

# GENERAL AGREEMENT ON TARIFFS AND TRADE

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## CENTRAL AMERICAN FREE TRADE AREA

### Communication from the Government of Nicaragua

#### Addendum

Annexed hereto is the text of the General Treaty for Central American Economic Integration, signed in Managua on 13 December 1960, copy of which was transmitted to the Executive Secretary by the Government of Nicaragua with its letter of 14 February 1961 (L/1425).

GENERAL TREATY FOR CENTRAL AMERICAN ECONOMIC INTEGRATION

The Governments of the Republics of Guatemala, El Salvador, Honduras and Nicaragua,

WITH THE AIM of reaffirming their resolve to unify the economies of the four countries and give a joint impetus to the development of Central America, in order to improve the living conditions of its inhabitants;

IN VIEW OF the need to accelerate the integration of their economies, to consolidate the results achieved so far and to lay down the principles which shall govern such integration in the future;

BEARING IN MIND their commitments under the following instruments of economic integration:

Multilateral Central American Free Trade and Economic Integration Treaty;

Central American Agreement on the Equalization of Import Duties and Charges and its protocol on the Central American preferential Tariff;

Bilateral free trade and economic integration treaties concluded between the Central American Governments; and the

Treaty of Economic Association concluded between Guatemala, El Salvador and Honduras,

HAVE DECIDED to enter into the present Treaty, for which purpose they have designated their respective plenipotentiaries, as follows:

REPRESENTING HIS EXCELLENCY THE PRESIDENT OF THE REPUBLIC OF GUATEMALA: Mr. Julio Prado Garcia Salas, Co-ordinating Minister for Central American Integration, and Mr. Alberto Fuentes Mohr, Chief of the Economic Integration Bureau;

REPRESENTING THE GOVERNING JUNTA OF THE REPUBLIC OF EL SALVADOR: Mr. Gabriel Filona Araujo, Minister for Economic Affairs, and Mr. Abelardo Torres, Under-Secretary for Economic Affairs;

REPRESENTING HIS EXCELLENCY, THE PRESIDENT OF THE REPUBLIC OF HONDURAS: Mr. Jorge Bueso Arias, Minister of Economy and Finance;

REPRESENTING HIS EXCELLENCY, THE PRESIDENT OF THE REPUBLIC OF NICARAGUA: Mr. Juan José Lugo Marengo, Minister for Economic Affairs,

these plenipotentiaries, having exchanged their respective Full Powers, and having found them to be in due and proper form, have agreed as follows:

## Chapter I

### CENTRAL AMERICAN COMMON MARKET

#### Article I

The Contracting States agree to set up between themselves a common market which should be fully established in not more than five years from the date of the entry into force of this Treaty. They also undertake to set up a customs union between their territories.

#### Article II

For the purposes of the previous Article, the Contracting Parties shall undertake to complete the establishment of a Central American free-trade area within a period of five years and to adopt a uniform Central American tariff policy in accordance with the terms of the Central American Agreement on the Equalization of Import Duties and Charges.

## Chapter II

### TRADE REGIME

#### Article III

The signatory States shall grant free trade rights for all products originating in their respective territories, with the sole limitations included in the special regimes referred to in Annex A of this Treaty.

Accordingly, the natural products of the Contracting Countries and products manufactured in them shall be exempt from import and export duties, including consular fees, and all other taxes, surcharges and imposts levied on such imports and exports or on the occasion of their importation and exportation, whether such duties, fees taxes, surcharges and imposts are national, municipal or of any other nature.

The exemptions provided for in this Article shall not include taxes or charges for lighterage, docking, warehousing and handling of goods or any other charges which may be legitimately levied by port, warehouse and transport services; nor shall they include exchange differentials resulting from the existence of two or more rates of exchange or from any other exchange measures adopted in any of the Contracting Countries.

Goods originating in the territory of the Contracting States shall be accorded national treatment in all of them and shall be exempt from any restrictions or measures of a quantitative nature, apart from control measures which are legally applicable in the territories of the Contracting States for reasons of a public health, security or police character.

