

Trade Policy Review Body  
25-26 November 1996

TRADE POLICY REVIEW

EL SALVADOR

MINUTES OF MEETING

Chairperson: H.E. Ms Anne Anderson (Ireland)

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I. INTRODUCTORY REMARKS BY THE CHAIRPERSON

1. The first Trade Policy Review of El Salvador was held on 25 and 26 November 1996. The Chairperson welcomed the delegation of El Salvador, led by Vice-Minister René Antonio León, and the discussants, H.E. Mr. Alejandro de la Peña of Mexico and Ms. Elaine Feldman of Canada. As usual, both discussants would speak in their personal capacities and not as representatives of their countries. In accordance with the established procedures, the discussants had made available, in advance, outlines of the main issues they intended to raise.

2. The Chairperson recalled the purpose of the Trade Policy Reviews and the main elements of the procedures for this meeting. The report by the Government of El Salvador was contained in document WT/TPR/G/23 and that of the WTO Secretariat in document WT/TPR/S/23; the main issues to be raised by the discussants were contained in document WT/TPR/D/8. Copies of written questions submitted by four delegations (European Community, Hong Kong, the United States and Japan) had been transmitted to the delegation of El Salvador. If full replies could not be provided during the meeting, supplementary written replies could be provided later.

3. Recalling that intergovernmental organizations could attend meetings of the General Council through decisions taken on the basis of ad hoc arrangements, the Chairperson proposed that the Trade Policy Review Body invite the EBRD, EFTA, FAO, IMF, OECD, UNCTAD and the World Bank, which had requested observer status, to its next meeting. It was so agreed.

## II. OPENING STATEMENT BY THE REPRESENTATIVE OF EL SALVADOR

4. Ambassador Alexander A. Kravetz introduced the Salvadorean delegation and thanked the Chairperson for her support and for the way in which she had conducted the various TPR meetings through the year (1996). He emphasized the importance that El Salvador had given to the review process and highlighted how beneficial it had been. He also thanked the Secretariat's team in charge of the report, Mr. Peter Tulloch, Mr. Sam Laird and Ms. Eugenia Lizano, and the two discussants Ambassador de la Peña and Ms. Elaine Feldman.

5. The Representative of El Salvador, Mr. René Antonio León, on behalf of the Government of the Republic of El Salvador and their delegation, thanked the Chairperson and the distinguished discussants.

6. The preparation for the Trade Policy Review had enabled his Government to evaluate the degree of compliance with their commitments since they acceded to GATT in May 1991 and also to examine compliance with the commitments undertaken in the Uruguay Round. The Review had made them take a closer look at their trade régime and weaknesses in the light of the views and assessments of their main trading partners. This was an enormously important input, because it pointed to the path that they must follow in their agenda of reforms, which they were maintaining and thinking of stepping up in the months ahead. The Review had also enabled them to identify the future action to be taken in the process of opening up the economy and the reforms and liberalization that they had embarked on since 1989 and which would surely make El Salvador a much freer and competitive economy that would be regarded as one of the most open in Latin America.

7. El Salvador today was different from what it was at the time of accession to the GATT in May 1991. Above all, it was now a nation at peace. He considered that peace was the result of a completely irreversible process, for three fundamental reasons. First, the peace process in El Salvador was an achievement that had been the outcome not of a military victory, but a negotiated political solution. Second, it had been marked by full and complete reintegration of the ex-combatants and the warring sides in the country's political, social and economic life, which was reflected in the participation in the Legislative Assembly of both sides in conflict. Third, and perhaps the most important factor, peace was a genuine aspiration of the Salvadorean people and a return to violence would enlist absolutely no support in the country, which was now fully democratized.

8. He said that this climate of peace and political stability had enabled El Salvador to implement important structural adjustment and stabilization programmes, initiated in June 1989, so that high rates of economic growth with macroeconomic stability were achieved and the problem of extreme poverty in El Salvador could be tackled. The country completely liberalized its trade régime by substantially cutting import tariffs, which had previously ranged from 5 per cent to 290 per cent. The tariff ceiling on imports had now been reduced to 30 per cent, and tariff levels had been streamlined from nine or ten tariff levels to four. Most non-tariff barriers, such as import licensing, input prohibitions and import deposits, had been eliminated. Exchange rate controls had been removed. More than 230 price controls had been eliminated.

9. He stated that the foreign trade monopoly, which had resulted from the nationalization in the early 1980s and had particularly affected the main exports, had been eliminated. Similarly, the Regulatory Institute of Provisioning (*Instituto Regulador de Abastecimiento (IRA)*), a State body with a monopoly on grain marketing, had also been abolished. The country had then embarked on wide-ranging, thorough trade liberalization. The Government had always been convinced that, regardless of the exceptionally difficult circumstances, the route to follow was one of trade liberalization.

10. As part of the structural adjustment programme, a thorough overhaul of the tax system was started. The new tax structure involved few taxes, low rates and a broad tax base. El Salvador had tried to establish a tax system in which the proportion of tax revenue as a percentage of GDP rose gradually. The reform had also allowed El Salvador to do away with some taxes with an adverse effect on investment and capital formation levels. For example, the patrimony tax was eliminated; the exemption floor for income tax had been raised; and a stamp tax was replaced by a value-added tax, initially at 10 per cent and later 13 per cent, on all goods and service transactions in El Salvador.

11. Another basic element of the structural reform consisted of monetary and financial reforms: interest rates were completely liberalized and fully unified; and the exchange rate was also liberalized; and exchange controls were eliminated so that capital flows in El Salvador were now completely free and were not regulated by the monetary authority. In addition, the banks and finance institutions, nationalized in the early 1980s, had now been privatized. The rediscount windows were done away with and a second tier bank was created, so that the Central Reserve Bank could continue its rôle as a lender of last resort and concentrate keeping prices stable. Lastly, the reserve ratios were unified.

12. As part of the structural adjustment programme, El Salvador had started the first stage in the privatization of state enterprises and assets. Apart from the banks, which he had already mentioned, privatizations included a hotel, a coffee roasting plant, the country's largest free zone and other State assets. This improved the supply of goods and services to consumers, as well as allowing the State to concentrate on what it had to do and not engage in business activities at a high cost to society.

13. The structural adjustment programme had been strengthened and made even more certain by El Salvador's accession to GATT in 1991, part of a strategy of making the whole process irreversible.

14. As a result of the process of reform El Salvador had attained high rates of growth in recent years. At the outset of the programme, the economy had been growing at a rate of 1 per cent in real terms, while by the end of 1994, the economy was growing at 5.8 per cent in real terms. The growth of per capita GDP, which had been negative in 1989, had risen to 3.5 per cent in 1994. The rate of inflation had fallen from 33 per cent to approximately 10 per cent in 1994. There had also been improvements in the fiscal deficit, the trade deficit and the current account.

15. Since 1994, the economy had been undergoing a new phase of reforms, called second generation reforms, in which the emphasis had shifted from macroeconomic to microeconomic reforms. A new economic development strategy was being promoted, marked by a number of basic features. First, the strategy relied not on comparative advantage but on competitive advantage, which, for a country like El Salvador, was the only solution to its development problems, since the country had few resources on which to base a comparative advantage model. The country was small, the population high and there was a lack of strategic raw materials in the subsoil. Second, the strategy emphasized a steady increase in productivity so as to enhance competitiveness and turn this into a process, into a "virtuous circle", that would bring higher economic growth rates, higher remuneration of productive factors and no inflation. The third characteristic of the development strategy was that El Salvador could not conceive of productivity based on potentially cheap manpower, for this ran counter to the social goals of its development. Rather, its aim was for productivity to stem from higher levels of investment in training human resources.

16. The objective of this new development was to create a climate for real annual growth rates of more than 6 per cent for the next 30 years. El Salvador wanted to abandon the tradition of some developing countries of irregular economic growth. The goal was to overcome this spasmodic tendency and to lay the foundations for sustainable growth similar to that of some of the most dynamic economies in the world, particularly the economies of South-East Asia. The intention was to turn this economic

growth into social development, since some developing countries grow but without equity. Another objective was to bring the Salvadorean economy into the global production chain.

17. The Government's aim was to turn El Salvador into a place that attracted investment, taking maximum advantage of its geographical position through the changes that were being promoted. The idea was to convert the country into a distribution, production and marketing centre for the whole of Central America, the Caribbean and, hopefully, even the whole of Latin America. The intention was also to expand the country's exportable base. As mentioned in the report, the Salvadorean economy had quite a high dependency upon the flow of family remittances from Salvadoreans living abroad and one objective was to reduce this dependency and to lay firm foundations for growth.

