

May 28, 2004

The Honorable Alberto Trejos
Minister of Foreign Trade
San Jose, Costa Rica

Dear Minister Trejos:

I have the honor to refer to discussions between the delegations of the United States and Costa Rica in the course of negotiations regarding Annex 11.13 (Specific Commitments) of the Free Trade Agreement between our Governments signed this day (the "Agreement") and to propose the following:

In paragraph 2 of Section A: Costa Rica of Annex 11.13, Costa Rica has committed to develop a new legal regime applicable to contracts of representation, distribution, or production. In the development of that legal regime Costa Rica shall provide transparency in accordance with or equivalent to that required under Article 11.7 (Transparency in Developing and Applying Regulations) and Chapter Eighteen (Transparency) of the Agreement.

Paragraph 2(a) of Section A: Costa Rica of Annex 11.13 provides that the new legal regime shall apply principles of general contract law and of civil procedure, including the *Código Procesal Civil, Libro I, Título IV, Capítulo V*, to such contracts. The United States and Costa Rica understand that such principles include that, in a dispute, a court may attach the assets of, or require the posting of a guarantee (in the form of a bond or cash deposit) by, the representative, distributor, producer, or principal, as appropriate, in a reasonable amount based on evidence presented by both parties as to actual damages that are likely to be awarded in the final judgment. A representative, distributor, producer, or principal with sufficient assets in Costa Rica to cover all or part of such judgment may choose attachment, a guarantee, or both, if required.

In the case of arbitration, the United States and Costa Rica reaffirm that, consistent with the *Convention on the Recognition and Enforcement of Foreign Arbitral Awards* of June 10, 1958, U.S. and Costa Rican courts shall recognize and enforce arbitral awards, except in certain limited circumstances specified in the Convention.

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I have the honor to propose that this letter and your letter of confirmation in reply shall constitute an agreement between our two Governments.

Sincerely,

Robert B. Zoellick

COURTESY TRANSLATION

May 28, 2004

The Honorable Robert B. Zoellick
United States Trade Representative
Washington, D.C.

Dear Ambassador Zoellick:

I am pleased to acknowledge your letter of today's date, which reads as follows:

“I have the honor to refer to discussions between the delegations of the United States and Costa Rica in the course of negotiations regarding Annex 11.13 (Specific Commitments) of the Free Trade Agreement between our Governments signed this day (the “Agreement”) and to propose the following:

In paragraph 2 of Section A: Costa Rica of Annex 11.13, Costa Rica has committed to develop a new legal regime applicable to contracts of representation, distribution, or production. In the development of that legal regime Costa Rica shall provide transparency in accordance with or equivalent to that required under Article 11.7 (Transparency in Developing and Applying Regulations) and Chapter Eighteen (Transparency) of the Agreement.

Paragraph 2(a) of Section A: Costa Rica of Annex 11.13 provides that the new legal regime shall apply principles of general contract law and of civil procedure, including the *Código Procesal Civil, Libro I, Título IV, Capítulo V*, to such contracts. The United States and Costa Rica understand that such principles include that, in a dispute, a court may attach the assets of, or require the posting of a guarantee (in the form of a bond or cash deposit) by, the representative, distributor, producer, or principal, as appropriate, in a reasonable amount based on evidence presented by both parties as to actual damages that are likely to be awarded in the final judgment. A representative, distributor, producer, or principal with sufficient assets in Costa Rica to cover all or part of such judgment may choose attachment, a guarantee, or both, if required.

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shall recognize and enforce arbitral awards, except in certain limited circumstances specified in the Convention.

I have the honor to propose that this letter and your letter of confirmation in reply shall constitute an agreement between our two Governments.”

I have the honor to accept your proposals on behalf of my Government and to confirm that your letter and this reply shall constitute an agreement between our Governments.

Sincerely,

Alberto Trejos