

III. TRADE POLICIES BY MEASURE

(1) OVERVIEW

1. Since its previous Trade Policy Review in 1996, El Salvador has pursued the gradual liberalization of its trade regime. More specifically, it has taken steps to simplify customs procedures and has been implementing the Customs Valuation Agreement since March 2002, with the exception of minimum values applied, under a waiver granted by the WTO, to certain used products from partners not receiving preferential treatment. The average tariff level fell to 7.4% in 2002, with, however, a higher average level of protection for agricultural products and tariff escalation in various sectors. Lower tariffs are applied to a growing number of partners receiving preferential treatment. Most of El Salvador's customs tariff has been bound at 40% – the main exceptions being food products, wood and non-metallic minerals.

2. During the period under review, El Salvador introduced import tariff quotas for one of the products under its Uruguay Round minimum access commitments. It also maintains "under-supply quotas", allowing imports of goods mostly at a zero rate of duty when domestic producers are unable to satisfy full domestic demand. These quotas are shared within the industry as a proportion of purchases of the goods made from domestic producers.

3. The use of non-tariff barriers seems limited. El Salvador applies non-automatic licensing, solely for economic reasons, to imports of sacks made of coarse fibre; there appear to be other import restrictions and prohibitions in order to maintain political and social order, protect public morality and preserve the environment. El Salvador applies no anti-dumping or countervailing duties. Three safeguard proceedings were instituted and settled without the adoption of safeguard measures. El Salvador has a technical regulation requiring the addition of Vitamin A to sugar for the domestic market. Two WTO Members have voiced concerns regarding apparent difficulties of access posed by some of El Salvador's sanitary and phytosanitary measures.

4. There is still a marked difference between trade conditions under the general regime and those under the free trade zone and inward processing warehouse schemes, under which most of the country's exporters conduct their activities. These schemes accord duty-free treatment to eligible producers. They also provide for export subsidies, which El Salvador has notified to the Committee on Subsidies and Countervailing Measures, while securing an extension of the deadline for their elimination.

5. As regards competition legislation, no significant changes have been introduced since El Salvador's previous Review, except in the telecommunications sector. During the past few years, the authorities have been working on drafting a competition law the adoption of which would fill a major vacuum, as there appears to be limited competition in the domestic market. El Salvador has not signed the Plurilateral Agreement on Government Procurement. A new law, which came into effect in 2000, could stimulate competition in El Salvador's government procurement market, although the participation of foreign firms is left to the discretion of the procuring entities.

6. El Salvador protects intellectual property rights through a combination of international and domestic provisions, which were examined by the TRIPS Council in 2000.

(2) MEASURES AFFECTING IMPORTS

(i) Procedures

7. El Salvador's customs regime is based on the Uniform Central American Customs Code III (CAUCA III, approved by Resolution No. 85-2002 of the Central American Tariff and Customs Council adopted by Executive Resolution No. 606 (Economy), which was published in Official Journal No. 128, Vol. 356, of 11 July 2002), the Code's national regulations (RECAUCA, approved on 9 June 1994) and a number of domestic laws, including the Law on the Registration of Importers (Decree No. 224 of 14 December 2000, published in Official Journal No. 241, Vol. 349, of 22 December 2000), the Law on Customs Simplification (Decree No. 529 of 3 February 1999), the Special Law on the Penalization of Customs Offences (Decree No. 551 of 20 September 2000, published in Official Journal No. 204, Vol. 353, of 29 October 2001) and amendments thereto (Decree No. 787 of 22 March 2002). El Salvador, Costa Rica, Guatemala, Honduras and Nicaragua are currently working on common regulations for CAUCA III (RECAUCA).

8. The Directorate-General of Customs Revenue (DGRA), attached to the Ministry of Finance, is in charge of implementing and overseeing customs regulations, in particular import procedures. As a general rule, the filing of a customs import declaration requires the intervention of a customs broker. In the case of the *Teledespacho* system (see below), introduced under the Law on Customs Simplification, use of a customs broker is optional for legal persons.

9. Every customs declaration should contain at least the following information: The requested customs regime; particulars of the dispatcher or consignee; particulars of the applicant or his representative; type of transport; cargo manifest number; number of the corresponding transport document; country(ies) of origin and provenance of the goods; description of the goods; tariff classification of the goods and their trade description; customs value of the goods; and the applicable duties and taxes.

10. Depending on the customs regime, the declaration should be accompanied by the following documents: Commercial invoice; transport documents (e.g. bill of lading, consignment note, airway bill or other equivalent document); declaration of customs value of the goods; certificate of origin of the goods, where applicable; licences, permits or certificates attesting compliance with non-tariff restrictions and regulations applicable to the goods; and any other authorizations or guarantees required by the nature of the goods and the corresponding customs regime.

11. Under the State modernization programmes, in recent years the Government has taken a number of measures to improve the efficiency of Salvadoran Customs. This included the adoption by the DGRA of an ISO 9001 quality system. A certificate of conformity was obtained and renewed in June 2002.

12. Another new measure under the State modernization programmes is the implementation of an automated system known as *Teledespacho* for the electronic transmission of goods declarations to Customs. According to the DGRA, this cuts down the average time needed to process a declaration from 30 to only five minutes. The service has been available on the Internet since February 2002.

13. According to the authorities, goods move through Customs at different speeds, under a fiscal "traffic light" system subjecting the goods to one of the following control procedures: (i) physical inspection for valuation purposes (red light); (ii) automatic release (green light); or (iii) review of documents for subsequent inspection (yellow light). Clearance takes between five and 20 minutes for merchandise receiving the green light; the red light means an average delay of two to 24 hours, provided that no problems arise and there are no more than 20 items per inspection. The Salvadoran

Customs' fiscal "traffic light" system is not applied at random but according to a series of parameters (e.g. tariff classification of the goods, countries of origin and provenance, importer and carrier's particulars), all of which determine the level of control of the goods. There are no statistics for frequency of use of each type of control.

14. The following remedies are available to users of customs services in the event of any irregularity on the part of the DGRA, as specified in Articles 15, 16 and 17 of the Law on Customs Simplification: (i) Application for reconsideration by the same customs official; (ii) application for review by the Director-General of Customs Revenue; (iii) appeal before the Internal Revenue Appeals Court; (iv) amparo proceedings before the Supreme Court of Justice; and (v) appeal for judicial review by the Supreme Court of Justice.

15. According to the authorities, 84 appeals of decisions were filed in the period January-June 2002, i.e. an average of 14 per month. In three-quarters of the cases, the Directorate-General of Customs Revenue confirmed the decisions challenged or rejected the appeals as irrelevant or inadmissible for lack of jurisdiction or failure to respect the deadlines.

(ii) Customs valuation and rules of origin

(a) Customs valuation

16. Between 1996 and 2001, El Salvador applied the Central American legislation on the customs valuation of goods and its regulations (Annex B of the Convention on the Central American Tariffs and Customs Regime), which bases its customs valuation method on the Brussels Definition. El Salvador invoked Article 20.1 of the WTO Agreement on Customs Valuation to delay the application of its provisions for a period of five years from the date of its entry into force, meaning that El Salvador was scheduled to implement the Agreement by 7 May 2000. However, El Salvador requested and was granted an extension of the delay until 7 September 2001.¹

17. On that date, El Salvador requested a further delay for implementing certain provisions of the Agreement, including those pertaining to the application of minimum values to a limited number of goods. The extension was granted for a period of six months, until 7 March 2002,² when El Salvador began implementing the Agreement with the exception of its disciplines pertaining to minimum values. In May 2002, El Salvador asked to apply minimum values to a number of products for a period of two to four years.³ In its decision of 8 July 2002, the General Council decided that El Salvador could apply minimum values to articles of apparel until 7 March 2003, extending the deadline to 7 March 2005 for worn clothing and other worn articles; used televisions; footwear; pneumatic tyres, retreaded or used; sacks and bags, of a kind used for packing, of jute or other textile bast fibres of HS heading 53.03; and used vehicles and used parts and accessories thereof.⁴ In the context of this Review, the authorities indicated that at year-end 2002 the application of minimum values concerned only imports of used products of these descriptions.

18. El Salvador applies the GATT 1994 Customs Valuation Code to preferential imports. Under its free trade agreements with Chile, Mexico and the Dominican Republic, the application of

¹ WTO document G/VAL/30 of 6 July 2000.

² WTO document WT/L/453 of 17 May 2002.

³ WTO document G/C/W/372 of 13 May 2002.

⁴ WTO document WT/L/476 of 12 July 2002.

minimum values is expressly prohibited, although El Salvador has reserved the right to apply such values to certain categories of used goods from Chile and Mexico.

19. The authorities have prepared a draft National Law on Customs Valuation of Goods in order to provide the country with legislation that supplements and ensures the proper implementation of the WTO Customs Valuation Agreement.⁵ By mid-2002, the draft was before the Legislative Assembly for review.

(b) Rules of origin

20. El Salvador applies preferential rules of origin defined in the various trade agreements to which it is party; it does not apply non-preferential rules of origin. The preferential rules of origin are established in the General Treaty on Central American Economic Integration; the Central American Regulations on Origin of Goods and the Annex on Specific Rules of Origin; the Free-Trade Agreement between Mexico and El Salvador, Guatemala and Honduras; the Free-Trade Agreement between Central America and the Dominican Republic and its bilateral Protocols; the Free-Trade Agreement between Central America and Chile and its bilateral Protocol; and the Free-Trade Agreement between El Salvador and Panama and its bilateral Protocol.

21. The preferential rules of origin applied by El Salvador to goods not produced wholly in the territory covered by a preferential trade agreement vary with the treaty and often with the nature of the goods but, generally speaking, they are based on the principle of change of tariff classification supplemented by ancillary rules. The latter generally include requirements relating to the value of regional content, which is calculated according to the transaction value method.

(iii) Tariffs

(a) Structure and levels

22. El Salvador accords at least MFN treatment to the WTO Members, although it does not apply the Multilateral Trade Agreements to the People's Republic of China, pursuant to Article XIII of the Marrakesh Agreement (Chapter II.4(i)).

23. El Salvador applies the Central American Import Tariff, which contains the nomenclature for the official classification of goods (Central American Tariff System – SAC), together with the import duty rates and the rules for the application of its provisions. This tariff is common to the member countries of the Central American Common Market (CACM). The SAC is based on the Harmonized Commodity Description and Coding System (HS). The second revision of the HS was incorporated in the SAC on 1 September 1996 by Resolution No. 22-96 adopted on 22 May 1996 by the Council of Ministers for Economic Integration and Regional Development (COMRIEDRE). The SAC's harmonization with the third revision of the HS came into force on 1 October 2002, by means of Resolution No. 89-2002 of the Central American Tariff and Customs Council of 23 August 2002.

24. The duties applied and any modifications made must be approved by the Central American Tariff and Customs Council. The general parameters of tariff policy are specified in COMRIEDRE Resolution No. 26-96 of 22 May 1996, which establishes the following *ad valorem* tariff levels: 0% for raw materials and intermediate and capital goods not produced in the region; 5% for raw materials produced in the region; 10% for intermediate and capital goods produced in the region; and 15% for finished goods. The Resolution also provides for the application of other tariffs for fiscal reasons,

⁵ The draft law was notified in WTO document G/VAL/N/4/SLV/1 of 26 June 2001.

under commitments made in the WTO, and in situations specific to production chains for particular goods.

25. In August 2002, the Salvadoran tariff contained 5,989 eight-digit tariff lines. All import duties are *ad valorem* and are applied to the c.i.f. value of the goods. In accordance with the tariff reduction programme approved at the regional level, El Salvador's average tariff has steadily decreased from 10.1% in 1995 to 7.4% in 2002 (Table III.1). Likewise, in conformity with CACM objectives, the majority (86.5%) of tariff rates fall within the zero to 15% band, and about half (47.1%) are at the 0% level. Applied tariff dispersion (measured in terms of both standard deviation and coefficient of variation) increased between 1995 and 2002.

26. The average tariff for agricultural products (defined according to Annex I of the WTO Agreement on Agriculture) is higher than for other products (respectively 12 and 6.7%). The agricultural products with a higher level of protection include the following: Pig meat and some of its products (HS 0203 and 0209); dairy produce (HS 04); rice (HS 1006); pig fat (HS 1501); sausages and prepared meat (HS 1601 and 1602); sugar (HS 1701); and ethyl alcohol (HS 2207).

27. Partly reflecting CACM guidelines, the average tariffs applied in various manufacturing sectors show a clear pattern of tariff escalation (Chart III.1).

