

GENERAL AGREEMENT ON

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TARIFFS AND TRADE

Limited Distribution

REPORT OF THE WORKING PARTY ON THE ACCESSION OF COSTA RICA

1. On 16-17 June 1987 the Council of Representatives appointed a Working Party to examine the application of the Government of Costa Rica to accede to the General Agreement under Article XXXIII, and to submit to the Council recommendations which might include a draft Protocol of Accession.

2. The Working Party met on 9 March 1988 and 27 October 1989 under the Chairmanship of Ambassador J. Lacarte-Muró (Uruguay). The terms of reference and membership of the Working Party are set out in document L/6187/Add.1.

3. The Working Party had before it, to use as a basis for its discussions, a Memorandum on the Foreign Trade Régime of Costa Rica (L/6050) and the questions submitted by contracting parties on the Costa Rican trade régime and the replies of the Costa Rican authorities thereto (L/6185 and Addendum 1). In addition, the representative of Costa Rica made available to the Working Party the following material:

- National Development Plan 1986-1990;
- Central American Treaty and Annexes;
- Consumption Levy;
- Export Controls;
- Law on Barter Transactions;
- Agricultural Policy: "Ongoing Dialogue" 1986-1990;
- Agricultural Policy: "Agricultura de Cambio", "Programas Nacionales Sectoriales";
- Appeals Against Acts of Customs Officials and Activity of Customs Authorities;
- Central Government: Income, Expenditure and Deficit;
- Items below the 5 per cent;
- Customs duties and other charges;
- Tariff structure by class of product;
- Headings subject to import duties which are unified (Part I);
- Headings subject to import duties which are being unified (Part II);
- Central American Legislation on the valuation of goods for customs purposes and regulation of the National Committee for Customs Valuation;
- Goods subject to selective consumption levies;
- Goods subject to temporary import surcharges;
- Trade Agreement with the Dominican Republic;
- Treaty on Free Trade and Preferential Trade with Panama;
- Acronyms of State Institutions;
- Decree No. 17774-MEC, 7 October 1987, which modifies temporarily certain rates in the Central American Import Tariff (L/6317);

- Decree No. 18440-MEC, 27 September 1988, which modifies temporarily certain rates in the Central American Import Tariff;
- Decree No. 18925-MEC which modifies temporarily certain rates in the Central American Import Tariff;
- Structural Adjustment Program II, Costa Rican Government.
- MIDEPLAN, "Carta de Política de Desarrollo del Gobierno de Costa Rica al Banco Mundial".
- Decree No. 10740, 17 March 1989 - Intentions Letter to the International Monetary Fund Costa Rican Government.

I. Country policy statement

4. In an introductory statement, the representative of Costa Rica referred to his country's heightened interest to accede to the General Agreement. Costa Rica recognizes that the multilateral trading system embodied in GATT is an essential factor for economic development in the modern world. On the understanding that the contracting parties fully acknowledge its current status as a developing country and assuring the contracting parties that its present foreign trade régime is basically GATT consistent, Costa Rica hopes that participation in the General Agreement will bring about significant benefits to its trading interests.

5. Costa Rica has always pursued economic and social development in the framework of a democratic and egalitarian political system, which aims at reducing social disequilibria and raising the standards of living of its entire population through sustained economic growth and advanced educational, cultural and health systems operating nation wide.

6. As an active member of the Central American Common Market, Costa Rica has rights and obligations that it is committed to respect. It has also played a leading role in promoting liberalization measures aimed at increasing the international competitiveness of Central American goods and services. The country has also taken a leading role in procuring the continued goodwill, support and cooperation of the international community, as a means to assure that recent regional pacification, reconstruction and modernization initiatives may have a chance to be successful. In this respect, Costa Rica is encouraged by the support provided by a number of contracting parties to the integrated and peaceful development of Central America it seeks. Therefore, Costa Rica expects full understanding and support from all contracting parties for its continual participation in the modernization of the Central American Common Market.

7. The developments during the past decade, both at the world and at Central American levels, have clearly demonstrated the vulnerability of inward-oriented economies of small, non-oil producing developing countries such as Costa Rica. The economic and financial crisis in the late 1970's and early 1980's, and the dislocation of the world's capital and trade flows, have created highly unstable economic scenarios for most developing countries. The Central American nations, including Costa Rica, have not escaped this phenomenon.

8. Costa Rica confronted problems that had no precedent in its history: the handling of an economy in crisis mainly due to world stagflation; confronting deterioration in its terms of trade; an unbearable foreign debt obligation and the breakdown of the Central American Common Market; all of the above compounded by a Central America engulfed in prolonged political turmoil.

9. These events of internal and external origin, and most of a structural nature, have been a catalyzer for the emergence of a national consensus from the late 1970's through the early 1980's with respect to the urgent need to diversify, modernize and streamline Costa Rica's productive apparatus as well as the internal and external institutional frameworks. Under these circumstances it was possible to put in place profound and urgent measures in order to stabilize the country and initiate the reactivation of the economy. In managing the crisis, Costa Rica has been successful in coordinating actions between its short-term stabilizing measures and the longer term policies related to structural adjustment in the economic and institutional systems. This has been possible due to an open dialogue between the public and private sectors; all within the framework of the principles of full democracy and social justice.

10. Through strict fiscal adjustment programmes aimed at achieving discipline and financial equilibrium and stimulating production, Costa Rica has been able to reverse the negative trends which had prevailed in the late 1970's and early 1980's with respect to rates of growth and inflation and in the evolution of foreign exchange rates. The resumption of orderly, stable and sustained economic and social development processes have confirmed the solidity of Costa Rica's long established democratic institutions.

11. Costa Rica is aware that its adjustment-through-growth programme relies on national savings and investment, but also depends on securing sufficient external financial resources, as well as on the procurement of more open and equitable international market access conditions.

