

GENERAL AGREEMENT ON

RESTRICTED

L/6185

10 July 1987

TARIFFS AND TRADE

Limited Distribution

Original: Spanish

ACCESSION OF COSTA RICA

Questions and Replies to the Memorandum on Foreign Trade Régime (L/6050)

In a communication dated 2 June 1987 circulated as L/6180, the Government of Costa Rica applied for accession to the General Agreement pursuant to Article XXXVIII. At its meeting on 16-17 June 1987, the Council set up a Working Party to examine Costa Rica's application for accession. The terms of reference of the Working Party are reproduced in document L/6187. In GATT/AIR/2338 contracting parties were invited to submit questions in writing concerning the foreign trade régime of Costa Rica. The questions submitted by contracting parties in connection with Costa Rica's foreign trade régime and the replies thereto provided by the Costa Rican authorities are given below.

Delegations wishing to raise additional questions concerning Costa Rica's foreign trade régime might inform the delegation of that country (with a copy to the secretariat) of such questions in advance of the meeting of the Working Party, so that considered replies can be made available by Costa Rica to members at the time of the Working Party meeting.

In GATT/AIR/2448, dated 23 June 1987, contracting parties wishing to enter into tariff negotiations relating to Costa Rica's accession to the General Agreement were invited to contact the Costa Rican authorities and to inform the secretariat as soon as possible.

¹The Annexes listed on page 6 are available for consultation in the secretariat (Development Division, Room 2010).

REPLIES TO QUESTIONS SUBMITTED BY CONTRACTING PARTIES
CONCERNING THE FOREIGN REGIME OF COSTA RICA

Contents

		<u>Questions</u>	<u>Page</u>
I.	<u>General</u>		
	Accession to the General Agreement	1-2-3	7
	Production of basic foodstuffs	4	7-8
	Binding of tariff schedule	5	8
II.	<u>Economic policy and trade policy objectives</u>		
	Agricultural policy objectives	6	8-9-10-11
	Local content requirements	7	11-12-13
	Most-favoured-nation treatment	8	13
III.	<u>Instruments of trade policy</u>		
	Right of appeal and judicial review of customs matters	9	13-14
	Publication of administrative decisions and tariff and customs charges	10	14
	Import permits	11	14
	Quantitative restrictions	12	14
	Import and export licensing	13	14-15
		14-15	15-16
	Import and export monopolies	16	16-17-18
	MTN Codes	17-18	18
III.1.A	<u>Tariff System</u>		
	Customs duties	19	18-19
		20	19
		21	19-20
		22	20-21
	System of levies	23	21
	Tariff nomenclature	24	21-22
	Tariff schedule	25	22
		26	23
	Harmonized system	27	23
	Exemption from tariff duties	28	23-24-25
	Modification of customs duties	29-30	25-26

Contents (cont'd)

	<u>Questions</u>	<u>Page</u>
Central American Import Tariff	31	26
Unfair business practices	32	26
	33	26-27
	34	27-28
Safeguard measures	35	28
	36	28
III.1.B <u>Customs system</u>		
Customs valuation	37	29
	38	30
	39	30
	40	30-31
	41	31
III.2 <u>System of levies</u>		
Import taxes and levies	42	31-32
	43	32
	44	32
	45	33
III.2.A <u>System of levies - Ad valorem duties</u>	46	33
	47	34
	48	34-35-36
III.2.B <u>System of levies- Tax on customs value</u>	49	36-37
	50	37
	51-52	38
III.2.C <u>System of levies - Selective consumption levy</u>	53	38-39-40
	54	40
	55	40-41
	56	41
	57	41-42
III.2.CH <u>System of levies - Sales tax</u>	58-59	43
	60	43-44-45
III.2.D <u>System of levies - Other levies on specific goods</u>	61	46
III.2.F <u>System of levies - Observation regarding Costa Rica's tariff, customs and tax system</u>	62	46-47
	63	47
	64-65-66	47-48

Contents (cont'd)

	<u>Questions</u>	<u>Page</u>
III.3	<u>Export control system</u>	
	Export licensing	67 48
III.3.A	<u>Export control system - Charges applicable to exports</u>	68 48-49
III.3.B	<u>Export control system - other trade policy instruments</u>	
	Free zones	69-70 49-50
IV.	<u>Export incentives</u>	
	Article XVI of the General Agreement	71 50
	Law on Export Promotion and Law on the Financial Equilibrium of the Public Sector	72 50-51-52-53
		73 53
V.	<u>Monetary, Exchange and balance-of-payments Regulations</u>	
	Invocation of the provisions of the General Agreement	74 53
	Trade Policy measures	75 53
	Exchange rates	76 53-54
V.1	<u>Organic law of the Central Bank of Costa Rica</u>	
	Measures to restore balance-of-payments equilibrium	77 54
	Essential imports	78 55
	Quantitative and qualitative controls on imports	79 55
	Article XVIII:B of the General Agreement	80 56
V.3	<u>Implementing regulations for exchange régime (for imports and other external payments)</u>	
	Registration of confirmed orders	81 56
		82 56-57

Contents (cont'd)

	<u>Questions</u>	<u>Page</u>
V.4	<u>Establishment of temporary surcharges on certain imported goods</u>	
	Advance deposits	83 57
	Qualitative or quantitative controls on imports of meat and dairy products	84 57-58
	Temporary import surcharges	85 58
		86 58-59
		87 59
		88-89 59-60
		90 60
VI.	<u>Economic and trade relations with third countries</u>	
VI.1	<u>Central American Common Market (CACM)</u>	
	Central American Tariff and Customs Régime	91 60-61 92 61
	Notification and examination of the CACM	93 61-62
	Regional instruments	94 62
	Central American Tariff and Customs Régime	95 62
	Central American Tariff Council	96 63-64
	Participation of Costa Rica in tariff negotiations	97-98 64
	Central American Clause of Exception	99 65
	Other tariff arrangements	100 65
VI.2	<u>Partial-scope agreements with Colombia, Mexico and Venezuela</u>	101 65
VI.3	<u>Trade Agreement with Panama</u>	102 66
VI.4	<u>Trade Agreement with the Dominican Republic</u>	103 66-67
VI.5	<u>Other trade agreements</u>	104 67
VI.6	<u>Agreements with developed countries</u>	105 67
VII.	<u>Other Questions</u>	
	Government-owned companies	106 68
		107 68
	Government procurement	108 68
		109 69
	Barter law	110 69-70-71
	Insurance and freight policy	111 71
	Patent protection laws	112 71

ANNEXES¹

Annex

Contents

- 1 Agricultural Policy: "Ongoing Dialogue", 1986-1990
- 2 Appeals against acts of customs officials and activity of customs authorities
- 3 Central Government: Income, Expenditure and Deficit
- 4 Items below the 5 per cent fiscal floor
- 5 Duties and other charges at Customs level
- 6 Tariff structure by class of product
- 7 Headings subject to import duties which are being unified (Part II) and which will not be unified (Part III)
- 8 Central American legislation on the valuation of goods for customs purposes and Regulations of the National Committee for Customs Valuation
- 9 Goods subject to selective consumption levies
- 10 Goods subject to temporary import surcharges
- 11 A - Trade Agreement with the Dominican Republic
B - Treaty on free trade and preferential trade with Panama
- 12 Acronyms of State institutions

¹The Annexes are available in the original Spanish for consultation the Secretariat (Development Division, Room 2010).

ACCESSION OF COSTA RICA

Replies to Questions Submitted by Contracting Parties
Concerning the Foreign Trade Régime of Costa Rica
as Described in Document L/6050

General

Question 1

Costa Rica is applying for provisional accession to the GATT. What are Costa Rica's plans with respect to full accession in keeping with established practice?

Reply

See Question No. 3.

Question 2

What does Costa Rica understand by "provisional accession"? Is there a date by which provisional accession would become full accession?

Reply

See Question No. 3.

Question 3

When does the Government of Costa Rica intend to formally accede to GATT?

Reply

Provisional accession will enable Costa Rica to participate in the Uruguay Round and to gain the necessary experience¹ to define its full accession at the time considered most appropriate.

Question 4

How does Costa Rica view the relationship between its goal of self-sufficiency in respect of the production of basic foodstuffs and the incorporation of its economy in the multilateral trading system? Are the qualities that are designed to attain this goal in conformity with GATT rules?

¹On 2 June 1987 the Government of Costa Rica requested definitive accession to the General Agreement (document L/6180).

Reply

Costa Rica is incorporated in the international economy, as its foreign trade figures in document L/6050 indicate.

Costa Rica trades with countries without any discrimination as regards either imports or exports of agricultural products.

Agricultural policy is the result of an ongoing process of consultation and co-ordination at the national and regional levels with the various public and private participants.

Costa Rica's agricultural policies are set out in the document entitled "Ongoing Dialogue 1986-1990", which has been made available to the secretariat.

Production levels of basic foodstuffs have been sufficient to satisfy the needs of the population.

The objectives and strategies pursued in the agricultural sector are in keeping with the objectives and provisions of the General Agreement, such as Articles VIII, XI AND XX; Costa Rica does not prohibit the importation or exportation of such products; for reasons of climate, the country has been and will continue to be an importer of some staple grains, such as wheat.

Some aspects of the Agricultural Development Programme are explained in the reply to Question 6, Annex 1.

Question 5

Will Costa Rica bind its tariff schedule in a comprehensive fashion?

Reply

Costa Rica considers that it has rationalised its level of protection, and expects contracting parties to appreciate that exercise at its true value, and also to give favourable consideration to the position of Costa Rica as a relatively less developed country.

II. Economic policy and trade policy objectives

Question 6

Page 7, paragraph 1(a): The Memorandum states that the "National Development Plan 1982-1986" seeks to achieve self-sufficiency in the production of basic foodstuffs for Costa Rica. What rôle will imports have in this effort. Which products are currently seen as "basic

foodstuffs" for this purpose? Will this category expand or contract over time? Will certain agricultural imports be restricted? What trade policy tools are contemplated in achieving the goal, e.g., tariffs, quantitative restrictions, domestic production incentives? Please indicate how import measures will be implemented such that they are in conformity with the GATT.

Reply

In order to reply to this question, we should first mention the agricultural policy objectives contained in the National Development Plan 1982-1986, chief among which are the following:

- To enhance the dignity of agricultural activity and rural life as a whole, in order to strengthen the ties of the rural population to the land.
- To transform subsistence agriculture into a profitable activity in terms of net income for producers.
- To guarantee for the country and for consumers the production of the foodstuffs needed to meet domestic and export needs.

The National Development Plan 1986-1990, in its section on the specific objectives for the agriculture, livestock and fisheries sector, also contains the following:

- Achievement of self-sufficiency in the production of basic foodstuffs by raising productivity.
- Diversification of the production structure with non-traditional exports and import-substitution products.

Production of foodstuffs such as staple grains, milk, eggs, vegetables and fruit should be stepped up in order to supply domestic demand and to make such items available to the neediest classes, whose consumption of them is insufficient.

Following this presentation of the specific objectives of the National Development Plans for 1985-1990 and for 1982-1986, let us now turn to the rôle played by imports in the 1982-1986 Plan and to what is considered the implicit import policy in the National Development Plan for 1986-1990.

..."The main feature in this field is selective treatment in favour of essential basic goods (medicines, foodstuffs etc.) and of raw materials, and against non-essential capital and consumer goods. The aim is to reduce imports, without affecting as far as possible, the country's production activity".

Thus, the Government's policy will continue to encourage domestic production of foodstuffs already produced in the country so as to make it efficient, in so far as domestic producers are not offered production alternatives. It seeks to eliminate production surpluses in articles whose domestic cost is higher than the world price and whose export is therefore not profitable.

In line with the above, the Government aims to improve the living conditions of small and medium-sized producers by bringing about a gradual shift in agriculture towards more profitable crops (in order to diversify exports), organizing the agricultural sector in such a way that it produces what is consumed and already produced.

"Basic foodstuffs" are those which have the necessary minimum nutrients for feeding the population, namely:

Staple grains: rice, white maize and kidney beans.

Wheat: bread, biscuits, noodles and pasta for domestic use.

Cane sugar and cane-sugar products: white sugar and refined sugar.

Bovine meat and meat products: meat without fat, sausage meat, boneless meat, guts and offal.

Milk and milk products: milk in liquid form, condensed milk, for the preparation of other products; powdered milk.

Oils and fats: fat of bovine animals, butter, other animal oils, lard, cottonseed oil, margarine, other vegetable oils.

Fish and marine products: sardines, fresh tuna, shrimp, lobster, main species and other species.

This list of products will not be reduced in the near future.

As mentioned earlier, there are no restrictions or limitations in import policy with regard to basic foodstuffs in Costa Rica.

Since 1982, imports of some agricultural products have been carried out under Programme PL-480, Title I, an economic development scheme promoted by the Governments of Costa Rica and the United States of America, whose goal is to contribute to the country's all-round development by increasing the availability of agricultural products and fostering progress in the country's agricultural and rural sector.

During the early years of implementation of the Programme, imports were made of products such as: maize, wheat, yellow maize, soya oil, cottonseed oil, black beans and husked rice. Last year (1986), however, the country managed to meet its needs in such products with the exception of wheat, for which the country does not yet have the ecological conditions for large-scale production. Under the current wheat programme, the

production area is only three thousand hectares, with a view to obtaining 15 per cent of the country's wheat supply. Consequently, it is the Government's view that as there is no incentive or production alternative in order to cease producing foodstuffs in the country, they will continue to be produced and Costa Rica will be self-sufficient.

