III. TRADE POLICIES BY MEASURE

(1) Overview

1. Since 1989 El Salvador has moved from a policy of inward orientation to one of much greater outward orientation, based on import liberalization, domestic deregulation and export-led growth policy. Under the reform programme, both import and export procedures have been simplified, the tariff structure has undergone a substantial reform and most non-tariff barriers have disappeared. Measures have also been introduced to deregulate the domestic economy. However, some import licences remain; in addition, import formalities continue to be somewhat cumbersome. Further effort seems necessary in the fields of intellectual property and competition (anti-trust) policy.

(2) Measures Directly Affecting Imports

(i) Registration, documentation, and rules of origin

2. All imports to El Salvador require the following documents: an import certificate *(póliza de importación*), which is a sworn declaration of the imported goods; an invoice (*factura comercial*); and a certificate of shipment or bill of lading (*conocimiento de embarque*). A certificate of origin is only required in certain cases.

3. Commercial invoices, together with pertinent bills of lading, are sent directly to the importer, who presents the documents to the corresponding customs house. If consular authentication (*legalización*) of invoices is required, one original and seven copies (in Spanish) have to be presented to the certifying consulate. The bill of lading (one original and two copies), signed by the shipping company, should contain at least the principal items of information required on the commercial invoice. Air cargo shipments require airway bills (instead of bills of lading) with the number of copies issued based on requirements of the individual importer and airline.

4. Rules of origin: Certificates of origin are only required on goods subject to preferential tariff treatment, namely goods originating in CACM countries and Panama. The rules of origin applied to Central American countries are those stipulated in the General Treaty of Central American Integration (*Tratado General de Integración Económica de Centroamérica*) and in the Central American Regulation on the Origin of Goods (*Reglamento Centroamericano sobre el Origen de las Mercancías*).[1] The method used to establish origin is that of substantial transformation (i.e., a change in tariff classification). The required change in tariff classification could be at the level of two, four, six or eight digits of the Central American Tariff System (*Arancel Centroamericano de Importación*, SAC). Rules of origin for goods originating in Panama are stipulated in the Free-Trade Treaty with Panama (*Tratado de Libre Comercio y de Intercambio Preferencial con la República de Panamá*).

5. The length of the customs procedures and the time for the release of the imported merchandise varies from one to four days, depending upon the customs house. The Government has indicated that, normally, procedures at the air customs house should take a maximum of one day, at the maritime customs house, three days, and, at any other customs house, four days.

6. Goods in transit are exempt from the payment of customs duties if a declaration or document valid in other countries of the region is presented. The carrier is responsible for the handing of such

[1] Executive Agreement No. 799, Diario Oficial No. 329, 21 December 1995.

goods through to the final destination, and is also responsible for complying with all the requirements of the transit régime. If goods are not conveyed in totality to their final destination, the carrier is liable for the duties and tariffs to be paid on the missing goods. Goods in transit may be transferred to another import régime as long as all the legal requirements of that other régime are fulfilled, e.g., they may clear customs for domestic sale on payment of duty and any border taxes.

7. Temporary admission of imports: under certain defined circumstances, the customs authorities may authorize the temporary importation of goods with partial or total suspension of duties, taxes and other changes, for instance, goods for display in a trade show. It is a condition of this régime that the goods be re-exported within six months without having undergone any modification or transformation, with the exception of the normal depreciation caused by use. A guarantee must be posted, equivalent to all duties, taxes and other charges which would need to be settled if the goods were not re-exported within the specified time limit. The guarantee is returned when the merchandise is re-exported.

8. Goods to be imported into the national territory can be stored in public or private bonded warehouses under the supervision of customs, free of any duties and any other charges.

(ii) Customs valuation

9. Valuation of imported goods is currently based on Annex B of the Central American Agreement on the Tariff and Customs Régime which is in turn based on the Brussels System of Valuation. The customs value of goods in El Salvador is the "normal" price of merchandise, which is defined as the price determined by supply and demand under free competition at the time that the merchandise is imported.[2] The price shown on the invoice is usually taken as the "normal" price[3], unless the transaction is carried out under conditions of imperfect competition. In this case, the authorities are entitled to impute the "normal" price on the basis of the price set under perfect competition, the probable sales price, the actual price of the transaction and prices set on a contractual basis.[4] New legislation is being drafted to allow for the application of the provisions of the Uruguay Round Agreement on Customs Valuation within the five-year delay allowed for developing countries.[5]

10. Customs decisions can be appealed to the Director of Customs within 30 days from the date on which the decision is taken, and the Director must reach a conclusion within 30 days following the lodging of the appeal. If the Director cannot come to a conclusion within the established period, the plaintiff may resort to the National Committee of Customs Valuation (*Comité Nacional de Valoración*

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[2]Article 1, *Anexo B del Convenio sobre el Régimen Arancelario y Aduanero Centroamericano: Legislación Centroamericana sobre el Valor Aduanero de las Mercancías*.

[3]Article 4, *Anexo B del Convenio sobre el Régimen Arancelario y Aduanero Centroamericano: Legislación Centroamericana sobre el Valor Aduanero de las Mercancías*.

[4]Article 13, *Anexo* B *del Convenio sobre el Régimen Arancelario y Aduanero Centroamericano: Legislación Centroamericana sobre el Valor Aduanero de las Mercancías.* For a thorough definition of these prices, see GATT document L/6391, 22 September 1988, Provisional Accession of El Salvador.

[5]Article 20.1, WTO Agreement on the Implementation of Article VII of the GATT 1994.

Aduanera).[6] The Committee is required to reach a decision within 60 days of the date of the appeal. If the plaintiff still disagrees with this decision, he may start legal proceedings through the national courts.[7]

11. According to the authorities, there are no stipulated procedures for the verification of values except in the case of used cars. If there is doubt about the value of the merchandise, a sample is sent to the Department of Valuation, where the value is assessed. However, the merchandise is normally released from customs immediately and any discrepancies in the payment of duties are settled later.

12. Minimum import prices: Central American Legislation on the Customs Valuation of Goods (Annex B) allows for the use of minimum prices or reference prices. For the determination of valuation for duty.

13. The valuation of a new car is based on the price at which the manufacturer sells to the dealer, i.e., the wholesale price. The valuation procedure for used cars is determined based on the prices collected in specialized publications such as: the Automobile Red Book, the Older Car Red Book, the Truck Blue Book, the Tractor and Implement Blue Book, the Motorcycle Red Book, etc.[8] If a reference price is not stipulated in the manuals then the car would be priced according to the price of the same vehicle in the country of origin. Specifically, for vehicles falling within tariff lines 87.03, 87.04.21 and 87.04.31, the value to be used is the manufacturer' s recommended retail price for a new vehicle, minus 12 per cent and depreciation. For all other used vehicles the value to be used is the average value at the retail level without taking into account the depreciation, transportation and insurance costs.[9]

14. In the last five years, customs has been computerized in order make procedures faster. The aim is to create a one-stop window similar to that which already exists for exports (Section (3)) in order to expedite import procedures. According to the World Bank, the lengthy, complicated import procedures (verification of documents, acquisition of certificates and valuation of merchandise) are the most important remaining obstacles to trade - hence the need to accelerate the process of customs reform.[10]

(iii) Tariffs

(a) Structure

15. In 1993, El Salvador adopted the Central American Tariff System (SAC), based on the Harmonized System (HS), with some 5,800 lines at the eight-digit level. The SAC is divided into three parts: Part I includes the lines for which a uniform tariff was negotiated; Part II comprises all

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[6]Article 23, *Anexo B del Convenio sobre el Régimen Arancelario y Aduanero Centroamericano: Legislación Centroamericana sobre el Valor Aduanero de las Mercancías*.

[7]Article 25, *Anexo B del Convenio sobre el Régimen Arencelario y Aduanero Centroamericano: Legislación Centroamericana sobre el Valor Aduanero de las Mercancías*.

[8]Article 3, Decree No. 383, *Diario Oficial* No.125.

[9]Decree No. 383, *Diario Oficial* No. 125, July 7 1995.

[10]World Bank (1995).

tariffs that are in the process of harmonization and Part III of the SAC incorporates those goods for which tariff rates are not harmonized and which can be changed at the national level.

16. The current tariff applied by El Salvador has seven tiers, comprising rates of 1, 5, 10, 15, 20, 25 and 30 per cent. All tariffs are ad valorem, applied on the c.i.f. value of imported goods. They apply throughout the year, with no seasonal variations.

