IV. TRADE POLICIES, BY SECTOR

(1) AGRICULTURE

(i) Overview

1. Between 2002 and 2008, real value added in the agricultural sector increased at an average annual rate of 5.3 per cent, as compared with 3.1 per cent for the economy as a whole. The agricultural sector's share of GDP thus increased from 11.5 per cent in 2002 to 13.1 per cent in 2008 (Table IV.1). According to a recent study, the sector's strong performance was mainly due to the following factors: rising international prices for coffee and sugar; weather conditions favourable for the production of basic grains and other crops; export opportunities resulting from the entry into force of CAFTA-DR; and the results of El Salvador's diversification programmes.[1]

Table IV.1
Agricultural sector GDP, 2002-2008

	2002	2003	2004	2005[a]	2006[a]	2007[a]	2008[a]
Agriculture, hunting, forestry and fishing (US$ million)[b]	904.4	912.5	938.1	984.4	1,058.4	1,149.3	1,233.1
As a percentage of total agricultural GDP:							
Green coffee (café oro)	14.6	13.7	13.1	12.7	11.8	11.9	11.2
Cotton	0.1	0.1	0.0	0.1	0.1	0.0	0.0
Basic grains	20.2	19.8	20.0	19.2	19.9	20.4	22.6
Sugar cane	5.8	5.8	5.9	5.6	4.9	4.8	4.5
Other agricultural products	18.8	19.1	19.0	20.8	22.1	22.4	23.0
Livestock farming	18.4	18.0	18.1	17.9	18.0	17.8	17.8
Poultry farming	13.9	14.5	14.9	14.9	14.3	13.9	11.6
Forestry	5.8	5.9	5.9	5.7	5.6	5.4	5.7
Hunting and fishery products	2.5	2.7	3.0	3.0	3.4	3.4	3.4

a Preliminary data.
b 1990 constant prices.

Source: WTO Secretariat, on the basis of BCR data: http://www.bcr.gob.sv/? cat=1000&lang=es

2. The main items in terms of their contribution to value added are "other agricultural products" and basic grains, each of which accounts for about 23 per cent of agricultural GDP (Table IV.1). Other important lines are livestock farming, poultry farming, and coffee. The agricultural sector employs about 18 per cent of the economically active population and about 40 per cent of the rural economically active population.[2]

3. The nominal values of agricultural sector imports and exports both increased at a relatively rapid pace during the period under review (see Chapter I(3)). The main agricultural imports are grain, oils, and meat, while coffee and sugar are the main agricultural exports.

(ii) Support policy and indicators

4. The Ministry of Agriculture and Livestock (MAG) is responsible for implementing agricultural policy.[3] The objectives of agricultural policy during the period under review include the

[1] FUSADES (2007).
[2] Norton R. and Angel A. (2008).
[3] Article 41 of the Ministry's Rules of Procedure, Executive Decree No. 24 of 18 April 1989.

development of "a dynamic and competitive sector, supported by a highly diversified export-oriented agriculture … with a rural economy integrated into the markets for factors and goods and services that progressively wins back the domestic market".[4]

5. El Salvador's most recent notification concerning domestic support relates to the year 2002.[5] In that notification, El Salvador stated that it "did not introduce any domestic support measures in respect of agricultural products" in 2002.

6. Public expenditure on the agricultural sector totalled US$66.3 million in 2007-2008 (Table IV.2).[6] This represents an increase of 13 per cent relative to the budget for 2006-2007, and 94 per cent relative to the annual average for the period 2001-2002 to 2005-2006. About one third of the 2007-2008 budget was earmarked for the National Agricultural and Forestry Technology Centre (CENTA). "Project coordination", "natural resources and irrigation" and "agricultural health" each accounted for between 10 and 20 per cent of public expenditure in 2007-2008.

Table IV.2
Budget implemented in the agricultural sector, 2001-2008
(US$ thousand)

	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08
Administration and advisory services	3,236	3,115	3,240	3,274	3,308	3,376	3,496
Agricultural economics and agri-business	776	899	613	874	954	2,067	1,824
Agricultural health	2,561	2,364	2,207	2,394	2,176	5,765	6,791
Natural resources and irrigation	9,829	6,251	5,312	5,297	6,017	6,227	11,721
Fisheries development	2,996	2,246	1,703	950	1,646	1,458	1,807
Project coordination	9,606	8,319	8,929	9,466	7,630	17,838	13,642
Salvadoran Agricultural Processing Institute (ISTA)	3,756	2,548	3,781	3,027	2,237	3,375	4,034
National Centre for Agricultural and Forestry Technology (CENTA)	8,068	5,776	4,693	5,095	8,165	16,728	21,233
National Agricultural College (ENA)	944	1,006	1,217	1,058	1,241	1,747	1,629
National Tenant Farmers Confederation (CNC)	0	0	0	0	0	0	100
Total	41,772	35,523	31,696	31,434	33,372	58,581	66,277

Source: Norton and Angel (2008).

(iii) Policy instruments

(a) Border measures

7. The simple average of the MFN tariffs applied to agriculture (WTO definition) is 12.9 per cent, about 2.5 times higher than the average for the manufacturing sector (Chapter III(1)(iv)).

8. Within the context of its WTO commitments, El Salvador agreed to grant tariff quotas for imports of meat, milk, cheese, yellow maize, fats and oils, sugar, tobacco and tobacco products. El Salvador undertook to apply these quotas in their final form as from 2004. It bound its in-quota MFN tariffs at rates of between 20 and 50 per cent. The out-of-quota bound tariff rates vary from 25 to 164.4 per cent.

9. Since its last Review in 2003, El Salvador has regularly submitted notifications concerning the administration of its tariff quotas. El Salvador notified the opening of a quota for Cheddar-type

[4] MAG (2005).
[5] WTO document G/AG/N/SLV/19 of 21 October 2003.
[6] Norton and Angel (2008).

cheese in blocks or slabs (HS 0406.9020) during the period 2003-2007.[7] El Salvador has not opened the other tariff quotas mentioned in its Schedule of Commitments, since it "applied a tariff at a level equal to or lower than the tariff level established for these quotas in El Salvador's Schedule".

10. The tariff rates applied to frozen chicken thighs and legs of HS subheadings 0207.1493 and 0207.1494 amount to 164 per cent, as compared with bound rates of 40 per cent (in-quota) and 164.4 per cent (out-of-quota) in El Salvador's Schedule of Commitments. Since its last Review, El Salvador has not opened any tariff quotas for these products.

11. In-quota imports of Cheddar-type cheese were subject to an MFN tariff of 15 per cent between 2003 and 2006, and zero per cent in 2007. El Salvador applied a 40 per cent rate to out-of-quota MFN imports of such cheese. The utilization of the tariff rate quota for Cheddar-type cheese amounted to 77 per cent in 2003, 76 per cent in 2004, 80 per cent in 2005, 84 per cent in 2006 and 67 per cent in 2007.

12. In 2007, El Salvador renegotiated its Schedule of Commitments under Article XXVIII of the GATT 1994 with respect to certain poultry products. As a result of this renegotiation, the in-quota bound rates applied to chicken thighs and legs of HS subheadings 0207.1393 and 0207.1394 increased from 40 per cent to 164.4 per cent.[8] Moreover, the bound rate applicable to other prepared or preserved chicken meat, offal or blood of HS subheading 1602.3200 increased from 40 per cent to 164.4 per cent.[9]

13. The tariff quotas are allocated by auction.[10] The El Salvador Agricultural Commodity and Service Exchange (BOLPROES) has held auctions in connection with the tariff quotas applied to Cheddar-type cheese. Participation in these auctions was restricted to processing plants that had purchased at least 10,000 bottles of domestic liquid milk a day during the year preceding the auction.[11] The decisions of the Ministers of the Economy, Agriculture and Livestock, and Finance governing the allocation of tariff quotas during 2003 and 2004 required in-quota import volumes of Cheddar-type cheese to be allocated in a manner proportionate to purchases of domestic liquid milk during the preceding year.[12] The Secretariat has no information at its disposal concerning the method of allocation of the Cheddar-type cheese quotas for the period 2005-2008.

14. Since its last Review, El Salvador has implemented "scarcity quotas" for maize, rice, sorghum and pig meat. The in-quota volumes are subject to zero per cent tariff rates. The Secretariat has no information concerning the method of allocation of these "scarcity quotas". Within the context of El Salvador's last Review, the Salvadoran authorities noted that the scarcity quotas for rice and pig meat were allocated in proportion to purchases of products of domestic origin.[13] The scarcity quotas are provided for in marketing agreements between agricultural producers and processors (see below).

[7] WTO documents G/AG/N/SLV/16 and G/AG/N/SLV/21-28.
[8] WTO document WT/Let/595 of 5 November 2007.
[9] WTO document WT/Let/613 of 14 March 2008.
[10] Article 12 of the Regulations on the opening and administration of quotas, Executive Decree No. 46 of 29 October 1999.
[11] Decision No. 1155 of 16 December 2002 and Decision No. 1367 of 5 December 2003.
[12] Article 3 of Decision No. 1367 of the Ministers of the Economy, Agriculture and Livestock, and Finance of 5 December 2003 and Article 3 of Decision No. 1155 of the Ministers of the Economy, Agriculture and Livestock, and Finance of 16 December 2002.
[13] See, for example, El Salvador's replies to Colombia's written questions in WTO document WT/TPR/M/111/Add.1 of 25 June 2003.

