

**GUATEMALA, EL SALVADOR, HONDURAS,
NICARAGUA and COSTA RICA**

Central American Agreement on fiscal incentives to industrial development (with annexes). Signed at San José on 31 July 1962

Protocol to the above-mentioned Agreement (with annexes). Signed at Managua on 23 September 1966

Authentic texts: Spanish.

Registered by the General Secretariat of the Organization of Central American States, acting on behalf of the Contracting Parties in accordance with articles 44 and 21, respectively, of the Agreement and Protocol, on 2 June 1971.

**GUATEMALA, EL SALVADOR, HONDURAS,
NICARAGUA et COSTA RICA**

Accord centraméricain relatif aux stimulants fiscaux du développement industriel (avec annexes). Signé à San José le 31 juillet 1962

Protocole à l'Accord susmentionné (avec annexes). Signé à Managua le 23 septembre 1966

Textes authentiques : espagnol.

Enregistrés par le Secrétariat de l'Organisation des États d'Amérique centrale, agissant au nom des Parties contractantes conformément aux articles 44 et 21, respectivement, de l'Accord et du Protocole, le 2 juin 1971.

[TRANSLATION — TRADUCTION]

CENTRAL AMERICAN AGREEMENT¹ ON FISCAL INCENTIVES TO INDUSTRIAL DEVELOPMENT

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

With a view to stimulating the industrial development of Central America through joint action and thus improving the living conditions and welfare of their peoples,

Considering that industrialization contributes substantially to the fulfilment of this aim and ensures a more effective use of the human and material resources of their countries,

Being convinced of the need to standardize the provisions on fiscal incentives to industrial development and to co-ordinate their application as between the member countries,

In compliance with article XIX of the General Treaty on Central American Economic Integration, signed at Managua, Nicaragua, on 13 December 1960²,

Have decided to conclude the present Agreement, and for that purpose have appointed as their respective plenipotentiaries:

His Excellency the President of the Republic of Guatemala: Mr. Jorge L. Caballeros, Minister for Economic Affairs, and Mr. Julio García Salas, Minister for the Co-ordination of Central American Integration;

His Excellency the President of the Republic of El Salvador: M. Salvador Jáuregui, Minister for Economic Affairs;

¹ Came into force on 22 March 1969, i.e. eight days after the date of deposit of the fifth instrument of ratification, in accordance with article 43. The instruments of ratification were deposited with the General Secretariat of the Organization of Central American States as follows:

<i>State</i>	<i>Date of deposit</i>	<i>State</i>	<i>Date of deposit</i>
Guatemala	14 June 1963	Nicaragua	1 February 1965
Costa Rica	23 September 1963	Honduras	14 March 1969
El Salvador	14 February 1964		

² United Nations, *Treaty Series*, vol. 455, p. 3.

His Excellency the President of the Republic of Honduras: Mr. Jorge Bueso Arias, Minister for Economic and Financial Affairs;

His Excellency the President of the Republic of Nicaragua: Mr. Juan José Lugo Marengo, Minister for Economic Affairs, and Mr. Gustavo A. Guerrero, Deputy Minister for Economic Affairs;

His Excellency the President of the Republic of Costa Rica: Mr. Raúl Hess Estrada, Minister for Economic and Financial Affairs,

who, having exchanged their respective full powers, found in good and due form, have agreed as follows:

CHAPTER I PURPOSES OF THE AGREEMENT

Article 1

The Contracting States agree, in conformity with the following provisions, to establish a uniform Central American system of fiscal incentives to industrial development that will promote the integration and balanced economic development of Central America.

CHAPTER II APPLICATION

Article 2

The system referred to in the preceding article shall apply to the establishment or expansion of manufacturing industries that contribute effectively to the economic development of Central America.

Article 3

The Contracting States shall not grant to manufacturing industries any fiscal benefits differing in nature, amount or duration from those provided for in this Agreement. This provision shall not apply to exemptions from municipal or local taxes.

With the exception of the following activities, which may be governed by national laws or regulations, the Contracting States shall not grant fiscal benefits to productive activities not coming under the provisions of article 2:

- (a) Mining;
- (b) Extraction of petroleum and natural gas;
- (c) Forestry and timber cutting;
- (d) Fishing, fish farming, whaling and allied activities;
- (e) Service industries and activities;
- (f) Agricultural activities;
- (g) Low-cost housing construction. In this case, an exemption from the payment of import duties on building materials may be granted only if Central American substitutes suitable as regards quality, quantity and price are unavailable.

The foregoing exceptions shall not include any processing of the relevant products that is classified as manufacturing; such processes shall be governed by the provisions of this Agreement.

CHAPTER III QUALIFYING ENTERPRISES

Article 4

The system of fiscal incentives provided for in this Agreement shall apply to enterprises having industrial plants which, by the use of modern and efficient manufacturing methods for the processing of raw materials and semi-finished goods, produce articles that are necessary for the development of other productive activities or for meeting the basic needs of the population, that replace articles imported on a substantial scale or that increase the volume of exports.

In evaluating the contribution of such plants to economic development, the following points shall also be borne in mind: the amount or percentage of value added by manufacturing should be substantial; they should conduce to a better utilization of national or regional raw materials and semi-finished goods; and they should, as a general rule, ensure that more use is made of the natural, human and capital resources of Central America.

CHAPTER IV
CLASSIFICATION OF ENTERPRISES

Article 5

Enterprises that fulfil the conditions set out in chapter III shall be classified in group A, B or C as follows:

Group A shall include those enterprises that:

- (a) Produce industrial raw materials or capital goods; or
- (b) Produce consumer goods, containers or semi-finished goods, on condition that at least 50 per cent of the total value of the raw materials, containers or semi-finished goods used are of Central American origin.

Group B shall include those enterprises that:

- (1) Produce consumer goods, containers or semi-finished goods;
- (2) Bring about a substantial net improvement in the balance of payments and a high value added in the industrial process; and
- (3) Use raw materials, containers and semi-finished goods which in terms of value, are wholly or mainly of non-Central American origin.

