

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED  
LIMITED B  
GATT/CP.6/24/Add.1  
22 October 1951  
ORIGINAL: ENGLISH

CONTRACTING PARTIES  
Sixth Session

## ITEM 23: NICARAGUA - EL SALVADOR FREE TRADE AREA

### Note by the Executive Secretary

#### Addendum

1. At the meeting held on 25 September 1951, the Contracting Parties decided to defer the examination of the Treaty between Nicaragua and El Salvador for the establishment of a free trade area (GATT/CP/104/Add.1). After the question had been discussed by the Contracting Parties, the Nicaraguan Government sent a delegate to Geneva and the Government of El Salvador also designated an observer to the Session.

The Secretariat has discussed with the delegate of Nicaragua and the observer of El Salvador various points relating to the free trade area Treaty and has obtained from these representatives additional information on these points.

The purpose of this note is to communicate this information to the Contracting Parties in order to enable them, if they so decide, to examine the Treaty before the end of the Sixth Session and to arrive at a decision under the provisions of Article XXIV of the Agreement.

2. The Treaty between Nicaragua and El Salvador provides for the removal of duties and other charges on trade between the two countries in about 150 major categories of goods originating in Nicaragua and in El Salvador, "on condition that these consist of natural products or articles manufactured mainly from raw materials originating in either country". These categories are enumerated in Annex A to the Treaty.

3. According to information submitted by the Nicaraguan delegate, Annex A includes all the products which entered into the trade between the two countries in recent years (33 categories) plus 108 additional categories in which there has been no trade so far. The Treaty entered into force on August 21, 1951 and, effective on that date, duties were eliminated on all those products. Moreover, no quantitative restrictions are at present imposed on those goods when imported into Nicaragua. El Salvador applies no quantitative restrictions on any imports from Nicaragua. There would seem to be prima facie evidence that the Treaty will result in the formation of a free trade area in the sense of Article XXIV.

4. In certain respects, however, the provisions of the Treaty do not seem to comply fully with the requirements of paragraphs 5 and 8(b) of Article XXIV. These points are discussed in the following paragraphs.

5. As El Salvador is not a contracting party to the General Agreement, the Treaty is not covered by the provisions of paragraph 5 which apply only to the formation of a free trade area between contracting parties, and a specific decision of the Contracting Parties under paragraph 10 of Article XXIV will be required. It may be recalled that the Contracting Parties have, on 20 March 1948, permitted the establishment of a customs union or an interim agreement for a customs union between one contracting party (namely France) and a country which was not at that time party to the General Agreement (namely Italy).

6. The purpose of the Treaty and the particular economic and other reasons which militate in favour of the establishment of close economic ties between Nicaragua and El Salvador have been set forth in the letter of the Nicaraguan Government of March 7, 1951 (GATT/CP/104/Add.1, pages 1 and 2). Furthermore, the establishment of the free trade area between Nicaragua and El Salvador does not appear to have the effect of raising barriers to the trade of other contracting parties with Nicaragua.

7. The trade between Nicaragua and El Salvador has been very small and represents a negligible part of the total export and import trade of Nicaragua, as may be seen from the following data:

Nicaragua: (Value of Trade in million U.S. Dollars)

	<u>Exports</u>			<u>Imports</u>		
	<u>1948</u>	<u>1949</u>	<u>1950</u>	<u>1948</u>	<u>1949</u>	<u>1950</u>
<u>Trade with</u> :						
All countries :	26.7	23.6	34.6	24.1	21.3	25.3
El Salvador :	0.8	0.3	0.7	0.1	0.2	0.1

Source: Direction of International Trade

Jan-Dec. 1950 - Jan-March 1951

8. Paragraph 8(b) of Article XXIV provides that restrictive regulations of commerce other than tariffs are to be eliminated on substantially all the trade between the constituent territories in products originating in such territories. Article II of the Free Trade Treaty provides that the goods for which duties and charges are removed (and which include all of those entering into the present trade between the two countries) shall also be exempt from any measure of quantitative control. The two countries have however reserved the right to apply quantitative restrictions on the import and/or export of some 30 items out of a total of about 150, and Nicaragua expects before the end of 1951 to introduce restrictions on the import from El Salvador of 4 of these items (cotton goods "manta" and "drill").

