

GENERAL AGREEMENT ON

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TARIFFS AND TRADE

Limited Distribution

REPORT OF THE WORKING PARTY ON THE ACCESSION OF EL SALVADOR

1. At its meeting of 20 December 1988, the Council appointed a Working Party to examine the application of the Government of El Salvador 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 31 May, 11 October and 22 November 1990, under the Chairmanship of H.E. Mr. E. Artacho (Spain).¹

3. The Working Party had before it, to serve as a basis for its discussions, a Memorandum on the Foreign Trade Régime of El Salvador (L/6391), and the questions submitted by contracting parties on the trade régime of El Salvador together with the replies of the authorities of El Salvador thereto (L/6652 and Add.1, 2, 3 and 4). In addition, the representative of El Salvador made available to the Working Party the following material:

- Central American Tariff and Customs Convention
- Decrees Nos. 221, 222 and 223 - Annexes "A" and "B" to the Convention - Import tariffs and customs valuation legislation
- Decision No. 371 - Amendments to the Tariff
- Decision No. 660 - Amendments to the Tariff
- Decision No. 453 - Amendments to the Tariff and Regulations on Customs Value of Goods
- Decree No. 583 - Selective Consumption Tax Law
- Decree No. 282 - Stamped Paper and Postage Stamps Law
- Decree No. 455 - Marketing and Price Regulation Law
- Decree No. 1051 - Supply Regulation Institute (IRA) Organization Law
- Section relevant to consular fees
- Decree No. 219 of 28 September 1984 - Animal Husbandry Development Law
- Decree No. 367 of 28 June 1967 - Tourist Industry Promotion Law
- Decree No. 339 of 6 May 1986 - General Law on Co-operative Associations
- Decree No. 799 of 26 September 1983 - General Law on Fishery Activities
- Decree No. 315 of 15 March 1986 - Export Promotion Law
- Decree No. 471 of 22 December 1966 - Poultry-farming Promotion Law and amendments thereto

¹The membership of the Working Party is set out in document L/6508/Rev.1.

- Decree No. 8 of 29 January 1987 - Law establishing CENTREX
- List of imported products subject to CENTREX control
- Decree No. 500 of 26 May 1987 - Prohibited Imports Law
- Decree No. 146 of 30 May 1961 - Law on Control of International Transfers
- Decree No. 1055 - Monetary Régime Law
- Decree No. 3/86 and Central Bank Instructions on Exchange Control in Import and Export Operations
- Decree No. 836 of 13 September 1950 - Coffee export tax
- Decree No. 364 of 21 August 1980 - Shrimp export tax
- Decree No. 135 of 19 November 1974 - Sugar export tax
- Decree No. 75 of 20 December 1979 - Act establishing INCAFE
- Decree No. 280 of 19 December 1945 and Regulations thereunder - Supplies Law
- Political Constitution of El Salvador
- Central American Convention of Primary Commodities, known as the Treaty of Limón, of 28 October 1965
- Decree No. 237 of 20 May 1980 - Law establishing INAZUCAR
- Decree No. 930 of 22 December 1981 - Law establishing CORSAIN and BANAFI
- Decision No. 18 of 1 June 1987 - Law on barter trade, counter-trade and triangular trade
- Decree No. 279 - Law regulating the Exercise of Trade and Industry
- Multilateral Treaty on Free Trade (1958)
- General Treaty on Economic Integration and the Central American Bank for Economic Integration (CABEI)
- Bilateral Trade Treaty with Honduras
- Free-Trade Treaty with Panama
- Partial-scope Agreement with Mexico
- Partial-scope Agreement with Colombia
- Partial-scope Agreement with Venezuela
- Agreements with developed countries (summary)
- Generalized System of Preferences with the United States of America and the Caribbean Basin Initiative (CBI)
- Decree No. 158 of 7 March 1980 - Bank Nationalization Law
- Decree No. 94 of 19 September 1974 - Law on Credit Institutions and Auxiliary Organizations (LICOA)
- Decree No. 68 of 20 December 1979 - Law establishing the Ministry of Foreign Trade
- Statutes of COEXPORT
- Statutes of FUSADES
- Statutes of the Chamber of Commerce and Industry
- Statutes of ASI
- Health Code and Regulations
- Law on the Control of Pesticides, Fertilizers and Products for Agricultural Use
- Legislative Decree No. 385, of 30 November 1989, eliminating exemptions
- Resolution No. 224, of 18 September 1989, amending the Central American Import Tariff

- Legislative Decree No. 383, of 30 November 1989, amending Part III
- Resolution No. 111, of 15 April 1988, preferential duties of 20-60 per cent of the Central American Tariff
- Resolution No. 154, of 1 June 1988, preferential duties of 5 per cent for maize
- Resolution No. 164, of 8 June 1988, preferential duties of 1 per cent for rice
- El Salvador: Breakdown of trade subject to the uniform, differential and autonomous tariffs of the Central American Import Tariff, January-September 1989
- Method of working out the formula of effective protection
- Legislative Decree No. 183, of 8 February 1989, abolishing the selective consumption tax
- Monetary Board Resolution No. J.M. 20/89, of 31 July 1989, on exchange measures
- Monetary Board Resolution No. J.M. 2/88, of 20 January 1988, eliminating prior deposits
- Legislative Decree No. 295, of 27 July 1989, replacing the Ministry of Foreign Trade by the Ministry of Economic Affairs
- Payments Convention signed between El Salvador and Costa Rica, of 10 September 1987
- Tela Agreement, of 8 April 1987
- List of products making up the basic basket
- Export Revival Law (Legislative Decree No. 460 of 13 March 1990)
- Reforms of the Wealth Tax Law (Legislative Decree No. 386 of 30 November 1989)
- Update of Annex I of document L/6391: Trade Balance of El Salvador in value terms, by country
- Update of Table No. 1 of document L/6391: Balance-of-payments
- Update of Table No. 2 of document L/6391: Exports of goods (f.o.b.) (millions of dollars)
- Update of Table No. 3 of document L/6391: Economic impact of imports (c.i.f.), in millions of US dollars
- Update of Table No. 4 of document L/6391: International reserves
- Amendment and Expansion of Parts I and II of the Central American Import Tariff (Resolution No. 94 of 21 May 1990)
- Establishment of the Exchange Rate Applicable for the Import Régime (Legislative Decree No. 400 of 12 December 1989)
- National Supplementary Note on Customs Value (87-A)
- Organic Law of the Consular Service of El Salvador, Article 169
- Authority of the Directorate-General of Customs Income for the classification of goods - Decree No. 38 of 29 July 1941
- Appeals (Rule VII)
- Draft Central American Customs Code (CAUCA)
- List of products with regulated prices
- Internal taxes arising in connection with the import of liquors
- Free Zone and Fiscal Warehouse Régime Law (Decree No. 461 of 15 March 1990)
- Identification by tariff line of products of which the import is absolutely prohibited (Rule X)
- Statistical publications of the Central Bank - Journal
- Import and export statistics of El Salvador