Group C shall include those enterprises that:

- (a) Do not meet the conditions for groups A and B; or
- (b) Merely assemble, pack, package, mix or dilute products; or
- (c) Form part of the industries specified in annex 1 to this Agreement.

This article shall be applied in conformity with the definitions set out in annex 2 to the Agreement. In the classification of enterprises in group A, subparagraph (a), reference shall be made to the schedule of capital goods and industrial raw materials to be prepared for this purpose by the Executive

Council of the General Treaty on Central American Economic Integration within 30 days from the date on which this Agreement comes into force.

Article 6

Subject to a favourable technical opinion from the Permanent Secretariat of the General Treaty based on studies requested from the Central American Research Institute for Industry, the relevant national administrative authority may classify in group A an enterprise meeting the requirements for group B, and using efficient industrial processes, which expends in direct labour costs a sum representing a high proportion of the total cost of production.

The general procedure prescribed by article 29 of this Agreement shall also apply to any classification order or decree that the national administrative authority may issue on the basis of the present article.

Article 7

An industrial enterprise in group A or B shall be classified as belonging to a new or existing industry.

An enterprise shall be classified as a new industry:

- (a) If it manufactures articles not produced in the country; or
- (b) If it manufactures articles that are produced in the country by primitive production methods, and if the new plant fulfils the following two conditions:
 - (i) It meets a large part of the unsatisfied demand of the domestic market; and
 - (ii) It introduces radically different technical manufacturing processes that change the structure of the existing industry and bring about increased productivity and lower costs.

In order to determine whether an enterprise meets the requirements enumerated in subparagraph (b) and may thus be classified as a new industry, the authorities responsible for the application of the Agreement in each country shall request and consider a favourable technical opinion from the Permanent Secretariat of the General Treaty.

Industries not coming under subparagraph (a) or (b) shall be classified as existing industries.

CHAPTER V

FISCAL BENEFITS

Article 8

The fiscal benefits to be granted in accordance with this Agreement are as follows:

I. Total or partial exemption from customs duties and related charges, including consular dues but not charges for specific services, levied on the importation of the articles listed below, when such articles are essential for the establishment or operation of the enterprises and no suitable Central American substitutes are available:

- (a) Machinery and equipment;
- (b) Raw materials, semi-finished goods and containers;
- (c) Fuels for exclusive use in the industrial process proper, except petrol.
No exemption in respect of this item shall be granted to an industrial enterprise for its transport operations, or for the generation of its own power when there is an adequate supply provided by public utility plants.

II. Exemption, for the enterprise and its partners, from income and profits taxes on earnings from the qualifying activities. This exemption shall not be granted if the enterprise or its partners are subject in other countries to taxes that make the exemption ineffective.

III. Exemption from taxes payable on assets and net worth by the enterprise or by its owners or shareholders in respect of the qualifying activities.

Article 9

Any enterprise classified in accordance with this Agreement shall be entitled, as long as the Agreement remains in force, to deduct from its profits subject to taxes on income or profits, the sums reinvested in such machinery or equipment as serves to increase the productivity or productive capacity of the enterprise and of the branch of industry in question in the Central Ameri-

can region. The sums reinvested in any year may be deducted only from the profits earned during the same year in the qualifying activities.

Article 10

Reimbursement by any member State of the amount of duties and charges paid on imports of raw materials, semi-finished goods and containers used in the production of goods exported to countries outside Central America shall be regarded as consistent with the terms of this Agreement.

CHAPTER VI GRANT OF BENEFITS

Article 11

The enterprises classified in group A as new industries shall receive the following benefits:

- (a) Total exemption from customs duties and related charges, including consular fees, on imports of machinery and equipment, for ten years;
- (b) Exemption from customs duties and related charges, including consular fees, on imports of raw materials, semi-finished goods and containers, as follows: 100 per cent exemption for the first five years, 60 per cent for the next three years and 40 per cent for the next two years;
- (c) Total exemption from customs duties and related charges, including consular fees, on imports of fuels for exclusive use in the industrial process, except petrol, for five years;
- (d) Total exemption from taxes on income and profits, for eight years;
- (e) Total exemption from taxes on assets and net worth, for ten years.

Article 12

The enterprises classified in group A as existing industries shall receive the following benefits:

- (a) Total exemption from customs duties and related charges, including consular fees, on imports of machinery and equipment, for six years;

- (b) Total exemption from taxes on income and profits, for two years;
- (c) Total exemption from taxes on assets and net worth, for four years.

Article 13

The enterprises classified in group B as new industries shall receive the following benefits:

- (a) Total exemption from customs duties and related charges, including consular fees, on imports of machinery and equipment, for eight years;
- (b) Exemption from customs duties and related charges, including consular fees, on imports of raw materials, semi-finished goods and containers, as follows: 100 per cent for the first three years and 50 per cent for the next two years;
- (c) Exemption from customs duties and related charges, including consular fees, on imports of fuels for exclusive use in the industrial process, except petrol, as follows: 100 per cent for the first three years and 50 per cent for the next two years;
- (d) Total exemption from taxes on income and profits, for six years;
- (e) Total exemption from taxes on assets and net worth, for six years;

Article 14

The enterprises classified in group B as existing industries shall be granted a total exemption from customs duties and related charges, including consular fees, on imports of machinery and equipment, for a period of five years.

Article 15

The enterprises classified in group C shall be granted a total exemption from customs duties and related charges, including consular fees, on imports of machinery and equipment, for a period of three years.

Article 16

Classified enterprises which produce industrial raw materials or capital goods and which during the period for which benefits are granted, use, or

reach the point where they use, Central American raw materials representing at least 50 per cent of the total value of their raw materials shall be granted the total exemption from the taxes referred to in article 11, subparagraphs (d) and (e), and article 12, subparagraphs (b) and (c), for an additional period of two years.

