

# COSTA RICA

## TRADE SUMMARY

In 1999, the U.S. trade deficit with Costa Rica was \$1.6 billion, an increase of \$1.1 billion from 1998. U.S. merchandise exports to Costa Rica were \$2.4 billion, an increase of \$80 million over 1998. Costa Rica was the United States' 37<sup>th</sup> largest export market in 1999. U.S. imports from Costa Rica were \$4 billion in 1999, an increase of \$1.2 billion from the level of imports in 1998.

The stock of U.S. foreign direct investment (FDI) in Costa Rica in 1998 was \$2.1 billion. U.S. FDI in Costa Rica has concentrated largely in the manufacture of electronic and health care products. Much of the U.S. investment in manufacturing involves assembly of apparel and integrated circuits from imported parts. In addition, all baseballs used in the Major Leagues are assembled in Costa Rica from U.S. parts and materials.

## IMPORT POLICIES

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. In 1995, the members of the CACM agreed to reduce the common external tariff (CET) to zero to 15 percent, but allowed each member to determine the timing of the reductions. Costa Rica completed its agreed reductions with a decree published on January 6, 2000.

Selective consumption (excise) taxes for many imported (and domestic) products have been reduced or eliminated. However, excise taxes, ranging from 5 percent to 75 percent, apply to about half of all products imported. Among the highest taxed items are arms and munitions (75 percent), costume jewelry (50 percent), fireworks (50 percent), whiskey (50 percent), new and used vehicles (varies), and wine and beer (40 percent). A one percent surcharge (Law 6966) imposed on most imports was

eliminated at the end of 1999. A 13 percent value-added tax is also applied on most imports and local goods and services.

The Government of Costa Rica agreed to eliminate all import quotas in the Uruguay Round negotiations. In 2000, the tariff binding is 49 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 101 percent and 250 percent, respectively. Costa Rica began reducing applied tariffs on dairy and poultry products in 1999. The maximum applied rates for these products were 88 percent and 162 percent, respectively, on January 1, 2000. They are scheduled to decline to 80 percent and 158 percent on July 1, 2000.

Most applied tariffs on agricultural products range from one to fifteen percent *ad valorem*. The Government of Costa Rica reduced duties on imported raw materials, bulk grains, and oilseeds from five percent to one percent in July 1996. Imported automobiles, both new and used, are taxed relatively heavily. Under regulations in effect since late 1998, total taxes on cars from the latest four model years are 59 percent *ad valorem*, while rates for older cars range from 71-85 percent, depending on age.

A U.S. exporter faced difficulty in gaining entry for a shipment of U.S. rice in 1999, despite payment of the maximum bound rate tariff (35 percent). The process for obtaining standard sanitary phytosanitary documentation was extended beyond the normal period. While the shipment was eventually allowed to enter, the incident revealed that a law remains on the books stating that mills can only purchase rough rice from producers (and not intermediaries). The Government has since overturned that law, noting that it is not in accordance with Costa Rica's WTO obligations. U.S. industry estimates that it could increase rice exports by \$5-25 million if current barriers to rice were removed.

Costa Rica has bilateral free trade agreements with the Dominican Republic and Mexico. When these agreements enter into force, U.S.

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deciduous fruit could be placed at a disadvantage. This will particularly affect fruits that can be shipped out of the U.S. growing season.

### **Non-tariff Measures**

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, for goods such as 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.

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 at "one-stop" import and export windows which 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.

### **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 on a registered suppliers list. Purchases under \$130,000 may be made from a list of pre-selected bidders. Costa Rica is not a signatory of the WTO Agreement on Government Procurement.

### **EXPORT SUBSIDIES**

Incentives for non-traditional exports, including the tax credit certificates (CATs) and tax holidays, were phased out in 1999. Tax holidays are still available for investors in free trade zones, unless tax credits are available in an investor's home country for taxes paid in Costa Rica.

### **INTELLECTUAL PROPERTY RIGHTS 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. Costa Rica's National Assembly approved seven new laws at the end of 1999 for the purposes of bringing the country's legal framework into compliance with the World Trade Organization's TRIPS Agreement. The Assembly will address additional legislation in early 2000. A report prepared by the International Intellectual Property Alliance (IIPA) estimates that copyright infringements in Costa Rica cost U.S. firms \$6 million in 1998.