(b) Tariff bindings

28. In the Uruguay Round, El Salvador bound most tariff lines and 72% of its customs tariff at a maximum level of 40%, except for agricultural products specified in its Schedule of Commitments and the exceptions stipulated in Annexes A and B of its Protocol of Accession. The main products bound at rates above 40% include food products, beverages and tobacco; wood and wood products; and non-metallic minerals.⁶

Table III.1
Summary analysis of the Salvadoran tariff

Categories	Tariff rates applied				
	Number of lines ^a	Average tariff applied (%)	Range (%)	Standard deviation (%)	Coefficient of variation
Total	5,989	7.4	0-40	9.0	1.2
By WTO category					
Agricultural products	879	12.0	0-40	10.9	0.9
Live animals; animal products	108	21.9	0-40	14.3	0.7
Dairy produce	31	26.9	0-40	13.1	0.5
Coffee and tea, cocoa, sugar, etc.	163	12.7	0-40	9.5	0.7
Fruit and vegetables	194	13.4	0-20	4.3	0.3
Cereals	22	12.0	0-40	15.3	1.3
Beverages and spirits	46	19.1	0-40	10.9	0.6
Tobacco	19	7.9	0-30	8.2	1.0
Non-agricultural products (excl. petroleum)	5,094	6.7	0-30	8.4	1.3
Fish and fish products	139	9.8	0-15	5.2	0.5
Textiles and clothing	910	17.8	0-25	7.8	0.4
Leather, rubber, footwear and travel goods	175	8.6	0-20	6.9	0.8
Transport equipment	156	6.5	0-30	9.7	1.5
Petroleum	16	4.3	1-10	3.8	0.9
By ISIC sectors^b					
Agriculture and fishing	388	8.6	0-40	7.1	0.8

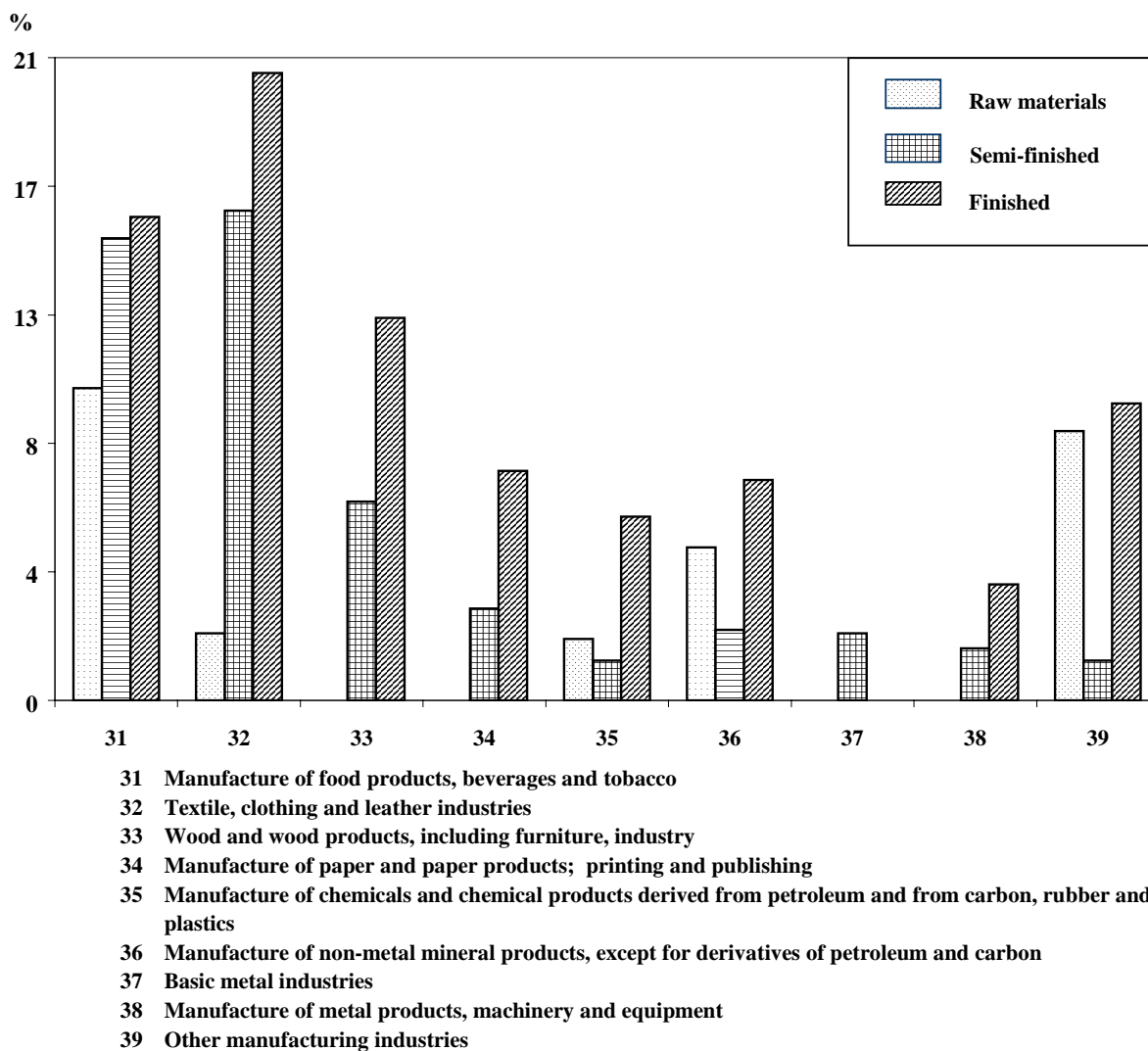
⁶ For a detailed description of the bound levels, see WTO (1997), Trade Policy Review, El Salvador 1996, Geneva.

Categories	Tariff rates applied				
	Number of lines ^a	Average tariff applied (%)	Range (%)	Standard deviation (%)	Coefficient of variation
Mining	108	2.2	0-20	3.8	1.8
Manufacturing industry	5,492	7.5	0-40	9.1	1.2
By HS sections					
01 Live animals; animal products	263	14.1	0-40	11.3	0.8
02 Vegetable products	363	9.9	0-40	7.1	0.7
03 Fats and oils	52	7.6	0-40	7.9	1.0
04 Prepared foodstuffs, etc.	257	15.7	0-40	11.8	0.8
05 Mineral products	165	2.8	0-15	3.8	1.3
06 Products of the chemical industries	887	1.9	0-15	4.2	2.2
07 Plastics and rubber	307	4.6	0-15	4.8	1.1
08 Hides and skins, leather	81	9.1	0-15	6.2	0.7
09 Wood and articles of wood	87	7.4	0-15	5.7	0.8
10 Pulp, paper, etc.	191	4.4	0-15	5.8	1.3
11 Textiles and textile articles	891	17.8	0-25	8.0	0.5
12 Footwear and headgear	63	14.9	0-20	5.6	0.4
13 Articles of stone	160	6.5	0-15	6.6	1.0
14 Precious stones, etc.	53	8.2	0-20	6.9	0.8
15 Base metals and articles thereof	675	3.3	0-15	5.0	1.5
16 Machinery	903	2.3	0-15	4.9	2.1
17 Transport equipment	168	6.2	0-30	9.4	1.5
18 Precision instruments	244	4.2	0-25	6.5	1.5
19 Arms and ammunition	17	30.0	30	0.0	0.0
20 Miscellaneous manufactured articles	153	10.9	0-30	5.7	0.5
21 Works of art, etc.	9	20.0	5-30	12.0	0.6

a Excluding the applied in-quota rate.

b ISIC Classification (Rev.2), excluding electricity (1 line).

Source: WTO Secretariat estimates based on data supplied by the Salvadoran authorities.

Chart III.1**Tariff escalation for manufactured products^a, 2002**

^a By 2-digit ISIC category.

Source: WTO Secretariat estimates based on data supplied by the Salvadoran authorities.

29. El Salvador requested and was granted the waiver of Article II of the GATT 1994, in connection with the introduction of 1996 Harmonized System changes into its Schedule of Concessions, until 31 October 2002.⁷

⁷ El Salvador's request is recorded in document G/L/514 of 1 March 2002; the General Council's decision granting the waiver is set out in document WT/L/456 of 17 May 2002.

(c) Tariff preferences

30. In September 2002, El Salvador was granting preferential tariff treatment to imports from the CACM, Chile, Mexico and the Dominican Republic (Table III.2). It will also apply preferential tariffs to imports from Panama once the free trade agreement between the two countries has come into force (Chapter II.2(ii)).

Table III.2
Average tariffs according to El Salvador's main preferential agreements, December 2002

	Number of lines ^a	Average tariffs (%)			
		MFN	Mexico	Dominican Republic	Chile
Total	5,989	7.4	5.1	0.3	4.9
By WTO category					
Agricultural products	879	12.0	9.8	2.0	7.5
Non-agricultural products (excl. petroleum)	5,094	6.7	4.3	0.0	4.4
By ISIC sector^b					
Agriculture and fisheries	388	8.6	5.5	0.6	2.1
Mining	108	2.2	0.7	0.0	0.1
Manufacturing	5,492	7.5	5.1	0.3	5.2

a Excluding the applied in-quota rate.

b ISIC Classification (Rev.2), excluding electricity (1 line).

Source: WTO Secretariat estimates based on data supplied by the Salvadoran authorities.

31. Most products of CACM origin benefit from a zero tariff rate. Limitations on free trade at the Central American level are established bilaterally among the Central American countries and set out in Annex A to the General Treaty on Central American Economic Integration. Annex A stipulates that restricted products are subject to import licensing or the payment of import duties (Table III.3). As regards products subject to import licensing, countries may grant import licences at their discretion, in which case the products benefit from a free trade regime; if a licence is not granted, duty must be paid. As from 1 January 2003, wheat flour (1101.00.00) will be removed from Annex A, because wheat flour imports of CACM origin are duty free (Resolution No. 01-2002 of the Executive Committee for Economic Integration of 27 September 2002).

32. Most imports from the Dominican Republic (around 98% of the customs tariff) are duty free; the average tariff is 0.3% (Table III.2). A limited number of items (around 1.5% of the customs tariff) will not be subject to tariff reduction and have hence been removed from the Agreement. These products include meat and edible offal; prawns; milk; onions; beans; coffee; rice; wheat flour; animal and vegetable fats and oils; cane sugar; tomato concentrate; malt beer; ethyl alcohol; tobacco and cigarettes; petroleum products; and paper.

33. The tariff concessions accorded to imports from Mexico extend over 96% of the customs tariff. Since a little over 40% of the tariff is being gradually phased out over a period of 12 years from the date of entry into force of the agreement between El Salvador, Guatemala, Honduras and Mexico, by the end of 2002 the average preferential tariff of 5.1% remained fairly close to the average MFN tariff. Mexican products not entitled to preferential treatment are mostly agricultural products and include those classified under the following headings: milk and dairy produce (HS 04); sugars and sugar confectionery (HS 17); cocoa and cocoa preparations (HS 18); and tobacco and tobacco substitutes (HS 24).

Table III.3
Goods subject to special import arrangements under the CACM

Tariff item	Description	Measure
Arrangement common to all five countries		
09.01.1	Coffee, not roasted	Subject to import duties
17.01	Cane sugar, refined or unrefined	Import control
17.01.11.00	Cane	
17.01.91.00	Containing added flavouring or colouring matter	
17.01.99.00	Other	
Bilateral arrangement (El Salvador – Guatemala)		
1101.00.00 ^a	Wheat flour	Import control
22.07	Ethyl alcohol, denatured or undenatured	Import control
22.08.90.10		
Bilateral arrangement (El Salvador – Honduras)		
09.01.2	Roasted coffee	Subject to import duties
11.01.00.00 ^a	Wheat flour	Import control
22.07	Ethyl alcohol, denatured or undenatured	Import control
22.08.90.10		
22.08 except 2208.90.10	Distilled alcoholic beverages	Subject to import duties
27.10	Petroleum products (except mineral solvents (2710.00.1) and asphalt (2713.20.00), which are	Subject to import duties
27.12	accorded free-trade treatment between contracting	
27.13	States)	
27.15		
Bilateral arrangement (El Salvador – Nicaragua)		
09.01.2	Roasted coffee	Subject to import duties
11.01.00.00*	Wheat flour	Import control
22.07	Ethyl alcohol, denatured or undenatured	Import control
22.08.90.10		
Bilateral arrangement (El Salvador - Costa Rica)		
09.01.2	Roasted coffee	Subject to import duties
22.07	Ethyl alcohol, denatured or undenatured	Import control
22.08.90.10		

a Pursuant to Resolution No. 01-2002 of the Executive Committee for Economic Integration of 27 September 2002, approving the removal of wheat flour (1101.00.00) from Annex A of the General Treaty on Central American Economic Integration as from 1 January 2003.