Article 17

Where a qualifying enterprise proposes to set up a plant in a branch of industry in respect of which other enterprises of the same country have already been granted the fiscal benefits applicable to new industries under this Agreement, it shall be entitled to the same benefits in return for complying with the same commitments and obligations, but only for the period that remains before the benefits initially granted are due to lapse.

If the unexpired period referred to in the preceding paragraph is less than the period of the benefits applicable to existing industries, the said enterprise shall, upon the termination of such unexpired period, be granted the benefits applicable to existing industries, but only for the time that remains before such benefits expire, as provided in the relevant classification order or decree.

Article 18

The period of exemption from taxes on income or profits shall be reckoned from the tax year in which the classified enterprise begins production or, if production has already begun, from the tax year in which the classification order or decree enters into force.

The first year of the period of exemption from taxes on assets and net worth shall be the year in which the classification order or decree is published.

Article 19

The period of exemption from customs duties and related charges shall, in the case of machinery and equipment, be reckoned from the date on which the first importation of any of these goods is effected.

The period of the customs exemptions for raw materials, semi-finished goods, containers and fuels shall be reckoned from the date on which the first importation of any of these goods is effected.

Between the time that a request for classification is submitted and the

classification order or decree enters into force, the Contracting States may allow imports of goods entitled to customs exemptions, on condition that the persons concerned guarantee, by means of a security or deposit, the amount of the import duties and charges for which they are liable.

Article 20

A qualifying enterprise that proposes to invest in the expansion of its industrial plant shall be granted a customs exemption on imports of machinery and equipment, and an exemption from taxes on assets and net worth, in both cases for the amounts and periods specified for the applicable classification group. The exemption from taxes on assets and net worth shall apply only to the additional investment.

CHAPTER VII CO-ORDINATION

Article 21

The States parties to this Agreement undertake to co-ordinate their efforts in applying it and to take the necessary measures to ensure that the granting of fiscal exemptions will not lead to unequal competitiveness which might hamper or distort the process of intra-Central American trade based on economic integration.

Article 22

This Agreement shall be applied at the national level by the competent administrative authority.

Article 23

In conformity with article XIX of the General Treaty on Central American Economic Integration, the Executive Council shall be the body responsible for co-ordinating the application of this Agreement at the regional level. In fulfilling this function it shall consider and resolve any difficulty or conflict between the Contracting Parties to which the application of the Agreement may give rise.

Article 24

The application of this Agreement, in so far as the qualifying and classify-

ing of industries is concerned, shall be placed on a wholly Central American basis not later than seven years after the entry into force of the Agreement.

Where the classification of an enterprise has been effected on a wholly Central American basis in conformity with this article, the Governments of the Contracting States may not apply the provisions of article 25.

Article 25

During the first seven years that this Agreement is in force, enterprises that propose to engage in industries that exist in one or more of the countries, but not in others, may be classified at the national level in the latter countries as new industries and be granted the benefits applicable to such industries and that of the three groups set out in article 5 in which it is classified.

Article 26

Exemptions in respect of imports of raw materials, semi-finished goods and containers which are granted to an enterprise in any member State under this Agreement or under the national legislation, and which affect the existing competitive situation in the Central American Common Market, may be granted, either wholly or in part, in the other countries to enterprises producing the same articles, for the period that remains before such exemptions expire, but only if the following conditions are also fulfilled:

- (a) The amount of the import duties on the raw materials, semi-finished goods and containers used represents that proportion of the total cost of production which is the determining factor in the change in the competitive situation; and
- (b) A favourable opinion is forthcoming from the Executive Council of the General Treaty to the effect that to grant the exemptions in respect of raw materials, semi-finished goods and containers to the plants in other countries will restore, or tend to restore, the competitive situation that should exist in the Common Market.

The opinion shall be given by the Council at the request of the Government or Governments concerned and shall be based on cost data relating to a given period of actual production and not on estimates contained in production plans. The opinion shall have effect in relation to the State or States

requesting it. If it is favourable, the granting of the exemptions shall be optional.

Article 27

Where a request for the development of an industrial investment project submitted in one country by any enterprise has been rejected by the national administrative authority, and the rejection has been confirmed by the Executive Council, no enterprise may become qualified or be classified in any of the other member States with respect to the same investment project.

Article 28

If a Contracting State considers that an enterprise has been classified in one of the other countries, in a group other than that to which it should belong in accordance with the present Agreement, that State may submit the case to the Executive Council within a period of three months from the date of publication of the classification order or decree. The Executive Council shall determine what classification group should apply to the enterprise and shall communicate its decision to the national administrative authority concerned. That authority shall be required to make the appropriate changes in the said order or decree.

CHAPTER VIII PROCEDURES

Article 29

Requests for exemptions under this Agreement shall be submitted to the national administrative authority and shall contain at least the following particulars:

- (a) Name, address and nationality of the applicant and, in the case of a company, the name of the manager, the type of company and, where applicable, the names of the members of the board of directors;
- (b) Amount, composition and origin of the capital, investment plans and proposed production capacity;
- (c) Location of the plant;
- (d) Description of the products;
- (e) Proposed dates on which construction of the plant is to be started and finished and production is to begin;
- (f) The raw materials, semi-finished goods, containers, machinery and equip-

ment that the enterprise proposes to import during the first five years, with or without exemption, and estimated consumption of such raw materials per unit of output;

(g) Classification requested.

Article 30

In addition to the particulars specified in the preceding article, the applicant shall submit to the national administrative authority a technical and economic study containing at least the following information:

- (a) The market conditions of the industry in question, especially as regards existing installed capacity, present imports and the effects of the additional output on the balance of payments;
- (b) Evidence of the adequacy of the investment for the type of industry and enterprise in question;
- (c) Labour requirements;
- (d) The raw materials that will be used and, if of foreign origin, their source and the possibility of replacing them with materials of Central American origin; also the value added in the industrial process;
- (e) Value, quality and type of the installations, machinery and equipment that will be used and, in general, the efficiency of the manufacturing processes that will be employed;
- (f) The uses, characteristics and estimated costs and prices of the final product;
- (g) The ability of the enterprise to operate economically after the period of the benefits has expired.