4. In an introductory statement, the representative of El Salvador said that his Government welcomed the constructive response given by contracting parties to El Salvador's request for accession to the General Agreement. Special reference was made to the Antigua Declaration adopted in June 1990 by the Presidents of Central America and Panama which had set up a Plan of Economic Action for Central America (PAECA) instructing the Ministers for the Economy to coordinate accession to GATT and pursue trade liberalization in a framework of economic democracy and social justice.

5. The representative of El Salvador noted that in the last twelve months El Salvador had adopted the following economic policy measures which were fully consistent with the provisions of the General Agreement: progressive reduction of tariff rates, elimination of import prohibitions, elimination of the protective effect of internal taxes and derogation of discriminatory tax exemptions. The Government of El Salvador had also decided to privatize certain sectors of the economy under State control in order to reduce the excessive share of the State in the production and distribution of goods and services. Together with implementing monetary and fiscal disciplines, El Salvador was deregulating markets through the gradual elimination of controls, monopolies, subsidies, etc. In the foreign exchange field, El Salvador had established a realistic and uniform exchange rate set up pursuant to the supply and demand situation and was channelling most foreign exchange flows into the banking system. In this context, the State enterprises responsible for trading in coffee and sugar had been placed on an equal footing with the private enterprises active in those sectors.

6. Recalling that El Salvador was one of the founding members of the General Treaty for Central American Economic Integration, the representative of El Salvador stressed that the Central American countries as a means to improve their participation in world markets would continue to strengthen and improve the Central American Common Market (CACM). To this effect, the CACM had adopted a common nomenclature and customs valuation legislation and had set up the means to rationalize tariff protection in a more dynamic and flexible manner according to their individual adjustment needs. The preservation of the regional economic space and the attainment of the long-term objective of the General Treaty for Central American Economic Integration which was the economic union of the Central American countries was ensured by the "Central American exception clause". This clause was consistent with Article XXIV of the General Agreement. Having regard to the commitments established in the context of the CACM, in the tariff negotiations required for accession to GATT, El Salvador would be willing to consider the establishment of a maximum ceiling binding encompassing the whole tariff. After accession to GATT, El Salvador would also be willing to analyze the Anti-Dumping Code in order to supplement the provisions of the Central American Tariff and Customs Convention.

7. Recalling that his country had experienced ten years of crisis, aggression and State intervention, the representative of El Salvador noted that in 1989 the real GDP had been 13 per cent less than in 1979, exports had fallen from US\$1,100 million in 1979 to US\$500 million in 1989 and the 1979 trade surplus had in 1989 become a 50 per cent deficit. El Salvador expected that the international community would demonstrate understanding with the fragility of the country's social fabric and productive apparatus. His Government expected that the talks being pursued with different groups, if successful, would put an end to the current conflicts and tensions. Having regard to its developing country status, El Salvador would continue the economic reform programme currently underway, and intended to become a contracting party to GATT in the course of the Uruguay Round as provided for in the Punta del Este Declaration, on the understanding that the concessions given in the accession negotiations would receive appropriate recognition in the Uruguay Round.

8. Recalling that tariff negotiations were required for accession to the General Agreement under Article XXXIII, the Chairman noted that as of 14 May 1990, El Salvador had invited contracting parties wishing to enter into tariff negotiations to contact the authorities of El Salvador (GATT/AIR/2992). Some members of the Working Party indicated that they had been in touch with the delegation of El Salvador and that negotiations with a view to the exchange of tariff concessions were currently taking place. The Working Party agreed that contracting parties which had not yet done so should notify their interest in entering into negotiations with El Salvador not later than 30 June 1990 and that efforts should be made to conclude the tariff negotiations as soon as possible (GATT/AIR/3016).

General Comments

9. Members of the Working Party welcomed the application of the Government of El Salvador for full accession to the General Agreement. In noting that El Salvador had already carried out an impressive trade liberalization effort, members supported the integration of El Salvador into the multilateral trading system as soon as possible. Having regard to El Salvador's level of development, some of these members felt that the reductions in border protection implemented by El Salvador should be duly taken into account both in the accession negotiations and in the context of the Uruguay Round.

10. The Working Party carried out an examination of various aspects of the foreign trade régime of El Salvador and the possible terms and conditions of a protocol of accession. During this examination, the delegation of El Salvador provided additional information on, and clarification of, El Salvador's economic and commercial policy. The main points brought out in the discussions are set out below in paragraphs 11 to 57. The report comprises the following sections: I. Tariff and customs régime; II. Tax system for imports; III. Import controls; IV. Unfair trade practices; V. Export promotion; VI. Government procurement and State-trading; VII. MTN Agreements; and VIII. Trade relations with other countries.