### **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. The National Assembly ratified the WIPO Copyright Treaty and the Performances and Phonograms Treaty at the end of 1999. Piracy of satellite transmissions by the domestic cable television industry has been curtailed, but some apartment

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buildings and hotels, particularly in areas not served by major cable service providers, 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 also been reduced over the last few years.

### Patents

The Legislative Assembly ratified the Paris Convention for the Protection of Industrial Property in 1995. However, Costa Rican patent law remained deficient in several key areas. Patents were available for a non-extendable 12-year term from the date of grant. In the case of products deemed to be in the "public interest," such as pharmaceuticals, agricultural chemicals, fertilizers, and food and beverage products, the term of protection was only one year from the date of grant. Reforms to the new patent law, passed at the end of 1999, are intended to bring Costa Rica in line with its obligations in the WTO. The law, as reformed, extends full twenty-year patent protection terms for all inventions, including those "in the public interest." Costa Rica was bound to implement its TRIPS obligations by January 1, 2000.

### Trademarks

Counterfeiting of well-known trademarks is widespread. Legal recourse against these practices in Costa Rica is available, but may require protracted and costly litigation. Costa Rica signed the Central American Convention for the Protection of Trademarks in 1994. A protocol amending the Convention to bring it into compliance with the TRIPS Agreement was ratified in late 1999.

### SERVICES BARRIERS

State monopolies cover: insurance; telecommunications; large electrical generation plants; energy distribution; petroleum exploration, refining, distribution and marketing to the retail level; and railroad transportation. In addition, there are restrictions on the

participation of foreign companies in some private sector activities, such as customs handling, medical services, and other professions requiring Costa Rican registration and long-term residency. Wholesalers must have resided in Costa Rica for 10 years and have conducted business there for three years.

In 1999, Costa Rica ratified the 1997 WTO Financial Services Agreement, formally known as the Fifth Protocol to the General Agreement on Trade in Services, and its commitments under this agreement have entered into force. Under this agreement, Costa Rica committed to allow foreign financial service providers to establish 100 percent owned bank subsidiaries in Costa Rica to provide lending and deposit taking services, leasing services, credit card services, and financial information services. Costa Rica made no commitments in the WTO for the provision of securities trading or underwriting services.

Financial reform legislation enacted in 1995 eliminated state-owned banks' monopoly on checking accounts and savings deposits of less than 30 days 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 10-17percent of their short-term assets to state-owned commercial banks and/or to open branches in rural areas of the country. This requirement is being challenged in Costa Rican 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 (colegio) which sets residency, examination, and apprenticeship requirements.

The Costa Rican constitution grants a monopoly over the insurance sector to the National Insurance Institute (INS). The INS also

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provides fire department services and owns and manages medical/rehabilitation clinics.

### INVESTMENT BARRIERS

An expropriation law (Law No. 7495) was enacted in 1995 to improve the protection of private property. The new law makes clear that expropriations are to occur only after full advance payment is made, in accordance with Article 45 of the Costa Rican constitution. The law applies to Costa Ricans and foreigners alike. Despite improvements in the legal framework, many cases remain unaddressed. One land invasion resulted in the death of a U.S. citizen in late 1997. The U.S. Government has urged the Costa Rican Government to provide prompt, adequate and effective compensation, to improve security, and 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 assets or profits in sectors open to foreign investment. The U.S. and Costa Rican Governments have attempted to negotiate a bilateral investment treaty, but negotiations stalled at the beginning of 1997.

An electricity co-generation law enacted in 1996 allowed some private-sector participation in the production of electricity, but not in its transmission. This law has since been modified to permit the private construction and operation of plants under build-operate-transfer (BOT) and build-lease-transfer (BLT) mechanisms, but the operator must have at least 35 percent Costa Rican equity. Legislative proposals to open the electricity, telecommunications, and insurance sectors to foreign investment and competition face an uncertain future in the National Assembly.

It is difficult to quantify with precision whether, or to what extent, existing barriers to investment in protected sectors impact U.S. exports. Protected sectors of the Costa Rican market, including the telecommunications and electricity

sectors, have historically been favorably disposed toward purchasing U.S. supplies and equipment. U.S. market share in supplying equipment to the telecommunications and electricity sectors as a whole has traditionally run between 30-45 percent. However, the parastatal telecommunications and electricity utilities traditionally purchase well over half their equipment from U.S. sources. These percentages could be affected depending on the nationality of private companies that eventually might be allowed to participate in these sectors (although the overall import market could expand after privatization).