

COSTA RICA

In 1997, the U.S. trade deficit with Costa Rica was \$300 million, an increase of \$140 million from the U.S. trade deficit of \$160 million in 1996. U.S. merchandise exports to Costa Rica were \$2 billion, an increase of \$209 million (11.6 percent) from the level of U.S. exports to Costa Rica in 1996. Costa Rica was the United States' thirty-ninth largest export market in 1997. U.S. imports from Costa Rica were \$2.3 billion in 1997, an increase of \$349 million (17.7 percent) from the level of imports in 1996.

The stock of U.S. foreign direct investment (FDI) in Costa Rica in 1996 was \$1.2 billion, an increase of 38.5 percent from the level of U.S. FDI in 1995. U.S. FDI in Costa Rica is concentrated largely in the manufacturing and chemical product sectors.

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.

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 51 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 106 and 262 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. During the past year, Costa Rica finally implemented all of its tariff rate quota (TRQ) commitments..

Most applied tariffs on agricultural products range from 1 to 20 percent ad valorem. The Government of Costa Rica reduced duties on imported raw materials, bulk grains, and oilseeds from 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).

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

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requirements for import licenses and permits, including for the following: pork and related by-products, poultry, seeds, rice, wheat, corn (white and yellow), beans, 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 rebate system for in-bond trade 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, some apartment buildings and large Costa Rican hotels continue 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. Video piracy has been reduced of the last few years from virtually 100 percent to a lesser level.

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 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." The bill awaits legislative action.

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.

SERVICES BARRIERS

Article 46 of the Costa Rican constitution prohibits monopolies, except for public sector monopolies which the constitution establishes. It also prohibits acts deemed to restrict or endanger the freedom of trade, agriculture or industry. The monopolies created by the constitution cover 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

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commercial banks and/or to open branches in rural areas of the country. This requirement is being appealed in the courts.

Foreign individuals wishing to participate in some sectors may be discouraged by regulations governing the practice of a profession. 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.

The Costa Rican constitution grants a monopoly over the insurance sector for the National Insurance Institute (INS). The INS also provides fire department services and owns and manages medical/rehabilitation clinics. In the absence of an insurance monopoly, foreign companies would have the potential to capture as much as 60 percent of the market, given the financial strength, range of product offerings, and global competitiveness of the industry. Industry observers estimate that U.S. participation would account for 50 to 60 percent of the international component of the Costa Rican insurance market, or up to 36 percent of the total.

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. The law applies to Costa Ricans and foreigners alike.

Despite improvements in the legal framework, many expropriations, as well as land invasions by squatters, remain unaddressed. One land invasion resulted in the death of a U.S. citizen in late 1997. As a result, the U.S. Government has placed increased pressure on the Costa Rican Government to provide prompt, adequate, and effective compensation to improve security to protect property owners.

Costa Rica affords national treatment for foreign investors who incorporate or otherwise establish their business locally, and there are no restrictions on the repatriation of investment or profits. However, private investment, both domestic and foreign, is restricted in the areas of energy, telecommunications, insurance, alcoholic beverages, railroad transportation, and petroleum (except for retailing) The U.S. Government and Costa Rica have attempted to negotiate a bilateral investment treaty, but there has been little movement in the negotiations in the past year.

While impossible to quantify with precision, existing barriers to investment in protected sectors probably have an impact on U.S. exports. While protected sectors of the Costa Rican market are favorably disposed toward purchasing supplies and equipment from the U.S., those sectors generally lack access to competitively priced capital and are limited in their ability to purchase inputs from any source -- including from the U.S.

U.S. market share in supplying equipment to the telecommunications and electrical energy sectors as a whole has traditionally run between 30 and 45 percent. However, the parastatal institution that runs the telecommunications and energy utilities traditionally purchases well over half of its equipment from U.S. sources.

Costa Rica has notified to the WTO measures that are inconsistent with its obligations under the WTO Agreement on Trade-Related Investment Measures. The measures deal with local content requirements in the economy in general. Proper notification allows developing-country WTO Members to maintain such measures for a five-year transitional period after entry into force of the WTO. Costa Rica therefore must eliminate these measures before January 1, 2000. The United States is working in the WTO Committee on TRIMs to ensure that WTO Members meet these obligations.

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 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. USTR continues to monitor Costa Rica's compliance with the terms of the MOU.