

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I: NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

<b>Sector:</b>	Irrigation Services
<b>Obligations Concerned:</b>	Market Access
<b>Level of Government:</b>	Central
<b>Measures:</b>	Ley No. 7593 del 09/08/1996– Ley de la Autoridad Reguladora de los Servicios Públicos- Artículos 5, 9, 13
<b>Description:</b>	<u>Cross-Border Services</u>  Suppliers of irrigation services to the public must obtain a concession. New concessions may be granted if justified by demand for the service. Priority will be given to concessionaires already providing the service.

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

**Sector:** Solid Waste Treatment Services

**Obligations Concerned:** Market Access

**Level of Government:** Central

**Measures:** Ley No. 7593 del 09/08/1996– Ley de la Autoridad Reguladora de los Servicios Públicos- Artículos 5, 9, 13

**Description:** Cross-Border Services

Suppliers of solid waste treatment services must obtain a concession. New concessions may be granted if justified by demand for the service. Priority will be given to concessionaires already providing the service.

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

<b>Sector:</b>	Maritime and Specialty Air Services
<b>Obligations Concerned:</b>	Market Access
<b>Level of Government:</b>	Central
<b>Measures:</b>	Ley No. 7593 del 09/08/1996– Ley de la Autoridad Reguladora de los Servicios Públicos- Artículos 5, 9, 13
<b>Description:</b>	<u>Cross-Border Services</u>  Suppliers of maritime and specialty air service providers in national ports must obtain a concession. New concessions may be granted if justified by demand for the service. Priority will be given to concessionaires already providing the service.

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

<b>Sector:</b>	Professional Services
<b>Obligations Concerned:</b>	National Treatment Most-Favored-Nation Treatment Local Presence
<b>Level of Government:</b>	Central
<b>Measures:</b>	<p>Ley No. 7221 del 06/04/1991 – Ley Orgánica del Colegio de Ingenieros Agrónomos – Capítulo II (De los Miembros), Artículos 4, 5, 6, 7, 8, 10, 15, Capítulo IV (Del Ejercicio Profesional), Artículos 16, 18, 19, 20, 21, 22, 23, 24, 25</p> <p>Decreto Ejecutivo No. 22688-MAG-MIRENEM del 22/11/93 – Reglamento General de la Ley Orgánica del Colegio de Ingenieros Agrónomos de Costa Rica – Capítulo III (De la Incorporación, de la Separación y del Reingreso), Artículos 6, 7, 8, 9, Capítulo V (Del Ejercicio Profesional), Artículos 18, 19, 21, 22, 23, 35</p> <p>Ley No. 5230 del 02/07/1973 – Ley Orgánica del Colegio de Geólogos de Costa Rica – Artículo 3</p> <p>Decreto Ejecutivo No. 6419-MEIC del 18/10/76 – Reglamento del Colegio de Geólogos de Costa Rica– Artículos 4, 5</p> <p>Ley No. 5142 del 30/11/1972 –Ley Orgánica del Colegio de Farmacéuticos de Costa Rica – Artículo 2</p> <p>Decreto Ejecutivo No. 3503-S del 06/02/74 – Reglamento General Orgánico o Reglamento Interno del Colegio de Farmacéuticos de Costa Rica – Artículos 2, 9</p> <p>Ley No. 5784 del 19/08/1975 – Ley Orgánica del Colegio de Cirujanos Dentistas de Costa Rica– Artículos 2, 5, 6, 9, 10, 14, 15</p> <p>Ley No. 4925 del 17/12/1971 – Reforma integral a la Ley Orgánica del Colegio Federado de Ingenieros y Arquitectos– Capítulo III (De sus Miembros), Artículo 5, Capítulo V (De los Derechos de los Miembros del Colegio Federado), Capítulo IX (Del Ejercicio Profesional), Artículos 51, 51, 53, 54, 55</p> <p>Decreto No.3414-T del 03/12/73 Reglamento Interior General del Colegio Federado del Colegio de Ingenieros y Arquitectos de Costa Rica – Capítulo II (De sus Miembros), Artículo 3</p>

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

Reglamento Especial de Incorporación al Colegio Federado de Ingenieros y Arquitectos de Costa Rica, aprobado en Sesión 4-82-A.E.R. del 6/12/1982 – Artículos 7, 8

Reglamento Especial para determinar Inopia de Profesionales para los efectos de miembro temporal o incorporación de extranjeros al Colegio Federado de Ingenieros y de Arquitectos de Costa Rica, aprobado en Sesión 45-82-GE de diciembre de 1982 – Artículos 1, 2, 3, 4, 5, 6, 7, 8, 9

Ley No. 1038 del 19/08/1947 – Ley de Regulación de la Profesión de Contador Público y Creación del Colegio de Contadores Públicos de Costa Rica – Artículos 3, 4, 5, 12, 15

Ley No. 3455 del 14/11/1964 – Ley Orgánica del Colegio de Médicos Veterinarios– Capítulo I (Del Colegio), Artículos 2, 4, 5, 6, Capítulo II (De la Incorporación), Artículo 7, Capítulo VI (Disposiciones Generales), Artículo 27

Decreto Ejecutivo No. 19184-MAG del 10/07/89 - Reglamento a la Ley Orgánica del Colegio de Médicos Veterinarios – Capítulo III (De los Miembros del Colegio), Artículos 6, 7, Capítulo IV (De los Derechos y Deberes), Artículos 10, 19, Capítulo V (Del Ejercicio Profesional), Artículos 24, 25, 26

Ley No. 2343 del 04/05/1959 – Ley Orgánica del Colegio de Enfermeras de Costa Rica – Artículos 2, 22, 23, 24, 27, 28

Decreto Ejecutivo No. 11 del 10/08/61 – Reglamento a la Ley de Enfermeras – Capítulo VIII, Artículos 53, 54, 67, 70, 77, 98

Ley No. 7764 del 17/04/1998 – Código Notarial – Artículos 3, 10

Ley No. 1269 del 02/03/1951 – Ley Orgánica del Colegio de Contadores Privados– Artículos 2, 4

Ley No. 6038 del 13/01/1977 –Ley Orgánica del Colegio Federado de Químicos y de Ingenieros Químicos– Capítulo III (De los Miembros del Colegio Federado), Artículo 5, Capítulo V (De los Derechos de los Miembros del Colegio Federado), Artículos 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, Capítulo IX (Del Ejercicio Profesional), Artículo 61, Capítulo XIII (Disposiciones Finales), Artículo 71

Decreto Ejecutivo No. 11275-P del 27/02/1980 – Reglamento a la Ley Orgánica de Químicos y de Ingenieros Químicos– Capítulo I

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

(De la Incorporación), Artículo 3, 5, 8, 9, 10, Capítulo IX (Del Ejercicio Profesional), Artículos 83, 94, 95

Ley No. 3019 del 09/08/1962 – Ley Orgánica del Colegio de Médicos y Cirujanos– Artículos 2, 4, 5 y 7

Decreto Ejecutivo No. 23110-S del 22/03/94 – Reglamento a la Ley Orgánica del Colegio de Médicos y Cirujanos – Capítulo II, Artículos 2, 4, 5, 6, 10

Ley No. 3838 del 19/12/1966 – Ley Orgánica del Colegio de Optometristas de Costa Rica – Artículos 1, 6, 7