18. The Government of El Salvador was taking very concrete action to turn this new development strategy into reality by increasing investment in human capital, with an emphasis on education and health. Present social expenditure accounted for 31 per cent of the General Budget, much higher than the 18 per cent spent during the years of the armed conflict. The Government's target was to increase social expenditure to 50 per cent by 1999 and, above all, to focus on education. Gains in productivity would go hand in hand with a more skilled workforce. In addition, a higher level of education made for better income distribution and more education meant more income-generating opportunities for families in El Salvador.

19. The Government intended to continue the process of trade liberalization. Non-Central American capital goods were now dutiable at 1 per cent, while tariffs on non-Central American raw materials, which stood at 5 per cent, had been reduced in August 1996 and would be further reduced to zero by December if the changes to the Central American Tariff Agreement were ratified by three Central American countries. Thus, a zero rate would apply to 65 per cent of tariff lines. In addition, the tariff ceiling was to be reduced from the first half of 1997 and reaching 15 per cent by the second half of 1999, when tariffs would range from 0 to 15 per cent.

20. The modernization of the public sector was to continue. Since 1994, the size of State holdings had been reduced by more than 12 per cent. There was particular emphasis on strategic services, for example, with the privatization of the national telecommunications administration - the State monopoly known as ANTEL - planned to be completed in the first half of 1997.

21. El Salvador's electric power corporations were also in the process of being privatized, having already been split into four different companies which were being restructured so that they could be sold in the first half of 1997. The privatization plans also included the administration of roads, ports and airports, and water supplies.

22. A National Competitiveness Programme, with comprehensive measures to boost productivity in El Salvador was being promoted. In this context, a draft Competition Law had been submitted to the Legislative Assembly, a Trade Point would be established and two basic support programmes had been adopted for firms trading in El Salvador. The first was a programme of competitive alliances or "clusters" so that firms would get together and compete in the international economy and, at the same time, attract investment to key sectors of the economy. The second was a National Productivity and Quality Programme which would provide technological assistance to firms so that more technologically advanced production processes would be adopted. The National Competitiveness Programme and the Public Sector Modernization Programme were the foundations of "Vision 2021", a programme that by the year 2021, would allow El Salvador to reach levels of well-being similar to those of developed countries.

23. The representative drew attention to the international recognition of the success of El Salvador's economic reform. For example, in August 1996, Standard and Poors, the risk-classification company, gave El Salvador a BB+ rating for foreign currency debt and BBB+ rating for national currency debt. In addition, the Heritage Foundation had recently described the Salvadorean economy as the second freest in Latin America, after Chile.

24. In conclusion, he said that a strong multilateral system was necessary for El Salvador's development strategy to succeed. A transparent and credible multilateral system would complement and strengthen El Salvador's processes of reform. El Salvador saw the WTO as an organization that could promote reform and encourage all the Central American countries to follow a similar path of reform.

### III. STATEMENT BY THE FIRST DISCUSSANT

25. The first discussant (Ambassador Alejandro de la Peña) noted that the Salvadorean stabilization and structural adjustment programmes, which included the liberalization of its trade régime and the deregulation of the domestic market, had been successful and resulted in the reactivation of the economy, the control of inflation and the reduction of the public sector deficit. Per capita GDP had grown consistently in the last six years, reaching a rate of growth of 6.1 per cent in 1995.

26. While commenting positively on the economic developments, he asked for the latest inflation estimates. Noting that tax evasion was still a problem, he asked about the evolution of the campaign to fight tax evasion and about the relationship between commercial and fiscal policy.

27. He noted that despite El Salvador's success in reducing its external debt, it had had a persistent deficit in the current account since 1989, which had been financed by remittances and foreign direct investment (FDI). However, the inflows of remittances, through the appreciation of the currency, could also have a negative effect upon production, exports, investment and employment. He asked the authorities how they were to counteract these negative effects and whether there was a mechanism that would help them maintain their competitiveness in the international market.

28. The discussant welcomed the commitment of the Salvadorean Government to continue the process of reform to overcome important structural problems, as reflected in their development strategy, "El Salvador 2021". El Salvador lacked adequate infrastructure, in particular roads and telecommunications in general, but these problems could not be solved while the major component of demand was private consumption. Domestic savings would have to become the source of financing for investment and economic growth, but, noting the low savings rate, he asked whether the authorities had any plans to promote domestic savings.

29. The discussant highlighted the change of trade policy beginning in 1989, away from its inward orientation. He said that the trade liberalization policies together with the deregulation of domestic markets had contributed to the improvement of the multilateral trade relations. In this context, he referred to the reduction in the applied tariff, the binding of all tariff rates, and the elimination of most non-tariff barriers. He also mentioned the future plans to continue reducing the applied tariff so that by 1999 tariffs would range from 0 to 15 per cent. As a result of these measures both imports and exports had grown substantially, increasing El Salvador's share of world trade, as well as the contribution of trade to GDP.

30. He considered the present discussion of a draft law on competition in the Salvadorean Legislative Assembly particularly important, and he asked about the time for approval of this draft law.

31. He also inquired about the future evolution of Salvadorean trade policy in the context of regional and multilateral commitments. He asked whether El Salvador's in the Central American Common Market had been an advantage or a constraint to their own process of trade liberalization and about El Salvador's views on "global free trade".

32. In conclusion, he commended the efforts by El Salvador in the reform of its economy; this had been beneficial not only for the country but also for the multilateral system as a whole.

#### IV. STATEMENT BY THE SECOND DISCUSSANT

33. The second discussant (Ms. Elaine Feldman) congratulated El Salvador for the programme of far-reaching economic reforms undertaken since 1989, which had led to solid economic growth. She noted that a key component of these economic reforms had been trade liberalization measures, with exports as the driving force leading to increased economic growth. However, she noted that El Salvador's trade was concentrated both in goods and in markets, and enquired what the Salvadorean Government was doing to diversify its exports with respect to both goods and markets. She asked whether Salvadorean exports would be competitive in the absence of preferences enjoyed under the U.S. Caribbean Basin Initiative or GSP programmes or the EU GSP scheme, and also enquired about the impact of the North American Free Trade Agreement upon Salvadorean exports.

34. She pointed out that if an export-led growth strategy was to succeed there was a need for a reduction and elimination of import barriers, which sometimes was overlooked. In this context, she welcomed El Salvador's elimination of most non-tariff barriers and the reduction of tariffs. However, she asked whether any thought had been given to reduce bound rates. Moreover, she noted that some important sectors still benefited from higher rates than the average, such as textiles and clothing, leather goods, food, beverages and tobacco, and wondered if there were any plans to bring these rates closer to the average nominal rate. She also pointed out that there appeared to be significant tariff escalation in some of those sectors, and asked whether the Government had plans to reduce tariffs on more highly processed products in such areas as textiles, leather goods, wood and paper.

35. She noted that import formalities appeared to be cumbersome, and enquired about the time frame envisaged for the creation of a one-stop window for import procedures, similar to that for exports.

36. She noted that El Salvador's export policy focused on the promotion of exports of non-traditional goods to markets outside Central America. Under the Law for the Reactivation of Exports, duty drawback was granted to exporters of non-traditional goods to markets outside Central America, at a fixed rate of 6 per cent of the f.o.b. value of exports. It did not seem to be necessary to show that duties at least equal to this amount were paid, merely that import duties were paid. If El Salvador continued to reduce its applied duty rate, the potential existed for the drawback scheme to provide an export subsidy.

37. She pointed out that agriculture remained a key sector for El Salvador. Although its share of GDP based on current prices had declined during the first part of this decade, it accounted for 14 per cent of GDP in 1994, compared to 8.6 per cent the previous year. These recent increases appeared to be attributable to reforms undertaken since 1992, such as the guaranteeing of land property rights, the privatization of marketing boards and the elimination of export taxes. The agricultural reforms appeared to have increased productivity in the agricultural sector.

38. Agricultural exports accounted for 50% of total exports in 1994. However, she noted the negative effect that the real appreciation of the currency had on the competitiveness of Salvadorean agricultural products in international markets, and enquired whether the Salvadorean Government had plans to overcome this. She noted that exports of cotton, which had previously been an important agricultural export, seem to have ceased and sought an explanation.

39. She noted that the sugar market appeared to be one of the few sectors in the El Salvador economy where market forces did not determine the price, as the price of domestic sugar was above world market prices. In addition, she referred to the requirement of import permits for sugar originating in Central America and to the import quotas imposed on saccharine and similar products. She asked whether there were any plans to remove these protective measures and move to an open market in sugar.



