

### III. TRADE POLICIES BY MEASURE

#### (1) OVERVIEW

1. Since the previous review in 2001, Costa Rica has taken measures to modernize its trade regime, simplifying and computerizing customs procedures, and adopting new regulations on the procedures and on customs valuation. Tariffs are the principal means of protection at the border and all tariffs are *ad valorem*. The average tariff protection applied has remained virtually unchanged and in 2006 reached a simple average of 6.9 per cent. The average for agricultural products (WTO definition) is 14.2 per cent, whereas for other products it is 5.6 per cent. The tariffs show signs of escalation.

2. Bound tariff rates range between zero and 233 per cent, with an average of 44.1 per cent. Costa Rica has bound 100 per cent of its tariff lines, giving its trade regime greater predictability, although this is somewhat undermined by the wide gap that exists between applied and bound tariffs.

3. Costa Rica allows almost all imports from countries belonging to the Central American Common Market (CACM) to enter duty free and gives tariff preferences to imports from Canada, Chile, the Dominican Republic, Mexico and Panama, as well as to three Caribbean Common Market (CARICOM) countries since the end of 2006.

4. Costa Rica applies internal taxes at the same rate to both Costa Rican and imported products, with some exceptions such as the Institute of Municipal Development and Support tax, which is 10 per cent on imported beer and 3 per cent on local beer. The Agrarian Development Institute tax is 5 per cent on aerated soft drinks made by Costa Rican companies and 10 per cent on those produced in Costa Rica by concessionaires of international companies or imported soft drinks.

5. During the period under review, Costa Rica made only limited use of trade protection measures. It applied three anti-dumping measures and definitive duties were imposed in one case only. Costa Rica notified the initiation of an investigation and the application of a provisional safeguard measure on imports of rice. As regards countervailing measures, it arrived at an undertaking on abolishing subsidies granted for certain products exported to the Costa Rican market.

6. Costa Rica has actively implemented sanitary and phytosanitary (SPS) measures and technical regulations. Between January 2001 and December 2006, it submitted 30 notifications on SPS measures and 66 under the Agreement on Technical Barriers to Trade. The vast majority of the technical regulations adopted related to the technical specifications of products, including some unprocessed agricultural products. The review of technical regulations currently under way in Costa Rica provides an opportunity to ensure that these regulations do not serve as unjustified barriers to trade.

7. Costa Rica bans the export of logs of certain species of woods from natural forests. It imposes taxes on exports of coffee and bananas and there is a minimum export price for the latter. The Central Bank requires registration of foreign currency earned from exports. The justification for the export charges and procedures should be reviewed so as to lessen their impact on the competitiveness of Costa Rica's exports.

8. Costa Rica has several programmes granting tax exemptions to exporting enterprises. It has informed the WTO that the free zone and inward processing regimes provide export subsidies. The free zone regime is the only one that allows exemption from income tax (30 per cent) and is the most important export promotion scheme, accounting for just over half of Costa Rica's exports of goods in 2005. The authorities are examining the costs and benefits of the free zone regime in order to prepare a draft reform. This study is a welcome initiative inasmuch as the various regimes under which

Costa Rica gives tax exemption conditional upon export involve incentives that have an impact on the division of resources between export activities and the rest of the economy.

9. Costa Rica also has a number of tax incentive schemes or official financing programmes that are not linked to export. Even though there have been attempts to determine the impact and effectiveness of these schemes and in 2005 a draft law on the transparency and rationalization of incentives was under consideration, during the period under review there were no major changes. These schemes should, therefore, be evaluated together with the export-linked schemes, particularly in view of the large fiscal deficit in the public sector (see Chapter I).

10. There has been no progress as regards privatization and there are no specific plans in this regard. The Costa Rican Petroleum Refining Company (*Refinadora Costarricense de Petróleo S.A. – RECOPE*) has a monopoly of the import, refining and wholesale distribution of crude oil and its by-products and has been notified as a State-trading enterprise. At the end of 2006, the products subject to government price controls on the domestic market were rice and those public services deemed essential.

11. Competition policy prohibits any monopolistic practice, but does not cover agents providing public services under a concession or State monopolies established by law. Some services, for example, insurance, distilling alcohol, supplying fuel, some telecommunications services, and electricity transmission are solely provided by State-owned enterprises. Excluding these services from the scope of competition legislation considerably undermines the efforts made to boost competition in the Costa Rican market and, because this market is relatively small, tends to lead to market concentration. At the end of 2006, the Legislative Assembly was discussing draft legislation to open up the insurance and telecommunications markets.

12. Costa Rica has not signed the WTO Plurilateral Agreement on Government Procurement and is not an observer. There have been no substantial changes in the legislative framework for government procurement since 2001, even though measures have been taken to promote small and medium-sized enterprises and transparency. Products manufactured by local industry may be given priority for government procurement. Participation by foreign bidders is subject to reciprocity. The authorities have indicated that, in practice, reciprocity is not a requirement. In 2005, for the government sector as a whole, the total value of procurement of goods and services was equivalent to 18.3 per cent of the GDP for that year.

13. There have been no major amendments to intellectual property rights legislation and the adoption of comprehensive regulations for the Law on Intellectual Property Rights Enforcement Procedures is pending. Costa Rica does not protect new plant varieties, even though a draft law on the subject was under consideration at the end of 2006 as part of the parallel agenda for the Free Trade Agreement with the United States.

## **(2) MEASURES AFFECTING IMPORTS**

### **(i) Customs procedures**

14. The legislative framework for the National Customs Service is laid down in the Uniform Central American Customs Code III (CAUCA III)<sup>1</sup>; the General Customs Law (Law No. 7557 of 20 October 1995); the amendments to the General Customs Law contained in Law No. 8373 of

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<sup>1</sup> On 3 November 2003, Costa Rica submitted to the Secretariat of the Central American Integration System (SICA) the Second Protocol modifying the Central American Uniform Customs Code (CAUCA III). Under this procedure, Costa Rica gave effect to CAUCA III as of 19 November 2003.

18 August 2003 and Law No. 8458 of 21 September 2005; together with the implementing regulations for the General Customs Law and amendments thereto.<sup>2</sup> CAUCA III determines the basic customs legislation that must be applied in the signatory countries, in accordance with the requirements of the Common Market and the Agreement on the Central American Tariff and Customs Regime. The Second Protocol modifying the Uniform Central American Customs Code was approved by Law No. 8360 of 24 June 2003 and Executive Decree No. 31536 of 24 November 2003 and the amendments thereto contain the Uniform Central American Customs Code Regulations (RECAUCA).

15. During the period 2001-2006, Costa Rica introduced the Information Technology for Customs Control Scheme (*Tecnología de Información para el Control Aduanero – TICA*), which the authorities explain computerizes customs procedures and enables better control by adopting a new approach based on risk methods.

16. Costa Rica is a member of the World Customs Organization.

17. The General Customs Law requires regular importers to be registered with the National Customs Valuation and Verification Authority (*Órgano Nacional de Valoración y Verificación Aduanera – ONVVA*) at the Directorate-General of Customs. Under Law No. 7557, amended by Law No. 8373 of 18 August 2003, the services of customs agents must be used in all customs regimes with a few exceptions.<sup>3</sup>

18. Definitive import must be covered by a customs value declaration<sup>4</sup> if the value of the goods exceeds 1,000 Central American pesos (US\$1,000), with some exceptions. The declaration of value must be transmitted electronically and must contain, *inter alia*, information regarding the agents (importer, transporter, supplier, intermediary); the goods (origin, description); the tariff classification; the exchange rate; the commercial invoice; the customs value; the place and country of shipment; the number and date of the bill of lading; and the customs regime or procedure requested.

19. After the customs declaration has been accepted and the relevant charges paid, the customs indicates whether the goods are to be inspected or can be removed.<sup>5</sup> Pursuant to the implementing regulations for the General Customs Law, customs declarations are subject to a selective random procedure to decide whether there is to be immediate verification of the goods declared; if immediate verification is decided, the documents may be checked or the goods may be physically inspected. Checking of the documents may result in a request for physical inspection of the goods if this is considered necessary in order to confirm the information declared. Where it is decided to carry out a

<sup>2</sup> Executive Decrees Nos 25270-H (4 September 1997); 32747-H (25 October 2005); 32481-H (29 June 2005); 32456-H (29 June 2005); 32098-H (23 September 2004); 32006-H (13 May 2004); 31810-H (1<sup>o</sup> May 2004); 31667-H (5 March 2004); 31063-H (4 February 2003); 30817-H (16 September 2002); 30721-H (10 September 2002); 30145-H (17 December 2001); 29925-H (1<sup>o</sup> October 2001); 29663-H (15 May 2001); and 29457-H (25 April 2001).

<sup>3</sup> The services of customs agents are optional under the following regimes or customs procedures: free zones, export, bonded warehouses, ship's stores and outward processing, as well as for the following: baggage, relief consignments, samples of no commercial value, urgent or "courier" dispatches, postal dispatches, duty-free shops, non-commercial imports, dispatches of a family nature, industrial or commercial dispatches to the customer's premises and imports by the Government or its institutions and, in general, consignment of goods subject to regimes or procedures that do not require customs agents.

<sup>4</sup> Article 319, Regulation No. 25270, as amended by Decree No. 28976-H of 2000; Executive Decree No. 31667-H of 2004 and Executive Decree No. 32456-H of 2005.

<sup>5</sup> Article 321 of Regulation No. 25270, as amended by Decree No. 28976-H of 2000; Executive Decree No. 31667-H of 2004.

physical inspection of the goods, it may be indicated whether this is to be carried out integrally or by taking samples.

20. According to data from the authorities, in 2006, 15.5 per cent of imports were subject to some form of documentary or physical inspection, of which 9.8 per cent underwent both physical and documentary inspection and 5.7 per cent checking of the documents. The goods are singled out on the basis of both selective and random criteria.

21. Law No. 8373 of 18 August 2003 introduced changes to the appeals procedure. This is regulated by Articles 198-204 of the General Customs Law and amendments thereto (Law No. 7557 of 20 October 1995). Various acts may be contested, including the assessment of the tax to be paid, by lodging an application for reconsideration or an appeal with the National Customs Tribunal within three working days following notification of the act. The interested party may dispense with the application for reconsideration and only lodge an appeal. In the case of procedures and claims initiated before the aforementioned amendments entered into force, any interested party that had already applied for reconsideration and review by a higher authority may decide not to proceed with the review by a higher authority or with both procedures (application for reconsideration and review by a higher authority) and lodge an appeal requesting the customs to transmit the case to the National Customs Tribunal. After an appeal has been lodged and the application for reconsideration has been rejected as a whole or in part, the competent customs authority transmits it to the National Customs Tribunal.

22. The Ministry of Finance is responsible for combating various types of tax fraud, including smuggling, tax evasion and under-invoicing. There are a number of tax administration measures for this purpose, in particular, proposed regulations to improve enforcement.<sup>6</sup> Tax evasion by means of under-invoicing or smuggling has involved goods such as kitchen accessories, domestic electrical appliances, electronic apparatus, cellular telephones, tyres and perfume.<sup>7</sup> Other problems have been highlighted concerning application of customs valuation regulations, customs complaints procedures, the system's efficiency and the absence of policies on the comprehensive development of the customs service.<sup>8</sup>

## (ii) Customs valuation

23. The WTO Customs Valuation Agreement (CVA) has been implemented by Law No. 8013, published on 5 September 2000. The Central American Regulations on the Customs Valuation of Goods have been incorporated through Executive Decree No. 32082-COMEX-H of 7 October 2004. Pursuant to Article 20.1 of the CVA, Costa Rica has delayed application of the valuation rules for a period of five years.

24. In 2001, Costa Rica replied<sup>9</sup> to the list of questions regarding the implementation and administration of the CVA. In its replies, Costa Rica indicated, *inter alia*, that Article 252 of Title XII of the General Customs Law provides for the reversal of the order of application of the valuation methods established in Articles 5 and 6 of the CVA. Pursuant to Article 20.2 of the CVA, allowing developing countries to delay application of Article 6, Costa Rica delayed its application for three

<sup>6</sup> See <http://www.hacienda.go.cr/centro/datos/Noticia/EI%20Proyecto%20de%20Ley%20de%20Aduanas-Canara-30Oct-2002.doc>.

<sup>7</sup> Information consulted at: <http://www.hacienda.go.cr/centro/datos/Noticia/Hacienda%20prepara%20operativo%20para%20minimizar%20evasi%C3%B3n%20fiscal-La%20prensa%20libre-8Mar-2006.doc>.

<sup>8</sup> University of Costa Rica (2003), pages 50 and 52. Other concerns regarding customs administration issues have been published on line (see <http://www.agentesaduaneros.com>).

<sup>9</sup> WTO document G/VAL/N/2/CRI/1 of 28 September 2001.

years as of 1 January 2000 (Article 259 of the General Customs Law). Article 6 of the CVA has been applied in Costa Rica since 1 January 2003.

25. In 2002, Costa Rica notified<sup>10</sup> that, since 5 September 2000, it had applied the Decision of the Committee on Customs Valuation on the Treatment of Interest Charges in the Customs Value of Imported Goods pursuant to Article 256 of the General Customs Law. Costa Rica does not apply paragraph 2 of the Decision on the Valuation of Carrier Media Bearing Software for Data-Processing Equipment. In addition to the elements mentioned in the first paragraph of Article 8 of the CVA, Article 4 of the Central American Regulations on the Customs Valuation of Goods and Article 254 of Title XII of the General Customs Law determine the components of the customs value.<sup>11</sup>

26. When determining the customs value of imported goods, Costa Rica follows the provisions of the CVA, which state that the customs value of imported goods is the transaction value.<sup>12</sup> According to the authorities, the transaction value method in the CVA is used to determine the value of some 95 per cent of imports. The remainder are imports subject to some form of revision or adjustment of the declared value by the customs authority. The authorities have stated that, when determining alternative values, Costa Rica also follows the provisions laid down in the CVA.

27. The ONVVA of the Directorate-General of Customs is responsible for matters relating to customs valuation of goods, as prescribed in the General Customs Law. The ONVVA defines a series of products as being "sensitive", using information available on subsequent verification of customs value, market studies on trends in imported goods and their impact on domestic production and industry; and assessment of the impact on tax receipts. In 2006, domestic electrical appliances, ceramic floor tiles, spirits, footwear, perfumery preparations, automobiles and plastic products were deemed to be sensitive.

28. Costa Rica requires importers to be registered<sup>13</sup> and a compulsory analysis of the value of agricultural products that are sensitive as regards the domestic industry, pursuant to Article 245, paragraph (g), of the General Customs Law. According to the authorities, in practice this provision does not constitute a restriction or limitation on the import of such goods inasmuch as registration of these importers is voluntary and is not a prior requirement in order to import. They have also pointed out that the analysis referred to in this regulation is part of the subsequent verification of value in order to detect deviations from the declared value.

### (iii) Rules of origin

29. Costa Rica notified the WTO<sup>14</sup> that it does not have any non-preferential rules of origin.

30. Costa Rica applies preferential rules of origin as a member of the CACM.<sup>15</sup> It also applies preferential rules of origin under its trade agreements with Canada, Chile, the Dominican Republic,

<sup>10</sup> WTO document G/VAL/N/3/CRI/1 of 1 February 2002.

<sup>11</sup> These elements include: (i) transport costs up to the port or place of import; (ii) loading, unloading and handling charges for transporting the imported goods up to the port or place of import; (iii) insurance costs. For the purposes of transport, loading, unloading and handling costs, the port or place of import is defined as the first port or place of arrival of the goods in Central American Customs Territory.

<sup>12</sup> As provided in the addition to the General Customs Law and amendments thereto for a new Title XII, entitled customs value of imported goods.

<sup>13</sup> Register of importers (Article 245, General Customs Law).

<sup>14</sup> WTO document G/RO/N/1 of 9 May 1995.

<sup>15</sup> Central American Regulations on the Origin of Goods, adopted by Executive Decree No. 33263-COMEX of 7 June 2006 and Executive Decree No. 33461-COMEX of 20 December 2006.

Mexico, CARICOM and Panama (see also Chapter II(5)).<sup>16</sup> Costa Rica notified the WTO<sup>17</sup> of preferential rules of origin under the Free Trade Agreement with Mexico and the Central American Regulations on the Origin of Goods.

31. Costa Rica applies preferential rules of origin that vary according to the preferential agreement and to the type of goods, but in general they are based on the overall principle of a change in the tariff classification, in addition to other rules in some cases.

32. Certificates of origin under free trade agreements are in the form of a sworn declaration completed and signed by the exporter or producer. These certificates are not issued or countersigned by any government authority, except in the case of the Free Trade Agreement with CARICOM and the Free Trade and Preferential Exchange Agreement with Panama, under which the certificate of origin must be countersigned by a certifying authority authorized by each country's government. Costa Rica uses the Uniform Central American Customs Form (*Formulario Único Centroamericano* – FAUCA) to certify the Central American origin of goods coming from CACM member countries.

33. Investigation into the origin of goods is the responsibility of the Inspection Department of the National Customs Service. The customs deal with immediate controls and complaints relating to tariff preferences.

**(iv) Tariffs**

(a) Structure and levels

34. Costa Rica grants at least most-favoured-nation treatment to all its trade partners.

35. Costa Rica's tariff has two components: the import duty (*derecho arancelario sobre las importaciones* – DAI) and an additional duty of 1 per cent pursuant to Law No. 6946 applicable to all imports with a few exceptions.<sup>18</sup>

36. Costa Rica defines its own tariff policy within the framework and guidelines established at the CACM level. It applies the Central American Import Tariff, which uses the Central American Tariff System (*Sistema Arancelario Centroamericano* – SAC) for the official classification of goods. The SAC is based on the Harmonized Commodity Description and Coding System (HS). The Fourth Amendment to the HS was incorporated into the SAC on 1 January 2007 by Resolution No. 1820-2006 of 9 November 2006 adopted by the Central American Tariff Council.

37. In 2006, Costa Rica's tariff had 8,840 10-digit tariff lines (Table III.1). All tariffs on imports are *ad valorem* and apply to the c.i.f. value of the goods (Table III.2).

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<sup>16</sup> Chapter IV, Costa Rica–Mexico FTA, Law No. 7474 of 20 December 1994; Regulations for the Costa Rica–Panama FTA, Executive Decree No. 17188.MEIC of 12 September 1986; Chapter IV, Central America–Dominican Republic FTA, Law No. 7882 of 9 June 1999; Chapter IV, Costa Rica–Canada FTA, Law No. 8300 of 10 September 2002; Chapter 4 Central America–Chile FTA, Law No. 8055 of 4 January 2001; Chapter IV Costa Rica and the Caribbean Community (CARICOM) FTA, Law No. 8455 of 19 September 2005.

<sup>17</sup> WTO document G/RO/N/20/Rev.1 of 27 July 1998.

<sup>18</sup> These exceptions include: (i) imports covered by free trade agreements; (ii) goods included in the WTO Agreement on Information Technology (see (v) below); (iii) imports under the following conditions: (a) the Export Processing Zones Regime (Law No. 6695 of 10 December 1981 and amendments thereto); (b) by self-managed, savings and loan and service cooperatives and by workers' unions; (c) by higher public education establishments; and (d) medical and surgical equipment, medicines and raw materials for their manufacture in Costa Rica.