15. El Salvador has reserved the right to apply additional tariffs to out-of-quota imports of products subject to tariff quotas if their import prices fall below a trigger price (price-based safeguards) or if the quantities exceed a certain threshold (volume-based safeguards), in accordance with the special safeguard provisions of the WTO Agreement on Agriculture. According to the notifications for the period 2003-2008, El Salvador has not applied these measures to any product.[14]

(b) Other measures

16. The marketing conditions for various agricultural products are subject to the provisions of marketing agreements negotiated between producers and processors. The Ministry of Agriculture acts as a facilitator in these agreements. There are marketing agreements for white maize, paddy rice and sorghum.

17. Under the marketing agreements, the producers and processors agree a guaranteed price for purchases of the domestic product and define a process for buying the domestic production at that price. The marketing agreements also provide for the establishment of scarcity quotas. The Technical Quotas Commission, composed of representatives of the Ministries of the Economy and Agriculture and Livestock and the Directorate-General of Customs, determines the volume of these quotas on the basis of the shortfall in domestic production. The proportion of domestic grain production marketed under the various marketing agreements fluctuates between 25 and 40 per cent.[15]

18. A study of the rice market by the Supervisory Authority for Competition concluded that the participation requirements in the paddy rice marketing agreement "have made the entry of new competitors more difficult [and] constitute unnecessary regulatory barriers".[16] The Supervisory Authority recommended an evaluation of the "current protection scheme of the Standing Agreement on the Marketing of Domestic Paddy Rice … in order to verify whether the objectives of the policy are actually being achieved, taking into account the costs it is generating in terms of competition and consumer welfare". Within the context of the present Review, the authorities have indicated that the Supervisory Authority's recommendations are being reviewed.

19. The Salvadoran Sugar Agro-Industry Production, Industrialization and Marketing Law authorizes the Salvadoran Sugar Agro-Industry Council (CONSAA), composed of representatives of the Ministries of the Economy and Agriculture and Livestock and the private sector, to fix the sales volumes of each domestic sugar producer, both on the domestic market and on the foreign markets that grant preferences to sugar from El Salvador.[17] CONSAA is required to fix these volumes with account for "historical production". Moreover, sugar imports are subject to authorization by the Ministry of the Economy. The Secretariat has no information regarding the criteria used by the Ministry to issue these authorizations. According to a study carried out by the Inter-American Development Bank and the Organization for Economic Cooperation and Development the production quota system for sugar "is restricting competition in prices and leading to a call for the Competition Law to be applied more vigorously to this sector".[18]

[14] WTO document G/AG/N/SLV/31 of 17 July 2009.

[15] Norton and Angel (2008); and online information from the Supervisory Authority for Competition (SC), "SC propone al Ejecutivo mejorar normative en arroz", press release, 12 May 2009. Viewed at: http://www.ssf.gob.sv/.

[16] Online information from the Supervisory Authority for Competition, "SC propone al Ejecutivo mejorar normative en arroz", press release, 12 May 2009. Viewed at: http://www.ssf.gob.sv/.

[17] Article 19 of the Salvadoran Sugar Agro-Industry Production, Industrialization and Marketing Law, Legislative Decree No. 490 of 17 August 2001.

[18] IDB and OECD (2008).

20. Formal credit for the agricultural sector totalled close to US$220 million in 2007, as compared with US$146 million in 2002.[19] About 33 per cent was intended for poultry and cattle farming, 27 per cent for coffee and 18 per cent for sugar cane. The main source of credit is the private banks. About 15 per cent of credit for the agricultural sector comes from the Agricultural Development Bank (BFA), a public credit institution that seeks "to maintain the financial facilities and related services necessary to contribute to agricultural development".[20] In January 2009, the BFA's lending rates varied between 9 and 36 per cent.[21] Slightly less than 4 per cent of the total value of financial sector lending is for the agricultural sector.

21. The Multisectoral Investment Bank (BMI), a public credit institution, administers a series of credit programmes for the agricultural sector. For example, there are programmes for non-traditional and forestry crops and for coffee. In 2008, the BMI provided US$34.7 million in financing for the agricultural sector, of which approximately 83 per cent was for livestock farming, sugar cane, coffee and poultry farming. The BMI administers a State trust fund, the Special Agricultural Development Trust Fund, which provides funds for, among other things, interest relief and a guarantee programme, and a private trust fund (Trust Fund for the Conservation of the Coffee Forest), which provides funds for financing coffee-growing debt.

22. The BMI manages a guarantee programme for loans granted to agricultural producers by the commercial banks (Agricultural Guarantee Programme or PROGARA).[22] The guarantees are for extendable periods of one year and cost 1 per cent of the sum guaranteed. The maximum amounts guaranteed vary between 30 and 70 per cent, depending on the size of the borrower. In 2008, PROGARA guaranteed US$21.3 million of the US$40.7 million in loans granted to 10,092 borrowers.

23. The BMI also operates the Special Guarantee Programme for Intensive Agriculture and Agro-Industry (PROGAIN), through which it guarantees up to half the loans intended for the establishment of centres for intensive agricultural production and the preparation and processing of agricultural products.[23] The guarantees are provided for extendable periods of one year and cost 0.75 per cent of the sum guaranteed. In 2008, PROGAIN guaranteed US$1.7 million.

24. CENTA is the principal public agricultural and forestry research institution. It supplies extension, technical assistance and training services. Its budget for 2007-2008 totalled US$21.2 million. Within the framework of the National System of Alliances for Technological Innovation, the Ministry of Agriculture and Livestock finances up to 80 per cent of the cost of investment in innovative agricultural and agro-industrial projects.

25. El Salvador has notified the WTO that it did not grant any export subsidies for agricultural products in 2002, the latest year to which its notification relates.[24]

[19] Norton and Angel (2008).
[20] Article 1 of the Agricultural Development Bank Law, Legislative Decree No. 312 of 25 March 1973.
[21] BFA online information, "Tasas de interés y comisiones vigentes". Viewed at: http://www.bfa.gob.sv/?categoria=16.
[22] BMI online information, "PROGARA". Viewed at: https://www.bmi.gob.sv/portal/page?_pageid=38,67156&_dad=portal&_schema=PORTAL.
[23] BMI online information, "PROGAIN". Viewed at: https://www.bmi.gob.sv/portal/page?_pageid=38,57354&_dad=portal&_schema=PORTAL.
[24] WTO document G/AG/N/SLV/17 of 21 October 2003.

(2) MANUFACTURING

(i) Sector outside the free-zone regime

26. During the period since El Salvador's last Review, real value added in the manufacturing sector (excluding maquila services) increased at an average annual rate similar to that for the economy as a whole. Thus, the manufacturing sector's share of GDP has remained almost constant since 2002 (Table IV.3).

27. The main manufacturing branches are milling and baking, basic and processed chemicals, and beverages (Table IV.3). The branches with the highest rates of growth between 2002 and 2008 were rubber and plastics, milling and baking, printing, and sugar, which recorded average annual rates of growth of real value added of between 4 and 5 per cent each. Although processed fish products grew at a double-digit average annual rate, in absolute terms this sector's contribution to manufacturing GDP is less than 1 per cent.

28. The nominal value of manufacturing exports and imports (excluding free-zone exports) has increased significantly since El Salvador's last Review (see Chapter I(3)). Chemical products are the manufacturing sector's main export item, while transport equipment and chemical products are the main imports.

Table IV.3
Value added in the manufacturing sector (free zones excluded), 2002-2008

	2002	2003	2004	2005	2006	2007	2008
Total:							
In millions of 1990 US$	1,610.6	1,642.4	1,667.8	1,713.9	1,779.9	1,854.6	1,899.2
As a percentage of total GDP	20.5	20.5	20.4	20.4	20.3	20.2	20.2
As a percentage of manufacturing GDP:							
Meat and meat products	2.0	2.0	2.0	2.0	2.1	2.1	2.0
Dairy products	3.5	3.5	3.5	3.5	3.7	3.7	3.7
Processed fish products	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Milling and bakery products	9.7	9.9	10.1	10.2	10.4	10.6	10.6
Sugar	7.7	8.0	8.4	8.5	8.2	8.3	8.3
Other processed food products	7.8	7.9	7.9	7.9	7.9	7.9	7.9
Beverages	10.0	9.5	9.5	9.3	9.1	9.0	9.0
Processed tobacco	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Textiles and made-up textile articles (other than clothing)	5.7	5.5	5.6	5.8	5.7	5.7	5.7
Clothing	2.1	2.1	2.1	2.1	2.1	2.0	2.0
Leather and leather products	4.2	4.2	4.2	4.2	4.1	4.2	4.2
Wood and wood products	1.4	1.4	1.4	1.4	1.4	1.4	1.3
Paper, paperboard and products thereof	3.2	3.3	3.3	3.3	3.3	3.4	3.4
Products of the printing and allied industries	6.0	6.1	6.3	6.3	6.2	6.4	6.5
Basic and processed chemicals	9.7	9.8	9.8	9.7	9.7	9.7	9.7
Refined petroleum products	5.8	5.6	5.3	5.3	5.4	5.6	5.5
Rubber and plastics products	2.7	2.8	2.8	3.0	3.0	3.0	3.0
Processed non-metallic mineral products	5.5	5.5	4.9	4.5	4.8	4.8	4.8
Basic and processed metal products	5.1	5.2	5.4	5.6	5.4	5.4	5.4
Machinery, equipment and supplies	3.6	3.5	3.5	3.5	3.5	3.1	3.1
Transport equipment and miscellaneous manufactures	4.1	4.2	4.1	4.0	4.0	4.0	3.8

Source: WTO Secretariat, based on BCR data. Viewed at: http://www.bcr.gob.sv/?cat=6&name=Estadísticas&lang=es

29. The objectives of industrial policy for the period under review are to improve competitiveness, to promote economic diversification and to eliminate shortcomings in coordination and information.