Ley No. 4420 del 18/09/69 – Ley Orgánica del Colegio de Periodistas de Costa Rica – Artículo 2, Capítulo VI (De las Funciones del Periodista), Artículos 24, 25, 27

Decreto Ejecutivo No. 14931 del 20/10/1983 – Reforma al Reglamento del Colegio de Periodistas de Costa Rica–Capítulo III (De las Incorporaciones), Artículos 5, 6, Capítulo XI (De los Extranjeros), Artículo 26, Capítulo XII (De las Credenciales)

Ley No. 13 del 28/10/1941 - Ley Orgánica del Colegio de Abogados– Artículos 2, 7 y 37

Ley No. 7106 del 4/11/88, Ley Orgánica del Colegio de Profesionales en Ciencias Políticas– Artículos 3, 26, 29

Decreto No. 2613-SPSS del 03/11/72, Reglamento General para Autorizar el Ejercicio a Profesionales de Ramas Dependientes de las Ciencias Médicas– Artículos 1, 2, 4

Ley No.4288 del 12/12/68, Ley Orgánica del Colegio de Biólogos– Artículos 2, 27

Decreto No. 39 del 06/3/70, Reglamento de la Ley Orgánica del Colegio de Biólogos– Artículos 2, 3, 10, 11, 16, 17, 18, 19, 55

Reglamento a la Ley Orgánica al Colegio de Bibliotecarios de Costa Rica, aprobado en Asamblea General Ordinaria del 02-10-91– Artículos 13, 17

Ley No. 7537 del 22/08/1995 – Ley Orgánica del Colegio de Profesionales en Informática y Computación– Capítulo III (De las Incorporaciones), Artículo 19

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

Decreto Ejecutivo No. 29410 del 2 de marzo del 2001 - Reglamento del Registro de Peritos-Tasadores del Colegio de Ingenieros Agrónomos

Ley No. 8142 del 17/10/01 – Ley de Traducciones e Interpretaciones oficiales– Capítulo III (Requisitos e impedimentos para el nombramiento de traductor oficial o intérprete oficial), Artículo 6

Decreto No. 30167-RE del 25/01/02 - Reglamento a la Ley de Traducciones e interpretaciones oficiales– Capítulo III (Requisitos), Artículo 10

Ley No. 7105 del 31/10/88 - Ley Orgánica del Colegio de Licenciados en Ciencias Económicas y Sociales de Costa Rica– Artículos 3, 4, 5, 6, 7, 8, 15, 19, 20

Decreto Ejecutivo No. 20014-MEIC del 19/09/90 - Reglamento General de Profesionales en Ciencias Económicas de Costa Rica– Artículos 10, 11, 14, 17

Decreto Ejecutivo No. 19026-P del 31/05/89 - Reglamento a la Ley Orgánica del Colegio de Profesionales en Ciencias Políticas y de Relaciones Internacionales– Artículos 1, 2, 10, 12, 19, 21, 22, 59

Ley No. 7503 del 03/05/95 - Ley Orgánica del Colegio de Físicos– Capítulo II (Miembros del Colegio), Artículos 3, 4, 5, 6, 10

Decreto Ejecutivo No. 28035-MINAE-MICIT del 14 / 04 / 99 - Reglamento a la Ley Orgánica del Colegio de Físicos– Capítulo III (De los Miembros del Colegio), Artículos 6, 7, Capítulo IV ( De los Derechos y Deberes), Artículos 10, 11, 18, Capítulo V (Del Ejercicio Profesional), Artículos 21, 22, 23

Ley No. 6144 del 28/11/77 - Ley Orgánica del Colegio Profesional de Psicólogos de Costa Rica – Capítulo II (Miembros), Artículo 3, Capítulo III (Ejercicio Profesional), Artículos 4, 5, 6, 7, Capítulo IV (Ingreso al Colegio, Deberes y Derechos de sus Miembros), Artículo 9

Reglamento General del Colegio Profesional de Psicólogos de Costa Rica, aprobado en Sesión No. 3 de la Asamblea General Ordinaria del 09/03/79– Capítulo II (De los Miembros del Colegio), Artículos 2, 3, Capítulo III (Del Ejercicio Profesional), Artículos 9, 10, 11, Capítulo IV (De las Prácticas Académicas de los Estudiantes), Artículo 12

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

Decreto Ejecutivo No. 28595-S del 23/03/00 - Reglamento a la Ley Orgánica de Profesionales en Quiropráctica – Capítulo I (Disposiciones Generales), Artículo 2, Capítulo II (De los Miembros del Colegio), Artículos 5, 6, Capítulo III (De la Inscripción de los Miembros), Artículos 8, 9, Capítulo IV (De los Derechos y Deberes de los Miembros), Artículo 15

**Description:**

Cross-Border Services and Investment

To join the Professional Associations of Public Accountants, Pharmacists, Geologists, Physicians and Surgeons, Veterinarians, Lawyers (i.e. Notaries), Dental Surgeons, Optometrists, Journalists, Nurses, Medical and Surgical Technicians, Librarians, Biologists, Engineers, and Architects, all foreign professionals shall prove that, in their home jurisdiction where they are allowed to practice, Costa Rican nationals can exercise their profession under like circumstances.

To join the Professional Associations of Public Accountants, Political Scientists and International Relations Specialists, Pharmacists, Geologists, Agronomical Engineers (Forestry or Agriculture/Livestock Appraisers-Surveyors), Chemists and Chemical Engineers, Physicians and Surgeons, Veterinarians, Lawyers (i.e. Notaries), Nutritionists, Dental Surgeons, Journalists, Medical and Surgical Technicians, Nurses, and Official Translators and Interpreters, foreign professionals shall have the migratory status of residents in Costa Rica at the time of applying for membership, as well as have a certain minimum number of years of residence. The number of years varies from one Professional Association to another, but ranges between two to five years.

Only Costa Rican professionals duly registered in the Colegio de Ingenieros Agrónomos can provide their services for consulting enterprises in agronomical sciences operating in Costa Rica to comply with the fifty percent legal requirement of total professional consulting advisory time.

Foreign professionals in political sciences and international relations specialists may only be hired by public or private entities when they are active members of the Professional Association and insufficiency of Costa Rican professionals has been declared.

For greater certainty, subject to the conditions and terms included in the applicable legislation, the following professional associations may provide temporary licenses to allow temporary professional practice in Costa Rica: Biologists, Economists and Social Scientists, Political Scientists and International Relations



**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

Specialists, Dental Surgeons, Pharmacists, Physicists, Computer and Information Technology Professionals, Agronomical Engineers, Architects and Engineers, Physicians and Surgeons, Veterinarians, Journalists, Psychologists, Chemists and Chemical Engineers, and Chiropractors.

For greater certainty, none of the measures listed in this Annex entry restrict enterprises in Costa Rica from otherwise employing foreign professionals in accordance with Costa Rican law in order to carry out contracts.

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

<b>Sector:</b>	Maritime-Land Zone
<b>Obligations Concerned:</b>	National Treatment Local Presence Market Access
<b>Level of Government:</b>	Central
<b>Measures:</b>	Ley No. 6043 del 02/03/1977- Ley sobre la Zona Marítimo Terrestre- Capítulos 3, 4 y 6
<b>Description:</b>	<u>Cross-Border Services and Investment</u>

No concession in a maritime-terrestrial zone<sup>1</sup> may be granted to or held by: a) foreign nationals that have not resided in the country for at least five years; b) enterprises with bearer shares; c) enterprises domiciled abroad; d) enterprises incorporated in the country solely by foreign nationals; and e) enterprises where more than fifty percent (50%) of the capital shares or stocks are owned by foreigners.