**Table III.1**  
**Summary of MFN tariff, 2006**

Description	MFN <sup>a</sup>			Coefficient of variation	Average bound tariff (%)
	Number of lines	Average (%)	Range (%)		
<b>Total</b>	<b>8,840</b>	<b>6.9</b>	<b>0 - 151</b>	<b>1.4</b>	<b>44.1</b>
HS 01-24	1,455	14.5	1 - 151	1.2	45.5
HS 25-97	7,385	5.4	0 - 15	1.0	43.8
<b>By WTO category</b>					
Agricultural products	1,366	14.2	1 - 151	1.3	44.9
Animals and animal products	169	30.7	1 - 151	1.3	70.1
Dairy products	37	51.4	1 - 66	0.5	85.3
Coffee and tea, cocoa, sugar, etc.	246	12.1	1 - 66	0.8	43.6
Cut flowers and plants	80	5.5	1 - 15	1.1	33.3
Fruit, vegetables and garden produce	319	14.2	1 - 46	0.5	43.7
Cereals	31	11.7	1 - 36	1.2	32.8
Oilseeds, fats and oils and their products	120	7.2	1 - 31	0.9	26.2
Alcoholic beverages and liquids	143	14.2	1 - 15	0.2	46.7
Tobacco	21	10.5	1 - 41	1.1	42.9
Other agricultural products n.e.s.	200	4.7	1 - 15	1.0	36.4
Non-agricultural products (including petroleum)	7,474	5.6	0 - 15	1.0	43.9
Non-agricultural products (excluding petroleum)	7,434	5.6	0 - 15	1.0	44.0
Fish and fish products	200	10.2	1 - 15	0.5	46.3
Minerals, precious stones and metals	449	5.9	0 - 15	1.0	43.6
Metals	861	4.1	1 - 15	1.1	42.8
Chemicals and photographic products	1,717	3.1	0 - 15	1.3	43.3
Leather, rubber, footwear, and travel articles	262	8.1	1 - 15	0.6	44.0
Wood, wood pulp, paper and furniture	524	7.3	1 - 15	0.7	44.3
Textiles and clothing	1,103	10.2	1 - 15	0.4	45.2
Transport equipment	459	6.1	1 - 15	1.0	67.2
Non-electrical machinery	766	2.6	0 - 15	1.6	39.5
Electrical machinery	467	3.2	0 - 15	1.6	34.6
Non-agricultural products n.e.s.	626	7.1	0 - 15	0.9	40.0
Petroleum	40	5.3	0 - 15	1.1	37.1
<b>By ISIC sector<sup>b</sup></b>					
Agriculture and fishing	540	9.2	1 - 66	0.9	37.8
Mining	129	3.2	0 - 15	1.1	45.0
Manufacturing	8,169	6.8	0 - 151	1.4	44.5
<b>By HS chapter</b>					
01 Live animals and animal products	356	20.1	1 - 151	1.4	56.8
02 Plant products	534	10.3	1 - 46	0.8	36.7
03 Fats and oils	78	9.7	1 - 31	0.7	40.8
04 Food preparations, etc.	487	15.9	1 - 151	1.0	47.6
05 Mineral products	224	3.7	0 - 15	1.2	43.6
06 Products of the chemical and related industries	1,511	2.5	0 - 15	1.5	43.9
07 Plastics and rubber	447	6.1	1 - 15	0.8	41.7
08 Hides and skins	131	9.1	1 - 15	0.6	36.9
09 Wood and articles of wood	134	8.9	1 - 15	0.5	38.5
10 Wood pulp, paper, etc.	353	6.2	1 - 15	0.8	47.1
11 Textiles and textile articles	1,059	10.1	1 - 15	0.5	45.0
12 Footwear, hats and other headgear	92	12.2	1 - 15	0.4	51.6
13 Articles of stone	216	7.4	0 - 15	0.8	42.4
14 Precious stones, etc.	58	8.0	1 - 15	0.7	44.6
15 Base metals and articles of base metal	850	4.4	1 - 15	1.1	42.7
16 Machinery and mechanical appliances	1,285	3.0	0 - 15	1.6	37.3
17 Transport material	477	6.1	1 - 15	1.0	66.4
18 Precision instruments	297	3.8	0 - 15	1.3	37.7
19 Arms and ammunition	28	13.1	6 - 15	0.3	45.0
20 Miscellaneous manufactured articles	212	11.4	1 - 15	0.4	42.7
21 Works of art, etc.	11	8.2	6 - 10	0.3	45.0

Table III.1 (cont'd)

Description	MFN <sup>a</sup>			Coefficient of variation	Average bound tariff (%)
	Number of lines	Average (%)	Range (%)		
<b>By stage of processing</b>					
First stage of processing	1,017	7.6	0 - 66	1.0	40.2
Semi-processed products	2,782	4.4	0 - 46	1.1	43.4
Fully processed products	5,041	8.2	0 - 151	1.4	45.3

a Includes the 1 per cent tax applied pursuant to Law No. 6946.

b ISIC (Rev.2), excluding electricity (1 line).

Source: WTO Secretariat estimates, based on data provided by the authorities.

**Table III.2**  
**MFN tariff structure, 2006**

	2006
1 Total number of tariff lines	8,840
2 Non- <i>ad valorem</i> tariffs (% of all tariff lines)	0.0
3 Non- <i>ad valorem</i> tariffs without AVEs (% of all tariff lines)	0.0
4 Tariff quotas (% of all tariff lines)	1.0
5 Duty-free tariff lines (% of all tariff lines)	2.7
6 Average of lines exceeding zero (%)	7.1
7 Domestic tariff peaks (% of all tariff lines) <sup>a</sup>	1.4
8 International tariff peaks (% of all tariff lines) <sup>b</sup>	1.4
9 Bound tariff lines (% of all tariff lines)	100.0

a Domestic tariff peaks are defined as rates exceeding three times the overall simple average of applied rates.

b International tariff peaks are defined as rates above 15 per cent.

Source: WTO Secretariat estimates, based on data provided by the authorities.

38. The average tariff on agricultural products (defined according to Annex I to the WTO Agreement on Agriculture) is clearly higher than that on other products. In 2006, the average was 14.2 per cent for agricultural products and 5.6 per cent for other products. The following are among the agricultural products that receive a higher level of protection: meat of swine and some of its by-products (HS 0203 and 0210); meat and edible offal of poultry (HS 0207); dairy produce (HS 04); onions and shallots (HS 0703); beans (HS 0713); potatoes (HS 0701, 0710, 2004 and 2005); rice (HS 1006); sausages and similar products of meat (HS 1601 and 1602); and sugar (HS 1701) and molasses (HS 1703).

39. Costa Rica's average tariff remains virtually unchanged, a simple average of 6.9 per cent in 2006 (7.0 per cent in 2000). The vast majority of tariff headings are to be found in the 0 to 15 per cent range and about half of them are 0 or 1 per cent.<sup>19</sup> In 2006, 46.2 per cent of the tariffs applied were in the 0 to 5 per cent range, 27.2 per cent between 5 and 10 per cent and 22.5 per cent between 10 and 15 per cent.

40. Partly as a reflection of the guidelines laid down at the CACM level, the applied tariff shows clear tariff escalation.

(b) Bindings

41. Costa Rica's tariff bindings appear in Schedule of Commitments LXXXV attached to the 1994 General Agreement on Tariffs and Trade. This Schedule follows the structure of the 1992 Harmonized System (HS). Transposition of Schedule LXXXV from the HS92 to the HS96 was

<sup>19</sup> In most cases, these lines are subject to a zero tariff (DAI), but pay the 1 per cent tax established in Law No. 6946.

certified by the WTO Members in 2001.<sup>20</sup> In order to transpose the Schedule of Commitments from the HS96 to the HS02, Costa Rica submitted a list of the tariff headings affected by the HS02 changes.<sup>21</sup> The WTO General Council gave Costa Rica a waiver<sup>22</sup> until 31 December 2006 to enable it to implement domestically the recommended amendments to the Harmonized System nomenclature pending incorporation of such changes into its schedule of concessions.

42. Costa Rica has bound 100 per cent of its tariffs. The bound tariff rates range from 0 to 233 per cent. The final average bound tariffs were: 44.1 per cent for all products, 44.9 per cent for agricultural products and 43.9 per cent for non-agricultural products (Table III.1).

43. Among the tariff headings strictly comparable to the HS02 contained in the schedule of concessions, the WTO Secretariat identified one tariff item (HS 0405200090, other dairy spreads) whose applied rate of 66 per cent is higher than the bound rate of 45 per cent. The authorities have indicated that a mistake was made when preparing the notification of the Second Amendment (HS96) and that the line in question came from the entry 04050090, whose final binding was 94.7 per cent.

(c) Preferential tariffs

44. Table III.3 provides information on the tariff concessions given by Costa Rica under the FTAs in force at the end of 2006 (see also Chapter II).

**Table III.3**  
Tariff reduction programmes in FTAs signed by Costa Rica

Special features of reduction	CACM	Mexico	Chile	Dominican Republic	Canada	CARICOM <sup>a</sup>
Date of entry into force	July 1963	January 1995	February 2002	March 2002	November 2002	November 2005
Distribution of tariff items according to Costa Rica's reduction programme <sup>b, c</sup>	99.8% free trade; 0.1% excluded; 0.1% subject to import control	73.1% free trade; 11.8% 5 years; 12.5% 10 years; 0.4% 15 years; 1.8% excluded; 0.4% 3 other periods	73.4% free trade; 9% 5 years; 12.8% 12 years; 0.9% 16 years; 3.8% excluded; 0.1% bovine meat	91.2% free trade; 0.7% 5 years; 7.8% excluded; 0.1% quota; 0% oils treatment (Chap. 15)	65.1% free trade; 18.7% 8 years; 0.03% 9 years; 14.6% 15 years; 0.4% quota; 1.1% excluded	90.3% free trade; 1.1% 4 years; 0.8% seasonal treatment; 2.2% treatment by country; 4.6% excluded; 1% pending
Examples of products excluded from the reduction timetable by Costa Rica	Coffee, whether or not roasted; raw and refined sugar	Dairy produce; poultry sector; potatoes; onions; coffee; sugar; cocoa powder; aerated beverages; tobacco	Poultry sector; dairy produce; onions; potatoes; wheat; vegetable oils; and the forestry sector (timber and furniture)	Meat of chickens or hens; liquid and powdered milk; coffee; onions; beans; rice; sugar; alcohol; beer; tobacco; petroleum by-products; textile and clothing products	Dairy produce; meat; fresh potatoes; onions; tomatoes; carrots; sweet peppers; broccoli; beans; rice	Meat; fish; dairy produce; rice; coffee; sugar; beer; cigarettes; glass containers; paints and varnishes; cement

a In early 2007, only in force between Costa Rica and Trinidad and Tobago, Barbados and Guyana.

b The calculations come from the original negotiated schedules, except in the case of the CACM.

c In some instances, the percentages exceed 100% because some lines are subject to two different types of treatment.

d Vegetable oils and soaps, awaiting negotiation.

*Source:* Prepared by the WTO Secretariat on the basis of information in the schedules in the FTAs and from the Costa Rican Ministry of Foreign Trade.

45. As a member of the CACM, Costa Rica applies a zero tariff to almost all products originating in the CACM. In Costa Rica's case, the products excluded from free trade are coffee, whether or not

<sup>20</sup> WTO document WT/Let/397 of 15 June 2001. See also WTO documents WT/Let/196 of 12 November 1998 and WT/Let/462 of 29 March 2004.

<sup>21</sup> WTO document G/SECRET/HS02/CRI/1 of 3 May 2004.

<sup>22</sup> WTO document WT/L/638 of 6 December 2005.

roasted, raw or refined cane sugar and ethyl alcohol, the latter product only in the case of El Salvador. Restricted products are subject to payment of import duties (coffee, whether or not roasted) or an import permit (sugar, ethyl alcohol). In the case of products subject to import permits, the countries may grant import permits at their discretion, in which case the products enter under the free-trade regime; if no permit is granted, the products are subject to the MFN tariff.

46. Under the Costa Rica-Canada FTA, Costa Rica allows duty-free entry for around 65 per cent of Canadian products following the entry into force of the FTA, with the remaining 34 per cent subject to a reduction timetable over eight to 15 years. Costa Rica excluded 1.9 per cent of goods from the reduction process, including meat, dairy produce, fresh potatoes, onions, tomatoes, carrots, sweet peppers, broccoli, beans and rice.

47. Under the Costa Rica-Chile FTA, Costa Rica's tariff reduction involves four reduction phases with periods of zero, five and 12 years (for food industry, plastic, engineering and other products), and 16 years for some products (pig meat, root crops, avocados, beer, salt, and paper and printing products). Costa Rica excluded the poultry sector, dairy produce, onions, potatoes, beans, wheat, vegetable oils and the forestry sector (timber and furniture) from the reduction programme.

48. Under the Costa Rica-Mexico FTA, Costa Rica provided for an immediate reduction of tariffs on 73 per cent of products. A reduction timetable over five years was agreed for 12 per cent of products; 13 per cent had a timetable over 10 years; 0.4 per cent over 15 years; and 1.9 per cent of products were excluded from the reduction programme. The latter include dairy produce, the poultry sector, potatoes, onions, coffee, sugar, cocoa powder, aerated beverages and tobacco. In 2006, 97 per cent of Mexico's exports to Costa Rica entered duty free.

49. The FTA between Costa Rica and the Dominican Republic allows free trade in both directions for the majority of products. The exceptions include some products that were contained in a reduction timetable for the period 1999-2004, vegetable oils of Chapter 15 of the HS, for which differential treatment was agreed, and products excluded from the reduction programme. The products excluded from the liberalization commitments include sugar, petroleum by-products, coffee, whether or not roasted, wheat flour, ethyl alcohol, rice, chicken, powdered milk, onions, garlic, beans, tobacco and cigarettes.

50. Reciprocal preferences are granted under the FTA between Costa Rica and the five countries deemed to have the most developed economies in the CARICOM (Suriname, Barbados, Guyana, Jamaica and Trinidad and Tobago).<sup>23</sup> Over a period of four years as of the entry into force of the Agreement, 94.5 per cent of the products imported by Costa Rica will enter duty free. Some agricultural products will receive seasonal access treatment. Costa Rica has excluded from tariff reduction products such as rice, sugar, beer, chicken, pig meat (except for hams and shoulders), liquid and powdered milk, paints and varnishes.

51. Costa Rica has a Free Trade and Preferential Exchange Agreement with Panama under which it grants tariff preferences to less than 25 per cent of the products listed in the HS.

(d) Tariff concessions

52. The General Customs Law No. 7557 provides for the following customs regimes that allow tariff concessions: free zones (see section (3)(iv) below), re-import in the same state, re-export,

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<sup>23</sup> At present, the Agreement is in force between Costa Rica, Trinidad and Tobago, Guyana and Barbados.

inward processing, temporary export for outward processing, drawback, and temporary import and export. The distinctive features of these special customs regimes are described in Table III.4.

**Table III.4**  
**Tariff concessions granted under special customs regimes, 2006**

Regime	Features	Period	Legal basis
Free zone	Exemption from all taxes on imports of raw materials, spare parts, packing materials and other products, machinery, equipment, replacement parts, fuel and oil		Article 1 of Law No. 7210
Re-import in the same state	The re-import regime allows Costa Rican or cleared goods that have been definitively exported and return in the same state to enter the customs territory free of duty and taxes	Within three years as of the date of acceptance of the declaration of definitive export	Articles 177, 178, Law No. 7557 Article 1, Law No. 8373 of 18 August 2003
Re-export	The re-export regime allows foreign goods that have entered Costa Rica but not been imported definitively to leave the customs territory. Goods that have been abandoned or regarding which there are justified grounds for assuming that a criminal customs offence has been committed may not be re-exported		
Inward processing	Allows goods to enter Costa Rican customs territory for the purpose of processing, with suspension of all taxes and subject to security being provided. These goods must be re-exported within the time-limits laid down in the regulations after having undergone processing, repair, reconstruction, mounting, assembly, or after being incorporated in systems, machinery, transport equipment in general or appliances with a higher degree of technological or functional complexity or after being used for other similar purposes, under the conditions laid down in the regulations and the relevant provisions issued by the customs administrative authority		Articles 179, 187, Law No. 7557 Article 1, Law No. 8373 of 18 August 2003
Temporary export for outward processing	The temporary export for outward processing regime allows the temporary export of goods that move freely in Costa Rican customs territory for the purpose of processing, working or repair abroad and subsequent re-import		
Drawback	Allows the amounts actually paid or deposited as duty with the tax authorities to be refunded as a result of the definitive import of inputs, packaging or wrapping incorporated into products for export, provided that they are exported within 12 months as of the date of import of these goods. The regulations define the criteria to be met by interested parties in order to be eligible for this regime, as well as the time-limits for the authorities to refund the taxes actually paid	12 months as of the date of import	Article 190, Law No. 7557 Article 1, Law No. 8373 of 18 August 2003
Duty-free shops	Goods imported under this procedure are not subject to taxes. They must be in authorized shops or premises		Article 134, Law No. 7557
Samples of no commercial value	Samples of no commercial value are not subject to payment of import duty		Article 120, Law No. 7557
Temporary import and export regime	Temporary import is a customs regime that allows goods to enter customs territory with suspension of import duty. The goods must be re-exported or imported definitively without any alteration or processing, within the period laid down in the regulations and in accordance with the purpose of the import. This time-limit may not exceed one year except in the case of temporary import of aircraft, which may not exceed five years	Five years	Article 165, Law No. 7557 Article 4, Law No. 8419 of 28 June 2004

*Source:* Prepared by the WTO Secretariat on the basis of Title VII of Law No. 7557 and information provided by the authorities.

(e) Tariff quotas

53. Costa Rica is entitled to impose tariff quotas under the commitments on minimum access opportunities contained in the WTO Agreement on Agriculture (Chapter IV(2)). It submitted its latest notification on tariff quotas<sup>24</sup> in 2001.

54. According to the authorities, Costa Rica also imposes tariff quotas on products covered by the preferential agreements signed with Mexico (avocados); Chile (bovine meat, natural honey); Canada (pig meat, liquid milk, natural honey, pre-fried potatoes, sugar, wheat flour, vegetable oils); and the Dominican Republic (chicken breasts, powdered milk).

(v) Other charges affecting imports

55. A consular fee is applied under Decree No. 23118-RE of 14 March 1994 and amendments thereto (Decreets Nos 26790 and 29988), which establish the taxes to be paid for import-related documentary consular services where special legislation provides that the documentation must meet this requirement. In practice, according to the authorities, this never occurs because the customs legislation does not require documentation to go through the consular process.

(a) Internal taxes

56. The following internal taxes apply both to Costa Rican and imported products: (i) general sales tax (*Impuesto General sobre las Ventas* – IGV); (ii) the selective consumption tax (*Impuesto Selectivo de Consumo* – ISC); (iii) the special tax on alcoholic and non-alcoholic beverages, toilet soap and hydrocarbons; (iv) the Institute for Municipal Promotion and Support (*Instituto de Fomento y Asesoría Municipal* – IFAM) tax; (v) the Agrarian Development Institute (*Instituto del Desarrollo Agrario* – IDA) tax; and (vi) the general forestry tax (on timber) imposed on the value of logs and sawn wood.

57. The IGV is regulated by Law No. 6826 of 1982 and implemented by Executive Decree No. 14082-H of 1982 and amendments thereto. The general rate of the tax is 13 per cent. A rate of 5 per cent applies to monthly consumption of electricity for residential use. For sales of goods, the tax is determined on the basis of the net selling price, which includes the amount of the ISC as well as any special consumption taxes applicable. For the supply of services, the tax is determined on the basis of the selling price after deduction of any discounts. When goods are imported, the IGV is calculated by adding the import duty paid to the c.i.f. value, plus any other import charges and the relevant internal taxes.

58. In 2006, exemptions from payment of the IGV included sales of products in the basic food basket; retreads and tyres for agricultural machinery; veterinary products and agricultural inputs<sup>25</sup>; medicines; kerosene; diesel fuel for fishing excluding sport fishing; books; musical compositions; paintings created in Costa Rica; and coffins. Exports and re-import of Costa Rican goods within three years following their export are also exempt from payment of the IGV.

59. The ISC applies to beer, wine and other fermented beverages; mixtures of fermented beverages; undenatured ethyl alcohol of an alcoholic strength by volume of less than 80 per cent; spirits, liqueurs and other spirituous beverages; cigars and cigarettes and other tobacco; domestic electrical appliances; vehicles; mastics and paints; cosmetics and hair preparations. The ISC is imposed on production and the national packaging process. For imported goods, it is calculated by

<sup>24</sup> WTO document G/AG/N/CRI/1/Rev.1 of 26 February 2001.

<sup>25</sup> As defined by the Ministry of Agriculture and Livestock and the Ministry of Finance.

adding import duties to the customs value. Since the previous review, changes to the regulatory framework for this tax include Laws Nos 8114 of 4 July 2001, 8343 of 18 December 2002 and 8399 of 19 December 2003; as well as Decree No. 31605-H of 12 January 2004.

60. Exemptions from payment of the ISC include export contracts and temporary import regimes; products in the basic basket; school uniforms; certain inputs for agriculture, fishing, the pharmaceutical industry, medicines and medical equipment.

61. The special tax on alcoholic beverages, introduced by Law No. 7972 of 24 December 1999, is a special tax amounting to C 16.0 per unit of consumption of alcoholic beverages<sup>26</sup> imposed on domestic production and import of such products.

62. The IFAM tax is intended to finance the Institute's activities (Law No. 6283). It is imposed on the c.i.f. value plus: the tariff, the ISC, the 1 per cent tax imposed by Law No. 6946 and the IDA tax (see below). In 2006, the IFAM tax was imposed at the following rates: 10 per cent on liqueurs, distilled beverages and other spirituous beverages, 10 per cent on imported beer and 3 per cent on local beer.

63. The IDA tax is intended to finance the Institute's activities (Law No. 6735 of 29 March 1982). It is imposed on the c.i.f. value plus: the import tariff, the ISC and the 1 per cent tax imposed by Law No. 6946. In 2006, the IDA tax was imposed at the following rates: 2.5 per cent on cigarettes; 8 per cent on liqueurs, distilled beverages and spirituous beverages; 5 per cent on beer; and 5, 10 or 14 per cent on non-alcoholic beverages. A 5 per cent rate applies to aerated soft drinks made by Costa Rican companies, 10 per cent on soft drinks produced in Costa Rica by concessionaires of international makers or imported soft drinks, and 14 per cent on Costa Rican or foreign carbonated beverages, mainly used in mixtures of liqueurs.

64. There is also a tax on the transfer of second-hand vehicles listed in the National Register, which is 2.5 per cent of the value determined by the Directorate-General of Taxation. There is also a tax on the transfer of vehicles imported duty free, which is 30 per cent of the customs value determined in the customs declaration, using the exchange rate at the time of transfer. These taxes were introduced by Articles 10 and 13 of Law No. 7088 of 30 November 1987 and amendments thereto.

65. Law No. 8114 introduced a single tax on fuel<sup>27</sup> to replace the tariff duty, the IGV, the ISC and the 1 per cent tax under Law No. 6946.