I. Tariff and customs régime

Import duties

11. In response to a question concerning the distribution of tariff lines under the new tariff structure by tariff levels and other charges, the representative of El Salvador said that in Parts I and II of the Customs Tariff the tariff levels were 5, 10, 20, 25, 30 and 35 per cent while in Part III these levels were 5, 10, 30, 40 and 50 per cent. Noting that the breakdown of trade subject to uniform and differential tariff rates appears in Annex 7 of document L/6652, he added that El Salvador was ready to hold bilateral talks with respect to items of special interest to contracting parties.

12. In response to questions concerning the reasons for maintaining tariff protection and El Salvador's intentions concerning the tariff structure, the representative of El Salvador said in the recent past that tariff rates had been as high as 270 per cent for reasons of protection, balance-of-payments considerations, fiscal revenue needs, etc. He recalled that the process of liberalization and modernization of economy began in June 1989 would be completed in 1992 or 1993. Pursuant to this reform the minimum tariff rates would be set between 15 per cent and 17 per cent while maximum tariff rates would be lowered. A minimum level of protection was necessary because the import substitution economic model followed by El Salvador for over 30 years had had anti-exports features. While manufactures production had enjoyed substantial protection, the agricultural sector had to a large extent been left aside. At present, in the context of the new policies of the CACM, all sectors would receive equal treatment with substantially lower levels of tariff protection overall. Moreover, for certain items the current tariff rates applied by El Salvador were even lower than the regional tariff rates because Article 26 of the Central American Tariff and Customs Convention empowered the Tariffs Council to authorize temporary deviations. The present tariff policy took into account economic development considerations and had minimal fiscal revenue objectives.

Customs duties

13. In response to questions concerning the competence and procedures for the modification of customs duties, the representative of El Salvador said that duty rates could be modified by joint action of the Ministers for the Economy and Finance. Duty rates set in Parts I and II of the Tariff within the ranges of 1 to 100 per cent could be modified by the CACM Customs Council and had to be implemented within thirty days by an Executive Order. The modification of duty rates below 1 per cent and above 100 per cent established in Parts I and II and the modification of duty rates in Part III of the Tariff required legislative approval.

Duty exemptions

14. With reference to the customs duties exemptions established in international conventions, the representative of El Salvador said that in

accordance with the Vienna Convention and as provided for in government contracts with, inter alia, IDB or IBRD financing, certain imports which did not represent a significant share of total imports were exempted from customs duties. He added that with a few exceptions, price controls had basically been abolished and that the goods subject to price controls were not entitled to duty exemptions.

Harmonized System

15. With reference to the transposition of the Central American Uniform Nomenclature (NAUCA II) to the Harmonized Commodity Description and Coding System (HS), a member suggested that El Salvador might adopt the HS before the conclusion of the calendar year 1992. The representative of El Salvador said that his country was interested in adhering to the HS in a reasonable time from the date of accession to GATT. However, no precise time limit could be provided at this stage as the transposition of the Common External Tariff would require joint action by the member countries of the CACM. Therefore, the schedule of concessions of El Salvador would be negotiated in the NAUCA II Nomenclature.

Tariff negotiations

16. With reference to the tariff negotiations required for accession to the General Agreement, some members asked whether El Salvador intended to bind only the whole tariff at a ceiling rate or would also contemplate item-by-item bindings. The representative of El Salvador said that El Salvador would enter into negotiations with interested contracting parties with an open mind. While a ceiling binding could be envisaged, having regard to the CACM commitments, the whole tariff could be bound. A member noted that Article XXIV was not an obstacle to the negotiation of tariff bindings on an m.f.n. basis.

Exchange rate

17. In response to a question concerning the use by El Salvador of different rates of exchange, the representative of El Salvador said that since March 1990 the following exchange rates were applied: official, regulated banking, free banking and coffee banking. Except for a few priority imports such as oil, medicaments, public sector imports, etc., and coffee, in accordance with Legislative Decree No. 400 of 8 December 1989 the regulated exchange rate applicable to imports represented the weekly average set up by the Central Bank. For all exports except coffee the exchange rate was free.

Customs valuation

18. In response to the questions concerning the customs valuation system, the representative of El Salvador said that in essence El Salvador applied the Brussels definition of value. In addition to Annex B of the Central American Tariff and Customs Convention, the relevant domestic legislation took account of Complementary Note 87 - A of the Central American Tariff

and Article 169 of the Organic Law of the Consular Service. The representative of El Salvador added that pursuant to Decree No. 38 of 29 July 1941, the Customs Department of the General Directorate for Customs Income was responsible for the tariff classification of imported goods. The appeals procedures against customs decisions were established in Rule VII of Part III of the Customs Tariff which appeared in Annex XII of document L/6652/Add.2.

19. Some members noted that Article VII of the General Agreement which set a basic GATT obligation prohibited the use of indicative, normal or official prices for the valuation of imports and requested that El Salvador commit to apply, in practice, and from the date of accession, the provisions of Articles VII and X in its customs practices and procedures, including customs valuation. In the view of these members, if this was not the case, El Salvador's request for accession might be premature. These members added that given the information provided in document L/6391 and in the responses to questions 21-25 in document L/6652/Add.2 and its annexes, El Salvador should also state clearly that its customs officials will give first priority in determining customs value to the "actual value" of imports, as provided for in Article VII:2 of the General Agreement, and will avoid the use of administratively determined or constructed prices for customs valuation purposes. In this regard, El Salvador should also join the Customs Valuation Code, which is, in fact, the Code for the Implementation of Article VII. The technical support and experience provided by Code membership would be very valuable to El Salvador during the reform of its customs valuation regulations.

20. The representative of El Salvador affirmed that his Government applies customs practices and procedures, including customs valuation, in accordance with the provisions of Annex B of the Central American Customs Convention. He also stated, however, that his Government recognized its obligation from the date of accession to the General Agreement, to apply the provisions of Articles VII and X to other contracting parties. In this regard, he confirmed that his Government would give first priority in determining customs value to the "actual value" of imports, as provided for in Article VII:2 of the General Agreement, and would avoid the use of administratively determined or constructed prices for customs valuation purposes.