40. She said that there was a need to improve the physical infrastructure in the country. She also referred to the Government's plans to create the necessary conditions for consolidating the rule of law, to give priority to human capital investment and the building of a forward-looking economic and social infrastructure to ensure complete openness to foreign investment and technology and to carry out a thorough modernization of the public sector, strictly based on a market-economy model. She noted that the Government had put into place various pieces of legislation to carry out its objectives and that the Government was reviewing its trade laws and regulations to assess whether there were any incompatibilities between existing legislation and the commitments that El Salvador had undertaken as a result of the Uruguay Round of trade negotiations. She emphasized the importance of enforcing this legislation in order to provide predictability and security for continued trade and investment growth. She particularly noted that there had been problems with the enforcement of the law on intellectual property rights and asked the authorities to provide more details about their experience and how they intended to ensure adequate enforcement.

41. She considered the provisions made by El Salvador to facilitate exports and imports important, especially the setting up of the Centre for Export Requirements (*Centro de Trámites de Exportación, CENTREX*) in order to simplify formalities for exporters. However, she asked about the degree of automaticity of the processing of all the required documents, for exports, and whether there were plans for the eventual abolition of the requirements for export documents except perhaps for a limited number of specific products, such as sugar and textiles.

42. To conclude, she said that El Salvador had clearly made major strides in its goal of changing from import-substitution industrialization to an export oriented economy and noted that the Salvadorean economy ranked among the freest in Latin America and that the prognosis for the future looked promising.

## V. STATEMENT BY MEMBERS

43. Members commended the efforts made by El Salvador in adopting a stabilization programme and opening of the economy. They considered the achievements of El Salvador to be impressive and encouraged the Government to build on those achievements.

44. The United States representative said that El Salvador's economic reforms, initiated in 1989, had been instrumental in liberalizing the economy and restoring economic growth. The programmes, implemented from 1989 to 1994, had spurred trade reform, including tariff reductions from an earlier range of 5 to 290 per cent to a current range of 5 to 20 per cent, and a reduction in the number of tariff levels from 25 to four. A large number of tariff exemptions, non-tariff barriers and price controls had been eliminated, together with all export taxes, exchange controls and import deposits.

45. He congratulated El Salvador on its elimination of State monopolies on foreign trade and State enterprises controlling the marketing of agricultural products, and on the steps it had taken to adjust to a tax structure of fewer taxes, lower rates and a broadened tax base.

46. He also commended El Salvador for the measures taken over the past years to liberalize its investment régime, particularly the freeing of capital movements and the opening of most sectors of the economy to foreign direct investment. He encouraged El Salvador to continue this liberalization process and with the further elimination of bureaucratic procedures that delayed new investment.

47. The representative said that, in the aftermath of tariff liberalization, most governments found that they came under increased pressure to resort to non-tariff barriers, and he hoped that El Salvador would resist the temptation to resort to such measures. He noted that El Salvador's safeguards régime was based on legislation, submitted to the WTO for review, appeared to contain process and language consistent with WTO requirements. He encouraged El Salvador to submit a Statement of Implementation as required under the TBT Agreement. He noted that his country has had some difficulty with respect to a zero tolerance requirement for several common avian diseases, such as salmonella, effectively blocking all US poultry imports. He also considered that the general intransparency in El Salvador's customs régime had become a significant barrier to trade. US exporters also had particular problems in the area of pharmaceuticals, where sales had fallen to zero because of discriminatory requirements.

48. The representative said that customs valuations in El Salvador was based on Annex B of the Central American Agreement on Tariff and Customs Régime, which in turn was based on the Brussels Definition of Value (BDV). Several aspects of this system were not clear and might not be in accordance with WTO appraisal principles. The representative understood that El Salvador was drafting new legislation to implement the WTO Agreement within the five-year transition allowed for developing countries. He suggested that as soon as El Salvador prepared its proposed legislation, it should complete the questionnaire prepared by the Committee on Customs Valuation and submit it to the Working Party for review. The United States did not consider that the expression of an intent to align itself with the WTO Agreement demonstrated the level of commitment envisioned in Article 20, and the representative strongly urged El Salvador to eliminate the use of BDV as soon as possible and to begin implementation of the WTO Agreement without delay. This would address the current system of verification of values for used cars, as well as minimum values or reference prices, which were not in keeping with the principles of appraisal under the WTO Agreement.

49. While acknowledging the reforms that El Salvador had undertaken to liberalize its investment régime, the United States was concerned that several requirements relating to investment were being used to discriminate against foreign investors, for example the requirement to obtain a commerce and industry "patent", and "registration" of foreign capital with the Ministry of Economy. The United States requested more information on the laws and practices in this area. The practice of free convertibility

of capital should be reflected in the investment law. The United States also encouraged El Salvador to follow through its 1994 pledge to set up a one-stop office for foreign investment. The representative also noted that there was still no approval from the Legislative Assembly for the privatization programme and hoped such approval would be forthcoming in the near future.

50. The United States commended the steps taken to enforce intellectual property rights legislation, and looked forward to seeing El Salvador's continued success in enforcing its law. Government procurement decisions often lacked transparency and it was hoped that this would be addressed in the procurement law now being drafted.

51. Concluding on a positive note, the representative said that the United States appreciated not only El Salvador's efforts to implement its WTO commitments and liberalize its trade régime in many fundamental and important areas, but also the regional rôle which it had assumed. El Salvador was an active participant in the Free Trade Area of the Americas process, particularly as chair of the Market Access Working Group. He also noted El Salvador's constructive participation in efforts to modernize the institutional framework of Central American integration and to adopt trade regulations fully consistent with the WTO.

52. The representative of the European Community welcomed the improvements of the main macroeconomic indicators caused by the economic reforms implemented in El Salvador in its effort to liberalize the economy, together with a policy of peace and democratization. The outward-oriented trade régime made possible the increase of market access for Salvadorean products, especially to the Community, where El Salvador benefited from GSP schemes. Thanks to the country's multilateral commitments and to the modernisation of trade laws and regulations, El Salvador was becoming strongly integrated in the world economy. Plans and programmes developed by the Salvadorean authorities showed a clear path to economic liberalism, which was a prerequisite to social well-being and peace.

53. The representative also sought clarification on several issues covered in the written questions submitted in advance to the Salvadorean delegation.

54. The representative of Japan congratulated the Salvadorean authorities for the liberalization of the trade régime, including the rationalization of the applied tariff. He noted that El Salvador was highly dependent upon the exports of coffee and sugar. To consolidate macroeconomic stability it was also necessary to develop the industrial base. This would need foreign direct investment, hence the importance of an environment that would attract foreign direct investment, and he asked about any plans to promote foreign direct investment.

55. He appreciated El Salvador's active rôle in the process of revitalizing the Central American Common Market (CACM) and in other regional trade negotiations, such as the FTAA. However, he said that it was very important that all these agreements would be consistent with WTO regulations.

56. He sought clarification on several issues: first, about the establishment of tariff quotas on agricultural goods and their WTO notification as well as the out-of-quota rate for sugar; second, about the taxes applied to foreign and domestic goods; third, about the quantitative restrictions applied to milk imports; fourth, about the anti-dumping and safeguards procedures and the rôle of the Central American Secretariat of Economic Integration (SIECA) in this regard; and, fifth, about the restrictions imposed on insurance companies.

57. The representative of Venezuela congratulated the delegation of El Salvador for the results of the economic reform programme which had resulted in rates of growth above the average for Latin America. He posed two questions: first, whether El Salvador was ready to re-start the negotiations of the investment agreement between the CACM and Venezuela and Colombia, which had been

interrupted in 1993; and, second, what were El Salvador's intermediate objectives for regional integration before the Free Trade Area of the Americas.

58. The representative of India commended the macroeconomic reforms and structural adjustment programmes undertaken by El Salvador and their positive results.

59. He encouraged El Salvador to continue pursuing its liberal trade policies and to overcome the infrastructural constraints to the expansion of exports.

60. The representative of Canada considered El Salvador's economic and trade policy reforms all the more impressive given the challenges of reconstruction. The opening up of the economy had resulted in a tripling in the volume of trade between Canada and El Salvador in the last three years and in a diversification of Canadian imports to El Salvador. Canada was now negotiating a bilateral investment treaty with El Salvador. El Salvador was an active player in the FTAA negotiations, managing one of the technical working groups.

61. He sought clarification on the timeframe for El Salvador's current revision of its existing trade legislation to make it fully compatible with its WTO obligations.

62. He noted that remaining restrictions regarding foreign direct investment appeared to have limited coverage, but that their definition lacked precision which could create confusion in some cases. He was interested in learning about the scope of several agreements to promote investment. He also sought clarification regarding the incentives given to capital registered under the Law to Promote and Guarantee Foreign Direct Investment. He asked whether foreign investment registration was compulsory and what the registration procedure entailed, and what criteria was used for approval or rejection.