Article 31

A summary of the application, containing the name of the applicant or title of the firm, a list of the products, the type of industry and the classification requested, shall be published in the Official Gazette and in one of the newspapers with a large circulation. On the basis of such publication, an objection to the classification and to the granting of the benefits requested may be lodged by any individual or body corporate in the cases and according to the procedure laid down in the regulations for the application of this Agreement and in the national legislation.

Article 32

The national administrative authority shall evaluate the project to which the request relates. The evaluation, the request and the technical and economic study shall be considered by a national advisory commission. The commission shall submit to the national administrative authority an opinion indicating the classification it considers appropriate for the applicant enterprise.

Article 33

The classification order or decree issued by the national administrative authority shall take effect when it has been accepted in writing by the applicant and published in the Official Gazette.

Article 34

The classification order or decree shall give the following particulars:

- (a) The classification of the enterprise and the products it will manufacture;
- (b) The benefits granted, including a list of all the articles, classified according to NAUCA, benefiting from customs exemptions;
- (c) The period within which construction of the plant is to be started and finished;
- (d) The period within which production is to begin, this period not to exceed two years from the date on which the classification order or decree comes into force, although in exceptional circumstances it may be extended for not more than three years;
- (e) The other obligations of the enterprise.

Article 35

The Permanent Secretariat shall make a monthly report to the Governments on the requests which have been submitted and the classification orders and decrees which have been issued. The national administrative authorities shall provide the Permanent Secretariat with the necessary information for this purpose, including information on requests that have been rejected, and shall also provide an annual report of a general nature on the application of the Agreement.

Article 36

The fiscal benefits provided for in this Agreement may be granted only to the persons or enterprises that are to make the industrial investment and not to anyone who is acting merely as an agent.

The said benefits may be transferred to other persons or enterprises, on condition that they meet the same requirements as the initial beneficiaries. Requests for transfer shall be submitted to the national administrative authority, which shall take the appropriate action.

CHAPTER IX
SUPERVISION

Article 37

The national administrative authority shall periodically determine whether the undertakings given by the enterprises classified in accordance with this Agreement are being complied with. For this purpose, and in particular as a means of determining whether the exemptions are being properly used, the enterprises shall provide whatever information and data are requested by the national administrative authority and shall permit any inspection that may be necessary.

The information furnished by each enterprise shall be treated as confidential by the national administrative authority.

CHAPTER X
PENALTIES

Article 38

Any improper use of imported articles which have benefited from the customs exemptions provided for in this Agreement shall be sufficient ground for imposing on the enterprise granted the exemption a fine of three to ten times the total amount of the customs duties and related charges not paid on the said articles and/or for cancelling the classification order or decree, without prejudice to the other legal provisions in force in each country.

Any imported article that has been granted an exemption may be transferred or be used for another purpose, on condition that the exempted duties and charges are paid.

Subject to the authorization of the national administrative authority, the articles aforesaid may be transferred without the need to pay the exempted duties and charges if they are transferred outside Central America or to a consignee who is also entitled to import them with the benefit of a customs exemption.

Machinery or equipment that has been imported with the benefit of an exemption may be transferred or used for another purpose without restriction when more than five years have elapsed since the date of import.

Article 39

The national administrative authority shall revoke the classification order or decree if the enterprise fails to comply with the obligation to begin production within the period specified in article 34, subparagraph (d), and it shall be incumbent on the enterprise to pay the Treasury the amount of any taxes from which it has been exempted.

Article 40

If the beneficiary fails to comply with any of his other obligations under this Agreement or under the classification order or decree, the national administrative authority may cancel such order or decree.

Article 41

It shall be considered an unfair trade practice to export from one Central American country to another any product whose cost has been reduced by reason of the improper use of the fiscal benefits that have been granted or by reason of a classification order or decree that is not in accord with the terms of this Agreement. Such practices shall be subject to the procedures and penalties provided for in chapter III of the General Treaty on Central American Economic Integration.

CHAPTER XI

PREFERENCE FOR CENTRAL AMERICAN PRODUCTS

Article 42

The Governments, the independent or decentralized State agencies, the municipalities and all public organs of the Contracting Parties shall give preference, in their purchasing, to products of Central American origin, on

condition that these are equal or lower in price and similar in quality by comparison with imported products. For purposes of price comparison, the price components of a non-Central American product shall be deemed to include 50 per cent of the import duties and related charges and of other costs of inward clearance even though the purchasing body has been granted an exemption therefrom.

CHAPTER XII FINAL PROVISIONS

Article 43

This Agreement shall be submitted for ratification in each Contracting State in conformity with its respective constitutional or legislative procedures and shall enter into force eight days after the date of deposit of the fifth instrument of ratification.

Article 44

The General Secretariat of the Organization of Central American States shall act as depositary of this Agreement and shall send a certified copy thereof to the Ministry of Foreign Affairs of each of the Contracting States and to the Permanent Secretariat of the General Treaty, and shall notify them forthwith of the deposit of each instrument of ratification. Upon the entry into force of the Agreement, it shall also transmit a certified copy thereof to the Secretariat of the United Nations for registration in conformity with Article 102 of the United Nations Charter.

Article 45

The duration of the present Agreement shall be contingent upon that of the General Treaty on Central American Economic Integration.

Article 46

This Agreement shall supersede such provisions of general or special legislations as may be in conflict therewith.

Article 47

The Contracting States shall adopt uniform regulations for the application of this Agreement within a period of not more than 30 days from the date

on which the Agreement comes into force. These regulations shall be prepared by the Executive Council.