(b) Average tariff levels and tariff range

17. Rationalization of the tariff structure was initiated in El Salvador in 1989, continuing through to 1995. Previously, tariffs ranged from 5 to 290 per cent, with an average of 21.9 per cent. As a result of continuing reforms, the simple average was further reduced from 12.3 in 1992 to 10.1 in 1995 and the range of duties was also reduced from 0 - 35 per cent to 1 - 30 per cent.[11]

18. Chart III.1 shows that the major change in the tariff structure during this period has been the substantial increase of tariff lines that bear a rate of 1 per cent, levied on capital goods. There has also been a considerable decrease in the number of lines with a rate of 20 per cent. In addition, the 30 per cent rate, which previously applied to 5.3 per cent of all tariff lines, applied to only 0.8 per cent of all tariff lines in 1995. This higher tariff applies mainly to textiles, alcoholic beverages, cosmetics and motor vehicles. Within the manufacturing sector, the two sub-sectors most heavily protected by tariffs are textiles, wearing apparel and leather goods; and food, beverages and tobacco. Tariff protection of the agricultural sector is higher than that of manufacturing; agriculture and livestock have an average tariff rate of 12.7 per cent, while manufacturing has an average rate of 10.1 per cent (Chart III.2). This difference would be even greater if food, beverages and tobacco - with an average rate of 15.2 per cent - were included with agriculture. While substantial progress has been made in reducing tariff dispersion since 1989, the coefficient of variation of 75.2 per cent shows that tariff dispersion is still substantial. This will be addressed by the currently planned reduction of tariff rates and dispersion to a range of 0 - 15 per cent by 1999.[12]

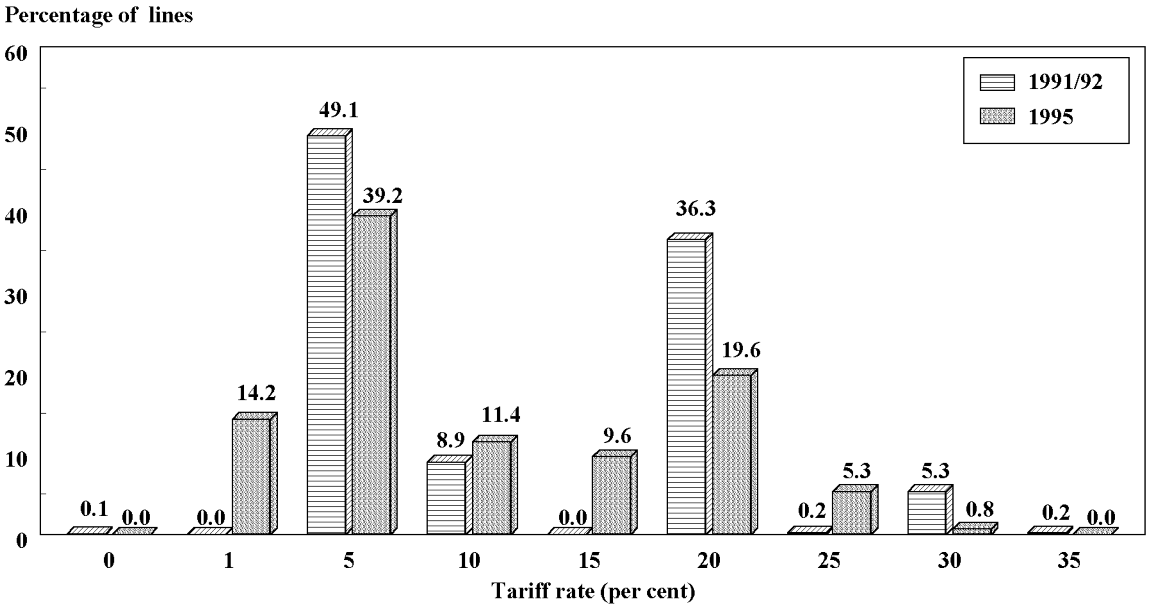
(c) Tariff escalation

19. Under the current applied tariff, the average tariff for inputs is 7.6 per cent, for semi-processed goods 8.4 per cent and for fully processed goods is 12.5 per cent. As shown in Table AIII.1, tariff escalation is stronger in sectors such as textiles, leather products, wood products, and paper products, where there is at least a 10 per cent increase in protection from the first to the final stage of production. This type of tariff escalation normally implies that value-added in processing benefits from higher effective protection than indicated by the nominal protection.

[11]The 1992 average is based on NAUCA II, the nomenclature used in Central America up to 1993 when the harmonized system was adopted.

[12]Consideration had been given early in 1996 to reducing tariffs to a range of 1- 6 per cent by 1999, but this proposal was subsequently rejected.

Chart III.1
Distribution of tariff rates, 1991/92 and 1995

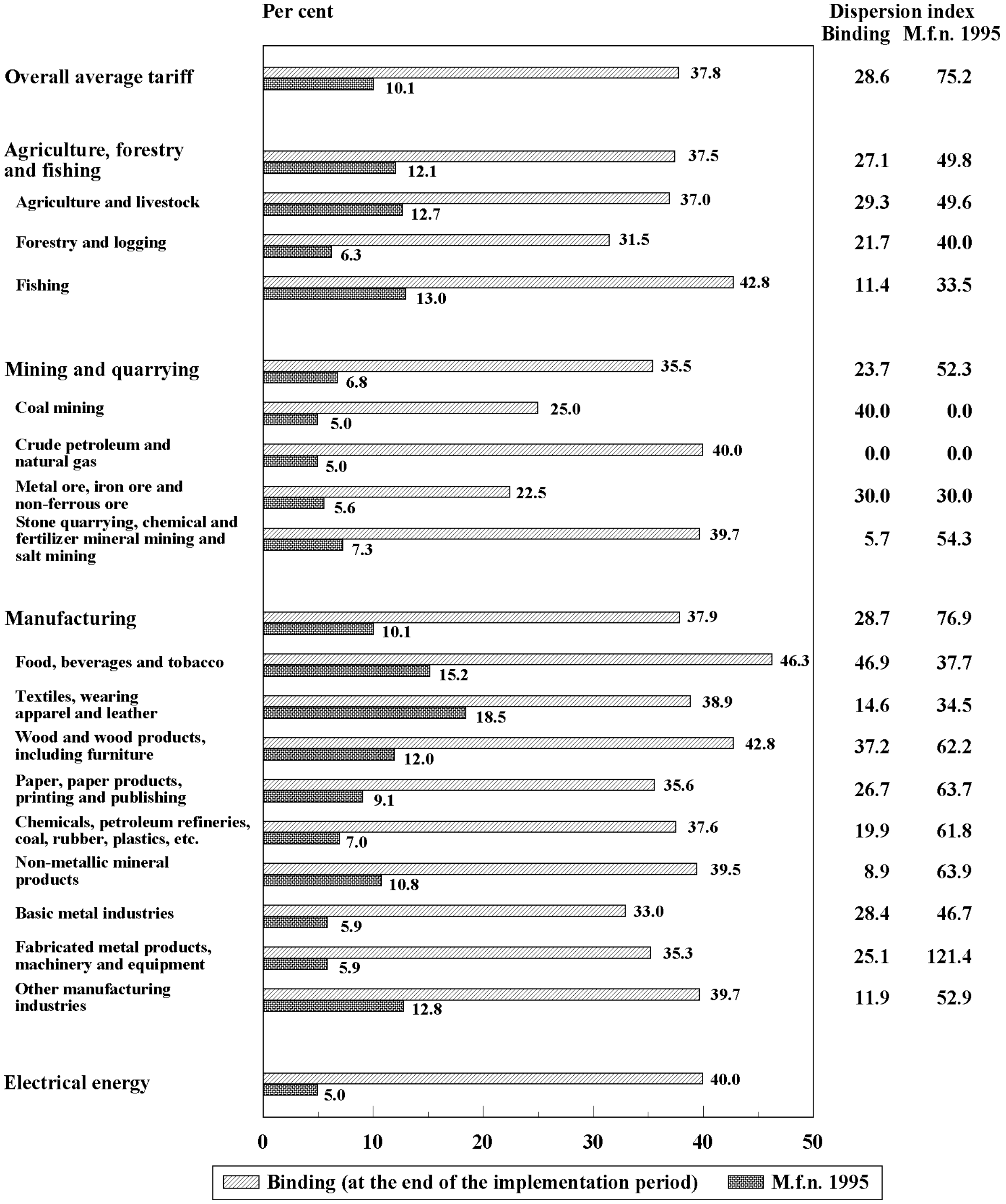


Source: WTO Secretariat estimates, based on Government data.

(d) Tariff bindings in the Uruguay Round

20. In the Uruguay Round, El Salvador bound all tariff lines contained in Chapters 1 to 97 of the Harmonized System at 40 per cent, with the exception of agricultural goods and the exceptions stipulated at the time of accession in Annexes A and B to the Accession Protocol. The overall average bound rate, with these exceptions, is 37.8 per cent. As shown in Chart III.3, some 72 per cent of the tariff lines are bound at 40 per cent, some 22.3 per cent are bound at lower rates, and only 5.8 per cent of lines are bound at rates higher than 40 per cent. These higher bound rates apply mainly to the exceptions included in Annex B and to agricultural products that have been through the process of tariffication. For instance, the highest bound rate of 164.4 per cent applies to poultry (applicable from the year 2004). The sectors that have been bound at a higher than average rate are mainly manufacturing such as food, beverages and tobacco, wood and wood products, and non-metallic minerals. Fishing also shows a high potential protection with a bound rate of 42.8 per cent. El Salvador's currently applied tariff is substantially below the bound tariff rate for all tariff lines (Chart III.2).