Source: Resolution No. 44-99 of the Council of Central American Ministers for Economic Integration (COMIECO), of 17 September 1999.

34. Around 63% of El Salvador's customs tariff was fully liberalized with the entry into force of the Free-Trade Agreement between Central America and Chile. Another 30% is being gradually phased out under a tariff-cutting programme over a period of 16 years; there will be no tariff reductions for the remaining portion. Items not covered by the Agreement are mostly agricultural products. By mid-2002, a 4.9% average preferential tariff was being accorded to Chile.

(d) Tariff concessions

35. Imports under the free-zone or inward processing schemes are eligible for tariff concessions (Section 3(vi) below). Goods imported into El Salvador under the *Ley de Equipajes de Viajeros Procedentes del Exterior* (Law on Incoming Travellers' Luggage) (essentially personal effects and goods not exceeding a certain value), small consignments of a non-commercial nature not exceeding a value of US\$500, samples of no commercial value under certain conditions, and relief consignments are exempt from import duties, subject to approval by the Legislative Assembly.

(iv) Tariff quotas

36. El Salvador maintains import tariff quotas for agricultural products under its Uruguay Round minimum access commitments. The WTO was notified that no quotas had been opened for any of these products between 1995 and 1999, because the applied tariffs were either the same as or less than the tariffs established in El Salvador's Schedule of Commitments.⁸ In 2000, El Salvador notified the WTO of the opening of a tariff quota for one of the types of cheese included in its Schedule, i.e. Cheddar cheese in blocks or in bars (tariff item SAC 0406.9020). The in-quota tariff on imports of this product was 20% in 2000 and dropped to 15% from 2001 on. The out-of-quota rate is 40%, i.e. the same as that applied to all other types of cheese included in the Schedule.⁹ According to the authorities, quota fill rates for Cheddar cheese reached 33% in 2000, 84% in 2001, and 100% in 2002.

37. The quotas are allocated by public auction through the El Salvador Agricultural Commodity Exchange (BOLPROES). The award certificates delivered stipulate import terms and conditions, in particular the allocation of quota volumes and import timeframes. They are submitted to the Ministry of the Economy upon application for the extension of import licences.¹⁰ Import licences may not be transferred.

38. Only national milk processing plants purchasing at least 10,000 bottles a day of liquid milk may take part in quota auctions for Cheddar cheese.

39. El Salvador also uses under-supply quotas allowing imports of products at a zero rate of duty in order to meet domestic demand when domestic producers are temporarily unable to do so. These quotas are granted to the respective processing industry as a proportion of purchases of these products made from domestic producers. According to the authorities, by July 2002 under-supply quotas had been opened for rice in the husk (HS 1006.10.90) and various meat products (corresponding to 21 tariff lines under headings HS 0203, 0206, 0209, 0210 and 1501).

(v) Other charges affecting imports

40. Imports are subject to internal taxes as well as tariffs. These taxes apply to both imports and domestic products and include value-added tax (VAT) and various selective taxes on products such as alcoholic beverages, carbonated beverages and cigarettes. They are collected on imports regardless of the provenance of the products concerned. The same rate is applied to domestic and foreign products.

41. VAT is charged on the transfer, importation and consumption of goods and the provision and importation of services. The taxable base is generally the agreed price or consideration for the transfer of goods or the provision of services. For imports, the taxable base is the sum of the applicable customs value, duties and specific consumption taxes, on which VAT is then applied at a rate of 13%; for exports, the rate is 0%. Definitive imports of the following goods are VAT-exempt:

⁸ WTO document G/AG/N/SLV/6 of 10 August 1998.

⁹ WTO documents G/AG/N/SLV/8, G/AG/N/SLV/9 and G/AG/N/SLV/10 of 25 April 2000, 23 February 2001 and 23 April 2002, respectively.

¹⁰ Regulations on the Opening and Administration of Quotas of 28 October 1999, enacted by Executive Decree No. 46 published in Official Journal No. 203, Vol. 345, of 29 October 1999. Amendments to the Regulations were made by Decree No. 16 of 15 March 2000, published in Official Journal No. 73, Vol. 347, of 12 April 2000, and Decree No. 97 of 16 November 2000, published in Official Journal No. 223, Vol. 349, of 28 November 2000.

- Goods imported by diplomatic missions, consulates and international institutions or organizations;
- goods imported by passengers or crews of ships, aircraft or vehicles, where the goods are covered by the travellers' luggage regime and are exempt from customs duties;
- goods donated under agreements concluded by El Salvador;
- goods imported by municipalities for community work or direct community benefit;
- machinery imported by duly registered taxpayers as part of their fixed assets for direct use in the production of goods or the provision of services;
- buses, micro-buses and rental vehicles for public passenger transport.

42. The following services are VAT-exempt:

- Health services delivered by State institutions or public welfare institutions;
- letting, subletting or transfer of use or temporary enjoyment of immovable property for housing purposes;
- services provided in the context of employment relationships within the meaning of labour legislation, and services provided by government or municipal employees or employees of autonomous agencies;
- duly recognized public cultural events;
- educational and teaching services;
- payment or accrual of interest on deposit and loan transactions by financial institutions;
- payment or accrual of interest on securities issued and placed by the State and autonomous official agencies, and by private entities where the initial offering was public;
- public water supply and sewage services;
- public passenger carrier services;
- payment of premiums for personal insurance; and reinsurance generally.

43. All domestic and foreign alcoholic beverages, including grape wines, champagnes, beer, cocktails and fermented fruit juices, are subject to a tax on alcoholic content of C0.05 on each percentage by volume of alcoholic content per litre, and to a 20% *ad valorem* tax based on the retail

price declared by the producer or importer.¹¹ Products containing ethyl alcohol and considered as medicines by the competent authority are exempt from this tax.

44. Carbonated or sweetened carbonated beverages are subject to a 10% *ad valorem* tax based on the retail price suggested by the producer, importer or distributor, excluding VAT. Domestic producers and importers of carbonated or sweetened carbonated beverages are required to provide the Directorate-General of Internal Revenue with a list of suggested retail prices, which may be amended by a new list submitted eight days before the entry into force of the new prices; importers are required to submit any new list to the Directorate-General of Customs Revenue.¹²

45. Domestic- or foreign-produced cigarettes distributed, sold or consumed in El Salvador are subject to a 39% *ad valorem* tax on the retail price, excluding VAT. Domestically produced cigarettes for export are exempt from this tax.¹³

46. Empty sacks and bags of synthetic fibre, produced in or imported into El Salvador, are subject to an 80% tax on the reference price for sacks made of coarse fibre. The benchmark is established by the Ministry of the Economy and calculated on the basis of the domestic market price for sacks of coarse fibre.¹⁴ According to the authorities, this tax was under review at year-end 2002 with a view to its possible elimination.

(vi) Import licensing, permits and other import requirements

47. El Salvador has notified no import licensing mechanism other than the import licences relating to the administration of tariff quotas (Section (iv)).

48. Pursuant to Legislative Decree No. 1097 of 10 July 1953, the Ministry of the Economy is empowered to regulate imports of sacks made of coarse fibre through import licensing. According to the authorities, the reason for maintaining this arrangement is that the coarse fibre production subsector, located in the most arid parts of the country, is in the process of being restructured and hence still requires a certain level of protection. The mechanism for allocating the licences is governed by executive decisions published in the Official Journal and listing the beneficiaries. The granting of licences takes into account the volume of demand not met by the local industry and the applicants' (generally coffee producers) actual needs for a given season. The licences are issued to users and not to producers. The authorities indicated that in mid-2002 Legislative Decree No. 1097 was being reviewed for possible amendment.

49. Import licences are required in the CACM for a limited number of products subject to import control (Section (iii)(c)). Imports of certain goods are also subject to authorization or specific procedures (Table III.4).

¹¹ *Ley Reguladora de la Producción y Comercialización del Alcohol y de las Bebidas Alcohólicas* (Law Regulating the Production and Sale of Alcohol and Alcoholic Beverages), enacted by Decree No. 587, published in Official Journal No. 211 of 8 November 2001.

¹² *Ley del Impuesto sobre las Bebidas Gaseosas Simples o Endulzadas* (Law on the Taxation of Carbonated or Sweetened Carbonated Beverages), enacted by Decree No. 64, published in Official Journal No. 41 of 26 February 2001.

¹³ *Ley de Impuesto de Cigarrillos* (Law on Cigarette Taxation), enacted by Decree No. 18, published in Official Journal No. 224 of 1 December 1997.

¹⁴ Legislative Decree No. 235 of 17 December 1985, published in Official Journal No. 244-Bis, Vol. 289, of 23 December 1985, and Executive Decision No. 5 of 14 January 1999, published in Official Journal No. 16, Vol. 342, of 25 January 1999.

Table III.4
Specific import procedures and documents

Product	Procedure or document	Responsible entity	Waiting time	Requirement
Food, beverages and raw materials	Registration	Ministry of Public Health and Social Welfare (MSPAS)	1 month	Physical, chemical and bacteriological analysis by the MSPAS
Food products	Import authorization	MSPAS	30 min.	Registration
Fresh food	Import authorization	MSPAS	30 min.	Presentation of the MAG import authorization
Medicines, raw materials and precursor substances	Registration	Public Health Council	6 months	Analysis by the Pharmaceutical/Chemical Council (JVPQF) and the Medical Council (JVPM)
Cosmetics and cleaning products	Registration	JVPQF	15 days	Analysis by the JVPQF
Raw materials for the pharmaceutical, industrial, textile and veterinary drugs industries	Visa	JVPQF	1 day	Presentation of invoice and payment of visa duty
Animals, plants, animal and plant products and by-products	Plant or animal health import authorization	Ministry of Agriculture and Livestock (MAG)	15-30 min.	Registration and presentation of the MSPAS import authorization for processed food
Agrochemicals, fertilizers, drugs and biologicals for veterinary use	Visa	MAG	15 min.	Product registration
Agrochemicals and inputs for agricultural use and animal feed	Visa	MAG	15 min.	Product registration

Source: WTO Secretariat estimates based on data supplied by the Salvadoran authorities.

(vii) Prohibitions and other restrictions

50. El Salvador operates import prohibitions on a limited number of products, generally on grounds of health, security, morality or environmental protection, as indicated in Table III.5. It also prohibits the importation of coffee that could be used as seed for planting, light passenger or cargo motor vehicles in use for more than eight years and heavy passengers and cargo motor vehicles in use for more than 15 years.¹⁵

¹⁵ Decree No. 353 of 6 April 2001.

Table III.5
Prohibited imports

Description	Tariff heading
Material that is subversive or contrary to the State's political, social and economic order	49.01.10.00, 49.01.99.00, 49.11.10.90, 58.07.10.00, 58.07.90.00, 61.17.80.90, 62.17.10.00, 63.07.9090
Figures, statues, books, leaflets, almanacs, magazines, lithographs or engravings, periodicals, cards and any other material of an obscene character	37.05.90.00, 39.26.40.00, 49.01.10.00, 49.02.90.00, 49.09.00.00, 97.02.00.00, 69.13.90.00, 83.06.21.00
Films contrary to ethics and morality	37.06.10.00, 37.06.90.00, 85.24.31.00, 85.24.39.00, 85.24.53.12, 85.24.53.19
Abortifacient substances	12.11.90.90, 30.04.00.00, 90.18.90.00
Gambling machines	95.04.30.00
Roulette games, game tables and any other prohibited games equipment or artefacts	95.04.90.00
Opium with less than 9% of morphine, opium slag and slash, and any artefacts for smoking opium	13.02.11.00, 2621.00.00, 9614.20.00
Paper without the proper stamp for making cigarettes, white or coloured, in pads, rolls, cylinders, booklets or tubes	48.13.10.00, 48.13.20.00, 48.13.90.00
Machines and tools for fabricating coins	82.07.90.00, 84.62.99.00
Counterfeit currency	49.07.00.20
Smooth silver coins of less than 0.900 of width	71.18.10.00
Tokens of any type of metal or their alloys, that could circulate as coins	95.04.30.00

Source: WTO Secretariat estimates based on data supplied by the Salvadoran authorities.

51. Some goods are subject to a "limited import prohibition", meaning that only the State can import them. These goods include eau-de-vie made with cane sugar; munitions, military airplanes and ships, weapons and silencers, and gas masks for military use; potassium nitrate; stamped paper for making cigarettes; fiscal, municipal and postage stamps; and nickel coins for legal circulation.