Central American Customs Code and Regulations (CAUCA and RECAUCA)

21. A member stated that the provisions of CAUCA and RECAUCA which were under revision should be developed in conformity with GATT obligations in particular Articles VII, VIII and X of the General Agreement. The representative of El Salvador said that the CACM member countries with the assistance of SIECA had already drafted CAUCA at a technical level. CAUCA was now due for consideration by the Central American Tariff and Customs Council. RECAUCA would be drafted after the approval of CAUCA. He confirmed that all these instruments would be aligned with the relevant provisions of the General Agreement.

Article X

22. In response to questions concerning the publication of laws and regulations concerning trade, tariffs and customs, the representative of El Salvador said that all laws and regulations were published in the Diario Oficial. The time-limit for implementation varied between immediate application for provisional measures and three to fifteen days for other measures. Regulations were also transmitted through official channels to the government agencies and the relevant trade associations such as the Chamber of Commerce and Industry and the Manufacturers Association for distribution to the public. Moreover, significant customs rulings were published periodically in a bulletin entitled "Customs Criteria" issued by the Tariffs Department of the General Directorate for Customs Revenue. The representative of El Salvador noted that in accordance with its national laws, all regulations and measures of an economic nature must be published in the Diario Oficial prior to implementation, and that El Salvador will apply the provisions of Article X from the date of its accession to the General Agreement. The Working Party took note of this assurance.

II. Tax system for imports

23. With reference to the taxes levied on imports, the representative of El Salvador said that as part of the adjustment programme the consumption taxes which applied to between 10 per cent and 150 per cent of the value resulting from the invoiced value plus import duties had been eliminated (see Annex 9 of document L/6652) and El Salvador was studying the possibility of further reducing and simplifying the tax system. Furthermore, and prior to the implementation of the present trade liberalization policy, the exceptional charges eventually levied on imports were as follows: (i) 5 per cent surcharge on the import duty when the importer is not a registered trader; (ii) 1 per cent of the import duty applicable to partial clearances covered by a single set of documentation; (iii) 5 per cent of the import duty with a maximum of 200 colones for failure to declare in the customs form the weight, value or tariff item number; (iv) 15 per cent of the import duty in the case of postal imports exceeding US\$50; (v) 5 per cent of the import duty if the goods are undervalued; (vi) 25 per cent of the customs duty loss in the case of fraudulent declarations; (vii) 5 per cent of the import duty for failure to submit for final clearance within 30 days goods cleared provisionally. In response to a number of additional questions, he said that these charges which related to services rendered by the customs administration were modest, would have no effect on the agreed bound levels, did not constitute severe sanctions, and were consistent with Article VIII of the General Agreement. He added that the 30 per cent surcharge contemplated in the San José Protocol was not applicable. A member stated that, in his opinion, these charges are not related to the cost of services rendered, and therefore may be inconsistent with the provisions of Article VIII. This member urged El Salvador to state clearly that its customs penalties and charges applied to imports will be applied in accordance with Article VIII from the date of accession and

reserved its rights on this point, in light of the findings and recommendations of a GATT panel that examined United States practices in this area.

Sales tax (stamp tax)

24. Some members expressed concern at the lack of transparency inherent in the application of the current sales tax in El Salvador, known as the stamp tax. While, in theory, all transactions were taxed equally, in fact, there was no way to know to what extent imports received treatment equal to that of domestic goods. These members urged El Salvador to continue its efforts to streamline its tax system, to provide for less complex and more transparent forms of taxation, and to take note of the new obligations concerning border taxation that were being considered in the Uruguay Round Negotiating Group on GATT Articles (i.e. Article II:1(b)). The representative of El Salvador considered that both his statements in the Working Party and the wealth of information provided on the various aspects of El Salvador's economic, fiscal and trade policy were absolutely transparent and corresponded fully to the reality of the legal procedures applicable in his country. He said that the sales tax whose current ad valorem rate was 5 per cent was levied on all sales of goods and services without distinction between imported and domestic goods. Due to fiscal reasons El Salvador could not reduce or eliminate the sales tax even though this tax might be levied more than once if goods were sold repeatedly. The sales tax exemptions were equally applicable to imported and domestic goods and the exempted goods were not subject to the application of non-tariff measures in order to limit imports. For goods subject to price regulation, the Ministries of the Economy and Finance could increase or reduce the sales tax exemption. At present the only items exempt from the sales tax were the eight basic-basket items subject to price regulation.

Special levies on certain goods

25. With reference to the levies on alcoholic beverages, the representative of El Salvador said that domestic and imported products were subject to the same treatment. In the case of imports, the levies were paid at the time of customs clearance. In the case of domestic products, the levies were applied when the product left the bonded warehouse. A member noted that Annex 15 of L/6652/Add.2 lists the taxes applied to imports of alcoholic beverages and took note of El Salvador's statement that its taxes on alcoholic beverages applied equally to imports and domestic products. In his view El Salvador should eliminate by the date of accession any domestic taxes applied unequally to imports.

26. A member questioned the discriminatory tax on sacks and bags levied by El Salvador. The representative of El Salvador said that this industry was of fundamental importance for securing economic reactivation and maintaining social peace in a depressed area of the Eastern part of the country. In his view this measure could not be eliminated by a precise

date. Following accession to GATT, El Salvador would need a three-year time period to review this matter.