CHAPTER XIII TRANSITIONAL PROVISIONS

First transitional article

Enterprises which have been admitted to the benefits provided by national legislation on industrial development shall continue to be entitled to any fiscal benefits that may have been granted to them by such legislation, except as provided in the following paragraphs of this article. They may, in addition, be granted benefits equal to the maximum benefits extended by the national authorities to other enterprises producing the same articles in some other Central American country, but only for the time that remains before such benefits are due to terminate.

Exemptions which, under national legislation or industrial development, have been granted for the import of building materials shall become null and void 30 days after the entry into force of this Agreement. Exemptions which under national legislation have been granted for the import of machinery and equipment, raw materials, semi-finished goods, containers and fuels shall be subject to the provisions of article IX of the General Treaty on Central American Economic Integration.

Exemptions which have been granted to an enterprise under national legislation of a general or specific character for the development of manufacturing industries shall become null and void if, within one year from the date of the classification order or decree, or six months from the entry into force of this Agreement, whichever of the two periods is the longer, the said enterprise has not made use of any of the benefits extended to it.

Second transitional article

Any enterprise which, upon the entry into force of this Agreement, has been granted fiscal exemptions under national legislation may, within a period of six months, ask to be reclassified in accordance with the Agreement. If it is reclassified, it shall be granted the corresponding benefits, but the period of these benefits shall be reduced by such portion of the period of benefits under national legislation as has already expired.

Third transitional article

Any enterprise admitted to the benefits provided by national legislation and classifiable in group C under this Agreement shall, if it is not reclassified in accordance with the preceding article and if it exports its products to any Central American country, be regarded as benefiting from export subsidies. Such exports shall in consequence be subjected to the guarantee procedure and other provisions of article XI of the General Treaty, with the exception of the provisions of the fourth paragraph of that article.

Fourth transitional article

A Government may grant to any enterprise classifiable in accordance with this Agreement benefits equal to and valid for the same period as the maximum benefits which, in their own or another Central American country, have been extended by the relevant national authorities to enterprises producing the same articles. Upon the expiration of the benefits granted by the said national authorities, the enterprise shall receive the benefits provided for in this Agreement during such time as remains before the latter benefits are due to expire.

Fifth transitional article

For the purpose of applying the principle of balanced economic development as between the Central American countries, the Signatory States agree that the national administrative authority of the Republic of Honduras may grant for two years, and the national administrative authority of the Republic of Nicaragua may grant for one year, to any enterprise which according to this Agreement is a new industry classified in group A or B, an exemption from the tax on income or profits and from the tax on assets and net worth in addition to the exemptions applicable to such enterprise. These additional benefits shall be granted during the first ten years that this Agreement is in force.

Sixth transitional article

The Contracting States shall draw up and sign a protocol to this Agreement setting out the system of fiscal incentives that shall be applicable to enterprises engaged in the manufacture of pharmaceutical and medicinal preparations. Until the said protocol enters into force, such enterprises shall be classified and receive benefits as provided in this Agreement.

Seventh transitional article

The Contracting States undertake to sign, not later than one year after the entry into force of this Agreement, an additional protocol thereto establishing the system of fiscal incentives applicable to assembly plants.

The said protocol shall specify, *inter alia*:

- (a) The assembly activities which may be admitted to the benefits of the protocol;
- (b) The system of fiscal incentives that shall apply to assembly plants, and, in particular, the qualifying and classification criteria, the amount and duration of the fiscal benefits, and the particulars of regional co-ordination;
- (c) The requirements and obligations to which assembly plants shall be subject as regards the production or use of components of Central American origin;
- (d) The trade system to which the various assembled articles shall be subject within the Central American Common Market.

Until the said protocol enters into force, the assembly activities to which this article applies shall be entitled only to an exemption of three years on imports of machinery and equipment, and the said activities may be brought within the scope of any or all of the provisions of this Agreement.

Eighth transitional article

For the purpose of classifying enterprises in group A, subparagraph (a) of article 5 of this Agreement, and until the Executive Council of the General Treaty prepares the schedule of capital goods and industrial raw materials referred to in the last paragraph of that article, the Contracting Parties shall be guided solely by the definitions set out in annex 2 to this Agreement.

IN WITNESS WHEREOF, the respective plenipotentiaries have signed the present Agreement in the city of San José, capital of the Republic of Costa Rica, on 31 July 1962.

For the Government of Guatemala:

JORGE L. CABALLEROS
Minister for Economic Affairs

JULIO PRADO GARCÍA SALAS
Minister for the Co-ordination
of Central American Integration

For the Government of El Salvador:

SALVADOR JÁUREGUI
Minister for Economic Affairs

For the Government of Honduras:

JORGE BUESO ARIAS
Minister for Economic and Financial Affairs

For the Government of Nicaragua:

JUAN JOSÉ LUGO MARENCO
Minister for Economic Affairs

GUSTAVO A. GUERRERO
Deputy Minister for Economic Affairs

For the Government of Costa Rica:

RAÚL HESS ESTRADA
Minister for Economic and Financial Affairs

ANNEX 1

SCHEDULE OF PRODUCTS OF INDUSTRIES CLASSIFIABLE IN GROUP C

For the purposes of the industrial classification referred to in article 5 of this Agreement qualifying enterprises that are engaged in the manufacture of leather footwear, in the cutting and making up of clothing or in the manufacture of the products listed in this annex shall be classified in Group C.