9. The Nicaraguan delegate has indicated on behalf of his Government that the two governments had been obliged to reserve the possibility of using these safeguards in view of the fact that the tariff and exchange situations of the two countries differed so greatly at the inception of the Free Trade Treaty. El Salvador has comparatively high tariffs while Nicaragua is a low-tariff country: on the other hand, Nicaragua is obliged to protect its balance of payments by exchange restrictions while El Salvador imposes no limitation on exchange transactions. It was stated further that the right of imposing quantitative restrictions will be exercised only to the extent necessary to meet the requirements of a transitional period and to avoid abnormal movements of goods which would threaten the very existence of the Treaty during that period.

10. The Contracting Parties may wish to consider whether it would be desirable to keep under review action taken under Article III of the Treaty in order to ascertain that such action remains consistent with the objective of eliminating quantitative restrictions on substantially all the trade involved.

11. As regards the elimination of import duties on the trade between the two countries, the Treaty provides the following technique: the products on which duties are eliminated are specifically listed in an Annex to the Treaty, whereas the items not included in the Annex are guaranteed most-favoured-nation treatment. As indicated in paragraph 3 above, the trade between the two countries during recent years has been limited to 33 items, all of which are listed in Annex A to the Treaty; the additional items numbering about 100 which are included in the Annex represent categories of products in which the two governments believed that trade would become possible if duties were eliminated.

12. It should be noted, in this connection, that the two governments have reserved the right, under Article IV of the Treaty, to lengthen, shorten or modify by mutual agreement the schedule of items from which duties are removed. The Nicaraguan delegate has been authorized by his Government to give the assurance that the right to shorten the list will be exercised only in cases of emergency and in such a way as not to impair the basic object of the Treaty, namely the elimination of duties on substantially all the trade between the two countries.

13. On the basis of information submitted by the Nicaraguan delegate, it would appear that duties have been removed from all the present trade between the two countries as well as from all the products in which any substantial trade might develop in the near future. The Contracting Parties may, however, wish to consider whether it would be desirable to keep under review action taken under Article IV of the Treaty.

14. If the Contracting Parties should decide to keep under review the operation of the Free Trade Treaty in order to ascertain that the application of the provisions of Articles III and IV of the Treaty remains consistent with the objective of eliminating duties and other restrictive regulations of commerce on substantially all the trade between the two countries in products originating therein, the Government of Nicaragua has indicated that it would be prepared to submit from time to time reports on the action taken in connection with the imposition or modification of measures of

quantitative control, in accordance with Article III of the Treaty and on any modification which might be made under Article IV of the Treaty in the schedule contained in Annex A to the Treaty.

15. As stated in the communication from the Nicaraguan Government of March 7, 1951 and in the first paragraph of Article I of the Treaty, the intention of the two governments is to proceed eventually to the formation of a customs union.

16. The Treaty does not contain any specific provision relating to the formation of such a customs union but the Mixed Trade Commission which has to be set up in accordance with Article XIX of the Treaty will be empowered to examine and recommend "any useful provisions intended to encourage the economic integration of the two countries and the unification of their customs tariffs, with a view to arriving progressively at the Customs Union which it is the intention of both governments to establish".

17. In this connection, the Nicaraguan delegate has stated that his Government has taken due note of the provisions of paragraphs 4 to 9 of Article XXIV of the General Agreement which set forth the procedure applicable to the conclusion of an interim agreement for the formation of a customs union.

18. The following draft decision is submitted to the Contracting Parties for consideration:

"TAKING NOTE of the communication dated March 7, 1951 of the Government of Nicaragua and of the Treaty concluded on March 9, 1951 by the Governments of Nicaragua and El Salvador for the establishment of a free trade area and made effective on August 21, 1951;

"TAKING NOTE FURTHER of the intention of the Government of Nicaragua that its action under the Treaty and specifically under Articles III and IV thereof will be limited to those consistent with the objective of maintaining a free trade area as defined in paragraph 8(b) of Article XXIV of the General Agreement, and of the undertaking of the Government of Nicaragua to furnish from time to time to the CONTRACTING PARTIES a report on action taken pursuant to Articles III and IV of the said Treaty and such additional information as would be of assistance to the CONTRACTING PARTIES,

"THE CONTRACTING PARTIES

"DECIDE, in accordance with the provisions of paragraph 10 of Article XXIV of the General Agreement that the Government of Nicaragua is entitled to claim the benefits of the provisions of Article XXIV of the General Agreement on Tariffs and Trade relating to the formation of free trade areas, and

"DECIDE to review the above decision if, at any time, after study of the reports furnished by the Government of Nicaragua and of other relevant data they find that the operation of the Free Trade Treaty is not resulting in the maintenance of a free trade area in the sense of Article XXIV of the General Agreement."