With regard to tariff policy applied to staple grains, it should be noted that on 1 January 1986 the new Central American Tariff and Customs régime entered into force in the country, under which relatively low rates were fixed for the customs duty on imports of the main mass-consumption products, such as:

Wheat	1 per cent on c.i.f. value
Maize	30 per cent on c.i.f. value
Rice	30 per cent on c.i.f. value
Kidney beans	30 per cent on c.i.f. value

Nevertheless, the National Production Council, as the institution responsible for stabilizing the prices of these grains, is the only body that may import them into or export them from the country, and this official body enjoys a 100 per cent exemption from payment of import duties.

Question 7

Page 7, paragraph i(b): Concerning the goal of expanded domestic production of inputs for industry, will this involve import substituting methods? What trade policy tools are contemplated in helping to achieve this goal, e.g., tariffs, quantitative restrictions, domestic production incentives? Does Costa Rica currently apply local content requirements on production for domestic sale or for export? Are such requirements contemplated for future implementation?

Reply

No consideration whatsoever used to be given to local content in production for domestic sale or export. Since 1985, Costa Rica has been applying local content requirements for production under the Law on Production Incentives. Chapter III of the implementing regulations for that law specify the local content requirements for the production of enterprises to which the incentives are granted.

At present, one of the criteria used to assess activities is that of local content in the production of enterprises, which refers to the value which the resources, inputs and other costs of local origin represent in the gross value of the production. This is carried out on the basis of two laws: Law 7017, published on 27 December 1985, and Law 6955, of 1984. In addition, the customs tariffs protect goods manufactured in the Central American area.

The local content requirements are to determine whether or not enterprises are eligible for the established benefits.

Annex 3 of Law 7017, published in Supplement No. 23 to "La Gaceta" No. 248 of 27 December 1985 (Law on Industrial Production Incentives) and its implementing regulations, published in Supplement No. 32 of "La Gaceta" No. 227 of 28 November 1986, aim at establishing benefits and measures to encourage production of goods in accordance with national development needs.

This Law applies to those manufacturing industries which, by using appropriate industrial processes (enterprises whose processes consist of mixing, bottling, packing, cutting or diluting, or assembling are excluded), contribute to the country's development, especially by generating net foreign-exchange earnings and by their high local content.

The minimum local content for an enterprise to be eligible under the Law are as follows:

(i)	Agro-industrial raw materials and inputs	50%
(ii)	Other raw materials and inputs	25%
(iii)	Capital goods	30%
(iv)	Agro-industrial products	50%
(v)	Other industrial products	85%

The ratio of net foreign-exchange generation must be more than 1:1 for (i), (ii), (iii) and (iv), and more than 2.5:1 for (v).

Enterprises need satisfy only one of these requirements, and the scale of the benefit they receive will depend on the amount by which they exceed these parameters.

Under Chapter III, Article 4 of the implementing regulations of the Law, producing entities wishing to benefit from the incentives under the Law will qualify if they fulfil the percentage-value requirement of the basic parameters for:

- (a) local content, or
- (b) net foreign-exchange earnings, according to the production activity concerned.

Each of these parameters will have a minimum and a maximum percentage level which will give a total rating for assessing the producing entity. The benefits granted are as follows:

1. Granting of timely and sufficient credit.
2. Accelerated depreciation for locally produced capital goods.
3. Granting of credit to medium-sized or small co-operatives and self-managed or jointly managed enterprises.

4. Partial exemption from the territorial tax on plants located in areas defined as rural areas or in industrial parks or zones approved by the State.
5. Facilities will be given for the payment of income taxes on sums invested in the following branches: plant machinery and equipment, investment in diversification of production activities of interest to the country, construction of low-cost housing, quality-control equipment for enterprises, investment in energy substitution and saving, research and training projects, and purchase of registered shares issued by joint stock companies covered by this Law.

In addition the new Central American tariff and customs régime in force in the country since January 1986, establishes a tariff of 5 per cent on inputs not produced in the Central American area, and another rate of between 10 per cent and 30 per cent for intermediate goods produced in Central American countries.

It is considered that this nominal protection will help to achieve the objective of increasing local production of inputs for industry.

It is important to mention that the above-mentioned customs tariffs will gradually be reduced over the next three years in order to achieve greater competitiveness of such goods on world markets.

Question 8

Page 8, paragraph 3: concerning the principles of unrestricted application of most-favoured-nation (MFN) treatment and non-discriminatory trade policy application embodied in Costa Rican trade policy, are there any areas other than tariffs and other customs charges in which Costa Rica's preferential trading partners are treated preferentially vis-à-vis MFN trading partners?

Reply

A continuing effort is being made in the Central American Common Market to reduce or eliminate non-tariff measures under the existing mechanisms. The implementation of the agreements with Panama and the Dominican Republic is explained in the replies to Questions 102 and 103.

While there are quotas applicable to a few products, both in the above-mentioned agreements and in the agreement with Honduras "other non-tariff measures" have general application.

III. Instruments of trade policy

Question 9

Concerning general customs matters, does Costa Rican law provide for right of appeal and judicial review of customs matters, such as tariff classification and duty assessment decisions by customs officials?

Reply

Users of the Costa Rican customs service who consider that they have been injured by acts relating to tariff classification and duty assessment may have recourse to an extensive appeal system for challenging decisions of the customs authorities.

By way of illustration, see Annex 2.

Question 10

What method of public notification is used by the Government of Costa Rica to inform the public of changes in trade regulations and administrative practices? Are changes in tariff and customs charges published on a regular basis?

Reply

Owing to the state of law that reigns in the Costa Rican political system, any legal provision or regulation must be notified to the means of publication in the official journal, "La Gaceta", in order to be able to have effect and be implemented. Consequently, changes in tariffs and customs charges are published regularly whenever they take place.

Question 11

What are the fees an exporter must pay for processing import permit applications? Is this fee calculated on the value of the import transaction?

Reply

Import permits do not exist in Costa Rica. No formality prior to importation is subject to any kind of payment.

Question 12

Are there no import restriction measures such as quantitative restrictions?

Reply

In general in Costa Rica there are no quantitative restrictions on imports, but only health and phytosanitary controls and regulations for some basic products such as rice, kidney beans, maize, milk, sorghum and meat, imports of which must be approved in advance by the competent body.

Question 13

Does Costa Rica comply with the relevant provisions of the General Agreement and the Licensing Code in the application of its import and export licensing systems? Does it intend to accede to the Licensing Code?

Reply

Export licensing is an instrument designed to control the inflow of foreign exchange and to ensure that exporters sell to the Central Bank, through the institutions authorized to operate in the foreign-exchange market, the foreign currency proceeds of their sales abroad. In no event is it an instrument for imposing quantitative or qualitative restrictions, and the exceptions that exist are of the type provided for in Article XI, paragraph 2(a) of the General Agreement.

With regard to import licensing, see the reply to Question 14.

The question of accession to the Licensing Code or to any other instrument will be decided on the basis of the knowledge and experience Costa Rica acquires in the course of the negotiating process for its future participation in the GATT.

Question 14

What sectors will be subject to import licensing procedures? What will be the percentage of these items under licence calculated on the total for the items in the tariff? Non-tariff?

Reply

As indicated in the reply to Question 11, import licensing does not exist in Costa Rica. The requirement of registration of confirmed orders is used basically for statistical purposes and as an instrument for projecting short-term foreign-exchange flows. It is a formality which all economic sectors must fulfil in all import transactions. The Board has decided to abolish it during the course of this year.

Question 15

Does Costa Rica have a system of granting import licences or permits for importation? How are such licences or permits issued and acquired? Is there any limitation for trade policy reasons on the acquisition of a licence to import? What imports are currently subject to import licensing requirements? Are there minimum export requirements associated with issuing licences for particular imports? If Costa Rica maintains a restrictive import licensing system after accession, will import limitations administered through import licensing be notified to the GATT and justified under the appropriate GATT Articles?

Reply

As stated above, Costa Rica does not have a system of granting import licences or permits. There is only the registration of confirmed orders as a prior requirement for importation, and basically for statistical purposes. At present there are no limitations on it for trade policy

reasons, and it will be abolished in the course of this year.

On the export side there is no requirement associating exports with registration for particular imports.

Question 16

Does Costa Rica monopolize the import or export of any product or service?

Reply

Monopoly, understood as "the privilege granted in favour of a person, corporation, company or government to manufacture, purchase or sell certain products, or to provide certain services of a public nature, with the exclusion of any competition", is prohibited by the Constitution in the case of a private individual. De facto monopolies, in other words those resulting from the free-play of supply and demand, must be the object of special legislation, as provided for in Article 46 of our Constitution.

Monopolies in favour of the State or of municipalities must be approved by the Legislative Assembly by a two-thirds majority of all its members, as established in the above-mentioned article.

Thus, in conformity with the above, we have the Special Protocol on Grains (Limón Protocol) signed on 28 October 1965 by the Ministers for Economic Affairs and for Agriculture during their First Joint Meeting at Puerto Limón from 26 to 29 October 1965, and published in "La Gaceta" No. 19 of 23 January 1968. It was signed by the plenipotentiaries of Guatemala, Honduras, El Salvador, Nicaragua and Costa Rica, and provides as follows in the matters of concern to us here:

"Article "The Contracting States shall regulate the marketing and trade of staple grains in the Central American area, these being understood to be maize, rice, kidney beans and sorghum; they shall co-ordinate national production and supply policies and ensure full freedom of trade."

It is also established that imports of staple grains can only be made by the price stabilization bodies (Article 3), and even in the case of imports of staple grains coming from outside the Central American area on a grant basis the government's authorization is required, following consultation with the corresponding price stabilization body (Article 5).

Exports of staple grains may be made to third countries provided the other Central American States are not interested in purchasing them (Article 6).

In addition, Law No. 6050 (Organic Law of the National Production Council) in Article 5(a) gives the CNP the following powers: "In order to achieve its goals the Council shall have the following powers and duties:
(a) To purchase directly and on an exclusive basis from domestic producers

basic articles of mass consumption at prices that guarantee them fair profits, thus helping to encourage such production".

Article 3, paragraph 1, spells out the specific purpose of the Council as follows: "The specific purpose of the Council will be to encourage agricultural, livestock and marine production, as well as to stabilize prices of the necessary foodstuffs for the country's population and of the raw materials needed by national industry, seeking a fair balance in relations between producers and consumers, to which end it may intervene in the domestic market".

As may be seen from the above excerpts, the Council is responsible for purchasing articles of mass consumption and for stabilizing prices of such articles, with the accompanying purpose of striking a fair balance between producers and consumers. The Council is responsible for exports or imports of such articles, and therefore once again a legal monopoly is established, since the Council's power is statutory and not de facto.

Article 5(h) of the above-mentioned Law reads as follows: "In order to achieve its goals the Council shall have the following powers and duties (h) To export or to import, preferably by tendering and following an economic study which shall be binding for the Governing Board, the articles referred to in sub-paragraph (a) in order to maintain sufficient supply to meet the needs of national consumption. In order to be able to export, it must leave in the country sufficient reserves to forestall shortage and ensure price stability. Exports or imports shall be carried out without any intermediaries. Only in exceptional cases, by a vote of two thirds or more of the members of the Governing Board and by a decision setting out the grounds on which it is based, may contracts be concluded through intermediaries. Decisions on exports shall likewise be taken by a vote of not less than two thirds of all members of the Governing Board".

Thus the Council is responsible for exports and imports of such articles, since otherwise supply might be reduced, causing prices to rise. Therefore, only in exceptional cases are intermediaries accepted.

It remains to be said that, under Chapter IX of the above-mentioned Law 6050 on the Liquor Monopoly and the National Liquor Distillery (Fabrica Nacional de Licores), Article 50 provides: "in so far as no new law exists on the monopoly of national liquors and the National Liquor Distillery belongs to the National Production Council, the latter shall administer it as an entity attached to the Council, so that it shall have its own resources and organization sufficient to provide for its own administration". Article 52 establishes that the sales prices of its products will be fixed by the Governing Board of the National Production Council, and in Transitional Article IV of the same Law it is stated that no new concessions or contracts for the manufacture of any type of liquor may be granted until the draft law governing the liquor monopoly and constituting the National Distillery (Destilería Nacional) is adopted.

In these circumstances, the National Liquor Distillery has the monopoly of this product and therefore unquestionably it alone is responsible for imports and exports of liquors.

Finally, the National Liquor Distillery does not produce certain liquors, and these may be imported with prior authorization.

It should be pointed out that imports of petroleum and certain services are reserved for State bodies (energy, telephone, water, insurance, banking). Their regulations are compatible with the articles of the General Agreement on the administration of monopolies such as Article XVII and Article II, paragraph 4. See the replies to Questions 106, 108 and 109.

Question 17

Has Costa Rica considered accession to any of the MTN codes?

Reply

Costa Rica considers that the MTN codes contain novel provisions, and has therefore begun to study them.

Question 18

Does the Government of Costa Rica intend to join any of the non-tariff barrier codes, e.g. customs valuation, licensing, standards, anti-dumping?

Reply

Costa Rica considers that the above codes contain thought-provoking provisions and it is worth devoting the time to studying them.

III.1.A Tariff system

Question 19

What is the significance of customs duties in the national economy?

Reply

Customs duties (understood to be all duties and taxes on foreign trade) are highly important from the fiscal standpoint, as they represent a significant percentage of the Central Government's total revenue. For the last three years (1984-1986) they represented over 32.8 per cent of total receipts, i.e. one-third of all revenue generated by the Government in those years.

With respect to the national economy, customs duties for those last three years represented more than 5.4 per cent of the gross domestic product (GDP), which indicates their great importance in the economic system.

