

# Trade Agreement

# Integral Cooperation Agenda

## National Action Plan of Costa Rica Conceptual Proposal

**Main obstacles and support needs for institutional capacity building during the implementation, transition and adjustment to trade liberalization**

**San José, November 2007**

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## **EXECUTIVE SUMMARY**

The Ministry of Foreign Trade is not the sole entity responsible for the implementation and administration of trade agreements in Costa Rica. A large number of public institutions, as well as the private sector, are actively involved in this interdisciplinary task, and not just as observers, but as stakeholders that play an important role in the process. The more free trade agreements Costa Rica signs and commitments it assumes, the greater the number of ties the country forms and the greater the implications for the institutions involved. The country's new obligations with regard to services, intellectual property, environmental legislation, and labor regulations are forcing institutions that have historically had no connection with trade-related issues to allocate human and financial resources to address these issues in an attempt to meet the demands of the new situation.

The identification of possible areas for trade-related capacity building is the main objective of this document. It purports to provide a general contextual overview of the diverse areas where international cooperation could play a significant role complementing national efforts and policies geared at promoting better standards of living for all the inhabitants of Costa Rica. This document presents Costa Rica's main international cooperation needs, but it does not purport to be a definitive document. Rather the intention is to serve as an initial guidance in order to identify possible areas of cooperation, keeping in mind that some key priority areas may need further specification and particular priorities may emerge as the national context constantly changes.

The priorities have been identified in terms of the need to enhance the capacities of the country's trade-related institutions, the production sector, and civil society. The document is intended to serve as a guide for both the donor community and the government institutions of Costa Rica to help them arrange and channel technical and international financial cooperation resources.

To identify the priorities, consultations were held with the institutions responsible for monitoring and ensuring fulfillment of the commitments assumed in the following areas: the administration of trade agreements; sanitary and phyto-sanitary measures; technical standards; intellectual property; competition policy; unfair trade practices; rules of origin and customs procedures; support policies for SMEs, and environmental and labor legislation. As far as support for the more vulnerable sectors of the economy is concerned, all available studies and the results of the consultations held by the Costa

Rican Government with the production sector during the negotiation of the Free Trade Agreement with the United States were examined and taken into consideration.

Given that the administration of international trade agreements has begun to be considered part of global public policy, the priorities set forth in this document bear close relation to those outlined in the Sectoral Agenda for International Cooperation 2007-2010 (*Agenda Sectorial de Cooperación Internacional - ASCI*) and the strategic axes defined in the country's National Development Plan "Jorge Manuel Dengo Obregón 2006-2010" (*Plan Nacional de Desarrollo - PND*)

The list of priorities for supporting institutional capacity building during the transition and adjustment to trade liberalization set out in this document, together with the ASCI and the PND, is intended to help Costa Rica forge strategic alliances with bilateral cooperation agencies and international organizations and make the best possible use of the external resources that it receives. This document should also prove useful for furthering the articulation and harmonization processes that tend to improve the negotiation, implementation and evaluation of international cooperation projects and programs.

The document is divided into six parts: part (I) highlights the main challenges facing Costa Rican trade policy; part (II) identifies the country's main institutional capacity-building needs; part (III) presents the priority actions needed to strengthen relations with the private sector and civil society; part (IV) examines the support needs of small and medium-size enterprises (SMEs) so that they can successfully penetrate the international market; part (V) looks at the importance of improving the business climate in Costa Rica; and part (VI) addresses the main challenges facing the Costa Rican production sector as the country makes the transition towards free trade.

## **I. THE OPENING OF THE COSTA RICAN ECONOMY AND THE MAIN CHALLENGES INVOLVED**

Costa Rica is a small developing economy located in Central America. It is the oldest democracy in Latin America, and is the only country in the world where more than a half century ago, the army was abolished by national consensus. With a population of approximately 4.4 million, in 2006, Costa Rica had a gross domestic product (“GDP”) of US\$22,230.9 million, and its GDP per capita was approximately US\$ 5050. Over the past five decades, the Government has invested significant resources in health care and education. Costa Rica hosts a large diversity of animal and plant species, and approximately one quarter of its territory consists of public or private reserves dedicated to environmental conservation and preservation of this biological diversity.

In the last twenty years, Costa Rica's increasingly intense participation in trade negotiations, as well as its heavy promotion of foreign direct investment as one of the means of diversifying the country's production apparatus and its exports have posed new challenges to both the private sector and the country's public institutions.

Costa Rica's institutional framework for foreign trade remained practically unchanged for almost two decades after the country joined the Central American Common Market in 1963, a time when economic policy revolved around the implementation of the import substitution model.

It was not until the beginning of the 1980s that Costa Rica adopted a new approach towards economic development and began to award importance to foreign investment and international trade as engines for economic growth. This created the necessary conditions for strengthening the institutions involved in foreign trade. The establishment of the Ministry of Exports (MINEX) as a dependency of the Office of the President, which was subsequently renamed the Ministry of Foreign Trade, paved the way for the development of a foreign trade policy in Costa Rica. This period also witnessed the creation of the National Investment Council (*Consejo Nacional de Inversiones*) and the Export Free Zone Corporation (*Corporación de la Zona Franca de Exportación*), as well as the establishment of institutions such as the Export Promotion Center (*Centro de Promoción de Exportaciones - CENPRO*), and the non-government investment promotion agency, the Costa Rican Coalition for Development Initiatives (*Coalición Costarricense de Iniciativas para el Desarrollo - CINDE*).

No substantial progress was made, however, in strengthening the institutional framework for foreign trade in Costa Rica until 1996, when a law was passed to create the Ministry of Foreign Trade (*Ministerio de Comercio Exterior - COMEX*) and the Office of Foreign Trade Promotion of Costa Rica (*Promotora de Comercio Exterior de Costa Rica - PECO*).