#### **(vi) Import licensing, restrictions and prohibitions**

66. In 2001, Costa Rica replied to the questionnaire on import licensing procedures.<sup>28</sup> In its notification, it stated that it applied an import quota allocation scheme. It also indicated that, as one of Costa Rica's GATT accession commitments, import licensing had been abolished by Law No. 7473 of 20 December 1994. Article 1 of this Law specifically abolished the existing licences and, in general,

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<sup>26</sup> The following volumes are defined as units of consumption depending on the type of beverage: (a) beers and "coolers": 350 ml; (b) wine, sparkling wine and cider: 125 ml; (c) creams, vermouth, sherry, port, punch and "rompope" punch: 75 ml; (d) other alcoholic beverages: 31.25 ml.

<sup>27</sup> The tax applies per litre of fuel at the following rates: regular petrol C 80; premium petrol C 83.25; diesel fuel C 47; asphalt C 16; asphaltic emulsion C 12; bunker fuel C 8; LPG C 16; A1 jet fuel C 48; Av gas C 80; kerosene C 23; heavy diesel fuel (gas oil) C 15; heavy naphtha C 11; light naphtha 11.

<sup>28</sup> WTO document G/LIC/N/3/CRI/3/Rev.1 of 27 February 2001 (in Spanish only).

eliminated any other procedure such as permits, prior authorization and approval for the import of goods with the exception of special requirements in certain areas (see Table III.5).

**Table III.5**  
**Import requirements for certain goods**

Requirement	Authorizing entity	HS chapters affected	Justification	Legal provisions
Verification, phytosanitary approval at the point of entry/exit for customs clearance, export, national/international transit	Ministry of Agriculture and Livestock (MAG), Quarantine and Plant Register	06-15, 17-19, 23, 24, 29, 30, 32, 37, 38, 40, 44, 46, 47, 52, 53, 63, 64, 70, 85, 90, 96	Phytosanitary measure	Executive Decree No. 32994 of 4 April 2006 Executive Decree No. 24973-MEIC-MAG, "Procedures for the application of phytosanitary requirements for the import of plants, plant products and others capable of carrying diseases", of 16 May 2001 Phytosanitary Protection Law No. 7664 of 2 May 1997
Submission of a form and other documents on refrigerant gases, Government Ozone Commission	Ministry of the Environment and Energy, Government Ozone Commission	29, 30, 38, 39, 84	Environmental protection	Law No. 7223, Approval of the Montreal Protocol on Substances that Deplete the Ozone Layer, of 8 May 1991 Law No. 7228, Convention on the Protection of the Ozone Layer, of 29 May 1991 Law No. 7808, Amendment to Approval of the Montreal Protocol, of 21 July 1998, Supplement No. 41
Verification and phytosanitary approval by the Animal Health Directorate at the point of entry and exit, for customs clearance, export, national or international transit	MAG, Animal Quarantine Department	01-05, 10, 15-17, 19, 21, 23, 28, 29, 31, 32, 35, 38, 41, 43, 50, 51, 56, 57, 67, 96	Sanitary measure	General Law on the National Animal Health Service ( <i>Servicio Nacional de Salud Animal</i> – SENASA), Law No. 8495 of 16 May 2006 Executive Decree No. 28861-MAG, Regulations on the registration and control of veterinary medicines, of 23 August 2000 Executive Decree No. 29762-MAG, on amendment of the Regulations on the registration and control of veterinary medicines, of 10 September 2001 Executive Decree No. 29830-MAG, on amendment of the Regulations on the registration and control of veterinary medicines, of 10 October 2001 Executive Decree No. 16899-MAG, Regulations on the preparation and sale of animal feed and its implementing regulations, of 10 April 1986 Law No. 6883, Control of the preparation and sale of animal feed, of 25 August 1983 Convention on International Trade in Endangered Species of Wild Fauna and Flora, Law No. 5605 of 30 October 1974
Authorization for customs clearance of dogs and cats	MAG, Animal Quarantine Department	01	Sanitary measure	Executive Decree No. 31626, on Regulations on the reproduction and responsible ownership of pets, published on 6 February 2004 General Health Law, Law No. 5395, published in the Official Journal ( <i>La Gaceta</i> ) No. 222 of 24 November 1973 Organic Law on the Ministry of Health, of 8 November 1973 Executive Decree No. 6, Regulations on the import and export of dogs and cats, 26 June 1967 General Law on the National Animal Health Service, Law No. 8494, published in Official Journal No. 93 of 16 May 2006 Regulations on the protection of animal health No. 14584-A
Verification and phytosanitary approval at the point of entry and exit, for customs clearance, export, national or international transit	MAG, Quarantine and Plant Register	06-15, 17-19, 23, 24, 29, 30, 32, 37, 38, 40, 44, 46, 47, 52, 53, 63, 64, 70, 85, 90, 96	Phytosanitary measure	Executive Decree No. 32994, Regulations governing the organizational structure of the phytosanitary service, of 4 April 2006 Executive Decree No. 24973-MEIC-MAG, on the Technical Regulation: "Procedures for the application of phytosanitary requirements for the import of plants, plant products and others capable of carrying diseases", 16 May 2001 Law on Phytosanitary Protection, No. 7664, published in Official Journal No. 83 of 2 May 1997

Table III.5 (cont'd)

Requirement	Authorizing entity	HS chapters affected	Justification	Legal provisions
Export and import permits for species of wild fauna and flora	Ministry of the Environment and Energy, National Conservation Areas Scheme	01, 03-06	Protection of wild species Sanitary and phytosanitary measures	Convention on International Trade in Endangered Species of Wild Fauna and Flora, Law No. 5605, of 30 October 1974 Law on Wildlife Conservation No. 7317 of 7 December 1992 Executive Decree No. 32633, implementing regulations for the Law on Wildlife Conservation, of 20 September 2005
Verification and phytosanitary approval by the Animal Health Directorate at the point of entry and exit, for customs clearance, export, national or international transit	MAG, Animal Quarantine Department	01-05, 10, 15-17, 19, 21, 23, 28, 29, 31, 32, 35, 38, 41, 43, 50, 51, 56, 57, 67, 96	Sanitary measure	General Law on the National Animal Health Service, Law No. 8494 of 16 May 2006 Executive Decree No. 28861-MAG, Regulations on the registration and control of veterinary medicines, of 23 August 2000 Executive Decree No. 29762-MAG, on amendment of the Regulations on the registration and control of veterinary medicines, of 10 September 2001 Executive Decree No. 29830-MAG, on amendment of the Regulations on the registration and control of veterinary medicines, of 10 October 2001 Executive Decree No. 16899-MAG, Regulations on the preparation and sale of animal feed and implementing regulations, of 10 April 1986 Law No. 6883, Control of the preparation and sale of animal feed, of 25 August 1983 Convention on International Trade in Endangered Species of Wild Fauna and Flora, Law No. 5605, of 30 October 1974
Authorization for the import or export of seeds	National Seed Office	06, 10, 12	Phytosanitary measure	Regulation No. 546, Regulations on the import, export and marketing of seeds, published in Official Journal No. 73 of 18 April 2005 Law No. 6289 on the National Seed Office, of 4 December 1978 Executive Decree No. 32994, Regulations governing the organizational structure of the phytosanitary service, of 4 April 2006 Executive Decree No. 24973-MEIC-MAG, Technical Regulation: "Procedures for the application of phytosanitary requirements for the import of plants, plant products and others capable of carrying diseases", of 16 May 2001 Law on Phytosanitary Protection, No. 7664, of 2 May 1997 Customs: Circular DNP-051-98
Sworn declaration on energy efficiency	Ministry of the Environment and Energy, Sectoral Directorate for Energy	84, 85, 87	Environment	Law No. 7447, Regulations on the Rational Use of Energy, of 13 December 1994 Executive Decree No. 25584, on the implementing regulations on the rational use of energy, published in Official Journal No. 215 of 8 November 1996
Authorization for customs clearance of foodstuffs	Ministry of Health, Directorate of Registration and Control	04, 09, 11-13, 15-23, 25, 29, 33, 35	Food safety	Executive Decree No. 31968-S, amending the Regulations on notification of raw materials, sanitary registration, import, customs clearance and monitoring of foodstuffs, of 6 September 2004 Executive Decree No. 31595-S, Regulations on notification of raw materials, sanitary registration, import, customs clearance and monitoring of foodstuffs, published in Official Journal No. 16 of 23 January 2004
Permit for the import or export of drugs and narcotics and customs seals	Ministry of Health, Department of Drugs and Narcotics, Control and Registration	13, 14, 29	Protection of human health	Law No. 7786, on Narcotics, Psychotropic Substances, Unauthorized Drugs and Related Activities, of 15 May 1998, Supplement No. 15 Law No. 8204, Comprehensive Reform of the Law on Narcotics, Psychotropic Substances, Unauthorized Drugs, Verification of Capital and Related Activities, of 11 January 2002

Table III.5 (cont'd)

Requirement	Authorizing entity	HS chapters affected	Justification	Legal provisions
Authorization for customs clearance of toxic and hazardous substances	Ministry of Health, Department of Toxic Substances and Industrial Medicine	25-29, 32-34, 36, 38, 68, 78, 81, 84, 85, 90	Environmental protection	Executive Decree No. 28113-S, on Regulations on the registration of hazardous products, of 6 October 1999, Supplement No. 74
Authorization for the import or export of raw materials, basic elements for medicines and cosmetics, medicines, cosmetics and medical equipment	Ministry of Health, Department of Drugs and Narcotics, Control and Registration	12, 13, 19, 29, 30, 33, 34, 38, 40, 48, 56, 90, 96	Public health	Executive Decree No. 28466-S, on Regulations on the registration, control, import and advertising of medicines, of 29 February 2000 Executive Decree No. 29317-S, on Regulations on the registration, import, marketing and advertising of processed natural resources with medicinal properties, of 27 February 2001 Executive Decree No. 30060-S, on Regulations on the notification, import and control of cosmetics, of 15 January 2002
Authorization for the import or export of precursors and chemical substances, including customs seals	Office of the President, Unit for the Control and Inspection of Precursors	12, 22, 27-29, 38	Public health	Law No. 7786 on Narcotics, Psychotropic Substances, Unauthorized Drugs and Related Activities, of 15 May 1998, Supplement No. 15 Law No. 8204, Comprehensive Reform of the Law on Narcotics, Psychotropic Substances, Unauthorized Drugs, Verification of Capital and Related Activities, of 11 January 2002 Decree No. 19032-S, on Regulations on the import of precursors, chemicals and solvents, of 27 June 1989
Verification and phytosanitary approval by the State Phytosanitary Service ( <i>Servicio Fitosanitario del Estado</i> – SFE) of chemical, biological or like substances and equipment for use in agriculture, at the point of entry and exit, for customs clearance, export, national or international transit	MAG, Department of Fertilizers and Pesticides	13, 25, 31, 34, 38, 84	Public health; environmental protection, sanitary and phytosanitary measure	Executive Decree No. 32994, on Regulations governing the organizational structure of the SFE, of 4 April 2006 Law on Phytosanitary Protection, No. 7664, of 2 May 1997 Executive Decree No. 26921-MAG, on implementing regulations for the Law on Phytosanitary Protection, of 22 May 1998 Executive Decree No. 24337-MAG-S, on Regulations on the registration, use and control of agricultural pesticides and processing aids, of 16 June 1995 Executive Decree No. 27973-MAG-MEIC-S, Regulations on laboratory analysis of chemical and biological substances for agricultural use, of 19 July 1999 Executive Decree No. 27630, Maximum pesticide residues in plants, of 17 February 1999 Executive Decree No. 27041-MAG-MEIC, on Agrochemicals, taking of samples, 9 September 1998 Executive Decree No. 27037-MAG-MEIC, Registration and examination of equipment for applying chemical, biological, biochemical or related substances for agricultural use, of 7 September 1998, Supplement No. 59
Permit for the import of explosives	Ministry of Public Security, Department for the Control of Arms and Explosives	25, 28, 31, 32, 36, 76	Public security	Law No. 7530 on Arms and Explosives, of 23 August 1995 Executive Decree No. 25120-SP, implementing regulations for the Law on Arms and Explosives, of 13 June 1996 Executive Decree No. 32177, Regulations on the organization of the Ministry of Public Security, of 10 January 2005

Table III.5 (cont'd)

Requirement	Authorizing entity	HS chapters affected	Justification	Legal provisions
Authorization for customs clearance of used clothing and footwear	Ministry of Health, Department for the Control of Arthropods and Vermin	63	Public health	Agreement No. 33, Ministry of Finance, National Customs Service, Requirements for the customs clearance of used clothing, of 22 October 1997 Executive Decree No. 29807-S, reform of the Regulations on epidemiological surveillance and control of communicable diseases, of 24 September 2001 Executive Decree No. 25471-S, amendments to the Regulations on epidemiological surveillance and control of communicable diseases, of 30 September 1996 Executive Decree No. 17624, Regulations on epidemiological surveillance and control of communicable diseases, of 13 July 1987
Authorization for customs clearance of radio equipment	Ministry of Governance and Police, Department for National Control of Radios	85	Public health	Decree No. 27554-G, implementing regulations for the National Frequency Allocation Plan, published in Official Journal No. 6 of 11 January 1999
Permit for the import of arms	Ministry of Public Security, Department for the Control of Arms and Explosives	87, 93	Public security	Law No. 7530 on Arms and Explosives, of 23 August 1995 Executive Decree No. 25120 –SP, implementing regulations for the Law on Arms and Explosives, of 13 June 1996 Executive Decree No. 32177, Regulations on the organization of the Ministry of Public Security, published in Official Journal No. 6 of 10 January 2005
Permit for the import of ammunition	Ministry of Public Security, Department for the Control of Arms and Explosives	93	Public security	Law No. 7530 on Arms and Explosives, of 23 August 1995 Executive Decree No. 25120 –SP, implementing regulations for the Law on Arms and Explosives, of 13 June 1996 Executive Decree No. 32177, Regulations on the organization of the Ministry of Public Security, of 10 January 2005
Import or export authorization by the National Chemical Weapons Authority	Technical Secretariat, National Chemical Weapons Authority	28, 29 and 30	Public security	Law No. 7571 approving the United Nations Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, of 28 March 1996, Supplement No. 19 Executive Decree No. 25118, on ratification of the United Nations Convention on the Prohibition of Chemical Weapons, of 13 May 1996, Supplement No. 27 Executive Decree No. 33015, Regulations on chemical security and national implementation of the United Nations Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, of 20 April 2006
Authorization for the import, export or transit of sharks and shark fins	Costa Rican Fisheries and Aquaculture Institute ( <i>Instituto Costarricense de Pesca y Acuicultura</i> – INCOPECA)	03	Environmental protection	Law No. 7384 creating the Costa Rican Fisheries and Aquaculture Institute, of 29 March 1994 Regulations on the protection, use and marketing of sharks and shark fins, Regulation No. 415, of 2 October 2003 INCOPECA Executive Board Agreement AJDIP/431-2005, Requirements for commercial fishing vessels arriving in Costa Rican ports with sharks, submission of unloading inspection request, of 21 September 2005

Table III.5 (cont'd)

Requirement	Authorizing entity	HS chapters affected	Justification	Legal provisions
Import or export permit of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)	Ministry of the Environment and Energy, Senior Directorate, Conservation Area Schemes	03 and 44	Species protection	<p>INCOPESCA Executive Board Agreement AJDIP/499-2005. Amendment to the request for inspection of the unloading of sharks, of 15 December 2005</p> <p>INCOPESCA Executive Board Agreement AJDIP/238-2002, Article 25: "Requirements for authorizing the unloading of fisheries products", of 7 October 2002</p> <p>INCOPESCA Agreement AJDIP/387-99, 24-11-99, fees for the sale of goods/services, of 7 December 2002</p> <p>Convention on International Trade in Endangered Species of Wild Fauna and Flora, Law No. 5605, of 30 October 1974</p> <p>Law on Wildlife Conservation No. 7317 of 7 December 1992</p> <p>Executive Decree No. 32633, on implementing regulations for the Law on Wildlife Conservation, of 20 September 2005</p>

Source: WTO Secretariat, on the basis of information provided by the Costa Rican authorities.

67. Costa Rica received questions<sup>29</sup> from three WTO Members concerning its import licensing procedures. These related in particular to the system for allocating tariff quotas as an import licensing procedure (see also Chapter IV(2)). Costa Rica replied to the questions from one Member.<sup>30</sup>

68. As regards existing import requirements, in practice these act as licences allowing the import of goods once the requirements have been met. The majority of the requirements mentioned concern sanitary and phytosanitary protection, food safety, public health and public security measures.

69. Since 2003, the system for allocating import quotas has changed and the General Regulations on the Distribution and Allocation of Tariff Quotas for Imports came into effect pursuant to Executive Decree No. 30900-COMEX-MAG of 20 December 2002, published in Official Journal No. 3 of 6 January 2003, amended by Executive Decree No. 32237-COMEX-MAG of 8 February 2005 (see Chapter IV(2)).

70. As noted during the previous review, Costa Rica bans the import of a limited number of products for security, environmental protection, phytosanitary, food safety and sanitary reasons.

#### (vii) Anti-dumping, countervailing and safeguard measures

71. In 2002, the Office of Unfair Trade Practices and Safeguard Measures (*Oficina de Prácticas de Comercio Desleal y Medidas de Salvaguardia* – OPCDMS) was set up within the Ministry of the Economy, Industry and Trade (MEIC). Decree No. 30637-MEIC of 12 August 2002 gave the OPCDMS the following responsibilities: to advise the Minister and the public in general regarding dumping, subsidies and the imposition of safeguard measures; to receive and deal with complaints on unfair trade practices caused by dumping or subsidies; to receive and process requests for the imposition of safeguard measures; and to conduct the relevant studies in order to determine the merits of complaints of unfair trade practices or the need to impose safeguard measures. The MEIC and the Ministry of Trade, Directorate for the Implementation of International Trade Agreements (*Dirección*

<sup>29</sup> WTO documents G/LIC/Q/CRI/4/Rev.1 of 28 August 2002, G/LIC/Q/CRI/1 of 29 January 1997, G/LIC/Q/CRI/2 of 28 January 1997 and G/LIC/Q/CRI/3 of 29 January 1997.

<sup>30</sup> WTO document G/LIC/Q/CRI/1 of 29 January 1997.

*de Aplicación de Acuerdos Comerciales Internacionales* – DAACI) have a cooperation agreement under which the DAACI provides assistance in the area of notifications.

72. Between 2001 and August 2006, Costa Rica submitted the following notifications to the WTO:<sup>31</sup> 13 notifications on anti-dumping measures (AD)<sup>32</sup>; four notifications relating to safeguards<sup>33</sup> and 22 notifications relating to countervailing measures.<sup>34</sup>

73. The legal framework for applying AD, countervailing and safeguard measures is found in the WTO provisions and Decree No. 24868-MEIC, approving the text of the Central American Regulations on Unfair Business Practices.<sup>35</sup> In 2002, Costa Rica notified the Central American Regulations on Unfair Business Practices to the WTO.<sup>36</sup>

74. In the case of AD and countervailing measures, investigations may be initiated ex officio, provisional measures may be imposed or price undertakings agreed.

75. As already indicated, at the institutional level, Decree No. 30637-MEIC provides that the OPCDMS attached to the MEIC is the competent authority for all administrative procedures involving the application of anti-dumping measures or countervailing duties. This Decree amends Decree No. 24772-MEIC-MAG as far as the designation of the competent authority is concerned.

76. Any definitive anti-dumping or countervailing duty must be removed at the latest within five years from the date of imposition of the provisional measure or, in its absence, the final resolution. This time-limit may, exceptionally, be extended if it is proved that the conditions justifying imposition of the measure persist. Once the measure has been adopted, it may be revised at any time during the period it remains in force.

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<sup>31</sup> The WTO documents in question include semi-annual reports, other documents needed to comply with commitments in the Agreements and information submitted on the legal and institutional frameworks.

<sup>32</sup> WTO documents G/ADP/N/145/CRI of 31 August 2006, G/ADP/N/139/CRI of 1 March 2006, G/ADP/N/126/CRI of 4 March 2005, G/ADP/N/119/CRI of 25 August 2004, G/ADP/N/112/CRI of 15 April 2004, G/ADP/N/98/CRI of 5 September 2003, G/ADP/N/105/CRI of 5 September 2003, G/ADP/N/1/CRI/2/Corr.1-G/SCM/N/1/CRI/2/Corr.1 of 24 December 2002, G/ADP/N/92/CRI of 9 December 2002, G/ADP/N/1/CRI/2-G/SCM/N/1/CRI/2 of 5 November 2002, G/ADP/N/85/CRI of 27 February 2002, G/ADP/N/78/CRI of 12 October 2001, G/ADP/N/72/CRI of 6 April 2001 and G/ADP/Q1/CRI/6-G/SCM/Q1/CRI/6 of 7 May 2003.

<sup>33</sup> WTO documents G/SG/N/1/CRI/3 of 4 November 2002, G/SG/N/7/CRI/1/Suppl.1 of 28 March 2002, and G/SG/N/6/CRI/1 and G/SG/N/7/CRI/1 of 19 March 2002.