Under the Costa Rican single depository system, all Central Government revenue is deposited in a single account called the General Fund. It is therefore impossible to determine what revenue is used to finance the various government activities.

If we consider total government expenditure as the sum of all fiscal needs, tariff revenues may be said to represent 11.7 per cent of fiscal requirements (on average for the last three years), taking tariff revenues to be the resources stemming from ad valorem and specific duties (the latter were abolished from 1986 onwards) and the 3 per cent tax on customs value. Other customs revenues represented 17.8 per cent of total expenditure, in other words, they met more than 17 per cent of the Costa Rican Central Government's fiscal requirements; other customs revenues means all duties, taxes and fees charged on exports and imports.

For further information see Annex 3.

Question 20

Page 9, paragraph (c)(ii): What portion of Costa Rica's fiscal needs is supplied by tariff revenues? By other customs revenues?

Reply

See the reply to question No. 19.

Question 21

To what extent do customs duties contain fiscal elements and what is the basis for the calculation of any such elements?

Reply

In 1985, when the Central American negotiations for the adoption of NAUCA II were launched, it was considered that the first step was to define some basic guidelines.

In general, all goods not produced in Central America, whether imports, capital goods or final consumption goods, have been assigned a minimum tariff of 5 per cent which represents the fiscal floor of the tariff and is designed to cover the cost of the customs service. A few goods have a "free" tariff because they are very important for the development of the agricultural sector: this is the case of seeds for sowing and breeding stock. Imports produced in Central America have a graduated tariff of 10 per cent, 20 per cent, or 30 per cent according to the degree of processing i.e. whether they are primary, semi-manufactured or manufactured products.

Capital goods manufactured in the region have a 30 per cent tariff.

Final goods produced in Central America and their substitutes are assigned a tariff on an ad hoc basis within a range of effective protection of 35 to 150 per cent, applicable to branches of activity.

It is clear that the fiscal elements in customs duties are hard to quantify, but there are some which are easy to establish, such as the 5 per cent tariff (fiscal floor).

This percentage was modified during the negotiations, in that the negotiators made exceptions in the treatment of specific goods.

It should also be stressed that, in accordance with Article 4 of the Central American Tariff and Customs Convention, and in the statement of its objectives, it is established that:

The purpose of the tariff is firstly "to guide and strengthen development of the producing sectors";

Secondly, "to meet fiscal and balance-of-payments requirements";

Thirdly, to encourage efficient production and rationalize the cost of tariff protection, especially for the consumer.

See Annex No. 4.

Question 22

To what extent are customs duties used for the protection of domestic industries? What sectors are considered to be in particular need of duty protection?

Reply

The purpose of custom duties is to encourage domestic production (producing activities in general) by means of customs tariffs which vary as follows:

- 1 per cent for essential goods not produced in the Central American area.
- 5 per cent for goods not produced in the area.
- 10 per cent to 30 per cent for capital goods, raw materials and intermediate goods produced in the Central American area.
- From 5 per cent to 10 per cent for capital goods not produced in the area, depending upon how essential they are.

- Final goods produced in the area have an average tariff of 60 per cent.
- The sectors which have particular need of tariff protection are the producing sectors with a high regional content, which generate employment and demand for regional raw materials, and all sectors which the country considers it important to protect in the national interest.

Question 23

Costa Rica's system of levies on imports comprises various elements (ad valorem duties, tax on customs value and temporary surcharges) in respect of which there are various exemptions. Does Costa Rica intend to simplify its régime by establishing a single tariff?

Reply

Prior to the Central American Tariff and Customs Convention and the new Central American Tariff, the Costa Rican system of levies was extremely complex. The great progress made in the consolidation of levies has not ended, and there are still efforts to be made in this field. With the entry into effect of the new Central American Tariff, the duties and charges are:

1. Ad valorem duties.
2. Selective consumption levy.
3. 3 per cent tax on customs value.
4. 10 per cent sales tax.
5. Surcharges.
6. Others, such as warehousing, fines, extraordinary services, odontological fiscal stamp, taxes on liquor, beer, cigarettes and sparkling soft drinks, and 10 per cent on the exemption granted on mining activities.

Levies 1, 3 and 5 are considered customs duties and the remainder are considered internal taxes. See Annex No. 5.

Question 24

Has Costa Rica completely converted to the CCCN tariff for tariffs which apply outside the Central American common market?

Reply

Yes, in accordance with the Central American Tariff and Customs Régime Convention (Law No. 6986) "La Gaceta", No. 92, 16 May 1985, and Law No. 7017 of 27 December 1985.

In addition, the Central American Tariff and Customs Convention contains, in Annex A, the Central American Import Tariff and the rules governing the implementation of its provisions. Article 14 of the Convention provides that: "NAUCA II (the Central American Uniform Tariff Nomenclature) is the official classification of the goods contained by the Central American Import Tariff. THE CUSTOMS CO-OPERATION COUNCIL NOMENCLATURE (CCCN) IS ADOPTED AS THE BASIS OF NAUCA II, with the additions and amendments it contains on the date of the signing of this instrument. For the purposes of the uniform application of the Central American Import Tariff, the CCN's explanatory notes shall serve for its interpretation in so far as the correspondence between NAUCA II and the CCCN is maintained, provided that there is no explicit decision of the Council to the contrary. NAUCA II may contain Central American Notes and Additional Rules. This nomenclature must be used for the classification of exports."

It is therefore clear that the Central American negotiations led to full conversion to the CCCN, and even for those goods which were not the object of tariff negotiations, as indicated in Part II of the tariff itself, the export Tariff is converted by national legislation and through Executive Decree 16862 H MEC of 1986.

Question 25

Page 9, paragraph (a): Could Costa Rica describe the distribution of tariff rates and its tariff schedules, e.g. how many lines at 10 per cent, how many at 20 per cent, etc.? Please indicate the trade-weighted, average ad valorem level of tariffs for the major categories of goods and over all. How many columns are there in Costa Rica's tariff? Are there statutory rates of duty that differ from the rates actually applied?

Reply

In order to give more details about the distribution of tariff rates at 5 per cent, 10 per cent, etc., we attach a separate study which provides this information, following the tariff structure for the various classes of products. At the end it sums up the totals of lines or headings in a table reflecting average tariffs. For the average ad valorem level, see Annex No. 6.

The Costa Rican tariff has a single column. With regard to duties which may differ from those actually applied as a result of suspension of tariffs, Article 3 of Law 7017 (ratifying the customs tariff) and Decrees Nos. 16790 MEC of 13 December 1985 and 16836 MEC published in "La Gaceta", No. 32, of 31 January 1986, Supplement 4, as well as Resolution No. 6 (Council 11-85) of the Central American Tariff and Customs Council, authorize such variations in the event of a shortfall in the supply of raw materials or of basic final goods, when there is a sudden or generalized serious shortage of such goods, because of a lack of regional production or for other reasons.

Question 26

Page 9, paragraph (a)(i): concerning the Central American Import Tariff, are the tariff rates applied by Costa Rica identical to those of all other members of the Central American Common Market on all products? To what extent, if any, do they diverge? If they diverge, is this temporary, and what is the time-table for completion of the common tariff?

Reply

Article 18 of the Central American Tariff and Customs Régime Convention provides that no customs duties will be levied other than those which appear in the Central American Import Tariff. That Tariff, which was negotiated at the Central American level, contains:

- A schedule of headings which have been brought into line, forming most of the tariff.
- 29 headings with different (national) customs duties which are in the process of being brought into line or consolidated, and are of a transitional nature¹.
- Other headings which do not need to be brought into line (roughly 50 headings). See Annex 7.

As for a timetable, none has been envisaged for the products of a transitional nature. In the case of these headings, unification depends on the evolution of trade relations in the Central American Common Market.

Question 27

Page 10, paragraph (ch): Does Costa Rica intend to adopt the Harmonized System of Tariff Nomenclature?

Reply

Costa Rica considers that the system deserves thorough consideration and has therefore begun studying it.

Question 28

Page 10, paragraph (g)(iii): Please explain more fully the nature of the goods described in this paragraph that are exempted from tariff duties.

¹Reproduced in Schedules II and III of the Central American Import Tariff.

Reply

The Central American Tariff and Customs Convention, in connection with duty-free admission and exemption from duty, establishes in Chapter V, Article 21, the exceptions to the policy of elimination of exemptions. These exceptions include sub-paragraph (b) which reads:

"Goods covered by the provisions of regional or international conventions; or by national legislation relating to purposes or activities other than manufacturing, as referred to in the Central American Convention of Fiscal Incentives and the protocols thereto".

When the Convention entered into force, the Executive Power thought it wise to issue an initial directive dealing with some aspects of its application, and it therefore issued an "Instruction" containing the following:

"Exemptions from import duties as from the date of entry into force of the new Central American Tariff."

The Central American Tariff and Customs Régime Convention abolishes solely the exemptions from import duties granted to manufacturing industry; with the exception of exemptions granted under national legislation to encourage exports to third markets, or for the benefit of small industry or for the development of handicraft activities.

In accordance with the above paragraph, it is considered desirable to clarify the legal framework of exemptions in force for manufacturing and other activities.

1. Manufacturing

The Executive Power may authorize exemptions from or reductions in import duties on goods for manufacturing industry on the basis of the following laws and decrees:

- Law No. 3142 of 29 July 1963, Article 3 (bis) (Small Industry and Handicrafts).
- Executive Decree No. 6381-MEIC of 20 October 1976 (Samples for Experimentation and Training).
- Law No. 6695 of 12 October 1985 as amended (Export-Processing Zones and Industrial Parks).
- Law No. 5162 of December 1972 as amended (Export Promotion).
- Law No. 6955 of 24 February 1984, Chapter II (Export Contracts).
- Law No. 7017 of 16 December 1985 (Authorization to reduce customs tariffs; exemption of agricultural activity; transitional period of exemption for merchandise shipped or in transit).

2. Goods covered by international treaties or conventions of free-trade or preferential trade (for example: Panama, Honduras, Dominican Republic)."

Question 29

Page 11, paragraphs (h) and (i): This paragraph describes very briefly the powers of the Central American Monetary Council to change the tariffs applied to Costa Rican imports by applying a surcharge on the nominal ad valorem duty of up to 100 per cent. Does Costa Rica intend to follow GATT procedures on notification, justification, consultation, negotiation, and compensation if such increases breach bindings in Costa Rica's GATT Schedule after full accession? What avenues of appeal are available to importers and exporters who wish to contest administrative changes in customs duties?

Reply

It should be pointed out that the 100 per cent surcharge is a measure that has never been used.

With regard to avenues of appeal, the Law of Public Administration establishes the system of means of challenging government decisions or provisions through appeals which open an administrative procedure and are finally resolved, with the exhaustion of administrative remedies. If the complainant does not agree, he may then turn to the law courts for a final decision.

For further information see Question 9.

Question 30

Page 11, section (i): Scope of modifications of customs duties provides for 100 per cent of the nominal ad valorem duty, with an interval of one year between each modification. On what basis are these increases applied? What products are subject to this provision? Does the Government of Costa Rica intend to reduce the scope of modifications to a ceiling lower than 100 per cent?

Reply

The provisions to which Chapter VI of the Central American Tariff and Customs Convention refers empower the CONTRACTING STATES to make modifications in nominal rates of between 1 per cent and 100 per cent, for the purpose of adjusting tariff protection to changing circumstances in the production structure. Increases or reductions are made by modifying the existing tariff.

In general, all products are open to a tariff modification.

Once a tariff has been modified, it cannot be changed for one year.

Costa Rica cannot unilaterally reduce the scope of modifications to a lower ceiling, since it is the Tariff Council that has the power to make any change in customs duties.

Question 31

In connection with Section 1.A(h).

- (a) Will the Central American Common Tariff apply to all the items?
- (b) Are there any exceptional items on which the Central American Import Tariff is not applied?
- (c) Who will decide on the exceptional cases? Each government? Or the Council of CACT?

Reply

See Question 26 for points (a) and (b).

- (c) The content of the schedules will be determined by the Central American Tariff and Customs Council.

Question 32

Are the countervailing measures in respect of unfair trade practices provided for under the Convention of the Central American Tariff and Customs Régime in accordance with international provisions on the subject, and specifically with those of the General Agreement and the Codes on Subsidies and Anti-Dumping?

Reply

According to the Central American Tariff and Customs Convention, Article 25, Law No. 6984, "Contracting States may, with respect to goods coming from outside of the region, take whatever countervailing measures may be necessary against trade practices that cause or threaten to cause injury to Central American production, especially in the case of imports of goods at less than their normal value or export subsidies." In general the Convention thus allows States to apply a safeguard clause combined with other corrective measures to be applied on the basis of national legislation.

Question 33

Page 11, paragraph (k): Please explain how Costa Rica's regulations concerning protection against dumped and subsidized imports provide for the application of countervailing charges and the granting of an injury test consistent with the provisions of Article VI of the General Agreement.

Reply

In accordance with Law 2426 (Law on protection and industrial development, Articles 10 and 11 of the Tariff Convention), Costa Rica provides for the application of countervailing duties against dumped or subsidized imports.

To this end, under Law No. 2426 foreign goods are considered to be imported at less than their normal value when the price of the product is less than:

- (a) The comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country;
- (b) The highest comparable price, in the ordinary course of trade, for the like product for export to any third country; or
- (c) The cost of production of the product in the country of origin plus a reasonable addition for selling cost and profit.

In the event of difficulty in the obtention of the information referred to in the above sub-paragraphs, the average price for the product of other exporting countries will be taken as the normal price.