Rica - PROCOMER<sup>1</sup>). This law grants COMEX specific responsibility for the formulation of foreign trade policy and the handling and management of international trade negotiations and establishes PROCOMER as a non-government public entity to replace CENPRO. The main function of PROCOMER is to support the work of COMEX in the administration of special export regimes and the promotion of exports. Four years later a new law on Trade Negotiations and the Administration of Free Trade Treaties, Agreements, and Foreign Trade Instruments (Law No. 8056) came into effect. This law created two fundamental trade administration agencies: the Directorate for the Implementation of International Trade Agreements (*Dirección de Aplicación de los Acuerdos Comerciales Internacionales* - DAACI) and the Consultative Council on Foreign Trade (. The latter is a public-private agency that operates as an advisory body on trade policy to the Executive Branch. The former, the DAACI, is responsible for verifying compliance with all the obligations derived from the agreements, treaties or other bilateral, regional or multilateral trade or investment instruments that Costa Rica signs and is entitled to the full collaboration of all the ministries and institutions involved in trade, in their respective areas of competence, in the execution of its duty. The Inter-Ministerial Commission of the DAACI was created as a consultative mechanism to facilitate coordination with all the institutions involved in trade. Representatives of the Ministry of Economy, Industry and Trade, the Ministry of Agriculture, the Ministry of Finance and the Ministry of Health serve on the Commission, which is presided over by the representative of the Ministry of Foreign Trade<sup>2</sup>.

The change in economic model also meant that Costa Rica began to play a far more active role in international negotiations at the multilateral, regional and bilateral level. At the multilateral level, in 1990, the country joined the General Agreement on Trade and Tariffs, GATT, which subsequently became the World Trade Organization, and has participated in the Doha Round. At the regional level, Costa Rica has participated actively in the Free Trade Area of the Americas since 1994 and promoted the modernization and deepening of the Central American Economic Integration scheme, which has been moving towards increased free trade and the formation of a customs union among the five member countries since it was started in 1963. At the bilateral level, since 1995, Costa Rica has been pursuing better market access conditions for the country's exports by engaging in a series of negotiations with a number of different trading partners. On its own, or together with the other countries of Central America, Costa Rica first negotiated free trade agreements with developing countries such as Mexico, Chile, the Dominican Republic, Panama and CARICOM. These served as a springboard for subsequently entering into more ambitious agreements with developed countries such as Canada, the United States and most recently, the European Union.

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<sup>1</sup> Law 7638 on the Creation of the Ministry of Foreign Trade and the Office of Foreign Trade Promotion of Costa Rica. October 1996.

<sup>2</sup> This Inter-Ministerial Commission holds ordinary meetings once every two months and extraordinary meetings as required.

The more free trade agreements Costa Rica signs and commitments it assumes, the greater the number of ties it forms and the greater the implications for the institutions involved. The country's new obligations with regard to services, intellectual property, environmental legislation, and labor regulations are forcing institutions that have historically had no connection with trade-related issues to allocate human and financial resources to address these issues in an attempt to meet the demands of the new situation.

It is therefore essential for Costa Rica to be able to count on a comprehensive cooperation program. With such support, the country will be able to strengthen the institutions involved in trade and ensure that its trade initiatives are effectively managed and exploited. To reap the benefits of free trade and economic integration, at least in the case of a small, developing economy like Costa Rica requires, however, an integrated approach. The condition of being a developing economy clearly evidences the existence of a series of development bottlenecks and distortions which for decades have impeded Costa Rica to reach the economic performance of industrial countries. The solution of these obstacles for development is clearly a national responsibility. The government, entrepreneurs, workers, professionals and in general all civil society must work in a joint effort to enable Costa Rica to pass to the league of developed nations. However, in this process, international cooperation can play a key role enabling national actors to pursue this goal.

#### **THE CHALLENGES FOR COSTA RICA'S TRADE POLICY**

The main objective of Costa Rica's foreign trade policy is to consolidate the intelligent insertion of Costa Rica in the world economy in keeping with the country's global development policy. To achieve this, Costa Rica's trade policy is being developed along five strategic axes: (i) trade negotiations, the purpose of which is to use free trade initiatives to facilitate access for Costa Rican products to markets of interest and to improve the articulation of existing agreements; (ii) export promotion, which aims to ensure the sustained growth of exports over the long term; (iii) investment promotion, through the creation of a climate that encourages the installation of national and foreign companies with high added value that promote the diversification of national production and the development of new products, improve technical know-how and access to state-of-the-art technology, and foster the creation of production chains; (iv) trade agreement administration, in which efforts focus on monitoring compliance with all the obligations assumed under the various treaties, agreements and other bilateral, regional, or multilateral trade or investment instruments, and (v) relations with civil society organizations, through the promotion and establishment of a permanent

dialogue with organizations that represent Costa Rican civil society with a view to understanding and considering the positions of these organizations and diffusing information on the scope and benefits of linking national development strategy to foreign trade.