#### Article IV

The Contracting Parties shall establish for given products special transitional regimes excluding them from the direct free-trade rights mentioned in Article III of this Treaty. Such products shall be automatically incorporated in the free-trade regime not later than the end of the fifth year after the entry into force of this Treaty, except where specifically provided to the contrary in Annex A.

Annex A shall include products subject to special regimes, trade in which shall comply with the conditions and requirements laid down therein. The said conditions and requirements may only be amended following multi-lateral negotiations in the Executive Council. Annex A shall form an integral part of this Treaty.

The signatory States shall agree that the protocol to the Central American Agreement on the Equalization of Import Duties and Charges, concerning a Central American Preferential Tariff, shall not be applicable to trade in products subject to the special regimes mentioned in this Article.

#### Article V

Goods which are accorded the advantages laid down in this Treaty must be covered by a customs form signed by the exporter which shall include a declaration of origin and shall be submitted for the visa of the customs officers of the countries of shipment and of destination, in accordance with the provisions laid down in Annex B of this Treaty.

When there is doubt regarding the origin of a product and the problem has not been settled by bilateral negotiations, either of the parties affected may ask the Executive Council to intervene in order to verify the origin of the said product. The Council shall not consider as originating in one of the Contracting Countries, those products which have come from or have been manufactured in a third country and have been merely assembled, packaged, bottled, cut up or diluted in the exporting country.

In the cases referred to in the previous paragraph, import of the goods concerned shall not be prevented, always provided that a guarantee is given to the importing country for the payment of the tariffs or other charges associated with import. This guarantee shall become effective or shall be cancelled, as the case may be, when the problem has finally been settled.

The Executive Council shall establish, by means of regulations, the procedure to be followed in order to determine the origin of the goods.

#### Article VI

When the products in which trade is carried on are subject to charges, excise taxes or other internal duties of any kind, levied on production, sale, distribution or consumption in one of the Signatory Countries, the latter may impose an equal duty on goods of the same nature which it imports from another Contracting State, in which case it shall impose a duty of at least the same amount and under the same conditions, on imports coming from third countries.

The Contracting Parties shall agree that internal duties on consumption shall be established in accordance with the following conditions:

- a) Such duties may be established for the amount deemed necessary when the article in question is produced nationally or when the said article is not produced in any of the Signatory States;
- b) When an article is not produced in one of the Contracting Countries but is produced in another, the former may not levy duties on the consumption of the said article, except following a favourable decision by the Executive Council;
- c) When one of the Parties has established an internal tax on consumption and production of the article thus taxed subsequently commences in one of the other Contracting Countries, although such production does not exist in the country imposing the tax, the Executive Council shall, if requested by the Party concerned, consider the case and report whether the existence of the tax is compatible with free trade. The States shall undertake to abolish, in conformity with their legal procedures, such taxes on consumption on receiving a notification calling for this from the Executive Council.

#### Article VII

None of the Signatory States shall establish or maintain regulations on the distribution or sale of goods originating in another Signatory State when such regulations tend to place or do in fact place the said goods in an unfavourable position vis-à-vis similar goods either of domestic origin or imported from any other country.

Article VIII

Articles which because of the internal arrangements of the Contracting Parties constitute State or other monopolies on the date of entry into force of this Treaty, shall remain subject to the relevant legal provisions in each country and, where applicable, to the conditions laid down in Annex A of this Treaty.

In the event of new monopolies being created or the regime governing existing ones being modified, consultations shall take place between the Parties with the aim of providing a special regime for central American trade in the corresponding articles.

Chapter III

II. SUBSIDIES AND UNFAIR BUSINESS PRACTICES

Article IX

The governments of the Signatory States shall not grant exemptions or reduction in customs tariffs to imports coming from outside Central America when the articles concerned are produced in the Contracting States under satisfactory conditions.

When a Signatory State considers it is affected by the granting of customs exemption for imports, or by government imports which are not intended for the use of the government itself or of its institutions, it may submit the problem to the Executive Council, which shall consider it and come to a decision in the matter.