<i>Industry or activity producing</i>	<i>Standard tariff classification (NAUCA)</i>
1. <i>Beverages</i>	
Mineral water	111-01-01
Water, aerated, flavoured or not	111-01-02

<i>Industry or activity producing</i>	<i>Standard tariff classification (NAUCA)</i>
Non-alcoholic beverages, n.e.s.	111-01-03
Dessert wine	112-01-02
Champagne	112-01-03
Other sparkling wines, n.e.s.	112-01-04
Other wines, including grape must, n.e.s.	112-01-05
Beer and other fermented cereal beverages	112-03-00
Bitters and similar preparations	112-04-01
 2. <i>Tobacco manufactures</i>	
Cigars and cheroots, manufactured with tobacco produced outside Central America	122-01-00
Cigarettes	122-02-00
Tobacco otherwise prepared	122-03-00
 3. <i>Perfumery, cosmetics and other toilet preparations (except soaps and dentifrices)</i>	
Perfumes	552-01-01
Lotions, eau de cologne and toilet water	552-01-02
Cosmetics	552-01-03
Toilet powders	552-01-04
Hair dyes, tonics, pomades, shampoos and other hair preparations	552-01-05
All other toilet preparations, n.e.s., including shaving creams, depilatories, etc.	552-01-07
Scents, fumigants and other air-perfuming preparations, including room deodorants	552-01-08

ANNEX 2

For the purposes of article 5 of the Agreement, the term:

“Industrial raw materials” means goods which have been produced by the manufacturing industry from raw materials by means of an initial processing that has changed their nature or form and incorporated a high proportion of value added, and which are intended for use in further industrial processes.

For the purposes of classification in groups A and B in so far as the use of raw materials of regional origin is concerned, account shall be taken, in addition to the raw materials appearing in the schedule drawn up by the Executive Council

in accordance with the foregoing definition, of the components of the industrial raw materials and of the primary commodities used in the production of such components.

“Capital goods” means goods used to process or transform other products, or to provide a service of a productive nature, that are not consumed in a single production cycle.

PROTOCOL ¹ TO THE CENTRAL AMERICAN AGREEMENT ON FISCAL INCENTIVES TO INDUSTRIAL DEVELOP- MENT

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

Considering that one of the aims of the Economic Integration Programme is to promote the balanced growth of the Central American countries; and

Mindful that the Economic Co-operation Committee and the Central American Economic Council have recommended the signing of an instrument to enable the Republic of Honduras to grant any industrial enterprises that may be established on its territory greater benefits than those provided for in the Central American Agreement on fiscal incentives to industrial development, signed at San José, Costa Rica, on 31 July 1962,²

Have decided to conclude this Protocol and for that purpose have appointed as their respective plenipotentiaries:

His Excellency the President of the Republic of Guatemala: Mr. Isidro Lemus Dimas, Minister for Economic Affairs;

His Excellency the President of the Republic of El Salvador: Mr. Víctor Manuel Cuéllar Ortiz, Under-Secretary for Economic Integration and International Trade;

His Excellency the President of the Republic of Honduras: Mr. Manuel Acosta Bonilla, Minister for Economic and Financial Affairs;

¹ Came into force on 22 March 1969, i.e. eight days after the date of deposit of the fifth instrument of ratification, in accordance with article 20. The instruments of ratification were deposited with the General Secretariat of the Organization of Central American States as follows:

<i>State</i>	<i>Date of deposit</i>	<i>State</i>	<i>Date of deposit</i>
Nicaragua	29 September 1967	El Salvador	14 March 1969
Costa Rica	31 May 1968	Honduras	14 March 1969
Guatemala	31 October 1968		

² See p. 236 of this volume.

His Excellency the President of the Republic of Nicaragua: Mr. Silvio Argüello Cardenal, Minister for Economic Affairs;

His Excellency the President of the Republic of Costa Rica: Mr. Manuel Jiménez de la Guardia, Minister for Industry and Trade;

who, having exchanged their respective full powers, found in good and due form, have agreed as follows:

Article 1

The Contracting States agree in this Protocol to establish a legal system of preferences, as an exception to the Central American Agreement on Fiscal Incentives to Industrial Development (hereinafter called "the Agreement"), to be applied by the Republic of Honduras over the period specified below, to the establishment or expansion of manufacturing industries in its territory, in conformity with the provisions set out below.

Article 2

Any industrial enterprises that may be established in Honduras shall receive benefits, as appropriate, under this Protocol.

Any industrial enterprises already established in Honduras which expand their activities shall receive the benefits indicated in article 8 of this Protocol. The term "expansion" means an increase in machinery and/or equipment which raises the production capacity of the plant by the amount determined in the regulations to the Agreement, adds new stages to the production process, or modernizes those which already exist; in the last two cases, the increase in the investment shall not be less than that established in the regulations.

Article 3

The enterprises classified in group A as new industries shall receive the following benefits:

- (a) Total exemption from customs duties and related charges, including consular fees, on imports of machinery and equipment, for 12 years;
- (b) Exemption from customs duties and related charges, including consular fees, on imports of raw materials, semi-finished goods and containers, as follows:
 - (i) Enterprises established during the first year after the entry into force

of this Protocol: 100 per cent for the first five years and 70 per cent for the next five years;

- (ii) Those established during the second year: 100 per cent for the first five years, 70 per cent for the next four years and 50 per cent for the remaining year;
- (iii) Those established during the third year: 100 per cent for five years, 70 per cent for the next three years and 50 per cent for the last two years;
- (iv) Those established during the fourth year: 100 per cent for the first five years, 70 per cent for the next two years and 50 per cent for the last three years;
- (v) Those established during the fifth year: 100 per cent for the first five years, 70 per cent for the following year and 50 per cent for the next four years.

The foregoing benefits appear in the table in annex 1, which forms an integral part of this Protocol;

- (c) Total exemption from customs duties and related charges, including consular fees, on imports of fuels for exclusive use in the industrial process, except petrol, for five years;
- (d) Total exemption from taxes on income and profits, for 10 years;
- (e) Total exemption from taxes on assets and net worth, for 12 years;

Article 4

The enterprises classified in group A as existing industries shall receive the following benefits:

- (a) Total exemption from customs duties and related charges, including consular fees, on imports of machinery and equipment, for eight years;
- (b) Total exemption from taxes on income and profits, for four years;

- (c) Total exemption from taxes on assets and net worth, for six years.