Within the maritime-terrestrial zone, no concession may be granted within the first fifty meters counted from the high tide line nor in the area comprised between the high tide line and the low tide line.

---

<sup>1</sup> The maritime-terrestrial zone is the area located along the Atlantic and Pacific coast lines of Costa Rica. It comprises an area 200 meters wide in-land measured from the high tide line as well as the area comprised between the high and the low tide lines. The maritime-terrestrial zone also covers all islands located within the Costa Rican territorial waters.

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

**Sector:** Land Transportation Services - Transportation of Passengers

**Obligations Concerned:** National Treatment  
Most-Favored-Nation Treatment  
**Market Access**

**Level of Government:** Central

**Measures:** Decreto Ejecutivo No. 26 del 10/11/1965- Reglamento del Transporte Internacional de Personas- Artículos 1, 4, 5, 9, 15, 16)

Ley No. 3503 del 10/05/1965- Ley Reguladora del Transporte Remunerado de Personas en Vehículos Automotores- Capítulos III, IV, V y VI

Decreto Ejecutivo No. 20785-MOPT del 04/10/1991– Reforma Ley reguladora servicio internacional para el transporte de personas- Artículo 1

Decreto Ejecutivo No. 31180-MOPT del 24/04/03– Disposiciones Obligatorias para la Prestación del Servicio Público de Transporte Remunerado de Personas en Modalidad de Taxi- Artículo 1

Ley No. 7969 del 22/12/99– Ley Reguladora del Servicio Público de Transporte Remunerado de Personas en Vehículos en la Modalidad de Taxis- Capítulos I y VI

Decreto No. 5743-T del 12/02/76– Reglamento Ley Reguladora Transporte Remunerado Personas Taxi- Capítulo II

Decreto No. 28913-MOPT del 13/09/00– Reglamento Primer Procedimiento Especial Abreviado para el Transporte Remunerado de Personas en Modalidad Taxi- Capítulos I, II y VIII

Ley No. 5066 del 30/08/72- Ley General de Ferrocarriles- Capítulo I

Decreto No. 28337-MOPT del 16/12/99– Reglamento sobre Políticas y Estrategias para la Modernización del Transporte Colectivo Remunerado de Personas por Autobuses Urbanos para el Área Metropolitana de San José y Zonas Aledañas que la Afecta Directa o Indirectamente- Artículo 1

Decreto Ejecutivo No. 6284-T del 23/08/76

Decreto 15203-MOPT del 22/02/84 Reglamento para la Explotación de Servicios Especiales de Transporte Automotor

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

Remunerado de Personas- Capítulos II y III

Ley No. 7593 del 09/08/1996– Ley de la Autoridad Reguladora de los Servicios Públicos- Artículos 5, 9, 13

**Description:**

Cross-Border Services and Investment

Concessions to operate domestic remunerated passenger transportation routes in automotive vehicles shall be awarded through bidding, in which all interested applicants will freely compete. The transport route operation will only be bid if the Transportation Ministry has previously determined the need to supply the service according to the proper technical studies.

Where there are multiple bids, including one by a Costa Rican supplier, that satisfy the requirements to the same extent, the Costa Rican bid shall be preferred over the foreign bid, whether individuals or legal entities.

The permit to operate an international remunerated passenger transportation service shall be granted only to enterprises organized under Costa Rican law or those that are at least 60% owned by Central American nationals.

In addition to the restriction set out above, when granting permits to provide international services for remunerated transportation of people, the principle of reciprocity shall apply.

A permit is required in order to supply international remunerated passenger land transportation services, which is subject to an economic needs test.

A permit or a concession is required in order to supply domestic remunerated passenger land transportation services, which are subject to an economic needs test.

The Ministry of Transportation and Public Works must fix annually the number of concessions for taxi cab services to be granted in each district, county (canton), and province. Only one taxi cab concession may be granted per each natural person, and each concession grants the right to operate only one vehicle.

Each concession to provide regular public remunerated passenger transportation services in automotive vehicles, excluding taxi cabs, may be granted only to one person, unless an economic needs test evidences the need to have additional suppliers. In addition, one

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

natural person may not own more than two enterprises nor be a majority shareholder in more than three enterprises operating different routes.

Permission to provide non-tour bus passenger transportation services in the greater metropolitan area of the Central Valley of Costa Rica shall only be granted once it has been demonstrated that regular public bus services cannot satisfy the demand.

Railroad transportation is a public service the supply of which is exclusively reserved to the State. However the State can grant concessions to private persons subject to an economic needs test.

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

<b>Sector:</b>	Land Transportation Services - Freight Transportation
<b>Obligations Concerned:</b>	National Treatment Most-Favored-Nation Treatment Senior Management and Boards of Directors Market Access
<b>Level of Government:</b>	Central
<b>Measures:</b>	Decreto Ejecutivo No. 10 del 15/12/1963- Reglamento sobre Vehículos de Carga- Artículo 10  Decreto Ejecutivo No. 15624-MOPT del 28/08/1984- Reglamento del Transporte Automotor de Carga Local- Capítulos IV y V  Ley No. 7593 del 09/08/1996– Ley de la Autoridad Reguladora de los Servicios Públicos- Artículos 5, 9, 13
<b>Description:</b>	<u>Cross-Border Services and Investment</u>  Only Costa Rican nationals or enterprises may provide motorized transportation services between two points within the territory of Costa Rica. An enterprise shall meet the following requirements: a) at least 51% of its capital must be owned by Costa Rican nationals; and b) Costa Rican nationals shall have effective control and management of the enterprise.  No motor vehicle, trailer, or tractor-trailer with foreign license plates may transport goods within the national territory. This prohibition does not apply to vehicles, trailers, or tractor-trailers registered in one of the Central American countries.  Foreign enterprises involved in international multi-modal freight transportation must contract national enterprises to provide the services of transport of containers and tractor-trailers within the national territory.  Suppliers of railroad freight transportation services must obtain a concession. New concessions may be granted if justified by demand for the service. Priority will be given to concessionaires already providing the service.

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

<b>Sector:</b>	Water Transportation Services
<b>Obligations Concerned:</b>	National Treatment  Local Presence Most-Favored-Nation Treatment
<b>Level of Government:</b>	Central
<b>Measures:</b>	Ley No. 3284- Código de Comercio de 1853- Libro III Del Comercio Marítimo  Ley No. 12 del 22/10/1941- Ley de Abanderamiento de Buques Nacionales- Artículos 4, 41, 43  Ley No. 2220 del 20/06/1958- Ley de Servicio de Cabotaje de la República- Capítulo II  Decreto Ejecutivo No. 66 del 04/11/1960– Reglamento de la Ley de Servicios de Cabotaje de la República- Capítulos Segundo y Tercero  Decreto No. 12568-T-S-H del 30/04/1981– Reglamento del Registro Naval Costarricense- Capítulo II  Decreto Ejecutivo No. 23178-J-MOPT del 18/04/1994– Traslada la regulación nacional de buques al Registro Público Mueble- Artículo 5
<b>Description:</b>	<u>Cross-Border Services and Investment</u>  A concession to provide cabotage services shall only be granted to Costa Rican nationals or enterprises constituted under Costa Rican law of which at least (60%) of the shares are owned by Costa Rican nationals.  Only Costa Rican nationals, national public entities, enterprises constituted and domiciled in Costa Rica, and shipping company representatives can register vessels in Costa Rica. This rule may not apply to foreign nationals or foreign enterprises registering vessels smaller than 50 tons for non-commercial use only.  All natural persons or enterprises established abroad that own one or more foreign registered vessels located in Costa Rica shall appoint and maintain an agent or legal representative in Costa Rica

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

to act as liaison with the official authorities in all vessel-related matters.