12. Even though the expansion of exports will continue to be the main component of economic development and growth, the Costa Rican Government has been pursuing the mentioned reforms through a number of concomitant measures. The viability of its adjustment-through-growth programme depends substantially on the country's capacity to restructure its external financial obligations. Costa Rica's record of commitment to structural reform has played an important role in securing priority positions among the beneficiaries of new approaches to the solution of the foreign debt problem.

13. The reforms contained in Costa Rica's Structural Adjustment Program are encouraging domestic factors of production to move progressively towards more competitive activities, particularly in areas where the long-term comparative advantages are in its favour, thus providing larger export possibilities for Costa Rica, and contributing to the attainment of its development objectives. The policies have specific objectives aimed at

promoting export-led growth in the productive sector within the framework of a more open trade and a modernization of the whole economy, with particular reference to industry and agriculture, as well as for the financial sector and the public administration.

14. Costa Rica, as a true democracy and a developing country, fully supports the principles of non-discrimination, reciprocity, transparency and the rule of law in the trade policy field. It is, therefore, firmly committed to the strengthening of both the multilateral trading system and the principle of special and more favourable treatment for developing countries.

15. Costa Rica has been aware that the economic difficulties referred to have been seriously compounded by restrictive practices and external protectionist pressures affecting its exports. Costa Rica's structural adjustment process has suffered the adverse effects and obstacles posed by increasing open or concealed protectionism practised by contracting parties. This clearly jeopardizes Costa Rica's structural adjustment programme and development process and more relevant to the GATT purposes, it also weakens the multilateral trading system and makes difficult the attainment of the development objectives of both developed and developing countries.

II. General comments on Costa Rica's accession to GATT

16. Recalling that tariff negotiations are required for accession to the General Agreement under Article XXXIII, the Chairman noted that as of 16 June 1987, Costa Rica had invited contracting parties wishing to enter into tariff negotiations to contact the Costa Rican authorities (document L/6185 and GATT/AIR/2448). The Working Party invited contracting parties interested in carrying out tariff negotiations with Costa Rica to notify the Costa Rican authorities. The time-limit to submit notifications was not later than 11 April 1988. It was also agreed to invite interested contracting parties to submit their request lists to Costa Rica, and to make every effort to conclude the tariff negotiations as soon as possible (GATT/AIR/2576). Costa Rica has provided information on its foreign trade régime to the contracting parties throughout this period. Some members of the Working Party indicated that they had negotiated with Costa Rica and had submitted request lists with a view to the exchange of tariff concessions. These negotiations have been satisfactorily completed.

17. Members of the Working Party welcomed the application of Costa Rica for full accession to the General Agreement. Costa Rica's decision to negotiate for its accession to GATT at the time of the Uruguay Round of Multilateral Trade Negotiations was regarded as a significant contribution to trade liberalization as well as a timely and positive development which will reinforce confidence in the multilateral trading system. Furthermore, the contracting parties agreed and recognized that Costa Rica, as a participant in the Uruguay Round, will receive appropriate recognition in that forum for the liberalization measures it has adopted since 1 June 1986. Moreover, Costa Rica's accession would contribute to the economic

stability of Central America and bring to GATT deliberations a new voice from a region so far not widely represented in GATT. Members noted that Costa Rica's recent trade liberalization measures, tariff restructuring and simplification of customs formalities appeared to be in accord with the objectives of the General Agreement. Membership in GATT could be expected to enhance Costa Rica's economic growth and development, promote the efforts to diversify and expand Costa Rica's trade exchanges with contracting parties, and help to integrate the Costa Rican economy more fully into the international trading system. Participation in GATT could also be expected to strengthen regional integration in the context of the Central American Common Market. Contracting parties should make every effort to expedite the process of full accession of Costa Rica to the General Agreement.

18. Recalling the links between Costa Rica and her country in the context of the Central American Common Market, a member emphasized that the economic needs of the Central American region had been recognized in Resolution 42 (1) of the United Nations General Assembly, and stated that her delegation hoped that the accession of Costa Rica to the General Agreement would be satisfactorily concluded without delay.

19. The Working Party carried out an examination of various points concerning Costa Rica's foreign trade régime. During that examination, the delegation of Costa Rica supplied additional information on the Costa Rican Government's economic and commercial policies. The Working Party took note of the explanations and statements of Costa Rica concerning its foreign trade régime, as reflected in this report, and took note of the assurances given by Costa Rica in relation to certain specific matters which are reproduced in paragraphs 20-61 of this report.

III. Tariffs and levies systems - rationalization of tariff structure

20. In response to a question concerning the system of levies on imports, the representative of Costa Rica stated that the ad valorem duties, the 3 per cent tax on customs value and the surcharges were considered to be customs duties levied on imports. He added that the 3 per cent tax on customs value and the surcharges had been in operation in Costa Rica prior to the Central American Import Tariff entering into effect. Even though Costa Rica has been rationalizing its tariff system, and important advances have been achieved in this field, it had not been possible to fully consolidate all the customs duties into one single rate. The selective consumption levy, the 10 per cent sales tax and the other charges were considered to be internal taxes levied equally on both domestic and imported goods.

21. Concerning the rationalization of the level of protection in the Central American Import Tariff, the representative of Costa Rica explained that since 1986 the structure of protection had been effectively lowered and simplified. Tariff rates now vary between duty-free and 74 per cent. Costa Rica and its CACM partners had eliminated excessive levels of protection from 75-80 per cent to an average of 22.5 per cent, in a first

stage. This is shown in the tabulation reproduced in document L/6185/Add.1; and Costa Rica intends to continue with this process, in order to reach a maximum level of 40 per cent in the year 1992.

22. In response to additional questions concerning recent changes in the tariff structure, as well as on Costa Rica's intentions in this matter, the representative of Costa Rica replied that his Government intended to implement gradually a comprehensive programme of structural adjustment of the economy including foreign trade, the financial sector and the public sector. With regard to the 3 per cent tax on customs value, it has already been reduced to 1 per cent and is expected to be totally abolished in the period 1990-1992. Surcharges levied on capital and finished goods were abolished in the period 1986-1989. Costa Rica is introducing gradual changes in its Import Tariff, in order that by 1990 finished goods will be subject to a maximum tariff rate of 40 per cent. For textiles, clothing and footwear, such rate is expected to come into effect by 1992.

