SUMMARY

(1) INTRODUCTION

1. Nicaragua has a relatively open trade and investment regime, with an average MFN tariff of 6.2 per cent and limited use of non-tariff measures. It participates actively in the Central American regional integration process, and its trade policy is largely determined by its involvement in that process and by its adherence to other international agreements, in particular CAFTA-DR. Nicaragua's trade and investment policy is designed to foster its integration in the world economy, using the country's comparative advantage in products such as coffee and sugar, but at the same time also promoting the development of a more solid and chiefly export-oriented industrial base, through schemes such as the free zones.

2. Nicaragua's prudent macroeconomic management has largely enabled it to offset the impact of negative external shocks during the period under review. The Nicaraguan economy was able to weather the international financial crisis relatively well, maintaining positive GDP growth rates with the exception of 2009. As a result, the poverty rate has been reduced, although it continues to be significant, as is the disparity between urban and rural areas. Nicaragua is also facing the challenge of reducing its dependence on remittances from workers abroad, which accounted for more than 12 per cent of its GDP in 2011 and financed a considerable portion of consumption.

(2) ECONOMIC ENVIRONMENT

3. Since the last Trade Policy Review of Nicaragua in 2006, the economy has successfully overcome a series of adverse shocks, including the damage caused by hurricane Felix, the increase in food and oil prices, and the international financial crisis. Although the crisis caused real GDP to contract by 1.5 per cent in 2009, the economy has recovered since then, growing by 4.5 per cent in 2010 and 4.7 per cent in 2011 and bringing the average growth rate for the period 2006-2011 to 4 per cent. This solid growth was underpinned by strong domestic demand and exports, particularly of agricultural products. In spite of these positive results, the Nicaraguan economy remains vulnerable to external shocks, largely owing to the dependence of its electricity and transport subsectors on oil imports and to the magnitude of its public debt, which in 2011 represented 71.8 per cent of GDP.

4. The economic growth of the past few years has led to an improvement in the social indicators, and in particular, a decrease in the poverty and illiteracy rates. However, the poverty rate still exceeds 40 per cent, and there remain a number of challenges to be met if the disparity between urban and rural areas is to be reduced. More jobs also need to be created to reduce the dependency on remittances from workers abroad, which accounted for more than 12 per cent of GDP in 2011 and financed a considerable portion of consumption. Although high, these remittances have not sufficed to fund the considerable deficit in the balance of trade in goods and services, so that the balance-of-payments current account posted deficits ranging from 16 to 23.7 per cent of GDP during the period 2006-2011. This has happened in spite of the fact that goods exports grew faster than imports during that period.

5. Nicaragua maintains the free convertibility of its national currency, the córdoba, under a crawling peg system. During the review period, the Central Bank of Nicaragua respected its pre-announced target of a 5 per cent annual decline. The Nicaraguan economy remains highly dollarized: US dollar assets accounted for 71.6 per cent of total assets in 2011, while 71 per cent of the banking system's liabilities were expressed in dollars, as well as 91 per cent of the loans. Like

other countries, Nicaragua has temporarily reduced its import tariffs and VAT rates for a range of commodities in order to relieve inflationary pressures. As measured by the consumer price index (CPI), inflation was estimated at 8 per cent in 2011, and is expected to reach 9.7 per cent in 2012 before gradually receding to 7 per cent in 2016.

6. During the review period, Nicaragua embarked on a tax reform aimed at broadening the tax base and strengthening tax administration. The result was an increase in tax revenue in absolute terms and as a percentage of GDP.

(3) TRADE AND INVESTMENT POLICY FRAMEWORK

7. Nicaragua has a relatively open trade and investment regime. The main objective of its trade policy is to promote access to foreign markets and become more fully integrated in the international economy by negotiating and administering international agreements on trade and investment. The authorities feel that the signature of international trade and investment agreements enhances legal stability and helps to create a reliable legal framework to attract investment, both domestic and foreign. The private sector also plays a role in policy formulation, and receives support so that it can take advantage of international market opportunities, in particular export markets.

8. In the WTO, Nicaragua attaches considerable importance to the successful conclusion of the Doha Development Agenda. Its main interest is to ensure that the negotiations lead to better market access for its agricultural products. Thus, Nicaragua has joined with different groups of developing countries to put forward proposals in the agriculture negotiations, on issues such as negotiating modalities on market access, special and differential treatment, and the development box.

9. Nicaragua participates actively in the Central American regional integration process, and its trade policy is largely determined by its involvement in that process and by its adherence to other international agreements, in particular CAFTA-DR. The adoption of trade measures is contingent upon the commitments acquired under those integration agreements.