Trade and tourist cabotage activities between Costa Rican ports must be conducted by vessels registered in Costa Rica.

At least ten percent of the crew on Costa Rican registered vessels used for international traffic that call on Costa Rican ports shall be Costa Rican nationals, provided that such trained personnel are available domestically.



**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

<b>Sector:</b>	Specialty Air Services
<b>Obligations Concerned:</b>	National Treatment Most-Favored-Nation Treatment Local Presence
<b>Level of Government:</b>	Central
<b>Measures:</b>	Ley No. 5150 del 14/05/1973 - Ley General de Aviación Civil (Título Primero - Capítulo II, Título Segundo -Capítulo II; Título Cuarto - Capítulo I)  Decreto Ejecutivo No. 3326-T del 25/10/1973 - Reglamento para el Otorgamiento de Certificados de Explotación (Artículo 5)  Decreto Ejecutivo No. 4440-T del 03/01/1975- Reglamento para la Operación del Registro Aeronáutico Costarricense (Artículo 38)  Decreto Ejecutivo No. 4637- T del 18/02/1975 – Reglamento de Licencias para Personal Técnico Aeronáutico (Artículo 23)  Decreto Ejecutivo No. 15846-MOPT-MAG del 06/11/1984 - Reglamento para las Actividades de Aviación Agrícola (Capítulo VI)
<b>Description:</b>	<u>Cross-Border Services</u>

The validation of pilot licenses and airworthiness permits issued by other countries shall comply with the relevant bilateral conventions under the terms of reciprocity. In absence of said conventions, the Dirección General de Aviación Civil shall determine, if appropriate, the conditions under which said validation shall be made.

Aircraft for agricultural aviation must display Costa Rican registration. Costa Rican enterprises interested in obtaining a provider certificate for any aeronautical service, including specialty air services, shall demonstrate that effective control and management of the enterprise, and at least fifty-one percent (51%) of the capital, are in the hands of Costa Rican nationals.

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

<b>Sector:</b>	Air Transportation Services
<b>Obligations Concerned:</b>	National Treatment Most-Favored-Nation Treatment Senior Management and Boards of Directors Performance Requirements
<b>Level of Government:</b>	Central
<b>Measures:</b>	Ley No. 5150 del 14/05/1973 - Ley General de Aviación Civil (Título Segundo - Capítulo III; Título Tercero - Capítulo VIII; Título Cuarto - Capítulo I y Capítulo III)  Decreto Ejecutivo No. 3326-T del 25/10/1973 - Reglamento para el Otorgamiento de Certificados de Explotación (Artículos 5 y 6)  Decreto Ejecutivo No. 4440-T del 03/01/1975- Reglamento para la Operación del Registro Aeronáutico Costarricense (Artículo 20)
<b>Description:</b>	<u>Investment</u>  Only Costa Rican nationals or enterprises may provide domestic air services, whether regular or non-regular.  In order to provide these services, the Costa Rican enterprise shall meet the following requirements: a) at least fifty-one percent (51%) of its capital shall be owned by Costa Rican nationals; and b) effective control and management of the enterprise shall be in the hands of Costa Rican nationals. Foreign nationals cannot be members of the Board of Directors of such enterprises.  Only Costa Rican nationals or enterprises may register aircraft in the Registro Aeronáutico Costarricense to be used for remunerated airborne activities.  Foreign nationals that legally reside in the country may also register aircraft used exclusively for non-commercial purposes.  Certificates for the supply of international air transportation services, aside from complying with the provisions under this law, shall be issued subject to the civil aviation conventions and agreements signed and ratified by the Government of Costa Rica.  In the absence of agreements or conventions, said certificates shall be issued based on the principle of reciprocity.

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

When a Costa Rican enterprise has to temporarily lease an aircraft with foreign registration due to proven equipment shortage, the Dirección General de Aviación Civil may authorize the use of such aircraft for purposes of public transportation within the country. To this end, a temporary permit shall be granted for no more than six months, extended at the discretion of the Consejo Técnico de Aviación Civil, provided that the crew is Costa Rican.

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

**Sector:** Tourist Guides

**Obligations Concerned:** National Treatment

**Level of Government:** Central

**Measures:** Decreto Ejecutivo No. 31030 del 17/01/2003 - Reglamento de los Guías de Turismo (Artículo 11)

**Description:** Cross-Border Services

Only Costa Rican nationals may apply for tour guide licenses.

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

<b>Sector:</b>	Travel Agencies and Tourism
<b>Obligations Concerned:</b>	Market Access
<b>Level of Government:</b>	National
<b>Measures:</b>	<p>Ley No. 5339 del 24/08/73- Ley Reguladora de las Agencias de Viajes- Capítulo III (De la Obtención de la Declaratoria Turística)</p> <p>Decreto Ejecutivo No. 12762-G-MEIC del 20/05/1981- Reforma al Reglamento Empresas y Actividades Turísticas</p> <p>Decreto Ejecutivo No. 24779-MEIC-TUR del 13/10/1995- Reglamento a la Ley Reguladora de las Agencias de Viajes- Capítulo III (De la Obtención de la Declaratoria Turística), Artículo 5</p> <p>Decreto Ejecutivo No. 22633-MP-TUR del 02/11/1993- Reforma Reglamento Ley Reguladora de las Agencias de Viajes</p> <p>Decreto Ejecutivo No. 29215-H-MEIC-TUR- Reforma al Reglamento de la Ley de Incentivos para el Desarrollo Turístico y el Reglamento de Disposiciones Regulatoras para la Actividad de Empresas de Arrendamiento de Vehículos a Turistas Nacionales y Extranjeros- Artículos 1, 2, 3</p>
<b>Description:</b>	<p><u>Cross-Border Services</u></p> <p>An applicant for a travel agency license must present a feasibility study prepared by a professional in the field demonstrating the need of the national tourism market for a new travel agency.</p>

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

**Sector:** Tourism - Car Rental Services

**Obligations Concerned:** Market Access

**Level of Government:** National

**Measures:** Decreto Ejecutivo No. 12762-G-MEIC del 20/05/1981 - Reforma al Reglamento Empresas y Actividades Turísticas

Decreto Ejecutivo No. 22633-MP-TUR del 02/11/1993 - Reforma Reglamento Ley Reguladora de las Agencias de Viajes

Decreto Ejecutivo No. 29215-H-MEIC-TUR- Reforma al Reglamento de la Ley de Incentivos para el Desarrollo Turístico y el Reglamento de Disposiciones Reguladoras para la Actividad de Empresas de Arrendamiento de Vehículos a Turistas Nacionales y Extranjeros- Artículos 1, 2, 3

**Description:** Cross-Border Services

Persons supplying car rental services in Costa Rica that wish to expand their vehicle fleet must file an application with the Comisión Reguladora de Turismo demonstrating that such request is necessary to satisfy demand.