<sup>34</sup> WTO documents G/SCM/N/144/CRI of 4 September 2006, G/SCM/N/146/CRI of 4 July 2006, G/SCM/N/138/CRI of 28 February 2006, G/SCM/N/130/CRI of 16 September 2005, G/SCM/N/123/CRI-G/SCM/N/128/CRI of 5 July 2005, G/SCM/N/122/CRI of 7 March 2005, G/SCM/N/113/CRI of 26 August 2004, G/SCM/N/114/CRI of 2 July 2004, G/SCM/N/106/CRI of 19 April 2004, G/SCM/N/98/CRI of 5 September 2003, G/SCM/N/95/CRI-G/SCM/N/99/CRI of 8 July 2003, G/ADP/N/1/CRI/2/Corr.1-G/SCM/N/1/CRI/2/Corr.1 of 24 December 2002, G/ADP/N/1/CRI/2-G/SCM/N/1/CRI/2 of 5 November 2002, G/SCM/N/71/CRI of 15 March 2002, G/SCM/N/74/CRI of 20 December 2001, G/SCM/Q3/CRI/3 of 26 April 2002, G/SCM/Q3/CRI/3/Corr.1 of 2 May 2002, G/SCM/Q3/CRI/5 of 12 June 2002, G/SCM/Q1/CRI/6 of 7 May 2003, G/SCM/Q3/CRI/7 of 8 October 2004, G/SCM/Q2/CRI/9-G/SCM/Q3/CRI/9 of 24 October 2005 and G/SCM/Q4/CRI/5/Rev.1 of 20 October 2006.

<sup>35</sup> Resolution No. 12-95 (COMRIEDRE II), Central American Regulations on Unfair Business Practices.

<sup>36</sup> WTO document G/ADP/N/1/CRI/2-G/SCM/N/1/CRI/2 of 5 November 2002.

77. Between 2001 and 2006, Costa Rica applied three AD measures.<sup>37</sup> In one case, application of the measure was suspended because it was not deemed necessary owing to the limited volume of trade.<sup>38</sup>

**Table III.6**  
**Anti-dumping procedures, 2001-2006**

Type of product	Product	Origin of imports	Initiation of the investigation	Provisional duties	Definitive duties
Production inputs	Flexible packaging made of polypropylene, metallized, printed, entering Costa Rica under SAC (Central American Tariff System) tariff line 3920.20.21	Chile	09/01/06	10.56% for four months	n.a.
Paint	Water-based latex paint, entering Costa Rica under SAC (Central American Tariff System) tariff line 3209.90.10.00	United States	13/09/05	24.4.06 dumping margin 516%, applied until 24 November 2006 (six months)	516% applied on 31 January 2007 for a period of four years
Final products	Lavatories and washbasins (to be built in or with pedestals) of glazed porcelain 6910.90.00	Venezuela	18/08/98. The investigation ended on 27 September 2004	n.a.	27.09.2004

n.a. Not applicable.

Source: Prepared by the WTO Secretariat on the basis of information provided by the authorities and notifications to the WTO.

78. As regards countervailing measures, the authorities have indicated that, during the period under review, Costa Rica had an undertaking<sup>39</sup> with Colombia under which the latter undertook to eliminate subsidies on exports of palm olein and margarine for puff pastry, corresponding to tariff headings 1516.20 and 1517.10 respectively, to the Costa Rican market.

79. In 1996, Costa Rica adopted the Central American Regulations on Safeguard Measures, as notified to the WTO and examined by the Committee on Safeguards.<sup>40</sup> According to the provisions in these Regulations, provisional measures may be introduced and must be guaranteed by security. Safeguard measures may be adopted in the form of tariffs or a quantitative measure. Provisional safeguard measures may be imposed for a maximum of 200 days and may only be in the form of tariffs. Definitive measures may only be imposed for four years with extensions that may not exceed eight years.

80. In the context of notification of laws and regulations pursuant to Article 12.6 of the WTO Agreement on Safeguards, Costa Rica received questions from a WTO Member<sup>41</sup> relating to matters such as: the time-limit for interested parties to oppose a measure and provide evidence; the process whereby the investigating authority recommends the imposition of a provisional measure; the public hearing; the facilitation of adjustment in order to determine whether or not to apply a measure; consideration of the commitments within the CACM framework; whether a safeguard measure can be

<sup>37</sup> WTO documents G/ADP/N/145/CRI of 31 August 2006, G/ADP/N/126/CRI of 4 March 2005, G/ADP/N/139/CRI of 1 March 2006 and G/ADP/N/119/CRI of 25 August 2004.

<sup>38</sup> WTO document G/ADP/N/119/CRI of 25 August 2004.

<sup>39</sup> WTO document G/SCM/N/144/CRI of 4 September 2006.

<sup>40</sup> The Regulations were adopted by Executive Decree No. 25242-MEIC of 31 May 1996. The notification appears in WTO document G/SG/N/1/CRI/2 of 31 March 1998 and the replies to the questions posed in the Committee on Safeguards are contained in document G/SG/Q1/CRI/2 of 23 April 1999.

<sup>41</sup> WTO document G/SG/Q1/CRI/1 of 18 November 1998.

extended to imports from another Central American country; and the confidential treatment of information obtained during the investigation. Costa Rica replied to these questions.<sup>42</sup>

81. Costa Rica has safeguards provisions in the FTAs in effect.

82. Pursuant to Article 6 of the Agreement on Textiles and Clothing, in 1995 Costa Rica reserved the right<sup>43</sup> to utilize the provisions of the transitional safeguard mechanism allowed by this Article. During the period under review, Costa Rica did not submit any notifications on the adoption of safeguard measures under the Agreement on Textiles and Clothing. Moreover, it reserved the right to apply special safeguards under the Agreement on Agriculture (see Chapter IV(2)).

83. During the period 2001-2006, Costa Rica submitted three notifications<sup>44</sup> concerning safeguard measures pursuant to Article 12.1(a) of the WTO Agreement on Safeguards. In 2002, Costa Rica notified<sup>45</sup> that the OPCDMS attached to the MEIC is the competent authority for all administrative procedures involving the application of safeguard measures.

84. Costa Rica notified<sup>46</sup> the initiation of an investigation and the application of a provisional safeguard measure on imports of rice pursuant to Resolution No. 19-2002 of 7 March 2002. The measure came into effect on 12 March 2002 for a maximum period of 200 days and Costa Rica notified<sup>47</sup> that the provisional safeguard measure had been amended and the tariff surcharge increased. The measure was suspended as of 27 September 2002, after the 200 days, by Resolution No. 103-2002. Costa Rica received questions from one Member on these measures and gave its replies.<sup>48</sup>

#### (viii) Technical regulations and standards

85. Costa Rica notified the WTO<sup>49</sup> that in May 2002<sup>50</sup> the Law on the National Quality System (*Ley del Sistema Nacional para la Calidad – LSNC*) had entered into force under Law No. 8279 of 21 May 2002. It also notified<sup>51</sup> that the authority responsible for notification procedures under the WTO Agreement on Technical Barriers to Trade was the Directorate-General of Foreign Trade of the Ministry of Foreign Trade (COMEX). Costa Rica also notified<sup>52</sup> that the enquiry point for technical barriers to trade was administered by the Technical Secretariat of the Technical Regulation Body (*Órgano de Reglamentación Técnica – ORT*); the enquiry point's functions are defined in Article 10 of the WTO Agreement on Technical Barriers to Trade, except as regards notification. The Costa Rican Technical Standards Institute (*Instituto de Normas Técnicas de Costa Rica – INTECO*)

<sup>42</sup> WTO document G/SG/Q1/CRI/2 of 23 April 1999.

<sup>43</sup> WTO document G/TMB/N/27 of 6 March 1995.

<sup>44</sup> WTO documents G/SG/N/6/CRI/1 and G/SG/N/7/CRI/1 of 19 March 2002 and G/SG/N/7/CRI/1/Suppl.1 of 28 March 2002.

<sup>45</sup> WTO document G/SG/N/1/CRI/3 of 4 November 2002.

<sup>46</sup> WTO documents G/SG/N/6/CRI/1 and G/SG/N/7/CRI/1 of 19 March 2002.

<sup>47</sup> WTO document G/SG/N/7/CRI/1/Suppl.1 of 28 March 2002.

<sup>48</sup> WTO documents G/SG/Q2/CRI/1 of 7 August 2002 and G/SG/Q1/CRI/2 of 23 April 1999.

<sup>49</sup> WTO document G/TBT/2/Add.51/Suppl.1 of 10 March 2003.

<sup>50</sup> The entry into force of this Law repealed Executive Decree No. 24662 – MEIC-S-MAG-MIRENEM-MOPT-PLAN – National Quality System of 27 September 1995 (published in Official Journal No. 191 of 9 October 1995), as specified in document G/TBT/2/Add.51 of 12 April 1999.

<sup>51</sup> WTO document G/TBT/2/Add.51/Suppl.1 of 10 March 2003.

<sup>52</sup> *Ibid.*

accepted the Code of Good Practice for the Preparation, Adoption and Application of Standards on 19 December 1997.<sup>53</sup>

86. The LSNC amended the legal framework and institutional structure for implementing the WTO Agreement on Technical Barriers to Trade. It applies to technical regulations, voluntary standardization and conformity assessment, including metrology, carried out in order to show compliance with voluntary or regulatory requirements applicable to goods and services.

87. The National Quality Council (*Consejo Nacional para la Calidad* – CONAC) was set up under the LSNC in order to define the general outlines of the National Quality System (SNC), in accordance with relevant international obligations. The CONAC is composed of those Ministers whose sphere of competence includes activities related to standardization, technical regulations and conformity assessment.<sup>54</sup> It also includes representatives of chambers of farmers, exporters, traders and industrialists, as well as universities and consumers' organizations. Its executive secretariat comes under the MEIC.

88. The CONAC's technical committee is composed of the Costa Rican Metrology Laboratory (*Laboratorio Costarricense de Metrología* – LACOMET); the Costa Rican Accreditation Authority (*Ente Costarricense de Acreditación* – ECA); the ORT; and the National Standardization Authority (*Ente Nacional de Normalización* – ENN) in the form of the Costa Rican Technical Standards Institute. The LACOMET is the technical organization that deals with metrology and is the national metrology reference laboratory, providing services as a secondary laboratory in areas within its sphere of competence. The ECA<sup>55</sup> is responsible for granting and issuing accreditation for testing and calibration laboratories, bodies responsible for certifying quality management systems, the environmental management system, products and persons, and inspection bodies. The ORT is an interministerial commission comprising representatives of seven ministries<sup>56</sup> and is responsible for coordinating the preparation of technical regulations with the ministries concerned. The INTECO is the certification authority authorized to certify quality systems.

89. When drawing up technical regulations and conformity assessment procedures, Costa Rica follows two overall guidelines: (i) the Regulations on the Preparation and Presentation of National Standards (Executive Decree No. 19029-MEIC NCR of 7 June 1989); and (ii) the Guidelines for the Preparation of Technical Regulations, annexed to Decree No. 32068-MEIC-S-MAG-MICIT-MOPT-COMEX-MINAE of 19 May 2004. It also uses the Guidelines for the Drafting and Presentation of Central American Technical Regulations.<sup>57</sup>

90. Pursuant to Decree No. 19029, technical regulations must specify the sampling criteria and conditions, as well as the method used to preserve the samples; where justified, a reference may also be made to an existing sampling standard. The samples to be inspected are selected at random. There must be references to the testing methods used to determine or verify the values of the specifications. The analytical procedures must indicate the testing methods used either specifically or by means of a reference so that the results can be reproduced.

<sup>53</sup> WTO document G/TBT/CS/N/88 of 19 January 1998.

<sup>54</sup> For example, the Ministry of Foreign Trade; the Ministry of Agriculture and Livestock; the MEIC; the Ministry of the Environment and Energy; the Ministry of Science and Technology; the Ministry of Health; the Ministry of Public Works and Transport; and the Ministry of Education.

<sup>55</sup> See [http://www.eca.or.cr/eca\\_ques.htm](http://www.eca.or.cr/eca_ques.htm).

<sup>56</sup> Its representatives come from the same ministries as those belonging to the CONAC, with the exception of the Ministry of Education.

<sup>57</sup> See <http://www.meic.go.cr/esp2/practic/resoluciones.html>. These guidelines are an adaptation of ISO/IEC Directive 3. Costa Rica adopted these Central American Regulations under Executive Decree No. 32878-COMEX-MEIC, published in Official Journal No. 30 of 10 February 2006.

91. As regards marks and labelling, the label must indicate the data required to identify and use the material or product concerned correctly, including the information prescribed in the legislation, regulations and official provisions in effect.

92. When preparing technical regulations or conformity assessment procedures therefor, the time-limit for public consultation at the WTO is 60 calendar days, calculated from the date of the notification published at the WTO. A third country may request that this public consultation deadline be extended, prior to the expiry of the aforementioned 60 days, but the extension must not exceed 30 calendar or consecutive days. The comments received as a result of the public consultation are collected by the enquiry point for technical barriers to trade, which transmits them to the ORT so that it can decide whether to accept or reject them.

93. Technical regulations may enter into force six months or more after they have been published in the Official Journal, or when they are published in the Official Journal, if they facilitate international trade.

94. As regards the adoption of conformity assessment procedures, there are special protocols regarding sampling, inspection or verification. The technical regulations include provisions on their implementation based on Costa Rican legislation and consensus reached at the national level.

95. Conformity assessment is the responsibility of each Ministry according to its sphere of competence and the regulations it issues. Nevertheless, as the LSNC has gradually been implemented, the authorities have noted that Costa Rica is seeking more dynamic and effective conformity assessment mechanisms, complementing the verification of technical regulations through bodies accredited by the ECA, according to a trust-based scheme that allows the State to fulfil its obligations and make better use of resources. Third-party certifications are therefore promoted through applications for conformity certificates issued by duly accredited bodies. The State is also encouraging the conclusion of cooperation agreements with national laboratories accredited by the ECA in order to carry out third-party tests.

96. Regarding fees for conformity assessment procedures<sup>58</sup>, the Executive Board of the ECA publishes in the Official Journal the fees payable for assessment services and accreditation of testing and calibration laboratories, and inspection and certification bodies.

97. In Costa Rica, the Consumer Support Unit of the MEIC is responsible for ensuring compliance with the law as regards verification and market research concerning quality and consumer information. The Ministry of Health is responsible for verifying health aspects in the market. A cooperation agreement between the LACOMET and the National Consumer Commission is in effect for the purpose of implementing a monitoring programme. For agricultural products, border inspection is carried out by the SFE's Department of Plant Quarantine at the MAG.

98. Pursuant to Law No. 8279 on the National Quality System, the ORT<sup>59</sup> has the task of helping to prepare technical regulations and recommending the adoption, updating or annulment of technical regulations issued by the Executive. The ORT has a technical secretariat (coming under the MEIC), which also acts as the technical secretariat for the National Codex Alimentarius Committee and contact point, as well as organizing and administering the enquiry point for technical barriers to trade.

99. Technical regulations are adopted by executive decree issued by each State authority. There is no centralized publication of technical regulations and each entity publishes its regulations in the

<sup>58</sup> See <http://www.eca.or.cr/docs/Tarifas.pdf>.

<sup>59</sup> See <http://www.reglatec.go.cr/ort.htm>.

Official Journal. There is also a digital version in the database of the enquiry point for technical barriers to trade.

100. The authorities have stated that, at the end of 2006, some 207 technical regulations were in force, 52 of which had been adopted since January 2001.

101. Among the technical regulations adopted during the period 2001-2006, the vast majority related to technical specifications for products. For example, technical regulations were adopted in areas such as enriching cow milk; risk assessment prior to authorization to import rice pursuant to technical regulation RTCR 379-2000; and regulations on enriching rice.

102. In accordance with the LSNC, the government authorities promote the use and take an active part in the development of voluntary standards. Article 45 of Law No. 8279 provides that every five years, upon recommendation by the National Quality Council, the Executive recognizes as the ENN the private non-profit-making body that has adopted the relevant international requirements and complied with them. Following such recognition, this body may take part in the activities carried out by other international standardization organizations.

103. Law No. 8279 of 2002 recognized the INTECO<sup>60</sup> as the ENN. The CONAC ensures that the ENN complies with international standardization codes. The INTECO, as the ENN, must comply with the ISO Code of Good Practice for Standardization. The INTECO has published its standardization work plan for 2006.<sup>61</sup>

**(ix) Sanitary and phytosanitary measures**

104. In 2006, Costa Rica notified the WTO<sup>62</sup> of Executive Decree No. 32994-MAG on Regulations Governing the Organizational Structure of the SFE. The document determines the SFE's organizational structure in order to ensure that the functions assigned to it by Phytosanitary Protection Law No. 7664, international agreements and other related laws are fulfilled. Costa Rica also notified<sup>63</sup> the General Law governing the SENASA No. 8495 of 16 May 2006, which regulates the protection of animal health, veterinary public health and the operation of the SENASA.

105. Costa Rica has made a number of proposals in the WTO Committee on Sanitary and Phytosanitary Measures.<sup>64</sup> In connection with the Committee's work, Costa Rica also notified that it had submitted partial and preliminary replies to the technical assistance questionnaire.<sup>65</sup> In the Committee itself, concerns were expressed regarding SPS measures applied by Costa Rica relating to phytosanitary requirements for fresh oranges from Nicaragua.<sup>66</sup>

106. Costa Rica's contact point for SPS measures is the MAG, through the SFE, the SENASA and the SPS enquiry and notification centre, which belongs to both services.<sup>67</sup>

107. Costa Rica's sanitary and phytosanitary measures regime is organized within the SFE and the SENASA, which come under the MAG. In addition, the Ministry of Health, through the Registration

<sup>60</sup> See <http://www.inteco.or.cr/esp/normalizacion.html>.

<sup>61</sup> See [http://www.inteco.or.cr/doc/Plan\\_de\\_trabajo\\_2006.pdf](http://www.inteco.or.cr/doc/Plan_de_trabajo_2006.pdf).

<sup>62</sup> WTO document G/SPS/N/CRI/46 of 2 June 2006.

<sup>63</sup> WTO document G/SPS/N/CRI/45 of 1 June 2006

<sup>64</sup> WTO documents G/SPS/R/39 of 21 March 2006, G/SPS/R/36 of 4 May 2005 and G/SPS/R/27 of 2 August 2002.

<sup>65</sup> WTO documents G/SPS/GEN/295/Add.18 of 24 June 2002 and G/SPS/R/27 of 2 August 2002.

<sup>66</sup> WTO document G/SPS/R/39 of 21 March 2006.

<sup>67</sup> WTO document G/SPS/NNA/10 of 6 October 2006.

and Control Directorate, regulates matters relating to food safety. Sanitary and phytosanitary measures are incorporated in Costa Rica's legal system through laws, decrees and directives issued by the bodies with special responsibility for the area to which each measure applies.

108. The Animal Health Directorate of the MAG became the SENASA under Law No. 8495 of 16 May 2006. The SENASA is responsible for regulations and activities relating to animal health, residues, veterinary control of animal diseases, traceability, protection and safety of foodstuffs of animal origin, animal feed, veterinary medicines, animal genetic material, production and use of genetically modified organisms, and hazardous substances of animal origin. It is empowered to prohibit the import of such products if they represent an unacceptable risk. It also evaluates official veterinary services abroad. The Government's official laboratories may use outside laboratories.

109. In mid-2006, because of new institutional provisions, Costa Rica's SFE was being reorganized. Executive Decree No. 32994 gave the Service new responsibilities, establishing departments responsible, *inter alia*, for monitoring and controlling non-quarantine diseases, the export of plants and plant products, the issuing of phytosanitary certificates, registration and approval of all chemical and biological substances, registration of pesticides and quality analysis, and international negotiations on equivalence assessment. Costa Rica's SFE also regulates trade in and use of genetically modified organisms for agriculture and their products.

110. Sanitary and phytosanitary inspection is carried out at the border and at other sites designated by the Ministry of Agriculture. All products of plant or animal origin that require sanitary or phytosanitary authorization must be inspected, so there are no random inspections.

111. The cost of conformity assessment and inspection, as well as that of other technical services and laboratory analyses, including inspection visits, is paid according to scales established by an executive decree issued by the Ministry of Agriculture through the SENASA and the SFE.<sup>68</sup>

112. Risk analysis is mainly carried out by the SFE<sup>69</sup> and the SENASA.<sup>70</sup> The risk analysis procedure may be initiated at the instigation of the Ministry of Agriculture through the SENASA and the SFE or at the request of the private sector.

113. The International Regional Organization for Plant and Animal Health (*Organismo Regional de Salud Agropecuaria – OIRSA*)<sup>71</sup> may undertake a risk analysis when a member State requests an opinion regarding any sanitary or phytosanitary problem in the region, but the OIRSA's recommendations or technical opinions are not binding and each country is free to accept or reject them. There is also a Risk Analysis and Epidemiological Surveillance Commission (*Comisión de Análisis de Riesgo y Vigilancia Epidemiológica – COMARVE*), composed of representatives of all member countries.