10. In 1960, Nicaragua signed the General Treaty on Central American Economic Integration, which creates a basic framework for economic integration and establishes the Central American Common Market (CACM), of which Costa Rica, El Salvador, Guatemala and Honduras are also members. By the end of 2011, the harmonization of tariffs between CACM members had progressed considerably, and covered approximately 95.7 per cent of all tariff lines (under the Central American Tariff System). Members of the CACM also adopted a number of provisions on customs procedures to facilitate intraregional trade. They introduced a Central American tariff tool known as *Arancel Informatizado Centroamericano* (AIC), which covers all of the taxes and tariff reductions under the free trade agreements applicable to products entering the CACM, as well as the non-tariff measures to which those products are subject, such as technical regulations, sanitary and phytosanitary measures, quotas and safeguards in force.

11. Nicaragua has free trade agreements (FTAs) with the United States (CAFTA-DR), Mexico, the Dominican Republic, Panama and Chinese Taipei. It has also concluded the negotiation of an FTA with Chile, and together with its Central American partners, it has signed the Association Agreement between Central America and the European Union. CAFTA-DR has been particularly important to Nicaragua in that it has boosted trade with the United States, its main trading partner. During the period under review, Nicaragua sought to strengthen relations with its current trading partners while continuing to look for new trading partners, as demonstrated by its agreements with

Chile and the European Union. At the same time, Nicaragua's trade relations with the other members of the Bolivarian Alliance for the Peoples of our America (ALBA) have grown deeper and stronger.

12. Nicaragua pursues a policy of openness to foreign investment. To that end, it has strengthened the institutions responsible for the promotion of investment, and has included trade facilitation in the mandate of the Nicaraguan investment promotion agency PRONicaragua, which operates under the Office of the President. Foreign investment is not subjected to any restrictions or conditions. As a rule, foreign investors enjoy the same rights under the law as Nicaraguan investors, and are given the same means to exercise them, with the exception of cases relating to national security and public health, and subject to the limitations laid down in the Constitution. The law recognizes the right of investors to freely dispose of their property, except in the event of declaration of public utility, and to receive appropriate compensation. Foreign investors may own 100 per cent of the shares or the capital of a domestic company.

13. Foreign investment is eligible for the tax concessions granted under special regimes such as the free zones, as well as those granted under the Law on Temporary Admission. It is also eligible for tax concessions for specific sectors with export potential, such as textiles and clothing and tourism. As a rule, investors are not required to fulfil any specific performance criteria, such as the exportation of specific quantities or minimum local content.

14. Domestic and foreign companies producing goods or supplying services may establish themselves in the free zones. Users of free zones must produce for export or for other enterprises in the free zones. Investors in the free zones benefit from a number of tax incentives, such as tax exemptions on income generated by operations within the zone for a period of 10 to 15 years, and a tax reduction following that period. They are also exempted from import taxes on raw materials and capital goods. Finally, companies in the free zones are also exempted from other internal taxes and export taxes on goods processed in the zone. As of December 2011, 161 companies were operating with free-zone status in Nicaragua, generating close to 100,000 jobs and exporting more than two billion US dollars' worth of goods and services.

15. The temporary admission procedure allows both the entry of goods into the customs territory of Nicaragua and the local purchase of goods or raw materials free from any duty or tax, provided the goods are re-exported after undergoing processing, repair or alteration. To be eligible for the benefits under this regime, companies must directly or indirectly export at least 25 per cent of their production, for a value of at least US$50,000 per year. The benefits are calculated on the basis of the expected percentage of exports, which is determined for a period of five years. Free-zone users are not eligible for the temporary admission procedure.

16. Nicaragua has concluded bilateral investment agreements with Germany, Argentina, Belgium-Luxembourg, the Czech Republic, Chile, the Republic of Korea, Denmark, Ecuador, Spain, the United States, Finland, France, Holland, Italy, the United Kingdom, El Salvador, Sweden, Switzerland, Chinese Taipei, and Russia. Nicaragua is a member of the International Centre for Settlement of Investment Disputes (ICSID).

(4) TRADE POLICIES BY MEASURE

17. Nicaragua's customs procedures are based on the Central American Uniform Customs Code (CAUCA IV) and its implementing regulations (RECAUCA IV). During the period under review, Nicaragua made considerable progress in the trade facilitation area, for example, by computerizing most custom procedures. Nicaragua has also implemented a risk assessment system based on fixed

rules as well as probabilistic and random models to reduce the number of inspections. However, according to the private sector, this is an area where further improvements are needed to streamline formalities and reduce clearance time. Nicaraguan law requires a licensed customs broker for the clearance of imports in most cases.