With regard to the granting of an injury test, the Executive Power is currently studying and analysing the relevant regulations.

Question 34

In connection with 1.A(k):

- (a) What are the conditions before taking countervailing measures against dumping or export subsidy?
- (b) Are there measures consistent with the relevant GATT provisions?
- (c) What kind of measures, and in which case, have the countervailing measures been already taken?

Reply

(a) The conditions are as follows:

- The existence of the practice that injures a part of domestic production or industry must be demonstrated.
- The injury caused to domestic production or industry must be demonstrated.

(b) Yes.

(c) Other measures, such as surcharges, have been used.

Question 35

Page 11, paragraph (k): Concerning safeguard measures that can be temporarily applied for balance-of-payments purposes or to prevent market disruption, how are these provisions consistent with Articles XII, XVIII, and XIX of the General Agreement? Is there any provision for appeal or for an injury test in the case of market disruption? Are all measures applied to all trading partners equally, or are there exemptions?

Reply

The safeguard measures are consistent with the above-mentioned articles of the General Agreement, as well as with Decision L/4904, Declaration on Trade Measures Taken for Balance-of-Payments Purposes, of 28 November 1979.

In addition, under our system of positive law, any decision jeopardizing rights may be challenged by the injured party.

The measures are applied to all partners equally and without exception.

Question 36

In connection with 1.A(k):

(d) What are the safeguard measures envisaged to be taken on the basis of balance-of-payments reasons etc.? Are there any concrete cases of such safeguard measures, and if any, are they consistent with GATT?

(e) What actually do the "commodity supply problems" refer to?

Reply

The recently adopted Tariff Convention provides that when a country is faced with serious balance-of-payments problems, sudden shortfalls in the supply of raw materials and basic final goods, or market disorganization, unfair trade practices or any other circumstance which threatens to lead to situations of national emergency, it may modify import duties by between 1 per cent and 100 per cent of the established nominal tariff for a period of not more than thirty days.

So far the country has not had to apply this provision. It should be added that the Central American Tariff Committee has not approved the corresponding implementing regulations, which makes the above clause even more difficult to apply.

III.1.B Customs system

Question 37

In what respects do the customs valuation rules differ from the CCC definitions?

Reply

The legislation on customs valuation applicable in Costa Rica is contained in Annex B (Central American Legislation on the Valuation of Goods for Customs Purposes) to the Central American Tariff and Customs Convention, Law No. 7017, the implementing regulations thereof, Executive Decree No. 16791 MEC-H, of 16 December 1985, and Executive Decree No. 17028-H of 7 May 1986.

This legislation is in fact identical as regards CCC definitions (Convention on the Valuation of Goods for Customs Purposes of the Customs Co-operation Council).

In our country we have been working in this matter on the basis of a Spanish translation, and some adaptations may have been made to the language, a circumstance which in no case changes the substance of the rules or the contents, and which the Convention itself provides for in Article IV, when accepting the possibility that "any contracting party may adapt the text of the definition:

- (a) By inserting therein such provisions of the Notes as it may consider necessary,
- (b) By giving the text such legal form as may be essential to render it operative in its domestic law, if necessary by adding complementary provisions clarifying the purport of the Definition."

Costa Rica may therefore be said to be faithfully following the CCC, and since Annex B and its Regulations did not refer to the explanatory notes and other elements of the CCC, Costa Rica, through the above-mentioned Executive Decree No. 17028-H of 7 May 1986, reaffirmed that identity by establishing:

"Article 24. For the better application of the rules contained in the Central American legislation on the valuation of goods for customs purposes and in its implementing regulations, the explication and interpretation of those rules SHALL BE BASED ON THE EXPLANATORY NOTES OF THE BRUSSELS DEFINITION OF VALUE and shall be published and put into effect through administrative resolutions issued by the customs authority. Such resolutions shall be compulsory in their application provided they are not contrary to the above-mentioned legislation and its regulations."

Question 38

As the customs valuation system applied by Costa Rica corresponds in substance to the Brussels Definition of Value, does Costa Rica intend to accede to the Customs Valuation Code?

Reply

See replies to Questions 37 and 17.

Question 39

Is there provision in Costa Rican law for administrative changes in the valuation of imports to reflect domestic prices or to adjust for dumping or subsidy margins?

Reply

The legislation on customs valuation does not provide for the treatment of dumping or subsidies.

It should be pointed out that for the determination of the customs value of imported goods, domestic market prices are not directly applied as the norm to establish the dutiable base of the imports.

Nevertheless, in accordance with Articles 13 and 14 of the Law on Valuation, and in the conditions mentioned in those articles, under the criterion of probable or actual sales price the domestic market prices should be applied for goods presented for customs clearance, excluding from such prices costs, duties and taxes and, as the case may be, the commercial profit generated in the importing country. By this means it is possible to calculate the customs price starting from the probable or actual sale price. See Annex 8.

Question 40

Page 14, paragraph (d)(v): What does "without prejudice to adjustments in the price by reason of elements that differ from those contained in the definition. The differences may reflect any reduction or increase in the normal competitive price" mean in practice?

Reply

In practice, if the price paid or payable appearing on the invoice corresponds to a real or genuine price (normal competitive price at which any purchaser can acquire the product on equal terms) and that price diverges from the elements provided for in the Definition (price, quantity, time, place and commercial level), it may be accepted by the customs authority as indicative of a bona fida price, subject to any possible adjustments provided for by Article 3 of the Definition, to form the normal

price or customs value. Nevertheless, generally speaking there are normal competitive prices for exclusive distributors, branches, subsidiaries or firms that are not commercially or financially independent, which have the status of importers vis-à-vis their supplier. Even though they are normal prices among such firms, under the existing customs valuation rules based on the Brussels Definition of Value for Customs Purposes the Customs Administration cannot accept them as normal prices on the grounds that these prices are in the majority of cases lower than the price which suppliers of this type (those linked with the above-mentioned importers) would give to a third party who is independent of the supplier.

In such cases, these prices must in practice be adjusted on the basis of the accumulated costs incurred by the exclusive distributor, or of the discounts or special reductions stemming from the commercial or financial link, or else of the gross or net profit which the parent company, by means of intercompany pricing, does not include in the invoice presented to the customs, but does in fact obtain once the product is sold in the importing country, a profit which following the sale is then remitted to the company or to a third party abroad (under the existing contract). In practice these adjustments may also occur with regard to payment obligations incurred by the importer for the use of a patented invention or trademark, design or model.

All the above adjustments may be made by administrative means, through the issuing of decisions ("special or general adjustment decisions") for the adjustment of prices of the goods to be imported.

Question 41

In connection with 1B(c):

- (a) where do the customs valuations officers belong to?
- (b) are the customs valuations done in some part by private organizations (e.g. Société générale de surveillance)?

Reply

They are attached to the Customs Administration; there are no private companies that participate in customs valuation.

III.2 System of levies

Question 42

There are several types of taxes and levies which affect imports in a discriminatory manner. What are the specific reasons for each of these? What is the basis for the assessment of their levels? What is their significance in the National Economy?

Reply

See the reply to question 19.

The basis for the assessment of these levies is described in the Memorandum on pages 14 and 15. The basis for the calculation of surcharges is a specific percentage on customs value.

Obviously, these levies have fiscal purposes and their importance for the economy may be seen in detail in the table attached to the reply to question 19. See Annex No. 3.

Question 43

How are the changes of the levels of import taxes and levies publicized and how will they be notified to the GATT?

Reply

Changes in the level of import taxes and levies are published in the official journal, "La Gaceta", and will be notified to GATT in accordance with the 1979 Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance.

Question 44

How does Costa Rica justify the existence of internal levies that affect only imported products? This provision is not in accordance with the national treatment provided for in Article III of GATT.

Reply

Only the levies described in sections B (tax on customs value) and D (other levies on specific goods) of the Memorandum apply exclusively to imported goods (the taxes in section D are applied to national and foreign liquors; in the case of beer they apply only to imports).

Costa Rica considers that in view of its level of development, balance-of-payments situation and financial, trade and development needs, as well as for reasons stemming from its policies of job creation and municipal autonomy, the levies are essential and their application is in accordance with the objectives of the General Agreement and provisions such as Article 18 and Part IV, as well as the provisions adopted by the CONTRACTING PARTIES in November 1979 in connection with the economic development of developing countries.

Surcharges are in the process of being abolished, but the modification of other levies will depend on the evolution of the country's economic and financial situation.

Question 45

In connection with the system as a whole:

- (a) though each tax shown in A, B, C and D is levied only on imported goods, will the measure be consistent with Article III of GATT? What are the legal grounds in GATT for the tax system?
- (b) are there taxes expected to be reduced or eliminated in the near future?

Reply

A: The Tariff by definition applies to imported goods.

B: See reply to question No. 44.

C: Applies generally.

D: See reply to question No. 44.

III.2.A. System of levies - Ad valorem duties

Question 46

Pages 14-15, paragraphs A.(a)-(e): Are the levies described in these paragraphs applied in addition to normal import tariffs? If so, who determines their incidence, and how often does the rate vary? For what purpose are these levies applied? Are they in any way related to the cost of services rendered by customs authorities. How does Costa Rica view the consistency of these duties with Article III of the General Agreement? How is the discrimination in their application favouring other members of the CACM consistent with Article I of the General Agreement? Does Costa Rica intend to apply these levies in excess of the levels of tariff specified in its GATT Schedule after full accession?

Reply

The levies described constitute the Central American Import Tariff, established in conformity with the Central American Tariff and Customs Convention, Law No. 7017 (see annex III to document L/6050 of 20 October 1986).

In accordance with Article 24 of the General Agreement, the Central American Tariff is not applicable to the Central American Common Market countries. With regard to a possible schedule of concessions when acceding fully to the General Agreement, Costa Rica will implement Article II of the Agreement.

The Tariff serves economic development purposes and provides fiscal revenue.

Question 47

In connection with 2.A(c)

Will tariff rates on every item be fixed or variable?

Reply

The tariff rates are fixed, but vary from one heading to another.

Question 48

Page 15, paragraph A.(f): Concerning exemptions from these levies, please specify the types of goods exempted. Who interprets the law for the purpose of exempting specific products? Is there right of appeal of such determinations? What is a "national industry" for the purposes of obtaining an exemption? Does the paragraph indicate that certain domestic firms receive exemptions not available to others based on nationality of ownership?

Reply

Exemptions to the ad valorem duty are as follows:

<u>Law</u>	<u>Date</u>	<u>Beneficiary</u>	<u>Instances</u>
2038	26.07.56	Cia Bananera C.R.	cable conveyors, tractors, vehicles
3160	18.08.73	INFOCOOP	
7032	02.05.86	Forestal	
6727	04.03.82	Occupational Risks	extinguishers
6106	07.11.87	Auction surplus	motor cycles, vehicles
5459	30.04.74	University professors	vehicles, household effects
6756	07.05.82	Co-operatives	copiers, computers
6810	30.09.86	Ley ruedo	vehicles
6877	18.07.83	SENARA	tubes, machinery
4981	26.05.72	Pig-breeding development	
174	21.09.48	Central Government	desks, typewriters
1185	12.02.73	Rural Elec. Coop.	
6995	22.07.85	Emp. Ser. Pub. Heredia	
174	21.09.48	Comptroller's Office	stationery, stamps, rubbish bins
218	08.08.39	Cinde	
1788	23.08.54	INVU	machinery and equipment
4401	01.09.69	Central American Livestock College	
4104	29.05.68	ICECU	stationery, ink
6890	14.09.83	Municipalities	rubbish lorries
6050	15.04.77	CNP	grains, machinery, equipment

<u>Law</u>	<u>Date</u>	<u>Beneficiary</u>	<u>Instances</u>
3987	25.10.67		containers, cardboard boxes
5337	11.09.73	JAPDEVA	spare parts
1566	20.05.53	Mines	vehicles, machinery
6995		Free Zones	packing materials
6990	15.07.85	Tourist Development	insecticides
7017	11.06.86	Agrochemicals	spades and rakes
5162	22.12.72	GENPRO	typewriters, calculators
2706	02.12.60	ICT	bed linen
5048	02.08.72	CONICIT	
5001	28.06.68	Deputies	household effects
4208	21.10.68	Red Cross	vehicles
641	23.08.46	Religious organizations	rosaries and scapulars
3285	28.05.64	PANI	furniture
5971		MEIC	raw material
		Small industry	
6076	27.07.77	Radiografica Cost.	stationery, furniture
5150	14.05.73	Civil Aviation	spare parts
2726		A y A	vehicles
4760	04.05.71	IMAS	copiers, typewriters
218	08.08.39	Associations	photocopiers
3240	08.11.62	COCESNA	aviation instr.
6541	17.12.80	University Colleges	desks, stationery
5338	28.08.73	Foundations	photocopiers, machinery
3936	18.08.67	Ex diplomats	household effects, vehicles
4715	21.01.71	Ex civil servants	
121	22.10.41	Fisheries	engines and nets
3347	07.08.64	INS	office equipment, vehicles
3135		OTEC	leaflets

In principle the legislation governing the granting of exemptions is not interpreted. The Government - in this case the Department of Exemptions - confines itself to applying the above provisions since they satisfy the principle of strict application. However, in some cases other technical departments must first study the matter and make a recommendation. These are as follows:

Inputs: Recommendation of the Commission on Inputs

Construction: MOPT (Public Works and Transport)

Free zone: Free Zones Office

Tourism development: ICT (Tourism Institute)

Civil aviation: Directorate General for Civil Aviation

Orowi project: A y A

Ex diplomats: Foreign Affairs

Ex civil servants: Foreign Affairs

Diplomatic missions: Foreign Affairs

International missions: Foreign Affairs

Paid public transport: MOPT (Public Works and Transport)

Small industry: MEIC (Trade and Industry)

Resident pensioners and persons of independent means: ICT

Banana companies: Ministry of Agriculture and Livestock

Forestry: Forestry Commission

Occupational Risks: Occupational Health Council

University professors: University concerned

Poultry development: Poultry Development Board

Pig-breeding: Pig-Breeding Development Board

Cantonal Ag. Centres: MAG (Agriculture)

If a beneficiary does not agree with a decision he can contest it by appealing to the Department of Exemptions and Appeal of the Ministry of Finance. The General Law of Public Administration provides a broad range of remedies through administrative channels, and subsequently there are remedies through the law courts. (For acronyms, see Annex 12.)