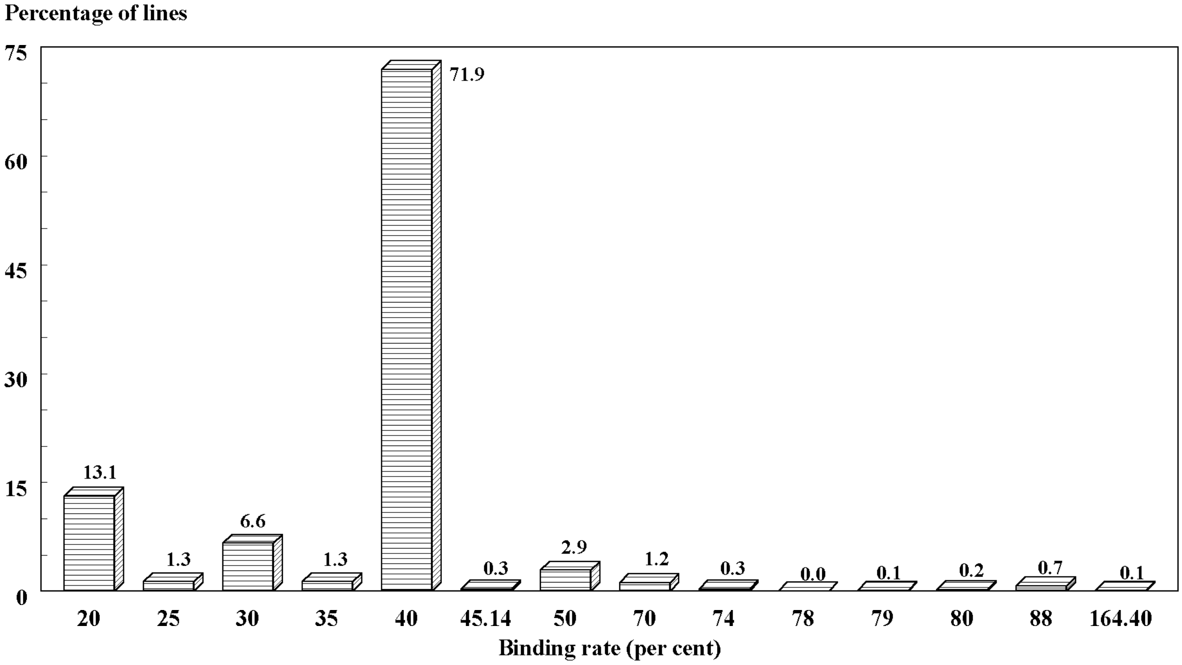
Chart III.2
Average tariff levels and bindings by sectors and selected sub-sectors, 1995



Note: The dispersion index (or coefficient of variation), expressed in percentage terms, is derived by dividing the standard deviation by the average. The index measures relative dispersion, and the higher the index, the more disperse is the tariff structure.

Source: Government of El Salvador; and WTO Secretariat calculations.

Chart III.3
Distribution of binding rates at the end of the implementation period



Source: Government of El Salvador; and WTO Secretariat calculations.

21. In 1993, El Salvador requested the right to modify its schedule LXXXVII during the three-year period which started on 1 January 1994.[13]

(e) Seasonal tariffs

22. El Salvador has no seasonal tariffs at present. However, the imposition of a seasonal duty for yellow maize (HS item 1005.90.20) is an option under consideration. Should such an option be adopted, the precise variation in rates would depend upon the domestic supply of sorghum in the country since sorghum and yellow maize are substitutes in the production of animal feed, especially for poultry.

(f) Concessional entry

23. According to Article 21 of the Central American Agreement on the Tariff and Customs Régime (*Convenio sobre el Régimen Arancelario y Aduanero Centroamericano*), tariff concessions are only allowed in certain well-defined cases, such as the entry of personal effects of nationals returning permanently to the country and goods covered under regional or bilateral preferential trading agreements. Tariff concessions are also granted to industries producing under the free-zone and tax-free areas régimes.

[13]GATT document TAR/250, 23 December 1993.

(g) Tariff preferences

24. In general, El Salvador applies the SAC to all countries except the Central American countries. Products originating from, or produced in, the rest of Central America, enter El Salvador duty free as part of the CACM. Exceptions to duty free entry are stipulated in Annex A. However, some of the goods included in this Annex could enter duty free on the granting of an import licence. Some products from Panama enter El Salvador under preferential treatment under the Free Trade and Preferential Exchange Treaty with Panama (*Tratado de Libre Comercio y de Intercambio Preferencial con Panamá*). However, El Salvador has been trying to re-negotiate this Treaty since 1995.

25. El Salvador does not apply tariff treatment which is less favourable than m.f.n. treatment to any country.

(iv) Tariff quotas

26. Tariff quotas exist only for those agricultural products that have been through the process of tariffication as a result of the Uruguay Round. In-quota rates have been set at 20, 30, 40 and 50 per cent. However, above-quota rates are substantially higher but these have not been used, imports not having exceeded the quota levels so far. El Salvador has not yet submitted a notification to the WTO on the administration of tariff quotas, since the manner in which tariff quotas are to be administered has not been determined.

(v) Variable import levies

27. El Salvador does not apply variable import levies.

(vi) Other levies and charges

28. Most imports are subject to the 13 per cent value-added tax (VAT). The VAT is levied on the final duty-paid value of the import.[14] Goods exempt from the payment of VAT include: beans, maize, rice, milk, medicines, and basic services (Chapter I). All imports made by institutions or natural persons that have diplomatic status are also exempt from payment of VAT.[15]

29. A few imported (or domestically produced) items are subject to additional taxes. Empty sacks and bags of synthetic fibre are subject to an 80 per cent tax calculated on the price of sacks and bags made of natural fibres. Synthetic bags or sacks to store domestically produced sugar, salt and animal feed are exempt from this tax[16], as are bags and sacks used as packaging material of imported goods.

30. Carbonated or sweetened (non-alcoholic) beverages are subject to a 10 per cent ad valorem tax, based on the price suggested by the producer, importer or retailer.[17] Importers pay this tax at the time of the importation. This fee appears on the import certificate (*póliza de importación*). The

[14]Decree No. 495, 31 March 1993.

[15]Decree No. 296, *Ley de Impuesto a la Transferencia de Bienes Muebles y a la Prestación de Servicios,* 24 July 1992.

[16]Decree No. 235, 23 December 1985.

[17]Decree No. 641, *Ley del Impuesto sobre las Bebidas Gaseosas Simples o Endulzadas,* 22 February 1996.

standard 13 per cent VAT for such beverages is calculated on the c.i.f. value plus import duty plus the 10 per cent ad valorem tax.[18]

31. Alcoholic beverages are subject to two additional taxes. First, a tax based on the alcoholic content of the beverage; this is presently charged at the rate of C 0.05 on each percentage by volume of alcoholic content. Second, there is an ad valorem tax of 30 per cent (25 per cent for beer) based on the retail price declared by the producer or importer. These taxes are charged at the time of importation.

32. Consular fees, which were formerly charged at the Salvadorian consulates, are currently charged directly by customs for the authentification of the commercial invoice and the bill of lading. The fee to authenticate the commercial invoice (*derecho consular*) is a fixed fee of US$2. According to the authorities, the fee charged to authenticate the bill of lading (*factura consular*) varies according to the value of the import stipulated in the commercial invoice; US$1 is charged for every US$500 of value, up to a maximum of US$30. The cost of a letter of credit depends upon the type of financing granted by the private bank to the importer (Table III.1).

Table III.1
Structure of charges levied on imports of selected products, 1995
(Per cent and US$)

		Yellow maize 1005.90.20		Flat-rolled stainless steel 7219.24.00		Cars 8703.23.91	
	Description	Per cent	Value	Per cent	Value	Per cent	Value
1.	Value f.o.b.		309.50		2,000.00		25,232.00
2.	Freight (on item 1)	15.33	47.45	18.00	361.12	13.58	3,428.46
3.	Insurance (on item 1)	1.27	3.93	1.30	25.97	1.25	315.26
4.	Value c.i.f. (items 1,2 and 3)		360.88		2,387.89		28,975.72
5.	Import duty (on item 4)	5.00	18.04	5.00	119.35	25.00	7,243.93
6.	Sub-total		378.92		2,506.44		36,219.65
7.	Cost of letter of credit (on item 1)	13.83	42.82	2.56	51.28	0.72	180.63
8.	Cost of customs procedures (on item 1)	3.30	10.21	0.51	10.21	0.04	10.21
9.	Consular fees[a]	17.60	54.50[b]	0.45	9.00	0.40	102.50[b]
10.	Final value of imports		486.45		2,576.93		36,512.99
11.	Value-added tax (on item 11)	13.00	63.39	12.90[c]	332.50	13.00	4,708.56
12.	Wholesale cost in El Salvador		549.68		2,909.43		41,221.55
Ad valorem equivalent of all charges combined on the f.o.b. value		69.33		40.72		53.99	

a Consular fees consist of US$2 for the certification of each commercial invoice and US$1 for each US$500 of the f.o.b. value up to a maximum of US$30.
b According to the information provided to the Secretariat, consular fees should amount to a maximum of US$30.
c Percentage re-calculated by the Secretariat based on the values provided by the Government.

Source: Customs authorithies, Government of El Salvador.

[18]Instruction No. 2093, Ministry of Finance, 11 March 1996.

(vii) Import prohibitions

33. Import prohibitions in El Salvador affect a number of products including: subversive and pornographic material; abortifacient substances; gambling machines; opium with less than 9 per cent of morphine, opium slag and ash, and any artifacts to smoke opium; paper to roll cigarettes without the proper stamp; machines or tools to fabricate coins, counterfeit currency, smooth silver coins of less than 0.9 of width, and any sort of token that could circulate as coin[19]; and coffee that could be used as seed for planting.[20]

34. Some goods are subject to a "limited import prohibition" meaning that only the State can import them. These goods include: munitions, military airplanes and ships, weapons and silencers, and gas masks for military use; eau-de-vie made with sugar cane (*aguardiente de caña de azúcar*); nitrate potassium (nitrate salt, saltpetre, kalium nitrocum); stamped paper to make cigarettes; fiscal, municipal and postage stamps; and nickel coins for legal circulation.[21]

(viii) Import licensing and authorization

35. Over the last ten years El Salvador has eliminated import permits for a wide range of products. However, import licences are still required for some products if imported from Central America (see below). Imports of jute sacks and salt, originating in any country are subject to licence, while sugar requires an "authorization".[22]

36. According to "Annex A" of the Central American General Integration Treaty an import licence is required for certain goods to enter duty free. These goods include: sugar (HS items 17.01, 1701.11.00, 1701.91.00, and 1701.99.00) originating in any of the CACM member countries; wheat flour (HS item 1101.00.00) imported from Guatemala, Honduras and Nicaragua; and ethyl alcohol (HS items 22.07 and 22.08.90.10) imported from Guatemala, Honduras, Nicaragua and Costa Rica.[23] These import controls within the CACM are reciprocal. If the import licence is not granted, imports are subject to the duty stipulated in the SAC.