23. In policy terms, the structure of protection being introduced by Costa Rica has the following terms of reference:

- (a) Raw materials and capital goods not produced in Central America:
 - strategic raw materials 1%
 - others 5% to 10%
- (b) Raw materials and capital goods produced in Central America 10% to 20%
 - exceptions to the above 30%
- (c) Finished goods 5% to 40%
 - exceptions to the above for fiscal and balance-of-payments reasons 45% to 70%
 - automobiles 100%
- (d) Effective protection:
 - its estimated to lie within the range of 35% to 100%

24. The process of tariff simplification was initiated in October 1987, when all tariff rates above 40 per cent had been lowered by 10 per cent with a few exceptions for a limited number of luxury products and other items. Due to the approval requirement at the regional level, these measures have been implemented on a temporary basis, according to Decrees No. 17774-MEC of 7 October 1987; No. 18440-MEC of 27 September 1988; No. 18925-MEC of 2 May 1989; which list the temporary changes introduced by Costa Rica to the Central American tariff rates. The first of these decrees has been reproduced in document L/6317. Acceptance of Costa Rica's proposals by the Tariff Council of the Central American Common Market is still pending at this time. In noting that the measures contemplated in the structural adjustment programme exceed the trade liberalization which may be expected from a small developing country, the representative of Costa Rica expressed his satisfaction that these measures have been recognized by the contracting parties as a significant contribution to the multilateral trading system, as well as to the results of the Uruguay Round.

Tariff negotiations

25. In recognizing that Costa Rica had made considerable progress in simplifying the system of import levies and taxes, some members of the Working Party noted that Costa Rica is a member of the Central American Common Market, and enquired how Costa Rica would handle the tariff negotiations required for accession. In this respect, the spokesman for a group of contracting parties stated that, in their view, tariff negotiations by CACM members on an individual basis might lead to different levels of bindings and a somewhat confusing situation. It was therefore suggested that Costa Rica might consider the possibility of negotiating tariff bindings across the board.

26. In this respect, the representative of Costa Rica explained that since 1963 his country had been a member of the Central American Common Market. The CACM has succeeded in liberalizing trade among its members and had adopted a common external tariff based on a common nomenclature known as NAUCA II. The General Treaty for Central American Economic Integration allows members to enter into negotiation with third countries provided that consultations are undertaken within the Technical Committee and Tariff Council (CACM). In 1985 and 1986, the CACM had undertaken a substantive effort of simplification and rationalization of the tariff structure and adopted the CCCN. Any tariff concessions negotiated by Costa Rica in the context of accession to GATT would have to comply with the established consultation procedures, in particular, if tariff rates were to be lowered. At present, 100 per cent is the maximum CACM tariff rate. Costa Rica's policy, therefore, is to bind tariff rates at levels higher than those established in the CACM import tariff. Recalling the three part structure of the Central American Import Tariff, the representative of Costa Rica further explained that the 1611 tariff items listed in Schedule I represent approximately 91 per cent of the items in the common tariff. The tariff items in Schedule III, which do not have common rates, represent about 4 per cent of the Import Tariff. In his view, even though under the existing procedures Costa Rica has the possibility of negotiating individual tariff concessions which would be incorporated in Schedule III of the Import Tariff, it is not advisable to follow such course of action under the present circumstances, at a time when the other CACM members have also initiated their process of accession to GATT.

27. The representative of Costa Rica declared that his Government intends to bind its entire tariff schedule, and to establish a generalized 60 per cent ad valorem ceiling level for the tariff concessions contained in its GATT Schedule within a period of one year after the day of accession to the General Agreement, and intends to further reduce this ceiling, so that its GATT tariff concessions would not, within a period of three years after the day of accession to the General Agreement, exceed 55 per cent ad valorem, with the few exceptions specified in Annex B of the schedule attached to this Protocol. One delegation noted its belief that the results of Costa Rica's tariff negotiations fully respond to the spirit and the letter of the General Agreement and of the Enabling Clause which indicates that preferential arrangements should not constitute an impediment to the reduction or elimination of tariffs and other restrictions to trade on a most-favoured-nation basis.

Import surcharges and surtaxes

28. With reference to the establishment of import surcharges, Costa Rica was asked to describe the scope and level it currently applies. The representative of Costa Rica stated that in 1987, 43.4 per cent of tariff items were subject to import surcharges, whose average level was 2.5 per cent at that time. Currently, the rate of the surcharges is 2 per cent for almost all imports and a 6 per cent rate applies only to a few raw materials. Due to Costa Rica's balance-of-payments problems, for automobiles the rate of the surcharge is still 100 per cent. The surcharges are a temporary measure and there is a programme to phase them out gradually. He added that there was no relationship between the surcharges applied by the Central Bank and those that could be applied by the Central American Tariff Council.

29. In response to questions concerning the GATT justification of the tax on customs value, the representative of Costa Rica recalled that this tax was considered to be a non-discriminatory customs duty. In the light of its development, financial and trade needs as a developing country, Costa Rica considered that this tax was fully consistent with the objectives of the General Agreement, in particular Part IV. It was also noted that the rate of the tax had recently been lowered from 3 per cent to 1 per cent and that the proceeds of the tax were earmarked for medical care and welfare and child care centres.

30. Referring to the Central American Tariff and Customs Convention and the powers of the Central American Tariff Council, the representative of Costa Rica said that the Convention had established a Technical Committee and a Tariff Council as the bodies which should examine requests to modify the tariff regime. Only in very exceptional cases would the Tariff Council agree to modify the levels of tariff rates multilaterally set. Article 23 of the Convention authorized the Tariff Council acting unanimously to apply surcharges of up to 100 per cent ad valorem. This provision had never been applied. The representative of Costa Rica stated that his Government intended to comply with the relevant GATT provisions and procedures if measures required by the Central American Tariff Council were applied in a manner that affected Costa Rica's GATT obligations.