III.2.B. System of levies - Tax on customs value

Question 49

Page 15, paragraphs B.(a)-(e): For what purpose is this levy applied? Is it in any way related to the cost of services rendered by customs authorities? Is the rate often changed? How does Costa Rica view the consistency of this tax with Article III of the General Agreement? How is the discrimination in the application of this tax favouring other members of the CACM consistent with Article I of the General Agreement? Does Costa Rica intend to apply these levies in excess of the levels of tariff specified in its GATT Schedule after full accession?

Reply

The 3 per cent tax on c.i.f. value originated with the 1976 Education and Culture Stamp Law to fund programmes for the construction, maintenance and running of public libraries. Subsequently, 1 per cent of the total amount of payments abroad was levied for Education and Culture Stamps; this revenue was specifically intended for Education and Nutrition Centres and for Integral Child Care Centres run by the Ministry of Health, with priority for deprived areas with a high density of women employed in manual work.

Later, the revenue was directly earmarked for a number of institutions of all kinds, but in 1983, in order to make the tax compatible with the standby arrangement which the Government signed with the IMF in 1982, the 1 per cent tax on payments abroad was changed into a 1 per cent tax on the customs value of imports.

In 1984, in the course of other reforms, the 1 per cent became the present 3 per cent on customs value. It has not been changed since then; any change would have to be discussed and approved by the Legislature.

This tax is earmarked directly and entirely for the Technical Council for Medical Care and Welfare, for the Education and Nutrition Centres and Integral Child Care Centres operating under the public health programmes.

As may be seen, the purpose of this tax is to provide funds for crucial areas of public health, a sector which currently requires more resources in view of the refugee problem and the ensuing health problems.

It is applied solely to imports, and some products are exempted under regional agreements (such as with Panama and Central America).

For the relationship between this tax and the rules of the General Agreement, see the reply to question No. 44.

As regards exemptions, beneficiaries are listed on pages 15 and 16 of document L/6050.

Question 50

(In connection with 2.B):

- (a) Is the nature of this tax a kind of charge?
- (b) If so, is it consistent with Article XIII of GATT?

Reply

See the reply to question No. 49.

Question 51

This tax, which does not appear to be a custom processing fee or a user fee, is applied on selected goods only and exemptions are applied depending on the recipient of the goods in Costa Rica. How is this tax considered to comply with GATT Articles II, III and VIII. Does Costa Rica intend to remove this tax?

Reply

See the reply to question No. 49.

Question 52

Page 15, paragraph B.(f): Concerning the list of exemptions from this tax, are the imports of any other country, other than CACM members, exempted?

Reply

See the reply to question No. 49.

III.2.C. System of levies - Selective consumption levy

Question 53

What products are covered by this levy? How is this levy considered to comply with GATT Articles II, III and VIII? Does Costa Rica intend to remove this levy?

Reply

In order to indicate the products covered by the consumption levy, we annex an up-to-date list of the levy by product (please note that in the legislation the schedules are referred to using the new NAUCA II, which makes the levy easier to understand.

In addition, the selective consumption levy is applied to final consumer goods that are considered non-essential or superfluous. It does not apply to raw materials or other inputs. These levies were introduced not only to cover fiscal needs but also and especially for economic reasons, in keeping with the country's import-substitution strategy.

Thus, initially there was discrimination in favour of products from the Central American area through the application of differentiated rates which were higher for products from the rest of the world, with a view not only to containing imports but also to promoting local production of such goods.

Later, around 1979, with the advent of new ideas aimed at changing our development model, the differentiated rates were abolished, so that at

present there is no difference at all between the levies on local products and those on products from any other country.

The basic guideline for grouping the products covered by these levies has been the degree to which they are superfluous or non-essential.

On the basis of this criterion, goods are grouped in three categories, identified in annexes 1, 2 and 3 in the original Law. Goods in annex 1 have a rate of 65 per cent, those in annex 2 a rate of 40 per cent, and those in annex 3 a rate of 10 per cent. These rates were assigned according to the degree to which the articles in question were considered sumptuary. Although the original guidelines have been maintained, the original rates have varied over time. Today, those annexes (1, 2 and 3) are indicated in the right-hand column of annex No. 9.

Thus, annex 1 contains goods such as olives, dried fruit, cigarettes, motor vehicles and so forth, which have the highest rates. In annex 2 there are goods consumed by the middle strata of the population, such as cosmetics, household appliances and so forth, which have lower rates than the previous annex.

Finally, annex 3 contains the least sumptuary consumer goods: some foodstuffs, cloth, clothing and so forth, for which the rate is lowest.

Broadly speaking, the rates today range between 10 and 75 per cent. The levy is collected by the domestic manufacturers of the goods subject to it on each of their sales, and paid to the Treasury by means of a monthly sworn statement. Currently some 1,300 local manufacturers are enrolled as collectors of the levy.

The selective consumption levy is a domestic tax which, for reasons of tax equity, must also be levied on imported goods, since otherwise the competitiveness of local producers would be impaired. In the case of imports, the levy is collected by the customs, and is levied on an equivalent base to that for the local product.

During the NAUCA II negotiations, it was decided at the Central American level that, with regard to the consumption levy, higher (differential) rates could not be established for imports from the rest of the world. It was also made clear that this did not prevent the customs, for technical reasons and on grounds of facility, from collecting consumption levies payable on imported goods and established on a general basis and in conformity with the new rules in this field, in other words, levied on consumption itself and not on importation.

Consequently, the selective consumption levy is not discriminatory and exists for reasons of economic necessity.

By way of further information, it is worth pointing out that in 1986 the selective consumption levy accounted for 13.5 per cent of total

revenue, with the following break-down: 7.6 per cent from local products and 6 per cent from imports, for an approximate total of ¢ 5,075 million.

Given its financial and development situation, Costa Rica does not expect to abolish this levy, which it considers to be in keeping with the General Agreement, as it has explained in the replies to questions 44 and 45.

Question 54

Page 16, paragraphs C.(a)-(e): Is the purpose of this levy fiscal, protective, or other? Typically, what proportion of total imports are subject to the levy and what is its average incidence? Is it applied to imports from other members of the CACM? Please describe more fully the nature of the "selected goods" subject to the levy. Please describe more fully the criteria for the determination of the incidence of the levy. Is it correct to interpret the description in these paragraphs as contemplating a levy that could reach over 200 per cent of the normal customs value of the imported good, in addition to all other duties, taxes, and levies?

Reply

The purpose of the selective levy is to tax sumptuary goods in direct proportion to their superfluosity.

At the same time it is a fiscal instrument, but in no case is it protectionist.

About 55 per cent of imports are subject to the selective levy.

Its application is general, including, naturally, to the other CACM members.

The selection of the goods covered by the levy is related to their use and to how essential they are. Thus, they are classified in three major groups or annexes with different rates, according to how necessary they are.

The sum of the customs duties and the selective consumption levy in some cases can be over 200 per cent of the value of the goods.

Question 55

How does Costa Rica intend to apply this levy consistent with the obligations of Articles III and VIII of the GATT after accession? Does Costa Rica intend to apply the levy in excess of the levels specified in its GATT Schedule after full accession?

Reply

In this connection, see the reply to question 53. After full accession, Costa Rica will comply with whatever is stipulated in connection with its Schedule.

Question 56

In connection with 2.C:

- (a) what are "the selected goods"? How will they be selected or modified?
- (b) are the tariff rates of these goods fixed or variable?
- (c) what kind of organization is the "Executive Branch" and what does the "Schedule" refer to?
- (d) what will be the conditions for raising the rates and what kind of procedure must be taken for that?

Reply

The "selected goods" are indicated in annex No. 9, and any modification in them is the responsibility of the Legislative Assembly, since this is a legislative matter. The Executive Power does have the faculty of varying the rates by Executive Decree, but not the "selected goods".

The rates of the levy are fixed, and it takes an Executive Decree (a joint act of the President of the Republic and the Ministry concerned), previously published in the official journal, "La Gaceta", to vary them.

Question 57

Page 16, paragraph C.(f): concerning exemptions from the levy, please describe more fully who are "tax exempt persons".

Reply

<u>Law</u>	<u>Date</u>	<u>Beneficiary</u>	<u>Instances</u>
6695	10.12.81	Free Zones	packing materials
6990	15.07.85	Tourist development	catalogues
7017	11.06.86	Agrochemicals	spades
6955	24.2.84	CENPRO	typewriters
2706	02.12.60	ICT (Hotels)	sheets, pillow-cases
4206	21.10.68	Red Cross	vehicles, equipment
5011	28.06.72	Deputies	household effects
5350	25.09.73	Musical Instruments	instruments

<u>Law</u>	<u>Date</u>	<u>Beneficiary</u>	<u>Instances</u>
641	23.08.46	Religious Orgs.	prints, bibles
3286	20.05.64	PANI	typewriters
6986	17.05.85	Ex Presidents of Costa Rica	household effects
695	24.07.85	Religious Orgs.	crucifixes, vehicles
3286	28.05.64	PANI	typewriters
4812	28.07.71	Resident pensioners & persons of independent means	household effects
6963	31.07.84	Paid public transport	buses
3936	18.08.67	Ex-diplomats	household effects, vehicles
4715	21.01.71	Ex-civil servants	vehicles
121	22.10.41	Fisheries	engines, nets
3347	07.08.64	INS	stationery, typewriters
6076	27.07.77	Radiographica Cost.	telex and spare parts
174	21.09.48	Elec. Supreme Court.	stationery
	08.04.41	Nat. Power Company	electrical equipment, meters
174	21.09.48	Supreme Court Justice	vehicles, typewriters
4760	04.05.71	IMAS	copiers, stationery
6995	22.07.85	Free Zones	packing materials
6995	22.07.85	RECOPE	tubes, valves, tools
3787	18.11.66	CCSS	medicines
6868	06.05.83	INA	copiers, stationery
6942		Orosi project	tubes, machinery
3011	18.07.62	COCESNA	aviation instruments
3787	18.11.66	ICE	wire, cable, machinery
6966	30.07.84	IMAS	typewriters
6735	29.03.82	IDA	stationery, copiers
7008	08.11.85	Red Cross	vehicles, typewriters
1842	24.12.54	Bananas Cos.	cable conveyors, spare parts
3011	18.07.62	Salvation Army	
5459	30.04.74	University profs.	household effects, vehicles
6448	16.07.82	Central Livestock Coll.	dairy products
4521	24.10.68	Cantonal Agric. C.	machinery
6995	22.07.85	JASEC	meters, cables
4961	10.03.72	Attorney General	stationery, chairs
6995	22.07.85	INVU	materials, equipment
6995	22.07.85	Rural Elec. Coop.	meters, vehicles
6877	29.07.83	SENARA	vehicles, equipment
6820	03.11.82	INFOCOOP	typewriters, stationery
7031	14.04.86	National bank	\$ remittances

III.2 CH system of levies - sales tax

Question 58

Page 17, paragraphs CH(a)-(f): Is this sales tax also applied to domestic production? Does the rate or base of the tax often change? How is this tax consistent with Article III of the General Agreement? Is it applied to imports from other CACM members?

Reply

The sales tax (applied to value added) is a general levy applied to imports and domestic production. The rate is relatively low (10 per cent), having begun at 5 per cent in 1972 and risen to 8 per cent in 1978; it has been maintained at 10 per cent since December 1982. This tax is applied to imports from the CACM, and is considered compatible with the General Agreement.

Question 59

Page 17, paragraph CH(d): Does the base of the tax include both the c.i.f. value and the customs value of the import, or only one?

Reply

The sales tax is levied on the final price of the article; this base consists of the price ex works plus all levies (consumption tax, Agrarian Development Institute Tax and Institute of Municipal Development and Counselling Tax) as well as profits, and in the case of imports, the price ex customs which already includes the relevant charges (c.i.f. plus removal from storage).

Question 60

Page 17, paragraph CH(f): Please give some examples of types of products exempted from the tax. What are the exemption criteria?