Article X

The Central Banks of the Signatory States shall closely co-operate in order to prevent currency speculations which might affect the exchange rates and so as to maintain the convertibility of the currencies of the respective countries on a basis which, under normal conditions, guarantees, freedom, uniformity, and stability of exchange.

In the event of one of the Signatory States establishing quantitative restrictions on international monetary transfers, it shall adopt the necessary measures to ensure that such restrictions will not affect the other States in a discriminatory manner.

In the event of serious balance-of-payments difficulties which affect or might affect the monetary payment relations between the Signatory States, the Executive Council, either ex officio, or at the request of one of the

Parties, shall immediately study the problem in collaboration with the Central Bank, for the purpose of recommending to the Signatory Governments a satisfactory solution compatible with the maintenance of the multilateral free-trade regime.

#### Article XI

No Contracting State shall grant, directly or indirectly, any subsidy in favour of the export of goods intended for the territories of the other States, or establish or maintain any system resulting in the sale of a given commodity for export to another Contracting State at a price lower than the established price for the sale of the said commodity on the domestic market, making due allowance for differences in the conditions of sale and taxation, as well as for other factors affecting price comparability.

Any fixing of prices or price discrimination in one of the Signatory States shall be regarded as an indirect export subsidy if it results in the establishment of a sales price for a given commodity in the other Contracting States which is lower than that which would result from normal competition in the market of the exporting country.

When the import of products made in a Contracting State with raw materials acquired under buyer's monopoly(monopsony) conditions at artificially low prices might threaten the existing production in another Signatory State, the party which considers itself affected shall submit the problem for consideration by the Executive Council so that the latter can decide whether an unfair trade practice is actually involved. Within the five days following receipt of the request, the Executive Council shall issue a decision in the matter or authorize temporary suspension of free trade, while permitting trade subject to the provision of a guarantee for the amount of the customs dues. The said suspension shall be authorized for a period of 30 days, and the Council must issue a final decision before the expiry of this period. If no decision is reached within the five days laid down, the party affected may request a guarantee pending a final decision by the Executive Council. Tax exemptions of a general character granted by a Contracting State with a view to encouraging production shall, however, not be deemed to constitute an export subsidy.

Likewise, exemption from internal taxes on production, sales or consumption levied in the exporting country on goods exported to the territory of another State, shall not be deemed to constitute an export subsidy. Normally, the differences resulting from the sale of foreign exchange on the free market at a rate of exchange higher than the official rate shall not be deemed to be an export subsidy; but in case of doubt on the part of one of the Contracting States, the matter shall be submitted to the Executive Council for its consideration and opinion.

Article LII

Since it would be a practice contrary to the aims of this Treaty, each contracting State shall, through the legal means at its disposal, prevent the exportation of goods from its territory to that of the other States at a price lower than their normal value, if this would jeopardize or threaten to jeopardize production in the other countries or retard the establishment of a domestic or Central American industry.

A commodity shall be considered to be exported at a lower price than its normal value if the price of the said commodity is less than:

- a) the comparable price, under normal trade conditions, for a similar commodity when intended for consumption in the domestic market of the exporting country; or
- b) the highest comparable price for a similar commodity exported to a third country under normal trade conditions; or
- c) the cost of production of the commodity in the country of origin plus a reasonable addition in respect of the sales cost and profit.

In each case, due allowance shall be made for differences in conditions of sale, differences in taxation and other differences affecting price comparability.

Article LIII

If one of the Contracting Parties considers that unfair business practices exist not included in Article LI, then it may not prevent trade by a unilateral decision, but shall submit the problem for consideration by the Executive Council in order that the latter may report whether such practices are in fact occurring. The Council shall render its decision within not more than 60 days from the date of receipt of the communication concerned.

When one of the Parties considers that there is evidence of unfair business practice, it shall ask the Executive Council for authorization to request a guarantee for the amount of the import duties involved.

If the Executive Council does not come to a decision within 3 days, the Party affected may request the guarantee pending a final decision by the Executive Council.



Article XIV

Once the Executive Council has come to a decision on unfair business practices, it shall inform the Contracting Parties whether or not protective measures against the said practices may be applied, pursuant to this Treaty.