18. Nicaragua's 2012 applied tariff covers 7,359 lines. All of the rates are *ad valorem*. 46.4 per cent of tariff lines are duty free. The average MFN tariff in 2012 was 6.2 per cent. The applied tariff on agricultural products (WTO definition), which averaged 11.2 per cent, was considerably higher than the applied tariff on non-agricultural products (5.2 per cent). The average tariff on lines with greater-than-zero rates rose from 10.9 per cent in 2005 to 11.6 per cent in 2012. Nicaragua does not apply seasonal or variable tariffs. Tariff quotas are maintained both at the bilateral and the multilateral level. Nicaragua's tariff is bound in the WTO at 13 rates, which range from 0 to 200 per cent. The applied tariffs are all lower than or equal to the bound tariffs.

19. Imports are also subject to an Import Service Fee (TSIM) and a fee for the electronic transmission of the customs declaration. Nicaragua applies a value added tax (VAT) of 15 per cent on the supply of goods and services, including their importation; exports are subject to a 0 per cent VAT. Nicaragua also has a Selective Consumption Tax (ISC) that applies to a number of goods, both domestic and imported. Goods subject to ISC represent about 14 per cent of the tariff universe. There are 22 different ISC *ad valorem* rates, ranging from 2 to 100 per cent, and specific rates for cigarettes and petroleum products.

20. During the review period, Nicaragua did not apply any contingency measures. In January 2008, Nicaragua notified the WTO of the Central American Regulations on Unfair Business Practices, which entered into force in May 2007. Nicaragua has also notified the WTO of its new legislation on safeguard measures.

21. In general, the preparation of technical standards, both voluntary standards and technical regulations, is centralized and entrusted to various technical committees chaired by the representative of the competent authority. Nicaragua has a list of technical regulations that can be viewed online. In June 2012, there were 249 technical regulations in force. Of these, 96 were in the food sector, while 25 related to the environment, 23 to agriculture and health protection, and 20 to hydrocarbons, the rest covering various areas such as pesticides, pharmaceutical products and transport.

22. Where sanitary and phytosanitary measures are concerned, Nicaragua does not allow imports of food, plants, animals or their products unless accompanied by a sanitary/phytosanitary import permit or a free sale certificate (for food). Since the last review, Nicaragua has updated the legal framework relating to sanitary and phytosanitary measures with the adoption of a law establishing registration and a permit system for activities involving the transit, import, production and export of living organisms modified by means of molecular biotechnology; the corresponding regulations are still in the process of being approved.

23. In 2012, Nicaragua notified the WTO that it had not granted any subsidy within the meaning of the Agreement on Subsidies and Countervailing Measures, nor had it granted any export subsidies within the meaning of the Agreement on Agriculture. As previously mentioned, Nicaragua grants various customs duty and tax reductions and exemptions under the free zone regime and the temporary admission for inward processing and export facilitation procedure. The Bank for the Promotion of Production (PRODUZCAMOS), established in November 2007, provides financial services and technical assistance with a view to contributing to the development of domestic production, particularly of exportables.

24. In general, prices are freely determined by the interplay of supply and demand. However, Nicaragua regulates the prices of pharmaceutical products for human consumption, airport services and the services provided by the National Port Authority, as well as the tariffs for electricity (transmission and public consumption), bottled LPG, sanitary sewerage services and drinking water for public consumption.

25. As part of the process of modernization of its legal framework for the purpose of establishing a stable investment regime, Nicaragua adopted a Law on the Promotion of Competition and its regulations. Both entered into force in June 2007 and govern anti-competitive agreements, abuse of dominant position and concentrations (mergers and acquisitions). The Law prohibits any concerted agreement or practice between economic operators for the purpose of restricting competition, including by denying access to an economic operator or driving it out of the market. The National Institute for the Promotion of Competition (PROCOMPETENCIA) and a public-law technical administrative court, which has been operating since May 2009, were set up to apply the new legal framework.

26. Nicaragua is not a member of the WTO's Plurilateral Agreement on Government Procurement. Since its last review, Nicaragua has introduced new government procurement legislation with the adoption of a Law on Public Sector Administrative Procurement and its regulations, which entered into force in February 2011, together with a Law on Municipal Procurement, which entered into force in 2007. The public sector procurement legislation does not contain any provisions granting more favourable treatment to domestic suppliers of goods, services and public works; however, the municipal procurement regime provides for a preferential margin of 10 per cent for municipal labour.

27. The legal framework in the area of intellectual property rights has not changed substantially during the review period. The changes introduced include the adoption in 2011 of the Law on Ancestral Traditional Medicine, which defines traditional knowledge and bio-piracy and establishes the requirements for collective intellectual property right patents. Moreover, since its last review, Nicaragua has acceded to the Lisbon Agreement, the Budapest Treaty and the Trademark Law Treaty.