31. The representative of Costa Rica stated that since 1986 his Government has been successful in significantly reducing temporary import surcharges, and intends to continue reducing the surcharges and surtaxes referred to in paragraphs 28 and 29 of this report, eventually unifying them within the customs tariff. In this regard, it is the intention of the Government to eliminate the application of the 1 per cent tax on customs value, the 2 per cent surcharge on all imports, and the 6 per cent surcharge on select items in excess of tariff rates bound in Costa Rica's schedule, in a period of four years after the day of the accession to GATT. After that date, all the mentioned surtaxes and surcharges will be applied in accordance with the relevant provisions of the General Agreement, in particular Articles II, III, VI, XVIII and XIX. He also stated, that in the eventuality that these taxes and surcharges were still in effect after that time without the above-mentioned actions having been taken, the matter will be reviewed by

the CONTRACTING PARTIES, and he further confirmed that his Government would, if requested, consult with the contracting parties concerning the effect of these measures on their trade.

Selective consumption levy

32. With reference to the selective consumption levy, some members said that in accordance with the provisions of Article II of the General Agreement, the application of levies is permissible to the extent that they do not exceed the rates bound in the respective GATT schedule; even though the need to levy taxes could be well justified under GATT provisions, such as Article XVIII. In their view, neither Part IV nor Article XVIII of the General Agreement authorized the discriminatory application of levies contrary to Article III. In response the representative of Costa Rica noted that the selective consumption levy existed for reasons of fiscal and economic need and had no protective purposes. The selective consumption levy is applied on a non-discriminatory basis with respect to those domestic and imported goods which had been determined by the Legislative Assembly in the law. In accordance with said legislation, this is a permanent levy for which the Executive could modify the rates established by law up to 15 per cent every six months. The maximum rate is currently 75 per cent. For imported goods, the base for the levy is the C.I.F. value plus customs duties, and other postal and consular charges. For domestic goods, the base for the levy is the sales price of the goods to the wholesalers which is non-discriminatory against imported goods, and is therefore consistent with the national treatment provision. In the event of the imposition of future levies or the modification of the existing ones, Costa Rica would comply with the relevant provisions of the General Agreement concerning notification and justification. One delegation noted that it accepts that the selective consumption levy is a consumption tax, and not intended to disadvantage imports vis-a-vis domestic production. It did not believe that the tax is generally applied in a protective manner. Nevertheless, it reserved its rights to challenge specific applications of the tax that may appear in the future to be inconsistent with Articles III and VIII of the General Agreement.

Levies on specific goods

33. In reference to the system of levies on specific goods, the representative of Costa Rica said that the tax levied on imported liquors and beers is identical to the one applied on domestically produced liquors and beers. Even though the rates of the tax are the same, the legal basis are different. Moreover, the duties collected on this account are not credited to the Treasury's general fund. These resources are used to finance the activities of the Institute for Land Reform. Costa Rica considers that these levies are in accordance with the provisions of Article III of the General Agreement. He stated furthermore that his Government intends to apply the customs charges and taxes listed in Annex 5 of L/6050 in accordance with the provisions of the General Agreement, in particular Articles III and VIII. He also confirmed that the IFAM and IDA taxes are applied equally to locally manufactured or imported items.

IV. Agricultural policy

34. With reference to the objectives of the National Development Plan 1986-1990 as far as agricultural policy is concerned, Costa Rica was requested to specify the trade policy instruments, other than tariffs and import charges, that were being used and would be used in order to achieve the goals of increasing self-sufficiency in the production of basic foodstuffs; as well as diversifying the production structure for non-traditional exports and import substitution sectors. In addition, Costa Rica was requested to specify the GATT provisions that it would invoke to justify these measures. The representative of Costa Rica pointed out that in his country the National Development Plan has a general and merely indicative character. In Costa Rica, investments and production decisions responded to the principle of comparative advantage and other relevant market signals.

National Production Council (Consejo Nacional de Producción, CNP)

35. The representative of Costa Rica also stated that the CNP has two primary purposes to encourage production and to stabilize prices for all basic goods of popular consumption in order to guarantee their timely supply to the Costa Rican population at fair prices. In the first capacity, the CNP can set minimum purchase prices to be paid to the agricultural producers of goods included in the promotion programme. In accordance with the structural reform process, the CNP currently has the objective of seeking the gradual adjustment of these prices toward a convergence with world market levels as described in the Structural Adjustment Program. It can also purchase crops (without monopolistic participation) and re-sell them to the industrial sector, the wholesale or retail business sector or directly to the consumer at prices regulated by the Ministry of Economy, Industry and Commerce. He indicated that, as for its second attribution, the CNP is authorized to participate in the internal market, purchasing agricultural products which are part of the staple goods ("canasta básica"), and reselling them commercially through a chain of wholesale warehouses, self-service outlets, and other stores managed by the institution. This warrants the consumers the continual availability of such goods at fair prices, resulting from an operation characterized by low profits and efficient management of existing infrastructure and other resources. Even though the private sector has a dominant share of the market, the CNP is able to generate competition within the market, thus contributing effectively to price stabilization. Furthermore, the representative of Costa Rica explained that given that CNP's ultimate purpose is to achieve an adequate equilibrium between supply and demand of basic products, it may also resort to export possible production surplus, or to import goods in case of shortage, directly or by licensing third parties. Currently, the products subject to this control are: grains (rice, beans, soybeans and others), milk and milk processed derivatives, meat and live cattle, and tobacco. When the CNP conducts either an import or export operation directly, it does so through the open tender process in which all participants are guaranteed equal opportunity. The award is decided on strict commercial criteria. Import or export permits are approved or denied by the CNP based solely on technical studies

with regard to local supply and demand of the product at the time, in order to avoid negative distortions to producers and/or consumers. The Costa Rican delegation assured that at the present time, within the framework of the Costa Rican structural adjustment process, the CNP is in a transition phase characterized by a strengthening of its foreign trade operations through third parties as well as in a process aimed at harmonizing internal and external prices, based on their convergence, with percentages compatible with the tariff structure proposed by Costa Rica in its accession to GATT. In this regard, it is the intent of the Government of Costa Rica that the sum of all duties, charges, and price equalization charges imposed by CNP, applied to products imported directly through third parties, will not exceed the bound duty established for these items. If the application of such charges exceeds the bound rate of duty, Costa Rica will invoke the relevant GATT provisions and procedures. These might include Article XIX or XXVIII.