37. The import licence requirement for ethyl alcohol has recently been annulled and all imports of alcohol, no matter the origin, are subject to import duty (i.e., imports from Central America may no longer enter duty free).[24]

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[19]Decree No. 647, *Diario Oficial* No. 113, 20 December 1990 (Rule X, literal "A").

[20]Decree No. 647, *Diario Oficial* No. 113, 20 December 1990 (Chapter 12).

[21]Decree No. 647, *Diario Oficial* No. 113, 20 December 1990 (Rule X, literal "B").

[22]Decree No. 647, *Diario Oficial* No.113, 20 December 1990 (Chapter 17).

[23]Agreement No. 577, *Diario Oficial* No. 204, 6 November 1995. The limitations on duty-free entry for imports from Central American countries are said to have been imposed for three main reasons: first, that some of these products do not originate in CACM countries; second, that some products are produced with subsidized inputs, as in the case of wheat flour produced with wheat imported under PL-480 from the United States; third, that it is desired to provide protection for the domestic market, as in the case of sugar and coffee. (Torres-Rivas, et al. (1975).

[24]Decree No. 640, *Ley Reguladora de la Producción y Comercialización del Alcohol y de las Bebidas Alcohólicas*, 22 February 1996, Article 60.

38. Imports of sacks used to store sugar (usually of cloth) have to be approved by the Salvadorian Commission for the Development of the Sugar Sector (*Comisión Salvadoreña para el Desarrollo Azucarero*, CDA).[25] These import restrictions have not been notified to the Textile Monitoring Body (TMB), as required under the Article 3 of the Agreement on Textile and Clothing. According to the authorities, these restrictions have not been notified as they have not been enforced since El Salvador's accession to the GATT in 1991. The implementing decree (No. 647) is expected to be amended shortly.

39. The authorization requirement for sugar imports was originally introduced because of distortions in the world sugar market and because of the importance of the sector in terms of domestic employment. According to the authorities, requests for an authorization to import sugar are managed by the Ministry of Economy, which consults with the CDA before issuing such an authorization. Since 1989 only five applications for an authorization have been presented to the Ministry of Economy. The Secretariat was not informed of the outcome of these cases, but reported trade data show practically no imports;[26] the authorities attribute the absence of imports to the fact that El Salvador is a net exporter of sugar.

40. Such an authorization or a licence system may be required in the future to administer the allocation of tariff quotas for sugar, should imports appear likely to exceed the initial in-quota level of 3,887.33 tonnes, dutiable at 40 per cent.[27] Pending a decision how this might work, no notification on the administration of the tariff quotas has been made to the WTO.

41. The Government is currently considering removing the authorization and reducing the out-of-quota rate from 88 per cent in 1996 to 55 per cent. An earlier proposal also involved the possibility of increasing the current applied tariff rate of 20 per cent to 55 per cent on all imports of sugar. This rate would have been above the in-quota bound rate of 40 per cent, negotiated in the Uruguay Round, and would have required an Article XXVIII renegotiation.

42. An import licence is required to import salt, which is granted by the Ministry of Health once the iodine content in the mineral has been established.

(ix) Import quotas

43. Saccharine and similar products can only be imported in limited quantities or for medical use with the permission of the Superior Council for Public Health (*Consejo Superior de Salud Pública*). This permit has to be validated by the Salvadorian Commission for the Development of the Sugar Sector.

44. By law there is a quantitative import restriction on dairy products, since these can only be imported in case of domestic shortage.[28] However, this law, which is still on the statute books, seems to have fallen into disuse since, according to the authorities, El Salvador imports dairy products without any restrictions.

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[25]Decree No. 647, *Diario Oficial* No.113, 20 December 1990. (Chapter 62).

[26]UNSTAT, Comtrade data for the period 1980-95.

[27]The quota is to be expanded to 6,478.89 tonnes by 2004 at an in-quota rate of 40 per cent and the above-quota final rate will remain at 70 per cent.

[28]Law No. 3144, *Ley de Fomento de Producción Higiénica de la Leche y Productos Lácteos y de Regulación de su Expendio*, *Diario Oficial* No. 185, 1960.

(x) Import surveillance

45. There are no import surveillance mechanisms in El Salvador.

(xi) Import cartels

46. An import cartel exist for imports of crude oil, but imports of refined petroleum products were liberalized in 1993.[29] In 1995, imports of crude oil were also liberalized[30], and there are no legal restrictions for other refineries to enter the market.

(xii) State-owned enterprises

47. Since 1989, as part of the overall economic reform process, the scope of State activities in El Salvador has been reduced. Prior to the reforms, the State had an important rôle in the marketing of the major export crops, cotton, sugar and coffee, and in the provision of services. The privatization of the national coffee roasting company (Coffee Roasting Tower S.A.) was finalized in 1995 and the Coffee Institute (*Instituto del Café*, INCAFE), the former marketing board, was dismantled in 1989, so that the whole marketing process for coffee is now in the hands of the private sector. The National Sugar Institute (*Instituto Nacional del Azúcar*, INAZUCAR), which held the monopoly for the marketing of sugar, is in the process of being privatized. In addition, eight of the 11 operating sugar mills have been privatized; the remaining three are in the process. El Salvador's main free zone, San Bartolo, formerly owned totally by the State, is now 70 per cent private. The *Hotel Presidente*, one of the major hotels in San Salvador, was also privatized in 1991. Coffee Roasting Tower S.A., San Bartolo and the Hotel Presidente belonged to the State-owned Salvadorian Investment Corporation (*Corporación Salvadoreña de Inversiones*, CORSAIN). Most of the companies that belonged to CORSAIN have been privatized. Today CORSAIN owns only a sugar mill and a fisheries project, and it holds shares in three manufacturing companies.[31]

48. In the services sector the State remains important, but in most sub-sectors there are either plans to privatize or the process of privatization is already under way. Most banks, except Banco Hipotecario y Banco de Fomento Agrícola, have been privatized. The National Telecommunications Administration (*Administración Nacional de Telecomunicaciones,* ANTEL) is in the process of being privatized. The company will be divided into two, to be sold separately in order to avoid the creation of a private monopoly. An independent regulatory body will be created. Some of the services that are provided by the Autonomous Executive Commission for Ports (*Comisión Ejecutiva Portuaria Autónoma*, CEPA) will also be privatized. There do not seem to be any plans to privatize the Executive Commission of Rio Lempa (*Comisión Ejecutiva del Río Lempa*, CEL) in charge of the generation and provision of electricity, but the State does not have a monopoly in this area. Regarding the provision of water, the National Administration of Aqueducts and Sewers Systems (*Administración Nacional de Acueductos y Alcantarillados*, ANDA) is still a monopoly.

[29]Agreement No. 277, Diario Oficial No. 92, 20 March 1993.

[30]*Acuerdo Ejecutivo*, No. 10, 5 January 1995.

[31]CORSAIN holds 50 per cent of *Industrias Sintéticas de Centroamérica S.A.* (INSINCA), 22 per cent of shares in *Conductores Eléctricos de Centroamérica* S.A. (CONELCA), and 4.95 per cent of *Sociedad* Quality Food S.A..

49. The declining rôle of the State over the last ten years is symptomatic of the wider move towards a market economy, and, according to the authorities, this process is to continue since it forms part of the overall economic reform programme begun in 1989. Up to now, the main obstacles to privatization have been the lack of experience in implementing such a programme and the lack of financial resources. In the past, privatizations were not carried out within a clear framework of procedure. However, following the privatization of the national coffee roasting company, the first undertaken through the stock market, procedures were put in place for subsequent privatization of other State-owned enterprises; this has also helped to attract foreign capital.

(xiii) Countertrade

50. El Salvador's barter and countertrade regulations are governed by the Law for the Reactivation of Exports.[32] Countertrade transactions are subject to Central Bank approval. However, these transactions are not common.

(xiv) Standards and other technical requirements

(a) Standards, testing and certification

51. The Law on the National Council of Science and Technology (*Ley de Consejo Nacional de Ciencia y Tecnología*, CONACYT)[33] created the organization in charge of co-ordinating the elaboration and adoption of norms in El Salvador. According to Decree 287, where no official technical norms have been specifically approved, El Salvador will apply international norms. For instance, at present El Salvador uses the norms established by the Central American Institute of Research and Technology (*Instituto Centroamericano de Investigación y Tecnología*, ICITI), the Codex Alimentarius established by FAO/WHO, and, as a last resort, those established by the Council on the specifications under which the products were legally registered. The CONACYT is drafting legislation establishing Salvadorian technical norms and regulations, according to the Code of Good Practice for the Preparation, Adoption and Application of Standards of the WTO.[34] In the draft norms and regulations, no distinction is being made between imported and domestically produced goods.

52. CONACYT is also in charge of carrying out standards testing and/or approving test results carried out in the exporting country. There is, however, no established mechanism to recognize specific tests carried out in the exporting country. Nevertheless, CONACYT requires a certification extended by the authorities of the exporting country. The certification is then evaluated by CONACYT in order to approve tests carried out in the exporting country. At present, regulations concerning the recognition of tests carried out in exporting countries are being drafted. In the past, there have been no instances in which El Salvador has considered international norms inadequate.