30. The average MFN tariff rate applied to manufactures (WTO definition) fell from 6.7 per cent in 2002 to 5.2 per cent at the beginning of 2009. The manufacturing activities that benefit from above-average tariff protection levels are processed food, beverages, and tobacco, subject to an average MFN tariff rate of 15.7 per cent, textiles and clothing (average MFN tariff rate of 10 per cent), wood and wood products (9.6 per cent) and "other manufactures" (9.2 per cent). Moreover, the manufacturing sector receives support under various incentive schemes (Chapter III(2)(iv) and (3)(iii)).

(ii) Free zones

31. The free-zone regime provides assistance for eligible enterprises through tax concessions (Chapter III(2)(iv)).

32. At the end of 2008, the latest year for which information is available, there were 270 enterprises (62 foreign enterprises) benefiting from the Law on Free Zones and Inward Processing Warehouses, as compared with 246 in 2002 (Table IV.4). Whether directly or indirectly, the free zones employ 9.1 per cent of the national labour force.

33. Although still of great importance, the contribution of the free zones to the economy has declined since El Salvador's last Review. The value added in the free zones decreased at an average annual rate of 0.6 per cent between 2002 and 2008. Consequently, the free zones' share of GDP fell from 3.1 per cent to 2.5 per cent during the same period (Table IV.4). Exports from the free zones did not perform particularly well, as they increased at an average annual rate of only 1.6 per cent between 2002 and 2008, as compared with 12 per cent for the rest of manufacturing exports.

Table IV.4
Main free-zone indicators, 2002-2008

	2002	2003	2004	2005	2006	2007	2008
Number of enterprises	246	265	294	304	302	314	270
Number of employees	84,000	88,600	85,626	80,963	80,000	82,367	n.a.
Value added:							
In millions of 1990 US$	246.3	256.1	248.9	231.5	226.8	226.8	238.3
As a percentage of GDP	3.1	3.2	3.0	2.7	2.6	2.5	2.5
Imports							
In US$ million	1,282.5	1,379.3	1,458.2	1,204.8	1,143.0	1,236.5	1,281.6
As a percentage of total merchandise imports	24.7	24.0	23.0	18.0	14.9	14.2	13.1
Exports:							
In US$ million	1,757.6	1,873.0	1,923.2	1,821.3	1,775.4	1,803.8	1,928.1
As a percentage of total merchandise imports	58.7	59.9	58.2	53.3	47.9	45.3	42.4
Net exports	475.1	493.7	465.0	616.5	632.4	567.3	646.5

n.a. Not available.

Source: WTO Secretariat, on the basis of data provided by the authorities.

34. Free-zone export performance, particularly between 2004 and 2006, largely reflects the increased international competition that resulted from the elimination of quantitative import restrictions under the Agreement on Textiles and Clothing.[25] However, free-zone exports have recovered in recent years: between 2006 and 2008 they increased by about 9 per cent, amounting to almost US$1.93 billion, their highest level since El Salvador's last Review.

[25] IMF (2008), El Salvador: *2007 Article IV Consultation*, IMF Country Report No. 08/101, March, Washington, D.C.

35. A study published in 2005 notes that the free-zone sector is "that which maintains the least economic interrelations as a source of demand" among the six most important branches of the manufacturing sector (milling and baking, basic and processed chemicals, beverages, sugar, and other processed food products).[26] The same study points out that, in El Salvador, "in-bond processing (maquila) has become concentrated in the made-up textiles sector, which, as this is a light industry with not much technological content, reduces the opportunities for transfer and improvements to the rest of the economy". Within the context of this Review, the authorities have pointed out that the made-up textiles industry has made considerable progress towards greater value added production through the "full package" concept.

(3) ENERGY

(i) Electricity

36. The electricity sector accounts for 0.3 per cent of GDP. At the end of 2008, El Salvador's electrical power system had 1,439.4 MW of installed capacity.[27] About half of the installed capacity corresponds to thermal power plants, one third to hydroelectric power plants, and the rest to geothermal installations. In 2008, the maximum demand on the wholesale power system was 924 MW; net electricity generation totalled 5,724.4 GWh, exports 89 GWh and imports 83 GWh. El Salvador's transmission system is interconnected with those of Guatemala and Honduras. At the end of 2009, the El Chaparral hydroelectric power station, which will have an installed capacity of 66.1 MW, was under construction.

37. In mid-2006, construction began on the transmission line of the Central American Electricity Interconnection System (SIEPAC).[28] The 1,830 km-long transmission line, with an initial 230 kW circuit, will connect the power grids of El Salvador, Costa Rica, Guatemala, Honduras, Nicaragua and Panama. The transmission line is scheduled for completion in 2009. Within the SIEPAC framework, El Salvador and the other participants have established various institutions for the operation of the regional electricity market provided for in the Framework Treaty for the Central American Electricity Market signed in 1996.

38. In 2008, the annual average price at which electricity was sold to the end user was US$0.1379 per kWh. The State subsidizes residential consumption up to 99 kWh per month. This subsidy amounts to about US$54 million per year. Consumption above 99 kWh per month was also subsidized between 2006 and 2009, at a total cost of about US$200 million. This subsidy, which had been partly financed by the State enterprise *Comisión Ejecutiva Hidroeléctrica del Río Lempa*, was abolished at the beginning of 2009.

39. The sector consists of seven distribution companies, two of which began operating in 2007. Of these seven companies, five were established with foreign capital and the other two with domestic private capital. There are 13 generating companies participating in the wholesale electricity market and several other small-scale generators. About one third of installed capacity belongs to public enterprises and the rest to private companies. The transmission system is operated by a single State-owned enterprise.

40. In September 2007, the Supervisory Authority for Competition determined that three electricity distributors had abused their dominant position to delay the entry of a new competitor

[26] Fuentes (2009).
[27] General Supervisory Authority for Electricity and Telecommunications (SIGET, 2009).
[28] IDB online information, "Construction of SIEPAC power transmission line begins in Central America", 11 July 2006. Viewed at: http://www.iadb.org/news/detail.cfm?language=SP&id=3182.

into the corresponding markets or make it more costly.[29] The share of the electricity distribution market held by the three enterprises in question amounts to 80 per cent. The Supervisory Authority imposed fines on all three enterprises and ordered them to cease their anti-competitive practices. Moreover, it recommended that SIGET should develop "regulations on … the procedures, requirements, formalities, and response and implementation times to be met by any distributor, marketer, or large-scale user requiring interconnection to the distribution and transmission networks". The authorities have pointed out that they are in the process of drawing up these regulations.

41. The objectives of energy policy include diversifying energy sources, expanding coverage of the electrical energy services, promoting a more efficient energy market and establishing clear and stable rules, and fostering electrical integration of the Central American countries.[30] The National Energy Council, which began functioning in mid-2009, is authorized to formulate energy policy.[31] Its members are the Technical Secretary of the Office of the President, the Consumer Ombudsman and the Ministers of the Economy, Finance, Public Works, and the Environment and Natural Resources. SIGET is responsible for supervising the sector and is authorized to issue regulations. The body responsible for the operation of the transmission system and the wholesale electrical energy market is the Transactions Unit, which is composed of operators and end users.

42. Since its last Review, El Salvador has made various amendments to the General Electricity Law.[32] The most recent amendment, approved in 2007, incorporated in the legislation provisions relating to: determination of the charges for distribution and connection to the distribution networks, electrical energy supply contracts, prices, requirements concerning the provision of information by operators and transparency of information concerning the wholesale market. Moreover, in recent years SIGET has issued regulations intended to improve the operation of the wholesale market.

43. To generate electrical energy from hydraulic and geothermal sources it is necessary to obtain a concession from SIGET.[33] Companies that generate electricity from other sources and transmission, distribution and marketing companies do not require a concession, but they must be enrolled in the Register of Electricity Sector Operators maintained by SIGET. The General Electricity Law does not impose any limitations with respect to the nationality of the concession-holder or the companies in the Operators Register.

44. The transmission and distribution companies must permit the interconnection of their installations and their use for electricity transport, unless this might entail "danger for the operation or safety of the system, installations or persons".[34] A company may apply to SIGET if it is unable to reach an interconnection agreement with another company. The Law allows one and the same company to engage in generation, transmission, distribution and marketing activities, provided that it maintains separate accounting systems.[35]

[29] Supervisory Authority for Competition, Penalty proceedings: final decision, SC-009-O/PA/R-2007, 11 September 2007.
[30] Government of El Salvador (2007).
[31] Article 3 of Legislative Decree No. 404 of 1 October 2007.
[32] Legislative Decree No. 843 of 25 October 1996.
[33] General Electricity Law, Article 5.
[34] *Ibid*., Article 27.
[35] *Ibid*., Article 8.