The challenges facing the Costa Rican production sector therefore stem from this definition of trade policy, the evolution of the country's foreign trade, and the demands that have been made at different times by operators in the production sector. The following have been identified as some of the main challenges or difficulties facing the country in its efforts to improve the implementation and administration of trade agreements and to facilitate the transition or adjustment of some of its traditionally protected sectors to free trade and the opportunity to exploit new markets:

1. Significant progress has been made in improving the channels of communication between COMEX and the institutions involved in the administration of international agreements thanks to the creation of the Consultative Council and the Inter-Ministerial Commission of the DAACI. These efforts need to be complemented, however, by strengthening the other State institutions as well so as to boost trade in general and ensure that the obligations assumed in each trade agreement can be duly met.
2. In most cases, the response capacity of the trade-related agencies depends on their other goals and responsibilities, and their priorities do not necessarily coincide with those of the implementation or administration of trade agreements. This means that decision-making on matters of procedure or the fulfillment of obligations is often a slow process. Significant efforts have been made to improve the situation, but it still takes trade operators a long time to obtain a response to the problems they encounter in their day-to-day business, especially when these involve the incorrect levying of duties, certificates of origin, the fulfillment of commitments, arbitrariness in the validation of registration documents, the inspection of plants abroad, the administration of quotas, or the application of sanitary measures or technical standards that are not legally stipulated. At the internal level, efforts to improve procedures within the various Government agencies need to continue, and, at the international level, useful counterparts need to be found and agile and transparent processes need to be established with the country's trading partners.
3. Although the country has successfully managed to defend its business interests in international proceedings, the work of the Office of Unfair Trade Practices needs to be more proactive and not just reactive. The capacities of all the agencies involved in trade remedies, and of the Office of Unfair Trade Practices in particular, to

monitor, oversee and implement the modern instruments established by trade regulations need to be boosted. Experience has shown that training in these kinds of entities needs to be provided across the board to ensure that any changes in the human resources at the upper management levels will not affect the day-to-day activities of these entities or their accumulation of experience as an institution.

4. The administration of international trade involves a wide range of institutions in addition to DAACI-COMEX. The establishment of inter-institutional cooperation agreements with certain other institutions has improved their capacity, and increased their obligation, to respond, but little has been done to modernize arrangements with the remaining trade-related institutions in the public sector. Comprehensive institutional reform would mean completely revising the functions and organizational structure of all the institutions involved, adjusting the legal framework within which they operate, and setting up, or improving the skills of, the technical staff working in those institutions. At the moment, however, there is strong resistance to change, and there is neither the political will nor the necessary resources for such an undertaking.
5. Institutional reform poses the same kinds of challenges in the private sector. Corporations need to be extremely well structured and to be represented by excellent umbrella organizations. The private sector should be seen as a huge ally in the administration and implementation of trade agreements because it can play a significant role in monitoring the correct application and enforcement of the rights and obligations assumed under the agreements.
6. The need to extend and speed up the reform of the regulatory framework so as to guarantee the effective and efficient enforcement of trade-related regulations, including those that protect traders from having to deal with excessive amounts of red tape, is another huge challenge facing Costa Rica at the moment. Some steps have been taken to reduce the number of bureaucratic procedures involved in foreign trade, but the Government needs to show more commitment towards improvements in this area. Such improvements are critical for companies. They need to be able to carry out certain procedures, such as customs, health, local government and migration procedures, as quickly as possible. The latter is a problem that needs to be addressed urgently because large numbers of people come to Costa Rica to do business and find themselves unable to do so due to immigration delays.
7. More links need to be established between the Costa Rican production sector (goods and services) and export companies, especially foreign-capital export

companies. An articulated support system needs to be set up to increase the competitiveness and internationalization of small and medium-size enterprises as a means of strengthening the country's economic democracy and generating more and better jobs. The passing of the Law to Strengthen Small and Medium-Size Enterprises, of May 2002, was a significant step in the right direction. This law provides a certain level of support to the SME sector, but much remains to be done in this respect. The most important pending tasks in this area are: advising SMEs on how to increase the added value of their products and providing them with the necessary know-how; establishing stronger links between the country's exports and its image; enforcing international standards; promoting production chains and business capacity; increasing the use of information technology, and promoting innovation and the development of new products.

8. It is also important when providing support for SMEs to adopt two different approaches towards the sector: one for export enterprises and another for enterprises that either supply or are in some way related to exporters, but are not necessarily exporters themselves. PROCOMER and the Ministry of Economy have adopted this bifocal approach in the activities carried out by the General Directorate of Small and Medium-Size Enterprise (*Dirección General de la Pequeña y Mediana Empresa - DIGEPYME*). More substantial efforts need to be made, however, to further the SME capacity-building process and to ensure that the training and support programs provided by PROCOMER and the Ministry of Economy, as well as the other agencies involved in SME training, such as the National Learning Institute, complement one another.
9. The capacity of State institutions to carry out and complete cooperation projects needs to be enhanced. Because there are no specialized units to channel and follow up on cooperation resources, international cooperation is not being taken full advantage of, and project execution is by no means as efficient as it could be. This weakness is present across the board, in all State entities, and at all levels of public administration.
10. A comprehensive investment promotion policy needs to be formulated. The reform of the investment incentive scheme has been making some progress, especially with regard to the Free Zones, but clear and effective rules that go beyond incentives need to be established so that companies can make the decisions they need to make, i.e. whether to invest, reinvest, or not. The Ministry of Foreign Trade, through the Investment Directorate, is the entity in charge of handling direct foreign investment policy and, as such, plays a vital role in articulating the efforts that other, non-government entities have been making in this area. Cooperation in

investment-related issues should aim to support activities that foster a better business climate, strengthen institutions, and improve the regulatory framework, as well as infrastructure projects and human resources training programs.

11. Customs procedures are being modernized and improved, but the Customs Administration in Costa Rica still tends to view its responsibilities as being limited to the collection of duties and the overseeing of customs procedures and pays little attention to the other aspects of customs control that form part of modern customs services today.
12. In general, Costa Rica still needs to implement several internal changes in order to make its economy more efficient. Specifically, it needs to do the following: improve the country's physical infrastructure and its telecommunications; simplify legislation; improve the quality of education; modernize government institutions and labor regulations, and carry out fiscal reform. These are all cross-cutting issues that affect the competitiveness of Costa Rican enterprises and the business climate in the country.