53. Specific standards for imports of sugar, salt and wheat flour exist in El Salvador. Since 1994, it has been required by law that all sugar produced for domestic consumption be fortified with vitamin A (15 microgrammes (50 IU/G).[35] In addition, fortified sugar must be packaged in such a way that the

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[32]Decree No. 460, 15 March 1990. (Article 9).

[33]Legislative Decree No. 287.

[34]Annex 3, WTO Agreement on Technical Barriers to Trade.

[35]Decree No. 843, *Ley de Fortificación del Azúcar con Vitamina* "A", Diario Oficial No. 323, 25 May 1994.

vitamin is protected. All imports of sugar must also comply with this requirement, which is checked by the Ministry of Economy. Non-fortified sugar can be exported and sold in the local market only if it can be proven that, in the specific instance, fortification is not recommended.

54. To combat the high incidence of thyroid disorders in El Salvador[36], it has been established that salt both for human consumption and for animal feed must be iodized.[37] Therefore, imports of salt must contain 30 to 100 milligrams of iodine per kg.[38] Salt without iodine can be imported for industrial use.

55. In order to import salt with or without iodine a licence is required; this is issued by the Ministry of Public Health, provided that the necessary certificates are produced by the importer.[39] A certificate issued in the country of origin specifying the procedures used to iodize the salt and the quantity of iodine is required. For non-iodized salt, the importer requires certification of the need to use such non-iodized salt in an industry. This certificate is issued by the General Directory of Health (*Dirección General de Salud*). If the salt has to be analyzed to confirm the amount of iodine, the importer must pay for the cost of the tests.

56. Imported and domestically produced wheat flour (HS item 1101.00.00) has to be enriched with vitamin B, iron, and folic acid to combat malnutrition, especially in children.[40]

57. Products derived from petroleum require a certificate of analysis to determine the quality. Importers require this certificate only the first time that they import.

(b) Sanitary and phytosanitary regulations

58. Table III.2 shows the legislation that stipulates and regulates the sanitary and phytosanitary requirements applied to domestically produced and imported goods in El Salvador. The Ministry of Public Health and Social Assistance *(Ministerio de Salud Pública y Asistencia Social*) and the Ministry of Agriculture are responsible for implementing these regulations.

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[36]The last nutritional survey of 1990 determined that at least 25 per cent of the population suffered from thyroid disorder (*Bocio Endémico*).

[37]Decree No. 449, *Ley de Yodación de Sal*, 27 January 1993.

[38]Decree No. 449, *Ley de Yodación de Sal*, 27 January 1993.

[39]Information supplied by the Ministry of Public Health and Social Assistance.

[40]G/TBT/Notif.95.324.

Table III.2
Sanitary and phytosanitary regulations

Law	Area			Date
	Phytosanitary	Zoosanitary	Food inspection	
Law creating plant and animal health services (Decree Legislative No. 2690)	X	X		July 1958
Law promoting the hygienic production of milk and dairy products, and regulating the marketing of these products (Decree No. 3144)		X	X	October 1960
Plant and animal health law (Executive Decree No. 229)	X	X		August 1961
Law regulating the sanitary inspection of meat (Decree No. 588)		X	X	January 1970
Certification of seeds and plants (Decree No. 229)	X			February 1971
Law to certify seeds and plants (Legislative Decree No. 279)	X			February 1971
Control of pesticides, fertilizers and agricultural products (Legislative Decree No. 315)	X	X	X	May 1973
Regulation for production and commercialization of certified seeds (Executive Decree No. 60	X			September 1979
Health code (Legislative Decree No. 955)			X	May 1988
Plant and animal health law (Decree No. 524)	X	X	X	December 1995

Source: Government of El Salvador.

59. Pharmaceutical products or patent medicines must be accompanied at the time of importation by a sanitary certificate, issued by a Chamber of Commerce, or by a Board of Health, or a recognized organization entitled to issue such certificates in the country of origin. This certificate does not need to accompany each shipment of the product in question; however, it needs to be presented to the Salvadorian authorities at the time of applying for registration of the pharmaceutical products; once registered, further shipments of these products are not required to be accompanied by sanitary certificates.

60. Chemical products and pharmaceuticals can only be imported if their consumption in the country of origin is allowed. All the required import documents must be certified by the Ministry of Agriculture. A certificate of analysis is required for fertilizers in order to prevent the importation of dangerous chemicals which by their nature are difficult to handle or dispose of in the event that they cannot be sold. The certificate must specify the content of the product and its origin. This analysis can be done in customs laboratories or in a designated, specialized laboratory at the cost of the importer.

61. Certificates of analysis to determine purity are required for certain products: pure lard, wheat and rye flour, cod liver oil and alcoholic beverages. As a substitute for the certificate in any of these cases, a sample of the shipment may be analysed by the customs laboratory, or other approved laboratory

in El Salvador.[41] In the case of alcoholic beverages, the certificate of purity can be issued in the country of origin, but imports must also be registered at the Ministry of Public Health and Social Assistance.[42]

62. Sanitary certificates issued by the agricultural authorities of the country of origin, are required for inedible seeds, roots, bulbs, and plants. If the sanitary certificate is missing the Ministry of Agriculture will fumigate or disinfect the products at the time of entry into the country.[43] Used sacks or bags of hemp, henequen, jute, and similar fibres require a certificate of fumigation.[44]

(c) Marking, labelling and packaging

63. Presently the rules followed on the subject of marking, labelling and packaging are mainly those stipulated in the Law for Consumer Protection (*Ley de Protección al Consumidor*), which in its Articles 8 and 12 states that all products (imported or domestically produced) must carry labels indicating the ingredients used for their preparation and the price.[45]

64. In addition, imported cigarettes must have a label indicating that they have been imported (*importación a El Salvador*).[46] Alcoholic beverages must have labels that specify the volume of alcohol, the expiration date, the number of the Sanitary registry, if produced domestically, or the name and registry number of the importer, if imported, as well as a label stating: "Excessive consumption of this product is hazardous to health and leads to addiction. It is forbidden to sell this product to minors" (*El consumo excesivo de este producto es dañino para la salud y crea adicción. Se prohibe su venta a menores de 18 años*).

65. In accordance with the Health Code (*Código de Salud*), special labelling requirements, apply also to imports of medicines and pharmaceuticals; fertilizers, insecticides, fungicides, repellents, herbicides; and medicines, serums, vaccines and other biological products for veterinary use.[47]

(xv) Government procurement

66. El Salvador has not adopted the WTO Plurilateral Agreement on Government Procurement.

67. The General Budget Law (*Ley General del Presupuesto*) regulates the purchases of both the central Government and the autonomous institutions. However, central government purchases are also ruled by the Procurement Law (*Ley de Suministro*) and Instruction 6023A (*Instructivo* 6023A), while the autonomous institutions are ruled by laws specific to each. These specific laws establish different

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[41]Decree No. 647, *Diario Oficial* No.113, 20 December 1990 (*Regla* VIII).

[42]Decree No. 640, *Ley Reguladora de la Producción y Comercialización del Alcohol y de las Bebidas Alcohólicas*, 22 February 1996.

[43]Exporter's Encyclopedia (1994).

[44]Decree No. 647, *Diario Oficial* No.113, 20 December 1990 (*Capítulo* 62).

[45]Decree No. 267, *Diario Oficial* No. 219, 27 November 1992.

[46]Chapter 24, Decree No. 647, *Diario Oficial* No.113, 20 December 1990.

[47]Dun & Bradstreet Information Service (1994).

thresholds than those established for the purchases of the Central Government. They also establish a different methodology on tendering procedures which seems to promote more competition.

68. Central government contracts for planned purchases whose value exceeds C 50,000 are put out to public tender for both domestic and foreign suppliers. Foreigners need to have a legal representation in El Salvador and have a VAT registration. According to the authorities, there are no other requirements for foreigners and no discrimination among nationals and foreigners.

69. Purchases by autonomous institutions such as the National Telecommunications Administration (*Administración Nacional de Telecomunicaciones*, ANTEL), the National Aqueducts and Sewers Systems Administration (*Administración Nacional de Acueductos y Alcantarillado*s, ANDA), and the Salvadorian Institute of Social Security (*Instituto Salvadoreño del Seguro Social*, ISSS) are regulated by specific laws which set minimum thresholds for open tenders. In these cases, bids may be either private or public, and both nationals and foreigners may participate. In addition, the autonomous institutions are allowed to call international tenders when the purchase involves goods not locally produced and the contract exceeds a minimum threshold.

70. The Government has recently decentralized the process of purchasing, giving more independence to the ministries and other government institutions.[48] More independence has been granted through the formation of purchasing committees (*Comisiones de compras*). In these committees, the procurement department of each institution has an active rôle since it is better able to determine the needs of the institution. The committees also initiate the process of calling for tenders and then award (*adjudicaciones*). The Government Accounting Office (*Corte de Cuentas de la República*) audits the process. Where the award is contested, an administrative process is available, as well as recourse to the judicial system.

(xvi) Local-content schemes

71. According to the authorities, there is no legal regulation establishing local-content requirements for domestic production.

(xvii) Anti-dumping and countervailing measures

72. Anti-dumping and countervailing procedures are specified in the Central American Regulation on Unfair Trade Practices (*Reglamento Centroamericano sobre Prácticas Desleales de Comercio*)[49], which has superseded the Regulation on Unfair Trade Practices and Safeguard Clauses (*Reglamento Centroamericano sobre Prácticas de Comercio Desleal y Cláusulas de Salvaguardia*).[50] According to the authorities, these procedures have been established in accordance with the WTO Agreements.