Limon Protocol

36. Referring to the Special Protocol on Grains, known as the Limon Protocol of 1965, the representative of Costa Rica indicated that relating to basic grains, the Central American countries had not yet achieved the objective of an adequate coordination of the national production and supply policies. The serious effects of the most recent droughts in Central America confirmed this situation. This Protocol does not involve preferential imports. In the event of exports by one of the signatories of the products listed therein, the Limon Protocol only gives to the other signatories the right of first refusal. In accordance with the Limon Protocol, if such right is exercised, prices are determined on a competitive basis by means of public tendering. Therefore, comparative costs prevail in these transactions because the signatories have no obligation or commitment to buy the products being sold.

V. Other non-tariff issues

Costa Rica's Central Bank

37. With respect to the Organic Law of the Central Bank of Costa Rica, in response to a question concerning the role of the Government when the Central Bank decides to impose trade restrictions, the representative of Costa Rica indicated that in accordance with that Law, the Bank is empowered to define certain economic policies on its own. Nevertheless, he pointed out that the Central Bank is part of the Government and in that condition its decisions have to be in accordance with the overall government financial, trade and monetary policies. For the above reasons and also on account of the fact that the Finance Minister as well as the private sector representatives are members of the Bank's Governing Board, there is no risk that it may pursue independent policies. In response to a further question, he said that the application of measures such as surcharges, import deposits or quantitative restrictions would be applied, notified and justified in accordance with the relevant GATT provisions, including, as necessary, provisions for consultation and negotiation.

Exchange rate system

38. In response to questions concerning the exchange rate system, the representative of Costa Rica declared that since 1983 Costa Rica has been implementing a mini-devaluations system approved by the IMF and, in connection with the Structural Adjustment Program, by the World Bank. He added that the official exchange rate has only legal existence but possesses no economic significance. The inter-bank exchange rate is the only functional rate currently in operation in Costa Rica's banking system. It is set according to the following variables: balance-of-payments situation, foreign exchange supply and demand, internal and external prices and rates of inflation.

Advance deposits

39. In response to a question concerning the advance deposits, the representative of Costa Rica explained that the Central Bank has the authority to require importers to make advance deposits when applying for the foreign currency needed to pay their imports. The rate of the deposit has varied between 10 per cent and 50 per cent and could be as high as 100 per cent. The deposits have been a temporary measure. In accordance with the Structural Adjustment Program, and regarding the solution of the balance-of-payments as well as the liquidity and inflation situation, it is Costa Rica's intention to reduce to 10 per cent the advance deposits by 1990. Imports originating in Central America and those made by exporters will be excepted.

Registration of confirmed orders

40. The representative of Costa Rica informed that the registration requirements for confirmed orders have already been abolished.

Fiscal and financial export incentives

41. With reference to the export incentives established in the "Financial Equilibrium of the Public Sector Law", information was requested concerning the benefits available to export contract beneficiaries, including the tax credit certificate program (CATS) and the certificates for increasing exports program (CIEX). Through the export contract, the Government guarantees to entitled exporters of non-traditional products destined to markets outside Central America and Panama, a series of fiscal and non-fiscal benefits, up to 1996. The amount of the tax credit certificate is related to the value of exports and their national content. The export contract provides the following incentives for "non-traditional" exports to third country markets: (i) import duty exception on raw materials and intermediates, machinery and equipment used in production for exports; (ii) exemption from the export tax; (iii) exemption from sales and consumption taxes; (iv) exemption of tax on corporate profits proportional to export sales; (v) a 15 per cent tax on profit repatriation; (vi) capital repatriation guaranteed after four years of operation; and (vii) availability of negotiable tax credits equal to 15-20 per cent of the FOB export value (CATS). In the view of one delegation these subsidies are

countervailable under Article VI, and should be reduced to the greatest extent possible, as soon as possible, in conjunction with Costa Rica's structural adjustment programme.

Modernization of foreign trade sector

42. The Costa Rican delegation stated that the country is currently undertaking the in-depth modernization, diversification and structural adjustment process of its productive and foreign trade systems. It seeks a higher commercial participation in international markets aiming to increase the volume of its foreign trade in relation to the modification of its domestic production processes, which will in turn be enhanced by accession to the General Agreement. These reforms geared towards consolidating the growth capacity of the country's economy require a profound and gradual transformation of the national productive base in all its phases, in order to provide a sustained and strengthened social and economic development, as well as to increase the level of well-being of the Costa Rican population. The representative of Costa Rica indicated that such measures are supported by the Government through the implementation of production and export oriented policies aimed at the achievement of Costa Rica's development objectives, taking into account its developing country status, and in accordance with the provisions set forth in Part IV of the General Agreement. He also stated that it is the intent of his Government that the above-noted export enhancements would be notified on a regular basis to the GATT CONTRACTING PARTIES, as called for in Article XVI.

Criteria for granting incentives

43. In relation to the percentage of local content required for the purpose of granting production incentives to entitled industries, the representative of Costa Rica declared that the Industrial Production Incentives Law of 27 December 1985, and its regulations of November 1986, establish measures to encourage the domestic production of goods on the basis of national development needs. He further detailed that manufacturing industries are entitled to certain benefits: accelerated depreciation, partial exemption from the territorial tax, and facilities for the payment of income taxes, depending on their contribution to generating net foreign exchange earnings, creating employment, transferring technology or by increasing the local content of their production. All of the above are applied in a non-discriminatory manner. He also declared that pursuant to the relevant GATT provisions, Costa Rica will notify any changes in these practices.