63. He said that rationalizing the tariff system and eliminating many non-tariff barriers had improved transparency and trade conditions. However, he urged El Salvador to take steps to reduce delays in customs administration and import clearance, and to address problems in customs valuation. He noted industrial goods remained protected by tariffs as high as 30 per cent, and that the legacy of the old import substitution strategy showed in the pattern of tariff escalation, particularly in sectors of interest to Canada such as the paper industry.

64. He considered the rapid growth of free zones impressive, especially since it represented new economic activity rather than a simple transfer from the traditional sector.

65. He noted the significant rôle of government in the services sector and the existence of government monopolies in areas such as basic telecommunications and rail transportation, and commended the initiatives of privatization. He asked whether El Salvador had plans to privatize rail transportation.

66. To conclude, the Canadian representative congratulated the Government for its liberalization of the financial sector and the privatization of most financial institutions that had been nationalized in 1980. He noted that El Salvador had prudent legislation to provide against bad loans and this had avoided the problems often associated with the privatization of banks.

67. The representative of Colombia commended the efforts by El Salvador to restructure the economy and liberalize the trade system. She praised El Salvador's success in attaining peace. She asked the Salvadorean delegation whether El Salvador was ready to resume negotiations of the investment agreement between the Central American countries and Colombia and Venezuela.

## VI. REPLIES BY THE REPRESENTATIVE OF EL SALVADOR AND ADDITIONAL COMMENTS

68. The Chairperson invited the representative of El Salvador to focus his responses on four main themes: (i) foreign direct investment policies; (ii) macroeconomic and structural developments; (iii) trade liberalization and its effects; and (iv) specific policy and sectoral questions.

### (i) Foreign direct investment policies

69. In response the representative of El Salvador said that the Salvadorean foreign investment régime was non discriminating. However, the speed with which the economic reform and liberalization measures had been introduced outstripped the legal framework governing investment, and many provisions no longer responded to the country's real economic situation. For example, such provisions as remittance of net profits of up to 50 per cent of registered capital in goods and service activities, which were valid at the time when existing exchange controls existed, were now obsolete, since the capital account had been fully opened up and there was free repatriation of profits.

70. He stated that El Salvador had one of the most open foreign investment régimes, since there were no performance requirements and investment was open in virtually all sectors of the economy, with minimal exceptions that in practice did not entail any restriction on foreign capital. For example, the restrictions on small-scale investments, applied only when the investments were less than US\$23,000.

71. He noted that one of the basic objectives of the economic and social development strategy was to turn El Salvador into an attractive place for foreign investment, so that this investment would help to maintain a high and sustained long-term growth rate, complement domestic savings and investment, and generate more and better paid jobs, especially in sectors which have high value-added, which could also produce economies of scale and promote vertical integration. Therefore, El Salvador could not afford to apply policies that discriminated against foreign investment. Accordingly, a new investment law which would bring the legal framework up to date and would apply both to domestic and to foreign investment was being prepared. The main features of this law included: legal certainty; transparency; and simplified procedures for legalizing investment, by doing away with such requirements as the foreign investors' certificate (*patente*).

72. Regarding legal certainty, he explained that the new law contained arbitration mechanisms for dispute settlement. He expected the bill to be submitted to the Legislative Assembly for adoption in the first quarter of 1997. Meanwhile, the procedures had already been simplified by means of the Investment Assistance Office (IAO) and the National Investment Office (ONI). To complement the Government's endeavours, a private non-profit foundation, the Salvadorean Foundation for Economic and Social Development (FUSADES), through its PRIDEX programme, was facilitating the establishment of new firms by providing promotional, advisory and consultancy services to investors throughout the world.

73. To conclude, he said that the Government was constantly striving to improve security conditions. He pointed out that, unlike the situation during the period of the conflict, security problems were tied in with acts committed by common criminals, which were not targeted at specific firms or investors. The goal was to remove any doubts about security, so as to cut down the risks of operating in El Salvador and attract greater investment.

74. The first discussant had three comments. First, he noted that elements of the bilateral investment agreements signed by El Salvador, which offered certain guarantees without demands of reciprocity, had been incorporated in the new investment legislation. He asked whether this meant that the Government of El Salvador would view the possible study, here in Geneva, of the whole issue of trade

and investment favourably. Second, regarding the National Investment Office (ONI), he was interested to hear that this office would carry out the different procedures required for all investment and that at present their services were only used by foreign investors, not because of a legal impediment, but because of the lack of publicity given to the ONI. Third, he took note of the problems regarding crime and delinquency which could appear after a long period of armed conflict, as mentioned by the representative of El Salvador. To conclude, he asked what elements there were within El Salvador's legal framework to guarantee that investors, in the event of some problem arising relating to their investment, could resort to domestic recourse in order to obtain satisfaction.

75. The second discussant noted the strategic importance placed by El Salvador on attracting foreign direct investment, that El Salvador had signed a large number of bilateral investment treaties, and that the draft legislation that was going forward would contain many of the provisions of these treaties. Thus, she considered El Salvador particularly well placed to take part in an examination of these issues at the WTO. She added that it seemed as if El Salvador would have a great deal to contribute to any such discussion.

76. The representative of the United States thanked the Vice-Minister for his thorough explanations regarding the investment régime. He welcomed the future elimination of "patents" and preliminary authorizations, which he understood would disappear under the new law. He noted that the registration was not legally required to receive investment incentives and therefore wondered why this process still existed and whether the new legislation might affect any registration requirement. In addition, he mentioned that he understood that El Salvador still required firms to export 100 per cent of their production outside Central America in return for certain benefits; in this regard, he sought El Salvador's view on the conformity of this provision with WTO requirements and again asked whether such a requirement would be eliminated in the new draft legislation.

77. The representative of Japan thanked the Vice-Minister for his explanations, particularly the point concerning security. He referred to his question raised during the first day of the meeting concerning the incentive programme to encourage foreign investment, and in this regard he asked whether programmes like PRIDEX and the National Investment Office were part of an incentive programme to encourage foreign investment which would also include certain tax incentives.

78. In response to the first discussant the representative of El Salvador said that El Salvador was ready and willing to study the relationship of trade and investment. He added, regarding the aspects that guaranteed the legal security for investors in El Salvador, that the Constitution which represented the supreme law of the country allowed foreign investors to ensure that their cases were brought to the national courts in the country, and if there were disputes these could also be put to arbitration outside the country.

79. Regarding the question raised by the United States related to the specific aspects of registration of investment, the representative said that the new investment legislation would do away with the registration procedures. Under the new legislation when the investment formalities took place the investment would automatically be registered for statistical purposes. The legalization of investment automatically included the registration in the course of formalities.

80. Concerning the United States' question about conditions affecting these investments, he said that the Law on the Free Zones and Tax-Free Areas, where these requirements were stipulated, were not part of the foreign investment law. He mentioned that a modification had been recently introduced to the free-trade-zone and tax-free-areas provisions, allowing investors or enterprises which produce under these régimes to sell 15 per cent of their production to the Salvadorean customs territory, upon payment of charges that normal imports would have paid. Therefore, the requirement to benefit from the free zone legislation was to sell 85 per cent of its production outside the Central American area,

with the exclusion of textiles and clothing. Enterprises in El Salvador had the choice to produce under these régimes or, alternatively, when exporting, other than under those special régimes, they could apply for benefits under the Law for the Reactivation of Exports where there was a drawback equivalent to 6 per cent of the f.o.b. price of the export value. Thus, there was no specific requirement as to the export destination.

81. Regarding Japan's concerns, the representative said that they felt that the best incentive for investment would be through the new law on investment which would grant legal security, eliminate a number of procedures, and allow for arbitration. El Salvador's economic conditions did not enable it to grant any economic or fiscal incentives as a mechanism to attract foreign investment.

(ii) Macroeconomic and structural developments

82. The representative of El Salvador said that over the period 1992-95, the real rate of growth of GDP had averaged 6.7 per cent. The sources of growth had been private domestic consumption and higher rates of investment in the public and private sectors. The economy was expected to grow by 3.5 to 4 per cent for 1996, with a 9 per cent rate of inflation, which was lower than the one reported for 1995. Because of economic reforms and a lower demand for private credit it was expected that there would be a gradual reduction in interest rates, and that the rate of economic growth for 1997 was expected to reach 5 per cent.

83. To cope successfully with the challenges of globalization and to achieve a sustained pace of economic growth, the Government considered that macroeconomic adjustment needed to be taken even further. The main challenge was for economic policy management to ensure stability in maintaining domestic and international investor confidence, and also to maintain the equilibrium of the external sector in a context of increasing family remittances.