114. For imports, risk analysis commences with a detailed description of the goods it is sought to import and an indication of the probable annual volume of trade in the proposed import. The risk analysis stages include identification of hazards, assessment, management and communication of the risk according to the OIE's recommendations and guidelines. The outcome of the process is the risk analysis report, which is used for information on the risk and risk management.

<sup>68</sup> See <http://www.protecnecnet.go.cr/administraci%F3nsv/TARIFASVIGENTES.htm>.

<sup>69</sup> See <http://www.mag.go.cr/servicios/fitosanitario.html>.

<sup>70</sup> See <http://www.protecnecnet.go.cr/salud/Websaludanimal/epianalisisriesgos.htm>.

<sup>71</sup> The following are members of the OIRSA: Mexico, Guatemala, Belize, Honduras, El Salvador, Nicaragua, Costa Rica, Panama and the Dominican Republic.

115. The time taken to draw up a risk analysis varies and depends on the goods, the country of origin, the sanitary situation in the country and region of origin, and the type of analysis, *inter alia*. The authorities have indicated that, in general terms, risk analysis may take a week (e.g. for powdered milk), one to three months (e.g. for chicken or bovine meat, eggs), or nine months (e.g. for biological products). In the case of analysis of the likelihood of a disease entering Costa Rica, the analysis may last approximately six months.

116. Regarding the SFE, disease risk analysis (ARP) consists of: (i) identifying the disease and the paths that give rise to concern; (ii) classifying the disease, assessing the probability of entry, gaining a foothold and dissemination, and the potential economic consequences; and (iii) defining options for risk reduction. The international regulations applied when preparing ARPs are ISPN No. 2 and ISPN No. 11, contained down in the International Plant Protection Convention.

117. All plant products and by-products of plant origin require prior import authorization, as provided in Article 51 of Law No. 7664 on phytosanitary protection. By-products that undergo such a high level of processing that they do not entail any phytosanitary risk are not subject to this requirement. The interested party must submit a written application for each import to the one-stop office at the Ministry of Foreign Trade using the customs clearance authorization form (*Formulario de Autorización de Desalmacenaje* – FAD). Applications for phytosanitary permits to import wild flora must also be approved by the Ministry of the Environment. Importers of plant products or by-products used to prepare animal concentrates must be listed in the SENASA Animal Feed Register. Prior phytosanitary import authorization is valid for 30 days.

118. Upon entry into Costa Rica, imports of plants, plant products or by-products of plant origin must be accompanied by the relevant phytosanitary certificate issued by the phytosanitary authority of the country of origin, which must meet the requirements laid down in the prior import authorization. All imports of genetically modified products must not only comply with all the requirements laid down in the handbooks or technical guides to specific requirements but must also have an authorization from the Biosafety Commission, which is obtained from the Technical Commission on Exemptions and Biotechnology of the Phytosanitary Protection Directorate of the MAG.

119. Costa Rica allows the import of meat from animals that have been given growth hormones from those countries which, like Costa Rica, keep registers of hormone veterinary products based on the international standards and guidelines drawn up by the Joint FAO/WHO Expert Committee on Food Additives and the Codex Alimentarius. Hormone products with duly established maximum residue limits (MRL) are authorized and this is verified through the sampling prescribed in the National Residues Plan.

120. There are no databases centralizing all the SPS measures in effect in Costa Rica. The SENASA and the SFE sites<sup>72</sup> have different types of notices and information on SPS measures.

121. During the period 2001-2006, Costa Rica submitted 30 SPS notifications to the WTO. According to the authorities, 25 per cent of these related to measures based on an international directive and 19 per cent concerned notifications of emergency measures.<sup>73</sup>

122. In 1999, Costa Rica notified the WTO that, up to that date<sup>74</sup> there had been no case of Newcastle disease, velogenic viscerotropic form (NVV), recorded in Costa Rica. In 2004, Costa Rica

<sup>72</sup> See, for SENASA: <http://www.proteconet.go.cr/salud/Websaludanimal/indexsaludmag.htm>; and for the SFE: <http://www.proteconet.go.cr/sanivege.htm>.

<sup>73</sup> Most of these notifications can be consulted at: [www.proteconet.go.cr](http://www.proteconet.go.cr).

<sup>74</sup> WTO document G/SPS/GEN/119 of 7 May 1999.

notified the WTO<sup>75</sup> that the area of Inocentes and adjacent areas were free of the Mediterranean fruit fly *Ceratitidis capitata* Wied (25 July 2003, Executive Decree No. 31567-MAG).

123. Regarding the registration, use and control of pesticides and like substances, Costa Rica recently approved Executive Decree No. 33495 of 10 January 2007 regulating everything to do with this area.

124. Costa Rica did not sign any agreement on sanitary and phytosanitary measures during the period under review.

125. According to the COMEX<sup>76</sup>, in 2005, in the context of the WTO Committee on Sanitary and Phytosanitary Measures, steps were taken to resolve the question of the sanitary restrictions applied by Panama to dairy produce from Costa Rica.

### (3) MEASURES DIRECTLY AFFECTING EXPORTS

#### (i) Registration, documentation and export licences

126. During the period 2001-2006, Costa Rica continued to strive to harmonize and computerize its export procedures. As required by the General Customs Law, all exporters must be registered with the Foreign Trade Promotion Agency (*Promotora de Comercio Exterior* – PROCOMER). Each exporter is given a code to be used integrally at the PROCOMER, the Central Bank of Costa Rica and the Directorate-General of Customs (DGA). Registration is valid for one year and may be done electronically or in person at the PROCOMER's one-stop office for foreign trade (*Ventanilla Única de Comercio Exterior* – VUCE). For enterprises coming under the Free Zone Regime, registration of exporters is done directly with the PROCOMER's operations management office and the DGA.

127. There are preliminary formalities for all exports consisting of an export form showing all data concerning the shipment of the goods. There are three types of export form: (i) the customs export form (*Declaración Aduanera de Exportación* – DAE); (ii) the FAUCA; and (iii) the provisional customs exports declaration (*Declaración Aduanera de Exportación Provisional* – DAEP). In order to complete the preliminary formalities using any of the above forms, an exporter must be registered. The integrated one-stop office for foreign trade scheme (*Sistema Integrado de Ventanilla Única de Comercio Exterior* – SIVUCE)<sup>77</sup> allows preliminary export documentation to be processed using "prestamped" export forms.<sup>78</sup> This system includes the VUCE, which has offices and an electronic site, under the responsibility of the PROCOMER in order to streamline and simplify the export documentation process.<sup>79</sup>

128. The DAE is a declaration used both for the customs clearance procedure and to control the entry or registration of foreign currency. It is valid for 15 working days or 20 consecutive days as from the date of submission of the preliminary formalities at the VUCE. The FAUCA is the only document required for goods that are the subject of free trade within Central America. The DAEP is an alternative to the DAE issued for exports for which the final date of shipment is not known. All

<sup>75</sup> WTO document G/SPS/GEN/527 of 27 October 2004.

<sup>76</sup> COMEX (2006), *Informe Anual de Labores a la Asamblea Legislativa, mayo 2005 – mayo 2006*. See <http://www.comex.go.cr/informacion/Informe%20de%20Labores%202005-%202006.pdf>.

<sup>77</sup> See <http://servicios.procomer.go.cr/base/sivuce/>.

<sup>78</sup> See [www.procomer.com](http://www.procomer.com).

<sup>79</sup> Export formalities are not completed at the one-stop office but directly with the customs in the following cases: household articles; vehicles of no commercial value; re-exports; personal effects; gifts of goods; return, replacement of goods and packing material under the inward processing regime; exports under the outward processing regime (goods that are temporarily exported for repair).

the data in a DAEP must be revised or confirmed in a DAE 48 hours from the time on which the goods are actually shipped.

129. The General Customs Law provides that goods subject to customs control may be inspected and verified, including exports. Special information and procedures apply to exports of bananas and coffee when preliminary formalities are carried out at the VUCE. Exports of roasted coffee (ground or in beans) require the submission of a permit from the Costa Rican Coffee Institute (*Instituto de Café de Costa Rica* – ICAFE), together with an additional photocopy of the export form and the commercial invoice.<sup>80</sup> If export of wood or wood products is authorized, information on the type, volume and weight of the product must be submitted.

130. The PROCOMER issues certificates of origin for goods exported under the unilateral preferences granted by Costa Rica (see Chapter II(6)). As far as bilateral treaties are concerned, the exporter is responsible for certifying the origin, without any involvement of a competent authority, with the exception of the FTA with the CARICOM and the partial scope agreements with Panama and Venezuela.

#### **(ii) Export charges and minimum prices**

131. Banana exports are subject to a tax irrespective of their destination, determined in Law No. 5515 of 19 April 1974. A tax of US\$1.00 per box or container of 40 lb net of bananas exported is imposed. Banana producers receive US\$0.011 per box exported from this tax. The tax is paid by the companies buying or marketing the bananas directly to CORBANA in order to establish a price compensation fund. In 2004, revenue from the US\$1.00 export tax amounted to C 1,301,067,037 (corresponding to around US\$4.5 million).

132. Since 1 January 2006, Decree No. 32837-MAG-MEIC-COMEX of 12 December 2005<sup>81</sup> has imposed a minimum price for banana exports f.o.b. from Costa Rican ports amounting to US\$5.70 per 18.14 kg net box of top quality bananas.

133. As far as coffee is concerned, in order to finance the operation, maintenance and administration of the ICAFE, Law No. 2762 determined a tax corresponding to 1.5 per cent of the f.o.b. value of the coffee exported per 47 kg unit of green coffee or its equivalent.

134. Forestry Law No. 7575 of 5 February 1996 lays down the requirements for calculating the minimum value of unprocessed logs. According to this Law, the State Forestry Authority determines annually by decree the minimum value of unprocessed logs to be sold according to the different types of timber. The latest resolution establishing a minimum value for logs is that of 28 September 2001. According to the authorities, at the end of 2006 no minimum value was applied because the resolution had been contested.

#### **(iii) Export prohibitions and other restrictions**

135. Export prohibitions are mainly imposed for reasons of national security, protection of Costa Rica's heritage and for environmental reasons (Table III.7). Costa Rica has undertaken to impose restrictions on the export of certain products under the Convention on International Trade in Endangered Species of Wild Fauna and Flora; the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal; and the Montreal Protocol on Substances that

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<sup>80</sup> The harvest, number of the permit, number of the contract, f.o.b. value per bag, f.o.b. value of green coffee, the gross and net weight of the green coffee and roasted coffee must be shown.

<sup>81</sup> Amending Article 1 of Executive Decree No. 4770-MIEC of 25 April 1975 and amendments thereto.

Deplete the Ozone Layer. Exports of goods that form part of Costa Rica's cultural, artistic, archaeological and historical heritage are also restricted.

**Table III.7**  
**Export prohibitions and restrictions**

Product description	Measure	Reason	Statutory instrument
Shark fins, cartilage, maws, tilapia and ornamental fish	Permit (INCOPESCA)	Recording and monitoring of fisheries statistics	Law No. 7384, INCOPESCA Law of 16.2.84
Coffee (roasted, in beans or ground)	Permit (ICAFE)	Recording and monitoring of statistics on coffee production and exports	ICAFE Law No. N° 2762 of 21.6.61. Executive Decree No. 28018-MAG of 9.8.99
Textile fibres of any plant materials and textiles and clothing exported to any third market outside of the Central American area	Permit (Council for Textile Quotas)	Recording and monitoring of statistics on third markets for export statistics purposes	Executive Decree No. 24304 of 24.5.95
All exports of textiles and clothing, whether or not subject to quantitative restrictions, must have a prior permit (Textile Export Permit) issued by the National Association of Textile Industry Exporters. This requirement does not apply to exports intended for countries belonging to the CACM.	Permit	Distribution of textile and clothing quotas allocated to Costa Rica by its trade partners	Article 33 of Executive Decree No. 24304
Sugar in bulk	Permit from the Sugar Cane Agricultural Industry League ( <i>Liga Agrícola Industrial de la Caña de Azúcar</i> – LAICA)	Recording and monitoring of statistics on sugar production and exports	Law No. 7818, LAICA Law of 2.9.98
Coins (Costa Rican only)	Ban (Central Bank of Costa Rica)	Protection of the money supply	Resolution of the Governing Board of the Central Bank, Ordinary Meeting No. 2852-74 of 11.3.74
Human organs	Ban (Ministry of Health)	Public health	General Health Law, Law No. 5395 of 30.10.73
Plasma and blood	Authorized for research purposes only (Ministry of Health)	Public health	General Health Law, Law No. 5395 of 30.10.73
Ceramic (clay) ornaments	Permit (National Museum)	Protection of the cultural heritage	Law No. 6703, Article 31, Law No. 6091 of 7.10.77
Indigenous relics	Export ban	Protection of the cultural heritage	Law on the National Archaeological Heritage, Law No. 6703 of 28.12.81
Reproductions of indigenous articles in stone, gold, clay or ceramics and other	Permit (National Museum)	Protection of the cultural heritage	Law No. 6703, Article 31, Law No. 6091 of 7.10.77
Weapons, ammunition and explosives	Permit (Ministry of Public Security)	Public security	Law No. 7530 of 10.7.95 and Executive Decree No. 25120-SP of 17.4.97
Phosphorus (Chapter 36, excluding matches)	Permit (Ministry of Public Security)	Public security	Law No. 7530 of 10.7.95 and Executive Decree No. 25120-SP of 17.4.97
Industrial ammonium nitrate (Chapter 31)	Permit (Ministry of Public Security)	Public security	Law No. 7530 of 10.7.95 and Executive Decree No. 25120-SP of 17.4.97
Seeds	Permit (National Seeds Office)	Recording and monitoring of statistics on seed exports	Law No. 6289, Seeds Law, of 4.12.78
Dogs and cats	Health Monitoring Department, Ministry of Health	Public health	Animal Health Law No. 6243 Regulation 14584-A of 16.5.83
Protected species of wild fauna and flora, live or dried, grindstones, sand, calcium carbonate, gold and silver, orchids (not in flower), soil	Permit (Ministry of the Environment and Energy)	Environmental protection	Law No. 5605 of 30.10.74; Law No. 7317 of 7.12.92; Executive Decree No. 26435-MINAE of 1.10.97

Table III.7 (cont'd)

Product description	Measure	Reason	Statutory instrument
Controlled substances such as precursors, essential chemicals and machinery and accessories used for producing narcotics and psychotropic substances in tablet or capsule form	Prior authorization (Ministry of Health)	Narcotics control	Narcotics, Psychotropic Substances, Unauthorized Drugs and Related Activities Law, Law No. 7786 of 30.4.98
Logs and roughly squared timber from forests of various species	Ban	Protection of the environment	Forestry Law, Law No. 7575 of 13.2.96
Live cattle, natural honey, flowers and cotton on the stem	Prior export permit		

Source: WTO Secretariat, based on information supplied by the Costa Rican authorities.

136. Article 26 of Forestry Law No. 7575 of 13 February 1996 bans the export of logs and roughly squared wood from forests of specific species (Table III.7). The objective of the Forestry Law is, *inter alia*, to ensure the conservation of natural forests, the industrialization of forestry resources intended for this purpose and the creation of employment. The authorities have pointed out that Article 26 of Forestry Law No. 7575 is part of the policy for the recovery and sustainable use of forests, an area in which Costa Rica has made substantial progress over the past two decades.

137. According to the Regulations on the Distribution and Administration of Quotas for Textile and Clothing Exports, Executive Decree No. 24304 of 24 May 1995, exports of textiles and clothing that were subject to quantitative restrictions until the end of 2004 under the WTO Agreement on Textiles and Clothing and those under the Costa Rica-Canada tariff preferences must have an export permit issued by the National Association of Textile Industry Exporters.

138. Costa Rica still participates in the Association of Coffee Producing Countries (ACPC), through which retention quotas on exportable coffee production can be applied.

#### (iv) Subsidies and other export-related tax benefits

##### (a) Subsidies

139. In December 2001, Costa Rica submitted a request<sup>82</sup> for extension of the period for the application of export subsidies under two programmes:<sup>83</sup> the Free Zone Regime and the Inward Processing Regime. With respect to these two programmes, the Committee on Subsidies and Countervailing Measures decided<sup>84</sup> that the extension for the elimination of export subsidies in the form of full or partial exemption from import duties and internal taxes under these programmes could continue until the end of 2007. The Committee also decided that, after 2007, it would examine any request for continued extension in relation to these two programmes and that a final period of two years referred to in the paragraph in question could be allowed if continuation was not requested or granted.

140. In mid-2006, Costa Rica notified that, at that time, the Free Zone and Inward Processing programmes had not been modified.<sup>85</sup>

<sup>82</sup> WTO document G/SCM/N/74/CRI of 20 December 2001.

<sup>83</sup> Pursuant to Article 27.4 of the Agreement on Subsidies and Countervailing Measures (WTO document G/SCM/39 of 20 November 2001).

<sup>84</sup> WTO documents G/SCM/61 of 6 December 2002, G/SCM/61/Add.1 of 31 October 2003, G/SCM/61/Add.2 of 16 November 2004, G/SCM/62 of 6 December 2002, G/SCM/62/Add.1 of 3 November 2003, G/SCM/62/Add.2 of 16 November 2004 and G/SCM/62/Add.3 of 31 October 2005.

<sup>85</sup> WTO document G/SCM/N/146/CRI of 4 July 2006.

## (b) Free Zone Regime

141. Free zones are the most important export promotion instruments in Costa Rica. The principal legal provisions are contained in the Law on the Free Zone Regime No. 7210 of 23 November 1990, amendments thereto and its implementing regulations.<sup>86</sup> The latter are contained in Executive Decree No. 29606-H-COMEX of 18 June 2001 and amendments thereto. Other relevant provisions on free zones can be found in the General Customs Law No. 7557 of 20 October 1995, Section I, Chapter V, and amendments thereto<sup>87</sup>; the implementing regulations for the General Customs Law, Chapter X; and Executive Decree No. 25270-H of 28 June 1996 and amendments thereto.<sup>88</sup>

142. The Free Zone Regime includes benefits given to companies that make new investments, provided that they meet the requirements and obligations laid down in the Law on the Free Zone Regime. The purpose of this Law is to promote socio-economic development by attracting both foreign and domestic investment and by promoting exports.

143. In order to be eligible for the Free Zone Regime, companies must be engaged in handling, processing, manufacturing, producing, repairing or maintaining goods or supplying services intended for export or re-export. The Free Zone Regime only applies to companies whose new initial investment in fixed assets amounts to at least US\$150,000 within the free zone industrial park and US\$2 million if it is outside the park. Likewise, the establishment of satellite plants outside the free zone industrial park in which the main plant has been authorized is allowed on an exceptional basis.

144. Companies eligible for the Free Zone Regime<sup>89</sup> may introduce into Costa Rican customs territory up to 25 per cent of their total sales, subject to compliance with the requirements laid down in the Law. The percentage is up to 50 per cent for companies exporting services. Trading companies may not sell in Costa Rican territory.

145. Incentives under the Free Zone Regime include: (i) exemption from all taxes and consular fees on imports of raw materials, spare parts, packing materials and other products, machinery, equipment, replacement parts, fuel and oil; (ii) exemption from all tax relating to the export or re-export of products; (iii) exemption from payment of tax on capital and net assets and payment of the land tax; (iv) exemption from sales and consumption tax on purchases of goods and services; (v) exemption from all taxes on profits; (vi) exemption from any municipal or business tax. Companies situated in relatively less-developed areas, which came under the Free Zone Regime prior to 8 October 2003, also have the right to a credit of 10 per cent of the amount paid as salaries during the year immediately preceding; this percentage falls by two percentage points per annum until the benefit expires in the fifth year, i.e. in 2008. Export processing companies which, on completion of four years of operations, reinvest in Costa Rica may be given an additional exemption from payment of income tax for a percentage corresponding to the ratio of the reinvestment to the original investment.

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<sup>86</sup> The main amendments to Law No. 7210 are: Law No. 8262 of 2 May 2002 (amending Article 23 of Law No. 7210); Law No. 7830 of 22 September 1998; Law No. 4924 of 17 September 1997; Law No. 7638 of 30 October 1996; Law No. 7535 of 1 August 1995; and Law No. 7467 of 20 December 1994.

<sup>87</sup> The amendments to the General Customs Law No. 7557 of 20 October 1995 are: Law No. 7900 of 3 August 1999; Law No. 8373 of 4 August 2003; and Law No. 8419 of 28 June 2004.

<sup>88</sup> Executive Decree No. 25295 of 17 June 1996, Executive Decree No. 26285 of 18 August 1997, Executive Decree No. 26961 of 30 March 1998, Decree No. 27717 of 23 February 1999, Executive Decree No. 28242 of 30 September 1999, Executive Decree No. 28976 of 27 September 2000, Executive Decree No. 31667-H of 5 March 2004, and Executive Decree No. 32098 of 23 September 2004.

<sup>89</sup> Except for export trading companies with no production activity which merely handle, repack or redistribute non-traditional merchandise and products for export or re-export.

146. The benefits available may be for an indefinite period or for the time-limits defined as indicated in Table III.8. The authorities have pointed out that, under the executive agreements on benefits in free zones, Costa Rica introduced changes in the granting of benefits providing that the time-limits, terms and conditions for the benefits granted under Law No. 7210 were subject to Costa Rica's commitments in the WTO.<sup>90</sup>

147. Pursuant to Law No. 7638 of 30 October 1996, the PROCOMER is responsible for supervising the Free Zone Regime and for dealing with applications by companies to be accepted for the Regime and benefit from the relevant incentives.