Free Zones

44. With reference to export processing zones, the representative of Costa Rica noted that the objective of the Export Processing Zones Law is to attract foreign investment and technology as well to promote exports. Up to 49 per cent of production can be cleared into Costa Rica's customs territory, upon payment of the corresponding import duties and levies. The reference to the preferential use of domestic raw materials in the export processing zones is only indicative and not mandatory; and this provision

will be removed if a legislative initiative currently pending in Congress is approved. He also noted that sales to the national customs territory by firms established in Costa Rica under the the Export Processing Zones Law are subject to the payment of all import duties and surcharges on their imported components.

Unfair trade practices

45. With reference to the application of countervailing or anti-dumping duties, some members inquired whether Costa Rica considered that the provisions of the General Agreement authorized the application of surcharges to deal with unfair trade practices. The representative of Costa Rica said that surcharges are not applied as countervailing or anti-dumping duties. In accordance with the Central American Tariff and Customs Convention, in the event of subsidization or dumping, the CACM countries could adopt whatever measures might be necessary, including modification of import duties. These provisions had been applied only twice: in 1982, to sanitary tiles ("azulejos"); and similarly, in 1987 to natural rustic fibres, i.e. "yute", "cabuya", etc. ("tejidos de fibras burdas").

46. Some members of the Working Party said that there did not appear to be a requirement in Costa Rica's laws concerning unfair trade practices for a finding of material injury before the application of countervailing or anti-dumping duties. It was also noted that in the legislation permitting the application of measures to safeguard Costa Rican industry there was no requirement for a finding of serious injury before taking such measures, as required by Article XIX. These same members stated that, in line with the relevant GATT provisions, the Costa Rican authorities should take action to provide for findings of material or serious injury before applying countermeasures to unfair trading practices in this area.

47. In response, the representative of Costa Rica indicated that it was the intent of his Government to apply, from the date of accession, measures taken for anti-dumping purposes or regarding subsidies and countervailing duties in conformity with the provisions of Article VI, and that his Government does not intend to use customs valuation procedures as a substitute for the application of Article VI. He also confirmed that Costa Rica intends to abide by the provisions of Article XIX of the General Agreement, including the serious injury test when applying safeguard measures. Taking the above into consideration, the CONTRACTING PARTIES took note of assurances given by the representative of Costa Rica.

48. Regarding the comments included in paragraphs 45-46, the Costa Rican delegation pointed out that Costa Rican laws indeed require an injury test before the application of countervailing or anti-dumping duties (see Law No. 6986 and Regulations No. DE 16790-MEC).

49. With respect to the application of measures to safeguard Costa Rican industry, the representative of Costa Rica indicated that even though current legislation does not require specifically such a test for those

cases, the Government is willing to fully apply GATT principles and regulations, and will bring its provisions automatically into line with the General Agreement once Congress approves the Protocol of Accession.

Quantitative restrictions

50. The representative of Costa Rica declared that his Government is committed to the gradual elimination of the use of import permits to regulate the supply of some basic agricultural commodities, and will continue to eliminate prior import permits existing in a few specific sectors, to the fullest extent possible, with the goal of eliminating their use in a period of four years after Costa Rica's accession to GATT. He also stated that quantitative restrictions and import permit requirements remaining after that date will be notified and justified within six months thereafter, in accordance with the relevant provisions of the General Agreement, in particular Articles XI, XVIII, XIX, XX, and XXI. He added that if such measures were still in effect after that time without the above mentioned actions having been taken, the matter will be reviewed by the CONTRACTING PARTIES. Furthermore, he stated that Costa Rica will ensure that remaining restrictions and import permit requirements will be applied in a way consistent with Article XIII of the General Agreement and shall apply all restrictions in accordance with the principle of non-discrimination and, confirmed that his Government would, if requested, consult with the contracting parties concerning the effect of these measures on their trade.

Government procurement

51. Information was requested concerning the procedures for government procurement in Costa Rica and the possible participation of foreign suppliers. The representative of Costa Rica referred to the law on Financial Administration and the implementing regulations concerning administrative contracts. The normal procedure is open or public tendering, where anybody can bid under equal conditions. Selective tendering where only qualified bidders can participate can be used in cases where its need is approved by the Comptroller of the Republic. Single tendering where the Government chooses the supplier and awards the contract without competition is a procedure used only in the few exceptional cases allowed by said law. Costa Rican legislation requires full transparency and publicity in government procurement activities, open competition for bidding and fairness in the adjudication of contracts. If necessary, transactions can be subject to administrative and judicial review.

State-trading

52. With reference to State-trading in Costa Rica, within the provisions of Article XVII, with respect to energy, fertilizers and cement, the representative of Costa Rica explained that there are no State monopolies in these sectors. He added that liquors, fertilizers and cement are also being manufactured and marketed by private sector entities. The State has participated in some corporations, which operated on an autonomous basis. However, in line with the principle of economic democracy and the

structural adjustment programme, in some sectors such as aluminium, entities have already been privatized; and, in others such as cement and fertilizers, the market share of State owned entities has been drastically reduced. The supply of energy is, in his view, as much a service as banking or insurance. This subject will be taken up in the Negotiating Group on Services in the Uruguay Round, to which Costa Rica intends to contribute with the purpose of promoting development and on the basis of the principles of mutual advantage and transparency.