Chapter IV

TRANSIT AND TRANSPORT

Article XV

Each of the Contracting States shall maintain full freedom of transit through its territory for goods proceeding to or from any of the other Signatory States, as well as for the vehicles transporting the said goods.

Such transit shall not be subject to deductions, discrimination or quantitative restrictions. Should there be traffic congestion or any other form of force majeure, each Signatory State shall give equitable attention both to the forwarding of goods intended for its own population and to that of goods in transit to the other States.

Transit operations shall be carried out by the routes prescribed by law for that purpose and be subject to the customs and transit laws and regulations applicable in the transit territory.

Goods in transit shall be exempt from all duties, taxes and other fiscal charges of a municipal or other character levied in connection with such transit, whatever the destination of the goods may be, but may remain subject to payment of the charges normally applicable for services rendered, which may in no case exceed the cost of the latter so that they constitute import taxes or duties.

Chapter V

CONSTRUCTIONAL FIRMS

Article XVI

The Contracting States shall grant equality of treatment as compared with domestic firms to concerns of other Signatory States engaged in the construction of highways, bridges, dams, irrigation and electrification systems, housing and other works tending to promote the development of the Central American economic infrastructure.

## Chapter VI

### INDUSTRIAL INTEGRATION

#### Article LVII

The Contracting Parties shall adopt in this Treaty all the provisions of the Agreement concerning the Regime applicable to the Integrated Industries of Central America, and so as to put the said provisions into effect as soon as possible, they shall adopt, within not more than six months, from the date of the entry into force of this Treaty, additional protocols in which shall be stipulated the industrial plants to be covered initially by the said Agreement, the free trade regime applicable to their products and the other conditions provided for in Article III of the said Agreement.

## Chapter VII

### CENTRAL AMERICAN BANK FOR ECONOMIC INTEGRATION

#### Article LVIII

The Signatory States shall agree to establish the Central American Bank for Economic Integration which shall have the legal status of a corporate body. The Bank shall act as an instrument for the financing and promotion of integrated economic growth, on the basis of balanced regional development. To this end, the Contracting States shall sign the Agreement setting up the said institution, which Agreement shall remain open for the signature or adhesion of any other Central American State which may wish to become a member of the Bank.

It shall be laid down, however, that members of the Bank may not obtain guarantees or loans from the said institution if they have not previously deposited the instruments of ratification of the following international agreements:

The present Treaty;

The Central American Free Trade and Economic Integration Treaty, signed on 10 June 1958;

The Agreement concerning the Regime applicable to the Integrated Industries of Central America, signed on 10 July 1958; and

The Central American Agreement on the Equalization of Import Duties and Charges, signed on 10 September 1959, and its Protocol, signed on the same date as the present Treaty.

## Chapter VIII

### FISCAL INCENTIVES TO INDUSTRIAL DEVELOPMENT

#### Article XIX

The Contracting States, with the aim of providing uniform fiscal incentives to industrial development, shall agree to bring about as soon as possible a reasonable standardization of the laws and provisions in force in this connexion. To this end, they shall sign within six months from the date of the entry into force of this Treaty, a special protocol in which shall be stipulated the amount and kind of exemption, the limiting dates of the latter, the conditions under which they shall be granted, the systems of industrial classification and the rules and procedures for their application. Co-ordination of the application of these fiscal incentives to industrial development shall be the responsibility of the Executive Council.

## Chapter IX

### ORGANS

#### Article XX

To direct integration of the Central American economies and to co-ordinate the policy of the Contracting States in economic matters there shall be set up a Central American Economic Council, consisting of the Ministers for Economic Affairs of each of the Contracting Parties.

The Central American Economic Council shall meet whenever necessary or at the request of any of the Contracting Parties; it shall consider the work of the Executive Council and take whatever decisions it may deem appropriate. The Central American Economic Council shall be the body responsible for expediting the implementation of the resolutions of the Economic Co-operation Committee of the Central American Isthmus relating to economic integration. It may call on Central American or international technical organizations for their advice.