73. The Ministry of Economy, through the Directorate of Trade Policy processes complaints about unfair trade practices and undertakes investigations to determine whether it is appropriate to take anti-dumping or countervailing measures. Anti-dumping and countervailing duties can be applied when unfair trade practices cause, or threaten to cause, injury to a sector or delay in the development of a sector, in accordance with the WTO Agreement.

[48]Instruction 6023A, as amended.

[49]Agreement No. 808, *Diario Oficial* No. 237, 21/12/1995.

[50]Agreement No. 110, *Diario Oficial* No. 40, 26/02/1993.

74. Any national producer or group of producers that considers itself or themselves to have been injured can ask the authorities to start an investigation. If petitions to adopt anti-dumping and countervailing duties are not in compliance with the WTO Agreements or do not have sufficient proof of injury, the authorities will not carry out the investigation.

75. Provisional measures may be adopted during the process of investigation if there is a preliminary affirmative determination of dumping or subsidy that is injuring or may injure a sector. Provisional measures can be applied for a maximum period of nine months. The process is terminated if determined that the margin of dumping or subsidy is minimal, or that the volume of imports or injury is insignificant.

76. For products originating in Central America, the Directorate of Trade Policy also carries out investigations to determine the existence of dumping or subsidies. The Central American Secretariat for Economic Integration (*Secretaría para la Integración Económica de Centroamérica*, SIECA) intervenes only if the existence of unfair trade practices counteract the preferential treatment stipulated in the Central American Treaty of Economic Integration, and the authorities of the importing country do not undertake the investigation.

77. Any measures to be imposed after the investigation are to be transitory and exceptional, remaining in force only as long as the situation that motivated them prevails. Definitive measures may last a maximum of five years after the date of the final resolution. This period can be extended only if the conditions that motivated the measure still exist.

78. Anti-dumping and countervailing duties should be applied only to the dumped or subsidized imports. It is, therefore, necessary to specify the supplier or suppliers of the product so that the measure is not applied to all suppliers.

79. According to the authorities, in conformity with Article 25 of the Agreement on the Central American Tariff and Customs Régime (*Convenio sobre el Régimen Arancelario y Aduanero Centroamericano)*[51] a countervailing duty of 10 per cent was imposed on imports of milk originating in Costa Rica. The rationale was that Costa Rica had a tariff of 5 per cent for yellow maize, below the agreed Central American common tariff of 20 per cent. El Salvador considered that this tariff reduction provided a subsidy to milk production. However, under Resolution No. 101, El Salvador has now reduced the tariff for yellow maize to 1 per cent, equivalent to the current Costa Rican rate, and the reason for the measure no longer exists.[52] In the last five years, no other anti-dumping or countervailing measures have been applied by El Salvador.

(xviii) Safeguard actions

80. New legislation on safeguards was approved at the Central American level in June 1996 - the Central American Regulation on Safeguard Measures (*Reglamento Centroamericano sobre Medidas de Salvaguardia*).[53] The goal of this Regulation is to establish the procedures to apply Article XIX

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[51]Articles 25 of the Agreement on the Central American Tariff and Customs Régime (29 January 1993) regulated Unfair Trade Practices and Safeguard Clauses within the Central American countries. The Article has been superseded by the Central American Regulations on Unfair Trade Practices (*Reglamento Centroamericano sobre Prácticas Desleales de Comercio*) of 5 December 1995.

[52]Resolution No. 101, Ministry of Economics, Diario Oficial No. 53, 15 March 1996.

[53]Executive Agreement No. 213, Diario Oficial No. 110, 14 June 1996.

of GATT 1994, the WTO Agreement, the Protocol of Guatemala and the Central American Agreement on the Tariff and Customs Régime.

81. According to the legislation, before safeguard measures can be taken it has to be established that imports from a third country have increased to such a level (either in absolute terms or relative to the national production) and take place under conditions that cause or threaten to cause serious injury to a sector of the economy that produces similar goods or is a direct competitor. A causal relationship has to be demonstrated between the increase in imports and the injury for a safeguard measure to be adopted.

82. Provisional safeguard measures can be adopted, consisting of an increase in tariff, guaranteed by a deposit which is returned if injury is not established. This temporary measure is not to be applied for more than 200 days. Safeguard measures may be applied to goods of all origin. However, safeguard measures would be applied to a developing country in conformity of the requirements of the WTO Agreement.

83. Before prorogating or taking a definitive safeguard measure, a thirty-day period is allowed for consultations with interested WTO Members. Safeguard measures should be considered exceptional and temporary, since they would be in place only while they are necessary to prevent injury or to repair serious injury and allow for readjustment. Permanent safeguard measures should not exceed a maximum of four years however they may be prorogated according to the WTO Agreement.

84. The adoption of all safeguard measures must be notified to the Executive Council of Economic Integration (*Consejo Ejecutivo de Integración Económica*) and the WTO.

85. Special Safeguards Provisions of the Uruguay Round Agreement on Agriculture, allowing for the imposition of an additional duty above the bound tariff level at a determined trigger volume or price level, cover 84 tariff lines.

(xix) <u>Measures implemented in exporting countries</u>

86. El Salvador does not have agreements limiting merchandise exports by foreign trade partners.

(xx) <u>Balance-of-payments measures</u>

87. El Salvador does not maintain import restrictions for balance-of-payments purposes.

(xxi) <u>Import privileges extended to free zones</u>

88. Goods such as machinery, equipment, tools, spare parts and utensils required for the installation and functioning of companies established in the free zones and those qualified as tax-free areas (*recintos fiscales*) enter these customs areas duty-free.[54] Companies that export 100 per cent of their production can import all the aforementioned goods, in addition to the necessary inputs used in the production process, free of duties.[55]

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[54] Article 11, Decree No.461, *Ley del Régimen de Zonas Francas y Recintos Fiscales*, 15 March 1990.

[55] Article 19, Decree No. 461, *Ley del Régimen de Zonas Francas y Recintos Fiscales*, 15 March 1990.

(3) Measures Directly Affecting Exports

89. El Salvador's export policy is focused on the promotion of exports of non-traditional goods (i.e., all goods except coffee, cotton and sugar) to markets outside Central America. This policy is applied mainly through a special legal framework, constituted by the Law for the Reactivation of Exports (*Ley de Reactivación de las Exportaciones*), the Law for Free Zones and Tax-Free Areas (*Ley del Régimen de Zonas Francas y Recintos Fiscales*) and their regulations. The process for obtaining export authorizations has been simplified through the installation of a "single window" at the Centre for Export Documentation (*Centro de Trámites de Exportación*, CENTREX) in the Central Bank (Box III.1). These reforms, together with the abolition of exchange rate controls, the privatization of the banking system and the rationalization of the import régime should reduce the existing anti-export bias.

Box III.1: Centre for Export Requirements (CENTREX)

CENTREX was established in 1987 as an institution to centralize all permit requirements for imports and exports. Before its establishment the preparation of documentation took from eight to ten (or even 15) days. Initially, the Centre did not function well since it was still necessary to visit a number of other institutions. On average 25 documents had to be provided to the different institutions and the process took about 2 days.

In order to simplify formalities, CENTREX was restructured in 1989. Since then the institution, administered by the Central Reserve Bank under the jurisdiction of the Ministry of Economy, has functioned as a one-stop window where all export formalities can be carried out. CENTREX, therefore, carries out the functions of the three main institutions directly responsible for the issue of export documentation: the Ministry of Agriculture and Livestock (Direction of Plant and Animal Health and the Centre for the Development of Fisheries), the Ministry of Economy (Direction of Investment and Trade), and the Central Bank. Other institutions, such as Customs and the Ministry of Finance, collaborate closely with CENTREX.

In December 1995, Centrex established the Electronic System for Exports (*Sistema Electrónico de Exportaciones*, SIEX) to speed-up export formalities. This service allows enterprises to obtain automatic export permits (*póliza de exportación*) on-line seven days a week. If there is a need for a sanitary certificate that has to be signed, this would be prepared the same day, or the first working day following the request. The introduction of SIEX has reduced the time for the preparation of export documentation to less than one day.

(i) Registration and documentation

90. All exporters must register by completing an Export Registration Card (*Tarjeta de Inscripción de Exportador*). Once registered, the CENTREX issues export documents to registered exporters on presentation of an export application and a commercial invoice; this procedure is the same for both traditional and non-traditional exports.[56] Export documents include the export registry and/or a customs form (for exports within the CACM); and, where necessary, certificates required by importing countries,

[56] Exports are further classified into definitive and non-definitive exports. Definitive exports are those cultivated or fabricated in El Salvador with at least a 35 per cent of value added, and non-definitive include temporary exports, re-exports, barter, donations or commercial samples, and assembly operations (*maquila*). The latter are subject to different formalities at the time of exporting.

e.g., certificates of origin or sanitary certificates. Since August 1996, exports to other CACM countries have required the Central American Single Customs Form (*Formulario Aduanero Único Centroamericano*), which is also a certificate of origin.

91. Exports of agro-chemicals, medicines, animal feed, meat, fish, coffee and machinery require sanitary certificates issued by the Ministry of Agriculture.