**Table III.8**  
**Free Zone Regime incentives**

Type of incentive	Features and time-limits
Exemption from taxes on capital and net assets, the land tax <sup>a</sup> and the property transfer tax	Valid for 10 years
Exemption from all profits tax and any other tax for which the taxable base is determined according to gross or net earnings, dividends paid to shareholders or revenue or sales	For companies based in "relatively more developed areas", the exemption is 100 per cent for eight years and 50 per cent for the following four years. For companies based in "relatively less-developed areas", the exemption is 100 per cent for up to 12 years and 50 per cent for the following six years. Export-processing companies which reinvest in Costa Rica after completion of four years of operation under the Regime are eligible for a further exemption of 75 per cent for up to four years depending on the amount reinvested.
Exemption from all municipal or business taxes	Ten years

a Law No. 7509 on property tax of May 1995 abolished exemption from the land tax.

Source: Information provided by the authorities and notification to the WTO (G/SCM/N/146/CRI).

148. The authorities have notified the WTO<sup>91</sup> that the comprehensive information required to estimate the amount of the subsidy granted under the Free Zone Regime is not available as the subsidy involves exemptions from a number of different taxes and consular fees, which vary according to the level of compliance with the specified requirements.

149. The overall impact of free zones on the economy is considerable, particularly in terms of exports (see Chapter IV(3)).

150. A study by the Ministry of Trade indicates<sup>92</sup> that for some 35 per cent of the companies the time-limits in the free zone contracts will give 100 per cent exemption from income tax after 2010 and 70 per cent of these will have 50 per cent income tax exemption incentives going beyond that date. This study suggests that Costa Rica should focus on granting incentives to sectors that have the potential to contribute towards its greater economic growth rather than directly for export activities.

151. At the end of 2006, the Ministry of Foreign Trade was working on proposed amendments to Law No. 7210 on free zones.<sup>93</sup> According to the authorities, the aim of this proposal is not only to introduce amendments in order to comply with commitments on phasing out export subsidies but also to ensure the continuity of the investment already in Costa Rica and its legal predictability, as well as to promote higher volumes of investment. It is intended to modify the eligibility criteria for those

<sup>90</sup> See, for example, Executive Decree No. 278-2006 of 14 November 2006, clause 4.

<sup>91</sup> WTO document G/SCM/N/146/CRI of 4 July 2006.

<sup>92</sup> COMEX (2006b).

<sup>93</sup> *Idem.*

benefiting from the Regime, to incorporate a degree of tax-related competitiveness in comparison with other countries in the region, to create incentives to encourage companies to set up in less-developed areas, and to include tax credits for skills development and training and parameters to strengthen the links between companies in the free zones and local industry. As part of the exercise of preparing proposed amendments to the Free Zone Regime, at the end of 2006, the authorities were studying its costs and benefits.

(c) Inward Processing Regime

152. The legal bases for the Inward Processing Regime are to be found in the General Customs Law No. 7557 of 20 October 1995, Chapter VI (Processing Regimes) and amendments thereto; the implementing regulations for the General Customs Law, Chapter XIII (Inward Processing Regime); Executive Decree No. 25270-H of 28 June 1996 and amendments thereto; and the Regulations on the Inward Processing and Duty Refund Regimes, Executive Decree No. 26285-H-COMEX of 19 August 1997. During the period under review, Costa Rica made a number of amendments to the Regulations on the Inward Processing and Duty Refund Regimes.<sup>94</sup> The purpose of the Inward Processing Regime is to promote production, employment and foreign and domestic investment and, as a result, to increase exports and domestic consumption.

153. The Inward Processing Regime allows goods to enter national customs territory with suspension of all kinds of tax and subject to provision of security. It does not include income tax-related benefits. The goods covered by this Regime must be re-exported within the time-limits laid down in the regulations, after undergoing processing, repair, reconstruction, installation, assembly or after being incorporated in systems, machinery, transport equipment in general or appliances with a higher degree of technological or functional complexity or after being used for other similar purposes. The goods must be re-exported within a non-renewable period of one year, with the exception of machinery and accessories, which may remain for an indefinitely renewable period of five years.

154. In order to be eligible for this Regime, companies must choose one of the two options available: (i) the 100 per cent direct or indirect re-export option, which does not allow the sale of products in the domestic market; or (ii) the direct or indirect re-export and domestic sale option, which allows goods to be sold in the domestic market or re-exported. Companies operating under the domestic sale option are required to pay the full tax applicable to the definitive import of the inputs. On the entry of machinery and equipment under the Regime, they must also pay the proportion of tax corresponding to the percentage of sales in the domestic market as a ratio of the company's total sales.

155. The Regime's benefits apply as from the date of issue of the authorization to commence activities and the corresponding authorization from the Directorate-General of Customs. Except in the event of revocation of the authorization under the Regime by the Ministry of Foreign Trade or relinquishment by the company covered by the Regime, the benefits are granted indefinitely subject to an application for extension made to the COMEX every five years.

156. As in the case with the Free Zone Regime, over the period 2000-2005 the amount of exports and jobs created under the Inward Processing Regime tended to grow at a slower rate than in the 1990s. In 2006, around 90 companies were operating under this Regime; in 2005 it provided employment for around 11,654 people and accounted for some 5 per cent of Costa Rica's total exports

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<sup>94</sup> Executive Decree No. 32982-H-COMEX of 10 March 2006, Executive Decree No. 31848-COMEX-H of 25 May 2004, Executive Decree No. 30125-MAG of 25 January 2002, Executive Decree No. 29607-H-COMEX of 18 June 2001, Executive Decree No. 29286-H-COMEX of 31 January 2001, and Executive Decree No. 29055-H-COMEX of 31 October 2000.

(US\$336.8 million); in 1999, exports under the Regime amounted to US\$370 million, corresponding to 5.5 per cent of total exports of goods. The main destinations for exports under this Regime include the United States and Central America, with shares of 86 per cent and 6 per cent respectively.

157. Some of the firms operating under the Inward Processing Regime are located in areas with little urban development and accordingly represent a very significant source of employment in the regions concerned.<sup>95</sup>

(d) Tax credit certificates

158. Costa Rica notified the WTO<sup>96</sup> of the tax credit certificate (*Certificado de Abono Tributario – CAT*) as a subsidy granted solely to enterprises that signed an export contract before 2 December 1992 and which received a reduction of 30 per cent of the amount of the Certificate prior to 1996, calculated on the basis of the f.o.b. value of the exports. Companies fulfilling these criteria have the right to receive a CAT of: (i) 10.5 per cent when the product exported includes 35 to 50.5 per cent of national content and is exported to third markets; (ii) 14.0 per cent when the product exported includes 50.51 per cent or more of national content and is exported to third markets other than the United States and Puerto Rico. CATs are freely negotiated non-interest bonds. They are issued by the Central Bank of Costa Rica in national currency and are used to pay direct or indirect taxes collected by the Central Bank as the State Treasurer.

159. In December 1999, Costa Rica notified termination of the CATs.<sup>97</sup> For exports between 1998 and 1999, in 2003 (through Official Journal No. 233, 3 December 2003), the Central Bank of Costa Rica communicated<sup>98</sup> the rules for the CAT issuing procedure. Authorization was given for the issue of CATs by the Central Bank of Costa Rica based on a recommendation by the PROCOMER and with the approval of the Ministry of Foreign Trade. In turn, the Ministry of Foreign Trade, in DMR.219-2003 of 4 December 2003, laid down the Guidelines for Processing Applications for Tax Credit Certificates (CATs).<sup>99</sup> The authorities have indicated that, in 2006, 493 applications were received for an amount of C 2,320.8 million (US\$4.6 million). At December 2006, only 54 applications had been the subject of payment for a total of C 207.9 million (approximately US\$409,574).

(e) Other programmes

160. The Export Promotion Law, Law No. 5162 of 22 December 1972, introduced export increase certificates (*Certificados de Incremento a las Exportaciones – CIEX*), which give companies that meet the required conditions an amount corresponding to 10 per cent of the increase in their exports for the preceding year. According to the authorities, the last CIEX was issued in 1988.

161. The Drawback Regime allows the refund of sums actually paid or deposited with the tax authorities as tax contributions for the definitive import of inputs, packing or wrapping materials incorporated in products for export, provided that export occurs within 12 months from import of the goods. This Regime is defined in Chapter VII, Article 190, of Law No. 7557 (General Customs Law) of 20 October 1995.

<sup>95</sup> WTO document G/SCM/N/146/CRI of 4 July 2006.

<sup>96</sup> WTO document G/SCM/N/48/CRI-G/SCM/N/60/CRI of 21 July 2000.

<sup>97</sup> WTO document G/SCM/N/60/CRI of 21 July 2000.

<sup>98</sup> Article 14 of the record of session 5176-2003 (19 November 2003). See <http://www.procomer.com/eventos/docs/Acuerdo%20BCCR%20para%20tramites%20de%20CAT.PDF>.

<sup>99</sup> See <http://www.procomer.com/eventos/docs/Directrices%20CAT-diciembre%202003-.pdf>.

(v) **Financing, insurance, promotion and other measures**

162. Over the period 2001-2006, Costa Rica did not have any official export financing programme.

163. The Central American Economic Integration Bank (BCIE) has a programme to support Central America's exportable production (*Programa de apoyo a la producción exportable Centroamericana* – PAPECA), for which the private sector in Costa Rica is eligible. Under this programme, short-term credit (multiple 30-day periods for up to 180 days) is granted for pre- and post-shipment operations, import of inputs, letters of credit and working capital. The interest rate is the Libor 180 + 1.50 points.<sup>100</sup>

164. The Bank of Costa Rica, a State entity, provides commercial banks with resources to finance the working capital needs of companies, giving priority to those engaged in producing goods for export or providing services to facilitate the export of such goods. The credit terms include the basic borrowing rate plus 3.5 percentage points for a maximum term of 30 months, with a maximum grace period of 12 months. In the case of credits authorized to meet the cost of penetrating foreign markets, the maximum term is five years with a maximum grace period of two years. Up to 100 per cent of the needs are financed.

165. The National Insurance Institute (*Instituto Nacional de Seguros* – INS) has exclusive export credit insurance programmes which guarantee the policy holder the refund of a percentage of any losses it may incur because of total or partial default on a credit given to a foreign buyer. Export credit insurance policies cover the following commercial risks: insolvency of the buyer, and extended delays in payment six months after expiry of the credit term or its extension. The overall insurance covers all export credits with terms of up to 180 days for one year, given by the exporter to its clients, including buyers' credits granted after issuance of the policy. Individual policies are issued to cover specific sales or irregular export sales when export is not the business's usual activity, for a credit term of one year.<sup>101</sup> In cases of non-fulfilment, the policy covers the amount determined in the negotiations.

166. Furthermore, the INS offers two types of freight insurance (import-export and internal transport insurance), under which it guarantees the buyer or seller of the goods transported refund of their value if they are affected by any of the risks covered.<sup>102</sup>

167. The body mainly responsible for promoting Costa Rican exports is the PROCOMER. The trade promotion services offered to the export sector by the PROCOMER principally consist of preparing individual business plans; supporting the organization of trade missions for exporters; organizing trade missions for buyers; and participating in and undertaking trade promotion at international fairs. The PROCOMER's Export Information Centre (*Centro de Información al Exportador* – CIEX) provides exporters with trade information services.<sup>103</sup>

168. The Central Bank of Costa Rica has rules on the financing of exports and pre-export costs<sup>104</sup> published in Official Journal No. 244 of 22 December 1981. According to these rules, financing is authorized for Costa Rican exporters which need the funds for the following purposes: to finance the

<sup>100</sup> See [http://www.alide.org.pe/download/Fomin/Sem%202\\_ElSalvador/Doc\\_ElSalvador/08\\_Programas%20Financiamiento\\_BCIE.pdf#search=%22Programa%20de%20Apoyo%20a%20la%20Producci%C3%B3n%20Exportable%20de%20Centroam%C3%A9rica%20PAPECA%22](http://www.alide.org.pe/download/Fomin/Sem%202_ElSalvador/Doc_ElSalvador/08_Programas%20Financiamiento_BCIE.pdf#search=%22Programa%20de%20Apoyo%20a%20la%20Producci%C3%B3n%20Exportable%20de%20Centroam%C3%A9rica%20PAPECA%22).

<sup>101</sup> See <http://portal.ins-cr.com/Empresas/SegurosCo/SegCredExpLocal/>.

<sup>102</sup> See <http://portal.ins-cr.com/Empresas/SegurosCo/SegCarga/segcarga.htm>.

<sup>103</sup> See <http://www.procomer.com/tramites/index.cfm?queHacer=loadPage&page=actualiz>.

<sup>104</sup> See <http://www.bccr.fi.cr/documentos/secretaria/archivos/NorFinancExportBCCR.pdf>.

import of inputs to be incorporated into their production for export, as well as other export-related external costs. According to Article 5, the amount financed, plus the financial costs of the financing, may not under any circumstances exceed 84 per cent of the value of the export.

169. In addition, the ICAFE and the LAICA have their own independent activities to promote coffee and sugar respectively.

#### **(4) OTHER MEASURES AFFECTING PRODUCTION AND TRADE**

##### **(i) Incorporation of companies and their tax regime**

170. The incorporation of companies is governed by Law No. 3284 (Commercial Code) of 30 April 1964 (and amendments thereto). This Law allows four types of commercial company to be set up: general partnerships, limited partnerships, limited liability companies and public limited companies. Other legal entities may be set up in accordance with special rules.<sup>105</sup> The MEIC is responsible for ensuring compliance with the provisions of Law No. 3284.

171. A public limited company is the most popular form of commercial structure. Two partners are required in order to set one up. It is incorporated through a document drawn up by a notary, public issue of shares or as a closely held corporation<sup>106</sup>, the latter being the most common form. A public limited company is administered by an executive board or board of directors composed of a minimum of three members, who may or may not be partners, and are entitled the chairperson, secretary and treasurer.

172. The articles of incorporation, the extension, modification and winding up of commercial companies, as well as documentation referring to mergers or transformation of a company, must be registered in the Register of Legal Persons. The average time required for registration formalities is between 15 and 30 days.<sup>107</sup> Ten days after its registration, the company must be registered by the Directorate-General of Taxation as a taxpayer. In addition, it must be registered with the Costa Rican Social Security Fund (*Caja Costarricense de Seguro Social* – CCSS) and the INS and obtain a sanitary operating permit from the Ministry of Health. The latter three requirements are usually conditions for obtaining a municipal licence, which is required for all profit-making activities. The municipal licence is subject to payment of a tax.<sup>108</sup> In 2006, in one municipality a PROEMPRESA pilot plan was launched combining business licence formalities, sanitary operating permits, registration with the CCSS, tax registration and insurance cover (INS).

173. Foreign companies may open branches, subsidiaries or agencies in Costa Rica; the latter act as distributors or representatives. Foreign companies wishing to open a branch in Costa Rica must establish and maintain in Costa Rica a general agent for the branch's activities. Branches must be registered in the Commercial Register and submit a resolution by the shareholders' assembly, authenticated by the Costa Rican consul in the domicile of the foreign company. There is no such

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<sup>105</sup> Further details concerning the special provisions can be found in the *Manual de Trámites – Personas Jurídicas*, consulted at: <http://www.registronacional.go.cr/hm/juridicas/manual.htm>. See also *Manual de Inversionista – Instalación de Empresas en Costa Rica*, consulted on line at <http://www.tramites.go.cr/manual/>; and the *Guía Práctica sobre los Trámites que debe Realizar el Usuario en los Servicios Registrales de Personas Jurídicas*, consulted at: <http://www.registronacional.go.cr/hm/juridicas/plantillas/manual%20para%20el%20usuario%202003%20personas.doc>.

<sup>106</sup> In closely held corporations, all the shareholders are identified and sign the articles of incorporation before the notary at the same time.

<sup>107</sup> See *Manual de Inversionista – Registro Nacional*, consulted at: <http://www.tramites.go.cr/manual/espanol/frame.htm>.

<sup>108</sup> Municipal Code (Law No. 7794), Official Journal of 18 May 1998.

formality if the foreign parent company sets up a public limited company. Branches are subject to the legislation of their country of domicile; nevertheless, Costa Rica's public order legislation applies and they must pay income tax, although only in respect of the business carried out within Costa Rica. The authorities have indicated that, in practice, foreign companies setting up in Costa Rica usually establish a subsidiary rather than a branch.

174. The principal taxes on companies in Costa Rica are shown in Table III.9. Only the commercial revenue earned in Costa Rica is taxable. There is no capital gains tax, but the profits earned from selling capital goods are taxed as commercial income.

**Table III.9**  
Main taxes on companies

Tax	Statutory tax rate	Taxable base	Legal basis
Profits tax	10%, 20%, or 30%, depending on gross income	Net income	Law No. 7092 of 21 April 1988 and amendments thereto
Municipal business tax	Determined by each municipality	Sales	Law No. 7794 of 18 May 1988 and amendments thereto and special laws on business licences in each municipality
Property tax	0.25%	Registered value of the property	Law No. 7509 of 19 June 1995 and amendments thereto
Property transfer tax	1.5%	Selling price	Law No. 6999 of 3 September 1985 and amendments thereto
Social security contributions	Up to 23%	Gross salary	Organic Law on the CCSS (Law No. 17 of 22 October 1943 and amendments thereto) Regulation No. 7082 on the CCSS Health Insurance, of 3 December 1996 Regulation No. 6898 on the Invalidity, Retirement and Life Regime, of 7 February 1995 Law No. 7983 (Workers' Protection Law) of 16 February 2000
Treatment of the disposable income of corporations	15%	Dividends (5% in some cases); profits distributed to shareholders by trading companies; and all distribution of trust funds to beneficiaries	Law No. 7092 of 21 April 1988 and amendments thereto
Law on the Education and Culture Revenue Stamp <sup>a</sup>	C 750-9,000 (depending on net capital)		Laws No. 5923 of 18 August 1976 and No. 6879 of 21 July 1983
Tax on interest	8% or 15%, depending on whether the shares are listed on the stock exchange or not	Interest income	Law No. 7092 of 21 April 1988 and amendments thereto

a This tax is paid by any trading company and any subsidiary of a foreign company registered in the business section of the Public Property Register.

Source: WTO Secretariat and World Bank group, Paying taxes in Costa Rica, consulted at: <http://www.doingbusiness.org/ExploreTopics/PayingTaxes/Details.aspx?economyid=50>.

## (ii) Price controls and competition policy

### (a) Price control provisions

175. In accordance with Article 5 of the Law on the Promotion of Competition and Effective Consumer Protection (Law No. 7472 of 20 December 1994 and amendments thereto), the Government may only control the prices of goods and services in exceptional situations and for a limited time. Nevertheless, Law No. 7472 does not apply to agents supplying public services under a

concession; or to State monopolies established by law (see also section (4)(ii)). Regulation may take the form of fixing prices, determining marketing margins or any other form of control. The imposition of price controls must be preceded by a technical study to confirm the existence of special circumstances.

176. At the end of 2006, rice was the only product subject to official price control by the MEIC for producers and consumers (quality 80/20). Law No. 7472 also fixes a minimum exit price for banana exports (see also section (3)(ii)).

177. Prices for public services deemed essential are regulated by the Regulatory Authority for Public Services (*Autoridad Reguladora de Servicios Públicos – ARESEP*). The ARESEP determines prices and rates for public services such as the supply of electricity; certain telecommunications services; sewage and drinking water services; social postal services; environmental services; the supply of hydrocarbons-based fuel; some irrigation and drainage services; public passenger transport, except for air services; the national highway network service and the toll system; maritime and air services in national ports; rail freight transport; and the collection and treatment of solid and industrial wastes (see also Chapter IV(5)).<sup>109</sup> In addition to prices, the margins for transporting and marketing fuel are also fixed.<sup>110</sup>

(b) Competition policy

178. The framework for Costa Rica's competition policy is the Constitution, the Law on the Promotion of Competition and Effective Consumer Protection (Law No. 7472 of 20 December 1994) and amendments thereto, together with its implementing regulations (Decree No. 25234 of 25 January 1996) and amendments thereto.<sup>111</sup> Article 46 of the Constitution prohibits special monopolies, as well as any act, even if it has its origin in a law, that threatens or restricts freedom of trade, agriculture or industry. Furthermore, the Constitution declares any action by the State intended to prevent monopolistic practices or tendencies to be of public interest and provides that enterprises set up as de facto monopolies must be subject to special legislation.

179. In addition to consumer protection, Law No. 7472 contains provisions on monopolies and practices or conduct deemed to be monopolistic, economic deregulation, price controls, unfair competition (see section (2)(ii)) and the supply of agricultural products (see Chapter IV(2)). The Law establishes a general ban on monopolies (State or private) and monopolistic practices that restrict competition. Law No. 7472 applies to all economic agents active in Costa Rica in any sector, with the exception of those providing public services under a concession; and State monopolies created by law, where these have been put in place by special legislation to carry out the activities specifically authorized therein in areas such as insurance, distillation of alcohol and distribution of fuel.