## **II. MAIN NEEDS REGARDING INSTITUTIONAL STRENGTHENING**

The Ministry of Foreign Trade is, by law, responsible for defining and directing the country's foreign trade policy and, therefore, for negotiating and administrating the country's trade agreements. The negotiation of trade agreements and the ensuing commitments have strong implications for other public policies, however, and the various responsibilities of the different State institutions need to be carefully coordinated and distributed to ensure that the rights and obligations derived from trade agreements are respected.

The implementation of the negotiated standards needs to be constantly monitored and supervised to ensure that trade is effectively carried out under the agreed terms. Countries need to have an institutional infrastructure that enables their institutions to react quickly and in a coordinated manner to ensure the effective handling of all the following: the application of preferential tariffs, rules of origin and customs procedures; non-tariff barriers; the application of countervailing measures; tariff quotas; sanitary and phytosanitary measures; technical standards; antidumping measures; safeguards; the protection of national interests through dispute settlement mechanisms; respect for intellectual property rights; the enforcement of labor and environmental regulations; consumer protection issues, and the creation of a favorable business climate.

The main needs in each of these areas in Costa Rica, which must be addressed so that the country can strengthen its institutions and increase its capacity to take advantage of the opportunities afforded by trade liberalization, are described in detail below.

– **The implementation and administration of trade agreements**

The main goal of strengthening Costa Rica's technical and institutional capacity is to improve the implementation and administration of the trade agreements that are, and that will shortly be, in force in the country. This can be achieved through capacity building, by standardizing procedures through the more widespread use of information technology, and by improving channels of communication among public sector institutions and between the public and the private sector. In this area, the following activities have been identified as priority cooperation needs:

- i. The design and implementation of a system to control the commitments acquired by the country under the various free trade agreements it has signed.
- ii. Ongoing training programs for DAACI staff in each of the technical areas that fall within its realm of responsibility.
- iii. The development of a Trade Agreements Information System that allows people to make online consultations about the preferential tariffs, rules of origin, exemptions, technical standards, and sanitary and phyto-sanitary requirements that are applicable to imports and exports in Costa Rica.
- iv. The modernization of the Treaties Application System (*Sistema de Aplicación de Tratados - SAT*) so that the consultations and complaints made to the Directorate regarding any aspect of the implementation or administration of trade agreements are made public.
- v. The design and implementation of a mechanism to monitor and follow up on any policies applied by the country's main trading partners that could affect Costa Rican exports.

- vi. The design and implementation of an information system to ensure inter-institutional coordination in the implementation of trade agreements. The first stage of the system would involve only members of the Inter-Ministerial Commission. The second stage would incorporate the other institutions that do not form part of the Commission but are involved in the implementation of trade agreements.
- vii. The design and launch of a campaign to inform the production sector and civil society about the administration, results, and impact of trade agreements in the country. Activities would include the publication of guides, studies and reports on the status and evolution of trade and investment relations between Costa Rica and its trading partners.
- viii. Capacity building and institutional strengthening for the settlement of disputes between States.
- ix. Support for the acquisition of the hardware and software needed to carry out the abovementioned activities.

- **Health, food safety and trade**

The goal of activities in this area is to increase the country's export supply and protect the health of the population, while at the same time guaranteeing the safety of the food marketed in the country and improving the quality of Costa Rican exports. The following activities have been identified as priority needs in this area:

- i. Creation of a program to improve and modernize the services provided by the State Phyto-Sanitary Service with regard to exports and new products.
- ii. Improvement of SPS-related infrastructure in border posts, including upgrading of technical equipment for adequate standard compliance and verification
- iii. Improvement of the country's institutional capacity to inspect and certify goods by improving aspects related to infrastructure, equipment, training, and information and increasing access to more advanced technologies. The purpose of these improvements is to ensure compliance with international quality, safety and

traceability standards so that more Costa Rican products can be certified for export to the world's most important markets.

- iv. Improvement of the services provided by the chemical and biological residue laboratory through the training of the laboratory personnel in techniques and methods and the design and implementation of a quality management system. The goal is to increase the laboratory's capacity so that it can meet the demand of national producers, exporters and importers for a reliable and efficient residue laboratory service.
- v. Modernization of the laboratory so that it can certify the quality, safety and traceability of products, as well as any other specific feature, according to the standards set by developed countries for farm produce.
- vi. Improvement of the accreditation and registration of organic farming operations by improving on-site verification and control procedures, developing the evidence collection and analysis process, expanding the use of geographic information systems and digital files, and providing training.
- vii. Creation of the necessary infrastructure for export by improving the Phyto-Sanitary Control System for Exports so that the system fully meets international standards and complies with national legislation on the subject. In order to achieve this, proposals have been made to set up an inspection center for all plant products that are exported through the port facilities at Puerto Limón and Muelle Alemán. Training should also be given to the competent officials.
- viii. Establishment of a regional reference laboratory to determine the safety of fishery and fish-farming products, with a view to improving the capacity of the National Veterinary Services Laboratory (*Laboratorio Nacional de Servicios Veterinarios – LANASEVE*). At the moment there is no laboratory in Costa Rica or anywhere else in Central America with the technical capacity to analyze the safety of fishery or fish-farming products.
- ix. Design and implementation of business management programs for the development of micro, small and medium-size enterprises in the export sector.
- x. Improvement of information technology infrastructure, including specialized databases

- **Improving the regulatory framework and technical standardization**

The objective in this area is to improve the technical skills of the country's human resources by arranging training programs, organizing information exchanges with trading partners, increasing the use of more advanced information technologies that reduce red tape, and improving access to specialized databases. The priorities in this area, as far as cooperation is concerned, are as follows:

- i. Technical capacity building to improve the application of technical standards.
- ii. The strengthening of government institutions through the streamlining of procedures as one of the policy axes for improving competitiveness and the business climate in the country.
- iii. Training in the technical standards applied in the main destination markets for Costa Rican exports.
- iv. Increased access to information technology so that steps can be taken to install the infrastructure needed to improve the channels of communication and the country's adherence to the technical standards that its products must meet.
- v. Benchmarking studies of specific dependencies of the MEIC in the fields of: normalization, technical standards, metrology, identification of specific weaknesses of each department and proposal of an action plan.
- vi. Guidance to regulators and standard bodies to prevent creation of unnecessary trade barriers.
- vii. Institutional strengthening in the area of simplification of procedures
- viii. Capacity building for health authorities in charge of implementation related regulations
- ix. Provisions of information resources, including market data and requirements to access the U.S. market

- **Unfair trade practices**

The steady expansion of international trade and the signing of trade agreements with relatively more developed countries is straining Costa Rica's capacity to defend itself effectively against the unfair trade practices of its trading partners. In this respect, priority needs to be awarded to the following:

- i. The creation of the institutional capacity necessary to improve the quality of the investigations conducted with regard to antidumping measures, safeguards and countervailing measures. This capacity needs to be built among the staff working at all levels of the departments involved, not just among senior management.
- ii. Specialized training programs or workshops to impart knowledge about dispute settlement and the experiences of other countries and Costa Rica's main trading partners in this area.
- iii. The establishment of ties and agreements with national institutions of higher education so that degrees in subjects related to international trade include courses on the effective handling of unfair trade practices. This should increase the availability of professionals with the necessary skills in this area.

- **Competition policy and the protection of consumer rights**

The Commission to Promote Competition is a highly disperse entity attached to the Ministry of Economy, Industry and Trade. Its basic purpose is to ensure compliance with the precepts set forth in the Law on the Promotion of Competition and the Effective Protection of the Consumer. This commission is specifically responsible for safeguarding and promoting free competition by conducting research and imposing sanctions on any monopolistic practices or other practices that limit the efficient workings of the market and for protecting the legitimate rights and interests of consumers. In light of the commitments acquired through the signing of the free trade agreements that are due to come into effect, the commission now needs to improve its capacity in a number of new areas, specifically it needs the following:

- i. Support to create the capacity to generate, transfer, apply and exchange knowledge with competition promotion agencies in other countries, with a view to improving the commission's internal workings and the management of its human resources.

- ii. Training to improve awareness among the commission's human resources of the latest trends in competition policy, especially in sectors that in Costa Rica have traditionally been operated by State-owned monopolies.
- iii. The design and implementation of a publicity campaign to foster a business culture that values and respects the standards and disciplines enshrined in competition policy.
- iv. Better infrastructure in terms of information technology and access to specialized databases on the subject.

- **Industrial property, copyright and related rights**

In this area, cooperation resources will be used to improve and modernize the Registers of Industrial Property, Copyright and Related Rights as set out in the corresponding strategic plan drawn up by the National Registration Board. This plan contemplates seven basic areas of action:

- i. The strengthening of institutional capacity through human resources training on intellectual property rights and on compliance with, and enforcement of, the commitments the country has assumed in this regard.
- ii. The implementation of the program to digitalize the documents kept by the Industrial Property Register since 2000 and improve the use of, and access to, databases for the technical personnel engaged in this activity. It should be pointed out that as far as information technology is concerned, the internal processes and the document backup system of the Industrial Property Register are about 20 years behind other national registers.
- iii. The establishment of mechanisms to support the international search for patent applications, and the creation of patent manuals and industrial property classification guides.
- iv. The design and implementation of an information campaign to increase knowledge and improve attitudes in the business community about the observance of the standards and disciplines related to intellectual property rights. This includes training programs in other public and private-sector institutions, as well as the

creation of an up-to-date and modern website that provides users with easy access to information.

- v. The improvement of the technical skills of the human resources working in this area so that they can perform in-depth studies.
- vi. Support for the design and implementation of a nationwide anti-piracy campaign.
- vii. The improvement of current inter-institutional channels of communication and the action taken to ensure that control measures and sanctions are imposed on those that violate intellectual property laws.

- **Rules of origin and customs procedures**

Activities in this area are basically coordinated by the Ministry of Finance through the General Directorate of Customs (*Dirección General de Aduanas - DGA*). Due to the shortage of resources, however, the DAACI provides support to the DGA in some areas of customs activity, mainly those related to the verification of origin. The DGA has identified the following activities as priorities for cooperation:

- i. The improvement of the mechanisms for investigating and combating smuggling by strengthening inter-institutional cooperation at all levels of public administration.
- ii. The design and implementation of a continuous education and training program to complement the reform and modernization projects currently underway in the Customs service. Mainly, in specialized areas such as origin, intellectual property, and antidumping and countervailing duties
- iii. The improvement of the procedures for distinguishing between simple verifications carried out in accordance with the WTO Customs Valuation Agreement and measures taken in relation to the fight against trade fraud that involve customs valuation. This includes risk management controls and automated methods of selection.
- iv. An exhaustive study of the organizational structure of the General Directorate of Customs with a view to proposing a more functional structure that will enable it to respond effectively to the new commitments the country has assumed with the signing of international trade agreements.