84. In this regard, he said that despite the positive impact that family remittances had on the standard of living and on short-term financing of the balance of payments, their very existence complicated macroeconomic management and the achievement of the concrete goals of the overall economic policy. Family remittances had helped to generate inflationary pressures and had contributed to the rise in the exchange rate. The short-term measures to mitigate this problem had been sterilization measures to contain the expansion of the quantity of money and keep the nominal exchange rate stable. All this had further complicated macroeconomic management because it put pressure on the interest rate and on the Central Reserve Bank's finances.

85. Because of the vulnerability of the external sector to the inflow of family remittances, he did not consider it advisable at present to lower the bound tariff rates to the levels of the applied tariff. In the short term, sterilization was the only viable means to counteract the rise in the exchange rate. However, long-term measures to counteract this effect were being implemented: (i) improvement of fiscal effectiveness (i.e., increase tax collection and reduce public expenditure); (ii) modernization of the public sector and privatization of state enterprises to enhance efficiency; (iii) expansion of the national savings ratio (i.e., increase public savings, promote the efficiency in the financial sector and reform the pension system); (iv) containment of inflationary pressures; (i.e., export expansion and diversification); and (v) increase of foreign direct investment and continuation of the market-oriented economic reforms. Efforts were made to redirect remittances towards investment, and recent trends indicated that a proportion was now starting to be invested in real estate.

86. Privatization was mentioned as one of the components of the public sector modernization programme. This would affect sectors such as telecommunications, electricity generation, transmission and distribution, water supply and sewage systems, ports and airports, roads, and pensions. The privatization of the national telecommunication company (*Administración Nacional de*

*Telecomunicaciones, ANTEL*) had started with the adoption on 17 October 1996 of the Telecommunications Act (*Ley de Telecomunicación*) which had done away with ANTEL's licensing powers. The Law contained the following components: (a) complete freedom to set end-consumer rates, except the monthly charge for existing consumers at the time of privatization; (b) non-application of universal service requirements or performance requirements, except that local services to existing consumers at the time of privatization could not be discontinued for two years; (c) unrestricted entry of new telecommunications service suppliers; (d) essential connection facilities which would be made available at negotiated rates; (e) compulsory interconnection with the local networks on the basis of local rates, with the long-term marginal cost as the point of reference; (f) only the use of the spectrum would require concessions, which would be granted by public auction; (g) the General Electricity and Telecommunications Superintendency (*Superintendencia General para la Electricidad y los Telecomunicaciones, SIGET*) would penalize breaches of the Law.

87. He explained that under the interim provisions of the Telecommunications Law, for the first two years following its entry into force, no new licences would be issued for cellular telephony or personal communications services (PCS). The only licences during those two years would be those now belonging to "Telemóvil" (Band A licence for cellular telephones) and "Red ANTEL" (Band B licences for cellular telephones) and "Blue ANTEL" (Licence for Personal Communications Services). Red ANTEL and Blue ANTEL were the names El Salvador used to identify the two companies into which ANTEL had been split up for sale, something which would make El Salvador unique throughout the world in that, from the very first day, competition would exist when ANTEL was privatized.

88. The process of privatizing the electricity companies established by the national power company (*Comisión Ejecutiva Hidroeléctrica del Río Lempa, CEL*) had started with the adoption of the Electricity Law of 25 October 1996, which entered into force on 3 November 1996. At the same time, a consultancy firm had been hired to restructure the electricity sector, so that competitive conditions would be created, and to prepare energy and power contracts between the companies that had been established on the basis of the CEL. These companies had become independent, and a call for tender was being issued to hire an international firm to prepare the terms of reference for their sale, scheduled for 1997.

89. Legislation had also been approved in October 1996 to establish the new SIGET regulatory body, under the philosophy of maximum competition and minimum regulation. Its functions were to: (a) enforce the laws, regulations and other legal requirements applicable to the sectors; (b) act as an intermediary in disputes concerning interconnections and access to essential services; (c) administer the electromagnetic spectrum and public auctions for concessions; (d) keep an "Electricity and Telecommunications Register", containing registrations both of companies and persons operating in those sectors, frequencies and availability, concessions and contracts.

90. SIGET did not draw up policies on investor participation in these sectors; these policies were covered by the Telecommunications Law and the Electricity Law and applied both to domestic investors and to foreign investors.

91. As for other privatizations, a consultancy firm had been hired to review the legal, regulatory and institutional framework of the national water company (*Administración Nacional de Acueductos y Alcantarillados, ANDA*) with a view to overhauling the water resources sector, including the formulation of a regulatory policy for water supply and sewage systems.

92. Lastly, another consultancy firm had been hired to advise the Government on a ports and airports regulatory policy and work was being done to prepare the call for tender and terms of reference for granting the concession for El Salvador Airport and the Port of Cutuco. In the case of El Salvador International Airport, the parking and cleaning services concession had already been granted.



93. With reference to a question regarding the privatization of the railways in El Salvador, he said that the Government would be interested but the infrastructure had badly deteriorated and was so obsolete that it had been difficult to find potential investors.

94. In response to the questions regarding investment in human capital and infrastructure, and its financing he said that the Government of El Salvador considered that present national savings were still not enough to finance the required investment to develop human resources and infrastructure. Nevertheless, developing human resources and providing greater access to education were central components of El Salvador's economic and social development strategy. Consequently, the Government was making budget reallocations to channel more funds to the social sector (for example, in 1996, 31 per cent of the budget had been on social expenditure) and the target was to allocate 50 per cent of the budget by 1999 to social expenditure.

95. In addition, resources from the World Bank and the Inter-American Development Bank amounting to more than US\$75 million were to be invested in the social sector. Resources from privatizations would also be allocated to social expenditure and infrastructure development. The pension schemes would be reformed so as to turn them into a major source of savings and mobilize them to provide a supply of lending funds. There was also a programme to develop non-formal education. By law, firms must pay an amount equivalent to one per cent of their payroll to the national vocational institute (*Instituto Salvadoreño de Formación Profesional, INSAFORP*) to provide it with the required funds for training programmes.

96. The first discussant asked whether the representative of El Salvador could further elaborate on the solutions sought to ensure that remittances were directed towards investment rather than consumption. He noted that there was already investment in real estate and asked if there was therefore some encouragement by the Salvadorean authorities to promote such investment. He wondered if there was any possibility of taking advantage of the reforms of the pension funds, privatization or any other elements of the global programme.

97. Regarding the telecommunication privatization, he asked whether, in the case of a disagreement between the parties concerned (i.e. operators in the market, and "blue" and "red" ANTEL) about interconnection, the General Superintendence (SIGET) would play a rôle, or whether the new law on competition would come into play. Concerning the commitment to use the resources of privatization for social expenditure, he asked what resources would be in use when the privatization programme was concluded. He drew attention to a new idea used in Bolivia, in which resources resulting from privatization were being injected into the capital of the enterprises themselves, while the State sometimes retained a minority share; this system was so successful that value of the shares held by the State had in fact increased in value brought in yields higher than what could have been obtained if there had been a simple straight forward privatization.

98. The second discussant had several questions related to the privatization of the telecommunications sector. She sought clarification as to whether the body being set up would in effect be a regulatory body and as to whether the Government would continue to set general policy in this area. She also asked what were the general policy guidelines that the government would establish to guide the regulatory body, or if this were not to be the case, how exactly would policy guidelines be translated to the regulatory body and from the regulatory body to the service providers. She also enquired whether the members of the regulatory body would be appointed by the Government and whether they would receive general directions on appointment.

99. In response to the concerns regarding the remittances, the representative of El Salvador said that they were trying to learn from the experiences of other countries. One solution might be to offer financial assets directly in the place of residence of the immigrants, or to provide financial incentives

to encourage savings through very simple investment mechanisms that would give a good yield. He also mentioned that the Government had already established close communication links with the leaders of communities receiving remittances, in order to work in joint ventures where the Government would supplement the investment made by the community in infrastructure.

100. In the case of a conflict regarding interconnection in telecommunications, the representative said that SIGET would arbitrate between the parties. He added that the competition law would become yet a further element to supplement the type of activity undertaken by SIGET in case of a dispute. It was the Government's intention that when the law on privatization of ANTEL was adopted, the law on competition would simultaneously be applied.

101. Regarding the more permanent approach to financing social expenditure, he recognized that the resources of privatization would of course dry up and said that these should be substituted by national savings. He stressed that there was no other way in which social expenditure could permanently be financed than by increasing national savings and that the promotion of savings was part of the overall development strategy.

102. He considered that the case of Bolivia deserved a lot of attention on the part of international investors and the international community. However, he considered that if the state held even one share there might be a very strong temptation to go back to state intervention. He stressed that the Salvadorean Government wanted to avoid any temptation of this source, by placing all bets on the market.

103. In this context, he added that El Salvador wanted to have a telecommunication system and services sector where there was competition and where there were market forces that would solve any disequilibrium that may arise.