Costa Rican Development Corporation (Corporación Costarricense de Desarrollo, CODESA)

53. The representative of Costa Rica informed that CODESA has for several years been pursuing an in depth transformation of its policies, holdings and the role it plays in the development process of Costa Rica. During the period 1985-88 CODESA liquidated 17 partially State-owned corporations; transferred five companies to the public sector; has sold affiliated companies; and also three subsidiary firms. During 1989 it has plans to dissolve or liquidate seven additional companies, and is in the process of selling the remaining three firms, thereby completing the privatization and dissolution processes of those companies affiliated to CODESA that the Government has ordered. The delegation of Costa Rica indicated that the liquidated firms are: Atunes del Puerto, S.A.; Azufrera Guancaste, S.A.; Centro Permanente de Ferias y Convenciones S.A.; Consolidación de Compañías Agrícolas e Industriales S.A.; Consorcio de Exportación de Productos Costarricenses S.A.; Distribuidora Costarricense de Cemento, S.A.; Expofresco, S.A.; Ferrocarriles de Costa Rica, S.A.; Guacamaya, S.A.; Guanacal, S.A.; Industria Aceitera Costarricense, S.A.; Industria Petrolera del Atlántico, S.A.; Ingenio Tempisque, S.A.; Oficina de Fletamento Marítimo, S.A. (FLEMAR); Sedmat, S.A.; and Transportes Aéreos Continentales, S.A.. Likewise, it also stated that the firms transferred to the public sector include: Corporación de Zonas Francas de Exportación, S.A.; Minera Nacional, S.A.; Multifert, S.A.; Naviera Multinacional del Caribe, S.A. (NAMUCAR); and Transmesa. With reference to companies with minority participation, it indicated that those which have been sold are: Agropalmito, S.A.; Compañía Consolidada de Terrenos de Oro (Costa Rica) S.A.; LACSA; Maderas y Acabados (MACASA); Servicios Aéreos Nacionales, S.A. (SANSA); and Subproductos del Café, S.A.. Costa Rica's delegation added that the subsidiary companies sold through FINTRA are: Aluminios Nacionales, S.A. (ALUNASA); Atunes de Costa Rica, S.A.; and Central Azucarera del Tempisque, S.A. (CATSA), 72 per cent of its shares being placed in the cooperative sector. The representative of Costa Rica noted that the companies currently in the process of either being dissolved or liquidated are: Acuacultura, S.A.; Algodones de Costa Rica, S.A. (ALCORSAS); Cementos del Valle, S.A.; Corporación para el Desarrollo Agroindustrial Costarricense, S.A. (DAISA); Inmobiliarias Temporales, S.A.; Tempisque Ferry Boat, S.A. and PanCafé; and finally he stated that the firms in the process of being sold during 1989 include 40 per cent of the shares of Cementos del Pacifico, S.A. (CEMPASA); 40 per cent of the shares of Fertilizantes de Centroamérica, S.A. (FERTICA); and 25 per cent of the shares of Stabapari, with participation of CODESA.

National Liquor Distillery (FANAL)

54. In response to questions concerning the production and operations of the National Liquor Distillery (FANAL), the existence of liquor monopoly, the situation of beer, wine and light alcoholic beverages, and the existence of distinctions between domestic and imported products, the representative of Costa Rica said that the National Liquor Distillery, since its creation over a century ago, has been Costa Rica's first national agroindustrial activity, serving two purposes: the prevention of public health hazards associated with the high levels of impurities common in clandestine production of liquor, as well as to provide sources of income to the Government, and more recently to the CNP operations. He also stated that according to Article 448 of the Costa Rican Tax Code said monopoly applies only to the production and marketing of ethyl alcohol and crude rum, not including alcohols for industrial or medicinal uses, (even though FANAL also produces them), nor the production of liquors themselves. Two liquor-producing companies operate legally in Costa Rica, purchasing from FANAL the alcohol required for their activities. State monopoly excludes beer production, as well the regulations applied to imports, consumption and exports of liquors. In the case of imports, these enter the country paying only the corresponding tariffs, and in their commercialization phase they are subject to the same internal taxes charged to the liquors produced by FANAL. The monopoly does regulate hypothetical imports of alcohol into the country, which FANAL could carry out, either directly through established State contracting procedures, or through permits granted to third parties. These are referred to as "hypothetical" because FANAL is capable of amply supplying the national demand of this product and has export capabilities, although operating at 50 per cent of its installed capacity. Pricing of alcohol and liquor produced by FANAL is, by law, regulated by the Board of Directors of the CNP. Income from the internal taxes on alcohol and liquors perceived by FANAL provides resources to the State as well as to the CNP. FANAL must transfer to the latter half of the proceeds of its sales for the purpose of supporting public interest activities of that institution. Finally, the representative of Costa Rica indicated that at present two bills contemplating the elimination of the monopoly have been presented to the National Congress, with a view to incorporating both private and cooperative sectors to these activities.

55. The representative of Costa Rica stated that it is his Government's intention to apply laws and regulations governing the State-trading activities of the enterprises (described in paragraphs 35, 53 and 54) in conformity with the provisions of Article XVII, including provisions for non-discrimination, the application of commercial criteria for trade transactions, notification and other procedures. The Working Party took note of this assurance.

Barter trade

56. With reference to the importance of trade exchanges under the Barter Law, the representative of Costa Rica noted that, due to the difficult economic situation of the countries in the Central American region, foreign trade transactions have been affected by serious payments problems. Barter

trade is used in order not to increase the outstanding debt of countries such as El Salvador and Nicaragua. Barter trade represents at present approximately 10 per cent of total exports to Central America which amount to US\$90 million; and is also used occasionally for small transactions with other countries.

Trade relations with LAIA member and Central American countries

57. In response to a question concerning the nature of the partial scope agreements between Costa Rica and some Latin American countries members of LAIA, the representative of Costa Rica recalled that the contracting parties to GATT, who are also LAIA members, have notified the 1980 Montevideo Treaty to GATT. In his opinion, the partial scope agreements are covered by the provisions of Article 25 of the Montevideo Treaty and by the Enabling Clause.

58. The representative of Costa Rica also stated that his Government intends to notify its preferential agreements, including those with Central America, to the CONTRACTING PARTIES within six months of accession, and to coordinate with other contracting parties members of these agreements in providing periodic reports on the activities of these agreements, with particular emphasis on changes in their operation that could affect contracting parties' trade. Furthermore, he declared that his Government is prepared to consult with the CONTRACTING PARTIES concerning these agreements in the appropriate GATT forum at some future point, if requested by interested contracting parties.

