Central American regional instruments: Uniform Customs Code, Regulations on Unfair Business Practices and Safeguard Clauses, Regulations on the Origin of Goods, Uniform Customs Convention, Law on Customs Valuation of Goods, and Import Tariff.

37. In response to some members who said that the Central American Agreements should be brought to the GATT for review and assessment under Article XXIV of the General Agreement, the representative of Honduras recalled that Nicaragua had notified and GATT had reviewed the General Treaty for Central American Economic Integration. Honduras was willing to provide to the contracting parties all the information available concerning the Central American economic integration process and to comply with all GATT obligations. Other members of the Working Party noted that since 1979 the Enabling Clause Decision had established a formal legal basis for regional or global preferential trade arrangements among developing countries. Some members stressed that neither under Article XXIV nor under the Enabling Clause could GATT rights and obligations be nullified or impaired.

38. The representative of Honduras stated his Government will notify the preferential agreements listed above to the CONTRACTING PARTIES within one year of accession, and will coordinate with other contracting party members of these agreements in providing periodic reports on the

activities of these agreements, with particular emphasis on changes in their operation that could affect contracting party trade. He further stated that his Government was prepared to consult with the contracting parties concerning these agreements as provided for in Article XXIV and the provisions of the Enabling Clause. The Working Party took note of this commitment.

MTN Agreements

39. Some members of the Working Party suggested that Honduras should consider acceding to the following MTN Agreements immediately after acceding to GATT: Customs Valuation, Subsidies, Anti-Dumping, Import Licensing Procedures, Technical Barriers to Trade **and Government Procurement.** A member added that Honduras should also undertake to comply with Article VII of the General Agreement regarding artificial and arbitrary valuation and the use of valuation uplift during the period required to bring the customs valuation practices into conformity with the General Agreement. The representative of Honduras said that the normal price **criteria** currently in force was compatible with Article VII of the General Agreement. Nevertheless, **at the time of accession to GATT,** Honduras would accept the Customs Valuation Agreement under the special time frame for developing countries. Honduras would also accede to the Anti-Dumping Agreement **as well as the Bovine Meat Agreement in a six month period after accession to the General Agreement. [The representative of Honduras added that within two years after accession to the General Agreement, Honduras would adhere to the Code on Import Licensing Procedures. As a participant in the Uruguay Round, in order to become a member of the Multilateral Trade Organization, Honduras would accept the multilateral agreements annexed thereto. The Working Party took note of these commitments.]**

Financial Services

40. In response to a member who had asked whether branches of foreign banks as opposed to full fledged subsidiaries were allowed by Honduras, the representative of Honduras said that pursuant to Article 19 of the Law on the Establishment of Banking Institutions, Decree Law 135 of 1 September 1955, foreign banks were allowed to establish both branches or agencies and subsidiaries and had done so in the past.

Conclusions

41. The Working Party took note of the explanations and statements of Honduras concerning its foreign trade régime, as reflected in this report. The Working Party took note of the assurances given by Honduras in relation to certain specific matters which are reproduced in paragraphs [.....] on this report and noted that these commitments had been incorporated in Paragraph 2(a) of the Protocol of Accession.

42. Having carried out the examination of the foreign trade régime of Honduras and in the light of the explanations and assurances given by the Honduran representatives, the Working Party reached the conclusion that, subject to the satisfactory conclusion of the relevant tariff negotiations, Honduras be invited to accede to the General Agreement

under the provisions of Article XXXIII. For this purpose the Working Party has prepared the draft Decision and Protocol of Accession reproduced in the Appendix to this report. It is proposed that these texts be approved by the Council when it adopts the report. When the tariff negotiations between Honduras and contracting parties in connection with accession have been concluded, the resulting Schedule of Honduras and any concessions granted by contracting parties as a result of negotiations with Honduras would be annexed to the Protocol. The Decision would then be submitted to a vote by contracting parties in accordance with Article XXXIII. When the Decision is adopted the Protocol of Accession would be open for acceptance and Honduras would become a contracting party thirty days after it accepts the said Protocol.

APPENDIX

ACCESSION OF HONDURAS

Draft Decision

The CONTRACTING PARTIES,

Having regard to the results of the negotiations directed towards the accession of the Government of Honduras to the General Agreement on Tariffs and Trade and having prepared a Protocol for the accession of Honduras.