(ii) Export taxes, charges and levies

92. No export taxes are now levied. Export taxes on sugar and shrimp were abolished in 1989[57], and on coffee in 1992.[58]

(iii) Minimum prices

93. No minimum prices are applied on exports.

(iv) Export prohibitions and other controls

94. An export prohibition applies to liquid gas and an export control applies to diesel, since these goods are subsidized. Diesel is subsidized for public transportation and gas for domestic consumption. Non-subsidized diesel (i.e., diesel used for other than public transportation) can be exported if it is produced by the local refinery or consists of the re-export of imported diesel. However, for exports of this diesel to be possible an assessment of the domestic supply of diesel is required. Exportation of plants and animals in danger of extinction is also prohibited in accordance with the Convention on International Trade of Endangered Species (CITES), ratified by El Salvador in 1986.[59]

95. Export permits are required for certain goods; for example, exports of Portland cement, clinker, and sugar cane must be authorized by the Ministry of Economy to ensure domestic availability. In the case of sugar, the permit is also used to ensure the filling of the in-quota amount allowed preferred access to the United States market. Exports of textiles produced in the free zones subject to a quota in the United States market also require a permit issued by the Ministry of Economy.

(v) Export licensing

96. Export licences, per se, are not required. Items whose importation is constrained by other countries (such as textiles and sugar) may need an export document showing an entitlement to quota, as noted above.

(vi) Export quotas

97. El Salvador restrained the volume of coffee exports from the 1993/94, the 1994/95 and the 1995/96 crop, in order to comply with its commitments under the retention plan of the Association

[57] Legislative Decree No. 396, *Diario Oficial* No. 231, 13 December 1989.

[58] Legislative Decree No. 422, *Diario Oficial* No. 236, 22 December 1992.

[59] *Diario Oficial* No. 93, 23 May 1986.

of Coffee Producing Countries (*Asociación de Países Productores de Café,* APPC).[60] For the 1996/97 crop, El Salvador's export quota, established by the APPC, will amount to 3 million quintals. The objective of the plan is to maintain the international price of coffee through supply control. A decree is issued each year to determine the amount of the export quota and its distribution among national producers.[61] The allocation of export quotas is administer by the Salvadorian Coffee Council (*Consejo Salvadoreño de Café,* CSC).

(vii) Export cartels

98. There are no export cartels in El Salvador.

(viii) Voluntary restraints, surveillance and similar measures

99. Under the Multifibre Arrangement (MFA), which expired at the end of 1994, El Salvador had signed a bilateral export agreement with United States. The agreement provided for quotas in the United States' market for men's and boys' cotton and man-made fibre shirts, not knitted (categories 340/640). This quota was carried over into the WTO Agreement on Textiles and Clothing.[62] In 1995 and 1996, El Salvador concluded additional bilateral agreements with the United States on imports of cotton and man-made fibre underwear (categories 352/652), cotton and man-made fibre sleepwear (categories 351/651), and cotton and non-made fibre skirts (categories 342/642). These export quotas are distributed by the Ministry of the Economy according to the percentage of total production of each company.

(ix) Measures maintained by importing countries

100. Sugar exports to the United States preferential market are subject to quotas. The Ministry of Economy is responsible for assigning these quotas among the sugar mills; the precise allocation of quotas is based on the proportion of total sugar produced by each mill. The Salvadorian Commission for the Development of the Sugar Sector advises the Government.

(x) Export subsidies

101. No explicit export subsidies are granted in El Salvador. However, the duty drawback granted to exporters of goods under the Law for the Reactivation of Exports involves a reimbursement which may be more or less than the actual duty paid on the inputs associated with each specific export shipment (see below).

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[60] Decree No. 26, *Diario Oficial* No. 148, 15 August 1994.

[61] Decree No. 667, *Diario Oficial* No. 186, 6 October 1993 and Decree No. 241, *Diario Oficial* No. 15, 23 January 1995 are transitory laws stipulating the amount of coffee harvested during 1993/94 and 1994/95 that may be exported. Decree No. 414, *Diario Oficial* No.141, 29 July 1995, another transitory law, sets out the allocation of the export quota among producers.

[62] G/TMB/N/63/Add.2.

(xi) Duty and tax concessions

102. The Law for the Reactivation of Exports, modified by several decrees[63], establishes a series of tax exemptions and a drawback system for exporters of non-traditional products (i.e., other than coffee, sugar and cotton) to markets outside Central America. These exporters are eligible to receive a fixed reimbursement equivalent to 6 per cent of the f.o.b. value of exports to compensate for the payment of import duties. To obtain the reimbursement, the exporter must prove that the goods were exported and that import duties were paid.

103. Exporters of traditional products (i.e., coffee, cotton and sugar) with a minimum domestic value added of 30 per cent are also eligible for reimbursement of 6 per cent of the f.o.b. value of the exports.

104. Enterprises engaged partially or temporarily in assembly operations (*maquila*) can also benefit from the 6 per cent reimbursement based on domestic value added, despite importing under the temporary admission régime (i.e., free of duty).

105. All exports are exempt from payment of VAT.

(xii) Export finance

106. The Multisectoral Investment Bank is in charge of a special fund for investment with different finance programmes for the export sector. Specific credit lines exist for projects that export more than 50 per cent of their production, for industries and agro-industries that export non-traditional products outside Central America, for the development of private free zones, and for exports of services outside Central America.

107. Interest rates for these lines of credit are not preferential. Interest rates for loans in domestic currency are set every three months, based on the 180-day market rate. Interest on loans in U.S. dollars are set based on the rates that prevail in the international market, plus a percentage to cover financial and administrative costs and risk.

(xiii) Export insurance and guarantees

108. The Government does not finance any export insurance and guarantee schemes.

(xiv) Export promotion and marketing assistance

109. The institutions in charge of the promotion of exports and of providing marketing assistance are the Directorate of Commerce and Investment (*Dirección de Comercio e Inversión*) of the Ministry of Economy, the Corporation of Salvadorian Exporters (*Corporación de Exportadores de El Salvador*, COEXPORT), the Programme to Promote Investment and Diversification of Exports (*Programa de Promoción de Inversiones y Diversificación de Exportaciones*, PRIDEX/FUSADES), the Chamber of Commerce and Industry of El Salvador (*Cámara de Comercio e Industria de El Salvador*), and the Salvadorian Association of Industrialists (*Asociación Salvadoreña de Industriales*, ASI).

[63] Decree No. 460, *Diario Oficial* No. 88, 18 April 1990, modified by Decree No. 381, *Diario Oficial* No. 225, 7 December 1992 and Decree No. 749 (date not provided).

110. In 1995 the Ministry of Economy established the Council for Competitiveness (*Consejo de Competitividad*), which, inter alia, is to provide support to investment and export promotion projects.

(xv) Export performance requirements

111. El Salvador does not have export performance requirements.

(xvi) Free zones and tax-free areas

112. In 1974 the first free zone, San Bartolo, was built by the Government with the objective of stimulating exports; it is in the process of being privatized.[64] At present five other private free zones are in operation and another four are currently under construction (Table III.3). Of the 45 firms in operation under this régime, 37 (around 82 per cent) produce textiles and clothing; the remaining eight produce electronics, paper products, jewellery boxes, ceramic products, fur gloves, plastic products, and offer services to repair toys.

Table III.3
Free-zone activity, May 1996

	Free Zones						
	San Bartolo	**San Marcos**	**El Progreso**	**El Pedregal**	**Exporsalva**	**American Park**	**Total**
Area (m^2)	224,393	48,000	14,740	166,480	120,000	125,000	698,613
Area occupied (per cent)	35.0	73.0	100	29.3	20.3	…	40.0
Number of Enterprises	12	9	5	11	7	1	45
Textiles	8	9	4	8	7	1	37
Leather products	1	0	0	0	0	0	1
Electrical components	1	0	0	0	0	0	1
Paper bags	1	0	0	0	0	0	1
Gloves	0	0	0	1	0	0	1
Ceramic Statues	0	0	0	1	0	0	1
Jewellery boxes	1	0	0	0	0	0	1
Plastic products	0	0	1	0	0	0	1
Services to repair toys	0	0	0	1	0	0	1
Direct employment	7,875	5,169	3,525	4,240	3,179	188	24,176
Indirect employment	15,750	10.338	7,050	8,480	6,358	376	43,352

… Not available.

Source: *Departamento de zonas francas*.

113. Despite the concentration of production in relatively few goods, the authorities consider that the free zones have added dynamism to the Salvadorian economy by promoting non-traditional exports and generating employment (Table III.3). At present, free zones employ some 67,500 people and the Department of Free Zones (*Departamento de Zonas Francas*) has estimated that the free zones under construction will generate nearly 79,000 new jobs. Exports from the free zones (*maquiladoras*) have been growing strongly from 18 per cent of the total in 1991 to 39 per cent in 1995 (Table III.4).

[64] Dijkstra and Rivera Alemán, (undated).

Table III.4
El Salvador exports by type, 1991-95
(US$ million)

	Traditional	Non-traditional	Free zone (Maquila)	Total
1991	272.1	315.9	132.0	720.0
1992	217.3	380.2	198.0	795.5
1993	295.7	446.3	290.1	1,032.1
1994	321.2	496.5	431.4	1,249.1
1995[a]	370.9	479.0	537.8	1,387.6

a January-October.

Source: *Banco Central de la Reserva de El Salvador* (1995).

114. The operation of free zones and tax-free areas is governed by Decree No. 461 of 1990 and its Regulation.[65] In addition, other domestic laws such as social security requirements and those of the labour code operate in the free-zone and tax-free areas, as in the Salvadorian customs territory. National and foreign companies can benefit from the incentives provided under the free-zone régime if 100 per cent of their production of non-traditional goods and/or services is exported to markets outside Central America. The designation of tax-free areas covers those companies that for technical reasons cannot be established in a free zone, but which would otherwise qualify for benefits under the régime. All the companies established in a free zone or covered by a tax-free area, regardless of their location, are exempt from the duties and taxes shown in Table III.5. However, these enterprises are not eligible to obtain the benefits stipulated in the Law for the Reactivation of Exports; the two schemes are mutually exclusive.