27. The representative of El Salvador stated that his Government will apply its import taxes and charges referred to in paragraphs 23-26 of this report, in accordance with the provisions of the General Agreement, in particular Articles III and VIII. In this regard, domestic taxes whose application vary according to whether the items are locally manufactured or imported will be eliminated by 31 December 1993. If by that date, these taxes and charges are still in effect without the above-mentioned actions having been taken, the matter will be reviewed by the CONTRACTING PARTIES. He confirmed that the sales tax known as the stamp tax, is a domestic tax applied equally to the value of imported and domestically produced goods. Other charges on imports, other than tariffs or customs charges associated with the cost of services rendered, will not be applied in excess of the bound rates of duty established in El Salvador's tariff schedule, unless such application can be explicitly justified under the appropriate GATT Articles.

III. Import controls

General prohibitions and requirements

28. Noting that trade restrictions for balance-of-payments purposes had been eliminated, some members asked about the intentions of El Salvador concerning possible recourse to GATT provisions concerning the application of trade restrictions for balance-of-payments purposes. The representative of El Salvador said that in 1990-1994 his Government expected to be able to reverse the 1988-1989 unfavourable performance of the balance-of-payments; in line with expected international financial support, El Salvador did not foresee the need to have recourse to trade restrictions for balance-of-payments purposes but retained the authority to do so if the expected financing was not forthcoming or if the value of its exports collapsed.

29. In response to questions concerning the general prohibitions and requirements, the representative of El Salvador said that in accordance with Rule X of Decree 383 of 30 November 1989 regulated imports could be prohibited, restricted or be reserved to the State. The import prohibition criteria listed in Section 6.1.3.1 of document L/6391 which were deemed to be compatible with Articles XX and XXI of the General Agreement remained valid. Certain requirements which were equally applicable to both domestic and imported products had been modified. These requirements related to a small number of products such as medicines, pesticides, fertilizers, etc. He added that the import prohibitions listed in Annex XX of document L/6391 were not in effect. The current list of absolute import prohibitions appeared in Rule X of Decree 383 of 30 November 1989 (Annex XVIII of document L/6652/Add.2). While agreeing that the restrictions listed in Rule X and in Annex XVIII of L/6652/Add.2 did not constitute discretionary or protectionist barriers, and, for the most part, could be justified under Articles XX and

XXI of the GATT, some members noted that import licensing restrictions were in place for sugar, milk and milk products, beans, rice, wheat, sorghum, corn, cotton, aguardiente in bulk, sugar-based liquors, wine must, wine in bulk, and inputs for alcoholic beverages which were not listed in the Annex. Information was requested on the status of the restrictions applied to imports, the manner of application and by which Ministry or government agency, the procedures to obtain licences, determine import quantities, etc.

30. The representative of El Salvador referred to the information requested by some members concerning restrictions by means of import licensing, which in their view were applied to some products such as those mentioned in the previous paragraph and which were not listed in Annex XVIII of document L/6652/Add.2. He confirmed that the products in question were not subject to prior import licensing or quantitative restrictions, and said that the activities of the governmental ministries or agencies which were involved in the importation of such products took the form of the granting of endorsements (by means of stamps), permits (by means of notes) and phytosanitary certificates, applying, inter alia, criteria relating to statistical monitoring, quality, animal and plant health, domestic supplies and the environment. The ministries concerned were: Ministry of Agriculture, through the Departments of Agricultural Economy (AE) and Agricultural Defence (AD); Ministry of the Economy, through the Departments of Internal Trade (IT) and Industry (DI); Ministry of Public Health and Welfare through the Department of Environmental Health (EH) and Food Hygiene (FH); and the Superior Council for Public Health, a governmental agency (SCPH). He said that the procedures for obtaining such endorsements, permits or certificates were expeditious and simple.

31. In connection with the previous paragraph, the representative of El Salvador referred to the specific responsibilities of the governmental ministries or agencies involved in imports of the above-mentioned products, as follows: sugar (AE, EH, AD), milk (EH, IT, AE), beans (EH, AD, AE), rice (EH, AD, AE), wheat (EH, AD, AE), sorghum (AD, AE), wine (EH, AD), liquors and spirits (EH), inputs for alcoholic beverages (EH), edible oils of animal or vegetable origin (AE, IT, AD, EH), maize (AD, AE), cottonseed (IT, AE, AD), fabrics and sacks and bags of coarse fibres (AD, AE, IT), pencil wood (AD), wheat corn flour (IT), narcotic, psychotropic and anaesthetic substances (SCPH), popcorn corn (EH), cheese (EH, AD, AE), chemical and mineral fertilizers (AE, EH), insecticides, fungicides, herbicides (AD), meat (AE, AD, EH), fruit nectars (EH, AD), etc. The representative of El Salvador confirmed that the endorsements and permits required for the importation of these products and referred to in this paragraph were granted automatically and did not constitute barriers to trade.

32. The current list of products subject to import controls is reproduced in document L/6652/Add.4. The representative of El Salvador said that the list was being revised by the Executive for submission to the Legislative for consideration. Following legislative approval it was expected that

several items would be deleted. Some members suggested that El Salvador should eliminate licensing restrictions that cannot be justified under GATT provisions. New restrictions, and restrictions still in effect at the end of a reasonable period should be notified and justified in accordance with relevant provisions of the General Agreement. In their view, El Salvador should also adhere to the Code on Import Licensing Procedures, particularly if it intends to maintain an import licensing system for any reason. El Salvador's position concerning the MTN Agreements appears in Section VII below.

33. The representative of El Salvador declared that his Government, in the context of its current programme of liberalizing the economy is committed to the gradual elimination of the use of import prohibitions, licensing requirements, and other quantitative restrictions for reasons other than to protect human and plant health and public morals, or for national security purposes. He confirmed that his Government will continue to eliminate such measures in all sectors to the fullest extent possible, with the objective of fully eliminating their use by 31 December 1993. All such restrictions still in effect at that time will be notified and justified in accordance with relevant provisions of the General Agreement, in particular Articles XI, XII, XVIII, XIX, XX, and XXI. In addition, El Salvador will ensure that remaining restrictions and import permit requirements are applied in a way consistent with Article XIII of the General Agreement and shall apply all restrictions in accordance with the principle of non-discrimination. If by that date these objectives are not accomplished, the issue will be reviewed by the CONTRACTING PARTIES. The representative of El Salvador further confirmed that his Government would, if requested, consult with the contracting parties concerning the effect of these measures on their trade.