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

**Sector:** Transportation Services – Custom Brokers - Assistant  
Custom Brokers – Custom Transportation Agents

**Obligations Concerned:** National Treatment

Local Presence

**Level of Government:** Central

**Measures:** Ley No. 7557 del 20/10/1995 - Ley General de Aduanas y sus reformas, Títulos III y VI

Decreto Ejecutivo No. 25270 del 14/06/1996 - Reglamento a la Ley General de Aduanas (Título IV – Capítulos I, II, III, IV, V, VI)

**Description:** Cross-Border Services

Only Costa Rican nationals or enterprises organized under Costa Rican law that have a legal representative and corporate domicile in Costa Rica may act as a customs transportation agent, international freight agent, customs depositary, or other public function customs auxiliaries.

Only Costa Rican nationals may act as customs brokers.

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

<b>Sector:</b>	Telecommunications Related Services - Radio and Television
<b>Obligations Concerned:</b>	National Treatment Most-Favored-Nation Treatment Senior Management and Boards of Directors Market Access
<b>Level of Government:</b>	Central
<b>Measures:</b>	Decreto Ejecutivo No. 21 del 29/09/1958- Reglamento para la Operación de Radiodifusoras de Televisión (Artículo 4, Capítulo II – Artículo 4)  Ley No. 1758 del 19/06/1954 – Ley de Radio y Televisión y sus reformas (Artículos 2, 3 y 7)  Decreto Ejecutivo No. 63 del 11/12/1956 – Reglamento de Estaciones Inalámbricas (Título I – Capítulo II y Título II – Capítulo I)  Decreto Ejecutivo No. 12645 del 12/05/1981 – Reforma al Reglamento de Estaciones Inalámbricas (Artículo 1)  Ley No. 3981- Reforma a la Ley de Radio (Artículo 1)
<b>Description:</b>	<u>Cross-Border Services and Investment</u>  Only a Costa Rican national or enterprise with at least 65% of its capital owned by Costa Rican nationals may obtain a license or be awarded a free over the air broadcast television channel for signals that originate in Costa Rica.  Only a Costa Rican national or enterprise with at least 65% of its capital owned by Costa Rican nationals may obtain a license to operate radio; ham radio; radio-television; and maritime, aeronautical, meteorological, and private broadcasting stations.  Only a Costa Rican national or enterprise that has nominal capital stock and is owned by Costa Rican nationals may obtain a license for Ultra High Frequency (UHF) radio broadcasting services.  Directors and administrators of enterprises supplying radio and television services must be Costa Rican by birth or must have been naturalized Costa Ricans for at least ten years.  Only a Costa Rican national or enterprise with at least 65% of its capital owned by Costa Rican nationals may establish or manage



**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

an enterprise that supplies wireless services. This restriction does not apply to the establishment and operation of ham radio stations, but rights shall not be granted to a foreign national residing in Costa Rica when the country of origin of the foreign national does not grant that same right to Costa Rican nationals.

The right to establish radiographic stations in Costa Rica for military use, as well as for transmission or reception of official messages, is permanently reserved to the State, and is not subject to concession.

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

<b>Sector:</b>	Wholesale and Retail Distribution – Crude Oil and Its Derivatives
<b>Obligations Concerned:</b>	Market Access
<b>Level of Government:</b>	Central
<b>Measures:</b>	<p>Ley No. 7356 del 24/08/1993 - Ley de Monopolio a favor del Estado para la Importación, Refinación y Distribución al Mayoreo de Petróleo Crudo, sus Combustibles Derivados, Asfaltos y Naftas, Art.1</p> <p>Ley No. 7593 del 09/08/1996– Ley de la Autoridad Reguladora de los Servicios Públicos- Artículos 5, 9, 13</p>
<b>Description:</b>	<p><u>Cross-Border Services</u></p> <p>Wholesale distribution of crude oil and its derivatives—including fuel, asphalt, and naphtha—is subject to a State monopoly.</p> <p>Retail distributors of crude oil and its derivatives—including fuel, asphalt, and naphtha— must obtain a concession. New concessions may be granted if justified by demand for the service. Priority will be given to concessionaires already providing the service.</p>

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

**Sector:** Services Incidental to Mining - Hydrocarbon Exploration

**Obligations Concerned:** Local Presence

**Level of Government:** Central

**Measures:** Constitución Política de la República de Costa Rica, Art. 121

Ley No. 7399 del 03/05/94 – Ley de Hidrocarburos- Art.1, 2, 4, 22, 23, 24, 25, 26, 27, 29, 30, 41

Decreto No. 29020-MINAE-H del 26/09/00 – Reglamento al Artículo 49 de la Ley de Hidrocarburos, Art.2

Decreto Ejecutivo No. 24735-MIRENEM del 29/09/1995 – Reglamento a la Ley de Hidrocarburos- Artículo 17

Decreto No. 30131-MINAE-S del 20/12/01 – Reglamento para la Regulación del Sistema de Almacenamiento y Comercialización de Hidrocarburos, Art.66

Decreto No. 28148 del 30/08/99 – Reglamento de Cesión de Derechos y Obligaciones de Contratos de Exploración y Explotación de Hidrocarburos, Art.3

Ley No. 7593 del 09/08/1996 – Ley de la Autoridad Reguladora de los Servicios Públicos- Artículos 5, 9, 13

**Description:** Cross-Border Services

Concessionaires for hydrocarbon exploration and other services incidental to the mining of any other hydrocarbons that are organized under foreign law must have a branch office and legal representative in Costa Rica.

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

**Sector:** Mining and Services Incidental to Mining – Ores Other than Hydrocarbons

**Obligations Concerned:** Market Access  
National Treatment  
**Local Presence**

**Level of Government:** Central

**Measures:** Constitución Política de la República de Costa Rica, Art. 121

Ley No. 6797 del 04-10-1982 - Código de Minería, Título I, “De las Generalidades”, Título 11 “De los Contratos”

Decreto No. 30477-MINAE de 05/06/02 - Declara Moratoria Nacional por plazo indefinido para la actividad de minería metálica de oro a cielo abierto en territorio nacional, Art.1

**Description:** Cross-Border Services and Investment

Exploration and other services incidental to the mining of any radioactive minerals in Costa Rica may be supplied only by the State or by private parties under a concession, in accordance with the Constitution.

Concessions for mining or exploration of ores others than hydrocarbons may not be granted to foreign governments or their representatives. Concessionaires that are enterprises organized under foreign law or natural persons not resident in Costa Rica must appoint a legal representative with full powers of attorney to acquire rights and enter into obligations on behalf of the represented natural persons or enterprise, and must also maintain an office in Costa Rica.

State-owned banks shall not grant funds in an amount greater than ten percent of the total investment to enterprises with more than fifty percent foreign ownership.

Only individuals can constitute mining cooperatives, and 75% of the members must be Costa Rican nationals.

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

**Sector:** Scientific and Research Services

**Obligations Concerned:** Local Presence

**Level of Government:** Central

**Measures:** Ley No. 7788 del 30/04/1998 Ley de Biodiversidad (Artículo 63)

**Description:** Cross-Border Services

Foreign nationals or enterprises domiciled abroad that supply scientific research and bioprospection<sup>2</sup> services with regard to biodiversity<sup>3</sup> in Costa Rica shall designate a legal representative that resides in Costa Rica.

---

<sup>2</sup> Bio-prospection includes the systematic search, classification, and investigation, for commercial purposes, of new sources of chemical compounds, genes, proteins, microorganisms, and other products with real or potential economic value found in biodiversity.