Table III.5
Exemptions granted to free zones and tax-free areas

Tax or Other charge
Income tax[a]
Value-Added Tax (VAT)
Import duties for machinery, equipment, tools and other necessary inputs
Import duties for packaging material and similar goods
Import duties for fuel and lubricants[a], if not available in the country.
Municipal taxes

a This benefit is for a renewable period of ten years, counted from the first day of production.

Source: Law on Free Zones and Tax-Free Areas, Decree No. 461.

[65] Law on the Free Zone and Tax-Free Area Régime, Decree No. 461, *Diario Oficial* No. 88, 18 April 1990. Regulation for the Law on Free Zones and Tax-Free Areas, Decree No. 56, *Diario Oficial* No. 241, 16 October 1990.

115. The privileges offered to free zones and tax-free areas are not available to travel agencies, airlines companies, air, land or maritime transportation companies, or to any company that provides services that are governed by the Salvadorian banking and financial laws. Other activities that cannot be developed in a free zone include the exploitation of petroleum, natural gas, and minerals; fisheries; hotels; processing of explosives or radioactive materials; production of materials that cause pollution; the breeding, cultivation, processing and sale of endangered or prohibited plants and species; and services not linked to foreign trade.

116. Enterprises under either of these two régimes can sub-contract services in El Salvador. Goods can also be transferred from El Salvador to a free zone or tax-free area for improvement, transformation, or repair. However, the enterprises located in the free zone or tax-free area have to pay the import duties on the goods acquired in this way.

117. An "export" from El Salvador to one of its free zones or tax-free areas is considered an export outside Central America, with the exception of the sub-contracting of services. The incentives provided under the Law for the Reactivation of Exports are available to Salvadorian exporters to the free zones and/or tax-free areas.

118. Fifteen per cent of the free-zone production can be exported to El Salvador and Central America, with the exception of textiles, paying all duties and taxes.

(4) Measures Affecting Production and Trade

119. As part of the reform programme started in 1989, El Salvador has adopted a series of domestic policies to allow greater play for market forces within the domestic economy, while the State provides the regulatory framework. The major steps taken in this respect have been the elimination of most price controls (although prices of some oil products remain controlled), the dismantling of agricultural marketing boards, so that the private sector is now in charge of marketing major crops; and the privatization of certain services, including banking and telecommunications.

120. Efforts are being made to strengthen the implementation of existing law in the area of intellectual property rights. This should assist development efforts, as the protection of intellectual property rights is often a pre-condition for technological innovation and technology transfer.

121. Consideration should be given to the introduction of an effective competition policy (anti-trust) framework, which is lacking except for the regulatory and supervisory frameworks for certain service industries. The existence of certain anti-competitive practices could be a deterrent to broader-based private sector development and to efforts to attract foreign capital.

(i) Adjustment assistance

122. According to the authorities, there are no specific policies or measures intended to support the restructuring of the different sectors or industries that have been negatively affected by the structural adjustment programme started in 1989. There are, however, more general programmes of technical assistance and financial support for all industries. The programmes are administered by the private sector Salvadorian Association of Industrialists (*Asociación Salvadoreña de Industriales*, ASI) and the Multisectorial Investment Bank (*Banco Multisectorial de Inversiones*, BMI).

123. There are no specific programmes to assist labour displaced by structural change. Nevertheless, the Ministry of Education and the Managerial Foundation for Educational Development (*Fundación Empresarial para el Desarrollo Educativo*, FEPADE) design and offer technical courses for the population as a whole.

(ii) Assistance for research and development

124. There is no assistance for research and development in El Salvador.

(iii) Production subsidies and tax concessions

125. In 1989, the extensive legislation that provided for duty and tax concessions to a variety of productive activities was abolished.[66] The authorities considered that the elimination of these concessions was necessary to create a more neutral incentive system across sectors and to increase fiscal revenues.

(iv) Competition rules

126. The Constitution in Article 110 prohibits monopolistic practices, but there is no complementary legislation to promote free competition or regulate competition conditions in the Salvadorian market. According to the World Bank, there is a need for a comprehensive anti-trust law since the weakness of competition within the Salvadorian market seems to be a serious problem.[67]

127. In addition, some policies have contributed to promoting anti-competitive behaviour. For instance, the import licensing requirement for jute sacks and the additional tax levied on synthetic sacks have contributed to the creation of a duopoly in this market. In the services sector, several areas are affected by uncompetitive behaviour. Even though the State telecommunication monopoly is being dismantled, the company is to be sold in the first instance to only two companies. The generation of electricity is still mainly in the hands of the public sector. In the financial sector the limitations on foreign ownership for banks and finance companies, which forces foreign banks to become minority partners, serves as a deterrent to foreign competition in the sector; in fact, there are no foreign banks in El Salvador.

(v) Pricing and marketing arrangements

128. In 1989, 240 price controls on consumer goods were removed and the national monopolies for the marketing of coffee, sugar, and cotton were abolished.[68] However, the Ministry of Economy is still empowered, in case of national emergency, to fix and modify the minimum and maximum prices of intermediate and final staple goods.[69]

129. In practice, the only goods currently subject to price controls are petroleum products. An automatic mechanism has been in operation since 1995 to determine the maximum price that importers

[66]Decree No. 385, Diario Oficial No. 227, 1 November 1989.

[67]The World Bank (1995).

[68]Business America, 25 March 1991, "Market Reforms in El Salvador Mean New Opportunities for US Business".

[69]Article 5, Decree No. 666, *Ley de Protección al Consumidor*, 14 March 1996.

and refineries are allowed to charge distributors of petroleum products.[70] The Ministry of Economy determines this price and communicates it in writing periodically to importers and distributors; the retail prices of diesel and liquid gas are also set.[71]

130. During 1980-1989, marketing of the most important agricultural products was controlled by the State. However since 1989, the marketing boards for coffee, sugar, cotton, powdered milk and basic grains have been dismantled, and the private sector has been allowed to sell these products both in the domestic and international markets.

(vi) Trade-related investment measures (TRIMs)

131. El Salvador has made no notifications under Article 5.1 of the WTO Agreement on Trade-Related Investment Measures. El Salvador does not pursue policies inconsistent with the obligation of national treatment (e.g., local-content schemes, export-performance requirements, etc.) or with the general elimination of quantitative restrictions on imports and exports (i.e., El Salvador does not apply any TRIM).

(vii) Intellectual property protection

132. In 1993, a new Law to Promote and Protect Intellectual Property Rights (*Ley de Fomento y Protección a la Propiedad Intelectual*) came into force.[72] The enforcement of this law has, however, been difficult because the National Civil Police (*Policía Nacional Civil,* PNC) does not have the resources to check every suspicious establishment and is often unaware that the law is being infringed. According to the authorities, the Public Prosecutor's Office (*Fiscalía General de la República*) and National Registry Centre (*Centro Nacional de Registro*) are giving special support to the PNC in order to strengthen enforcement of the law. Moreover, those affected by violations of copyrights, patents, etc. apparently do not always make formal complaints. Nonetheless, in those instances where complaints have been made, the merchandise has been confiscated and the producers convicted. For example, in 1995 illegal users of trademarks such as Levi's, Reebok and Burger King were prosecuted.

133. At present, the major problem with copyright violations is the piracy of music and video-tapes. Piracy of these goods became especially significant during the civil war and has developed mainly at the micro-enterprise level in the informal sector. These micro-enterprises have difficulty in qualifying for the licences required to use trademarks, etc.. Thus, the strict enforcement of this law could have important social implications. Despite these implications, since the beginning of 1996, the authorities seem to be more committed to enforcing this law.[73] For instance, during the month of February several thousand music and video-tapes were confiscated, establishments closed and owners prosecuted.[74]

[70]Agreement No. 46, 27 January 1995.

[71]Agreement No. 463, *Diario Oficial* No. 161, 1 September 1995.

[72]Decree No. 604, *Diario Oficial* No.150. 16 August 1993.

[73]It appears that the United States has pushed for the compliance with copyrights by threatening to withdraw Generalized System of Preferences (GSP) preferential treatment (*La Prensa Gráfica*, 26 February 1996, p. 32-A).

[74]*La Prensa Gráfica*, 29 February 1996, p. 6-A.

134. In addition, the Authorities are enforcing the requirement of registering at the Registry of Commerce *(Registro de Comercio*), the entity in charge of supervising those persons that make use of protected material. According to Article 11 of the implementing regulations, contracts or licences with music or video companies granting the right for reproducing material must be registered at the Registry. However, no Salvadorian music or video enterprise is yet registered.[75]

135. According to the Authorities, the new law, is in compliance with the TRIPS Agreement. Article 109 of the Law to Promote and Protect Intellectual Property Rights stipulates that a patent has a duration of 20 years for all products other than medicines, while the WTO Agreement stipulates 20 years for all patents. El Salvador has until the year 2000 to make any necessary changes, but, in any event, under Salvadorian law, the TRIPS Agreement, as an international treaty, would supersede the national legislation.

136. El Salvador has also signed several international copyright conventions, for example, the Paris Convention, the Universal Copyright Convention and the Berne Convention for the Protection of Literary and Artistic Works.

[75] *El Diario de Hoy*, 23 February 1996, p. 24.