34. Noting that the Government of El Salvador had authority to levy taxes and surcharges on imports under Articles 25 and 26 of the Central American Tariff and Customs Convention, and to suspend imports and exports for emergency purposes, a member urged that, from the date of accession, this authority be applied in conformity with the provisions of the General Agreement. The representative of El Salvador stated that the authority of his Government to levy taxes and surcharges on imports, and to suspend imports and exports would, from the date of accession, be applied in conformity with the provisions of the General Agreement, in particular Articles III, VI, VIII, XI, XII, XVIII, XIX, XX, and XXI.

Technical regulations, standards, certification and labelling requirements

35. In response to further questions the representative of El Salvador stated that his Government applies the same controls and rules regarding technical regulations, standards, certification, and labelling requirements to imported and domestic goods, and does not consider the use of such regulations to restrict imports as being in its best commercial interests. In this regard, he stated that El Salvador would ensure that after its accession, its technical regulations, standards, certification, and labelling requirements would not be applied to imports in an arbitrary

manner in a way that discriminated between supplier countries where the same conditions apply, or as a disguised restriction on international trade. It would also ensure that certification requirements would be administered in a transparent and expeditious manner. The representative of El Salvador confirmed that his Government would, if requested, consult with the contracting parties concerning the effect of these requirements on their trade with a view to resolving specific problems. The Working Party took note of these assurances.

Price regulations

36. In response to questions concerning price regulations, the representative of El Salvador said that the Executive was authorized to regulate the prices of certain products such as foodstuffs when this was necessary. The prices of several products had been deregulated recently. The items still subject to price regulations which were listed in Annex XIV of document L/6652/Add.2 included certain oils and fats, medicaments, milk, etc. In general imports of these products were not subject to non-tariff measures. These products could be imported but imports also had to comply with the price regulations in force. He added that prices had to be remunerative for the producer and fair to the consumer. Price regulations were established by means of a technical evaluation by the Ministry of the Economy based on criteria such as the destination of the products. In response to a request for clarification of the prices policy, he reiterated that his Government's policy was to eliminate price controls except with respect to those products which constituted the basic basket which were deemed essential for the basic diet of the low income sectors of the Salvadorean population. With respect to imports of milk powder, he said that the price was regulated if the importer was the Supply Regulation Institute (IRA) but, in the case of milk powder imports by private individuals, prices were not regulated. The representative of El Salvador stated that from the date of accession, price regulations would be applied in conformity with Article III:9 of the General Agreement.

Basic basket

37. A member noted that document L/6652/Add.3, pages 6 and 7 listed the application of maximum sales prices for edible oil, cotton seed, wheat flour, sugar, edible fat, margarine, etc. and requested information on the mechanisms to enforce prices. Another member said that Annex 14 of L/6652/Add.2 indicates that a number of the "basic basket" products, rice, corn, milk, edible fats and oils, and flour were still under price regulation. "Clothing in general", "footwear", and "soap", listed as basic basket items in Annex 1 of L/6652/Add.2, were also noted as being goods whose distribution at reasonable prices was important for the welfare of the population. However, the non-tariff and tariff barriers maintained by the Government of El Salvador on these items were among the highest in its schedule. In addition, requests for bindings at lower levels of tariff had been rejected by the Government of El Salvador as touching on "strategic" industries. This member requested that

El Salvador made clear to the contracting parties its priorities in these areas, indicating specific sub-categories and products that deserved special consumer preference or special domestic protection. He added that El Salvador should make appropriate tariff concessions, as requested by the contracting parties, on some items. The representative of El Salvador said that his country's foreign exchange earnings were dependent on the exports of coffee, cotton and sugar. Due to the stagnation and crisis that had overfallen agricultural production, the Government had to pursue policies aiming at ensuring adequate food supplies and the recovery of agricultural production. Having regard to the relevant provisions of the General Agreement and in the interest of consumers and producers, El Salvador was seeking to liberalize prices and eliminate subsidies. He added that, at present, the basic basket included thirty-one essential products out of which only the eight items listed in Annex 1 of document L/6652/Add.2, page 7 were subject to regulated prices. Moreover, these prices were being set basically at market levels. Some sixteen months ago over 200 items had regulated prices. As El Salvador would continue to implement economic reforms and the Supply Regulation Institute was under review, it was foreseen that all essential products would be supplied eventually by the private sector. However, for socio-economic considerations, El Salvador would have to continue to ensure adequate access to essential supplies to the needy sectors of its population. Finally, the representative of El Salvador reaffirmed that one of the fundamental changes in the present price policy for staple products was the gradual reduction in the list of products with regulated prices, and that these prices were determined using technical criteria and setting maximum levels to enable economic agents to operate in the market. Once these prices have been determined, they are put into effect by ministerial decision. He also said that clothing, footwear and soap were no longer included in the basic basket.

Import deposit

38. The representative of El Salvador confirmed that prior import deposits for imports or for opening letters of credit had been eliminated as provided for in Monetary Board Resolution No 2/88 of 20 January 1988.

IV. Unfair trade practices

39. In response to questions concerning El Salvador's anti-dumping and countervailing duty provisions and their consistency with Article VI of the General Agreement, the representative of El Salvador said that his country did not have national legislation. The only applicable provisions were those of the General Treaty of Central American Economic Integration and the Central American Tariff and Customs Convention and its Regulations. He confirmed that the government agencies responsible for the implementation of the legislation concerning unfair trade practices were the Ministries for the Economy and Finance which on the basis of a technical study would analyze and decide any complaints. Appeals to the competent administrative bodies were also allowed. Up to now no retaliatory measures related to unfair trade practices had been implemented by El Salvador.