<sup>3</sup> Biodiversity includes the variability of live organisms of any source, found in land, air, marine, aquatic, or other ecological ecosystems, as well as the diversity within each species and between species and the ecosystems of which they are a part. Biodiversity also includes intangible elements such as: the knowledge, innovation, and individual or collective traditional practice, with real or potential economic value, associated with genetic and bio-chemical resources protected or not by intellectual property rights or *sui generis* registry systems.

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

<b>Sector:</b>	Free Zones
<b>Obligations Concerned:</b>	Performance Requirements
<b>Level of Government:</b>	Central
<b>Measures:</b>	Ley No. 7210 del 11/23/1990- Régimen de Zonas Francas (Capítulo VII)  Decreto Ejecutivo No. 29606-H-COMEX del 18/06/01 - Reglamento a la Ley del Régimen de Zonas Francas (Capítulo XI – Sección II)
<b>Description:</b>	<u>Investment</u>  An enterprise established in the Free Zone in Costa Rica may not introduce more than 25% of its total sales in goods or 50% of its total sales in services into Costa Rica's customs territory. An enterprise established in the Free Zone in Costa Rica that only repackages or redistributes but does not alter goods, may not introduce any such goods into Costa Rica's customs territory.

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

**Sector:** Services Related to Agriculture, Hunting, and Forestry

**Obligations Concerned:** National Treatment

**Level of Government:** Central

**Measures:** Ley No. 7317 del 30/10/1992 - Ley de Conservación de la Vida Silvestre (Capítulos V, VI, VII y VIII)

**Description:** Cross-Border Services

A license for sports fishing, hunting, and for scientific or cultural collection of species shall be issued for a maximum of one year for nationals or residents, and six months or less for all other foreigners.

Nationals and residents shall pay a lower fee than non-resident foreigners to obtain the license referred to above.

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

<b>Sector:</b>	Services Related to Fisheries
<b>Obligations Concerned:</b>	National Treatment
<b>Level of Government:</b>	Central
<b>Measures:</b>	<p>Ley 190 del 28/09/1948 – Ley de pesca y caza marítimas Art.7</p> <p>Decreto Ejecutivo No. 363 del 11/01/1949 – Reglamento a la Ley No. 190 del 28 de setiembre de 1948 sobre la Ley de Pesca y Caza Marítimas, “Del Registro y Documentación”, Art.10</p> <p>Ley No. 6267 del 29/08/1978 – Reforma a la Ley de Pesca y Barcos Bandera Extranjera en Mar Patrimonial, Art. 10</p> <p>Decreto Ejecutivo No. 8816 del 13/07/1978 – Prohíbe empleo del palangre o línea larga para la pesca comercial, Art.1, 2</p> <p>Decreto Ejecutivo No. 12737-A del 23/06/1981 – Reserva con exclusividad la pesca para fines comerciales a costarricenses, Art.1, 3, 4</p> <p>Decreto Ejecutivo No. 17272-MAG del 10/10/86, Art.1</p> <p>Decreto Ejecutivo No. 19141-MAG del 23/06/89 Art.4</p> <p>Decreto Ejecutivo No. 24342 del 18/01/1995, Art.27</p> <p>Decreto Ejecutivo No. 23943-MOPT-MAG del 05/01/1995 Reglamento regulador del procedimiento para otorgar licencias de pesca a buques extranjeros que deseen ejercer la actividad de pesca en aguas jurisdiccionales costarricenses, Art.6</p> <p>Decreto Ejecutivo No. 24383-MAG-TUR del 06/06/1995 – Reforma la prohibición de empleo de palangre en la pesca comercial, Art.1</p> <p>Decreto Ejecutivo No. 26435-MINAE del 01/10/1997 – Reglamento a la Ley de Conservación de la Vida Silvestre Capítulo IV: “De las concesiones, permisos y licencias”, Art. 28 y 29 (recolecta científica), 32 (licencias para no residentes vigencia de dos meses)</p> <p>Decreto Ejecutivo No. 24120 del 28/02/1995 Art. 1 (el Decreto reforma el D-23943 sobre permisos para pesca de atún)</p>



**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

Decreto Ejecutivo No. 27696 del 13/01/1999 Art.1 (Decretan nuevos cánones para permisos de uso del Reglamento a la Ley de Conservación de Vida Silvestre)

**Description:**

Cross-Border Services and Investment

Commercial fishing within the twelve miles of Costa Rican territorial waters is exclusively reserved to Costa Rican enterprises or nationals that fish with vessels flying the Costa Rican flag.

The commercial fishing permit for foreign flag vessels shall be valid for use in only one body of water in the Costa Rican exclusive economic zone, either the Pacific Ocean or the Atlantic Ocean. The commercial fishing permit for Costa Rican flag vessels shall be valid for use in both bodies of water in the Costa Rican exclusive economic zone.

Sport fishing licenses for nationals and residents shall be valid for one year. Sport fishing licenses for non-resident foreigners shall be valid for one month.

For the commercial catch of lobsters in Costa Rican territorial waters of the Atlantic Ocean, only small-size artisanal vessels may be used, with Costa Rican registry and flag.

Longlines are prohibited as fishing gear for the commercial catch of species in the Costa Rican waters, from the low tide line up to a distance of one hundred miles. This prohibition does not apply to vessels with Costa Rican flag and registry.

Foreign-flag fishing vessels equipped with nets, or the so-called “dinghies”, that wish to fish in the Costa Rican exclusive economic zone must obtain a fishing permit for each trip, for a maximum of sixty (60) calendar days. Permits for Costa Rican vessels shall be valid for a longer period of time.

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

**Sector:** Electric Energy

**Obligations Concerned:** Market Access

Local Presence

National Treatment

**Level of Government:** Central

**Measures:** Constitución Política de la República de Costa Rica- Artículo 121

Ley No. 7200 del 28/04/1990 – Ley que autoriza la generación eléctrica autónoma o paralela- Artículos 5, 7

Ley No. 7508 del 09/05/1995 – Ley sobre Reforma a la Ley que autoriza la generación autónoma o paralela, Art. 2

Ley No. 7789 del 30/04/98 – Transformación de la Empresa de Servicios Públicos de Heredia, Art.15

Decreto Ejecutivo No. 20346-MIRENEM del 21/03/1991 – Reglamento a la ley que autoriza la generación eléctrica autónoma o paralela Art.4

Decreto Ejecutivo No. 24866-MINAE del 12/12/1995 – Reglamento al Capítulo II de la Ley de Generación Paralela: Régimen de Competencia, Capítulo II “Licitación Pública”

Ley No. 449 del 04/08/1949 – Ley para la Creación del Instituto Costarricense de Electricidad, Art.9

Ley No. 7593 del 09/08/1996 – Ley de la Autoridad Reguladora de los Servicios Públicos- Artículos 5, 9, 13

Ley No. 8345 del 20/02/03 – Ley de Participación de las Cooperativas de Electrificación Rural y de las Empresas de Servicios Públicos Municipales en el Desarrollo Nacional- Capítulo I (Disposiciones Generales), Capítulo II (Generación, Distribución y Comercialización de Energía Eléctrica), Capítulo III (Concesiones), Capítulo IV (Disposiciones Finales), Capítulo V (Disposiciones Transitorias)

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

**Description:** Cross-Border Services and Investment

The transmission, distribution, and trade of electric energy requires a concession granted by legislation. New concessions may be granted if justified by demand for the service. Priority will be given to concessionaires already providing the service.

