U.S. DEPARTMENT OF STATE
DIPLOMACY IN ACTION

Executive Summary

Costa Rica’s investment climate is generally favorable and has been for many years. Consequently, foreign direct investment is high and has been a significant contributor to Costa Rica’s economic growth. Nevertheless, the country's legal and cultural environment continues to present stumbling blocks to investors.

Costa Rica’s continued popularity as an investment destination is well illustrated by historic Foreign Direct Investment (FDI). FDI in Costa Rica climbed steadily from the year 2000 ($409 million) to 2008 (over $2 billion), slumping in 2009 and 2010 but reaching over $2.2 billion (5% of GDP) in 2012.

In recent decades the Costa Rican government has focused on attracting relatively high-tech manufacturers and service companies that demand skilled labor, introduce new technologies and often run robust Corporate Social Responsibility (CSR) programs. The vast majority of these companies establish themselves in Free Trade Zones that enjoy certain fiscal benefits. Consistent with this orientation, the Costa Rican government has been aggressive in signing free-trade agreements, tax information agreements and generally participating in the global arena under President Laura Chinchilla. The new Presidential administration, which takes office on May 8, 2014, is expected to continue promoting policies welcoming of FDI inflows but will likely seek subtle changes to overall trade and investment policy.

Despite years of trade liberalization, much of the Costa Rican government and economy is not as advanced as this export-led development might suggest. The legal system, while solid and generally uncorrupt, can be very slow and often disappointing. Invasion and occupation of private property by squatters, who are often organized and sometimes violent, does occur in Costa Rica. The Costa Rican police and judicial system have at times failed to deter or to peacefully resolve such invasions. Much of Costa Rica’s basic infrastructure – ports, roads, water systems - needs major upgrading. In the past year, private-public partnerships (or concessions) have faced numerous legal and procedural challenges that have delayed, or in some cases, canceled key infrastructure projects.

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude Toward FDI

Costa Rica actively courts foreign direct investment (FDI), placing a high priority on attracting and retaining high-quality foreign investment. The Foreign Trade Promotion Corporation (PROCOMER) as well as the Costa Rican Investment and Development Board (CINDE) lead Costa Rica’s investment promotion efforts. Costa Rica has continued an ambitious program of negotiating, signing and ratifying free trade agreements, all of which encourage greater openness to foreign trade and investment. Costa Rica together with El Salvador, Guatemala, Honduras, Nicaragua, and the Dominican Republic, is a signatory to the U.S. – Central America – Dominican Republic Free Trade Agreement (CAFTA-DR). CAFTA-DR, which entered into force in Costa Rica January 1, 2009, has improved Costa Rica's investment climate by strengthening the protection of intellectual property rights, providing a mechanism for arbitration, opening the insurance and telecommunications sectors to competition, and assuring access to markets in other CAFTA-DR economies. Agreements with Chile, Canada, CARICOM (Caribbean nations), Panama, China, Peru, Singapore, Mexico and the European Union are in force, while agreements with Colombia and the European Free Trade Association are in the approval process.

Other Investment Policy Reviews

Costa Rica's investment policy reviews by international financial institutions over the last several decades tend to be positive but qualified by a list of problems that must be addressed soon. Costa Rica's persistent and growing government budget deficit is of particular concern. The Organization for Economic Cooperation and Development (OECD) recently completed a comprehensive investment policy review (http://www.researchandmarkets.com/reports/2686091/oecd_investment_policy_reviews_costa_rica_2013). Parallel to publication of this report, Costa Rica became the 45th adherent to the OECD Declaration on International Investment and Multinational Enterprises. The World Trade Organization (WTO) also recently completed its 2013 trade policy review http://www.wto.org/english/tratop_e/tpr_e/s286_e.pdf.

Laws/Regulations of FDI

The judicial system generally upholds contracts, but caution should be exercised when making investments in sectors reserved or protected by the constitution or by laws for public operation. Investments in state-protected sectors under concession mechanisms can be especially complex due to frequent challenges in the constitutional court of contracts permitting private participation in state enterprise activities. Furthermore, independent government agencies can issue permits or requirements that may contradict the decisions of other independent agencies, causing significant project delays.

Investors must exercise "caveat emptor" since many firms operate in the informal sector of the economy. Appropriate due diligence should include confirming a company's registry and formal participation in the Costa Rican economy, such as paying taxes and registering all workers with the Social Security system. Here are some useful websites to help navigate the laws, rules, procedures, and registration requirements for foreign investors; http://costarica.eregulations.org

Industrial Strategy

Costa Rica's chief industrial strategy in recent years has consisted in focusing investment promotion and aftercare efforts in particular areas of business in order to encourage the formation of business clusters. The investment and development board (CINDE) has successfully targeting potential investors in the areas of **health technologies**, **services** and "advanced manufacturing," creating overlapping business clusters in these areas which in turn have led to synergies that encourage other similar companies to invest in Costa Rica.