Reply

Products exempted from the tax include, for educational reasons, shoes and uniforms for school children, diesel oil and cement for social reasons. There are also other exemptions, such as the following:

<u>Law</u>	<u>Date</u>	<u>Beneficiary</u>	<u>Goods</u>
2038	26.07.56	Banana Cos.	filter, herbicides, cables
7032		Forestal	
6995	22.07.85	Rural Elec. Corp.	measuring equipment
6756	07.05.82	SENARA	machinery, spare parts
174		Central Govt.	furniture
3011	18.07.62	CINDE	
6820	03.11.82	INFOCOOP	desks, stationery, machinery
6695	15.07.85	Free Zones	packing materials
6990	15.07.85	Tourist dev.	catalogues, leaflets
7017	11.06.86	Agrochemicals	rakes
6955	24.02.84	CENPRO	stationery, typewriters
2706	02.12.60	ICT (hotels)	bed linen
4206	21.10.68	Red Cross	bandages, equipment
6986	17.05.85	Ex Presidents of Costa Rica	household effects
695	24.07.85	Religious orgs.	vehicles, crucifixes
4812	28.07.71	Resident pensioners and persons of independent means	household effects
6063	31.07.84	Paid public transport	buses
6076	27.07.77	Radio cost.	telex
174	21.09.48	T.S.E.	stationery, stencils
3011	18.07.62	AITEC	engines, machinery
5150	14.05.73	Civil aviation	aircraft spare parts
174	21.09.48	Supreme Court of Justice	chairs, desks
C/L 2	08.04.41	Nat. Power Co. University centres	cable, vehicles machinery, computers
3936	18.08.67	Ex-diplomats	household effects, vehicles
4715	21.01.71	Ex-civil servants	vehicles
121	22.10.41	Fisheries	nets, engines
3347	07.08.64	I.N.S.	typewriters stationery
4760	04.05.71	IMAS	copier
6995	04.05.71	Free Zones	packing materials
6995	22.07.85	RECOPE	tools, tubes, valves
3787	18.11.66	C.C.S.S.	medicines
6868	06.05.83	I.N.A.	stationery, kitchen equipment
6942		Orosi Project	tubes
3011	18.07.62	COCESNA	aircraft spare parts
3787	18.11.66	I.C.E.	machinery, spare parts
6966	30.07.84	IMAS	equipment
6735	29.03.82	I.D.A.	copier
7008	08.11.85	Red Cross	vehicles

6986	17.05.85	Ex-Presidents of Costa Rica	household effects
695	24.07.85	Religious orgs.	medals, vehicles
4812	28.07.71	Resident pensioners and annuitants	household effects
6963	31.07.84	Paid public transport	buses

Exemption criteria vary enormously, and ranging from exemptions for essential consumer goods, such as the basic basket of goods, to agricultural inputs, incentives for specific activities such as the export of non-traditional products to third markets, the banana sector and incentives for the repatriation of Costa Rican experts as officials of international organizations and repatriation facilities for Costa Rican diplomats and university professors.

III.2.D System of levies - other levies on specific goods

Question 61

Page 17, paragraphs D(a) and (b): Are these levies applied to imports from other CACM members? How are the levies described in these paragraphs consistent with Article III of the General Agreement?

Reply

These levies are applied to imports from the CACM, except in the case of natural wines.

Given the structure of domestic production, these levies do not have restrictive effects on imports.

They are necessary in order to develop the activities of the IDA and IFAM, the institutions that directly receive the receipts from these levies (which are not deposited in the State's single account).

At present, the above-mentioned institutions receive the entire receipts, for the purposes set out in the legislation establishing them:

- (a) The IDA is responsible for implementing State policy in the agrarian field; it administers national reserves and rural settlements, seeks to raise the productivity of land, administers agricultural credit plans, encourages the formation of co-operatives and self-managing undertakings, and carries out measures to transform the land ownership structure so that it can fulfil its social function.
- (b) The objective of the IFAM is to strengthen the municipal system by encouraging efficient local government and promoting a steady improvement in municipal administration. It finances public works and services, guarantees loans, provides technical assistance and encourages co-operation between municipalities.

In connection with the second part of the question, see the reply to Question No. 44.

III.2.F System of levies - Observation regarding Costa Rica's tariff, customs and tax system

Question 62

Under which GATT Articles is it considered that the following measures would be justified:

- The tax on customs value;
- Selective customs levy;
- The IFAM and IDA taxes on foreign liquors; and
- The temporary surcharges on certain imported goods?

Reply

The measures referred to in this question are considered justified under the provisions of Article 18 and Part IV of the General Agreement and the Decisions adopted by the CONTRACTING PARTIES in November 1979, as explained in the replies to Questions Nos. 44 and 45.

Question 63

Page 18, paragraph F.(b): How do the various levies described in pages 14-18 relate to the temporary surcharges mentioned in this paragraph? In what way are the levies related to economic stabilization and balance-of-payments measures? GATT Article III clearly prohibits charges on imports not applied to domestic production. How is the Costa Rican taxation system as it relates to the levies consistent with this obligation? How is Costa Rica's non-application of these border charges and internal taxes to other CACM members consistent with GATT Articles?

Reply

As mentioned earlier, the surcharges are being abolished and are not related to the other levies. In view of Costa Rica's level of development and fiscal and balance-of-payments situation, it is considered that the levies are not inconsistent with the objectives and provisions of the General Agreement or the Decisions adopted by the CONTRACTING PARTIES on 28 November 1979. Only the tax on customs value is not applied to CACM members, by virtue of the Central American integration agreements, or to some countries such as Panama with which Costa Rica has bilateral agreements.

Question 64

What is the level of revenue collected from the levies, charges and taxes listed in Part III.2 of L/6050 in a recent representative period.

Reply

Please see the answer to Question No. 19 and the analysis in the attached table.

Question 65

Does Costa Rica apply the selective customs levy or the temporary surcharges on imports to any meat or dairy product?

Reply

Not all meat or dairy products are affected, but some, such as tinned meat and meat juice extracts, are subject to the consumption levy and surcharges.

For further details, see annex No. 9, which contains a detailed list of the products to which the consumption levy applies. In addition, annex No. 10 gives the list of products to which surcharges are applied.

Question 66

In connection with 2F(c):

- (a) Is the Government of Costa Rica ready to introduce the Harmonized System?

Reply

See the reply to Question No. 27.

III.3 Export control system

Question 67

Costa Rica's export licensing system applies to all products. How can this system be justified in the light of Article 11 of the GATT which is aimed at the elimination of quantitative restrictions?

Reply

See the reply to Question No. 13.

III.3.A. Export control system - Charges applicable to all exports

Question 68

Pages 20-21, paragraphs A(a)-(d): Please explain more fully the purposes of these export charges and taxes. Are they related to the cost of services? Are they intended for fiscal purposes?

Reply

Charges on coffee exports

The purpose of the revenue for the International Coffee Organization is to meet Costa Rica's contributions, as a Contracting Party, to the costs of delegations and to the administration of the International Coffee Agreement.

The receipts for the Coffee Institute are obviously intended to defray the expenses of the Institute, which guides policy in this field and also acts as the overall co-ordinator of the interests of producers, processors and exporters, with a view to ensuring equitable conditions in the coffee business.

The revenue for the Central Bank goes towards the management of currency and foreign-exchange policy.

Charges on banana exports

Programmes to develop banana production, revenue to finance public expenditure and regulations within the purview of the Central Bank constitute the purpose of this tax.

Charges on sugar

The charge for the Costa Rican Institute of Pacific Ports finances service costs. The municipality of Puntarenas shares in this because exports are carried out using the special dock which is under its jurisdiction. Thus, in this case the purpose of the charge is also to offset expenses or finance public activities in the area where the exports are made.

Charges on meat

In the case of the charge on meat, its purpose is connected with costs of services, fiscal requirements, and economic regulations within the purview of the Central Bank.

III.3.B Export control system - other trade policy instruments

Question 69

Pages 22-23, paragraph B.(b)(v): To what extent are enterprises established in these zones exempted from the system of import levies described in Section III.2. of L/6050?

Reply

Enterprises established in the Free Zones are exempted from all charges included in the system of import levies described in Section III.2 of document L/6050.

Question 70

Page 22, paragraph B.(b)(v): Does the preference for the use of domestic raw materials in the operation of these enterprises constitute a local content requirement on production?

Reply

No.

IV. Export Incentives

Question 71

Will Costa Rica comply with the provisions of Article XVI concerning subsidies after accession to the General Agreement?

Reply

Yes, in the same conditions as developing countries.

Question 72

Page 25: Could Costa Rica more fully describe the provisions and workings of the Law on Export Promotion No. 5162 of 22 December 1972, and the Law on the Financial Equilibrium of the Public Sector, Decree No. 6955 of 24 February 1984, with specific attention to the following aspects:

- tax credit certificates (Law on Export Promotions);
- the duty free importation of raw materials; and
- the forgiveness of internal sales tax or other levies for exported products.

Reply

Tax Credit Certificates (CAT)

The Tax Credit Certificate is a freely negotiable, non-interest yielding, bearer document, exempt from taxes of any kind, which is issued when an exporter surrenders foreign exchange to the Central Bank, at the exporter's request.

The Certificate may be used to pay taxes after twelve months from the date of issue and ceases to be valid twenty-four months after that date.

In order to be entitled to this benefit, exporters must submit an application to the National Investment Council.

It is an incentive granted by the Government of Costa Rica to exports of non-traditional products intended for third markets, provided they have a minimum of 35 per cent domestic value added; it is intended to compensate for the distortion of international costs.

National Investment Council

The Council is responsible for examining applications for Tax Credit Certificates, authorizing the right to such benefit by means of a contract,

and making recommendation to the Central Bank for the issue of Tax Credit Certificates.

Central Bank of Costa Rica

The Central Bank is responsible for issuing the Tax Credit Certificates and acts as the State cashier for the acceptance of Certificates used for the payment of taxes.

The Certificates are issued by the Central Bank of Costa Rica in local currency upon presentation of the following documents:

- Export licence and the corresponding invoice establishing the f.o.b. value of the export.
- The customs clearance certificate (póliza) for the export, issued by the appropriate customs office and duly completed.
- Way bill: by sea, air, land or post, indicating if freight has been paid or is payable.
- Registration of entry of foreign exchange, duly stamped by the Cashier of the Bank which carried out the foreign-exchange purchase.

The Tax Credit Certificate is issued by the Central Bank on safety paper in the denominations it considers appropriate, and contains the following minimum particulars:

- (a) Name of the issuing institution;
- (b) Name of the security;
- (c) Number and series of the Certificate;
- (d) Signatures of the Bank's authorized officials, stamped with the Bank's embossed seal;
- (e) Amount of the Certificate;
- (f) Indication that it is payable to the bearer;
- (g) Indication of the Law so authorizing; and
- (h) Date of issue, date of validity for payment of taxes and date of expiry.

Applications for the issue of a Tax Credit Certificate must be submitted to the Bank at least three months before the date of expiry.

"Negotiable" means that they may be bought and sold.

The Certificate may be used for the payment of direct or indirect taxes collected by the Central Bank as the State treasurer.

The face value of the Tax Credit Certificate is equal to the total amount of the foreign exchange brought in by the export multiplied by the exchange rate in effect on that date and by the factor to which the beneficiary is entitled.

Duty-free importation of inputs and machinery

Beneficiaries of export contracts are entitled to import duty-free any input that is incorporated in the export goods. Similarly, they are entitled to exemption from local import levies on the purchase of machinery and equipment in the proportion represented by sales to third markets of non-traditional products (the percentage of exemption is the percentage of sales to third markets). The relevant provisions are contained in the Law on the Financial Equilibrium of the Public Sector No. 6955, governing the formalities, grant and control of exemptions on grounds of export promotion, Decree No. 16-999-H of 21 March 1986.

In addition, the National Investment Council examines applications and authorizes, by means of an export contract, the right to this benefit. The Technical Secretariat of the National Investment Council examines and makes recommendations on specific applications for exemption to the Ministry of Finance. The latter authorizes the release from the Customs warehouse (in the case of imports) or local duty-free purchase, either in part or in full as the case may be. It also checks up on the exemptions granted in order to ensure that they are properly used.

Natural or legal persons wishing to take advantage of this benefit must apply for an export contract, by means of which they are granted this right; the information contained in the application includes the list of inputs, machinery and equipment for which the enterprise is requesting the exemption. However, the National Investment Council has decided not to grant exemptions in the case of a list of machinery and equipment that is not essential for the production process.

The National Investment Council approves the exemption when the exporter proves that his product is non-traditional and destined for third markets. In the case of raw materials and the like included in the export process, an exemption of 100 per cent is granted solely for the amounts corresponding to exports to third markets.

Every year, enterprises must report on the use and destination of the exempted goods.

With regard to purchases of machinery and equipment, in the first year of the contract the percentage of exemption corresponds to the percentage of sales to third markets estimated for the first year of the export programme. In subsequent years, the percentage is calculated on the basis of the actual data for the latest fiscal period.

The Ministry of Finance has a programme for auditing enterprises which have export contracts so as to ensure that they fulfil their undertakings under the contracts; inter alia, the final use and destination of the exempted goods is examined.

In the case of purchases made within the country, the exemption from sales and consumption taxes corresponds to the amounts of the taxes levied.

An application must be submitted to the Technical Secretariat of the National Investment Council, which grants the authorization and forwards it to the Ministry of Finance, which gives the appropriate credits for future purchases.

Question 73

Page 25: Are there provisions in Costa Rican law or regulations for the execution of "export contracts" between exporters and the Government wherein financial benefits are offered based on the level of export volume? If so, please cite the applicable laws or decrees, and describe more fully the administration of these provisions.

Reply

The Law on the Financial Equilibrium of the Public Sector, No. 6955, of 26 November 1984, provides for the granting of financial incentives for exports, which are not related to export volume; the implementing regulations for these benefits have not been adopted and they have never been applied.

V. Monetary, exchange and balance-of-payments regulations

Question 74

Does Costa Rica foresee the imminent need to invoke GATT Articles permitting import measures for balance-of-payments purposes after accession to the GATT?

Reply

Invocation of the provisions of the General Agreement will depend on the country's economic situation.

Question 75

What trade-policy measures are directly related to the balance-of-payments situation?

Reply

Measures such as advance deposits and temporary import surcharges have been applied in order to solve a specific balance-of-payments situation.