52. The authorities reported that up to mid-2002 El Salvador had not applied any trade embargo of any kind.

(viii) Anti-dumping and countervailing measures

53. Salvadoran legislation on unfair trade practices incorporates the Agreement on Implementation of Article VI of the GATT 1994, the Agreement on Subsidies and Countervailing Measures and the Central American Regulations on Unfair Business Practices, adopted on 12 December 1995 and in force since 12 January 1996.¹⁶ The Regulations have been examined by Members in the Committees on Anti-Dumping Practices and on Subsidies and Countervailing Measures.¹⁷

54. The authority responsible for investigating, analysing and evaluating allegations of unfair trade practices and recommending whether anti-dumping or countervailing duties should be imposed is the Trade Treaties Department of the Ministry of the Economy (DATCO).

¹⁶ El Salvador notified the Central American Regulations on Unfair Business Practices on 30 March 2000 (WTO document G/ADP/N/1/SLV/2 of 21 February 2002); these superseded the Regulations on Business Practices and the Safeguard Clause of 29 January 1993.

¹⁷ The questions raised in the Committee by the United States and Canada are set out in WTO documents G/ADP/Q1/SLV/1 and G/ADP/Q1/SLV/2 of 9 April 2002 and 8 April 2002, respectively; El Salvador's replies are recorded in document G/ADP/Q1/SLV/3 of 25 April 2002.

55. Up to October 2002, no investigations or applications for investigation into alleged unfair trade practices had been initiated in the WTO or under regional agreements, and hence no anti-dumping or countervailing duties were applied.

(ix) Safeguard actions

56. In addition to the WTO Agreement on Safeguards, El Salvador applies the Central American Regulations on Safeguard Measures, which have been examined by the Committee on Safeguards.¹⁸ The DATCO is the investigating authority for such matters.

57. Since the previous report by the Secretariat, El Salvador has applied no safeguard measures in the context of the WTO or under regional arrangements. Under the Central American Regulations on Safeguard Measures, it did, however, initiate three safeguard investigations against imports of pig meat and by-products of pig meat; rice in the husk, processed rice and by-products of rice; and chemical fertilizers.¹⁹ All three proceedings were declared inadmissible by the investigating authority and were closed without safeguard measures being imposed.²⁰

58. No safeguard measure (bilateral or global) may be applied between member countries of the Central American Common Market. While the safeguard provisions in the free trade agreements to which El Salvador is party do not prevent the signatories from applying safeguard measures in accordance with multilateral rules, in the case of the agreements with Chile, Mexico and Panama the imposition of such "global safeguards" should exclude the preferential partner unless its exports are substantial or are contributing significantly to the injury.

59. El Salvador has 84 tariff lines at the eight-digit level for which it reserves the possibility of applying additional duties, in accordance with the special safeguard provisions in the WTO Agreement on Agriculture. The WTO has been notified that no special safeguards were applied between 1995 and 1998.²¹ El Salvador has also reserved the right to apply the transitional safeguard mechanism, pursuant to the WTO Agreement on Textiles and Clothing, but has made no use of this provision.²²

(x) Technical regulations and standards

60. El Salvador's key legislation on standardization, metrology, verification and certification is the Law governing the National Science and Technology Council (enacted by Legislative Decree No. 287 of 23 July 1992) and the WTO Agreement on Technical Barriers to Trade (TBT Agreement). For the purposes of regional trade, El Salvador also applies the Central American Regulations on

¹⁸ The Regulations were notified in WTO document G/SG/N/1/SLV/2 of 2 September 1996; the replies to the questions raised in the Committee on Safeguards appear in WTO document G/SG/Q1/SLV/2 of 12 November 1996.

¹⁹ These proceedings were notified to the Committee on Safeguards; the notifications are in documents G/SG/N/6/SLV/1 (pig meat), G/SG/N/6/SLV/2 (rice), and G/SG/N/6/SLV/3 (fertilizers).

²⁰ WTO documents G/SG/N/9/SLV/1, G/SG/N/9/SLV/2 and G/SG/N/9/SLV/3 of 20 February 2001, 20 June 2001 and 8 November 2001, respectively.

²¹ WTO documents G/AG/N/SLV/2, G/AG/N/SLV/5 and G/AG/N/SLV/7 of 5 December 1996, 6 August 1998 and 18 August 1999, respectively.

²² WTO document G/TMB/N/8 of 1 March 1995.

Standardization Measures, Metrology and Authorization Procedures (enacted by Resolution No. 37-99 (COMIECO-XIII) of 17 September 1999). According to the authorities, Salvadoran technical standards and regulations make no distinction between foreign and domestic products.

61. The National Science and Technology Council (CONACYT) is responsible for the management, coordination and implementation of standardization, metrology, verification and certification activities, and it has accepted the Code of Good Practice annexed to the TBT Agreement. The Ministry of the Economy's Trade Policy Department serves as the national enquiry point, as provided for in Article 10, paragraphs 1 to 3, of the TBT Agreement. The Department made 67 notifications under the Agreement between 1995 and May 2002.

62. CONACYT's Department of Standardization, Metrology and Quality Certification is in charge of coordinating the development and adoption of national technical standards with other government bodies and with private and scientific institutions; proposing national technical standards for government approval via the Ministry of the Economy; ensuring the implementation of national technical standards; establishing technical committees to study, develop and amend official technical standards, and coordinating the committees' work; accrediting laboratories and keeping a register of accredited facilities; cooperating and ensuring an ongoing exchange of information with institutions in El Salvador and abroad and other related international bodies.

63. There are two types of standards in Salvadoran legislation: Mandatory Salvadoran standards (NSO) and recommended Salvadoran standards (NSR). NSOs include the standards regulating the International System of Units; standards relating to materials, procedures, products and services that may affect human life, safety and integrity and the safety and integrity of other live organisms, and environmental protection standards; and standards deemed by the Government to be relevant to the economy or in the public interest. NSRs are concerned with materials, procedures, products and services not covered by an NSO; they are optional in private negotiations but become mandatory in any procurement of goods or services by State, autonomous or decentralized bodies, both the supplier and those in charge of the purchase being required to apply them.²³

64. CONACYT's Board of Directors is in charge of establishing the technical standardization committees responsible for studying and preparing draft NSOs and NSRs. These committees are made up of government officials and representatives of any other sectors with an interest in developing a specific standard.

65. Once the technical standardization committee has prepared a draft NSO, the draft is published in the country's main newspaper and notified to the WTO Secretariat and the Central American Secretariat for Economic Integration (SIECA). Interested parties are then given a period of 60 days to make their comments. At the end of the two-month period, the committee reviews the draft standard in the light of any comments received and submits it for approval to CONACYT's Board of Directors, which in turn forwards it to the Ministry of the Economy for authorization and issuing of the executive decision that officially establishes it as a mandatory Salvadoran standard. The NSO is then published in the Official Journal of El Salvador. Standards enter into force six months after their publication in the Journal. Once endorsed by CONACYT's Board of Directors, NSRs are likewise submitted to the Ministry of the Economy for executive approval and publication in the Official Journal.

²³ Article 31 of the Law governing the CONACYT.

66. As at March 2002, El Salvador was applying 52 NSOs (Table III.6).²⁴ In terms of the International Classifications for Standards (ICS), most of these NSOs fall in the category of food technology (ICS 67), accounting for 42% of the total; 17% come under the heading petroleum and related technologies (ICS 75); and 13% are in the agriculture (ICS 65) category. The remaining 25% are divided among the following categories: Generalities (ICS 1); environment and health protection (ICS 13); metrology and measurement (ICS 17); mechanical systems and components (ICS 21); fluid systems and components (ICS 23); textile and leather technology (ICS 59); clothing industry (ICS 61); and chemical technology (ICS 71). At that same date, El Salvador had 821 NSRs, 59 of which had already been approved by the Ministry of the Economy and 762 were in the process of being endorsed; all officially approved NSRs relate to food technology (ICS 67).

Table III.6
Mandatory Salvadoran standards, October 2002

Code	Description	Reference
Agrochemical products		
65.080.05.02:96	Urea	ICAITI 44011
65.080.05.03:96	Ammonium sulphate	ICAITI 44013
65.080.05.04:96	Ammonium nitrate	ICAITI 44012
65.080.05.07:96	Potassium chloride	ICAITI 44020
65.080.05.08:96	Potassium sulphate	ICAITI 44019
65.080.05.10:96	Potassium magnesium double sulphate	ICAITI 44021
Drinking water, residuals and ice		
13.07.01:97	Drinking water	WHO Guide Vols. 1, 2 and 3
13.07.02:98	Bottled water	None
13.07.04:00	Ice	COGUANOR
Food products		
67.02.13:98	Meat and meat products, raw and cooked sausages	Indian Standard IS 3061-1695 ITINTEC 19:02-2004 ITINTEC 19:02-006 Venezuelan Standard COVENIN 1088-76 United States Federal Standard. PP-S77 ^a and PP-B-570. ALINORM 78/16. Vol. 13, AOAC Official Methods of Analysis (1995)
67.03.01:99	Wheat flour (first revision)	CODEX STAN 1-1985, Rev. 1-1991, (CODEX V-11991), (NIST-NBS 133), Microbiological analysis (BAM-FDA 1984)
67.01.01:96	Raw cow milk	ICAITI 34 040, PMO Grade
67.01.02:96	Pasteurized milk	ICAITI 34 040, PMO Grade "A", Pasteurized, milk ordinance (1985 revision)
67.01.03:95	Ripened cheese	Individual Codex Alimentarius standards for ripened cheese, Vol. XVI, ed. 1
67.01.04:95	Unripened cheese	ICAITI 34 97:88 Code of Federal Regulations
67.01.05:95	Milk powder	CX STAN A-5
67.01.06:95	Whole and skimmed condensed milk	CX-STAN A-4
67.01.07:95	Whole and skimmed evaporated milk	CX STAN A-3

²⁴ The list of mandatory and recommended Salvadoran standards is available online from the National Standards, Metrology, Accreditation and Quality Certification Information Centre at: <http://www.infoq.org.sv/>.

Code	Description	Reference
67.01.08:95	Pasteurized dairy cream for direct consumption	CX STAN A-9
67.01.09:95	Imitation dairy cream products	NSO 67.01.13, 67.01.18, 67.01.26, 67.01.32, 67.01.22, 67.01.23
67.01.10:95	Yoghurt	CX STAN A-11 (a) 1975
67.01.11:95	Ices and ice mixes ^a	CX STAN 137-1981
67.01.12:95	Butter	CX STAN A-1 (1971)
67.02.01:96	Hygiene practices for poultry processing	Adoption of the Directive
67.02.03:96	Hygiene practices for processed meat and poultry products (adoption of CODEX)	Adoption of Directive ISO/IEC 3
67.10.01:98	Labelling of prepackaged food	CX STAN 1-1985 (Rev.1-1991)
67.10.02:99	Nutrition labelling	CAC /GL 2-1985 (Rev. 1 – 1993)
67.16.01:01	Distilled alcoholic beverages. Spirits ("Aguardiente")	None
67.16.02:01	Alcoholic beverages, distilled alcoholic beverages, vodka	None
67.19.01:00	Natural honey	None
67.23.01:01	Edible fats and oils not covered by individual CODEX standards	CX STAN 19-1981
Metrology		
01.08.01:97	International Vocabulary of Basic and General Terms in Metrology	None
01.08.02:00	International System of Units	ISO 1000
17.08.04:98	Verification of net mass and drained mass, and the permissible variations therein	NBS 133:98
17.08.05:97	Verification of net volume and the permissible variations therein	NBS 133:97
17.08.06:97	Verification of net content of aerosol products and the permissible variations therein	NBS 133:98
21.08.03:98	Non-automatic weighing machines	OIMLR 76-1:98
Chemical products		
71.09.01:98	Ethyl alcohol	None
71.12.01:98	Ethyl alcohol, denatured	None
Agricultural products		
65.00.01:99	Animal feed. Fluid milk and milk powder for animal consumption	None
Petroleum products		
75.04.01:97	Special and regular unleaded gasoline	ASTM D 4814-96
75.04.02:97	Liquefied petroleum gas: butane and propane/butane mix	ASTM D 1835-91
75.04.03:97	Lighting fuel	ASTM D 3699-96a
75.04.04:97	Jet fuel (JET A-1)	ASTM D 1655-96c
75.04.05:97	Light diesel fuel oil (automotive)	ASTM D 396-96/D 975-96a
75.04.06:97	Industrial diesel fuel oil No.2	ASTM D 396-96/ D 975-96/ D 2880-96a
75.04.07:97	Industrial diesel fuel oil No. 6 (bunker C)	ASTM D 396-96/ D 996-96/ D 2880-96a
75.04.08:97	Asphalts	ASTM D 946-82 (1993)/D 2026-72(1993)/D2027-76(1992)/D 2028-76(1992)/D2397-94 y D 3381-92

Code	Description	Reference
75.04.09:99	Lubricating oils for petrol and diesel engines	Mexican Official Standard NOM-L-21-1990 (API-ASTM-SAE)
Pressure vessels		
23.04.01:00	Portable cylinders for liquefied petroleum gas (LPG)	None
Labelling		
59.22.01:00	Textiles, clothing and accessories	Mexican Official Standard NOM-004 SCFI-1994
61.21.01:00	Footwear	COGUANOR 59.001:98

a This standard is replaced by NSR 67.00.118:99, which corresponds to CX STAN 137-1981.