104. In response to the second discussant's queries, he said that the new regulatory body SIGET will ensure compliance with the rules. Regarding the new policy trends that the Government was to elaborate, he said that the general philosophy was competition, competition and competition, and hence the underlying philosophy under which SIGET would work was to apply the minimum amount of regulations and maximum amount of competition. The Government should not have to provide SIGET with any further policy lines. He explained that all of this was set out in their very liberal legislation on telecommunications and the law on electricity. He added that market forces would have the regulatory rôle and not the Government. He also said that SIGET was an autonomous government body and that the director of SIGET would be appointed by the President of the Republic for a period of seven years, which did not necessarily coincide with the terms of office of the President. The appointed director would then become a civil servant and, after completion of his term, the President in turn could nominate the person that he believed was most appropriate.

(iii) Trade liberalization and its effects

105. Regarding trade liberalization and its effects, the representative of El Salvador said that his country's trade policy was mainly based on a coordinated Central American tariff-cutting programme, intended to reduce domestic production costs, contribute to the development and the modernization of the industrial base, and make the country an attractive place for production activities. This trade policy was considered essential for diversifying the supply of exportables and broadening export markets.

106. Along with the tariff cuts, El Salvador was promoting a national competitiveness programme to enhance the overall competitiveness of firms so that they could export to the world market. The aim was to gain entry into new markets with new products. El Salvador's tariff-cutting programme covered the whole tariff universe. However, there had been a need to proceed with the cuts gradually, owing to the complexity of this process within the framework of Central American integration. The

authorities were looking at the best way to incorporate such sectors as textiles, clothing, sensitive agricultural products and leather within the programme.

107. The lowering of the tariff ceiling was scheduled to start in June 1997 and, by means of a half-yearly 1 per cent reduction, to reach 15 per cent by July 1999 for most end-products produced in Central America. The duty on capital goods was 1 per cent in November 1997. Raw materials and inputs not produced in Central America, as well as all capital goods, were expected to be duty-free by 1 December 1996, provided the amendment to the Central American Agreement eliminating the 1 per cent tariff floor had entered into force by that time. At the time of the review meeting, El Salvador alone had deposited its instrument of ratification, but only two more Central American countries needed to deposit theirs.

108. As to the tariff quotas negotiated in the Uruguay Round, El Salvador still had not opened them but a draft Executive Decree establishing a mechanism to make the quotas available to interested parties had been prepared. This legal instrument was expected to be adopted shortly, in order to proceed promptly with the opening of quotas. With regard to sugar, it would be difficult to undertake a unilateral reduction in duties until the subsidy schemes that distort world trade were completely dismantled. El Salvador was thinking of opening tariff quotas with a non-quota duty rate of 55 per cent.

109. In addition, El Salvador was streamlining its trading system with regard to the few, remaining non-tariff barriers. The administrative and registration procedures that might impede trade were being reviewed, including among others, pharmaceuticals and saccharin and all the products mentioned in Decree 647.

110. Following its own vigorous programme of unilateral liberalization, El Salvador welcomed the process of global trade liberalization, and was playing an active part in negotiations towards the Free Trade Area of the Americas (FTAA) and in other bilateral negotiations with regional trading partners and economic blocs. Undoubtedly, regional trade agreements could and should be compatible with WTO rules, but they could also generate trade and investment distortions. In the case of NAFTA, both of these phenomena had negative effects on El Salvador's textile and clothing sector.

111. El Salvador was fostering competition by means of its trade liberalization programme and was obtaining satisfactory results. It was, nonetheless, drafting a Free Competition Law to prevent and penalize anti-competitive practices.

112. Finally, he emphasized that the Government of El Salvador was committed to securing full observance of all of the Republic's laws. With the Intellectual Property Law, the Government was engaged in combating any act that violated intellectual property rights. In this respect, he mentioned the establishment of a special unit in the Office of the Attorney-General to deal especially with violations of intellectual property rights. This unit, together with the Central Registry Unit and the National Civilian Police, was carrying out an ongoing inspection of all trade and this had led to the confiscation of nearly 48,000 music cassettes and 22,000 video tapes, and cases in which violations had been detected had been brought before the courts. Full implementation of TRIPS would be automatic after the year 2000, as stipulated in the Agreement. He pointed out that medicaments were included in the protection afforded by the law for a term of 15 years. In addition, work was being done on designing the legal mechanisms needed to apply TRIPS provisions which would have to be implemented by the year 2000; there included border measures which the Government regarded as very important to secure suitable and effective protection of intellectual property rights. As far as civil and criminal penalties were concerned, the relevant provisions would be distributed to interested delegations.

113. The second discussant considered it to be very encouraging that a country like El Salvador, which was looking at participating in the Free Trade Area of the Americas, was also willing to see

those benefits extended through the multilateral system. She said that it was important that through actions not just words countries showed that regionalism and multilateralism could really be complementary and consistent. She noted the point made about trade deviation and the effects of the NAFTA; those were some of the issues that needed to be looked at in the Committee on Regional Trade Agreements, when they looked at the systemic issues that arise through regional trade agreements. She asked how the tenders would be utilized for the administration of the tariff rate quotas, and whether the authorities expected the system to actually ever function in practice and not just in theory.

114. The representative of the United States sought information about the status of the judicial reform in the area of intellectual property and specifically about the efforts to handle more IPR cases administratively and to ensure that seized merchandise was retained until the courts disposed of the case.

115. In response to the question regarding the administration of tariff quotas, the representative of El Salvador said that El Salvador felt that the most transparent and efficient way of managing tariff quotas was by means of auctioning them at the Salvadorean commodities exchange. He added that this would also promote the development of this institution, which was particularly beneficial for producers whose profitability was trapped by intermediaries. He explained that producers would be excluded from participating in these auctions and that the document issued by the commodities exchange would only be valid for a year; if the person that won the auction did not use it in that time period the certificate would lose its validity.

116. Regarding the question posed by the delegate of the United States on intellectual property rights, the representative said that his authorities would provide a full answer in writing.

(iv) Specific policy and sectoral questions

117. In response to questions regarding specific sectoral policies, the representative of El Salvador said that in 1995, the customs procedures in El Salvador could have been described as long, complicated and not transparent. Since then, the Government of El Salvador had speeded up the pace of customs reform, implementing the Central American Common Tariff Code and its National Regulations, which entered into force in July 1996. The Code was founded on the principles of flexible and streamlined customs procedures and customs services that were compatible with fluid development of international trade. This new legal framework had led to: (a) initiation of automatic customs procedures at the country's principal customs posts; (b) authorization for self-assessment by the person making the declaration on the customs clearance form (involving payment of the amount due at any bank, with spot checks; (c) establishment of a spot-check mechanism for physical inspection of goods; and (d) implementation of the domicile service for payment of import duties ("Domicile Customs") for various kinds of goods. The recent implementation of these measures would be supplemented by a single centre for import formalities and the eventual privatization of some customs services.

118. He said that, despite the fact that the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 established a five-year transition period, work would start next year at the Central American level on a regional instrument on customs valuation compatible with the provisions of the Agreement. With reference to valuation of second-hand vehicles, under Salvadorean legislation the prices used must be those indicated in specialized publications. Exceptionally, in the absence of information in those publications, the customs shall determine the value chiefly on price data obtained in the country of origin for a model with identical or similar characteristics to the one that was imported. He stated that El Salvador did not apply any system of pre-shipment inspection, nor had it any plans to introduce such a system.

119. Regarding the export régime and tax incentives he said that El Salvador did not consider that its export promotion and support schemes constituted export subsidies. In 1995, the total amount of the export promotion and support scheme had been 60 million colones (approximately US\$7 million), an amount to which it was difficult to object since it was *de minimis*. These incentives applied only to non-traditional exports outside Central America.

120. There were currently six free zones in El Salvador and 45 firms operated in the zones, more than 80 per cent of them connected with the clothing sector. Four free zones were under construction, but they were not expected to mark a significant increase in the firms connected with the clothing sector. The Government's intention was to attract firms producing greater value-added goods, with modern technology.

121. He pointed out that the current Central American regulations, like the earlier ones, did not allow for the application of bilateral safeguard measures between Central American countries. Within the region there had been no case leading to the application of safeguard measures since the early 1960s. In applying global safeguard measures, El Salvador strictly complied with the WTO Agreement on Safeguards, especially with regard to non-discrimination between member countries of the Central American Economic Integration Treaty and non-member countries. It should be noted that, to date, there had been no case in El Salvador involving the initiation of an investigation procedure to apply safeguard measures.

