

# COSTA RICA

In 1996, the U.S. trade deficit with Costa Rica was \$160 million, an increase of \$54 million from the U.S. trade deficit of \$106 million in 1995. U.S. merchandise exports to Costa Rica were \$1.8 billion, an increase of \$75 million (4.3 percent) from the level of U.S. exports to Costa Rica in 1995. Costa Rica was the United States' forty-first largest export market in 1996. U.S. imports from Costa Rica were nearly \$2.0 billion in 1996, an increase of \$129 million (7.0 percent) from the level of imports in 1995.

The stock of U.S. foreign direct investment (FDI) in Costa Rica in 1995 was \$790 million, an increase of 39.6 percent from the level of U.S. FDI in 1994. U.S. FDI in Costa Rica is concentrated largely in the manufacturing sector.

## IMPORT POLICIES

### Tariffs and Other Import Charges

Costa Rica is a member of the Central American Common Market (CACM), which also includes Guatemala, El Salvador, Honduras, and Nicaragua. With the exception of certain items, notably agricultural products, there are no duties for products traded among CACM members. The CACM had a common external tariff (CET) ranging from 5 to 20 percent for most products. In 1995, the members of the CACM agreed to reduce the CET to 0 to 15 percent, but allowed each member country to determine the timing of the reductions. Costa Rica's timetable for reducing the tariffs is contingent on progress in reducing the fiscal deficit and meeting targets under the International Monetary Fund (IMF) standby program.

In the context of the Uruguay Round negotiations, the Government of Costa Rica agreed to eliminate all import quotas and currently has a tariff binding of 53 percent on most goods, excluding selected agricultural commodities which are protected with significantly higher tariffs. Examples of such protection are dairy products and poultry products, with tariff bindings of 108 and 266 percent, respectively. Under the WTO Agreement on Agriculture, Costa Rica agreed to permit imports of up to 3 percent of national consumption of these goods, growing to 5 percent in 2004. This provides opportunities for new-to-market U.S. agricultural products. Unfortunately, full implementation of all tariff rate quotas (TRQs) is being delayed due to a court challenge.

Most applied tariffs range from 1 to 28 percent ad valorem. The Government of Costa Rica reduced duties on imported raw materials, bulk grains, unmilled rice, and oilseeds 5 to 1 percent in July 1996. Imported automobiles, both new and used, are taxed heavily. Depending on the model and accessories, a new car importer can pay up to 150 percent of the c.i.f. price in import duties and taxes (excise tax, sales tax, and 1-percent general tax).

## **Costa Rica**

### **Quantitative Restrictions and Import Licensing**

The Costa Rican Legislative Assembly approved legislation implementing the Uruguay Round Agreements in December 1994. The law, published on December 27, 1994, eliminates quantitative restrictions and requirements for import licenses and permits, including for the following: pork and related by-products, poultry, seeds, rice, wheat, corn (white and yellow), beans, tobacco, sugar, sugar cane, and related products, dairy products, and coffee. The import permits in many cases have been replaced by tariffs as a result of the Uruguay Round negotiations.

### **Customs Procedures**

Costa Rican customs procedures have long been complex and bureaucratic. However, the 1995 passage of a new general customs law formalized reforms aimed at streamlining customs procedures. Much of the necessary processing is now accomplished electronically and “one-stop import and export windows” have significantly reduced the time required for customs processing.

### **STANDARDS, TESTING, LABELING, AND CERTIFICATION**

Costa Rican law requires exclusive use of the metric system, but in practice Costa Rican officials do not challenge U.S. and European commercial and product standards. However, a “system of standards” is not uniformly implemented in Costa Rica due to a lack of adequate laboratory equipment and funds.

There are no general requirements in Costa Rica for marking the origin of goods or for labeling of general merchandise. However, special labeling requirements apply to shipments of food products, pharmaceuticals, fertilizers, pesticides, hormones, veterinary preparations, vaccines, poisonous substances, and mouthwashes. Costa Rican food-labeling law requires that all imported food products contain labeling in Spanish with the following specifications: product name, list of ingredients in quantitative order, nutritional information, name and address of importer, expiration or best-if-used-by dates, and weight.

### **GOVERNMENT PROCUREMENT**

Costa Rica’s government procurement system is based on the 1995 reforms to the Costa Rican Financial Administration Law (Law No. 7494), which came into effect in May 1996. Government entities or ministries with a regular annual budget of more than \$200 million are permitted to issue public tenders subject to publication in the official newspaper (*La Gaceta*) for purchases over \$2.3 million. Entities may make purchases between \$130,000 and \$2.3 million through tenders circulated among a registered suppliers list. Purchases under \$130,000 may be made from a list of pre-selected bidders.

### **EXPORT SUBSIDIES**

The Export Promotion Law (Law No. 5162 of December 22, 1972), which provides for incentives such as tax credit certificates for up to 15 percent of the value of exports, is being phased out. The benefits are only granted to existing companies and are due to end within two years. Export contracts granting 12-year

tax holidays (Law No. 6955 of March 2, 1984) and consolidating the drawback system (tax-free) will be phased out by 1999.

### **LACK OF INTELLECTUAL PROPERTY PROTECTION**

Costa Rica is a signatory of all major international agreements and conventions on trademarks, copyrights, and patent protection. Costa Rica became a member of the World Intellectual Property Organization (WIPO) in 1980.