Source: WTO Secretariat estimates based on data supplied by the Salvadoran authorities.

67. El Salvador has a technical regulation requiring sugar for the domestic market to be fortified with Vitamin A and packaging to be done in such a way as to protect the vitamin content.²⁵ The purpose of this regulation is to diminish the incidence of ocular lesions caused by Vitamin A deficiency in people's diets, particularly among lower-income sections of the Salvadoran population. This technical regulation also applies to sugar imports.

68. CONACYT is required by law to work towards the harmonization, coordination, and unification of adopted standards with those of other Central American countries in particular, so as to facilitate trade. In line with the objectives of the Central American Economic Integration programme and the establishment of the Central American Common Market, CONACYT also has the task of harmonizing these standards with those of countries outside Central America. According to the authorities, every NSR is identical to an international standard, while all the NSOs are based on international, regional or foreign standards, departing from them to the extent necessary to achieve a legitimate objective.

69. A certificate of NSO consistency is not required for imports into El Salvador. Random compliance checks are carried out.

70. CONACYT has accredited seven laboratories, six of them private facilities. Each laboratory is accredited for a series of specific tests. For example, the laboratory of the Ministry of Agriculture is the only laboratory accredited for the analysis of pesticides. At year's end 2002, El Salvador had no laboratory recognition agreements with other countries. It is a member of Interamerican Accreditation Cooperation (IAAC) and International Laboratory Accreditation Cooperation (ILAC) but does not belong to any regional or international certification body.

(xi) Sanitary and phytosanitary requirements

71. Apart from the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement), the main provisions concerning sanitary and phytosanitary measures in El Salvador are the Law on Plant and Animal Health (Decree No. 524 of 18 December 1995) and the Central American Regulations on Sanitary and Phytosanitary Measures and Procedures (enacted by Resolution No. 37-99 (COMIECO-XIII) of 17 September 1999 adopted by Decision of the Ministry of the Economy No. 473 of 23 September 1999, which was published in Official Journal No. 183,

²⁵ *Ley de Fortificación del Azúcar con Vitamina "A"* (Law on the Fortification of Sugar with Vitamin A), enacted by Legislative Decree No. 843 of 14 April 1994, published in Official Journal No. 96, Vol. 323, of 25 May 1994.

Vol. 345, of 4 October 1999). El Salvador is a member of the Codex Alimentarius and the OIE and is party to the International Plant Protection Convention (IPPC – 1991 Amendments).

72. The Directorate-General of Plant and Animal Health (DGSVA) of the Ministry of Agriculture and Livestock (MAG) serves as the national enquiry point provided for in paragraphs 3 and 10 of Annex B of the SPS Agreement. Between 1995 and October 2002, the DGSVA made 45 notifications under the Agreement.²⁶

73. The Law on Plant and Animal Health establishes the basic provisions governing plant and animal health protection in El Salvador and defines the functions of the MAG; these include diagnosis and epidemiological surveillance of plant and animal pests and diseases; quarantine control for plants and animals and plant and animal products; registration of business inputs for agricultural use and quality control; development and implementation of sanitary measures for plant cultivation and animal husbandry and trade in agricultural inputs; plant and animal health certification for agricultural zones, regions and farms in El Salvador (for imports, this can be done by the Ministry of Agriculture and Livestock abroad); introduction, production and use of biological pest and disease control agents for agriculture and livestock; plant and animal health accreditation and registration for official purposes; development of mechanisms to harmonize and coordinate plant and animal health issues at national and international level; and registration of firms providing plant and animal health services.

74. The MAG is empowered to restrict or prohibit the importation and transit of goods on technical and scientific grounds and where use of the goods is deemed to be harmful to human, animal or plant life and health. The current prohibitions or restrictions are as follows: Importation of pigs, pig parts, products and by-products and importation of poultry, poultry parts, products and by-products from countries not recognized by competent international organizations as being free of List A diseases in the OIE International Animal Health Code; importation and transit of rice seed from areas or countries where rice for sowing is infected with kernel smut; importation of coconut, i.e. the plant material hosting the vector of lethal yellowing of the coconut palm, from affected zones or countries; phytosanitary requirements for the importation and transit of fresh fruit and vegetables, and ornamental, fruit-bearing and forest plants from countries with the pest known as the pink hibiscus mealy bug.

75. El Salvador applies animal and plant health measures to imports of products and by-products of animal or plant origin and products and raw materials for agricultural use (see Table III.4 above). Agricultural quarantine inspectors are responsible for checking the required documents (import authorizations and animal health certificates). They also perform physical inspections in order to ascertain whether animal and plant products and by-products are disease- and pest-free. At year-end 2002, El Salvador had not concluded any agreement on recognition of equivalence of pest- or disease-free areas or areas of low pest or disease prevalence.

76. WTO Members twice drew the attention of the Committee on Sanitary and Phytosanitary Measures to difficulties of access to the Salvadoran market. In the first case, the United States raised the problems encountered in a number of markets, including El Salvador, as result of discrimination between the standards for control of salmonella that were applied to imported versus domestic poultry products.²⁷ Uruguay expressed concern regarding the allegedly unjustified rejection of Uruguayan

²⁶ The figure refers to notifications received up to end May 2002 (WTO documents of series G/SPS/N/SLV/).

²⁷ WTO document G/SPS/R/6 of 14 November 1996.

exports of meat and dairy products to El Salvador.²⁸ The authorities explained that the rejection was prompted by a change in health status due to renewed outbreaks of foot-and-mouth disease and the evolution of the disease.

(xii) Government procurement

77. El Salvador is not a party to the WTO Plurilateral Agreement on Government Procurement.

78. The *Ley de Adquisiciones y Contrataciones de la Administración Pública* (Public Administration Procurement and Contracting Law) entered into force in 2000 (Legislative Decree No. 868 of 5 April 2000, published in Official Journal No. 88, Vol. 347, of 15 May 2000). The Law standardizes procurement by State-owned institutions, autonomous State agencies (including the Río Lempa Hydroelectric Executive Commission) and entities using government funds, and purchases made with municipal funds. It does not cover purchases and contracts financed under agreements with other States or with international organizations, where the agreements so provide; agreements among State institutions, where such agreements do not run counter to the purposes of the Law; and the contracting of personal services by government institutions.

79. The Public Administration Procurement and Contracting Law provides for the establishment of a Public Administration Procurement and Contracting Regulatory Unit (UNAC), attached to the Ministry of Finance. This Regulatory Unit is responsible in particular for proposing the annual procurement and contracting policy for government institutions; laying down general policies and guidelines for designing, implementing, operating and coordinating the public administration procurement and contracting system; and establishing and maintaining a national register of public administration procurement and contracting. Every government institution is setting up an institutional procurement and contracting unit, in charge of decentralizing operations and managing all matters relating to the procurement and contracting of works, goods and services.

80. The Law establishes the following types of procurement procedures: Public bidding or contracting; public bidding or contracting by invitation; free contracting; direct contracting; and stock exchange offering. The type of procurement procedure depends on the value involved: Public bidding applies to contracts valued at over 635 monthly minimum urban wages; public bidding by invitation applies to those valued at 80 to 635 monthly minimum urban wages; free contracting applies to those valued at under 80 monthly minimum urban wages, subject to quality and price comparison between at least three bidders (this does not apply to purchasing or contracting not exceeding 10 monthly minimum urban wages); there is no limit for direct contracting.²⁹ The threshold values for contracting consultants are lower in the case of public contracting (over 200 minimum urban wages) and public contracting by invitation (between 80 and 200 minimum urban wages).

81. Each of the above procedures may involve domestic contractors, domestic and foreign contractors, or only foreign contractors; this must be specified in each case. The Law does not establish a margin of preference for domestic bids, but if a domestic offer is assessed as being equal to a foreign offer, the procuring entity is required to give preference to the domestic offer, unless the agreements to which El Salvador is party specify otherwise. The authorities report that, in practice, most bidding and contracting terms do not exclude foreign bidders. By year-end 2002, data was not yet available regarding the proportion of public bids opened to foreigners.

²⁸ WTO document G/SPS/R/17 of 24 February 2000.

²⁹ The current minimum urban wage is C42 per day (US\$4.80) or C1,260 per month (US\$144).

82. Under its regional free-trade agreements with Chile, Panama and the Dominican Republic, El Salvador has undertaken to grant national treatment to suppliers from the signatory countries for purchases of goods and services covered by the agreements.³⁰ At CACM level, a Central American agreement on government procurement is under negotiation.

83. Government procurement for 2001 (excluding purchases by the municipalities) totalled US\$874 million, divided as follows: Goods (22%), services (54%), and construction (24%).

(3) MEASURES AFFECTING EXPORTS

(i) Registration and documentation

84. Since 1996, there have been no significant changes in export procedures. Any natural or legal person wishing to export must enrol in the Exporters Register of the Export Processing Centre (*Centro de Trámites de Exportación*, CENTREX). The requirements for registering as an exporter include, in the case of foreign branches not registered in the Trade Register, the production of a power of attorney, in Spanish and in the corresponding foreign language, authenticated by the Salvadoran consul in the enterprise's country of origin and by the Ministry of Foreign Affairs of El Salvador. After registering, the exporter must submit an export application accompanied by the various documents required, which vary according to the product and the country of destination. Depending on the destination, CENTREX will accept the Central American Single Customs Form (*Formulario Aduanero Unico Centroamericano*, FAUCA) for exports to Central America that comply with the origin requirements or a Goods Declaration (*Declaración de Mercancías*, DM) for the rest. The export registration, the FAUCA and the DM are valid for 30 days; after that, the exporter must apply to CENTREX for them to be revalidated. Exports from free zones and inward processing warehouses are subject to the same requirements with respect to CENTREX.

85. The export application must be accompanied by a copy of the commercial invoice and, where appropriate, a certificate of origin, together with the following documents: animal health certificate, for products or by-products of animal origin; proof of inspection of products of animal origin (*Inspección de Productos de Origen Animal*, IPAO), for meat exports; proof of bacteriological analysis, for exports of dairy products to the United States; proof of chemical treatment, for ornamental plants, where required; pre-certification by the Directorate-General of Plant and Animal Health (*Dirección General de Sanidad Vegetal y Animal*), for basic grains; free sale certificate issued by the Directorate-General of Plant and Animal Health, for agricultural chemical products and products for veterinary use; authorization carnet, for fishery products; and CITES certificate, for exports of wild flora and fauna.

86. Exports of textiles subject to foreign quotas must also be accompanied by a decision of the Office of Textile Export Monitoring and Administration (*Oficina de Monitoreo y Administración de las Exportaciones Textiles*, EXPORTEX). Exports of sugar to the preferential market in the United States require a permit issued by the Ministry of the Economy, used to monitor exports to that market. Finally, to export coffee it is necessary to obtain a permit from the Salvadoran Coffee Council (*Consejo Salvadoreño del Café*). The aim of this procedure is to certify the quality of the coffee and to monitor foreign sales for statistical purposes.

87. The basic quota for clothing exported to the United States under the textile quota for categories 340/640 of the WTO Agreement on Textiles and Clothing is distributed in accordance with

³⁰ Chapter XII of the Free-Trade Agreement between Central America and the Dominican Republic; Chapter 16 of the Free-Trade Agreement between Central America and Chile; and Chapter 16 of the Free-Trade Agreement between Central America and Panama.

the historical share of the enterprises exporting to that market. In the case of textiles and clothing exported to the United States under the Caribbean Basin Initiative, there is no distribution properly so-called, but the quota is filled as and when the enterprises export (on the "first come, first served" principle).

(ii) Taxes and minimum prices

88. According to the authorities, since 1996 El Salvador has not applied any taxes or minimum prices to exports.

(iii) Prohibitions, licences and other restrictions

89. In general, export prohibitions are applied in order to protect the environment or the cultural heritage or for economic reasons. At the end of 2002, the only prohibited exports were exports of plants and animals in danger of extinction, in accordance with the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), and exports of gas for domestic consumption whose price is controlled on the internal market (Section (4) (ii)). The prohibition on the export of diesel fuel for public passenger transport was suspended with the abolition of the subsidy on that fuel as from 27 November 2001.