Safeguards

40. With respect to safeguards, the representative of El Salvador said that the relevant provisions contained in the General Treaty for Central American Economic Integration and Articles 25 and 26 of the Central American Tariff and Customs Convention were considered to be fully consistent with the relevant provisions of the General Agreement.

41. Some members of the Working Party said that there did not appear to be a requirement in El Salvador'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 there was no requirement in legislation permitting the application of measures to safeguard El Salvadorean industry for a finding of serious injury before taking such measures, as required by Article XIX. These same members stated that El Salvadorean authorities should take action to provide for respective findings of material or serious injury before applying counter-measures to unfair trading practices or safeguard actions, in order to bring practice in this area into line with the relevant GATT provisions. In response, the representative of El Salvador indicated that his Government would apply from the date of accession, its measures adopted for anti-dumping purposes or regarding subsidies and countervailing duties in conformity with the provisions of Article VI. He also confirmed that El Salvador intended 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 Working Party took note of the assurances given by the representative of El Salvador.

V. Export promotion

42. In response to questions concerning the instruments, mechanisms and measures to stimulate domestic production in various sectors, particularly in the area of basic consumer requirements and in the agricultural sector, the representative of El Salvador recalled that as indicated in document L/6652, legislation enacted on 30 November 1989 had repealed a significant number of production incentives. He added that the economic reactivation policy contemplated the granting of certain incentives in the form of preferential credits in particular with respect to products such as beans, rice, corn and sorghum which were considered to be essential to satisfy the basic needs of the Salvadorean population. He confirmed, in this respect, that after accession to GATT and having regard to its developing country status, El Salvador would apply the provisions of Article XVI:1 of the General Agreement. Some members said that the observance of Article XVI:1 should include notification and justification of subsidies on a regular basis, as provided for, and responding to requests from other contracting parties for consultations to limit the prejudicial effects of such measures.

43. Some members requested that El Salvador describe the recently enacted legislation concerning export incentives and promotion. The representative of El Salvador said that the Export Promotion Law, Decree 315 of 13 March 1986 had been repealed. The benefits obtained

under that Law had been rationalized in the following two laws: Export Revival Law (Decree 460 of 15 March 1990) and Law on the Free Zone and Bonded Warehouse Regime (Decree 461 of 15 March 1990). This legislation had established a compensatory mechanism aimed at refunding taxes paid to produce non-traditional exports. The tax refund amounted to 8 per cent of the FOB value of the goods and had been extended to include traditional exports with a minimum 30 per cent national value added. The legislation currently in force did not contemplate preferential credits.

Free trade zones

44. The representative of El Salvador said that regular import taxes, customs charges and tariffs were applied to the imported components of items produced in the free zones which entered for consumption into El Salvador's customs territory. Moreover, recently enacted legislation had authorized the private sector to operate free trade zones.

Tariff exemptions

45. In response to questions concerning tariff exemptions, the representative of El Salvador said that with the exception of those provided for in the General Law on Cooperative Associations which were related to land reform programmes, all the other tariff exceptions and fiscal incentives had been repealed by Decree 383 of 30 November 1989. Those repealed included, inter alia, the exemptions provided for in the Livestock Development Act, Tourist Industry Act, Fisheries Act, Poultry Development Act, etc. He added that even though the tariff exemptions established in the Export Promotion Law had also been repealed, under the Export Revival Law or the Law on Free Zone and Bonded Warehouse Régime, enterprises continued to enjoy their acquired rights. Thus, 100 per cent tariff exemption for enterprises selling their products outside the CACM were no longer being granted.

Financing programmes

46. In response to questions concerning the financing programmes for exports described in Section 6.2.3.3 of document L/6391, the representative of El Salvador said that pursuant to a Monetary Board Resolution of 18 July 1989 all financing programmes for the promotion of exports through interest rates had been abolished. Interest rates for new credits granted by financial institutions had to be higher than the rate of inflation and above the basic borrowing rate. The basic lending rate for banks for credits up to one year was 20 per cent and for credits over one year 22 per cent. Therefore, subsidies granted by means of interest rates were being gradually eliminated.

Export tax

47. In response to questions concerning the application of export taxes, the representative of El Salvador confirmed that only coffee was subject to progressive export taxes aimed at securing much needed fiscal

resources. In the case of coffee the tax rate was 30 per cent if prices were above US\$45 per quintal but private traders were now being allowed to compete with the National Coffee Institute.

48. The representative of El Salvador stated that it is the intent of his Government that the subsidy programmes described in paragraphs 42-43 in this report would be notified on a regular basis to the GATT CONTRACTING PARTIES as called for in Article XVI:1. He also indicated that it is his Government's intent to avoid serious prejudice to the interests of other contracting parties as set out in Article XVI:1, as well as to receive favourably requests from other contracting parties for consultations on the possibility of limiting the subsidization.

VI. Government procurement and State-trading

49. In response to questions concerning government procurement, the representative of El Salvador said that the General Procurement Office of the Republic was the sole State entity charged with supplying official agencies with goods. The Supply Law of El Salvador did not distinguish between purchases by State trading entities and goods purchased for direct use by the Government. Duties on State traded imports and exports were collected or assessed only in the case of coffee exports. Private traders could act as State suppliers.

Monopolies

50. In response to questions concerning the role of the institutions mentioned in section 6.3.2.2 of document L/6391, their payment of duties and taxes and their share of total imports and exports, the representative of El Salvador said that institutions such as the National Coffee Institute, the National Sugar Institute and the National Investment Corporation (CORSAIN) were not monopolies. At present there was no data available concerning their respective foreign trade shares. State monopolies existed in certain areas such as postal services, telecommunications, electric energy, port services, etc.