45. SIGET regulates the maximum price for electrical energy payable by the end user and the charges for: the use of the transmission and distribution networks, the operation of the transmission system and the wholesale market, and the connection of end users to the distribution network.[36]

46. The Law on Tax Incentives for the Promotion of Renewable Energies in Electricity Generation, enacted in 2007, offers a series of tax incentives to the owners of "new investments" intended for the installation of power stations for generating electricity from renewable energy sources.[37] These incentives include: exemption from the duties on imports of machinery and inputs for the construction of power stations with a capacity of up to 20 MW; the deduction of VAT paid on "works forming a necessary and integral part of the process of electricity generation, including those carried out on buildings"; and exemption from income tax for ten years in the case of power stations with a capacity of less than 10 MW or five years in the case of those with a capacity of between 10 MW and 20 MW. Three geothermal projects and one small hydroelectric power station have been approved under this Law.

47. Moreover, the costs of research, exploration and the preparation of projects for generating electricity from renewable sources with a capacity of more than 20 MW are deductible from income tax for a period of ten years (within certain limits established in the legislation). The income from the sale of "certified emission reductions" on certain carbon markets is exempt from income tax.

(ii) Other energy

48. The total value of fuel imports is US$1.88 billion, which represents 22 per cent of total imports. About one third of this amount corresponds to crude oil imports. There are no proved oil reserves in El Salvador.[38]

49. The hydrocarbons sector consists of five private importers of crude oil and refined products. El Salvador's only refinery is owned by two of these companies. There is also an enterprise set up by certain municipalities and a subsidiary of the Venezuelan State enterprise PDVSA.

50. There is no official regulation of fuel prices, except for those of liquefied petroleum gas (LPG) for domestic use. During the period 2002-2006, the average annual cost of the LPG subsidy totalled US$52.5 million. According to the IMF, there is concern with respect to the poor targeting of the subsidy and illegal exports of LPG from El Salvador.[39]

51. The Directorate of Hydrocarbons and Mining in the Ministry of the Economy is responsible for supervision of the hydrocarbons sector. According to the Ministry of the Economy, the law governing petroleum exploration and exploitation activities (Hydrocarbons Law) "dates from the early 1980s and needs to be revised to turn it into an attractive instrument capable of promoting the exploration and … subsequent exploitation of resources".[40] The Legislative Assembly approved the Natural Gas Law in mid-2008.[41] The Law regulates the storage, transport, distribution and marketing

[36] *Ibid*., Article 9.

[37] Article 1 of the Law on Tax Incentives for the Promotion of Renewable Energies in Electricity Generation, Legislative Decree No. 462 of 20 December 2007.

[38] Online information of the United States Energy Information Administration, "World Proved Reserves of Oil and Natural Gas, Most Recent Estimates", 3 March 2009. Viewed at: http://www.eia.doe.gov/emeu/international/reserves.html.

[39] IMF (2008).

[40] Government of El Salvador (2007), *Política Energética*, San Salvador, May.

[41] Legislative Decree No. 630 of 20 June 2008.

of natural gas. It does not impose any limits on the participation of private capital, including foreign capital, in any of these activities.

(4) SERVICES

(i) Multilateral and preferential commitments

52. In 2008, the services sector accounted for 61.5 per cent of GDP, employing about two thirds of the total labour force. El Salvador is a net importer of services. Exports of services totalled US$1.041 billion in 2008, while imports amounted to US$1.625 billion.

53. El Salvador's Schedule of Specific Commitments annexed to the WTO General Agreement on Trade in Services (GATS) includes specific commitments in six of the 12 categories of services covered by the Agreement: business services, communication services, environmental services, tourism services, transport services and financial services (Table AIV.1).[42] Altogether, commitments were made in 25 of the sectors included in the Services Classification List prepared by the WTO Secretariat. In general, El Salvador's commitments under the GATS tend to strengthen the policy framework in force at the time of the Uruguay Round negotiations and hence do not take fully into account the autonomous liberalization in which El Salvador has been engaged since then.

54. With regard to horizontal commitments, El Salvador's Schedule of Specific Commitments states, among other things, that a foreign company must maintain a representative permanently in El Salvador, and cites limits on the profits and payments for rights to use foreign trademarks and patents that can be remitted. Moreover, unless special authorization has been given, every employer must guarantee that the firm's personnel is at least 90 per cent Salvadoran, while the wages paid to Salvadorans must amount to not less than 85 per cent of the total wages paid. This requirement applies equally to domestic and foreign enterprises.

55. El Salvador's Schedule of Specific Commitments includes exemptions from MFN treatment for all sectors in favour of the member countries of the Central American Common Market (CACM). Moreover, in the case of financial services, El Salvador incorporated exemptions from MFN treatment in favour of Honduras and Nicaragua on the basis of the Convention on facilitating the financial integration of the countries of the Central American Isthmus.[43]

56. El Salvador participated in the GATS negotiations on basic telecommunications and financial services and accepted the Fourth and Fifth Protocols to the GATS, revising its schedule of concessions accordingly. The Fourth Protocol was signed on 15 April 1997 and ratified by Legislative Decree No. 1.031 of 29 April 1997, published in Official Journal No. 92 of 22 May 1997. The Fifth Protocol was signed on 27 February 1998 and ratified by Legislative Decree No. 613, published in Official Journal No. 343 of 26 May 1999. El Salvador submitted an initial offer within the context of the Doha Round negotiations on services but, as of October 2009, had not submitted a revised offer.

57. The General Treaty on Central American Economic Integration establishes general principles for non-discrimination, such as national treatment and most-favoured-nation treatment, in both investment and cross-border trade in services. The Central American Treaty on Investment and Trade in Services was signed in March 2002 and its amending protocol, which guarantees national treatment

[42] WTO documents GATS/SC/29 of 15 April 1994, GATS/SC/29/Suppl.1 and 2 of 11 April 1997 and 26 February 1998, respectively.

[43] WTO document GATS/EL/29 of 15 April 1994.

for the provision of services in the Central American region, in February 2007. El Salvador has ratified this Treaty and published it in Official Journal No. 87, Vol. 379, of 3 May 2008.

58. El Salvador's trade agreements govern trade in services between the contracting parties. The free trade agreements concluded with the Dominican Republic and Chile within the framework of the CACM establish the principle of MFN treatment for trade in services between the contracting parties. The CAFTA-DR provisions on services are based on a negative list for liberalization. The main horizontal exclusion in the agreement is for supply under mode 4. El Salvador has also adopted exceptions for certain specific sectors, such as telecommunications, audiovisual services, air transport, construction services and accounting services, among others. The regional agreement between Central America and Panama provides for free transit for land freight transport throughout the region via the Inter-American Highway, with the exception of cabotage, which is reserved for each country's domestic carriers.

(ii) Financial services

59. El Salvador's banking sector is characterized by a strong foreign presence. Under the Banks Law, the branches and offices of foreign financial institutions that operate in El Salvador must be accorded national treatment. At least 51 per cent of the shares of a bank or insurance company must be held by Salvadorans or Central Americans or by prime foreign financial institutions. The cross-border supply of banking or insurance services is not permitted. The Law grants preferential rights to creditors domiciled in El Salvador over the assets owned by a financial institution in El Salvador. During the review period the Banks Law and the Insurance Law were revised to amend the regulations on banking secrecy and the form and content of insurance policies.

60. Despite the strong foreign presence in the banking sector, which increased during the review period, two thirds of the shares in insurance companies are in Salvadoran hands. In addition to meeting the requirements for majority percentage ownership of an insurance company or bank under the national legislation, foreign insurance companies and banks from countries outside Central America must be classified as first-line corporations by internationally recognized risk-rating agencies and recognized as such by the Supervisory Authority for the Financial System.

(a) Structure and performance

61. The contribution of the financial services sector (banks, insurance companies and other financial institutions) to total GDP was 4.4 per cent in 2008 (3.8 at constant prices).[44]

62. On 30 September 2009, the Salvadoran banking sector consisted of 19 institutions authorized to take deposits: eight private banks, all foreign-owned; two State banks; two branches of foreign banks; five cooperative banks; and two savings and loan societies.[45] In addition to the entities authorized to take deposits, the Salvadoran financial sector includes other institutions authorized to carry out credit operations but not to take deposits. As of 30 September 2009, there were eight financial conglomerates in operation.

63. During the review period, El Salvador's three largest banks were acquired by foreign banks. In 2007, Banco Agrícola was acquired by Bancolombia, the banks Cuscatlán and Uno became part of

[44] Central Reserve Bank of El Salvador (BCR), Statistics > Summary Tables > IV.11 Quarterly Gross Domestic Product (Current Prices). Viewed at: http://www.bcr.gob.sv/?x21=29.

[45] Online information from the Supervisory Authority for the Financial System (SSF). Viewed at: http://www.ssf.gob.sv/frm_informacion/frm_informacion.htm.

Citigroup, and Banco Salvadoreño was purchased by HSBC.[46] It is estimated that some 95 per cent of total assets is now in the hands of foreign-owned banks.