Question 76

Since 1983, there has been a controlled exchange rate and an official free exchange rate. In August 1986 the free rate was over 100 per cent higher than the controlled rate. What is the reason for this difference? Which products benefit from the controlled rate? What policy does the Government of Costa Rica intend to follow in this respect in the future?

Reply

In 1983 there were three exchange rates in Costa Rica: the free rate, the inter-bank rate and the official rate. As one of the major features of the economic stabilization programme introduced by the country at the end of the year, it was decided to unify the free-market rate and the inter-bank rate and use the resulting rate (the free inter-bank rate) for settling most of the country's international transactions. By way of background information, it should be pointed out that at the end of 1983 less than 1 per cent of international transactions were carried out at the official exchange rate.

Subsequently, and as part of the measures taken to reorganize the foreign-exchange market, in September 1985, under Law No. 6999, the obligation was established for the national banking system to exchange foreign currency only at the inter-bank rate, as a result which the transactions carried out at the official exchange rate were reduced to only foreign-currency remittances to a small group of students studying abroad at the time.

In the light of the foregoing, the fact that in August 1986 the free rate was 100 per cent higher than the official exchange rate neither had nor has any economic significance, since there is not a single import for which foreign exchange is granted at the official rate. Nor does the latter rate cover any other transaction with the exterior.

"With regard to foreign exchange, the Central Bank intends in future to continue periodically varying the inter-bank exchange rate according to the performance of a number of internal and external variables".

V.1 Organic Law of the Central Bank of Costa Rica

Question 77

Page 6, paragraph 2: Does the Organic Law permit or require the Board of the Central Bank or any other office of the Government of Costa Rica to consider and/or implement measures other than those affecting the level of imports to restore balance-of-payments equilibrium?

Reply

Under its Organic Law, the Central Bank does have the possibility of adopting measures other than those affecting imports, which would be aimed directly or indirectly at correcting a balance-of-payments disequilibrium. Thus, for example, by means of credit policy it may seek to create conditions for greater production of goods; controlling interest rates not only is useful for this purpose but also may play an important rôle in attracting foreign capital. Again, a variation in the exchange rate, in specific conditions, acts not only to discourage imports but also to encourage exports.

Question 78

Page 26, paragraph 2: Does the Organic Law establish criteria to determine "essential" imports? Who decides what is deemed to be "essential"? Is there a procedure for appeal of the decision by importers or other traders?

Reply

When the Governing Board of the Central Bank of Costa Rica considers that international reserves in the possession of the national banking system have fallen to a level that is dangerous for the stability and external convertibility of the colón and that therefore it is necessary to restrict the use of such reserves to the payment of essential imports and services, the Board has the power to define what is or is not essential. It takes that decision on the basis of its analysis of the country's economic situation and priorities at that time, and there are no explicit criteria defined in advance for such purposes.

The Organic Law does not provide for the possibility of any kind of legal appeal against the decisions of the Central Bank by importers in this field, but this is provided for elsewhere in domestic legislation. See Question No. 9.

Question 79

Page 26, paragraph 3: Please define more precisely the nature of "quantitative and qualitative controls on imports" that can be applied in an emergency. Concerning the "fixed" import prices that the Executive may establish, does this involve only customs valuation, or is this a reference price below which imports are not permitted? Is there any limit on the duration of these measures, other than the decision of the Board?

Reply

In the past, depending on the economic circumstances prevailing during the period in which the Central Bank declared an emergency, the quantitative and qualitative controls on imports applied have been foreign-exchange surcharges, multiple exchange rates and advance deposits.

It would also have been within its powers to establish import quotas and licensing, but it has never done so.

It is the Central Bank of Costa Rica which determines in each case the duration of the above-mentioned measures.

In Costa Rica there is no fixing of official prices. With regard to the fixing of prices for import products, this refers to the moment when goods are valued for customs purposes, and is basically carried out in order to prevent over-invoicing which, when it occurs, has a negative effect on the availability of foreign exchange.

Question 80

Page 26, paragraph 1-4. Does Costa Rica believe that its Organic Law and other provision of law dealing with balance-of-payments-related import measures are consistent with the provisions of GATT Article XVIII:B concerning the maintenance of minimum commercial quantities of imports, and progressive relaxation of the measures?

Reply

The measures provided for by the Organic Law of the Central Bank of Costa Rica to affect imports on balance-of-payment grounds are consistent with the provisions of Article XVIII:B of the General Agreement to which the question refers.

It should be stressed that since the beginning of this decade Costa Rica has signed and maintained standby arrangements with the International Monetary Fund.

V.3 Implementing regulations for exchange régime (for imports and other internal payments)

Question 81

The provisions relating to the foreign exchange régime and in particular to the registration of confirmed orders constitute an additional administrative régime affecting imports. What is the purpose of these provisions? Is registration automatic or can it be refused?

Reply

Registration of confirmed orders for imports is basically for statistical purposes, and is an instrument for projecting short-term foreign-exchange flows. Consequently, the procedure is processed automatic, and will only be refused when the prices and weight of goods to be imported are clearly at variance with what is normal in international markets, which occurs on rare occasions. It will be abolished during the current year.

Question 82

Page 27, paragraph 1: Under what conditions and based on what criteria would the Central Bank not grant the foreign exchange for payment for imports at the time of the registration of a confirmed order? Do these requirements in effect require Government approval for all imports, or are there other sources of foreign exchange for import payments?

Reply

The registration of confirmed orders is not intended to guarantee the granting of foreign exchange to pay for imports. The authorization of foreign exchange is part of a subsequent process in which the importer's debt is actually verified. Authorizations are processed in the chronological order in which the applications are submitted and in accordance with the availability of international reserves, unless the importer does not require foreign currency.

V.4 Establishment of temporary surcharges on certain imported goods

Question 83

Could Costa Rica provide some further details of the qualitative controls permitted under the Organic Law of the Central Bank of Costa Rica?

Reply

The law does not spell out the qualitative or quantitative import controls which the Central Bank may impose in a specified balance-of-payments emergency.

As explained in the reply to Question 79, in the past the Central Bank has resorted to multiple exchange rates, exchange surcharges and advance deposits, the first two of these measures being qualitative (schedules) and the last being basically quantitative.

At present, only advance deposits on the value of imports are applied, as follows:

(a) capital goods and spare parts	10%
(b) construction materials	10%
(c) raw materials	10%
(d) other goods	100%

These advance deposits consist of payment in advance for the foreign exchange until such time as the Central Bank authorizes it. They may be made at any commercial bank when the foreign exchange is applied for; the period is currently fifteen days. The policy with regard to these deposits is to maintain a general percentage of 10 per cent by the end of June 1987.

Question 84

Does Costa Rica apply the quantitative and qualitative controls on imports allowed by Section 96 of the Organic Law for the Central Bank of Costa Rica to any meat and dairy products?

Reply

No qualitative or quantitative measures under Section 96 are applied to such goods.

Question 85

What is the view of Costa Rica on how these temporary surcharges for quantitative and qualitative controls would conform to GATT Article XXII?

Reply

The surcharges have been under continuing review, and as may be seen from the reply to Question 86, their specific weight, in relation to the area they cover, has tended to decline. Any adjustment that may be made will be analysed in the context of the global negotiations which Costa Rica will conduct in GATT as a result of its accession. Costa Rica will be able to engage in any consultations in this respect when it is a contracting party.

Question 86

Article 96 of the Organic Law of the Central Bank of Costa Rica empowers the Bank to establish quantitative controls on imports. Under this authority the Board of the Bank has established temporary import surcharges on various occasions (L/6050, page 27).

- (a) What are the criteria used in selecting the products affected by the import surcharge?
- (b) What, in practice, is the highest level of these surcharges and on what products or groups of products are they imposed?
- (c) What are the criteria used to determine the duration of these measures? What has been their duration when they were actually applied in the past?

Reply

(a) From 1983 to 1985, the criterion followed was that of selectivity by economic category (inputs, capital goods, consumer goods, etc) and within these categories, by producing sector. Thus, inputs and capital goods used in the agricultural sector were exempt from payment of the surcharges, while inputs and capital goods used by the industrial sector bore surcharges of 2 per cent and 10 per cent, respectively. Consumer goods were classified as sumptuary and non-sumptuary, subject to a surcharge of 100 per cent and 12.5 per cent, respectively. In the case of vehicles, a 150 per cent surcharge was imposed on those with an engine size of over 1,250 cc; vehicles up to that level paid 10 per cent. Surcharges were also established in order to avoid injury to domestic output, and on

inputs of ceramic mosaic and tiles, and wood-burning cookers. This occurred above all at the time when the country did not have the Central American legislation on the customs value of goods to enable it to deal with unfair business practices. These surcharges were imposed for a fixed period.

As from January 1987, no consumer good has to pay a surcharge. The measure is applied only to inputs and capital goods as an adjustment to achieve specific pre-established levels of nominal protection.

(b) At present the highest level of surcharge is 150 per cent, applied to the exceptional case of motor vehicles with an engine size of over 1,300 cc. The other products, inputs and capital goods, bear rates of 2 per cent and 12 per cent, respectively.

(c) The current policy of the Governing Board of the Bank is to use surcharges as an instrument for reducing effective production.

In the past there were no time-limits on the application of this measure. The Governing Board of the Bank modified or eliminated surcharges as and when it thought best, except in the case of surcharges established in order to avoid injury to domestic output as a result of unfair competition, which were for a specified period.

Question 87

Establishment of temporary surcharges on certain imported goods. What goods are subject to this surcharge? Are there any limitations on how long this temporary surcharge may be applied?

Reply

Please see the replies to Questions 89 and 90, which cover these two questions.

Question 88

Does Costa Rica currently maintain import surcharges for balance-of-payments purposes? How much revenue was collected for the export promotion and import substitution funds in the most recent reporting period?

Reply

Costa Rica currently maintains import surcharges for balance-of-payments purposes only on motor vehicles with an engine size of over 1,300 cc. The Export Development Fund was created with resources provided by surcharges. However, in 1983 surcharges were earmarked for other purposes, and consequently the Fund did not continue in operation. The latest period in which resources were used for this purpose was in 1982, for an amount of \$ 0.5 million.

At present, all receipts form part of fiscal revenue.

Question 89

Page 28, paragraph (a): Please list the import items currently subject to these import surcharges. What are/were the criteria selection? Is there any right of appeal? Has the rate of these surcharges, on average, been increasing or decreasing over time?

Reply

As mentioned above, details of the surcharge system are given in Annex 10. As from 1 January 1986, the criterion followed for the establishment of surcharges has been to use them as a means of adjustment in order to achieve specific pre-established levels of nominal protection.

With regard to the right of appeal, it should be pointed out that any importer who feels injured by the application of a surcharge may lodge a complaint with the Central Bank, which will be dealt with in accordance with the provisions in force in this field.

The average level of surcharges was 3.81 during 1983; in 1984 and 1985, 5 per cent; in 1986, 5.2 per cent; and in 1987 so far, 2.50 per cent.

Question 90

Page 28, paragraphs (b)-(d): What percentage of tariff lines and trade volume is currently subject to these import surcharges? What is the average level of the surcharge? How much longer will these "temporary" surcharges be maintained?

Reply

At present, and since January 1987, 43.4 per cent of tariff items are subject to payment of the surcharge. In terms of trade volume, the information is not currently available.

The average level of the surcharge in 1987 (2.5 per cent) has declined in comparison with levels reached in earlier periods, as a result of the present policy of the Governing Board of the Bank, which is gradually to reduce the present rates.

VI. Economic and trade relations with third countries

VI.1 Central American Common Market (CACM)

Question 91

Can Costa Rica describe more fully the functions and scope of the Central American Tariff and Customs Régime?

Reply

The Central American Tariff and Customs Régime is a basic instrument of the economic integration process and has the following objectives:

- (a) To guide and strengthen development of the producing sectors;
- (b) To meet fiscal and balance-of-payments requirements;
- (c) To encourage efficient production and to rationalize the cost of tariff protection, especially for the consumer;
- (ch) To contribute to achievement of the foreign trade policy objectives of the Contracting States;
- (d) To contribute to equitable distribution of the benefits and costs of economic integration;
- (e) To improve the organization and administration of the Central American customs services, with the aim of gradually and progressively consolidating a regional tariff and customs system.

Question 92

Are there any national deviations from the Central American Customs Régime? Is there any trade policy area where the aims of the CACM have not been fulfilled?

Reply

In general, in Costa Rica there are no national practices that deviate from the Central American Customs Régime.

From the point of view of trade policy, the most important objectives of the Central American Common Market have been achieved, such as:

1. Establishment of a customs union.
2. Uniform external import tariff, which is necessary in order to adjust and guide the process of economic integration so that it becomes a genuine regional economic instrument and factor, since the profound changes in economic and social conditions in Central America call for arrangements that enable the countries to adapt with the necessary flexibility and speed to changing circumstances.
3. Finally, because of the crisis through which the CACM is passing, there has been a deterioration in planned objectives.

Question 93

Will the CACM be notified to the GATT and examined in light of the relevant provisions of the General Agreement?

Reply

In 1961 the first Central American Economic Integration Treaty was already notified by Nicaragua. In addition, the final report of the CACM for 1986 contains all the latest modifications of the Central American agreement and was submitted to GATT by SIECA.

Question 94

What is meant by "regional instruments" for the co-ordination of CACM policies (L/6050, page 31)?

Reply

Regional instruments means the agreements, treaties, conventions, letters and protocols of economic integration signed by the Governments of the area.

Question 95

The purpose of Costa Rica's tariff is to guide and strengthen development of the producing sectors, to encourage efficient production and to rationalize production costs (L/6050, page 9). What specific measures have been taken or are envisaged to attain these two objectives simultaneously under the Convention of the Central American Tariff and Customs Régime?