Supply Regulation Institute (IRA)

51. In response to questions concerning the role of the IRA in the purchase and sale of maize, rice, beans, grain sorghum and other related products and the mechanisms used to set prices, the representative of El Salvador said that the IRA did not have a monopoly on the purchase or sale of agricultural output in El Salvador but played a role in facilitating and moderating supply and demand. In coordination with other State institutions, the IRA had legal authority to set prices. The existence and functions of the IRA were currently under review and the purchase of basic grains might be transferred to the Agricultural Development Bank or some other financial development institution.

National Investment Corporation (CORSAIN)

52. A member requested information on the production and trading activities of CORSAIN and a list of the associated firms including their fiscal and customs situation. The representative of El Salvador said that CORSAIN had been established some 8 years ago when State participation in the economy had increased in order to represent the Government in certain productive enterprises. CORSAIN did not have any associated firms and the Government did not have any direct holdings in CORSAIN. As this institution was not in line with current economic policy it might have to be restructured in the near future. In response to a further question he said that BANAFI, the National Bank for Industrial Development, promoted the development of industrial activities. A member said that, in the view of her Government, El Salvador should commit to notify the State-trading entities under Article XVII after accession and to observe the other provisions of Article XVII.

Limón Protocol

53. The representative of El Salvador said that the Limón Protocol was a regional instrument in force to coordinate domestic production and supply policies of basic grains on the basis of a right of first refusal for exports but without interfering with the freedom of trade. Activities of El Salvador under the Limón Protocol were minimal. El Salvador considered that this instrument was compatible with Article XXIV of the General Agreement. A member reserved her opinion concerning the applicability of Article XXIV to the Limón Protocol.

54. The representative of El Salvador stated that his Government will apply laws and regulations governing the State-trading activities of the enterprises described above in conformity with the provisions of Article XVII, including provisions for non-discrimination, the application of commercial criteria for trade transactions, notification and other procedures. Furthermore, any similar functions currently in existence or introduced subsequently to accession carried out by other Government departments or agencies will similarly conform to the General Agreement. Purchases by these agencies for the manufacturing process or for resale are not considered government procurement under the General Agreement, or by the Government of El Salvador. The Working Party took note of this assurance.

VII. MTN Agreements

55. Some members said accession to the MTN Agreements was necessary to become a full contracting party from the standpoint of rights and obligations. These members stressed that any CACM rules not compatible with GATT would have to be changed prior to accession to the General Agreement. In their view, El Salvador should accept some of the MTN Agreements such as the Codes on Customs Valuation and Import Licensing Procedures. The representative of El Salvador stated that his Government will soon initiate negotiations with the other member States of the Central American Common Market to align the regional integration

instruments with the relevant provisions of the General Agreement and the MTN Agreements, and, within two years after El Salvador's accession to the General Agreement, El Salvador will adhere to the Code on Customs Valuation, the Code on Import Licensing Procedures and the Code on Anti-Dumping.

VIII. Trade relations with other countries

CACM

56. In response to a question concerning the justification of the trade agreements between El Salvador and Honduras and Panama, the representative of El Salvador said that these agreements were consistent with Article 25 of the General Treaty of Central American Economic Integration. Some members questioned the consistency with the General Agreement of the preferential agreements with Panama and Honduras.

57. The representative of El Salvador stated his Government will notify these preferential agreements to the CONTRACTING PARTIES within 6 months of accession, and to coordinate with other contracting party members of these agreements in providing periodic reports on the activities of these agreements, with particular emphasis on changes in their operation that could affect contracting party trade. He further stated that his Government 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. The Working Party took note of these assurances.

IX. Conclusions

58. The Working Party took note of the explanations and statements of El Salvador concerning its foreign trade régime, as reflected in this report. The Working Party took note of the assurances given by El Salvador in relation to certain specific matters which are reproduced in paragraphs 20, 22, 27, 33, 34, 35, 36, 41, 44, 48, 54, 55 and 57 of this report.

59. Having carried out the examination of the foreign trade régime of El Salvador and in the light of the explanations and assurances given by the representatives of El Salvador, the Working Party reached the conclusion that, subject to the satisfactory conclusion of the relevant tariff negotiations, El Salvador 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 El Salvador and contracting parties in connection with accession have been concluded, the resulting Schedule of El Salvador and any concessions granted by contracting parties as a result of negotiations with El Salvador 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 El Salvador would become a contracting party thirty days after it accepts the said Protocol.

APPENDIX

ACCESSION OF EL SALVADOR

Draft Decision

The CONTRACTING PARTIES,

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

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

DRAFT PROTOCOL FOR THE ACCESSION OF EL SALVADOR
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 El Salvador (hereinafter referred to as "El Salvador"),

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

Have through their representatives agreed as follows:

PART I - GENERAL

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

- (a) Parts I, III and IV of the General Agreement, and
- (b) 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 El Salvador shall, except as otherwise provided in this Protocol and in the commitments listed in paragraph 58 of document L/6771, be the provisions contained in the text annexed to the Final Act of the second session of the Preparatory Committee of the United Nations Conference on Trade and Employment, as rectified, amended or otherwise modified by such instruments as may have become effective on the day on which El Salvador 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 El Salvador shall be the date of this Protocol.

PART II - SCHEDULE

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

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

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

PART III - FINAL PROVISIONS

5. This Protocol shall be deposited with the Director-General to the CONTRACTING PARTIES. It shall be open for acceptance by signature or otherwise, by El Salvador until 30 June 1991. It shall also be open for acceptance by contracting parties and by the European Economic Community.

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

7. El Salvador, having become a contracting party to the General Agreement pursuant to paragraph 1 of this Protocol, may accede to the General Agreement upon the applicable terms of this Protocol by deposit of an instrument of accession with the Director-General. Such accession shall take effect on the day on which the General Agreement enters into force pursuant to Article XXVI or on the thirtieth day following the day of the deposit 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.

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

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

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

Done at Geneva this [date to be inserted] day of [month to be inserted] one thousand nine hundred and ninety [one], 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 LXXXVII - EL SALVADOR

[Text reproduced in L/6771/Add.1]