Adherence to the Codes

59. In response to questions concerning Costa Rica's intention to join the MTN Agreements on import licensing procedures, customs valuation and others, the representative of Costa Rica declared that his Government intended to notify its intention to accede to the Codes on licensing procedures, anti-dumping and customs valuation. With respect to the customs valuation and anti-dumping codes, he indicated that it is the view of his Government that the standards applied in accordance with the current instruments concluded among the Central American countries, are consistent with these codes and use practically the same criteria. Nevertheless, he indicated that both matters are "regulated by the treaties" subscribed to by the Central American countries, and that Costa Rica should reach an agreement with them covering the application of the codes provisions prior to their full implementation. The representative of Costa Rica declared that his Government will initiate negotiations to this end with its Central American partners. In the case of the Anti-Dumping Code, adherence to the Code will follow the completion of the accession negotiations. In the case of the Customs Valuation Code and the Licensing Code, Costa Rica will notify its intention to accede within three years. Costa Rica will invoke Article 21 of the Customs Valuation Code at that time if its negotiations with the other Central American Countries have not been completed by then. He also indicated that the Harmonized Commodity Description and Coding System will be an additional contribution to the strengthening of the multilateral trading system which Costa Rica will consider in due course.

Application of Article X of the General Agreement

60. The representative of Costa Rica noted that in accordance with its national laws, regulations and measures of public interest, including economic measures taken by the Government must be published in the Official Gazette ("Diario Oficial, La Gaceta") and that Costa Rica intends to apply the provisions of Article X from the date of its accession to the General Agreement.

Conclusions

61. The Working Party took note of the explanations and statements of Costa Rica concerning its foreign trade régime, as reflected in this report. The Working Party took note of the assurances given by Costa Rica in relation to certain specific matters which are reproduced in paragraphs 27, 31, 33, 37, 42, 44, 47, 49, 50, 55, 58, 59 and 60.

62. Having carried out the examination of the foreign trade régime of Costa Rica and in the light of the explanations and assurances given by the Costa Rican representatives, the Working Party reached the conclusion that, subject to the satisfactory conclusion of the relevant tariff negotiations, Costa Rica be invited to accede to the General Agreement under the provisions of Article XXXIII. For this purpose the Working Party has prepared the draft Decision and Protocol of Accession reproduced in the Appendix to this report. It is proposed that these texts be approved by the Council when it adopts the report. When the tariff negotiations between Costa Rica and contracting parties in connection with accession have been concluded, the resulting Schedule of Costa Rica and any concessions granted by contracting parties as a result of negotiations with Costa Rica would be annexed to the Protocol. The Decision would then be submitted to a vote by contracting parties in accordance with Article XXXIII. When the Decision is adopted, the Protocol of Accession would be open for acceptance and Costa Rica would become a contracting party thirty days after it accepts the said Protocol.

APPENDIX
ACCESSION OF COSTA RICA
Draft Decision

The CONTRACTING PARTIES,

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

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

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

The Governments which are contracting parties to the General Agreement on Tariffs and Trade (hereinafter referred to as "CONTRACTING PARTIES" and "the General Agreement", respectively), the European Economic Community and the Government of Costa Rica (hereinafter referred to as "Costa Rica").

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

Have through their representatives agreed as follows:

Part I - General

1. Costa Rica shall, upon entry into force of this Protocol pursuant to paragraph 8, become a contracting party to the General Agreement, as defined in Article XXXII thereof, and shall apply to contracting parties provisionally and subject to this Protocol:

- (a) Parts I, III and IV of the General Agreement, and
- (b) Part II of the General Agreement to the fullest extent not inconsistent with its legislation existing on the date of this Protocol.

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

2. (a) The provisions of the General Agreement to be applied to contracting parties by Costa Rica shall, except as otherwise provided in this Protocol, be the provisions contained in the text annexed to the Final Act of the Second session of the Preparatory Committee of the United Nations Conference on Trade and Employment, as rectified, amended and otherwise modified by such instruments as may have become effective on the day on which Costa Rica becomes a contracting party.

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

3. Costa Rica intends to eliminate the import surtaxes and surcharges, as referred to in paragraph 31 of L/6589 when in excess of levels bound in the attached schedule. If four years after the day of Costa Rica's accession to the General Agreement, these taxes are still in effect without the above-mentioned actions having been taken, the matter will be reviewed by the CONTRACTING PARTIES .

4. As indicated in paragraph 50 of L/6589, Costa Rica will continue to gradually eliminate current import licensing restrictions, and quantitative restrictions, and will complete their elimination four years after the day of Costa Rica's accession to the General Agreement. From the date of accession, additional such measures will only be applied as provided for in the Articles of the General Agreement, and such restrictions remaining after that time, will be notified and justified in conformity with GATT obligations. If this is not accomplished, the issue will be reviewed by the CONTRACTING PARTIES.

Part II - Schedule

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

6. (a) In each case in which paragraph 1 of Article II of the General Agreement refers to the date of that Agreement, the applicable date in respect of each product which is the subject of a concession provided for in the Schedule annexed to this Protocol shall be the date of this Protocol.

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

Part III - Final Provisions

7. This Protocol shall be deposited with the Director-General to the CONTRACTING PARTIES. It shall be open for acceptance by signature or otherwise, by Costa Rica until 30 June 1990. It shall also be open for acceptance by contracting parties and by the European Economic Community.

8. This Protocol shall enter into force on the thirtieth day following the day upon which it shall have been accepted by Costa Rica.

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

10. Costa Rica may withdraw its provisional application of the General Agreement prior to its accession thereto pursuant to paragraph 9 and such withdrawal shall take effect on the sixtieth day following the day on which written notice thereof is received by the Director-General.

11. The Director-General shall promptly furnish a certified copy of this protocol and a notification of each signature thereto, pursuant to paragraph 7, to each contacting party, to the European Economic Community, to Costa Rica and to each government which shall have acceded provisionally to the General Agreement.

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

Done at Geneva this _____ of _____ one thousand nine hundred and eighty nine, in a single copy, in the English, French and Spanish languages, except as otherwise specified with respect to the Schedule annexed hereto, each text being authentic.

ANNEX

Schedule LXXXV - Costa Rica

[Text reproduced in L/6589/Add.1]