- v. The design and implementation of programs to increase customs security, both in the primary transit areas and in the secondary storage areas. This will require better coordination with port and warehouse administrators so that concrete action can be taken to follow up on security issues and adopt the necessary preventive measures.
- vi. The design and implementation of an integrated border and international trade management program. This program should involve all the public-sector control agencies as well as representatives of the private sector. Parallel to this initiative, a permanent forum for collaboration with the private sector should be set up with a view to developing mutually beneficial programs.
- vii. Update of information systems
- viii. Scientifically based methodologies to conduct physical and documentary inspections

- **The enforcement of labor legislation**

The general purpose of activities in this area is to guarantee that workers' rights are respected in all employer-worker relations and that the provisions of national legislation and international commitments on this matter are complied with in full. In this area, attention needs to be focused on:

- i. The Preventive Labor Inspection Program that will inform, train and advise the various actors involved in labor issues on the implementation of the legal framework for the protection of workers' rights.
- ii. The Integrated and Inter-Institutional Inspection Program for the protection of human and workers' rights in sectors that have been defined as priority targets.
- iii. The program to strengthen State action in the area of occupational health and safety with a view to integrating the action of all the institutions and organizations responsible for improving working conditions and preventing the risk of work-related accidents and illness.
- iv. Strengthening the Migrant Labor Unit (and supporting the design of workshops to inform people about the rights of migrant workers and their entitlement to the effective enforcement of labor legislation).

- **The enforcement of environmental legislation**

The goal of activities in this area is to improve environmental legislation and increase respect for the law among all members of Costa Rican society with a view to protecting and promoting the sustainable use of the nation's natural resources. Activities in this area can be divided into the following sub-areas:

- i. The strengthening of, and support for, the country's global environmental agenda.
- ii. Support for the Environmental Services Payment System (*Sistema de Pagos de Servicios Ambientales - PSA*)
- iii. Technical cooperation through internships (exchanges of experiences) carried out by experts and training in subjects such as the handling of hazardous waste, air quality, clean production techniques, and the management of water resources.
- iv. The drafting of a national conservation strategy for the country's coastal marine resources.

- **Horizontal issues**

Four areas requiring attention have been identified as cutting across all the institutions and entities in charge of the administration of Costa Rica's current trade agreements. It is not just capacity building that is required in these areas. The programs undertaken in each institution need to be properly coordinated with the programs underway in the other institutions. This will maximize the effectiveness of trade agreement administration as well as the cooperation resources themselves. These four cross-cutting areas are presented below:

- **Inter-institutional coordination.** The mechanisms for administrating trade agreements obviously extend beyond the realms of the DAACI and COMEX<sup>3</sup> and, although efforts have been made to strengthen the institutional network, new institutionalized mechanisms need to be created or designed. The new mechanisms should aim to increase the compulsory nature of the obligations assumed by the

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<sup>3</sup> The most important entities currently participating in the administration of trade agreements are: the Ministry of Agriculture and the Ministry of Economy, which are in the process of merging into a single entity that will be called the Ministry of Production; the Ministry of Health; the Ministry of Labor; the Ministry of Finance; the Ministry of the Environment; the Public Registration Office, and the Office of Foreign Trade Promotion, among others.

entities involved and improve their response capacity and, at the same time, further the modernization of the country's trade-related institutional arrangements.

- **Access to more advanced technologies.** In order to modernize the country's trade-related institutions and improve their response capacity, they will have to be equipped with better access to technology. The Costa Rican Government has already introduced an aggressive program in this area called Digital Government. The main purpose of this program is to speed up processes in public administration and intensify efforts to streamline procedures. Using this platform to expand, complement and create mechanisms to follow up on this initiative will undoubtedly facilitate trade in and outside the country and will improve the response capacity of the institutions involved in foreign trade.
- **The development and improvement of databases and the availability of information to ensure an adequate follow-up and evaluation of the impact of the trade agreements in force.** The degree of diversification in the Costa Rican economy means that reliable sources of information on sectors other than the agricultural sector are needed, such as the manufacturing and services sectors. The updating of national censuses, the creation of databases on SMEs, the development and improvement of statistics on the services sector, and the pursuit of greater consistency between the production statistics published in national accounts and the statistics for foreign trade are some examples of the areas in which cooperation is required.
- **Improvements in the execution and follow-up of cooperation resources.** The multiple functions that officials working in State institutions have to perform have impeded the proper follow-up of cooperation programs. Steps must therefore be taken to assess the requirements that need to be met in each institution in order to improve the implementation and ensure the effective follow-up of trade-related cooperation projects.

### **III. STRENGTHENING RELATIONS WITH THE PRIVATE SECTOR AND CIVIL SOCIETY**

The Ministry of Foreign Trade has maintained a close dialogue with the corporations, organizations and chambers involved in international trade. Each time that the Government has proposed the negotiation of a new trade agreement, Costa Rican enterprises have been consulted, either directly or through the leadership of the associations that represent their interests. This has ensured a high level of interest in each of the negotiation processes among the national business community.

Civil society has also been encouraged to form part of the process. Non-government organizations, professional associations, academic institutions, indigenous organizations, and cultural institutions, as well as any individual interested in voicing an opinion on the subject, have been invited to participate in the ongoing open debate on the trade negotiations in which the country participates.

The programs to inform, consult and ensure the participation of civil society in the negotiation and administration of international trade agreements need to be extended, however, and arrangements need to be made within the structure of the Ministry of Foreign Trade (COMEX) to ensure permanent contact with the various branches of civil society.

Efforts in this area should focus on organizing permanent and regular programs and activities to diffuse information, increase awareness of the benefits of trade liberalization, identify market opportunities, and constantly improve the terms of the agreements already in force.

A mechanism also needs to be designed and implemented to increase the participation of the Costa Rican SME sector in the negotiation and administration of the trade agreements the country has signed.