#### Article XXI

For the purpose of applying and administering the present Treaty, as well as of carrying on all negotiations and activities having as their aim the economic union of Central America, an Executive Council shall be set up consisting of one permanent member and one alternate designated by each of the Contracting Parties.

The Executive Council shall meet whenever necessary, at the request of any of the Contracting Parties, or when convened by the Permanent Secretariat, and its resolutions shall be adopted by a majority vote of all the members of the Council. In the event of agreement not being reached, the matter shall be referred to the Central American Economic Council so that the latter can come to a final decision concerning it.

Before coming to a decision, the Economic Council shall decide unanimously whether the matter shall be settled by the concurring votes of all its members or by a majority vote.

#### Article XXII

The Executive Council shall lay down the measures necessary to ensure the fulfilment of the undertakings entered into pursuant to this Treaty and to solve any problems which may arise in regard to the application of its provisions. Furthermore, the Council may suggest to governments the conclusion of additional multilateral agreements required to achieve the aims of economic integration of Central America, including a customs union.. between their territories.

The Executive Council shall assume on behalf of the Contracting Parties, the functions entrusted to the Central American Trade Commission in the Multilateral Central American Free Trade and Economic Integration Treaty and in the Central American Agreement on the Equalization of Import Duties and Charges, as well as those entrusted to the Central American Commission for Industrial Integration in the Agreement concerning the Regime applicable to the Integrated Industries of Central America, and the functions and duties of the joint commissions of the bilateral treaties in force between the Contracting Parties.

#### Article XXIII

A Permanent Secretariat shall be set up, with the legal status of a corporate body, which shall be the Secretariat for both the Central American Economic Council and the Executive Council created under this Treaty.

The Headquarters of the Secretariat shall be in Guatemala City, the capital of the Republic of Guatemala, and it shall be directed by a Secretary-General appointed for a period of three years by the Central American Economic Council. The Secretariat shall establish whatever departments and sections may be necessary for carrying out its functions. Its expenses shall be in accordance with a general budget approved annually by the Central American Economic Council, and each of the Contracting Parties shall contribute to its maintenance an annual minimum sum equivalent to fifty thousand United States dollars (US \$50,000), payable in the respective currencies of the Signatory Countries.

The officials of the Secretariat shall enjoy diplomatic immunity. Other diplomatic privileges shall be granted solely to the Secretariat and to the Secretary-General.

#### Article XXIV

The Secretariat shall watch over the correct application as between the Contracting Parties, of this Treaty, of the Multilateral Central American Free Trade and Economic Integration Treaty, of the Agreement concerning the Regime applicable to the Integrated Industries of Central America, of the Central American Agreement on the Equalization of Import Duties and Charges, of bilateral or multilateral free trade and economic integration treaties in force between any of the Contracting Parties, and of all other Agreements concluded or which may be concluded with the aim of Central American economic integration and whose interpretation is not specifically entrusted to any other body.

The Secretariat shall see that the resolutions of the Central American Economic Council and of the Executive Council set up under this Treaty are implemented and shall also exercise the functions delegated to it by the Executive Council. The regulations governing its functions shall be approved by the Economic Council.

The Secretariat shall also be responsible for carrying out the activities and studies assigned to it by the Executive Council and the Central American Economic Council. In executing these functions, it shall make use of studies and work already carried out by other Central American and international bodies and shall secure their co-operation as appropriate.

### Chapter X

#### GENERAL PROVISIONS

#### Article XXV

The Signatory States shall agree not to sign unilaterally with non-Central American countries, new treaties affecting the principles of Central American economic integration. They shall also agree to maintain the "Central American exception clause" in any trade agreements they may conclude on the basis of most-favoured-nation treatment with countries other than the Contracting Parties.

