COSTA RICA

TRADE SUMMARY

In 2000, the U.S. trade deficit with Costa Rica was $1.1 billion, a decrease of $477 million from the U.S. trade deficit of $1.6 billion in 1999. U.S. merchandise exports to Costa Rica were $2.4 billion, an increase of $66 million (2.8 percent) from the level of U.S. exports to Costa Rica in 1999. Costa Rica was the United States' 38th largest export market in 2000. U.S. imports from Costa Rica were $3.5 billion in 2000, a decrease of $411 million (10.4 percent) from the level of imports in 1999.

The stock of U.S. foreign direct investment (FDI) in Costa Rica in 1999 amounted to $1.6 billion, a decrease of 20.9 percent from the level of U.S. FDI in 1998. U.S. FDI in Costa Rica is concentrated largely in the wholesale and manufacturing sectors.

IMPORT POLICIES

Costa Rica is a member of the Central American Common Market (CACM), which also includes Guatemala, El Salvador, Honduras, and Nicaragua. There are no duties for products traded among CACM members, with exceptions including certain agricultural products. In 1995, the members of the CACM agreed to reduce the common external tariff (CET) to zero to 15 percent, with some exceptions, 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 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. It also agreed to reduce its maximum tariff rates over time. The tariff binding for 2001 is 48 percent on most goods, excluding selected agricultural commodities, which are protected with significantly higher tariffs. Examples of such protection are dairy and poultry products, with tariff bindings of 99.7 percent and 245 percent, respectively, for 2001. Costa Rica began reducing applied tariffs on dairy and poultry products in 1999. The maximum applied rates for these products were lowered to 72 percent and 154 percent, respectively, on January 1, 2001.

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.

Costa Rica has a free trade agreement in effect with Mexico and has agreements pending ratification with the Dominican Republic and Trinidad and Tobago. A free trade agreement with Chile has been ratified by the Costa Rican legislature but awaits Chilean ratification. Costa Rica is currently negotiating free trade agreements with Canada and Panama. Certain U.S. exports such as deciduous fruit could be placed at a disadvantage when these agreements enter into force.

Non-tariff Measures

The Costa Rican Legislative Assembly approved legislation implementing the Uruguay Round Agreements in December 1994. The law eliminate quantitative restrictions and requirements for import licenses and permits for goods such as pork and related by-products, poultry, seeds, rices, 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.

Importers of U.S. rice and onions have occasionally experienced difficulty gaining entry for their shipments, despite payment of the maximum bound rate tariff. There have been allegations that officials of the Ministry of Agriculture have used excessively strict quality standards or delayed issuance of standard sanitary/phytosanitary documentation to assist domestic farmers facing difficulties with low world prices. The shipments have eventually been allowed to enter, but the delays have led to lost earnings by the shipments' owners. Difficulties with rice shipments revealed the existence of a Costa Rican law that required rice mills to purchase rough rice only from producers and not from intermediaries. The Government has since overturned that law, although problems remain with respect to delays in processing of sanitary/phytosanitary documentation. U.S. industry estimates that it could increase rice exports by $5-25 million if current barriers to rice were removed.

Costa Rican customs procedures have long been complex and bureaucratic. The general customs law passed in 1995 formalized reforms aimed at streamlining customs procedures, and much of the necessary processing is now accomplished electronically. Also, Costa Rica has been implementing the WTO Agreement on Customs Valuation since the start of 2000. However, the U.S. business community continues to press for quicker and more streamlined processes.

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. The system of standards is not uniformly implemented in Costa Rica in part due to a lack of adequate laboratory equipment and funds.

GOVERNMENT PROCUREMENT

Costa Rica's government procurement system is based on the Law of Administrative Contracting (Law No. 7494), a reform to the Costa Rican Financial Administration Law which came into effect in May 1996. Government entities or ministries with a regular annual budget of more than 900 million colones ($2.84 million as of the beginning of 2001) ordinarily must publish public tenders in the official newspaper (La Gaceta) for purchases over 45 million colones ($142,000). These entities may make purchases between 6 million colones and 45 million colones ($19,000-$142,000) through tenders circulated to suppliers on pre-approved lists. Foreign firms may participate in public tenders and be registered as pre-approved suppliers. 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. However, tax holidays are scheduled to expire in 2003 in accordance with Costa Rica's obligations under the WTO Subsidies agreement.

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. Legislation governing enforcement of intellectual property rights and establishing criminal penalties for commercial-scale trademark and copyright violations was passed in 2000. A report prepared by the International Intellectual Property Alliance (IIPA) estimates that copyright infringements in Costa Rica of business software, motion pictures and sound recordings cost U.S. firms $14.2 million in 2000. During 2000, Costa Rica was on the Special 301 Watch List.

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 and in 1999 to protect integrated circuit designs. 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 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. The IIPA continues to believe that criminal sanctions and enforcement actions are inadequate and fail to deter intellectual property violators.

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."

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. The Costa Rican Textiles Chamber, representing trademark owners in the garment industry, was instrumental in passage of legislation in 2000 that established criminal sanctions for commercial-scale trademark violations.

SERVICES BARRIERS

State monopolies cover: insurance; telecommunications; energy distribution; petroleum distribution and marketing to the retail level; and railroad transportation. In addition, there are restrictions (such as Costa Rican registration and long-term residency requirements) on the participation of foreign companies in some private sector activities, such as customs handling, medical services, and other professions. Wholesalers must have resided in Costa Rica for 10 years and have conducted business there for three years.

In 1999, Costa Rica ratified its commitments under the 1997 WTO Financial Services Agreement and accepted the Fifth Protocol of the GATS. 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, underwriting services, or any type of insurance 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 10-17 percent 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 provides fire department services and owns and manages medical/rehabilitation clinics.

INVESTMENT BARRIERS

Costa Rica's 1995 expropriation law (Law No. 7495) improved the protection of private property. The 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, several older cases remain unresolved. Invasions of land by organized squatters are not uncommon. 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.

State monopolies cover large electrical generation plants and petroleum exploration and refining. 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 and telecommunications sectors to foreign investment and competition were abandoned in 2000 in the wake of large-scale demonstrations against reform and a Supreme Court ruling against specific legislation under discussion.

It is difficult to quantify 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.