180. Law No. 7472 classifies monopolistic practices into absolute and relative practices. It considers automatically null and void all absolute monopolistic practices.<sup>112</sup> It also contains provisions on mergers, takeovers or any other act under which there is a concentration of economic

<sup>109</sup> Law No. 7593 of 9 August 1996.

<sup>110</sup> The final consumer prices for hydrocarbons fixed in December 2006 (including taxes) were: premium petrol C 488/litre, regular petrol C 460/litre, and diesel fuel C 364/litre; liquefied petroleum gas C 201.8/litre (price for distributors with no fixed point of sale to the final consumer). Resolution RRG No. 6244-2006.

<sup>111</sup> According to these rules, the General Public Administration Law (Law No. 6227 of 3 May 1978) and the Law Regulating Administrative Litigation (Law No. 3667 of 12 March 1966) also apply.

<sup>112</sup> In other words, practices which involve agreements between competing economic agents and which give rise to horizontal restrictions on competition.

agents with the effect of limiting competition. Mergers are only controlled a posteriori and are examined according to the same scheme as relative monopolistic practices.

181. Since the last review, the only changes to the provisions in Law No. 7472 relating to competition concern certain functions of the Commission to Promote Competition (*Comisión para Promover la Competencia* - COPROCOM). This is composed of five standing members and five alternates, appointed with the agreement of the Executive upon the proposal of the Minister of the Economy, Industry and Trade. It is empowered to deal with and investigate, either automatically or following a complaint, practices which constitute impediments or obstacles to free competition and unnecessarily interfere with the fluidity of the market.

182. The COPROCOM's functions relating to the regulation of economic activities that do not unnecessarily interfere with transactions have been transferred to the Regulatory Development Commission established by Law No. 8343 of 27 December 2002 (see below). This Commission, which replaces the previous National Deregulation Commission, is responsible for overseeing the formalities and requirements regulating trade and monitoring compliance with the Law on protecting citizens from excessive administrative requirements and formalities (Law No. 8220 of 19 February 2002). The purpose of this Law is to prevent duplication of formalities for citizens and, *inter alia*, it reinforces the principle of publicizing all the necessary formalities, orders that formalities should be managed in such a way that it is only necessary to go to one office, and establishes the principle of positive silence (under which an authorization procedure, approval or permit is automatically granted when all the requirements have been met and no objection has been raised within the time-limits laid down in the law). The Commission is composed of 15 regular members, including the President of the COPROCOM. Nevertheless, the COPROCOM is still entitled to give its opinion on the question and on any other matter affecting free competition in Costa Rica.

183. The penalties relating to promotion of competition are prescribed in Law No. 7472; the maximum fine depending on the offence is fixed in terms of minimum wages or as a percentage of the annual sales by the offender during the preceding fiscal year or of the value of the offender's assets. Between 2001 and October 2006, the COPROCOM dealt with 446 cases relating to competition, following investigations *ex officio* or complaints by economic agents, compared with 300 cases between 1995 and 2000. No penalties were imposed in 2006, but a number of cases are still pending (Table III.10).

**Table III.10**  
Penalties relating to competition, 2001-2005

	2001	2002	2003	2004	2005
Economic agents penalized	31	63	10	2	1
Amount of the fines (in C)	6,692,260	151,233,523	122,587,048	72,758,120	205,911,840

*Source:* Information from the COPROCOM and the UTA, provisional figures.

184. The authorities have indicated that, during the period 2001-2006, the COPROCOM issued many opinions and recommendations on how to promote or focus existing regulations in sectors such as insurance, telecommunications, and establishment of corporations in the agricultural sector; it carried out investigations to ascertain possible harmful monopolistic practices and analyse the market structure and the level of concentration in markets such as issuance of credit cards; customs; steel bars for construction; cement; broadcasting; bookshops; panel-beating and paint workshops; plastics; long-life or frozen bread; textiles; paper; pension fund administrators; and supermarkets.

185. According to a study by the UNCTAD<sup>113</sup>, despite the progress made in promoting and implementing competition policy, it has been difficult to apply the Law, one of the reasons being that there is no satisfactory culture of competition in some government institutions and among economic operators; the limitations of the regulations (for example, the absence of an obligation to notify proposals to merge companies and exclusion of some public services and State monopolies from application of the competition legislation); as well as limitations relating to human resources and infrastructure.

**(iii) Incentives**

186. Costa Rica grants incentives in favour of numerous economic sectors, usually through tax incentives or financing programmes. In 2005, over 200 laws gave tax exemptions.<sup>114</sup> At the end of 2006, the Ministry of Finance was working on a draft law on transparency and rationalization of the exemption regimes with the intention of reducing the number of exemptions allowed.

**(a) Tax incentives**

187. A large number of laws allow tax exemptions. The Judiciary has estimated that these exemptions foster greater socio-economic equality.<sup>115</sup> Customs duty exemptions alone accounted for C 38,800 million in 2001, C 23,800 million in 2002, C 25,300 million in 2003 and C 25,100 million in 2004 (US\$118.0, US\$66.1, US\$63.6 and US\$52.6 million respectively)<sup>116</sup>; these amounts correspond to exemption percentages<sup>117</sup> of 15.6, 6.5, 7.4 and 6.5 per cent respectively (compared with 33.43 per cent in 1997). Between 2000 and 2004, two regimes (those relating to agricultural inputs and medical inputs) on average accounted for 45.6 per cent of total tax exemptions given.<sup>118</sup> With regard to profits tax, in 2005 the Government relinquished C 95,500 million in taxes (US\$199.9 million) from free zones, cooperatives and mutual assistance organizations (C 80,800 million, C 5,900 million and C 8,800 million respectively). There has been no study to quantify the overall economic impact of these exemptions, even though at the end of 2006 a study on the impact of free zones was being prepared.

188. Tax exemptions are governed by the Law Regulating Tax Exemptions, Waivers and Exceptions (Law No. 7293 of 31 March 1992 and amendments thereto). This Law refers specifically to the exemptions granted to domestic industry and for imports, listing the benefits granted under various laws and for particular products (Table III.11). Since the last review, the only amendments to Law No. 7293 have been the inclusion in the list of exempt products of automobiles imported or bought in Costa Rica intended exclusively for the use of disabled persons, and the elimination of the refund of the general sales tax paid on the purchase of essential inputs for building certain types of housing. The authorities have indicated that several exemptions are of no value in practice because the customs duty applied is 0 per cent.

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<sup>113</sup> United Nations Conference on Trade and Development (UNCTAD) (2005).

<sup>114</sup> Comptroller-General of the Republic (2005).

<sup>115</sup> *Idem* (2002).

<sup>116</sup> *Idem* (2005).

<sup>117</sup> Share exempted for every colón collected.

<sup>118</sup> Share exempt for every colón collected.

**Table III.11**  
**Some tax incentives included in Law No. 7293**

Product	Benefit	Operation benefiting
Corrective eyewear or eyeglasses	Exemption from <i>ad valorem</i> and selective consumption taxes (pursuant to Law No. 7167 of 19/6/1990)	Import
Inputs, raw materials and basic final goods for agriculture, industry or national consumption, when it is satisfactorily proved that there are no regional supplies on comparable terms of quality, volume and price	Import subject to import duty (excluding the 1 per cent levied pursuant to Law No. 6946) of 1 to 5 per cent <i>ad valorem</i> , in accordance with Law No. 7017 of 16/12/1985 (Convention on the Central American Tariff and Customs Regime)	Import
Public events (sports events, theatre and cinema, when the latter are showing films for children) Advertising services on radio stations and rural newspapers Sale of articles contained in the basic food basket; retreads and tyres exclusively for agricultural machinery; veterinary products and the agricultural inputs defined by the MAG and the Ministry of Finance	Exemption from the General Sales Tax pursuant to Law No. 6826 of 8/11/1982 and amendments thereto (Law on the General Sales Tax)	Import and local sales
Medicines, kerosene, diesel fuel for fishing excluding sport fishing, books, musical compositions, paintings created in Costa Rica by Costa Rican or foreign painters, coffins, and monthly consumption of electricity for residential use of 25 kW/h. or less		
Exports of goods whether or not subject to this tax and re-import of national goods within three years following their export		
Musical instruments, their parts and accessories, except those produced in Costa Rica in comparable conditions	Exemption from all tax, except for the sales tax (Law No. 7243 of 3/6/1991 and Law of 4/7/2001)	Import
Goods acquired by associations for the normal conduct of their activities	Exemption from payment of national and municipal taxes (Law on Community Development (DINADECO))	Import and local purchases by any group or public or private entity, whether national or international, wishing to engage in community development in Costa Rica
Medicines	These are not subject to any kind of tax or surcharge except for tariffs	Import or local purchase
Medical equipment, wheelchairs and like articles, special beds for hospitals, orthopaedic equipment, equipment for chemical, clinical and agricultural research laboratories, dentistry equipment, prostheses in general and any type of equipment used by persons with hearing disabilities, as well as in special education programmes for the disabled	Exemption from any taxes or surcharges	Import and local purchase
Raw materials, inputs and any intermediate or final product used to prepare medicines	Exemption from any tax or surcharge, except tariffs	Import and local purchase
Machinery, equipment, inputs for agricultural use, goods required for fishing activities (excluding sport fishing)	Exemption from any tax or surcharge provided that there is no production on comparable terms of volume, price, quality and availability in the countries having signed the Convention on the Central American Tariff and Customs Regime	Import
Raw materials for preparing inputs for agricultural use and for packing bananas. This benefit extends to fuel in the case of the aforementioned fishing activities	Exemption from any tax or surcharge except for tariffs, provided that there is no production on comparable terms of volume, price, quality and availability in the countries having signed the Convention on the Central American Tariff and Customs Regime	Import
Machinery and equipment	Exemption from any tax or surcharge	Import by the IDA for the Coto Sur Agro-industrial Project

Table III.11 (cont'd)

Product	Benefit	Operation benefiting
Buses or chassis with or without their motors, needed for the public transport of passengers	Not subject to any type of tax or surcharge, except tariffs, at a rate of 5 per cent	Import
Minibuses with a minimum capacity of 26 passengers, required by concessionaires and holders of permits for remunerated public transport of persons	Exemption from any type of tax or surcharge, except for tariffs. If the <i>ad valorem</i> tariff exceeds 5 per cent, the tax applicable to the amount exceeding 5 per cent is exempt	Import
Automatic data-processing machines and their units, included in tariff heading 84530000, spare parts and accessories for the aforementioned goods under tariff heading 84550200, carrier media for computer programs, whether or not printed, under heading 92120500, ink ribbons for the aforementioned machines under heading 98080100 and "uninterruptible power supplies" (UPS) under heading 90288001	Not subject to any type of tax or surcharge, except for tariffs and sales tax	Import and local purchase
Foreign goods entering the Golfito free trade warehouse	Exemption from all taxes (Law on the Creation of the Golfito Free Trade Warehouse, No. 7012, 4/11/1985 and amendments thereto)	Import
The following articles, which have a preferential tariff of 3 per cent: perfumery, toilet and cosmetic articles (Nauca: 33.06b. Other), washing machines and dryers (Nauca: 84.40), sewing machines for domestic use (Nauca: 84.41), electric irons and microwave ovens (Nauca: 85.12 to 85.12c)	Not subject to the single 18 per cent tax on the sale of goods stored in the Golfito free trade warehouse (Law on the Creation of the Golfito Free Trade Warehouse, No. 7012, 4/11/1985 and amendments thereto)	Import

Source: WTO Secretariat, on the basis of Law No. 7293 of 31 March 1992 (Law Regulating Tax Exemptions, Waivers and Exceptions).

189. Table III.12 gives details concerning the tax incentives to promote production and investment in addition to those granted under Law No. 7293. Tax incentives are also given under export incentive schemes such as the Free Zone Regime, the Inward Processing Regime and the Duty Refund Regime (see section (3)(iv)).

**Table III.12**  
**Other tax incentives**

<p><b>Beneficiaries:</b> Rural electrification cooperatives  <b>Benefits:</b> Exemption from all kinds of tax on the purchase of the goods and services needed to pursue their normal objectives  <b>Legal framework:</b> Law No. 6995 of 22 July 1985</p>
<p><b>Beneficiaries:</b> The State, municipalities, autonomous public bodies, enterprises under the Free Zone Regime and cooperatives, as well as civil associations grouping small or medium agricultural producers of goods and services. Public enterprises, however, including State-owned banks, the INS and the Costa Rican Electricity Institute must pay this tax.  <b>Benefits:</b> Exemption from income tax  <b>Legal framework:</b> Income Tax Law (Law No. 7092 of 21 April 1998 and amendments thereto)</p>
<p><b>Beneficiaries:</b> Companies engaged in tourism activities  <b>Benefits:</b> Vary depending on the activity: accommodation, air transport, water transport, incoming travel agencies and car rental firms. Includes exemption from all taxes and charges applicable to the import or purchase in Costa Rica (with the exception of the sales tax) of articles essential for the operation and establishment of hotel services; spare parts for the operation of ships; articles for construction, extension or modification of quays or other ports for tourists. Exemption from taxes and charges, with the exception of customs duty, for the import of public transport vehicles with a minimum capacity of 15 passengers and the import or purchase of vessels in Costa Rica. Supply of fuel at competitive prices for the air transport of passengers. Exemption of 50 per cent on the total amount obtained by applying the taxes in force on the import of motor vehicles solely intended for rental to tourists.  <b>Legal framework:</b> Law No. 6990 of 15 July 1985 (Law on Incentives for Tourism Development), Decree No. 24836 of 5 December 1995, and Decree No. 25148 of 20 March 1996 (regulating car rental for Costa Rican and foreign tourists)</p>
<p><b>Beneficiaries:</b> Owners of natural woodland and persons engaged in reforestation  <b>Benefits:</b> Exemption from payment of the property tax (established by Law No. 7509); and the tax on uncultivated land  <b>Legal framework:</b> Law No. 7575 of 13 February 1996, Law No. 7509 of 9 May 1995, and Law No. 7543 of 19 September 1995</p>

Table III.11 (cont'd)

<p><b>Beneficiaries:</b> Companies awarded contracts for hydrocarbons exploration and exploitation</p> <p><b>Benefits:</b> Exemption from payment of all general or local taxes and surcharges on the import of equipment, machinery, field vehicles, instruments, spare parts, materials and other goods and services needed for the proper fulfilment of the contracts. The exemption covers the exploration period and the first 10 years during which the hydrocarbons are exploited, provided that the goods imported cannot be obtained in Costa Rica on comparable terms of quality, volume and price; goods purchased in Costa Rica are allowed the same exemption.</p> <p><b>Legal framework:</b> Law No. 7399 of 3 May 1994 and Decree No. 25785 of 22 January 1997 (Regulations on Bidding Procedures for the Award of Contracts for Hydrocarbons Exploration and Exploitation)</p>
<p><b>Beneficiaries:</b> Industries producing and assembling equipment, machinery and vehicles; private companies with high energy consumption</p> <p><b>Benefits:</b> Exemption from the selective consumption, <i>ad valorem</i> and 1 per cent taxes on the customs value of merchandise imported for various domestic and imported goods used to manufacture equipment and generate energy in accordance with energy efficiency standards.</p> <p><b>Legal framework:</b> Law No. 7447 of 3 November 1994 (Law Regulating the Rational Use of Energy)</p>
<p><b>Beneficiaries:</b> Literary, educational, scientific, technological, artistic, sports and cultural productions (whether national or imported) declared to be of public interest</p> <p><b>Benefits:</b> Exemption from sales tax, the selective consumption tax and other taxes such as taxes, surcharges, consular fees and customs duties. Exemption is also given for raw materials, machinery and equipment for printing and publishing.</p> <p><b>Legal framework:</b> Law No. 7874 of 23 April 1999</p>
<p><b>Beneficiaries:</b> Cooperative associations</p> <p><b>Benefits:</b> The possibility of obtaining policies issued by the INS at cost price; and the right to electricity at preferential rates.</p> <p><b>Legal framework:</b> Law No. 4179 of 29 August 1968</p>
<p><b>Beneficiaries:</b> Buyers of new vehicles for the remunerated transport of persons by taxi</p> <p><b>Benefits:</b> Exemption of 60 per cent on all taxes of any kind paid in order to import or upon import.</p> <p><b>Legal framework:</b> Law No. 7969 of 22 December 1999</p>

Source: WTO Secretariat.

190. Between 2001 and 2006, each year the MEIC processed more than 24,000 applications for tax exemptions. According to the authorities, the goods that receive the most exemptions are those in the agricultural sector, medicines and inputs for their manufacture, together with medical equipment. Another sector that has benefited was the tourism sector, even though from 2001 onwards the exemption from the sales tax was abolished by Law No. 8114.

(b) Financing programmes and other incentives

191. A number of institutions in Costa Rica have financing programmes, for example, banks, cooperatives, finance companies and non-governmental organizations (NGOs), some of which are termed micro-, small or medium-sized enterprises (SMEs) (Table III.13). SMEs can obtain financing from institutions such as the National Bank, the *Banco Popular y de Desarrollo Comunal*, the *Banco Cuscatlan* and the Women's Foundation (*Fundación Mujer*).<sup>119</sup> These programmes are of particular importance inasmuch as such enterprises account for 98 per cent of Costa Rica's production sector.<sup>120</sup>

<sup>119</sup> Further details on the MEIC's programmes can be found in *Proveedores Financieros*, consulted at: [http://www.siec.go.cr/svs/proveedores\\_financieros/default.aspx](http://www.siec.go.cr/svs/proveedores_financieros/default.aspx).

<sup>120</sup> National Bank, *Banca de Desarrollo*, consulted at: <http://www.bncr.fi.cr/BN/info.asp?c=bcades>.

Table III.13  
Principal financial incentives applicable to production and investment

<p><b>National Programme to Support Micro-Enterprises (<i>Programa Nacional de Apoyo a la Microempresa – PRONAMYPE</i>)</b> <b>Coverage:</b> Trade, industry, services, agriculture (excluding coffee and palm hearts), poultry breeding, livestock breeding, aquaculture, pig breeding, and flower growing <b>Beneficiaries:</b> Micro-enterprises and micro-entrepreneurs <b>Amount financed:</b> Up to US\$5,000 <b>Terms and benefits:</b> Loan for a maximum of 48 months; annual interest rate of 22.50 per cent on balances, revised and adjusted quarterly according to the trend in the Central Bank's basic borrowing rate. Requirements include: being a Costa Rican citizen by birth or naturalization, with few resources or vulnerable; being a micro-entrepreneur or having a project for the establishment of a micro-enterprise; and the micro-enterprise must employ a maximum of five workers, including the entrepreneur. <b>Implementing agency and pertinent authority:</b> Ministry of Labour and Social Security <b>Amounts disbursed:</b> At November 2006, 449 loans had been granted for an amount of C 548,147,957. The average amount per loan was C 1,220,819.5.</p> <p><b>Programme to Support Small and Medium-Sized Enterprises (<i>Programa de Apoyo a la Pequeña y Mediana Empresa - PROPYME</i>)</b> <b>Coverage:</b> Technological innovation and research projects <b>Beneficiaries:</b> Small and medium-sized enterprises or groups <b>Amount financed:</b> Up to 80 per cent of the total cost of the project. The annual envelope available is C 200 million. <b>Terms and benefits:</b> SMEs, competitive non-repayable funds for up to 80 per cent of the total cost of the project <b>Implementing agency and pertinent authority:</b> Ministry of Science and Technology <b>Amounts disbursed:</b> Between 2003 and 2006, C 356.0 million was approved. <b>Comment:</b> The PROPYME is intended to promote and build management capacity and competitiveness of Costa Rica's small and medium-sized enterprises through technological development.</p> <p><b>Development Fund for Micro-, Small and Medium-Sized Enterprises (<i>Fondo de Desarrollo de la Micro, Pequeña y Mediana Empresa – FODEMIPYME</i>)</b> <b>Coverage:</b> Projects or programmes for: training or technical assistance, technological development; transfer of technology; know-how, research, development of human potential; and innovation and technological change processes. <b>Beneficiaries:</b> Micro-, small and medium-sized enterprises <b>Amount financed:</b> Up to 50 per cent of the amount of the loan and up to C 42 million <b>Terms and benefits:</b> Term of up to 120 days; the interest rate applicable to loans combines the basic rate with a risk margin depending on the client; the basic rate is 12.25 per cent. <b>Implementing agency and pertinent authority:</b> <i>Banco Popular y de Desarrollo Comunal</i> <b>Amounts disbursed:</b> Between April 2004 and October 2006, the amount guaranteed was C 1,549 million (Security and Guarantee Fund) and the amount of the loans granted was C 1,299 million (Financing Fund). <b>Comment:</b> It is composed of three funds: the Security and Guarantee Fund, the Financing Fund and the Transfer Fund. The main objective is to grant security or guarantees to micro-, small and medium-sized enterprises "on terms and in proportions particularly favourable to the satisfactory development of their activities", and to grant loans to finance projects and programmes which, <i>inter alia</i>, require the development or transfer of technology, technical training, technical innovation or a change in technology. It provides funds from the <i>Banco Popular y de Desarrollo Comunal</i>.</p>
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Source: WTO Secretariat.