Article 5

The enterprises classified in group B as new industries shall receive the following benefits:

- (a) Total exemption from customs duties and related charges, including consular fees, on imports of machinery and equipment, for 10 years;
- (b) Exemption from customs duties and related charges, including consular fees, on imports of raw materials, semi-finished goods and containers, as follows:
- (i) Enterprises established during the first year after the entry into force of this Protocol: 100 per cent for the first three years and 70 per cent for the next two years;
 - (ii) Those established during the second year: 100 per cent for the first three years, 70 per cent for the next year and 50 per cent for the remaining year;
 - (iii) Those established during the third year: 100 per cent for the first three years and 50 per cent for the next two years;
 - (iv) Those established during the fourth year: 100 per cent for the first two years, 80 per cent for the next year and 50 per cent for the remaining two years;
 - (v) Enterprises established during the fifth year: 100 per cent for the first year, 80 per cent for the next two years and 50 per cent for the last two years.

The foregoing benefits appear in the table in annex 2, which forms part of this Protocol;

- (c) Exemption from customs duties and related charges, including consular fees, on imports of fuels for exclusive use in the industrial process, except petrol, as follows: 100 per cent for the first three years and 50 per cent for the next two years;

- (d) Total exemption from taxes on income and profits, for eight years;
- (e) Total exemption from taxes on assets and net worth, for eight years.

Article 6

The enterprises classified in group B as existing industries shall receive the following benefits:

- (a) Total exemption from customs duties and related charges, including consular fees, on machinery and equipment, for a period of six years;
- (b) Total exemption from taxes on income and profits, for two years;
- (c) Total exemption from taxes on assets and net worth, for three years.

Article 7

The enterprises classified in group C shall receive the following benefits:

- (a) Total exemption from customs duties and related charges, including consular fees, on imports of machinery and equipment, for a period of five years;
- (b) Total exemption from taxes on income and profits, for two years;
- (c) Total exemption from taxes on assets and net worth, for two years.

Article 8

A qualifying enterprise that proposes to invest in the expansion of its industrial plant shall be granted a customs exemption on imports of machinery and equipment, and an exemption from taxes on assets and net worth, in both cases for the amounts and period specified for the classification group applicable under this Protocol. The exemption from taxes on assets and net worth shall apply only to the additional investment.

Article 9

The Government of Honduras may, as benefits in addition to those provided in articles 3 and 5, allow enterprises classified in groups A and B

as new industries to make use of any industrial premises the State may have available, free of charge for 10 years, or to purchase them at 50 per cent of their value.

Article 10

The Government of Honduras may authorize any industrial enterprise expanding its plant, whether or not it is classified, to deduct from profits liable to taxes on income the amount of the reinvestment in industrial premises, machinery and equipment. Such authorization may also be granted to any taxpayer investing in the establishment of industrial enterprises.

Article 11

Article 11, subparagraph (b), of the Agreement shall be amended to read as follows:

“(b) Exemption from customs duties and related charges, including consular fees, on imports of raw materials, semi-finished goods and containers, as follows: 80 per cent exemption for the first five years and 50 per cent for the next five years.”

Article 12

Article 13, subparagraph (b), of the Agreement shall be amended to read as follows:

“(b) Exemption from customs duties and other related charges, including consular fees, on imports of raw materials, semi-finished goods and containers, as follows: 80 per cent for the first three years and 50 per cent for the next two years.”

Article 13

Article 26 of the Agreement shall be amended, the text reading as follows:

“Where an enterprise considers that its competitive position with regard to another enterprise which, in any Central American country, has been accorded exemptions or reductions of taxes on imports of raw materials, semi-finished goods and containers, has suffered as a result of the benefits granted to the latter enterprise, it may apply to the competent

authorities of its own country to grant it such exemptions on raw materials, semi-finished goods and containers as are required to restore its competitive position.

“The administrative authority of the country concerned shall submit the case to the Permanent Secretariat of the General Treaty on Central American Economic Integration (SIECA) for its opinion, which shall be given not later than 30 days after submission of the application. Once the opinion has been given, SIECA shall convene the Executive Council so that it may take cognizance of the matter. If the Council does not issue a ruling within 90 days, the matter shall be decided in conformity with the opinion formulated by SIECA. However, until such time as these periods have elapsed, the administrative authority may, where it deems it appropriate, grant the exemptions, requesting the deposit of a security in the amount of the customs duties in question.

“The report of SIECA shall give special emphasis to the following considerations:

- (a) The cost of the corresponding raw materials, semi-finished goods and containers;
- (b) The ratio of the cost of such products to the total cost of the finished article;
- (c) The price of the article on the market on which it is to be sold.”

The provisions of this article shall apply to situations which arise as a result of the preferential treatment granted to Honduras under this Protocol in respect of customs exemptions, raw materials, semi-finished goods and containers.

Article 14

The Government of the Signatory States undertake not to grant exemptions for imports of any article which is being satisfactorily produced in Central America.

Even if a country regards the conditions as unsatisfactory, it may not grant such exemptions until the matter has been ascertained by means of an opinion formulated by SIECA, prepared in conjunction with the Central American Institute for Research and Technology (ICAITI) and issued within a period of 30 days.

Where any of the parties concerned does not agree with the opinion, it shall so inform SIECA within a period of 15 days, and the matter shall be

submitted to the Executive Council at its next meeting with a view to the adoption of whatever measures it may deem pertinent. If the Council does not issue a ruling within 90 days, the matter shall be decided in conformity with the opinion formulated by SIECA. However, until such time as these periods have elapsed, the administrative authority may, where it deems appropriate, grant the exemptions, requesting the deposit of a security in the amount of the customs duties in question.

Article 15

The provisions of the third paragraph of article 3 of the Agreement shall not affect the powers or rights conferred upon the Republic of Honduras by this Protocol. Consequently, in no case shall action taken by the authorities of that country in conformity with this Protocol be regarded as contravening or in any way infringing the provisions of that paragraph.