For greater certainty, the following enterprises currently have concessions to supply these services: Instituto Costarricense de Electricidad (ICE); Empresa de Servicios Públicos de Heredia; Junta Administradora del Servicio Eléctrico Municipal de Cartago (JASEC); Compañía Nacional de Fuerza y Luz; and cooperative associations, cooperative consortiums, and public municipal service enterprises subject to the provisions of Law number 8345.

All of these enterprises may enter into joint ventures with public or private enterprises to provide their services, except cooperative associations, cooperative consortiums, and public municipal service enterprises. In the case of Empresa de Servicios Públicos de Heredia, no less than fifty-one percent (51%) of the capital of the private enterprise may be owned by Costa Rican nationals.

Private persons may invest in activities for the operation of limited capacity power plants<sup>4</sup> not exceeding 20,000 KW, provided they meet the following requirements:

- a) Upon declaration of national interest, ICE may purchase electricity from enterprises in which no less than thirty-five percent (35%) of the capital is owned by Costa Rican nationals.
- b) Enterprises organized under foreign law that sign a power purchase contract with ICE shall establish a branch office in Costa Rica.

---

<sup>4</sup> For greater certainty, ICE may authorize the operation of a limited capacity plant, provided that the power generated by all such private plants in Costa Rica does not represent more than 15% of the total power produced by all public and private plants in the national electric system. Also for greater certainty, any power generated using water in the public domain may be provided only by the State or by private parties, under a concession, in accordance with the Constitution.

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

**Sector:** Higher Education Services

**Obligations Concerned:** National Treatment  
Senior Management and Boards of Directors

**Level of Government:** Central

**Measures:** Decreto Ejecutivo No. 12711-E del 10/06/1981 – Reglamento de la Educación Superior Parauniversitaria, Capítulo VI “De los procedimientos para reconocer los institutos o escuelas de Educación Superior Parauniversitaria Privados”  
  
Ley No. 6693 del 27/11/1981 - Creación del Consejo Nacional de Enseñanza Superior Universitaria Privada, Art.6

**Description:** Cross-Border Services and Investment  
  
No less than eighty-five (85%) of the faculty, administrative faculty, and senior management of a private institute of higher education must be Costa Rican nationals.

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

<b>Sector:</b>	Human Health Service Professionals – Physicians and Surgeons, Dental Surgeons, Microbiologists, Pharmacists, Nurses, and Nutritionists
<b>Obligations Concerned:</b>	National Treatment
<b>Level of Government:</b>	Central
<b>Measures:</b>	<p>Decreto Ejecutivo No. 11 del 10/08/1961 - Reglamento a la Ley número 2343 del 4 de mayo de 1959, que crea el Colegio de Enfermeras de Costa Rica , Capítulo III Derechos y Obligaciones de las Colegiadas”, Art.10</p> <p>Decreto Ejecutivo No. 25841-S del 05/02/1997 - Reforma al Reglamento de Servicio Social Obligatorio para los Profesionales en Ciencias de la Salud, Art.1</p> <p>Ley No. 7559 del 09/11/1995 – Ley de Servicio Social Obligatorio para los Profesionales en las Ciencias de la Salud, Art. 3, 6</p> <p>Decreto Ejecutivo No. 25068 del 21/03/1996, Art. 7, 13, 14, 17, 18.</p> <p>Ley No. 3019 del 09/08/1962 – Ley Orgánica del Colegio de Médicos y Cirujanos– Artículos 2, 4, 5 y 7</p> <p>Decreto Ejecutivo No. 23110-S del 22/03/94 – Reglamento a la Ley Orgánica del Colegio de Médicos y Cirujanos – Capítulo II, Artículos 2, 4, 5, 6, 10</p> <p>Ley No. 2343 del 04/05/1959 – Ley Orgánica del Colegio de Enfermeras de Costa Rica – Artículos 2, 22, 23, 24, 27, 28</p> <p>Decreto Ejecutivo No. 11 del 10/08/61 – Reglamento a la Ley de Enfermeras – Capítulo VIII, Artículos 53, 54, 67, 70, 77, 98</p> <p>Ley No. 5784 del 19/08/1975 – Ley Orgánica del Colegio de Cirujanos Dentistas de Costa Rica– Artículos 2, 5, 6, 9, 10, 14, 15</p> <p>Ley No. 5142 del 30/11/1972 –Ley Orgánica del Colegio de Farmacéuticos de Costa Rica – Artículo 2</p> <p>Decreto Ejecutivo No. 3503-S del 06/02/74 – Reglamento General Orgánico o Reglamento Interno del Colegio de Farmacéuticos de Costa Rica – Artículos 2, 9</p> <p>Ley No. 6038 del 13/01/1977 –Ley Orgánica del Colegio Federado de Químicos y de Ingenieros Químicos</p>

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

Decreto Ejecutivo No. 11275-P del 27/02/1980 – Reglamento a la Ley Orgánica de Químicos y de Ingenieros Químicos

Ley No. 771 del 25/10/49 – Ley del Colegio de Microbiólogos de Costa Rica- Artículos 2, 6, 7, 8, 9

Decreto Ejecutivo No. 12 del 30/09/57 – Reglamento Interno del Colegio de Microbiólogos de Costa Rica- Capítulo II (De los Miembros del Colegio), Artículo 9; Capítulo III (De la Incorporación, Inscripción y Retiro de los Miembros), Artículos 16, 17, Título II (De la Profesión de Microbiólogo), Artículos 78, 79, 80

**Description:**

Cross-Border Services

Physicians and Surgeons, Dental Surgeons, Microbiologists, Pharmacists, Nurses, and Nutritionists shall perform the equivalent of a one year continuous, remunerated mandatory social services requirement.

The assignment of the slots to perform mandatory social services is made through a drawing. If there are enough slots to perform mandatory social services for all applicants, national applicants shall be given priority over foreign applicants with respect to assignment of the specific slots.

If there are insufficient slots available to perform mandatory social services, applicants shall be given the option to become members of the professional association without having to fulfill this requirement. In cases where the number of applicants requesting not to comply with this requirement exceeds the number of available waivers (i.e., total applicants minus total slots), priority for such waivers shall be given to national applicants.

Subject to the conditions and terms included in the legislation and regulation applicable to each professional category listed above, the mandatory social service requirement may be waived for temporary professional practice.

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

**Sector:** Audiovisuals - Advertising - Services of Cinema, Radio, Television, and Other Shows

**Obligations Concerned:** Performance Requirements  
Local Presence  
National Treatment  
Most-Favored-Nation Treatment  
Market Access

**Level of Government:** Central

**Measures:** Ley No. 6220 del 20/04/1978- Regula medios de difusión y agencias de publicidad- “De la explotación y Propiedad” Artículo 3  
  
Ley No. 1758 del 19/06/1954 - Ley de Radio y Televisión y sus reformas- Artículo 11  
  
Decreto Ejecutivo No. 12764-G del 22/06/1981- Artículo 1  
  
Ley No. 5514 del 22/06/1981- Reforma a la Ley de Radio- Artículo 1

**Description:** Cross-Border Services and Investment

Mass media and advertising agencies that wish to be established in Costa Rica must be incorporated with nominative stock.