#### **Copyrights**

Costa Rican copyright law is generally adequate, but not uniformly enforced. The copyright regime was revised in 1994 to provide specific protection for computer software. While piracy of satellite transmissions by the domestic cable television industry has been curtailed, the Costa Rican hotel industry continues to engage in satellite signal piracy. Piracy of video recording and computer software is also widespread, although some progress has been made in reducing such practices. According to one private sector assessment, video piracy has recently been reduced from virtually 100 percent to 90 percent. In a January 1996 court decision, a video club operator was sentenced to one year in prison for duplicating and renting videos without the authorization of the copyright owners. In December 1996, the police initiated an investigation of alleged computer hardware and software piracy. A report prepared in 1995 by the International Intellectual Property Alliance estimated that losses in Costa Rica due to copyright infringements cost U.S. firms \$1.1 million annually.

#### **Patents**

In 1995, the Legislative Assembly ratified the Paris Convention for the Protection of Industrial Property. However, Costa Rican patent law is deficient in several key areas. Patents are granted for a non-extendable 12-year term from the date of the grant. In the case of products deemed to be in the "public interest," such as pharmaceuticals, chemicals and agricultural chemicals, fertilizers, and beverage/food products, the term of protection is only one year from the date of grant. The current patent regime also has unacceptably broad compulsory licensing provisions and requires local manufacture. A new patent law is being drafted to bring Costa Rica in line with its obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs), including restricting compulsory licensing provisions and extending full patent protection term for inventions designated as being "in the public interest."

#### **Trademarks**

Counterfeiting of well-known marks is widespread. Legal recourse against these practices in Costa Rica is available, but may require protracted and costly litigation. In 1994, Costa Rica signed the Central American Convention for the Protection of Trademarks.

## **Costa Rica**

### **SERVICES BARRIERS**

Article 46 of the Costa Rican constitution prohibits private sector monopolies, unless established by law, and acts deemed to restrict or endanger the freedom of trade, agriculture, or industry. However, the constitution established state-owned monopolies on insurance, telecommunications, large electrical generation plants, energy distribution, petroleum exploration, refining, distribution and marketing to the retail level, production of alcoholic beverages, and railroad transportation. In addition, restrictions on the participation of foreign companies exist in private sector activities, such as customs handling, medical services, and other professions requiring Costa Rican registration and long-term residency. Financial reform legislation enacted in 1995 eliminated the state-owned banks' monopoly on checking accounts and savings deposits under 30 days' duration and allowed private commercial banks to access the Central Bank's discount window beginning in September 1996. To qualify for the benefits of the law, however, private commercial banks are required to lend between 10 and 17 percent of their short-term assets to state-owned commercial banks and/or to open branches in rural areas of the country.

Foreign individuals wishing to participate in some sectors may be discouraged by rigorous controls. For example, medical practitioners, lawyers, certified public accountants, engineers, architects, teachers, and other professionals must be members of an officially recognized guild ("colegios") which sets residency, examination, and apprenticeship requirements that can only be met by long-time residents in Costa Rica, whether citizens or foreigners.

The Costa Rican Insurance Institute (INS), which also includes fire department services and medical/rehabilitation clinics, holds the monopoly over the insurance sector. In an open market, insurance underwriting in Costa Rica executed through foreign companies has the potential to grow gradually to approximately 60 percent of the market, given the financial strength, range of product offerings, and global competitiveness of the industry. U.S. participation would account for 50 to 60 percent of the international component of the Costa Rican insurance market, or roughly 35 to 40 percent of the total insurance underwriting in Costa Rica.

### **INVESTMENT BARRIERS**

An expropriation law (Law No. 7495) was enacted in 1995, replacing prior legislation which allowed private property to be taken by any state institution without prior compensation. The law stipulates that expropriations are to occur only after full advance payment is made, regardless of the nationality of the property owner. Expropriations made prior to 1995, as well as land invasions by squatters, however, remain unaddressed. The U.S. Government continues to press the Costa Rican Government to provide prompt, adequate, and effective compensation to affected U.S. property owners and investors. In addition, private investment (both domestic and foreign) is restricted in the areas of energy, telecommunications, insurance, and petroleum (except for retailing). The U.S. Government continues to negotiate a U.S.-Costa Rica Bilateral Investment Treaty (BIT) to address these and other inadequacies.

While impossible to quantify with precision, existing investment barriers impact substantially on U.S. exports. Government monopolies in important sectors, including telecommunications, electric power production and distribution, and insurance, represent a significant non-tariff barrier to U.S. private

investment. The telecommunications and electric energy, opening these sectors more completely to private investment could result in a minimum increase of 10 percent annually in the rate of investment in each sector. Between 1990 and 1994, the U.S. market share in telecommunications imports ranged from 28.3 to 45.4 percent; in electric energy production, the U.S. market share in local imports ranged from 28.2 to 36.3 percent. In a free and open Costa Rican market, the U.S. market share could stabilize towards the upper limit of those ranges, at about 40 percent, and a larger share of the earnings could accrue to U.S. investors as well.

### **OTHER BARRIERS**

On January 9, 1995, USTR initiated a Section 301 investigation of Costa Rica's implementation of the Banana Framework Agreement (BFA) concluded by Costa Rica and the European Union (EU) on January 1, 1995. On January 10, 1996, USTR determined that Costa Rica's policies, acts and practices were unreasonable or discriminatory and a burden or restriction on U.S. commerce. Taking into account the positive steps Costa Rica had taken in revising its internal banana regime and its willingness to cooperate with the United States in seeking to reform of the EU banana regime, USTR decided that the appropriate action was to implement a process aimed at addressing the outstanding issues, while stressing that additional action may still be taken.

**Costa Rica**