Decide, in accordance with Article XXXIII of the General Agreement, that the Government of Honduras may accede to the General Agreement on the terms set out in the said Protocol.

DRAFT PROTOCOL FOR THE ACCESSION OF HONDURAS
TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE

The governments which are contracting parties to the General Agreement on Tariffs and Trade (hereinafter referred to as "contracting parties" and the "General Agreement", respectively), the European Economic Community and the Government of Honduras (hereinafter referred to as "Honduras"),

Having regard to the results of the negotiations directed towards the accession of Honduras to the General Agreement,

Have through their representatives agreed as follows:

PART I - GENERAL

1. Honduras shall, upon entry into force of this Protocol pursuant to paragraph 6, become a contracting party to the General Agreement, as defined in Article XXXII thereof, and shall apply to contracting parties provisionally and subject to this Protocol:

(a) Parts I, III and IV of the General Agreement, and

(b) Parts II of the General Agreement to the fullest extent not inconsistent with its legislation existing on the date of this Protocol.

The obligations incorporated in paragraph 1 of Article I by reference to Article III and those incorporated in paragraph 2(b) of Article II by reference to Article VI of the General Agreement shall be considered as falling within Part II for the purpose of this paragraph.

2. (a) The provisions of the General Agreement to be applied to contracting parties by Honduras shall, except as otherwise provided in this Protocol and in the commitments listed in paragraph [41] of the Report of the Working Party on the Accession of Honduras (document L/[ ] dated [ ] 1993), be the provisions contained in the text annexed to the Final Act of the second session of the Preparatory Committee of the United Nations Conference on Trade and Employment, as rectified, amended or otherwise modified by such instruments as may have become effective on the day on which Honduras becomes a contracting party.

(b) In each case in which paragraph 6 of Article V, sub-paragraph 4(d) of Article VII, and sub-paragraph 3(c) of Article X of the General Agreement refer to the date of that Agreement, the applicable date in respect of Honduras shall be the date of this Protocol.

PART II - SCHEDULE

3. The Schedule in the Annex shall upon entry into force of this Protocol, become a schedule to the General Agreement relating to Honduras.

4. (a) In each case in which paragraph I of Article II of the General Agreement refers to the date of the Agreement, the applicable date in respect of each product which is the subject of a concession provided for in the Schedule annexed to this Protocol shall be the date of this Protocol.

(b) For the purpose of the reference in paragraph 6(a) of Article II of the General Agreement to the date of that Agreement, the applicable date in respect of the Schedule annexed to this Protocol shall be the date of this Protocol.

PART III - FINAL PROVISIONS

5. This Protocol shall be deposited with the Director-General to the CONTRACTING PARTIES. it shall be open for acceptance by signature or otherwise, by Honduras until [ ] 1993. It shall also be open for acceptance by contracting parties and by the European Economic Community.

6. This Protocol shall enter into force on the thirtieth day following the day upon which it shall have been accepted by Honduras.

7. Honduras, having become a contracting party to the General Agreement pursuant to paragraph 1 of this Protocol, may accede to the General Agreement upon the applicable terms of this Protocol by deposit of an instrument of accession with the Director-General. Such accession shall take effect on the day on which the General Agreement enters into force pursuant to Article XXVI or on the thirtieth day following the day of the deposit instrument of accession, whichever is the later. Accession to the General Agreement pursuant to this paragraph shall, for the purposes of paragraph 2 of Article XXXII of that Agreement, be regarded as acceptance of the Agreement pursuant to paragraph 4 of Article XXVI thereof.

8. Honduras may withdraw its provisional application of the General Agreement prior to its accession thereto pursuant to paragraph 7 and such withdrawal shall take effect on the sixtieth day following the day on which written notice thereof is received by the Director-General.

9. The Director-General shall promptly furnish a certified copy of this Protocol and a notification of each acceptance thereto, pursuant to paragraph 5 to each contracting party, to the European Economic Community, to Honduras and to each government which shall have acceded provisionally to the General Agreement.

10. This Protocol shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

Done at Geneva this [date to be inserted] day of [month to be inserted] one thousand nine hundred and ninety three, in a single copy, in the English, French and Spanish languages, except as otherwise specified with respect to the Schedule annexed hereto, each text being authentic.

ANNEX

SCHEDULE XCV - HONDURAS

[To be completed]