Radio and television programs shall observe the following rules:

- If the commercials consist of jingles recorded abroad, a lump sum shall be paid every time the commercial is aired on domestically transmitted television. Only 30% of the commercials aired on each domestic television station or projected in each cinema may originate from abroad.
- Commercials imported in a physical medium from outside the Central American region and aired on domestically transmitted television shall pay a tax equivalent to 100% of the declared value of the production of the commercial. Radio, movie, or television commercials shall be considered national when they are produced in any of the Central American countries with which there is reciprocity in the matter.
- The number of radio programs and radio soap operas recorded abroad may not exceed 50% of the total number aired per domestically transmitted radio station per day;

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

- The number of programs filmed or videotaped abroad may be limited to 60% of the total number of programs aired on domestically transmitted television per day.

Radio, movie, or television commercials shall be considered national when ninety percent of the jingle has been composed or arranged by Costa Rican nationals, at least ninety percent of the image has been drawn, photographed, printed, filmed, or videotaped by Costa Rican nationals, and when ninety percent of the technical personnel participating in the overall production are Costa Rican nationals.



**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

**Sector:** News Agency Services

**Obligations Concerned:** National Treatment

**Level of Government:** Central

**Measures:** Decreto Ejecutivo No. 15294-C del 27/02/1984 – Reforma al Reglamento de la Ley Orgánica del Colegio de Periodistas de Costa Rica, Art.1

**Description:** Cross-Border Services

Except as authorized, a journalist who is a foreign national may cover events in Costa Rica only if he or she is a resident of Costa Rica.

The Board of Directors of the Colegio de Periodistas may grant non-resident foreign nationals a special permit to cover events in Costa Rica for up to one year and may extend that period, provided that doing so does not harm or conflict with the interests of members of the Colegio de Periodistas.

If the Colegio de Periodistas decides that an event of international importance will or has occurred in Costa Rica, the Colegio de Periodistas may grant a non-resident foreign national with appropriate professional credentials a temporary permit to cover the event for the foreign media the journalist represents. Such permit may be valid for up to one month after the event.

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

<b>Sector:</b>	Sports Services and Other Entertainment Services
<b>Obligations Concerned:</b>	Market Access National Treatment Local Presence
<b>Level of Government:</b>	Central
<b>Measures:</b>	Ley No. 7744 del 19/12/1997 – Ley de Concesión y Operación de Marinas Turísticas, Art. 12, 21  Decreto Ejecutivo No. 27030-TUR-MINAE-MOPT del 20/05/1998 – Reglamento a la Ley de Concesión y Funcionamiento de Marinas Turísticas, Capítulo V “Del control de la navegación y de la seguridad marítima”
<b>Description:</b>	<u>Cross-Border Services and Investment</u>  To obtain concessions to develop tourism marinas or docking facilities, enterprises with their principal place of business abroad must be established in Costa Rica. For matters related to concessions, goods, rights, and legal actions this enterprise shall be considered Costa Rican. Foreign nationals shall appoint a representative with sufficient legal authority and with permanent residence in Costa Rica.  All foreign flag vessels using marina services may remain in the Costa Rican exclusive economic zone for a maximum period of two years, extendable for like periods. While in Costa Rica, foreign flag vessels and their crew cannot provide water transportation services nor fishing, diving, or other sports or tourism-related activities, except tourism cruises.

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

**Sector:** Entertainment, Cultural, and Sports Services

**Obligations Concerned:** National Treatment

**Level of Government:** Central

**Measures:** Decreto Ejecutivo No. 18886-S del 09/03/1989 – Reglamento sobre Espectáculos Públicos, Art.5

**Description:** Cross-Border Services

Liability for a musical, theatrical, or dance performance by a foreign artist in Costa Rica must be assumed by an enterprise organized under Costa Rican law.

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

<b>Sector:</b>	Railroads, Ports, and Airports
<b>Obligations Concerned:</b>	Market Access Local Presence
<b>Level of Government:</b>	Central
<b>Measures:</b>	<p>Ley No. 7762 del 14/04/1998 – Ley General de Concesión de Obras Públicas con Servicios Públicos, Capítulo I y II</p> <p>Ley No. 5066 del 30/08/1972- Ley General de Ferrocarriles, Capítulo III</p> <p>Ley No. 1721 del 28/12/1953 – Ley del Instituto Costarricense de Puertos del Pacífico y sus reformas, Título I “Constitución y Naturaleza de la Empresa”</p> <p>Ley No. 3091 del 18/02/1963 – Ley de la Junta de Administración Portuaria y de Desarrollo Económico de la Vertiente Atlántica, Título I “Constitución y Naturaleza”</p> <p>Decreto Ejecutivo No. 18245-MOPT del 23/06/1988 – Reglamento a la Ley Orgánica del Instituto Costarricense de Ferrocarriles, Art.2</p> <p>Reglamento sobre operaciones portuarias a la Ley de la Junta de Administración Portuaria y de Desarrollo Económico de la Vertiente Atlántica del 14/03/03</p> <p>Reglamento General sobre Servicios Portuarios del Instituto Costarricense de Puertos del Pacífico, del 24/09/81. Título I “Disposiciones Generales” Capítulo I “Fundamento de aplicación y generalidades”</p> <p>Ley No. 7001 del 19/09/85 – Ley Orgánica del Instituto Costarricense de Ferrocarriles, INCOFER</p>
<b>Description:</b>	<p><u>Cross-Border Services</u></p> <p>The Executive Branch is exclusively in charge of granting concessions for railroads, railways, docks, and international airports. In the case of Limon, Moin, Caldera, and Puntarenas docks, concessions may only be granted for future works or expansions.</p> <p>All enterprises holding railroad concessions shall be organized under Costa Rican law and domiciled in Costa Rica.</p>

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

When the Board of Directors or the Administrative Council of a railroad company is established abroad, it shall maintain in Costa Rica a representative with full power of attorney.

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I: NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

**Sector:** Wireless Services

**Obligations Concerned:** Market Access

**Level of Government:** Central

**Measures:** Constitución Política de la República de Costa Rica,  
Capítulo II

Ley No. 1758 del 19/06/54- Ley de Radio y Televisión y sus  
reformas

**Description:** Cross Border Services and Investment

Pending

**DRAFT**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**January 28, 2004**

*ANNEX I:NON-CONFORMING MEASURES*  
**COSTA RICA LIST**

<b>Sector:</b>	On Premise Supply of Liquors for Consumption
<b>Obligations Concerned:</b>	Market Access
<b>Level of Government:</b>	Central
<b>Measures:</b>	Ley No. 10 del 07/10/1936 - Ley de Licores, Art. 11
<b>Description:</b>	<u>Cross-Border Services</u>

Municipalities decide the number of establishments selling liquor that can be authorized in each one of the areas under their jurisdiction. In no case can this number exceed the following proportion:

- a) in province capitals, one establishment selling foreign liquor and one establishment selling domestic liquor per three hundred residents.
- b) in all other cities with over one thousand inhabitants, one establishment selling foreign liquor per five hundred residents and one establishment selling domestic liquor per three hundred residents.
- c) cities under one thousand residents but over five hundred residents may have two establishments selling foreign liquor and two selling domestic liquor.
- d) any other cities with five hundred residents or less may have one establishment selling foreign liquor and one establishment selling domestic liquor.

No establishment for on-premise supply of liquors for consumption will be allowed outside the perimeter of cities or where no permanent police authority exists.

In a public auction, no person may receive authorization for more than one establishment selling foreign liquor and one establishment selling domestic liquor in the same city.