64. On 30 June 2009, the total assets of the banking system amounted to US$13.0579 billion, of which US$8.465 billion corresponded to loans. Deposits amounted to US$8.811 billion. In June 2009, some 64.8 per cent of assets were concentrated in net loans, while financial investments and liquid assets accounted for 15.3 per cent and 14.7 per cent, respectively.[47]

65. In general, in June 2009, the Salvadoran banking system was characterized by good solvency and risk indicators, but relatively high indebtedness indicators. The Banks Law requires the banks always to maintain a ratio of at least 12 per cent between their regulatory capital and their total risk-weighted assets (capital adequacy ratio). In June 2009, the banking system was maintaining a capital adequacy ratio of 16.3 per cent and a net liquidity ratio of 39.5 per cent, both in excess of statutory requirements. The latter ratio is, in part, an indicator of a sluggish domestic credit market. The authorities have noted that this lack of dynamism is partly due to the fact that the banks have reduced or even eliminated the credit available to certain sectors considered to represent a higher risk.

66. With respect to indebtedness, at the end of June 2009, the average indicator stood at 12.09 per cent, as compared with the statutory limit of 7 per cent. In June 2009, the spread was only 4.76 per cent. In particular, 25.2 per cent of credit was intended for the purchase of housing, 26.1 per cent for consumption, 15.4 per cent for commerce, and 8.2 per cent for manufacturing industry. On 30 June 2009, non-performing loans amounted to US$320.5 million or 3.7 per cent of the total, a figure 48.5 per cent higher than that recorded in June 2008.

67. According to an IMF report, the Salvadoran banking system remains liquid and the banks are well capitalized; however, non-performing loans have increased and profitability has declined. The IMF also considers that though linkages between the Salvadoran banking system and global financial markets are strong, the impact of the global financial crisis has thus far been contained, since Salvadoran banks' holdings of toxic assets appear to be limited. Moreover, credit growth in recent years has remained moderate, and the crisis does not appear to have affected banks' external credit lines.[48] The IMF also considers that, thanks to their highly liquid assets, El Salvador's banks could withstand large system-wide deposit withdrawals; however, as the economy is dollarized, most reserves are backing bank deposits and the Central Bank is constrained from providing liquidity support to individual banks. The authorities have pointed out that this constraint is established in the Organic Law of the Central Bank itself.

68. The authorities have taken steps to deal with the uncertainty generated by the global financial crisis, including an increase in liquid asset requirements between July 2008 and June 2009. In September 2008, total liquid reserve requirements amounted to almost 28 per cent of deposits. Moreover, the banks had to provide the SSF with contingency plans for maintaining their liquidity levels.

69. On 30 June 2009, the insurance industry in El Salvador had 17 fully operational companies, one that had not yet begun to operate and three in process of liquidation; out of the 17 fully operational companies, five specialized in personal insurance and the rest handled all branches of insurance. As of June 2009, the SSF had authorized 1,086 independent insurance intermediaries, 40 foreign reinsurers, 16 foreign reinsurance brokers, and 40 mass marketers of insurance policies.[49]

[46] BCR (2009c).
[47] SSF (2009).
[48] IMF (2009a).
[49] SSF (2009).

In September 2008, 67.7 per cent of insurance company shares were owned by Salvadorans and the rest by foreigners.

70. In November 2007, the SSF decided to approve the adjustment of the minimum capital requirements for the different branches of insurance.[50] In June 2009, insurance market gross premiums totalled US$228.2 million, insurance company assets and liabilities amounted to US$536.5 and US$276.3 million, respectively, and the insurance system was yielding a return on equity of 10.1 per cent.[51]

(b) Legislative framework

General

71. El Salvador participated in the financial services negotiations and accepted the Fifth Protocol annexed to the GATS, incorporating it into its legislation by means of Legislative Decree No. 653 of 13 March 1999, published in Official Journal No. 97 of 26 May 1999. The commitments made by El Salvador under the GATS include granting access to foreign financial institutions through the establishment of branches or participation in the ownership of domestic banks and finance houses up to a maximum of 75 per cent of the capital, provided that they are prime institutions and subject to prudential regulation and supervision in their countries of origin.[52] In the case of foreign natural persons, the maximum percentage is 25 per cent. El Salvador has not made any commitments under the GATS with respect to insurance services.

72. The Salvadoran financial system is supervised by three different bodies: the Supervisory Authority for the Financial System (SSF); the Securities Supervisory Authority; and the Pensions Supervisory Authority. The SSF is responsible for ensuring compliance with the legal provisions and issuing the relevant rules and is authorized to apply sanctions and to intervene in financial system entities.[53] The Securities Supervisory Authority is responsible for overseeing compliance with the provisions applicable to stock market entities, while the Pensions Supervisory Authority oversees the pension system. A draft Law on the Supervision and Regulation of the Financial Sector is being debated in the Legislative Assembly; under this draft law the current three supervisory bodies would be consolidated in a single institution, which would make it possible to strengthen the supervision of the sector as a whole.

Banks

73. During the review period amendments were made to the Banks Law, the Financial Leasing Law, the Law on the Reorganization and Strengthening of Commercial Banks and Savings and Loan

[50] The new levels are: for general insurance US$1,150,300; for personal insurance US$812,900; for bonding operations US$659,500; for reinsurers and rebonders US$3,266,300; and for other branches of insurance US$1,962,800. SSF (2008).

[51] SSF (2009).

[52] WTO document GATS/SC/29/Suppl.2 of 26 February 1998.

[53] The financial sector is composed of: commercial banks; stock market entities (securities exchanges, stockbrokers, and companies specializing in the deposit and custody of securities); foreign exchange dealers; forecasting entities; public warehouses; financial intermediaries (cooperatives, federations, and savings and loan societies); public credit institutions; reciprocal guarantee system entities; and insurance and bonding companies.

Associations, and the Law on Cooperative Banks and Savings and Loan Societies.[54] One of the purposes of the amendments to the Banks Law was to introduce changes concerning banking secrecy.

74. Under the Banks Law, all banks established in El Salvador must be organized and operate as closed-end public limited companies with their capital divided into registered shares held by not less than ten shareholders. The Law imposes certain requirements and limits with respect to the shareholders of banks established in El Salvador, stipulating that at least 51 per cent of the shares must be owned by investors of the following types: Salvadoran or Central American natural persons; Salvadoran legal persons whose shareholders or majority members are Salvadoran or Central American natural persons or other Salvadoran legal persons; and foreign banks and other financial institutions which are subject in their country of origin to prudential regulation and supervision in accordance with international practice and are as prime names by internationally recognized risk-rating agencies. For this purpose, the SSF maintains a register of prime foreign banks and financial institutions.[55]

75. The minimum capital required to establish a bank in El Salvador, whether domestic or foreign, is US$16 million. For a natural or a legal person to own shares in a bank that represent more than 1 per cent of its capital the explicit authorization of the SSF is required.

76. Foreign banks may operate through branches, provided the authorization of the SSF has first been obtained. They may also open representative offices, which are permitted to place funds in the country in the form of loans or investments, but not to take deposits. The branches of foreign banks in El Salvador may engage in the same operations as banks established in the country, including opening subsidiaries in which the bank holds at least 51 per cent of the capital. In general, the Banks Law stipulates that the branches and offices of foreign financial institutions operating in El Salvador shall be accorded national treatment, with respect to both rights and privileges, the only exception being that, under the Law, depositors and creditors domiciled in El Salvador enjoy preferential rights over the assets owned by a foreign financial institution in El Salvador.

77. To operate in El Salvador a foreign bank must meet the following requirements: (a) comply with the laws of the country of origin, be subject to prudential regulation and supervision in accordance with international practice and be classified as a prime name by an internationally recognized risk-rating agency; (b) be able to show that the branch has been authorized in accordance with the articles of the parent company and the rules of the regulator; (c) maintain in the national territory at least one representative with broad legal powers; (d) maintain in the country the required amount of capital and reserves; (e) show that it has been operating for at least five years and that the results are considered satisfactory by the supervisory body of origin and the rating agencies; and (f) accept the jurisdiction of the laws, courts and authorities of the Republic of El Salvador. The Law

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[54] The main legislation governing the banking sector consists of: the Banks Law (Decree No. 697 of 2 September 1999) and amendments thereto (Decree Laws No. 492 of 27 October 2004 and No. 636 of 17 March 2005); the Financial Leasing Law (Decree No. 884 of 20 June 2002) and amendments thereto; the Law on the Reorganization and Strengthening of Commercial Banks and Savings and Loan Associations (Decree No. 659 of 30 November 1990) and amendments thereto; the Organic Law of the Pensions Supervisory Authority (Decree No. 926 of 19 December 1996); the Law on Cooperative Banks and Savings and Loan Societies (Decree No. 849 of 23 February 2000); the Law Establishing the Multisectoral Investment Bank (Decree No. 856 of 21 April 1994); and the Organic Law of the Supervisory Authority for the Financial System (Decree No. 628 of 22 November 1990).

[55] In July 2008, the register contained the names of 68 banks from Austria, Brazil, Canada, Colombia, Finland, France, Germany, Honduras, Italy, Japan, Mexico, Netherlands, Panama, Spain, Switzerland, United Kingdom and United States. Online information available at: http://www.ssf.gob.sv/frm_registros/frm_registros.htm.

does not contain any provisions concerning the cross-border supply of banking services or Salvadorans contracting for these services abroad.