Article 16

Where an enterprise established in Honduras requests reclassification under the second transitional article of the Agreement, the only benefits it may receive shall be those specified in the Agreement and not those prescribed in this Protocol.

Article 17

As a result of this Protocol, Honduran industrial enterprises shall cease to receive specially favourable treatment in conformity with the fifth transitional article of the Agreement.

Article 18

In matters not covered by this Protocol, the provisions of the Central American Agreement on Fiscal Incentives to Industrial Development shall apply.

Article 19

This Protocol shall be valid for a period of five years from the date of entry into force. This period may, however, be extended when so decided by the Central American Economic Council, further to an evaluation of the results obtained by virtue of the provisions of this Protocol.

The amendments to articles 11, 13 and 26 of the Agreement shall be part of that Agreement and shall be valid for the same period as the Agreement itself.

Article 20

This Protocol shall be submitted for ratification in each Contracting State in conformity with its respective constitutional or legislative procedures and shall enter into force eight days after the date of deposit of the fifth instrument of ratification.

Article 21

The General Secretariat of the Organization of Central American States shall act as depositary of this Protocol and shall send a certified copy thereof to the Ministry of Foreign Affairs of each of the Contracting States and to the Permanent Secretariat of the General Treaty on Central American Economic Integration, and shall notify them forthwith of the deposit of each instrument of ratification. Upon the entry into force of this Protocol, it shall also transmit a certified copy thereof to the Secretariat of the United Nations for registration in conformity with Article 102 of the United Nations Charter.

IN WITNESS WHEREOF, the respective plenipotentiaries have signed the present Protocol in the city of Managua, Republic of Nicaragua, on 23 September 1966.

For the Government of Guatemala:

ISIDRO LEMUS DIMAS
Minister for Economic Affairs

For the Government of El Salvador:

VÍCTOR MANUEL CUÉLLAR ORTIZ
Under-Secretary for Economic Integration
and International Trade

For the Government of Honduras:

MANUEL ACOSTA BONILLA
Minister for Economic and Financial Affairs

For the Government of Nicaragua:

SILVIO ARGÜELLO CARDENAL
Minister for Economic Affairs

For the Government of Costa Rica:

MANUEL JIMÉNEZ DE LA GUARDIA
Minister for Industry and Trade

ANNEX 1

AMOUNT OF EXEMPTIONS ON RAW MATERIALS, SEMI-FINISHED GOODS AND CONTAINERS
FOR NEW INDUSTRIES IN GROUP A

YEAR	<u>First year</u>		<u>Second year</u>		<u>Third year</u>		<u>Fourth year</u>		<u>Fifth year</u>		<u>Sixth year</u>		<u>Seventh year</u>		<u>Eighth year</u>		<u>Ninth year</u>		<u>Tenth year</u>	
	<i>Rest of C.A.¹</i>	<i>Hond.²</i>	<i>Rest of C.A.</i>	<i>Hond.</i>	<i>Rest of C.A.</i>	<i>Hond.</i>	<i>Rest of C.A.</i>	<i>Hond.</i>	<i>Rest of C.A.</i>	<i>Hond.</i>	<i>Rest of C.A.</i>	<i>Hond.</i>	<i>Rest of C.A.</i>	<i>Hond.</i>	<i>Rest of C.A.</i>	<i>Hond.</i>	<i>Rest of C.A.</i>	<i>Hond.</i>	<i>Rest of C.A.</i>	<i>Hond.</i>
I	80 %	100 %	80 %	100 %	80 %	100 %	80 %	100 %	80 %	100 %	50 %	70 %	50 %	70 %	50 %	70 %	50 %	70 %	50 %	70 %
II	80 %	100 %	80 %	100 %	80 %	100 %	80 %	100 %	80 %	100 %	50 %	70 %	50 %	70 %	50 %	70 %	50 %	70 %	50 %	50 %
III	80 %	100 %	80 %	100 %	80 %	100 %	80 %	100 %	80 %	100 %	50 %	70 %	50 %	70 %	50 %	70 %	50 %	50 %	50 %	50 %
IV	80 %	100 %	80 %	100 %	80 %	100 %	80 %	100 %	80 %	100 %	50 %	70 %	50 %	70 %	50 %	50 %	50 %	50 %	50 %	50 %
V	80 %	100 %	80 %	100 %	80 %	100 %	80 %	100 %	80 %	100 %	50 %	70 %	50 %	50 %	50 %	50 %	50 %	50 %	50 %	50 %

¹ C.A. = Central America.² Hond. = Honduras.

ANNEX 2

AMOUNT OF EXEMPTIONS ON RAW MATERIALS, SEMI-FINISHED GOODS AND CONTAINERS
FOR NEW INDUSTRIES IN GROUP B

YEAR	<u>First year</u>		<u>Second year</u>		<u>Third year</u>		<u>Fourth year</u>		<u>Fifth year</u>	
	<i>Rest of C.A.¹</i>	<i>Hond.²</i>	<i>Rest of C.A.</i>	<i>Hond.</i>	<i>Rest of C.A.</i>	<i>Hond.</i>	<i>Rest of C.A.</i>	<i>Hond.</i>	<i>Rest of C.A.</i>	<i>Hond.</i>
I	80 %	100 %	80 %	100 %	80 %	100 %	50 %	70 %	50 %	70 %
II	80 %	100 %	80 %	100 %	80 %	100 %	50 %	70 %	50 %	50 %
III	80 %	100 %	80 %	100 %	80 %	100 %	50 %	50 %	50 %	50 %
IV	80 %	100 %	80 %	100 %	80 %	80 %	50 %	50 %	50 %	50 %
V	80 %	100 %	80 %	80 %	80 %	80 %	50 %	50 %	50 %	50 %

¹ C.A. = Central America.² Hond. = Honduras.