90. The Ministry of the Economy is responsible for issuing the export quota certificates required for certain textile products under the provisions of the Free Trade Agreement signed with Mexico.

91. El Salvador does not have any agreements with other countries concerning voluntary restraints on exports.

(iv) Export cartels

92. The authorities have pointed out that there are no export cartels in the country. El Salvador participated in the retention programme promoted by the Association of Coffee Producers, which ceased operating at the end of 2001 and of which El Salvador was a member.

(v) Export performance requirements

93. El Salvador has no export performance requirements.

(vi) Subsidies

94. In El Salvador exports are promoted mainly through two incentive schemes based on the Law for the Reactivation of Exports (Legislative Decree No. 460 of 15 March 1990) and the Law on Industrial and Marketing Free Zones (Legislative Decree No. 405 of 3 September 1998). The two schemes have been notified to the WTO as export subsidy programmes that meet the requirements laid down in paragraph 2 of document G/SCM/39 (procedures for extensions under Article 27.4 of the Agreement on Subsidies and Countervailing Measures (SCM) for certain developing country Members).³¹ The Doha Ministerial Conference instructed the Committee on Subsidies and

³¹ The corresponding notifications are contained in WTO documents G/SCM/N/71/SLV and G/SCM/N/7/SLV/Suppl.1 of 10 January 2002 and 15 March 2002, respectively.

Countervailing Measures to extend the transition period provided for in Article 27.4 of the SCM Agreement for subsidy programmes that meet the requirements laid down in document G/SCM/39.³²

95. El Salvador gave as reasons for requesting an extension for the above-mentioned programmes the need to promote employment, economic development and export diversification.³³ The authorities have noted that the measures which may have to be adopted when the extension requested under Article 27.4 of the SMC Agreement eventually expires are still being assessed.

96. The Export Reactivation Law grants a refund of 6% of the f.o.b. value of the exports to natural or legal persons, whether Salvadoran or foreign, owning enterprises that export Salvadoran goods and services outside the Central American area, except for exports of metallic and non-metallic mineral products derived from the exploitation of the subsoil. In principle, traditional products such as coffee, sugar and cotton, are not eligible for this refund; however, subject to the approval of the Ministries of Finance and of the Economy, coffee and sugar with at least 30% of local content (calculated on the basis of the value added generated in the factory) may benefit from it (for "organic" or "gourmet" coffee and refined sugar the refund applies irrespective of local content). Between 1998 and 2001, Salvadoran exports benefiting from the refund accounted for between 7.6% and 8.2% of total exports (Table III.7).

Table III.7
Exports under special regimes, 1998-2001

	1998	1999	2000	2001
Exports eligible for a 6% refund				
US\$ million	199.1	190.7	231.4	223.2
as % of total exports	8.2	7.6	7.8	7.8
amounts refunded (US\$ million)	11.9	11.4	13.8	13.4
Exports from free zones or inward processing warehouses				
US\$ million	1,184.7	1,333.4	1,609.0	1,651.4
as % of total merchandise exports	48.5	53.11	54.7	57.6

Source: WTO document G/SCM/Q3/SLV/7, of 14 June 2002, and Central Reserve Bank of El Salvador (2002), Quarterly Review, October-November-December 2001, San Salvador.

97. Since the previous Trade Policy Review, El Salvador's legal framework for promoting the establishment and development of free zones has been modernized and brought up to date with the adoption of a new Law on Industrial and Marketing Free Zones. This Law applies to enterprises that operate in free zones or in inward processing warehouses. The incentives consist of exemption from various levies and taxes, including duties, income tax and municipal tax (see (vii)).

98. The authorities point out that, apart from the schemes mentioned above, no tax or tariff concessions are granted in order to promote exports.

(vii) Export processing zones

99. The main purpose of free zones is to promote the creation of greater opportunities for employment and to contribute to the achievement of sustainable economic growth. The free zone and inward processing warehouse programme was introduced by means of the Law on Export Promotion (Legislative Decree No. 81 of 5 September 1974) and repealed by the Law on the Free Zone and Tax-Free Area Regime (Legislative Decree No. 461 of 15 March 1990), which was repealed in its turn by

³² WTO document WT/MIN(01)/17 of 20 November 2001.

³³ WTO documents G/SCM/N/74/SLV/1 and G/SCM/N/74/SLV/ of 3 January and 7 January 2002, respectively.

the Law on Industrial and Marketing Free Zones (Legislative Decree No. 405 of 3 September 1998) and its amendment (Legislative Decree No. 464 of 22 October 1998). As distinct from the previous Law on the Free Zone and Tax-Free Area Regime, the Law on Industrial and Marketing Free Zones and its amendment permit beneficiaries to export goods and services to other member countries of the CACM. Moreover, the new law exempts beneficiaries from the tax on the transfer of real property intended for export activity and eliminates the time limits to which various tax exemptions were subject.

100. The establishment, administration and operation of free zones must be authorized by the Ministry of the Economy, the surveillance and monitoring of the tax regime in these zones being the responsibility of the Ministry of Finance.

101. Domestic or foreign enterprises engaged in the production, assembly (*maquila*), manufacturing, processing or marketing of goods and services may be established and operate in a free zone. The new law also explicitly mentions the provision of services linked to international and regional trade (such as storage, packing and repacking, re-exportation, grouping of packages, the distribution of goods and other related or complementary activities) as an activity eligible for the benefits available in free zones.

102. Where enterprises satisfy the criteria described above but for technical reasons are not located in free zones, they may apply to the Ministry of the Economy to have their establishment declared an Inward Processing Warehouse (*Depósito para Perfeccionamiento Activo*, DPA), provided that they are situated in an industrial, agricultural or agro-industrial zone, their facilities meet the appropriate industrial, occupational and environmental safety requirements, and they have a stable administrative and financial structure.

103. The advantages available to users who set up in free zones or inward processing warehouses include exemption from:

- Import duties on machinery, equipment, tools, parts and accessories, implements, etc. needed to carry out the activity encouraged;
- import duties on lubricants, catalysts, reagents, fuels and any other consumables needed for the productive activity;
- income tax during the period in which they carry out their operations in the country, reckoned from the tax year in which the beneficiary began operating;
- municipal taxes on company assets and net worth, for the period in which they carry out operations in the country, from the first year of operation;
- tax on the transfer of real property, when purchasing real property to be used for the activity encouraged.

104. In accordance with the Law on Industrial and Marketing Free Zones, goods and services produced in free zones may be destined for the Salvadoran market. However, in this case, the corresponding import duties, income tax, VAT and municipal taxes are applied. For tax audit and payment purposes, enterprises that export goods or services to the Salvadoran market keep a single set of accounts which serves as a basis for tax assessment by the Ministry of Finance. In the case of the manufacturing or marketing of made-up textile products and textiles, only products with a minimum

of 50% local or regional content can be taken into home use; in this case VAT is levied only on the local value added component.

105. Where agricultural goods (of HS Chapters 1 to 24) are concerned, a free zone enterprise may only introduce onto the domestic market a percentage of the total sales equivalent to the contribution of agricultural raw materials of local origin to the value of the goods in question, and import duties and the appropriate taxes are applied.

106. The tax concessions and incentives do not apply to certain activities, in particular: hotels; travel agencies and airlines; air, sea and land transport; financial activities; fishing, except for tuna fishing; mining; and the production and marketing of sugar, ethyl alcohol, and any product that contains them.

107. Between 1998 and 2001, the contribution of exports from free zones and inward processing warehouses to total exports increased from 48.5% to 57.6% (Table III.7). In 2001, exports generated by these activities reached US\$1,651 million.

108. In December 2001, there were 243 enterprises operating under the free zone programme. The investment in these enterprises came from the United States (16.5% of enterprises), Korea (6.6%) and Guatemala (1.6%), as well as from Germany, Japan, United Kingdom and Taipei China (0.4% each). The great majority of these enterprises were clothing assemblers (143 enterprises), while the rest were mainly divided up between marketing (31), laundry services (13), textiles and embroidery (10), agro-industrial (10), boxes and containers (3) and waste recycling and packaging enterprises (3). In December 2001, the number of people directly employed by enterprises benefiting under the Law on Industrial and Marketing Free Zones exceeded 81,000; moreover, these activities led to the creation of slightly over 162,000 indirect jobs accounting for more than 10% of the Salvadoran labour force.

(viii) Finance, insurance and guarantees

109. The authorities have pointed out that the Government does not intervene directly in any specific export finance programme. However, the Salvadoran productive sector has access to the resources of the Central American Bank for Economic Integration (CABEI), which, through the approved Central American financial institutions, finances credit facilities and special programmes. CABEI's programmes include several programmes specifically for exports such as the Programme of Support for Central American Exportable Production (*Programa de Apoyo a la Producción Exportable de Centroamérica*, PAPECA) and the Programme for Strengthening Central American Exports (*Programa para el Fortalecimiento de las Exportaciones Centroamericanas*, FOEXCA). These programmes are available to legal persons established in the Central American countries a majority of whose share capital is held by Central American nationals residing in a Central American country. The loan rates are fixed on the basis of international market levels. Between 1996 and 2002, under these two programmes CABEI granted loans to Salvadoran exporters worth approximately US\$250 million.

110. A further source of financing for the Salvadoran productive sector is the Multisectoral Investment Bank (*Banco Multisectorial de Inversiones*, BMI), El Salvador's development bank. Created in 1994 with assets contributed entirely by the Central Reserve Bank, the BMI operates as a second-line bank offering, through the country's financial institutions, a series of credit facilities for private-initiative projects carried out within the national territory. In December 2001, the BMI's loan portfolio for private-initiative projects amounted to a little over US\$218 million, of which almost 5 million corresponded to loans granted to exporters (Table III.8).

Table III.8
Loans granted by the Multisectoral Investment Bank
(US\$ thousand)

Loan programmes	1997	1998	1999	2000	2001
Agricultural and agro-industrial	45,272	34,833	21,427	20,187	8,708
Construction and housing	36,938	18,639	15,439	13,771	1,537
Export financing	18	9,135	29,301	57,261	34,897
Manufacturing industry	25,815	13,345	13,811	7,014	8,080
Services	40,977	41,355	36,162	19,520	16,927
Micro- and small enterprises	32,855	30,740	29,249	18,616	14,331
Commerce	0	0	27,834	3,458	5,536
Reconstruction programme for the productive sectors ^b	0	0	0	0	128,242
Total	181,875	148,048	173,223	139,828	218,258

a Includes the Environmental Loan Programme (*Programa de Crédito para el Medio Ambiente*, FOCAM).

b Created to support the reconstruction of the productive sectors after the earthquakes of January and February 2001.

Source: WTO Secretariat, based on information provided by the Salvadoran authorities.

111. The authorities have pointed out that the Government of El Salvador does not finance any export insurance or guarantee system. However, the BMI administers the Agricultural Guarantee Programme (*Programa de Garantía Agropecuario*, PROGARA) which provides additional guarantees for small enterprises, agricultural sector producers and co-operatives that need them in order to be able to obtain loans from commercial banks. The cost of the guarantee is 1% of the guarantee amount.

(ix) Export promotion and marketing assistance

112. Apart from the Ministry of the Economy and the Directorate-General for Promotion and Economic Relations of the Ministry of Foreign Affairs, the main bodies involved in export promotion activities are: the Corporation of Salvadoran Exporters (*Corporación de Exportadores de El Salvador*, COEXPORT); the Agricultural and Agro-Industrial Chamber of El Salvador (*Cámara Agropecuaria y Agroindustrial de El Salvador*, CAMAGRO); the Chamber of Commerce and Industry of El Salvador (*Cámara de Comercio e Industria de El Salvador*); the Salvadoran Association of Industrialists (*Asociación Salvadoreña de Industriales*, ASI); and the National Private Enterprise Association (*Asociación Nacional de la Empresa Privada*, ANEP). The services provided by these organizations generally include: market information; technical assistance and commercial advice; facilitation of contacts; promotion on international markets; and training. The authorities have pointed out that there is coordination between most of these institutions and the trade missions abroad.

(x) Measures applied in third markets

113. Under the rules and disciplines laid down in the WTO Agreement on Textiles and Clothing, certain Salvadoran clothing exports are subject to quotas in the United States. The authorities have noted that at the end of 2002 the only category subject to restrictions of this type was mens/boys plain weave shirts.³⁴

114. At the same time, Salvadoran exports qualify for preferential access under various unilateral concession schemes, such as the Generalized System of Preferences and the Caribbean Basin Initiative. Moreover, Salvadoran raw sugar cane exports benefit from tariff quotas granted by the

³⁴ Notifications of the administrative arrangements agreed between the United States and El Salvador appear in WTO documents G/TMB/N/141, G/TMB/N/189/Add.1, G/TMB/N/199 and G/TMB/N/200 of 21 February 1996, 31 October 1996 and 29 November 1996, respectively. For more details on the quotas in force in the United States, see WTO (2001), Trade Policy Review - United States, IV(2).