78. The Banks Law (Title V) also includes provisions relating to financial conglomerates and establishes mechanisms for their consolidated supervision by the SSF. A financial conglomerate is defined as a group of companies characterized by the fact that more than 50 per cent of their shareholders' capital is owned by a holding company. This company must also be a member of the conglomerate and may have been established for the sole purpose of acting as a holding company, or may be a bank established in the country (holding bank) and subject to supervision by the SSF. If the holding company is a bank, it may not invest in the share capital of institutions that administer pension funds or insurance companies; if it is not a bank, the holding company may hold minority stakes, up to 25 per cent of its base capital, in the shares of domestic pension fund-administering institutions. Apart from the holding company, a conglomerate may include a bank and one or more financial sector entities.

79. A bank established abroad may form part of a conglomerate, provided that the holding company owns at least 45 per cent of its shares and, in addition, various prudential requirements are met, namely: (a) the foreign bank is subject to consolidated supervision by the SSF and, in the country in which it is domiciled, is supervised in accordance with international practice; (b) the SSF has signed cooperation agreements with the supervisory body of the host country to facilitate consolidated supervision; (c) the foreign bank is included for purposes of determining the solvency of the conglomerate; and (d) it is shown that the holding company controls the bank, by securing a majority of the votes at its general meetings of shareholders, through joint action agreements and through participation in the administration of the foreign bank.

80. Salvadoran banks more than 50 per cent of whose shares are owned by a foreign financial entity (banks or financial conglomerates) may only share names, assets and infrastructure or offer joint services to the public with other companies of the same conglomerate if the aforementioned entity establishes a subsidiary holding company in El Salvador. Foreign banks and financial institutions that establish agencies or branches in El Salvador and whose parent companies or companies of the financial conglomerate to which they belong own more than 50 per cent of other financial sector companies in El Salvador may operate in the same way as a financial conglomerate without having to establish a subsidiary holding company in the country.

81. The Deposit Guarantee Institute (IGD) guarantees the public's deposits up to a maximum of US$8,500 in the event of a bank being wound up or going into compulsory liquidation.[56] All the private banks are members of the Institute; the El Salvador Mortgage Bank is subject to the same deposit insurance regime as a private bank, but in the case of the Agricultural Development Bank the guarantee is provided by the State. In 2008, as a result of the amendment of the laws that govern them, cooperative banks and savings and loan societies became members of the IGD, which now guarantees their transactions with the public.

Insurance

82. Insurance activities are regulated by the Law on insurance companies (Decree No. 844 of 21 October 1996) and its amending legislation, in particular Decree Laws No. 893 of 21 November 1996 and No. 910 of 14 December 2005. The purpose of the 2005 amendment was to introduce changes with respect to the form and content of insurance policies.

[56] The amount of the guarantees is adjusted every two years by the Executive Board of the SSF, in accordance with the provisions of the Banks Law. The last adjustment was made on 1 January 2008.

83. In El Salvador, insurance companies must be organized and operate in the form of closed-end public limited companies of indefinite duration with their capital divided into registered shares. The Law authorizes branches of foreign insurance companies that were operating in El Salvador at the time of its enactment to continue operating, but does not permit the establishment of new branches. The Law does not require a minimum number of shareholders, but it does place limits on ownership. Thus, no natural or legal person may, either directly or through an intermediary, own shares in an insurance company that represent more than 1 per cent of the company's capital, without the prior authorization of the SSF.

84. At least 75 per cent of the shares of insurance companies must be held, individually or collectively, by the following classes of persons: Salvadoran or Central American natural or legal persons, or Central American or other foreign insurance or reinsurance companies. Foreign companies outside Central America must have prime ratings as established by the SSF on the basis of the ratings awarded by internationally recognized rating agencies. The cross-border supply of insurance services is not permitted. There are no provisions in the Law concerning insurance taken out abroad by Salvadorans. According to the authorities, the national legislation does not impose any restrictions in this respect.

85. Insurance may be sold directly only by insurance companies authorized for that purpose; intermediaries and insurance brokers may only engage in intermediation activities. To practice insurance intermediation it is necessary to obtain a permit from the SSF, in which case applicants must, among other things, provide evidence of their knowledge of insurance, educational qualifications, previous experience, and ability to meet the capital requirements. There are no requirements with respect to nationality or residence.

86. Policy terms, rates and intermediation commissions are determined freely in the insurance market in accordance with the technical principles applicable and in such a way as to cover the risks faced by the parties insured. In determining rates, it is not considered contrary to free competition to use pure risk rates calculated on the basis of common insurance market statistics. The Law prohibits agreements, practices and operations intended to prevent, restrict, distort or eliminate free competition or have the effect of introducing oligopolistic practices. There are also disciplines that regulate anti-competitive practices in accordance with the Competition Law.

(iii) Telecommunications

87. The legislative framework for the telecommunications sector was modified on several occasions during the review period in order to consolidate the liberalization undertaken in previous years. To improve competition it was recommended that interconnection regulations be issued and fixed-to-mobile network call charges regulated. The legislation does not establish requirements with respect to the origin of operators' capital and telecommunications services are mainly supplied by foreign-owned private operators. Free-to-air and subscription radio and television broadcasting services are subject to certain nationality restrictions. A specific tax is imposed on telephone calls from abroad.

(a) General characteristics

88. El Salvador participated in the Negotiations on Basic Telecommunications under the GATS.[57] During these negotiations, El Salvador significantly increased its commitments as compared with its 1994 offer, binding services provided at national and international level via public and non-public basic telecommunications networks for all modes of supply and with respect to both market access

[57] WTO document GATS/SC/29/Suppl.1 of 11 April 1997.

and national treatment. In the case of market access through commercial presence, El Salvador noted in its Schedule that it is necessary to apply to the General Supervisory Authority for Electricity and Telecommunications (SIGET) for a concession or licence. El Salvador also assumed the obligations laid down in the Reference Paper relating to the Agreement on Basic Telecommunications under the GATS.

89. El Salvador's telecommunications sector ceased to be a State monopoly in 1997. This led to the privatization of the National Telecommunications Administration (ANTEL), which was divided into two entities: the *Compañia de Telecomunicaciones de El Salvador* (CTE), dedicated mainly to fixed-line telephony services, and the company *Internacional de Telecomunicaciones*, dedicated mainly to mobile telephony services. In October 2009, El Salvador had 11 fixed-line telephony operators, five mobile telephone line operators, and 11 international long-distance operators. The market is dominated by foreign-owned operators. More than 90 per cent of the fixed telephony market is in the hands of a single operator, CTE.

90. The communications sector generated 3.9 per cent of GDP in 2008. As far as the infrastructure indicators are concerned, the sector has progressed in recent years. Thus, the number of fixed lines rose from some 650,000 in 2001, as reported in the last Review, to 1,077,000 in 2008, while the number of subscribers to the cellular mobile telephone system rose from 858,000 to 6.95 million over the same period, which is equivalent to a teledensity of more than 100 per cent. The quality indicators also continued to improve during the review period. Installation charges fell sharply between 2003 and 2008, while the rates for domestic calls remained stable in dollars at current prices, although they decreased in real terms. The rates for international long-distance calls fell on average.

(b) Institutions and legislative framework

91. The legislative framework for El Salvador's telecommunications sector was modified on several occasions during the review period.[58] In particular, the Law on Telecommunications (LT) and its Regulations were amended in order to consolidate the liberalization undertaken in previous years.

92. The Ministry of the Economy is responsible for formulating telecommunications policy, while SIGET, an autonomous entity attached to the Ministry of the Economy, is the institution responsible for applying and monitoring compliance with the sector's rules and regulations. SIGET is also responsible for administering and overseeing the radio-frequency spectrum.

93. Under the Law on Telecommunications, operators interested in providing public telephony services must obtain an operating concession from SIGET. Concessions are granted if the registration requirements are met. They are valid for 30 years without limitation as to quantity or location and more than one concession may be granted for the same geographical area. The legislation does not make access to the provision of a service or the holding of a concession for a particular service

[58] The legislative framework includes: the Law on Telecommunications (Legislative Decree No. 142 of 6 November 1997), its amendments (Legislative Decree No. 387 of 27 April 2001, Decree No. 518 of 16 December 2004, Executive Decree No. 911 of 12 January 2006, and Legislative Decree No. 211 of 19 January 2007) and its Regulations (Legislative Decree No. 64 of 15 May 1998, as amended by Executive Decree No. 94 of 29 August 2008); the Law Establishing the General Supervisory Authority for Electricity and Telecommunications (Legislative Decree No. 808 of 12 November 1996), its amendments (Legislative Decree No. 175 of 4 December 1997) and its Regulations (Executive Decree No. 56 of 13 May 1998); and the Law on the National Electricity and Telephony Investment Fund (Legislative Decree No. 354 of 29 July 1998) and its amendments (Legislative Decree No. 859 of 30 May 2002).

dependent upon the operator being Salvadoran, except in the case of concessions and licences for free-to-air broadcasting services.

94. The LT stipulates that, subject to appropriate payment, every commercial telecommunications network operator must provide access to essential resources to any operator that asks for them, without discrimination of any kind.[59] The unbundling of the fixed-line network for the interconnection of commercial telecommunications networks is considered to be an essential resource under the Law on Telecommunications. However, regulations that specify how the unbundling is to be carried out have still to be approved and, accordingly, the unbundling is not being implemented. Draft regulations that would make good this deficiency are under consideration.