122. El Salvador considered that dumping and subsidies were unfair trade practices. The Central American Regulations on Unfair Trade Practices simply established the procedures for application at the national level, under standardized Central American legislation, of the provisions of the relevant WTO Agreements, which were the law in El Salvador and were therefore applied automatically. Anti-dumping and countervailing measures were actionable under Salvadorean law, up to the Administrative Litigation Chamber of the Supreme Court of Justice (*Sala de lo Contencioso Administrativo de la Corte Suprema de Justicia*). The rôle of the CACM Secretariat (SIECA) in the investigations to determine the existence of unfair trade practices was clarified, SIECA would intervene as stated in the Central American Regulations on Unfair Trade Practices "if the importing State Party does not initiate the investigation" and "when a domestic industry of a State Party other than the importer is affected, at the request of the Government concerned". He pointed out that, under this procedure, all the provisions of the relevant WTO Agreement were applied. SIECA simply conducted the relevant investigation and made the recommendation to the Council of Ministers responsible for Economic Integration and Regional Development.

123. In relation to standards he said that the National Science and Technology Council (CONACYT) was responsible for standardization, conformity assessment, and metrology. In formulating technical standards and regulations, CONACYT collaborated with the relevant national bodies in elaborating, adopting or adapting the relevant standards and regulations. El Salvador would soon be notifying its acceptance of the Code of Good Practice annexed to the Agreement on Technical Barriers to Trade. El Salvador was not a party to the Plurilateral Agreement on Government Procurement. The legislation regulating government procurement was scattered, since virtually every autonomous agency had its own regulations and minimum thresholds. Procurement by the Central Government came under the Supplies Law, which required calls for tender over and above a particular amount. The intention was to consolidate all these regulations in a single legal instrument governing procurement for the whole public sector, including autonomous agencies, establishing a transparent, streamlined procedure and guaranteeing equal opportunity for domestic and foreign bidders.

124. The first discussant asked whether SIECA carried out anti-dumping investigations.

125. The second discussant asked whether thought had been given to using competition laws to deal with cases of unfair pricing in the Central America Common Market rather than using anti-dumping measures.

126. The representative of the United States said that since a new law had been drafted on government procurement and there was an effort to centralize policies, El Salvador could find itself in a position to engage in discussions in the WTO, either through the plurilateral Government Procurement Agreement or perhaps more broadly with respect to negotiations on transparency that he hoped would be initiated after the Singapore Ministerial.

127. The representative of El Salvador clarified the rôle of SIECA regarding anti-dumping investigations. He said that the technical committee of SIECA communicated to the Government that there was a request from another member state calling on them to initiate an investigation against "x" country or enterprise. However, if the Government of the country which received this notification did not carry out such an investigation, then SIECA was enabled to carry out the investigation on its own. In that event, SIECA would have to present the results of the investigation to the forum of the Ministers in Charge of the Central American Integration. That body, not SIECA, decided whether or not measures should be taken to neutralize an unfair trade practice. However, up to the present, there had been no cases where SIECA had been called upon to carry an investigation.

128. In response to the second discussant's question, the representative said that competition policies could be used in dealing with unfair pricing in the Central American Common Market (CACM) as soon as a single customs union was consolidated, and that the Central American countries were working towards this common goal.

129. The representative took note of the comments made by the delegate of the United States on government procurement; however, he considered that at present the most important thing was to work on the national legislation and after its completion the authorities would give some thought as to what course should be followed subsequently.

130. The first discussant asked whether it was possible for a member country of the CACM to make a request to SIECA that an anti-dumping investigation should not be carried out in a member country.

131. In response the representative of El Salvador said that this was not possible.

132. The delegate of Japan asked whether different treatment was given to nationals and foreigners in the insurance sector and whether this market was fully open or if there were any restrictions.

133. In response the representative of El Salvador said that the insurance sector was not bound among El Salvador's services commitments in the Uruguay Round. El Salvador was presently working on the legal framework that would govern the insurance sector. The drafting of a law on insurance was almost completed, and this new legal framework clarified the regulations in the sector. He added that this sector had been growing in a rather disorderly manner because there were no substantive rules which determined the rules of the game; the new legislation would thus fill a very important gap in the services sector in El Salvador. He offered to send a copy of this legislation to the delegate of Japan, as soon as it was adopted.

## VII. CONCLUDING REMARKS BY THE CHAIRPERSON

134. Over the past two days, the Trade Policy Review Body has conducted the first review of El Salvador's trade policies and practices. These remarks, made on my own responsibility, are intended to summarize the salient points of the discussion; they do not substitute for the Body's collective evaluation and appreciation, which will be reflected in the minutes of the meeting.

135. The discussion developed under three main themes: (i) macroeconomic and structural developments, including policies relating to foreign investment; (ii) trade liberalization and its effects; and (iii) specific policy and sectoral questions.

136. Apart from questions raised during the meeting, four participants submitted a number of questions in writing. The representative of El Salvador provided extensive, substantive replies to the questions and also undertook in some instances to provide further details in writing.

(i) Macroeconomic and structural developments, including policies relating to foreign investment

137. Members commended the stabilization and structural adjustment programmes adopted by El Salvador since 1989, which had resulted in markedly increased economic growth and a fall in inflation. They also welcomed the authorities' plans to continue the longer term restructuring of the economy through increasing investment in infrastructure and human capital. Members inquired about the sustainability of macroeconomic performance, noting that inflation had increased slightly in 1995. They suggested that, if growth was to be maintained, further investment would be required in the productive sector.

138. In this connection, members noted that both investment and savings in El Salvador were relatively low and enquired about measures to remedy the situation. Members also asked how El Salvador aimed to generate the resources required for its planned investments in infrastructure and human capital.

139. Members noted the importance of remittances in financing the current account deficit and pointed out the risks of relying on external resources as a source of financing. In addition, the difficulty of managing an economy in these conditions was emphasized: the monetary inflow resulting from remittances could increase inflationary pressures and push up the real exchange rate, with harmful effects on competitiveness.

140. Members welcomed the tax reform and privatization programmes undertaken by El Salvador; these had both helped to reduce the fiscal deficit and contributed to economic restructuring. Members noted that, with the simplification of the tax system, only a few taxes of general application remained in place; these changes had increased tax yield and gone some way to reducing evasion. Nevertheless, members asked how El Salvador would deal with the problem of tax evasion, given the importance of the informal sector.

141. Members welcomed the liberalization of El Salvador's investment régime. However, some concern was expressed about the possibility of discrimination remaining in registration procedures; for instance, free convertibility of capital was not reflected in the Foreign Investment and Promotion Law. Questions were also raised on plans to establish a one-stop window for foreign investment, whether there was any discrimination against the operation of foreign insurance companies in El Salvador, and whether there was a specific incentive programme to promote foreign investment.

142. In response, the representative of El Salvador said that average real growth in the period 1992-95 was 6.7 per cent, but only 3.5 to 4 per cent in 1996. Inflation was expected to fall to 9 per cent, lower than the level in 1995; with the deepening of the reforms and a fall in the cost of credit, it was hoped

that growth would recover to 5 per cent in 1997. The challenge of macroeconomic management was to ensure stability and maintain the confidence of foreign and domestic investors. Foreign remittances, which had a number of benefits, also complicated economic management, generating inflationary pressures and an appreciation of the exchange rate. In the short term, measures had to be taken to sterilize the effect of inflows on the money supply, but the representative also gave details of a number of structural measures aimed at neutralizing negative effects in the longer term and re-orienting flows towards investment.

143. The representative outlined El Salvador's privatization programme, covering telecommunications, electricity, water, ports and airports, highways and pensions, and gave considerable detail on the planned liberalization of the telecommunications sector. His Government was conscious that domestic savings were insufficient to finance essential social and economic investment in human capital and physical infrastructure. The Government was re-directing resources to the social sector, with the aim of reaching 50 per cent of public expenditure by 1999, and had received loans from the World Bank and IDB for education and infrastructure development. Receipts from privatization and the reform of pension funds would also be used for these purposes.

144. The representative of El Salvador emphasized that there was no discrimination in the foreign investment régime, but the speed of liberalization sometimes had been more rapid than the evolution of the legal framework. The régime was one of the most open in the world; there were no performance requirements or exchange control restrictions, thus it was, in practice, open in all sectors. The only exceptions applied to small-scale investments of less than US\$23,000. He said that El Salvador's economic and social development strategy was intended to attract foreign investment, and thus complement national savings and investment. A new investment law, intended for legislative approval in the first quarter of 1997, would strengthen legal rights, including access to domestic courts and domestic or foreign arbitration, promote transparency and simplify registration procedures, including the elimination of prior authorization. In addition to existing governmental institutions, a private foundation, FUSADES, provided advisory services for new investors. He reassured Members regarding the security situation in the country. He clarified that advantages given to investment in free-zones, to which export performance requirements applied, were not linked to the general investment law. In respect of insurance, which was not bound under GATS, a new legal framework was before the Legislative Assembly and details would be provided once this was adopted.