#### **IV. THE INSERTION OF SMES IN THE INTERNATIONAL MARKET**

The resources allocated to strengthening SMEs over the past two decades in Costa Rica have either failed to achieve their purpose or have run into serious administrative problems. Often, the allocated resources are barely sufficient to cover the payroll of the institutions involved, and little is left over to provide any effective support to rural or urban producers to help them increase their productivity. Moreover, responsibility for the implementation of public policy for the production sector is spread so widely among the various public-sector institutions that it is impossible to coordinate any unified or efficient State action to improve the competitiveness of enterprises in Costa Rica.

SMEs play an important role in the distribution of wealth and in job creation, but in Costa Rica, the SME sector still suffers from limited access to technical assistance, market intelligence, and financing, and the passing of the Law to Strengthen SMEs, Law No. 8262, which established the Special Fund for the Development of Micro, Small and Medium-Size Enterprises (*Fondo Especial para el Desarrollo de las Micro, Pequeñas y*

*Medianas Empresas – FODEPYME)*<sup>4</sup> has done little to improve the situation. To date, only a handful of SMEs have managed to directly or indirectly penetrate international markets.

The goal in this strategic area, which constitutes part of the country's national competitiveness policy, is therefore to boost the development of the national economy and the comprehensive management of value chains through the implementation of improved support programs for the micro, small and medium-size enterprises that currently make up 97.8% of the Costa Rica's production apparatus. One of the most important tasks in this area, in addition to creating and executing the corresponding programs, is to ensure proper follow-up of each of the following aspects of SME development:

- i. Improvements in the technical support given to enterprises parallel to, and in accordance with, the quality, safety, traceability, verification and inspection programs that are implemented nationwide.
- ii. The design and drafting of a plan to reduce the costs of doing business for SMEs, especially in rural areas.
- iii. The drafting of a plan to boost the sustainable competitiveness and generation of added value in the production sector as a key sector of the national economy.
- iv. The design and implementation of a program to enhance the performance of marketing systems that will help small and medium-size enterprises access markets, increase their efficiency and improve their competitiveness.
- v. Negotiation of trade and cooperation agreements aimed at fostering the establishment of new SMEs and horizontal links among diverse enterprises
- vi. Efforts to boost scientific capacity and technological innovation with a view to improving production, encouraging the formation of value chains, and increasing the amount of value added.
- vii. Improvements in the managerial skills of SMEs through training programs that incorporate follow-up activities in their original design.

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<sup>4</sup> This fund excludes farming operations.

- viii. The design of an institutional database that enables the public institutions involved in SME development to access and centralize information on SMEs and their level of preparedness for participation in export activities or production chains.
- ix. The development of training and technical assistance programs that help SMEs to form useful associations.
- x. The preparation of a diagnostic study to identify the causes or reasons why the formation of production chains in Costa Rica has not been as extensive or successful as expected.
- xi. Improvement of linkages between foreign investors and local business, including promotion of SMEs as suppliers of bigger multinational exporting enterprises, fostering an integration of the productive sector as a whole.
- xii. Development of competitiveness activities, e.g. cluster development, competitiveness councils, and workforce development strategies
- xiii. Generation of new and innovative financial services, e.g. venture capital and small and micro-scale finance
- xiv. Promotion and execution of sustainable development programs, including assistance to foster the use of clean production techniques and technology and modern means to handle industrial waste
- xv. Promotion and execution of programs designed to incorporate the feminine sector into entrepreneurial activities, in particular the establishment of SMEs

## **V. SYSTEMIC COMPETITIVENESS AND IMPROVING THE BUSINESS CLIMATE**

In order to attract more foreign direct investment, Costa Rica needs to come up with a strategic plan covering a wide range of factors, including how to encourage the establishment of clusters, how to increase the competitiveness of national enterprises and how to handle fluctuations in the global economy. It is essential that all the entities involved in foreign investment in Costa Rica participate in this task: the Ministry of Foreign Trade, the Office of Foreign Trade Promotion, the Costa Rican Coalition of Development Initiatives (CINDE), the Costa Rican Institute of Tourism (*Instituto Costarricense de Turismo - ICT*), the Central Bank (*Banco Central de Costa Rica - BCCR*), and the private sector, among others.

The strategic plan to attract foreign investment in Costa Rica must do more than try to foster an ideal climate for attracting new investment. It must contemplate and implement a follow-up system and improve business conditions in general so that the companies that have already established themselves in the country expand their operations and reinvest in it.

Support is therefore most needed in certain specific areas that can help improve the business climate. These are:

- i. **Transparency.** The legislation applicable to investors and their investments must be transparent and accessible. Support is needed for the drafting of new legislation and regulations in Costa Rica that will streamline and expedite procedures for setting up a new company, registering property, executing contracts, processing visa applications, moving merchandise across borders, and hiring workers.
- ii. **Incentive schemes.** Mechanisms that weigh the costs and benefits of the investment incentive schemes currently operating in the country are needed so that the effectiveness of these incentives as a tool for attracting foreign investment can be measured and, if necessary, new investment promotion policies can be formulated.
- iii. **Technical training.** Public policies need to be developed to improve the skills of the country's human resources and thereby meet the demand of the production sector.
- iv. **Investment services.** Support is needed for the implementation of electronic tools that promote and facilitate the interaction between investors and public entities and grant them access to key information.
- v. **Infrastructure and inter-connectivity.** In order to improve the business climate, support is needed to improve the conditions of the country's infrastructure (ports, airports, roads, telecommunications, etc.)
- vi. **Arbitration.** Capacity-building is needed so that the country can follow-up on international arbitration proceedings.
- vii. **An inter-institutional mechanism** to coordinate efforts with the Ministry of Public Education and institutions of higher education to ensure that the professionals graduating from the country's universities and colleges meet the requirements of the labor market.