95. The tariffs and conditions of provision of telecommunications services are negotiated freely between operators, except where access to essential resources is concerned, in which case the parties may ask SIGET to intervene. Maximum public telephone service tariffs are determined and approved by SIGET in accordance with the provisions of the LT. Since 2003, these tariffs have been adjusted annually by SIGET, in accordance with a formula based on the Consumer Price Index (CPI) published by the Ministry of the Economy.

96. El Salvador imposes a specific tax on telephone calls from abroad that terminate in El Salvador. The legal basis is the Law on the specific tax on telephone calls from abroad that terminate in El Salvador (Legislative Decree No. 651 of 14 July 2008).

97. The radio-frequency spectrum is owned by the State and, in accordance with the LT, is classified as for free use, official use, and regulated use. No concession is needed to exploit the free-use spectrum, whereas to exploit part of the regulated-use spectrum it is necessary to obtain a concession from SIGET. For official use a permit is required. These concessions are granted for a period of 20 years, mainly by auction. The concessions can be revoked if not used for two years.

98. The LT establishes a special regime for the telecommunications activities of operators providing free-to-air or subscription radio and television broadcasting services. These services require concessions, which are granted for a period of 20 years and are subject to certain restrictions: only natural persons Salvadoran by birth or Salvadoran legal persons (entities with at least 51 per cent of the capital in Salvadoran hands) may obtain concessions for providing free-to-air broadcasting services. In addition, there are limitations on advertising: at least 90 per cent of the production and recording of advertisements for use in Salvadoran communications media must be carried out by companies established under the Salvadoran legislation.

99. The National Electricity and Telephony Investment Fund (FINET) subsidizes telephone infrastructure and the supply of telephone services (and electrical energy) in rural and low-income areas, provided that they benefit the community. FINET's resources consist of 98.5 per cent of the income generated by granting concessions for the use of the radio-frequency spectrum and all the income produced by concessions for the geothermal and hydroelectric generation of electricity. Between 2003 and 2007, FINET disbursed a total of US$4.06 million. There were no disbursements in 2008.

[59] Under the LT, essential resources are defined as including: interconnection, at all levels, for the purpose of terminating telecommunications or transferring telecommunications originating in the network of one of the parties to another network selected by the end user; signaling; the handover of automatic identification of the number of the user originating the communication; billing data; the portability of the user's telephone number; and the listing of users in the telephone directory.

100. The LT contains provisions for safeguarding against anti-competitive practices; in particular, it prohibits operators from concluding any kind of agreement for the purpose of manipulating the price of their services, as well as distribution agreements and cross subsidies. The Law does not employ the concept of dominant operator. Since 2006, the Supervisory Authority for Competition has investigated seven complaints of anti-competitive practices by telecommunications companies. In one case fines were imposed, four of the other complaints were dismissed and in two cases public policy recommendations were made. The Supervisory Authority for Competition recommended that interconnection regulations be issued to establish the principles and a specific legal framework for the regulation and supervision of all aspects of interconnection. According to the Supervisory Authority, these regulations should allow the regulator to ensure compliance with the principles of non-discrimination with regard to conditions, transparency and access to information.[60] The Supervisory Authority for Competition also recommended that the rates for fixed-to-mobile network calls be regulated.

(iv) Maritime transport and ports

101. El Salvador does not have a national merchant fleet. The law does not impose any restrictions on the provision of domestic cabotage services by foreign vessels. At the end of 2009, there was a single general merchandise port in operation in El Salvador. The construction of a second port was completed in December 2008, but it is not expected to start operating until mid-2010. The two ports are administered by a State entity.

(a) General characteristics

102. El Salvador does not have a national merchant fleet or companies that provide maritime transport services under a foreign flag.

103. El Salvador's port system comprises two general commercial ports: the port of Acajutla and the port of La Unión, the construction of which was completed in December 2008. Both ports are managed by the Executive Autonomous Ports Commission (CEPA).[61] Up to the end of 2009, almost all maritime cargo was being handled in the port of Acajutla. The rest was being handled through a port specializing in industrial fishing activities, Puerto Corsaín in Punta Gorda, managed by the Salvadoran Investment Corporation (CORSAIN).[62] As compared with previous years, there has been a slight increase in the cargo volume handled in Salvadoran ports: in 2008, the port of Acajutla recorded 4.43 million tonnes of cargo, almost twice the figure for 1999.[63] Most of this volume consisted of imports.

104. One of the most noteworthy events of the review period was the construction of the port of La Unión. Construction began in January 2005 and ended in December 2008. However, by October 2009 the port of La Unión had not yet entered into operation and the authorities were not

[60] Online information from the Supervisory Authority for Competition. Viewed at: http://www.sc.gob.sv/Publications/Denuncias/sc022_07.htm.

[61] In 2001 and 2002, CEPA initiated a plan for giving the port of Acajutla out on concession, and identified full concession as the best possible system of private participation. The tender documents were approved by Legislative Decree No. 1.014 in October 2002. When the tender procedure was initiated, only one company, which did not fit the required profile, submitted a bid. The procedure was therefore cancelled and the port continues to be administered by CEPA.

[62] CORSAIN online information. Viewed at: http://www.corsain.gob.sv/.

[63] CEPA online information. Viewed at: http://www.cepa.gob.sv/acajutla/contenido.php?cont=96&id=112.

expecting this to take place until mid-2010. The port was built to promote the development of El Salvador's Zona Oriental and to turn the country into a regional logistics and distribution hub.

(b) Institutions and legislative framework

105. The Vice-Ministry of Transport within the Ministry of Public Works, Housing and Transport is the body responsible for formulating maritime transport policy. This work is carried out through the Maritime Transport Unit. The Maritime Port Authority (AMP), a body with legal personality and administrative, technical and financial autonomy established by the General Maritime Port Law, is responsible for regulating the maritime port transport subsector. The AMP is also responsible for regulating port charges and supervising the granting and execution of concession contracts. The Supervisory Authority for Competition has the task of preventing anti-competitive practices in the sector.

106. CEPA has exclusive responsibility for the port operations of the Salvadoran port facilities under its jurisdiction, as well as for the administration, handling and storage of exports and imports, and can function as a maritime port authority. However, CEPA may contract out certain port services; in practice, this includes, among other things, mooring, loading, transferring cargo from hold to wharf and vice-versa, and storage. Port concessions are granted by Legislative Decree.

107. El Salvador has not made any commitments under the GATS.

108. Port and maritime transport activities are mainly regulated by the General Maritime Port Law.[64] The Law has been amended for the purpose, among other things, of empowering the AMP to identify those port services that will be regulated or deregulated in accordance with criteria for the existence of competition in the market, subject to the binding opinion of the Supervisory Authority for Competition.

109. Foreign vessels may provide domestic cabotage services, which are treated by the General Maritime Port Law as another maritime activity. There are no restrictions on foreigners with respect to the operation of ports or the provision of ancillary port services, such as pilotage, towing, cargo handling and warehousing.

110. Although El Salvador does not have its own merchant fleet, there is provision for the registration of vessels. The Law establishes a Salvadoran Maritime Register (REMS), an integral part of the AMP, in which vessels and floating structures and transactions such as buying and selling, building, leasing, chartering and mortgaging must be registered. For a vessel to be registered in the REMS, its owner must be domiciled in the country or, in the case of a company, have been established in accordance with the laws of El Salvador or, if established abroad, have a branch office in El Salvador.

111. El Salvador is a member of the International Maritime Organization and a signatory to a number of the conferences it administers. In 2009, El Salvador ratified the International Convention for the Prevention of Pollution from Ships (MARPOL), while its accession to the International Convention for the Safety of Life at Sea (SOLAS) is under consideration. The authorities have noted

[64] The legislative framework for the maritime sector consists of the General Maritime Port Law, Decree No. 994, published in Official Journal No. 187 of 1 October 2002, which entered into force on 1 November 2002. This Law was subsequently amended by Legislative Decree No. 528 of 26 November 2004 and Legislative Decree No. 560 of 22 December 2004, published in Official Journal No. 240 of 23 December 2004, and by Legislative Decree No. 928 of 20 December 2005, published in Official Journal No. 22 of 1 February 2006.

that, although the SOLAS Convention is still in process of ratification in El Salvador, the Law on the Maritime Port Authority and its implementing regulations use the ISPS Code, referred to in that Convention, for certifying ports.

112. El Salvador has not concluded cargo sharing arrangements with other countries and neither is it a party to the United Nations Convention on a Code of Conduct for Liner Conferences. El Salvador is a member of the Central American Maritime Transport Commission (COCATRAM), a technical body that advises member governments on the formulation and adoption of policies, recommendations and decisions in the various areas of the transport sector. According to the authorities, El Salvador takes into consideration the best practices, principles and guidelines arising out of the security standards originating in the World Customs Organization. They have also noted that the Salvadoran ports are preparing to participate in the Container Security Initiative (CSI).

113. The rules for the regulation of tariffs are contained in the Maritime Port Law and in the Special Regulations for the Application of Port Services Tariffs, under which port operators must submit to the AMP, for its approval, a tariff schedule that includes the tariffs for port services, the methodology used to calculate them and the way in which they are to be adjusted in the future. Port services operators must implement a system of cost accounting per activity.[65] Port tariffs approved by the AMP and changes in them are registered and published in two national newspapers before they enter into force. The minimum charge for port services is US$5.34.[66]

(v) Air transport

114. National treatment is accorded to foreign investors in connection with investment in Salvadoran airlines and there are no limitations on market access under the commercial presence mode. El Salvador International Airport, which is administered by a public body, concentrates all international traffic.