192. The tourism sector is given non-tax incentives which include access to promotion and technical advice programmes and the promotion programmes of the Costa Rican Tourism Institute (*Instituto Costarricense de Turismo – ICT*).<sup>121</sup> Assistance is given for readjustment of the agricultural sector under a number of laws (see Chapter IV(2)).

(iv) **State-trading enterprises, State-owned enterprises and privatization**

193. Costa Rica has notified that the only company coming under the provisions of Article XVII of the GATT 1994 is the RECOPE. This State-owned enterprise is the sole and exclusive administrator of the State monopoly of import, refining and wholesale distribution of crude oil, petroleum-based fuels, asphalt and naphtha.<sup>122</sup> In 2006, total imports of products subject to exclusive rights (12 tariff lines in Chapters 27 and 29 of the Harmonized System) amounted to some US\$1,240 million. For the purposes of this review, the authorities have indicated that RECOPE's exclusive rights are granted in order to ensure the strategic supply of the market.

<sup>121</sup> Decree No. 25226 of 15 March 1996 (Regulation of Tourism Enterprises and Activities).

<sup>122</sup> WTO documents G/STR/N/5/CRI-G/STR/N/6/CRI-G/STR/N/7/CRI of 23 January 2002, and G/STR/N/8/CRI of 5 November 2003.

194. During the period under review, there were no changes to the regulations on State monopolies and privatization, even though at the end of 2006 a number of draft laws were under consideration for the gradual liberalization of the telecommunications and insurance sectors following the conclusion of the Central America-Dominican Republic-United States Free Trade Agreement<sup>123</sup> (see also Chapters II(5) and IV(5)).

**(v) Government procurement**

195. According to preliminary information from the Comptroller-General of the Republic, for the government sector as a whole (central government, municipalities, autonomous institutions and State-owned enterprises), in 2005 the total value of procurement of goods and services was C 1,746,629.9 million (some US\$3,655.6 million), corresponding to 18.3 per cent of the GDP for that year.<sup>124</sup> The total amount of direct procurement by the government sector as a whole was C 38,580 million (5.4 per cent of the total value).<sup>125</sup>

196. The total value of procurement of goods and services by the central government (only including ministries) was C 43,618 million (some US\$91.3 million)<sup>126</sup>; the procedure most frequently used is direct procurement, which concerns 91.4 per cent of contracts, followed by bidding through registration (3.6 per cent), selective bidding (3.3 per cent), open bidding (1.7 per cent) and international bidding (0.07 per cent).<sup>127</sup>

197. Costa Rica has not signed the WTO Plurilateral Agreement on Government Procurement and is not an observer. On the other hand, it takes part in the work of the WTO Working Group on Transparency in Government Procurement.

198. Since the previous review, measures have been taken to foster transparency in the government procurement system by adopting an on-line system called "Compra RED", which aims to computerize the process of disseminating information on tenders.<sup>128</sup>

199. The legal framework regulating government procurement of goods and services is to be found in the Administrative Procurement Law (Law No. 7494 of 8 June 1995 and amendments thereto) and its implementing regulations (Decree No. 25038 of 28 March 1996 and amendments thereto); the General Law on Public Utility Works Contracts (Law No. 7762 of 14 April 1998) and its implementing regulations (Decree No. 27098 of 12 June 1998); the Industrial Production Incentives Law (Law No. 7017 of 16 December 1985) and its implementing regulations (Decree No. 32448 of 28 April 2005), and the Regulations on Use of the Register of Suppliers (Decree No. 25113 of 20 April 1996). Law No. 8511 should enter into force on 4 January 2007 introducing significant amendments to the various provisions of Law No. 7494.

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<sup>123</sup> Article 12.4 (Market Access for Financial Institutions), Section H (Specific Commitments of Costa Rica on Insurance Services) and Annex 13 (Specific Commitments of Costa Rica on Telecommunications Services).

<sup>124</sup> Comptroller-General of the Republic, *Memoria Anual 2005*, consulted at: [http://documentos.cgr.go.cr/content/dav/jaguar/Documentos/Memoria/2005/Memoria\\_Anual\\_2005.pdf](http://documentos.cgr.go.cr/content/dav/jaguar/Documentos/Memoria/2005/Memoria_Anual_2005.pdf).

<sup>125</sup> *Ibid.*

<sup>126</sup> Ministry of Finance, Technical Secretariat of the Budgetary Authority, Analysis and Fiscal Monitoring Unit (2005).

<sup>127</sup> Ministry of Finance, Directorate-General of Asset Management and Administrative Procurement (2005).

<sup>128</sup> Decree No. 32717 of 16 September 2005 (Regulation of the Use of the Compra RED Government Procurement System).

200. In 2002, pursuant to Law No. 8262 of 2 May 2002, implemented by Decree No. 33111 of 6 April 2006, the government authorities were required to establish a special programme to ensure some measure of participation by SMEs in government procurement. This programme was regulated in 2006 by Decree No. 33305<sup>129</sup>, which lays down the guidelines and establishes the mechanisms to ensure participation by SMEs in the procurement of goods and services by the State.

201. Law No. 7494 does not apply to, *inter alia*, agreements with other States or with entities subject to public international law, contracts between public law bodies, or activities authorized by the Comptroller-General of the Republic by means of a resolution where there are reasons of public interest (but this provision will be repealed under Law No. 8511), or to other activities which by law are subject to special government procurement regimes (see below).

202. Law No. 7494 provides the following methods for government procurement of goods and services: open bidding procedures; bidding by registration; selective bidding; and direct procurement or contracting. Furthermore, the authorities may include prior qualification requirements in the procedures, as well as a Dutch auction procedure and bidding with financing.

203. Law No. 7017 provides that the central government, autonomous and semi-autonomous entities, municipalities or any other official body must give priority to products manufactured by the domestic industry when procuring goods, provided that supplies are adequate and the quality and price comparable to those of the imported product.<sup>130</sup> The Law requires a comparison to be made between the price of the domestic product and that of the imported product including all customs and import costs. As did the previous regulations, Decree No. 32448 of 28 April 2005 lays down the parameters to be applied in making the comparison.<sup>131</sup>

204. For open bidding procedures, all invitations to tender must be published in the Official Journal. Where it is considered appropriate for reasons of public interest or it has been so agreed with the international public body financing the procurement, the competent authority, in addition to making the usual publication, may invite foreign companies to participate by publishing a notice in foreign newspapers or by informing the trade delegations accredited to Costa Rica. In the case of bidding by registration, only registered suppliers are invited to submit bids.

205. Direct contracting may be used in the following cases: regular activities; agreements with other States or with public international law bodies; activities between public law entities; activities which because of their nature or the prevailing circumstances so require (for example, a single supplier, substantiated security reasons, utmost urgency); where the business involves only minor amounts; procurement using petty cash funds; procurement for the construction, establishment or supply of offices or services abroad; or where there are sufficient reasons of public interest. In the case of public interest, the relevant application must be submitted to the Comptroller-General of the Republic, indicating the reason why direct contracting needs to be used, the estimated amount of the procurement and the relevant budget line. The application must also indicate the way in which it is intended to select the contractor. Where direct contracting needs to be used because of the amount involved, the authorities must send out invitations to no less than three potential suppliers and select the best bid.

<sup>129</sup> Decree No. 33305 of 13 June 2006.

<sup>130</sup> Decree No. 32448.

<sup>131</sup> For the purposes of comparing the prices of domestic and foreign manufactures, the authorities calculate the equivalent price using the following formula:  $Peq = PCIF (1 + \% \text{ of import costs} + \text{import tariffs, import taxes} + \text{Law No. 946 tax})$ , in which  $Peq$  = equivalent price, i.e the price to be compared with that offered by national suppliers, and  $PCIF$  = the c.i.f. price of the goods. In 2005, the percentage of import costs was 8.25 per cent.

206. Pursuant to Law No. 7494, the participation of foreign bidders is subject to reciprocity, under which they are given the same treatment as Costa Rican enterprises receive in their country of origin. The authorities have indicated, however, that in practice this provision is not applied.

207. For each contract, the public contracting procedure is determined according to the authority's total budget and the estimated amount of the contract.<sup>132</sup>

208. As regards the criteria used to evaluate and compare bids, the invitation to tender must indicate the factors to be taken into consideration, the degree and importance of each of them in the overall comparison of bids, and the method used to evaluate and compare bids in relation to each factor.<sup>133</sup> In the case of services, in addition to price, the selection criteria include the personal, professional or business situation of the bidders. The authorities may at any time annul their contractual relations for various reasons, but must comply with a predetermined procedure and pay for the work already undertaken as well as any damages incurred.

209. Law No. 7494 allows interested parties to lodge administrative appeals and judicial proceedings against the award of contracts. In particular, the Law provides for procedures for objecting to the invitation to tender, annulment and appeals procedures. Annulment or appeals procedures may be used depending on the amount of the contract awarded and the budget of the contracting agency. Judicial appeals may be made against decisions irrespective of the amount; nevertheless, the amount serves as a reference to determine what procedure is to be followed at the administrative level. No further appeal may be lodged against a ruling by the Higher Administrative Tribunal. The authorities have stated that, according to preliminary information, there were 248 appeals and 453 objections to invitations to tender in 2006.

210. Each procurement department keeps a register of suppliers interested in government procurement.<sup>134</sup> At least once a year, through the Official Journal, the authorities invite suppliers to register; natural and legal persons may, however, request registration at any time. The regulations on use of the register of suppliers, to be found in Decree No. 25113 of 24 April 1996, lay down the general procedures to be followed by natural and legal persons in order to become registered as suppliers.

211. There are special procedures for public works contracts in Law No. 7762 of 14 April 1998 (General Law on Public Utility Works Contracts) and Decree No. 27098 of 12 June 1998 (General Regulations on Public Utility Works Contracts). Contracts for hydrocarbons exploration and exploitation are among the activities subject to special government procurement regimes.<sup>135</sup>

212. Under its free trade agreements with Chile, Mexico and the Dominican Republic, Costa Rica has agreed to give suppliers from these countries national treatment for the procurement of goods and

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<sup>132</sup> In 2006, the limits in effect for determining the procedures were defined in Comptroller-General of the Republic, *Límites de contratación administrativa*, 2006. Consulted at: [http://documentos.cgr.go.cr/content/dav/jaguar/documentos/contratacion/docs/limites\\_contratacion\\_2006.htm](http://documentos.cgr.go.cr/content/dav/jaguar/documentos/contratacion/docs/limites_contratacion_2006.htm).

<sup>133</sup> General Regulation on Administrative Contracting No. 25038-H (Article 45.1.10).

<sup>134</sup> The procurement departments are regulated by Decree No. 30640 of 27 June 2002 (Regulations on the Operation of Procurement Departments of Government Ministries).

<sup>135</sup> Law No. 7399 of 3 May 1994 (Hydrocarbons Law), Decree No. 24735 of 29 September 1995 (Implementing Regulations for the Hydrocarbons Law), Decree No. 25785 of 22 January 1997 (Regulations on the Bidding Procedure for Hydrocarbons Exploration and Exploitation Contracts) and the General Regulations on Contracting by the Costa Rican Petroleum Refining Limited Company (RECOPE), adopted by RECOPE's Executive Board on 26 November 2002.

services covered by the agreements.<sup>136</sup> The Treaty with CARICOM also includes provisions on government procurement.<sup>137</sup> There are no similar provisions in the plan for the Central American Common Market.

**(vi) Protection of intellectual property**

**(a) Introduction**

213. Costa Rica protects intellectual property rights through a combination of international and national provisions. Since the previous review of its trade policy, its domestic legislation has not changed, except for approval of Decree No. 30363 (Regulations on the Organization and Operation of the Administrative Register Tribunal), which partly implements Law No. 8039 (see below) and Decree No. 30151-J, which prescribes that the Government as a whole shall work diligently towards preventing and combating illegal use of computer programs. As part of the agenda for implementation of the Central American-Dominican Republic-United States Free Trade Agreement, in February 2006 draft legislation was put before the Legislative Assembly with a view to amending the patent, trademark and enforcement laws. These drafts received affirmative endorsement by the Commission on Legal Affairs on 30 August 2006.

214. The WTO Agreement on Trade-Related Aspects of International Property Rights (TRIPS), ratified by Law No. 7475 of 20 December 1994, has had force of law in Costa Rica since 1 January 1995. In June 2001, Costa Rica's legislation was examined by WTO Members. Costa Rica replied to the questions submitted and to the checklist of issues on enforcement, as well as to questions from Canada, the European Union, Japan, Switzerland and the United States.<sup>138</sup> The questions referred to issues such as the criteria for protection of various types of intellectual property rights, exceptions to protection, application of national treatment and the most-favoured-nation principle, compulsory licences, protection of new plant varieties and enforcement.

215. Costa Rica replied to the checklist of issues on enforcement from the WTO<sup>139</sup> and notified that its contact point is the Directorate-General of Foreign Trade at the Ministry of Foreign Trade.<sup>140</sup>

216. Costa Rica is a member of the World Intellectual Property Organization (WIPO) and is party to many international agreements on the protection of intellectual property rights (Table III.14).

**Table III.14**  
**Intellectual property treaties ratified by Costa Rica**

<b>International treaty</b>	<b>Law and date of ratification</b>
Convention Establishing the World Intellectual Property Organization (WIPO)	Law No. 6468 of 18 September 1980
<b>Copyright and related rights</b>	
Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention, 1961)	Law No. 4727 of 5 March 1971
Universal Copyright Convention (Geneva Convention) and its two protocols	Law No. 5682 of 5 May 1975

**Table III.14 (cont'd)**

<sup>136</sup> Chapter XII of the Free Trade Agreement between Mexico and Costa Rica (Law No. 7474 of 20 December 1994); Chapter XII of the Free Trade Agreement between Central America and the Dominican Republic (Law No. 7882 of 8 June 1999); and Chapter 16 of the Free Trade Agreement between Central America and Chile (Law No. 8055 of 4 January 2001).

<sup>137</sup> Chapter XV of the Free Trade Agreement between Costa Rica and CARICOM (Law No. 8455 of 19 September 2005).

<sup>138</sup> WTO document IP/Q/CRI/1-IP/Q2/CRI/1-IP/Q3/CRI/1-IP/Q4/CRI/1 of 18 January 2002.

<sup>139</sup> WTO document IP/N/6/CRI/1 of 20 March 2001.

<sup>140</sup> WTO document IP/N/3/Rev.9 of 8 November 2005.

International treaty	Law and date of ratification
Berne Convention for the Protection of Literary and Artistic Works	Law No. 6083 of 29 August 1977
Geneva Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of their Phonograms (Geneva Convention, 1971)	Law No. 6486 of 25 September 1980
Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (Brussels Convention, 1974)	Law No. 7829 of 22 September 1998
WIPO Performances and Phonograms Treaty (WPPT, 1996)	Law No. 7967 of 22 December 1999
WIPO Copyright Treaty (WCT, 1996)	Law No. 7968 of 22 December 1999
<b>Trademarks and other distinctive signs</b>	
Paris Convention for the Protection of Industrial Property	Law No. 7484 of 28 March 1995
Lisbon Agreement for the Protection of Appellations of Origin and their International Registration	Law No. 7634 of 3 October 1996
Protocol to the Central American Agreement for the Protection of Industrial Property (Marks, Trade Names and Advertising Slogans or Signs)	Law No. 7982 of 14 January 2000
<b>Patents, industrial designs and utility models</b>	
Paris Convention for the Protection of Industrial Property	Law No. 7484 of 28 March 1995
Patent Cooperation Treaty	Law No. 7836 of 22 October 1998

Source: WTO Secretariat.

217. The Industrial Property Register and the Copyright and Related Rights Register, both part of the National Register of the Ministry of Justice and Pardons, administer the corresponding intellectual property rights. In 2005, the structures of these two registers were merged and they were grouped together in a single department so as to make better use of institutional resources.<sup>141</sup> Nevertheless, the two registers continue to exist independently. A legal advice department has also been set up. It became necessary to strengthen the Copyright and Related Rights Register by creating the post of Director of the Copyright Register.

218. The Ministry of Justice, the Public Prosecutor's Office and the Ministry of Finance are responsible for enforcement of intellectual property rights; the bodies enforcing these rights are the Register of Industrial Property, the Register of Copyright and Related Rights, the Inspectorate for Miscellaneous Offences and the Directorate-General of Customs.<sup>142</sup>

219. There have been no amendments to patent legislation since the previous review<sup>143</sup> or to copyright and related rights legislation<sup>144</sup> (see Table AIII.1). The granting of a patent entails the obligation to work it in Costa Rica, permanently and regularly, so that the market is adequately and reasonably supplied, within a period of three years as of the date on which the patent is granted or four years as of the date of the patent application, whichever is the longer. The law allows the granting of compulsory licences if the applicant has tried without success to obtain the consent of the patent holder on reasonable commercial terms, in the case of dependent patents, so as to maintain competitiveness in the market, or for reasons of the utmost urgency or public necessity (subject to compensation). At the end of 2006, there had not been any applications for compulsory licences for patents.

220. Layout-designs (topographies) of integrated circuits are protected under Law No. 7961 (see Table AIII.1). Compulsory licences may be granted on the same terms as those relating to patents in

<sup>141</sup> National Register, *Informe de labores 2005*, consulted at: <http://www.registrnacional.go.cr/memoriasrn2005-2006.pdf>.

<sup>142</sup> WIPO, *Costa Rica – Legislative Profile*, consulted at: <http://www.wipo.int/about-ip/en/ipworldwide/pdf/cr.pdf>.

<sup>143</sup> The consolidated version of Law No. 6683 was notified to the WTO and is contained in WTO document IP/N/1/CRI/C/3 of 6 November 2002.

<sup>144</sup> *Idem*.

accordance with Law No. 6867 (and amendments thereto). At the end of 2006, no applications for compulsory licences relating to integrated circuits had been submitted.

221. Costa Rica's legislation on copyright, patents and layout-designs of integrated circuits entails the international exhaustion of rights, which allows parallel import of the protected goods, lawfully sold on foreign markets.

222. The Law on Trademarks and Other Distinctive Signs also protects geographical indications, including wines and spirits, as well as homonymous appellations of origin (see Table AIII.1). Registration of a trademark does not give the owner the right to prevent third parties from using it on lawfully labelled products introduced into Costa Rica or a foreign country.

223. Costa Rica has notified the WTO of Law No. 8063, Law on the Identification of Costa Rican Bananas on International Markets.<sup>145</sup> This Law provides that, in order to benefit from incentives or exemptions, exporters of bananas produced in Costa Rica must place a stamp marked "Bananas of Costa Rica" on each hand of bananas and on boxes or packages of any weight.

224. The Law on Biodiversity, Law No. 7788 of 27 May 1998, lays down rules for access to genetic and biochemical components of biodiversity, while undisclosed information relating to trade and industrial secrets is protected by Law No. 7975.

225. Costa Rica is not a member of the International Union for the Protection of New Plant Varieties (UPOV). It does not grant any protection to new plant varieties. In June 1999, the Government submitted a draft law to the Legislative Assembly in order to provide such protection, but it was set aside in 2006. In August 2006, however, a new draft law on the protection of new plant varieties was submitted as part of the agenda for implementation of the Central America-Dominican Republic-United States FTA, based on the protection system established under the 1991 UPOV Convention. At the end of 2006, this draft was being discussed by the Legislative Assembly's Standing Commission on Agricultural Affairs and Natural Resources.

226. As far as the enforcement of intellectual property rights is concerned, Costa Rica has been applying Law No. 8039 of 12 October 2000 (Law on Intellectual Property Rights Enforcement Procedures) since 2001. According to this Law, its implementing regulations should have been adopted within six months of its publication. In 2001, draft regulations for Law No. 8039 were approved by the Office of the Attorney-General of the Republic, but at the end of 2006 they had not yet been issued. The authorities have indicated, however, that even though the regulations for Law No. 8039 are not in force, the Law applies directly.

227. In 2001, the Government submitted to the Legislative Assembly a draft amending Law No. 8039 with the intention, *inter alia*, of increasing the penalties for infringement of intellectual property rights, revising copyright procedures to make them public, and repealing Article 70 of the Law as regards the principle of prejudice. At the end of 2006, this draft had not yet been approved by the Legislative Assembly.

228. Law No. 8039 set up an Administrative Register Tribunal under the Ministry of Justice and Pardons to hear appeals against the acts and final decisions of all the registers forming part of the National Register (including the Industrial Property Register and the Copyright and Related Rights Register). Regulations for the Administrative Register Tribunal were approved in 2002 and entered into force in May that year.

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<sup>145</sup> WTO document IP/N/1/CRI/G/1 of 6 November 2002.

229. Costa Rica's legislation does not provide for fines for infringement of intellectual property rights but permits civil proceedings. Infringement is also punished by a term of imprisonment of one to three years; under criminal law, however, if the penalty does not exceed three years the judge is empowered to impose a suspended sentence.<sup>146</sup> In 2001, Costa Rica submitted a notification to the WTO estimating the length and cost of civil and criminal proceedings.<sup>147</sup>

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<sup>146</sup> Criminal Code of Costa Rica (Law No. 4573) of 4 March 1970 and amendments thereto.

<sup>147</sup> WTO document IP/N/6/CRI/1 of 20 March 2001.