(5) TRADE POLICY BY SECTOR

28. Agriculture (including livestock farming, forestry and fishing) accounts for almost 19 per cent of Nicaraguan GDP and employs a third of the labour force. Moreover, the agriculture sector is vitally important for generating foreign exchange, since it is the source of three quarters of merchandise exports. The sector has grown in importance during the review period thanks to the strong performance of exports. The principal crops, in value terms, are coffee (café oro) and sugarcane. The average MFN tariff protection in the agricultural sector (Major Division of ISIC, Rev.2) was 8.3 per cent in 2011, as compared with an average tariff of 6.2 per cent. There are tariff peaks for some products, such as chicken thighs (164 per cent), milled rice and milk (60 per cent).

29. Nicaragua has notified the WTO that it did not grant any export subsidies for agricultural products during the review period. It has also informed Members that the domestic support offered to agricultural producers falls within the green box. The support provided during the review period was concentrated in the areas of food security and training and technological development and was equivalent to 2 per cent of the annual value of agricultural production.

30. The electricity sector has been open to private, including foreign, investment since 1997 when the electrical system ceased to be exclusively State-owned. As a result, power generation is largely in the hands of the private sector, which generated 78.5 per cent of electricity in 2011. However, the State maintains a monopoly on the transmission of electricity. Nicaragua is endeavouring to promote the generation and use of renewable energy and to this end is granting a series of tax incentives, for periods of up to 15 years. Nicaragua has a wholesale electricity market which functions basically as a contracts market to meet the energy purchasing commitments of the distributors or as a secondary market for balancing out energy shortfalls and surpluses. Nicaragua participates in the Central American Regional Electricity Market, established in 1998 under the Framework Agreement on the Central American Electricity Market, in which Costa Rica, El Salvador, Guatemala, Honduras and Panama also participate. One of the main problems facing the sector is the losses at distribution level, which in 2011 exceeded 20 per cent of net electricity generation.

31. During the review period, the manufacturing sector's share of GDP increased, reaching almost 20 per cent of total GDP in 2010. In part, this reflects the effects of the implementation of the CAFTA-DR and the resulting increase in exports. More than 50 per cent of the sector consists of industries devoted to the production of food and beverages and three quarters of manufacturing exports are meat, milk and sugar-based processed agricultural products. The MFN tariffs applied to manufactured products average 6.1 per cent, with rates ranging from 0 to 170 per cent. Tariff protection is above the average for clothing, textiles and leather, rubber and footwear.

32. Services are the most important sector in terms of their contributions to GDP (58.4 per cent in 2010) and employment (55.8 per cent in 2010). During the review period, most service activities strengthened and the rules and regulations were modernized. The financial sector came through the global crisis of 2008-2009 without serious difficulty, partly due to tighter financial supervision based on Basel II. In December 2011, the capitalization of the financial system, with a capital adequacy ratio of 14.7 per cent, comfortably exceeded the minimum requirement of 10 per cent. Moreover, through the Deposit Guarantee Fund (FOGADE), deposits were guaranteed for up to US$10,000 per depositor. Foreign banks can operate in the country by setting up a branch or as shareholders in banks established or to be established in Nicaragua. Foreign banks and credit institutions can also open representative offices in Nicaragua.

33. Since 1996, the insurance market has been open to competition, including the establishment of foreign companies, which can participate in insurance, reinsurance and capital investment activities. Branches of foreign insurance companies established in Nicaragua are not required to have a board of directors resident in the country. During the review period, the insurance legislation was amended as a result of the approval of the General Law for Insurance, Reinsurance and Bonds (2010). This updated the legal, supervisory and prudential framework and also established new capital requirements, which have to be updated at intervals of not more than two years or whenever a company finds itself at risk.

34. In the area of telecommunications, rapid expansion continued to be recorded during the review period, with respect to both coverage and the type and number of services provided. Owing partly to the smallness of the market, the level of competition is still relatively limited. Thus, since 2006, there have been two fixed telephony operators with 20-year concessions. These same two companies provide cellular telephone services with 20-year licences which expire in the same years as the concessions for the basic service.

35. Nicaragua reserves inland and cabotage traffic for national-flag vessels operated by Nicaraguan ship-owners, although under the national legislation if there is no Nicaraguan or

Central American vessel available to perform the service, foreign vessels may be authorized to provide it. The Law allows foreign investment in some segments of maritime transport such as ship registration and the establishment of shipbuilding and shipping companies. The National Port Authority (EPN), a decentralized entity under the Ministry of Transport and Infrastructure, is the body responsible for administering the six main ports. The EPN is authorized to conclude concession contracts with terms of up to 25 years for the provision of various port services.

36. In 2006, Nicaragua enacted a new civil aviation law under which it created a new entity responsible for civil aviation matters and air transport in general, namely, the Nicaraguan Civil Aviation Institute (INAC). Nicaragua's general approach to civil aviation is to apply open skies policies based on bilateral reciprocal concessions. In principle, cabotage services for passengers and freight can only be provided by Nicaraguan natural or legal persons. Exceptionally, however, INAC can authorize foreign companies to provide such services where it is in the public interest.