United States. In fiscal year 2002, the quota volume allocated to El Salvador amounted to 27,379 tonnes. The income associated with these tariff quotas can be considerable; an estimate based on the difference between the import price for sugar on the United States market and the world market price indicates an income of about US\$20 million.³⁵

(4) OTHER MEASURES AFFECTING PRODUCTION AND TRADE

(i) Competition policy

115. El Salvador has no specific competition legislation. The main legal provisions relating to this field are to be found in the Constitution, the Commercial and Criminal Codes and some sectoral laws.

116. Article 110 of the Constitution prohibits monopolistic practices, with a view to guaranteeing free competition and protecting the consumer. Moreover, this article stipulates that monopolies in favour of the State or the municipalities may be authorized only if the public interest makes them indispensable.

117. The Commercial Code requires traders to carry out their activities without harming the public or the national economy. However, it authorizes competition-restricting agreements. In particular, it permits agreements that restrict the commercial activity of a trader to a place or region or a particular type of trade, provided that the agreement does not last more than ten years and is not inconsistent with any constitutional guarantee. Moreover, the Commercial Code allows agreements that regulate arrangements relating to the quantity and quality of production or the characteristics of services provided to the public. If these agreements lead to the establishment of monopolies or harm the national economy or the rights of third parties, the injured party may bring an action to have them legally annulled.³⁶

118. The main sectoral competition provisions apply to the electrical and telecommunications sector; in particular, the Regulations Applicable to Electrical Energy Marketing Activities (Executive Decree No. 90 of 1 November 2000) sets out the rules for promoting competition in the marketing of electricity (Chapter IV (4) and (iii)).

119. As far as penalties for offences relating to free competition are concerned, Article 232 of the Criminal Code provides for four to eight years imprisonment and a fine of 180 to 300 minimum wage days for anyone who by abusing a position of total or partial market dominance, or by means of agreements with other persons or enterprises, obstructs, frustrates or distorts the rules of competition in any of the ways defined in the Code.³⁷ As of October 2002, no penalties had been imposed under Article 232 of the Criminal Code.

120. In its previous report, the Secretariat noted that the level of competition in El Salvador was relatively low and that it was considered necessary to adopt new legislation in this field. Although no significant changes have been made at the legislative level, except in the telecommunications sector (Chapter (IV) (5) (iii)), the authorities have pointed out that during the last ten years the processes of liberalization and privatization have resulted in a higher level of competition on the Salvadoran

³⁵ Estimate based on the sugar prices in force in January 2002 (IMF (2002)), International Financial Statistics, March 2002.

³⁶ Commercial Code instituted by Legislative Decree No. 671 of 8 May 1970.

³⁷ Criminal Code instituted by Legislative Decree No. 1030 of 30 April 1997.

market. For their part, the Salvadoran authorities, with the aid of the World Bank, have been working for several years on the preparation of a draft competition bill.

(ii) Price regulation, production controls, marketing agreements

121. In order to protect the interests of consumers, the Ministry of the Economy is authorized to fix and adjust the maximum prices of semi-finished and finished consumer goods and staples and of services deemed to be essential.³⁸ The authorities have pointed out that, since 1996, these powers have been used on only one occasion: in 2001 the price of bottled water was regulated during the state of national emergency declared as a result of the earthquakes suffered at the beginning of the year.³⁹

122. At the end of 2002, the Ministry of the Economy was controlling the price of liquefied petroleum gas for domestic use up to 35 pounds.⁴⁰ This price control is conditional upon the existence of a subsidy granted to the gas importing companies. Likewise, the National Water Supply and Sewage Administration (*Administración Nacional de Acueductos y Alcantarillados*, ANDA) regulates water supply prices, while the General Electricity and Telecommunications Superintendency (*Superintendencia General de Electricidad y Telecomunicaciones*, SIGET) regulates electricity and telephone tariffs.

123. The Salvadoran authorities have pointed out that there are no limitations or controls on production.

(iii) State trading and State enterprises

124. The Salvadoran authorities have observed that El Salvador does not have State trading enterprises that export or import goods for marketing, within the meaning of Article XVII of the GATT.⁴¹

125. Since 1996, the Salvadoran State has substantially reduced its involvement in productive and service-providing activities, in particular through the privatization of entities in the agricultural (sale of a sugar mill), electricity generation (sale of two thermal generating plants) and telecommunications (sale of the National Telecommunications Administration, ANTEL) sectors.⁴² State participation continues to be significant in the areas of water supply and port, airport and railway (this latter sector is not active) administration.

(iv) Local content and trade-related investment measures

126. For exports of sugar and coffee to benefit from the advantages offered by the Export Reactivation Law, at least 30% of the value added to these products in the factory must be of local origin (Chapter (3) (v)). Moreover, with respect to products subject to under-supply quotas (at the

³⁸ Law on Consumer Protection, Article 5.

³⁹ Executive Decision No. 56 of 18 January 2001, which remained in force for one year.

⁴⁰ Executive Decision of the Ministry of the Economy No. 881 of 27 November 2000.

⁴¹ WTO document G/STR/N/6/SLV of 7 March 2001.

⁴² See Chapter IV.

end of 2002, rice in the husk and various meat products), only those processing industries that purchase part of the domestic production may at the same time import these products duty-free.

127. El Salvador has not notified any trade-related investment measure.

(v) Incentives

128. Under the new General Law on the Organization and Promotion of Fishing and Aquaculture (Legislative Decree No. 637 of 6 December 2001, published in Official Journal No. 240 of 19 December 2001), which repealed the General Law on Fishing Activities, the tax incentives granted to the fisheries sector have been abolished. Up to the end of 2001, these incentives were available to Salvadoran natural or legal persons engaged in catching and marketing fish and consisted of total or partial exemption from import duties on: building materials for factory construction or extension; vessels and machinery, equipment, tools, parts and accessories necessary for their operation; fishing gear and equipment; fuel and lubricants for the exclusive use of the vessels; and equipment, tools, parts and accessories necessary for marketing fishery products. Fuels and lubricants were exempt from the payment of not only import duties but also domestic consumption taxes, provided that they were produced in the country.

129. The Salvadoran productive sector has access to various financing programmes including, in particular, the programmes administered by the Central American Bank for Economic Integration Bank (CABEI), the Multisectoral Investment Bank (BMI) and the Salvadoran Foundation for Economic and Social Development (FUSADES).

130. CABEI's two main programmes, apart from those intended primarily for exporters (Chapter (III) (3) (vi)), are the Programme of Support for Central American Micro-and Small Enterprises (*Programa de Apoyo a la Micro y Pequeña Empresa Centroamericana*, PROMYPE) and the Fund for the Support of Small Industry in Central America (*Fondo de Apoyo a la Pequeña Industria en América Central*, FAPIC). PROMYPE is a lending, training, advisory and technical assistance programme aimed at strengthening the Central American micro- and small enterprise sector. This Fund, created in 1995, was launched with US\$50 million, of which El Salvador was able to use one fifth. The amount of credit granted to each enterprise was restricted to a maximum of US\$10,000 for micro-enterprises (up to five employees) and US\$75,000 for small enterprises (up to forty employees). FAPIC provides credit facilities and technical assistance for small industry. Loans are restricted to US\$50,000 for small and US\$150,000 for medium-sized enterprises. Between 1996 and 2001, the Salvadoran productive sector received loans amounting to a little over US\$50 million channelled through PROMYPE and FAPIC.

131. The BMI runs several financial programmes for promoting economic development in El Salvador. These include the Industrial Building Trust (*Fideicomiso de Techo Industrial*, FITEX), the Private Free Zone Development Programme (*Programa de Desarrollo de Zonas Francas Privadas*), and the Integrated Coffee-Growing Renewal Programme (*Programa Integral de Renovación de la Caficultura*). In 2001, the credit facilities granted by the BMI amounted to a little over US\$218 million, channelled mainly into programmes for the post-earthquake reconstruction of the productive sectors and export financing (Table III.8).

132. The aim of the Industrial Building Trust (FITEX) is to promote the creation of development centres in the less developed areas of the country. For this purpose it encourages the construction and acquisition of industrial space in free zones outside the metropolitan area of San Salvador. FITEX grants compensation (equivalent to three percentage points for three years) for the interest rate on loans obtained through financial institutions that have signed agreements with the BMI, provided they

are to be used for erecting and/or acquiring factory buildings in free zones, industrial estates or factory building projects outside the metropolitan area of San Salvador. FITEX was set up with resources derived from the privatization of ANTEL. By the end of 2002, the BMI had granted US\$220,000 through FITEX.

133. As part of its programme for exports, the BMI also offers credit facilities for the development of private free zones through which it finances up to three-quarters of the total development cost or the cost of acquiring or erecting industrial buildings in private free zones. By the end of 2002, this programme had granted loans worth more than US\$17 million for financing the construction of 117,654 sq. m of industrial space.

134. The BMI also runs a specific programme for improving and modernizing the coffee-growing sector. The purpose of this programme, developed in collaboration with the Ministry of Agriculture and Livestock, is to improve the productivity of the coffee-growing sector and support its productive restructuring. In addition to its financial component, the programme has a technical component, which provides entrepreneurs with a technical appraisal of their project and support with its application in the field. This programme has as its target the renewal of 25% of the Salvadoran coffee-growing sector and has been allocated resources equivalent to US\$100 million which are being channelled through the commercial banks in the form of loans with a 15-year term, a five-year grace period and an interest rate of 9% per annum. By December 2000, 326 plantation appraisals had been drawn up and investments amounting to some US\$20 million had been approved.

135. The Salvadoran Foundation for Economic and Social Development (FUSADES) promotes production in El Salvador mainly through the Investment Promotion (*Promoción de Inversiones*, PRIDEX) and Promotion of Small and Micro-Enterprises (*Promoción de la Pequeña y Microempresa*, PROPEMI) programmes. PRIDEX chiefly involves the promotion of the country's image to encourage business and cooperation agreements between Salvadoran and foreign enterprises. PROPEMI offers advisory, credit and training services for small and micro-enterprises. The loans are specifically intended for the following sectors: industry; agro-industry; non-industrial fishing; commerce; and services. The interest rates applied correspond to the average on the banking market. By the end of December 2000, some 16,300 loans, totalling more than US\$92 million, had been granted.

(vi) Assistance for industrial adjustment and research and development

136. The Salvadoran authorities have pointed out that there are no official programmes of assistance either for individuals or enterprises or for regions or specific sectors to facilitate modernization and adjustment to structural change.

137. In 1998, expenditure in El Salvador on research and development (R&D) amounted to US\$9.65 million or 0.081% of GDP for that year. The Salvadoran Government contributed 52% to R&D expenditure, while non-governmental organizations and foreign governments, universities and business contributed 34, 13 and 1%, respectively.⁴³

138. The authorities have pointed out that, within the context of their strategy to develop and strengthen the economic infrastructure, they have programmed measures intended to develop the infrastructure necessary to establish a system of technological innovation that will promote productive restructuring and the competitiveness of the Salvadoran economy by encouraging the establishment

⁴³ National Council of Science and Technology (1999), Science and Technology Statistics and Indicators, 1994-1998 [on line]. Available at: <http://www.conacyt.gob.sv/>, 14 July 2002.

and strengthening of centres of applied technology research and development that will act as catalysts for technological progress. To this end, the National Council of Science and Technology (CONACYT) plans to set up a National System of Science, Technology and Innovation (*Sistema Nacional de Ciencia, Tecnología e Innovación, SINACTI*).

139. The BMI is considering a financing system for technological development through which grants would be channelled into small and medium-sized enterprises to support innovation and product marketing.

(vii) Intellectual property rights

(a) Introduction

140. The WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) was incorporated into the Salvadoran legislation as a result of the ratification of the Marrakesh Agreement; this Agreement entered into force in El Salvador on 1 January 2000. In addition, El Salvador is a signatory to several other international agreements on intellectual property rights and a member of the World Intellectual Property Organization (WIPO) (Table AIII.1).

141. As required by the TRIPS Agreement, El Salvador has notified WTO Members of its laws and regulations relating to intellectual property rights (IPR) and has provided information on its national enforcement system (Tables AIII.3 and AIII.2). On the basis of these notifications, the Council for TRIPS reviewed the Salvadoran IPR legislation in 2000.⁴⁴ The National Registration Centre (CNR) is the contact point specified in Article 69 of the TRIPS Agreement.⁴⁵ Previously assigned to the Ministry of Justice, the CNR became part of the Ministry of the Economy when the interior, security and justice portfolios were reshuffled in mid-2001. The Ministry of the Economy, through the Trade Policy Directorate, is responsible for formulating and implementing Salvadoran intellectual property policy.