Reply

The specific measures adopted under the Convention are:

- A. The Central American Import Tariff, consisting of the headings with the customs duties contained in the Annex.

The Tariff is the instrument containing the nomenclature for the official classification of goods which may be imported into the territory of the Contracting States, the rates of import duty and rules for the implementation of the Tariff.

- B. The Central American legislation on the valuation of goods for customs purposes contained in Annex B and its regulations.
- C. The Central American Uniform Customs Code and its regulations.
- CH. The decisions and other common customs and tariff provisions based on the Convention.

Question 96

What are the negotiating powers of the Central American Council in respect of tariff and non-tariff matters? Is Costa Rica still by virtue of its regional commitments, able to negotiate and bind tariff reductions?

Reply

Powers of the Central American Tariff Council in Tariff Matters:

The Council shall be the body responsible for directing and administering the Régime to which the Convention of the Central American Tariffs and Customs Régime refers.

The Council shall:

- (a) Adopt the decisions necessary for the functioning of the Régime.
- (b) Settle differences arising among Contracting States in the application of the Convention and the instruments derived therefrom and supplementary thereto.
- (c) Approve customs duties and their modifications in accordance with the Convention.
- (ch) Exercise the other powers provided for in the Convention. The Council shall adopt its decisions by vote of the Contracting States.

If unanimity cannot be achieved at a meeting on any of the matters considered, the matter in question shall be considered at a second meeting. If unanimity is not achieved at that second meeting, a third meeting shall be convened within ten days following the second meeting, and if unanimous agreement cannot be achieved the Council may take a decision by affirmative vote of at least three Contracting States, in which case the obligations will be binding only upon the States which voted in favour.

The Council shall set up whatever executive or consultative committees or working groups are necessary to deal with the various specialized aspects of the Régime.

The Council shall establish at least the following committees:

- (i) Tariff Policy Committee and
- (ii) Customs Committee

The Council shall determine the membership, powers and responsibilities of the Committees.

In matters relating to unfair business practices and safeguard clauses, each State may take pertinent measures for a period of up to thirty days. Following that period, the measures must be brought before the Tariff Council for adoption.

With regard to the question as to whether Costa Rica is still able, by virtue of its regional commitments, to negotiate and bind tariff reductions, the answer is to be found in the reply to Question 99.

Question 97

Does the General Treaty on Central American Economic Integration in practice limit Costa Rica's capacity to participate in international tariff negotiations, and how do the provisions of this Treaty affect Costa Rica's capacity to negotiate a list of tariff concessions at the time of its accession to GATT?

Reply

In the course of its existence the Central American Common Market has adopted a number of legal undertakings which are contained in the various instruments accepted by its member countries. Consequently, when considering the possible full accession of Costa Rica to the GATT, it will be necessary to respect the decisions adopted in the field of economic integration, particularly as concerns preferential treatment in the trade of goods. The General Treaty limits the capacity to participate unilaterally in international tariff negotiations. Costa Rica could not unilaterally sign treaties which jeopardize the principles of Central American economic integration. These principles include the formation of a free-trade area and the adoption of a common tariff. The countries of the region have signed the Multilateral Free-Trade Treaty, which commits the signatory States to granting unconditional and unlimited most-favoured-nation treatment to goods originating in those States, with the condition that "this treatment does not extend to concessions granted under other free-trade agreements signed between Central American States".

Any schedule of tariff concessions by Costa Rica would have to be approved by the Central American Tariff Council.

Question 98

Page 31, paragraph 7: Does Costa Rica intend to undertake consultations with the other members of the CACM concerning its negotiations for GATT accession, as it is described in this paragraph?

Reply

Please see the reply to question 97.

Question 99

Pages 32-33: What are the provisions of the "Central American Clause of Exception"? Does Costa Rica intend to include this Clause in its GATT accession negotiations?

Reply

The Central American States have agreed that before signing or ratifying any multilateral agreements on commodities, trade or tariff concessions, or deciding to accede to any international body set up under such agreements, they will hold consultations in order to adopt a common position, if possible. The Commitment of the CACM member countries is not to sign agreements unilaterally with other countries which jeopardize the principles of integration. Thus, they have agreed to maintain the "Central American Clause of Exception" in trade agreements concluded on a most-favoured-nation basis with countries other than the Contracting States.

Question 100

Does Costa Rica have any other type of discriminatory tariff arrangements besides those provided for in the Central American Common Market?

Reply

We consider that the CACM agreements are not discriminatory, in that they are part of a process of regional integration. In addition to the CACM Agreement, Costa Rica has signed other bilateral agreements with Panama, Honduras and the Dominican Republic, which are allowed for under the Enabling Clause (L/4903).

VI.2 Partial-scope agreements with Colombia, Mexico and Venezuela

Question 101

How does Costa Rica justify partial-scope agreements which provide for derogations from most-favoured-nation treatment?

Reply

The partial-scope trade agreements derogating from the most-favoured-nation principle were communicated to GATT by the Contracting Parties members of LAIA which grant this preferential treatment to relatively less-developed countries under the Enabling Clause (Decision of 28 November 1979, L/4903, paragraph 1, and Article 25 of the LAIA Charter).

VI.3 Trade agreement with Panama

Question 102

Page 33, paragraph 7: What portion of Costa Rica-Panama trade is covered by the free-trade provisions of the agreement? Are imports into Costa Rica under this agreement subject to the levies, taxes, surcharges and other import restrictions listed above? Are other members of the CACM involved in this agreement or in similar agreements?

Reply

The trade agreement with Panama covers natural or manufactured products originating in the territories of Costa Rica and Panama that are defined in lists annexed to the treaty. Goods trade under the free-trade régime are exempt from import duties and export levies and also from the payment of consular fees and any other taxes and fiscal charges imposed on or in connection with importation or exportation. This does not include charges or fees for lighterage, wharfage, warehousing and handling of goods referred to as port services, storage, caretaking, transport and other services of a similar nature.

Costa Rica and Panama are the only signatories of this treaty, and they have undertaken not to grant to other countries the concessions which they have mutually granted each other. In brief, the agreement between Costa Rica and Panama covers:

Ninety-four per cent of our exports and 77 per cent of our imports (1985 figures).

In all, negotiations have covered 450 products. See annex No. 11A.

Imports from Panama are subject to internal levies at the customs level (tax on customs value, sales tax and consumption levy).

VI.4 Trade agreement with the Dominican Republic

Question 103

Pages 33-34, paragraph 1: Are the imports subject to preferential tariff treatment under this agreement subject to the levies, taxes, surcharges and other import restrictions listed above?

Reply

The agreement with the Dominican Republic contains two negotiated lists:

- (1) A list of goods traded freely in both directions, free of tariffs and other import restrictions. Like other imports, these products pay internal levies:
- Three per cent tax on c.i.f. customs value, established by Laws 6879 and 6946 of 21 July 1983 and 13 January 1984 respectively.
 - Consumption levy varying between 10 per cent and 75 per cent in accordance with Executive Decree, Law 4961 of 10 March 1972, as amended.
 - Sales tax of 10 per cent established by Law No. 6826 of 8 November 1982.
- (2) a second list of products for which, as from 1986, tariff levels were reduced by 35 per cent in both countries. These products also pay internal levies imposed at the customs level (the same levies as for list 1). See annex No. 11B.

VI.5 Other trade agreements

Question 104

Page 34, paragraph 2: Do any of these agreements provide for preferential treatment by Costa Rica of imports from partner countries? If so, please describe the relevant provisions.

Reply

No.

VI.6 Agreements with developed countries

Question 105

Could the nature of the co-operation with the United States and the EEC be explained in more detail?

Reply

As explained in the Memorandum (L/6050), co-operation with the United States consist in Costa Rica's being a beneficiary of the Generalized System of Preferences, under the Enabling Clause. The United States also grants other tariff preferences under the Caribbean Basin Economic Recovery Programme authorized within GATT by Decision of 15 February 1985 (L/5779).

With respect to the EEC, Costa Rica enjoys the Generalized System of Preferences and also recently signed, together with the other Central American countries, a Co-operation Agreement aimed at promoting co-operation in various fields.

VII. Other questions

Question 106

To what extent and under what principles are government-owned companies operating in Costa Rica?

Reply

There are State institutions operating in the following sectors: banking, insurance, energy, liquors, cement and fertilizers. In their activities they comply with the principles established in their statutes and regulations. It is considered that these entities operate in a manner that is consistent with the objectives and provisions of the General Agreement in the field of foreign trade, in accordance with the principles explained in the replies to question Nos. 108 and 109.

Question 107

Does Costa Rica maintain any enterprises engaged in general commerce that are encompassed by the definition of State-trading enterprises contained in Article XVII of the General Agreement? If so, will Costa Rica apply the criteria listed in Article XVII to trade with such entities by other GATT contracting parties?

Reply

Costa Rica does not maintain any enterprises engaged in general commerce that are encompassed by the definition of State-trading enterprises.

The functions of the National Production Council and the National Liquor Distillery are specified in the reply to question 16. The operating criteria of these institutions are in keeping with the National Development Plan, and their trade relations with other contracting parties will comply with the relevant provisions of the General Agreement, taking into account Costa Rica's situation as a developing country.

Question 108

What is the government procurement policy of Costa Rica?

Reply

The Costa Rican Government's policy with regard to government procurement is a transparent one. There are clear and precise rules governing this practice, which prevent the emergence of trade barriers and ensure free competition and award of contracts, with a view to achieving the best economic and technical terms and conditions for the purchase of the goods needed by the Costa Rican State. All the above is explicit in the system of rules and laws established in this field, such as the Law on the Financial Administration of the Republic, No. 1279.

Question 109

What rules for government procurement are applied?

Reply

The normal contractual procedures or rules for government procurement are:

- (A) OPEN TENDERING. This is the procedure for awarding contracts in which a public entity, in the exercise of its administrative functions, invites interested suppliers to submit tenders in accordance with the tender specifications, and the most desirable tender is selected. The objective of open tendering is to encourage the widest possible competition, within the context of the interests of sound administration, in order to obtain the best possible terms and at the same time ensure equality of opportunity for persons wishing to sign contracts with the Government. Thus, the public interest and equity guide this procedure.
- (B) SELECTIVE TENDERING. This is a tendering procedure under which only legal or natural persons expressly invited by the Government to do so may submit a tender. Thus, while there is no limit to the number of suppliers in open tendering, in the case of selective tendering the number is limited. Whereas in open tendering the submission of tenders is made following "an objective public call for tenders" in selective tendering the submission of tenders is in response to "direct invitation" by the Government.
- (C) SINGLE TENDERING. This is the procedure under which the Government directly selects the supplier to whom the contract is awarded without competition or opposition from other suppliers. Consequently, it is a procedure for awarding contracts without competition, and is therefore an exception in comparison with the two previous procedures. The difference between selective tendering and single tendering does not lie precisely in the legal grounds on which the procedure is justified or authorized, which is a matter of the particular legislative circumstances in each case, but rather in the form or manner in which the supplier is selected. This circumstance establishes a different legal régime for each procedure.

Question 110

What is the purpose of the Barter Law? Are there any particular facilities which encourage barter operations?

Reply

The Barter Law was established by Law No. 3527 of 15 July 1965, and its implementing regulations by Decree No. 14125-MEC of 12 December 1982.

(A) Objectives of the Barter Law:

1. To encourage domestic production and take advantage of the possibility of placing surpluses on world markets.
2. In economies such as ours, where the availability of foreign exchange is very limited, and in view of the needs in terms of imports of inputs, capital goods and mass consumption goods, barter is a means of facilitating the appropriate trade when foreign exchange is not available as an intermediary.
3. It is also designed to facilitate barter operations when it is necessary to resort to them as an extraordinary procedure of limited application.
4. The Technical Commission on Barter Operations was set up under the implementing regulations for the Barter Law published in Executive Decree No. 14125-MEC of 11 January 1983.

The Commission has the following function:

- To determine the viability and desirability of operations submitted for its approval, taking into consideration the following basic elements:
 - (a) Whether in fact by means of the operation trade is being increased, considering the amount and destination of the exports.
 - (b) The fact that the operation generates a positive net effect on the trade balance and on the production process of the exported article, and also its importance from the standpoint of employment.
 - (c) The nature of the product which it is desired to import, i.e. whether it is an essential consumer good, basic raw material, capital good or luxury article.
 - (d) The prices of the products to be traded, and their relationship with prices for such products on world markets.
 - (e) The situation as regards local supply conditions.
 - (f) Restrictions in force on trade of such products in the country of destination, or as the case may be, the barter requirement in order to be able to carry out the exports.

(B) Facilities for barter operations

1. Once the barter licence has been approved by the Technical Commission, the export licence is automatic.
2. When an export cannot be made by conventional means and the possibility of barter exists, whereby the country receiving our exports would in exchange provide goods which our country would in any event import because of their nature as raw materials, capital goods or essential products.
3. Barter is a means of making up for the lack of foreign exchange in economies such as ours, where financial difficulties exist.
4. Barter is used to generate trade.

Question 111

Are there any restrictions under the insurance and freight policy for imports?

Reply

There are no insurance and freight restrictions.

Question 112

Are there any patent protection laws covering imports?

Reply

There is a law for the registration of trade marks, the "Central American Convention for the Protection of Patent Rights", Decree No. 4543 of 18 March 1970, which protect foreign patents.

There is also a "Law on the Registration of National and Foreign Patents", Law No. 6867 of 25 April 1983, and Decree No. 15222-MEIM-J of 12 December 1983.