- viii. **Qualitative improvement in the education** of the Costa Rican labor force, mainly in the fields of English proficiency and computer literacy.
- ix. **Adjudication of public contracts.** Identification of mechanisms to enable the system of adjudication of public contracts to operate efficiently.

## VI. THE TRANSITION TOWARDS FREE TRADE

Costa Rica's vision of the transition towards free trade revolves around four axes: rural development, improving the business climate, support for SMEs, and access to more and more-advanced technologies. The tasks that require priority attention with regard to the second and third axes have already been presented in parts IV and V of this document. This section therefore only refers to action along the first and fourth axes.

### – Rural development

One of the main challenges Costa Rica faces in its economic development is to ensure that the benefits of a modern open economy are evenly spread amongst all the members of the population and reach even the poorest communities, which in Costa Rica is the people living in rural areas. Standards of living in the rural areas of the country have traditionally been linked to the state of the agricultural sector, which constitutes the main source of employment and income for rural families. Conditions have also traditionally been affected by the notable inability of the State to provide basic public services to these communities, such as drinking water, electricity, telecommunications, health care, and primary education. The standards of living in rural areas in Costa Rica are therefore below the national average.

Bringing the benefits of economic opening to the rural sector would undoubtedly contribute to the consolidation and diversification of the sources of income for families in these regions and would improve their basic infrastructure and their access to technology. Only by increasing the levels of income of both the *campesino* (small-scale farmers) and the non-*campesino* (large-scale farmers) sectors will it be possible to improve and increase the opportunities for poor families and to attain sustainable levels of production in rural areas. In order to increase income levels, the agricultural sector needs to continue to diversify its production and to reduce its dependency on traditional crops whose prices tend to be highly volatile. Small-scale farmers also face fierce competition in traditional crops. The possibility of increasing profits by cultivating

products for specific market niches needs to be promoted, and adding value to agricultural products needs to be encouraged.

To take advantage of farm and non-farm opportunities, rural farmers and entrepreneurs need market information, business development skills, quality assurance, reduced transactional constraints, and access to requisite assets. The menu of activities to pursue to foster rural development and poverty alleviation includes, *inter alia*, the following areas:

- i. Business development and market access services, e.g. assistance with entrepreneurial and technical skills, including those related to applications of science and technology such as biotech, market information, export promotion, quality and consistency of supply, e-commerce and other technological applications.
- ii. Innovative financial services, e.g. venture capital, small and micro-scale rural finance, savings mobilization, and remittances.
- iii. Strengthening of educational activities.
- iv. Programs to intensify competitiveness, especially those addressed to the rural sector, in agricultural and non-agricultural sectors.
- v. Programs to foster linkages development between foreign investment and national enterprises.
- vi. Strengthening coordination between agencies, for a correct performance of support programs designed especially to promote rural development.
- vii. Competitiveness activities e.g. cluster development, competitiveness councils, and workforce development strategies.
- viii. Improvement of infrastructure, in particular the rural road network - including pragmatic solutions to ensure its sustainable maintenance - and increased access to basic information technology.
- ix. Sustainable development programs, including assistance to foster the use of clean production techniques and technology, modern means to handle waste, management skills to foster a rational and sustainable use of available resources.
- x. Social programs, including initiatives aimed at poverty alleviation. Programs designed to promote gender equality in rural households and culture.

These kinds of measures, which aim to increase the competitiveness of the rural sector as a whole, cannot however, be applied universally. They will have to be articulated in such a way that they address the needs of specific groups or of one region or another in

particular. It is therefore important to improve the governance of initiatives in this area by promoting development at the local municipal level. Educational activities also need to be extended and information networks set up. These more local activities should be carried out parallel to the broader programs that are still needed to improve the infrastructure for agriculture, to develop the markets that rural communities have access to, and to further the economic development of these areas in general. International cooperation will play a highly significant role in making this possible.

- **Better access to technology**

For the transition to free trade to be successful, Costa Rica will have to pursue initiatives that foster the entrepreneurial spirit and encourage the creation of enterprises that can respond effectively to changes in their environment. Innovation and the incorporation of information technologies in all the different production sectors will be an essential component of these initiatives.

Universities and other institutions of higher education play a key role in the promotion of technological development and innovation. They can work as instruments to help the Government produce new generations of entrepreneurs that know how to use information technology and other knowledge-intensive activities to successfully insert themselves into a constantly expanding globalized economy.

Several actions need to be taken in this respect: the digital services platform needs to be upgraded so that the digital divide can be narrowed; science and technology needs to be promoted and developed in the different production sectors, especially in rural areas; science and technology also need to be encouraged in vulnerable communities; laboratories and calibration centers need to be accredited; the capacity for scientific research and technological innovation in the food sector needs to be improved, and enterprise incubation needs to be encouraged.

In particular, activities the implementation of which could explore to foster the diffusion and use of science and technology as a tool for promoting a new entrepreneurial sector could be the following:

- i. Programs to upgrade electronic telecommunications infrastructure
- ii. Programs to promote universal access to Internet

- iii. Strengthening of e-government programs and digitalization of governmental agencies and services
- iv. Legal framework improvements
- v. Development of joint programs between government agencies, universities, and financing institutions to foster the establishment of SMEs on knowledge-intensive and high-tech activities
- vi. Generation of new and innovative financial services, e.g. venture capital and small and micro-scale finance specifically geared to the needs of emerging high tech and knowledge intensive businesses
- vii. Development of professional internship programs with the private sector, aimed at allowing young entrepreneurs to learn, through hands on experience, best international management practices
- viii. Generation or expansion of scholarship funds
- ix. Promotion of student and professor exchange programs
- x. Promotion and execution of programs aiming at fostering a higher participation of women in science and technology based-business.