142. The Salvadoran authorities consider that the main advantage of implementing the TRIPS Agreement has been the greater awareness on the part of Salvadorans of the relevance of intellectual property to El Salvador's economic life. The Government has tried to encourage creativity and research through various services provided by the Intellectual Property Registry, such as legal assistance with the protection of new inventions or the holding of annual events such as the "Inventiveness Show", which aims to promote these new inventions.

143. El Salvador has also entered into commitments with respect to IPR under various free trade agreements it has signed, in particular the Free Trade Agreement between Central America and the Dominican Republic, the Agreement between Mexico and the Republics of El Salvador, Guatemala and Honduras, the Free Trade Agreement between Central America and Chile, and the Free Trade Agreement between Central America and Panama, whose entry into force is pending.

144. According to the data contained in the National Registration Centre's Intellectual Property Register, the great majority of rights registered and applied for as of June 2002 correspond to trademarks, followed by trade names, advertising slogans and patents. Most of the owners of

⁴⁴ The questions asked and El Salvador's replies can be found in document IP/Q/SLV/1 of 18 August 2000.

⁴⁵ WTO document IP/N/3/Rev.6 of 1 March 2002.

trademarks, patents and industrial designs are foreigners; on the other hand, where trade names and advertising slogans are concerned, most of the owners are Salvadorans (Table III.9).

Table III. 9
Registration of IPR, 2002

Type of right	Total	Nationality of holder (%)	
		Salvadoran	Foreign
Trademarks	100,463	33.4	66.6
Trade names	7,232	86.5	13.5
Advertising slogans	4,512	82.6	17.4
Patents	3,325	10.6	89.4
Utility models	53	54.7	45.3
Industrial designs	218	39.9	60.1
Copyright	3,257

.. Not available.

Source: WTO Secretariat, based on information provided by the Salvadoran authorities.

(b) Copyright and related rights

145. The Law on the Promotion and Protection of Intellectual Property (LFPPI) protects all literary, artistic and scientific works, whatever their mode or form of expression, merit or purpose, provided they are original. It also protects translations, adaptations, alterations and arrangements, as well as anthologies and compilations of assorted works or data or other materials, including databases, in machine readable or other form. The term of protection, if the author is a natural person, is the life of that person and 50 years after his or her death, in favour of his heirs or successors in title; in the case of an anonymous work, a pseudonymous work whose author has not been revealed, or a legal person, the term of protection is 50 years from first publication or, failing that, from the making or dissemination of the work. The Law on the Promotion and Protection of Intellectual Property treats the moral and economic rights of the author separately.

146. Theatrical presentation and musical performance contracts, which may be entered into for a specified period or for a specified number of public presentations or performances, are protected. Performers' rights are protected for 50 years from the first of January of the year following the year of performance, where unfixed performances are concerned, or of publication, if the performance is recorded on a phonographic or audiovisual medium.

147. Also regulated are matters relating to phonogram inclusion contracts in which the author of a musical work authorizes a phonogram producer, without exclusivity and subject to remuneration, to record or fix a work for reproduction purposes. This authorization does not include the right of public performance of the work. On the other hand, phonogram producers authorized under a phonogram inclusion contract have the right to authorize or prohibit the reproduction of their phonograms, as well as the importation, rental, distribution to the public or other use, by any method or means, of copies of their phonograms.

148. The LFPPI stipulates that, in the field of copyright, the holder of the right may import, export or authorize the importation or exportation of legally produced copies of his works.

149. In the case of phonogram inclusion contracts and broadcasting organizations that broadcast programmes to the public, the rights of the phonogram producers and broadcasting organizations are

protected for a period of 50 years from the first of January of the year following that of first fixation of the sounds incorporated in the phonogram or in which the broadcast took place.

150. El Salvador does not make exceptions to or grant exemptions from national treatment for foreigners who publish their works in El Salvador. The law applies without distinction to nationals and foreigners alike.

151. Salvadoran legislation recognizes the principle of protection of copyright without the need for any formalities. The formalities associated with the filing of works protected under the law do not create rights and are only declaratory, their purpose being to provide the owners with greater legal certainty and to serve as evidence of their rights.

152. Computer programs are protected as literary works, enjoying protection for a period of 50 years from first publication or, failing that, completion. Likewise, compilations of assorted works, data or databases, in machine readable or other form, which by reason of the selection or arrangement of their contents constitute original creations, are protected by law.

(c) Patents

153. The LFPPI establishes the right to obtain protection for an invention, utility model or industrial design, "invention" being taken to mean a product or process capable of practical application for solving a specific technical problem. The following are excluded from patentability: discoveries, scientific theories and mathematical methods; plans, rules and methods relating to purely mental or intellectual pursuits, game playing or economic and business activities; diagnostic, therapeutic and surgical methods for the treatment of humans or animals, except for products intended to put any of these methods into practice; and inventions whose publication or industrial or commercial application would be contrary to public order or morality.

154. Patents are granted for a term of 20 years, without possibility of extension, from the date of filing of the application in the CNR's Intellectual Property Register.

155. In the case of medicines (drugs), the LFPPI stipulates that patents are granted for a term of 15 years, without possibility of extension, from the date of filing of the application in the CNR's Intellectual Property Register. Nevertheless, the authorities have pointed out that under the Constitution, since international treaties concluded by El Salvador with other States or international organizations constitute laws of the Republic on entering into force (Chapter (II) (2) (ii)), following the entry into force of the TRIPS Agreement patents in general, including drug patents, are protected for 20 years, without possibility of extension, from the date of filing of the application with the trade registry.

156. A compulsory licence to use a patent may only be granted in declared cases of emergency or in situations involving national security, for as long as they exist, provided it is necessary to meet the basic needs of the population. Such licences are non-assignable and non-exclusive and are granted by the competent court which establishes adequate remuneration for the patent owner according to the circumstances of each case, taking into account the economic value of the authorization, together with the mode of payment. As of the end of 2002, El Salvador had never granted any compulsory licences.

157. Protection for plant varieties is provided only through patents.

(d) Trademarks

158. Trademarks and other distinctive signs are protected under the new Law on Trademarks and Other Distinctive Signs which has replaced the previous Central American Convention for the Protection of Industrial Property; this Law regulates matters relating to trademarks, collective trademarks, commercial advertising slogans and signs, trade names, emblems, geographical indications, actions and penalties for the infringement of rights, unfair competition and border measures. According to the authorities, the principal advantage of the new Trademarks Law is its complete consistency with the quality standards of the TRIPS Agreement.

159. The rights conferred by the registration of a trademark remain in effect for ten years from the date of registration, a term which may be renewed indefinitely for successive 10-year periods calculated from the date on which it last expired. With the new Law, El Salvador has extended the scope of protection not only to well-known trademarks, in accordance with the provisions of the Paris Convention, but also to all well-known distinctive signs. The new legislation does not contain any provision requiring use to maintain a registration.

160. The owner of a trademark may, under contract, grant a licence to use that mark to one or more persons, with or without exclusivity, for a specific territory or area. The contract licensing use of the mark must be entered in the Intellectual Property Register and only has effect vis-à-vis third parties from the date of registration.

161. In relation to industrial property, the Law on Trademarks and Other Distinctive Signs establishes that, if so stipulated in a contract licensing the use of a foreign trademark duly entered in the Register, the licensee may prevent the importation of products which, under cover of the licensed trademark, are to be introduced into the country for commercial purposes.

(e) Industrial designs

162. Under the provisions of the LFPPI, industrial designs are protected for a period of five years from the date of filing of the application, renewable for a further five years. This protection does not exclude or affect the protection available to such designs under other legal provisions, in particular those relating to copyright. There is no protection for industrial designs which are not considered to be new, that is to say, merely differ in minor or secondary respects from other earlier designs or merely refer or apply to another category of products; nor is protection granted to designs whose exploitation would be contrary to public order or morality.

(f) Layout-designs of integrated circuits

163. A draft secondary bill that would regulate all aspects of layout-designs (topographies) of integrated circuits is currently being studied.

(g) Protection of undisclosed information

164. The LFPPI defines and protects industrial and trade secrets. This protection is afforded whether or not the secrets are fixed in a material medium and does not require registration.

165. With respect to Article 39.3 of the TRIPS Agreement relating to pharmaceutical and agricultural chemical products, undisclosed information submitted to the Salvadoran authorities to obtain approval for the marketing of a pharmaceutical or agricultural chemical product by a person

holding that information as an industrial or commercial secret is not considered to be in the public domain, since it is legally protected, whether or not fixed in a material medium.

166. There are no provisions permitting a third party to use undisclosed information protected by law without the authorization of whoever legitimately holds the secret or information, nor is there any provision establishing time limits for its protection since the undisclosed information is protected as long as the requirements of Article 177 of the LFPPI are met.

(h) Geographical indications

167. Geographical indications and appellations of origin are regulated by the Law on Trademarks and Other Distinctive Signs, which establishes a registration procedure for geographical indications and appellations of origin. This grants protection to domestic appellations of origin as well as to appellations of origin on products coming from abroad. Moreover, the new Law stipulates that a geographical indication may not be used in the course of trade in relation to a product or service where that indication is false or misleading with respect to the geographical origin of the product or service or if its use might create confusion in the mind of the public with respect to the origin, source, characteristics or qualities of the product.

168. A trader who adopts a geographical name as a trademark cannot prevent producers and traders associated with the place designated by that name from using it to indicate, fairly and truthfully, the source of their products (or services). In accordance with trademark law, geographical names may only constitute trademarks if their relationship with the product (or service) they distinguish is arbitrary or capricious. If the adoption of a geographical name as a trademark would be misleading with respect to the place of origin or the characteristics of the product to which the mark is applied, that name may not constitute a valid mark.

169. Mere indications of provenance and appellations of origin or signs that could indicate a false provenance, nature or quality may not be used or registered as trademarks or as elements thereof.

(i) Enforcement of intellectual property rights

170. In recent years, El Salvador has made efforts to ensure compliance with the IPR legislation, in particular by setting up a specialized intellectual property unit within the Office of the Attorney General of the Republic (*Fiscalía General de la República*). Moreover, the Salvadoran authorities have pointed out that the Ministry of the Economy has endeavoured to coordinate all the relevant institutions, including the judicial authorities, the national civilian police force (*Policía Nacional Civil*), the Directorate-General of Customs Revenue (*Dirección General de Renta de Aduanas*), the National Registration Centre and the Office of the Attorney General.

171. The authorities have pointed out that the Intellectual Property Unit is a very useful tool for combating the abuse of intellectual property rights in El Salvador. In 2001, the Unit doubled the number of its operations, making 120 searches. Moreover, the authorities have pointed out that in almost all cases the legal proceedings were concluded very quickly once the injured party had lodged a complaint, these being publicly actionable offences prosecutable at the instance of a private individual. In accordance with the provisions in force, IPR infringers are liable to imprisonment for one to three years. In cases of aggravated infringement of copyright or related rights, the penalty may be increased to five years imprisonment (details of the provisions relating to IPR enforcement are given in Table AIII.2).

172. The authorities have also drawn attention to the cooperation between the Government of El Salvador and the Business Software Alliance (BSA) and the Association of Medium and Small Entrepreneurs (*Asociación de Medianos y Pequeños Empresarios*, AMPES) in the development of a national computer program legalization campaign, launched in 2001. Within this context, the Government institutions have prepared an inventory of their software programs and licences with a view to purchasing any licences that may be lacking. The campaign has also had the cooperation of important trade unions which have organized seminars and activities aimed at providing their members with guidance in respect of the legalization of their programs.

173. In addition, various IP-related institutions have engaged in numerous promotion activities involving the organization of workshops and seminars for the benefit of various sectors of Salvadoran society, businessmen, students and the general public, in order to foster a culture of respect for intellectual property rights.

174. Despite the progress made in recent years, some holders of intellectual property rights consider that an adequate level of enforcement of these rights has not yet been achieved.⁴⁶ Reaching this goal is important not only within the multilateral context but also to ensure the preferential access accorded to El Salvador by the United States within the framework of its Generalized System of Preferences and the Caribbean Basin Initiative (Chapter (II) (4) (ii)), access which is important for Salvadoran exports.

⁴⁶ Report on El Salvador by the International Intellectual Property Alliance, available on its Internet site at <http://www.iipa.com/rbc/2002/2002SPEC301ELSALVADOR.pdf>.