Article XXVI

The Signatory States shall agree to settle amicably, in conformity with the spirit of this Treaty, and through the Executive Council or the Central American Economic Council, any differences which may arise regarding the interpretation or application of any provision of this Treaty. If agreement cannot be reached, they shall submit the matter to arbitration. For the purpose of constituting the Arbitration Tribunal, each Contracting Party shall nominate to the General Secretariat of the Organization of Central American States, three judges from their respective Supreme Courts of Justice. The Secretary-General of the Organization of Central American States and the government representatives attached to that body shall select, by drawing lots, one arbitrator for each of the Contracting Parties, whereby all the arbitrators must be of different nationality. The award of the Arbitration Tribunal shall require the concurring votes of not less than three members and shall have the force of res judicata for all the Contracting Parties in respect of any ruling concerning the interpretation or application of the provisions of this Treaty.

Article XXVII

The present Treaty shall take precedence, among the Contracting Parties, over the Central American Multilateral Free Trade and Economic Integration Treaty and over other bilateral or multilateral instruments of free trade concluded between the contracting parties; however, notwithstanding this, the said agreement shall continue to remain in force.

Among the respective Signatory States, the provisions of the trade and economic integration agreements referred to in the previous paragraph shall be applied in matters not considered in the present Treaty.

During such time as any of the Contracting Parties have not ratified the present Treaty or in the event of its denunciation by any of them, the trade relations of the States concerned with the remaining Signatory States shall be governed by previous commitments under the instruments in force referred to in the preamble to this Treaty.

Article XXVIII

The Contracting Parties shall agree to consult the Executive Council prior to concluding with one another new treaties which may affect free-trade.

The Executive Council shall consider the matter and determine what effect the conclusion of the said agreements might have on the free trade regime established under the present Treaty. On the basis of the study made by the Executive Council, the party which considers itself affected by the conclusion of these new treaties may adopt the measures recommended by the Council with the aim of safeguarding its interests.

Article LIII

For the purposes of customs regulations connected with free trade, the transit of goods and the application of the Uniform Central American Import Duty Schedule, the Contracting Parties shall adopt within a period of not more than one year from the entry into force of this Treaty, special protocols providing for a Uniform Central American Customs Code and the necessary transport regulations.

Chapter XI

FINAL PROVISIONS

Article LXX

This Treaty shall be submitted for ratification by each State, in conformity with its constitutional or legal procedures.

The instruments of ratification shall be deposited with the General Secretariat of the Organization of Central American States.

The Treaty shall come into force, in the case of the first three States to ratify it, eight days after the date of deposit of the third instrument of ratification, and for the remaining State, on the date of deposit of the corresponding instrument.

Article LXXI

The duration of this Treaty shall be 20 years from the initial date of its entry into force and it may be renewed indefinitely.

On expiry of the period of 20 years mentioned in the previous paragraph, the Treaty may be denounced by any of the Contracting Parties. Denunciation shall become effective, for the denouncing State, five years after notice of it has been given and the Treaty shall continue to remain in force between the remaining Contracting States so long as at least two States continue to be parties to it.

Article LXXII

The General Secretariat of the Organization of Central American States shall act as depository of this Treaty, of which it shall send a certified copy to the Chancellory of each of the Contracting States. The said Chancellories shall also be immediately notified of the deposit of each of the instruments of ratification, as well as of any denunciation which may occur.

Upon the entry into force of the Treaty, the General Secretariat shall also send a certified copy to the Secretary-General of the United Nations for registration, in compliance with Article 102 of the United Nations Charter.

Article XLVIII

Adherence to the present Treaty shall remain open to any Central American State not among the original Signatories.

Transitional Article

As soon as the Government of the Republic of Costa Rica formally adheres to the provisions of this Treaty, the bodies set up by the same shall form part of the Organization of Central American States following an incorporation agreement and the remodelling of the OCAS so as to enable the bodies created under this Treaty to retain all their characteristics as regards structure and functions.

IN WITNESS WHEREOF the respective plenipotentiaries have signed this Treaty in the City of Managua, capital of the Republic of Nicaragua, this thirteenth day of December 1960.

For the Government of Guatemala:

Co-ordinating Minister for Central  
American Integration

Chief of the Economic  
Integration Bureau

For the Government of El Salvador:

Minister for Economic Affairs

Under-Secretary for  
Economic Affairs

For the Government of Honduras:

Minister of Economy and Finance

For the Government of Nicaragua:

Minister for Economic Affairs