(ii) Trade liberalization and effects

145. Members recognized that trade liberalization, together with the deregulation of domestic markets, had been a key element in El Salvador's economic growth, although the trade to GDP ratio had not yet recovered to 1980 levels. In addition, members noted the concentration of trade both in terms of partners and in goods. Members asked whether exports currently benefiting from preferential régimes would be competitive without these preferences.

146. Members noted El Salvador's participation in the Central American Common Market (CACM) and inquired whether regional commitments had helped or hindered the process of trade liberalization at the national level. In addition, members commended the active rôle that El Salvador was playing in negotiations on the FTAA and asked about El Salvador's views on "global free trade".

147. Members noted that El Salvador had substantially reduced tariffs and that all rates had been bound, albeit at ceiling levels. Questions were raised regarding the persistence of tariff escalation and peaks in some sectors, as well as the spread between applied and bound rates. Members asked if there were plans to continue reducing tariffs for final goods and to reduce the WTO bound rates.



148. Members commended El Salvador's efforts to bring its national trade legislation into consistency with the WTO Agreements. However, it was noted that certain aspects of some laws were still outdated and in need of reform. Some members also asked about the implementation and enforcement of laws, particularly in the area of intellectual property, while others asked when the draft Competition Law would come into force and the effects that it might have on trade conditions.

149. In response, the representative of El Salvador said that trade policy was based on the coordinated Central American tariff reduction programme, designed to reduce costs and contribute to the development and modernization of production. This was essential to diversify exports and markets. To complement this programme, El Salvador also had a programme to increase national competitiveness in world markets. The Government would implement these reforms in a comprehensive, progressive manner, and was studying how best to incorporate sectors such as textiles, clothing, sensitive agricultural products and leather into the reform programme. He provided information on the six-monthly tariff reductions planned through to July 1999, when the ceiling would be reduced to 15 per cent for imports of most goods produced in Central America, with duties on most other goods eliminated or reduced to very low levels. However, at present it was not considered prudent to lower bound rates, given the vulnerability of the external sector to remittances. Nevertheless, he stressed that El Salvador was also committed to further improvement in its trade policy régime in the few areas where non-tariff measures remained, including administrative and registration procedures for imports of pharmaceuticals and saccharin.

150. The representative emphasized that El Salvador was in favour of worldwide free trade and the strengthening of the multilateral system. It was participating actively in the FTAA as well as in other bilateral and regional trade negotiations. They attached importance to the WTO-compatibility of these agreements; however, they recognized that regional agreements could lead to trade and investment diversion, as had happened in respect of textiles and clothing in the case of NAFTA.

151. The representative said that El Salvador placed an extremely strong emphasis on strengthening competition, including through trade liberalization. A new competition law was being developed to prevent anti-competitive practices. His Government was actively pursuing any violation of the intellectual property law through a special unit created for this purpose; he gave details of recent cases. Work was underway to ensure that El Salvador would fully meet its TRIPS obligations by the year 2000, as required, including in respect of border measures; details of civil and penal sanctions applicable would be provided to Members.

(iii) Specific policy and sectoral questions

152. Members noted that, despite the efforts made to liberalize the import régime, import and customs formalities were still cumbersome, lacked transparency and remained an obstacle to trade. Members asked whether there were plans to simplify these requirements and to modernize customs. There was a question on the time-frame for creating a one-stop window for import procedures.

153. Members commended the simplification of export procedures through the creation of the one-stop window for export formalities. One member asked about the scope for further simplification. Members commented on the programmes in place to promote exports beyond Central America, including the free zone régime and the duty drawback system. The growth of the free zones was noted and it was inquired to what extent there had been a relocation of industry to the free zones. Some Members thought that the duty drawback system could act as an export subsidy since, while tariffs were being progressively reduced, the drawback was fixed at 6 per cent of the f.o.b. value of exports.

154. Members noted the importance of the agricultural sector in the economy and the positive effects of the reforms on its performance. However, some members referred to the negative impact of the real appreciation of the currency on agricultural exports. In addition, one member asked whether there

were plans to liberalize the sugar market. Several members inquired about the administration of tariff quotas and their notification to the WTO.

155. Noting that the present system of customs valuation was based on the Brussels Definition of Value (BDV), members urged that new legislation be made consistent with the WTO Agreement. Members expressed their concern about a lack of transparency in the award of Government contracts and sought clarification on such procedures.

156. One member commended El Salvador for having submitted its safeguards legislation for review by the Safeguards Committee; this appeared to be consistent with WTO requirements. Another sought clarification on the operation of anti-dumping duties and countervailing measures, including which laws applied in these areas and the rôle of the CACM Secretariat in this regard.

157. Some members considered that standards, sanitary and phytosanitary regulations could operate as barriers to trade. One member noted that El Salvador had not submitted a Statement of Implementation as required under the TBT Agreement.

158. In response, the representative of El Salvador said that, since 1995, the Government had accelerated the reform and simplification of customs procedures, including through the implementation of the Central American Uniform Customs Code and its regulations, which had entered into force in June 1996. These reforms would be complemented with a single window for imports and the privatization of some customs services. Work had already begun at the Central American level to bring customs valuation procedures into line with Article VII of GATT 1994 within the required timeframe. No pre-shipment inspection mechanism applied.

159. The representative said that El Salvador's export support and promotion schemes did not constitute export subsidies. Total support, amounting to some US\$7 million in 1995, did not apply to trade within Central America or to export of traditional products. There were six free zones in El Salvador, with 45 firms, of which 80 per cent were involved in clothing production. Four more zones were in construction; it was hoped they would attract operations with higher value added and modern technology.

160. The representative indicated that a draft law had been prepared to manage tariff quotas negotiated in the Uruguay Round and it was hoped this would soon be approved. It was difficult to think about unilateral liberalization of sugar imports while so many subsidy schemes distorted world markets; however, El Salvador was considering the opening of tariff quotas, with an out-of-quota rate of 55 per cent.

161. Central American legislation did not provide for safeguards on intra-regional trade; WTO rules were applied but there had been no such cases since the early 1960s. Dumping and subsidization were covered by Central American legislation and the WTO Agreement, which was part of national law. The representative clarified certain operational aspects of the law, including the investigative rôle played by the CACM Secretariat (SIECA).

162. The representative explained that the National Science and Technology Council (CONACYT) was responsible for standards, the evaluation of conformity, and metrology. The elaboration of standards and regulations was coordinated with other agencies. El Salvador would shortly notify its acceptance of the WTO Code of Good Conduct in this area.

163. Finally, the representative noted that El Salvador was not a member of the Government Procurement Agreement. Almost all agencies had autonomy in this area, but the central Government was obliged to call for tenders when planned purchases exceeded a certain amount. It was planned

to consolidate the various regulations in a single law with the objective of increasing transparency and guaranteeing equal treatment for national and foreign bids.

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#### Overall

164. Delegations welcomed El Salvador's wide-ranging structural reform programme of recent years, including the significant steps taken in trade liberalization, fiscal reform and privatization. They noted and encouraged El Salvador's intention to continue the process with further reductions in applied tariffs, measures to bring about greater competition, modernization of customs procedures and further steps to promote foreign investment.

165. A cautionary note was sounded on the need for diversification of exports, in relation to both goods and markets. It was also recognized that real exchange rate appreciation, fuelled in particular by the high level of emigrants' remittances, makes the task of export development more difficult. Overall, it was emphasized that maintenance of the current export-led growth pattern will require a continued strong commitment to trade liberalization, as well as sustained efforts to ensure a stable macroeconomic environment.

Appendix

The delegation of El Salvador to the Trade Policy Review Meeting of El Salvador consisted of:

René Antonio León  
Vice-Minister of Economy

H.E. Mr. Alexander A. Kravetz  
Ambassador Extraordinary and Plenipotentiary  
Permanent Representative to the United Nations Office at Geneva

H.E. Mrs. Leonora de Sola Saurel  
Ambassador Extraordinary and Plenipotentiary for International Economic Affairs

Guillermo Celarié Noriega  
Advisor (Office of the Minister)  
Ministry of Economy

Eduardo Ayala Grimaldi  
Director of Trade Policy  
Ministry of Economy

Carmen Tobar Sandoval  
Minister Counsellor  
Permanent Mission of El Salvador

Carmen Elena Castillo Escobar  
Minister Counsellor  
Permanent Mission of El Salvador

René Mauricio Vargas  
Counsellor (Commercial)  
Embassy of El Salvador in the United States

Carmen Aida Chávez  
First Secretary  
Permanent Mission of El Salvador