115. El Salvador has two public airports, El Salvador International Airport and Ilopango Airport. El Salvador International Airport concentrates all international traffic, both passenger and freight. Between 2003 and 2008, passenger traffic grew at an average annual rate of 3 per cent, less than the 13.4 per cent recorded in the last Review, reaching a total of 2.06 million passengers. The trend in freight traffic has been less stable; imports increased appreciably between 2003 and 2006, but contracted in 2007, while exports declined between 2003 and 2007 and increased in 2008.

116. El Salvador International Airport is the base for operations, reservations, maintenance and administration of TACA International Airlines S.A., a company in which Salvadorans hold a majority interest. TACA maintains links with the flag carriers of other Central American countries and is the most important airline based in Central America. No other company domiciled in El Salvador offers commercial air services.

117. The Executive Autonomous Ports Commission (CEPA, see section (iv) above) is the entity responsible for the administration and maintenance of El Salvador International Airport. By law, CEPA is in charge of airport planning, construction and maintenance, but is authorized to contract these services out to private companies. A number of private companies supply other services such as

[65] The formulas for determining tariffs are specified in the Regulations and can be viewed on the AMP website at: http://www.ampelsalvador.com/images/stories/REGLAMENTO_ESPECIAL_PARA_LA_APLICACION_DE_TARIFAS_DE_SERVICES_PORTUARIOS.pdf.

[66] Details of the latest tariffs for port services in the port of Acajutla can be found on the CEPA website at: http://www.cepa.gob.sv/UserFiles/File/tarifasvigente%20Acajutlas.pdf.

aircraft ground support, airport support, cleaning and restaurant services, flight information and the maintenance of certain areas; foreign participation is permitted.

118. Air transport policy is the joint responsibility of the Vice-Ministry of Transport, under the Ministry of Public Works, Housing and Transport, and the Civil Aviation Authority (AAC). The AAC is responsible for regulating all civil aviation activities and for ensuring compliance with the national rules and regulations.[67] Thus, the AAC's functions include authorizing operators' certificates, granting operating permits, and regulating air transit and air navigation services. Moreover, it must ensure the maintenance of competition in the air transport sector.

119. In its GATS Schedule of Commitments, in this sector El Salvador bound aircraft repair and maintenance services with respect to market access and national treatment for the cross-border supply, consumption abroad and commercial presence modes. As regards commercial presence, the Schedule stipulates that it is necessary to apply to CEPA for a concession or licence to provide these services, with the requirement that the applicant be domiciled in El Salvador. In practice, under the Civil Aviation Organization Law, a permit from the AAC is required to establish aircraft repair and maintenance services.

120. The Civil Aviation Organization Law (Legislative Decree No. 582 of 19 October 2001) and amendments thereto (Legislative Decree No. 528 of 26 November 2004 and Legislative Decree No. 927 of 20 December 2005) are the main legal instrument regulating the air transport sector in El Salvador. The chief purpose of the changes introduced during the review period was to enable the AAC to regulate or deregulate air transport services in accordance with the level of competition in the market, subject to the binding opinion of the Supervisory Authority for Competition. The Law governs everything to do with public and private air transport services, ancillary services, the granting of licences, and infrastructure.

121. Salvadoran legislation does not impose any limitations on foreign investment for establishing airlines in El Salvador. Foreign investors receive national treatment in respect of investment in Salvadoran airlines and there are no limitations on market access through commercial presence. Cabotage is reserved by law for air transport companies domiciled in El Salvador.

122. The tariffs for ancillary services in the air transport sector are determined freely, with the exception of those services which, in the view of the AAC, have monopolistic characteristics and might be exposed to the exploitation of a dominant position. In this case, the tariffs are regulated by the AAC. In May 2009, there were no services in this situation. The AAC sets out the tariffs for its services, together with any adjustments, in a List of Charges published in the Official Journal.[68]

123. El Salvador has signed an open skies agreement with the United States. It has also signed bilateral agreements with Mexico, Spain and the United Kingdom. The bilateral agreements contain withholding clauses, that is to say, majority ownership and effective control requirements.

124. Salvadoran legislation does not impose any restrictions on the provision of air services in the absence of bilateral agreements and, according to the authorities, there is none in practice.

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[67] Online information from the El Salvador Civil Aviation Authority. Viewed at: http://www.aac.gob.sv/index.php?option=com_content&task=view&id=19&Itemid=67&lang=.

[68] Official Journal 382, No. 5: Modifications to List of Charges 9 January 2009, and Official Journal 379, No. 104: List of Charges 5 June 2008.

125. Licences for landing slots are granted on the reciprocity principle in accordance with the Chicago Convention. El Salvador participates in the Central American Corporation for Air Navigation Services.[69]

(vi) Professional services

126. In El Salvador there is no single law governing professional services in general. Enrolment in a professional association is not compulsory in order to exercise a profession. To practise as an attorney or a certified public accountant it is necessary to be a Salvadoran citizen, or for the country of origin of a foreign professional to offer reciprocity to Salvadorans.

(a) General characteristics

127. El Salvador made specific commitments relating to professional services in its GATS Schedule. It has signed the Protocol to the General Treaty on Central American Economic Integration (Guatemala Protocol) of 29 October 1993, under which the parties agreed to harmonize their legislation in order to allow the free exercise of university-level professions in any country in the region. However, in October 2009 this protocol had not yet had any practical consequences.

128. There is no general law governing professional services in El Salvador.

129. Enrolment in a professional association is not compulsory to exercise a profession. Qualifications awarded by Salvadoran universities, or acceptance of the recruitment of professionals graduating abroad, authorize the exercise of a profession both academically and legally.

130. Salvadoran and foreign professionals possessing a qualification or diploma from a foreign university must have it revalidated in El Salvador. The University of El Salvador and the approved private universities may authorize the recruitment of Salvadoran and foreign professionals who have graduated in other countries, subject to a resolution of the Ministry of Higher Education. The documents required for the revalidation procedure must be authenticated by the Salvadoran diplomatic or consular authorities accredited to the country of origin and by the Foreign Ministry.

(b) Legal services

131. To practice as an attorney it is first necessary to obtain the authorization of the Supreme Court of Justice of El Salvador, which will be granted only if the applicant is a Salvadoran citizen and the holder of a professional qualification in law awarded by a recognized university. Enrolment in a professional association is not compulsory. Under the terms of international agreements, foreign attorneys may provide consultancy services exclusively in relation to international law and the legislation of the jurisdiction in which the foreign attorney is qualified. Consultancy services may not include appearing before the tribunals, courts or judicial authorities.

[69] International Civil Aviation Organization (ICAO), Assembly, 36th Session, Economic Commission. Agenda Item 40: Regulation of international air transport services, *Evolution of the Liberalization of the Services of Air Transport in the State Members of the Latin American Civil Aviation Commission — LACAC*. Working Paper A36-WP/282 EC/37, 21 September 2007. Viewed at: http://www.icao.int/icao/en/assembl/a36/wp/wp282_en.pdf.

(c) Accounting services

132. To practise as an accountant a valid academic qualification is required. Certified public accountants are associated in the Salvadoran Institute of Certified Public Accountants (ISCP).[70] The profession is regulated by the Oversight Board for the Public Accountancy and Auditing Profession, a public body established by the Law Regulating the Practice of Accountancy (Legislative Decree No. 828 of 26 January 2000). The Board is responsible for proposing draft laws and regulations relating to the exercise of the accounting and auditing profession, regulating the application of international accounting and auditing standards, and authorizing applications from professionals in public accounting and auditing.

133. The Board maintains a register of certified public accountants and auditors. Holders of a degree in public accounting awarded by one of the approved universities in El Salvador, or by a foreign university, provided that it has been revalidated, may register to practise public accounting. To practise public accounting it also is necessary, in the case of natural persons, to be of Salvadoran nationality and, in the case of legal persons, to be incorporated in El Salvador under the provisions of the Commercial Code. In addition, natural and legal persons from countries in which, under international treaties, the same right is accorded to Salvadorans may exercise the profession of certified public accountant in El Salvador.[71]

(d) Architectural and engineering services

134. Only architects and engineers enrolled in the National Register of Architects, Engineers, Designers and Builders (National Register) may exercise the professions of architecture or engineering. To register it is necessary to be resident in El Salvador. There are professional associations that represent the interests of architects and engineers in El Salvador, the main one being the Salvadoran Association of Engineers and Architects (ASIA).[72]

135. Architecture and engineering programmes are granted Central American regional accreditation through the Central American Agency for the Accreditation of Architecture and Engineering Programmes (ACAAI), a regional organization formed by Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama. The ACAAI grants accreditation to programmes in architecture and related subjects and to programmes in engineering and its various specializations offered by higher education institutions operating in the individual countries or the region.[73] With this accreditation it is possible to practice in any Central American country.

[70] ISCP online information. Viewed at: http://www.cpa.org.gt/estatutos.pdf; http://www.iscpelsalvador.com/institucional.php.

[71] Online information from the Oversight Board for the Public Accountancy and Auditing Profession. Viewed at: http://www.consejodevigilancia.gob.sv/registros.php.

[72] ASIA online information. Viewed at: http://www.asiasv.org/index.php?mod=article&cat=asia.

[73] ACAAI online information. Viewed at: http://www.acaai.org.pa/estatuto 1.html.

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