Limits on Foreign Control

All businesses must be registered in the national registry, thereby becoming national companies that may have national or foreign owners. The investment requirements for foreign and national persons and companies are identical. Businesses may be established starting from nothing, acquired, merged with, or taken over in much the same way as is done in the United States. Foreign partnerships with local businesses are quite common. Costa Rica's one discriminatory limitation to foreigners' control of land applies to the 200 meter strip of land along the coast defined as the Maritime Terrestrial Zone; concessions in this zone cannot be given to foreigners or foreign-owned companies. Water, ground transport and freight services likewise are limited to majority national ownership. Mass media and advertising agencies are subject to some limitations to foreign ownership. The state also exercises some monopoly control in some economic sectors as detailed below in the "Competition from State-Owned Enterprises" section: **Information and Communication; Energy; Health Technologies.**

Privatization Program
Costa Rica does not have an active privatization agenda.

Screening of FDI
Costa Rica does not have a formal mechanism for screening foreign investment. Such investment is expected to comply with local law and practice. The country's commercial code details all business requirements necessary to operate in Costa Rica. The laws of public administration and public finance contain most requirements for contracting with the state.

Competition Law
Several public institutions are responsible for consumer protection as it relates to monopolistic and anti-competitive practices. The "Commission for the Promotion of Competition" (COPROCOM), a semi-autonomous agency housed in the Ministry of Economy, Industry and Commerce, is charged with investigating and correcting anti-competitive behavior across the economy. SUTEL, the Telecommunications Superintendency, shares that responsibility with COPROCOM in the Telecommunications sector. Both agencies are charged with defense of competition, deregulation of economic activity, and consumer protection. COPROCOM has been accused on occasion of being underfunded and weak, although it does project a regulatory presence.

Investment Trends
Public infrastructure concessions in Costa Rica have been subject to severe criticism in recent years both as a class and individually. The three current concessions projects are Caldera Port, San Jose-to-Caldera highway concession and the Liberia Airport terminal. Operations at the Port of Caldera, the country's principal Pacific port, began successfully in 2006. The San Jose-to-Caldera highway concession became fully operational in 2010, while the Liberia Airport's new passenger terminal was built under a concessions contract and opened to business in early 2012. In addition, a new container port concession in the Atlantic port of Moin continues to survive legal challenges, and although the environment impact assessment remains unfinished, the port will reportedly begin construction in 2014.

While the government focuses on promoting foreign investment in export industries, foreign franchises have prospered in the domestic market over the past thirty years. Both foreigners and nationals have invested in bringing U.S. brands from a wide array of business sectors to Costa Rica, including fast food (such as Taco Bell, Kentucky Fried Chicken, Pizza Hut, Domino's Pizza, Papa John's Pizza, McDonald's, Burger King, Wendy's, Subway, Quiznos and TCBY

Yogurt), car rentals (including Hertz, Avis, Dollar, and Budget), hotels (such as Marriott, Doubletree by Hilton, Regents, Hampton Inn, and Best Western), and designer clothing boutiques (including Tommy Hilfiger, Liz Claiborne, and athletic wear brands such as New Balance). Price Smart (owned and managed by the founders of Price Club in the U.S.) has five Costa Rican stores. WalMex, via a 2009 acquisition, controls Wal-Mart Central America, a company with Costa Rican stores operating under the Pali, MaxiPalí, Mas x Menos, and WalMart brands.

TABLE 1: The following chart summarizes several well-regarded indices and rankings.

Measure	Year	Rank or value	Website Address
TI Corruption Perceptions index	2013	(49 of 177)	http://cpi.transparency.org/cpi2013/results/
Heritage Foundation's Economic Freedom index	2014	(53 of 178)	http://www.heritage.org/index/ranking
World Bank's Doing Business Report "Ease of Doing Business"	2013	(102 of 189)	http//doingbusiness.org/rankings
Global Innovation Index	2013	(39 of 142)	http://www.globalinnovationindex.org/content.aspx?page=gii-full-report-2013#pdfopener
World Bank GNI per capita	2012	$ 8,820	http://data.worldbank.org/indicator/NY.GNP.PCAP.CD

2. Conversion and Transfer Policies

Foreign Exchange

There are no restrictions on receiving, holding or transferring foreign exchange. There are no delays for foreign exchange, which is readily available at market clearing rates and readily transferable through the banking system. From 1983 until 2006, Costa Rica maintained a crawling peg exchange regime with the U.S. dollar. However, in October 2006, the country transitioned to a crawling band regime, which has become a "dirty float" with very widely separated upper and lower limits. The Central Bank also created a foreign exchange market, "MONEX," (USD/Colon) in which buyers and sellers are matched blindly. Participants may register without any initial fee and may either buy or sell amounts over the $1,000 USD minimum. A variety of instruments designed to insure against exchange rate volatility are being introduced into the market and may be obtained through the Securities Exchange ("Bolsa de Valores") or through banks. To date, the result appears to be satisfactory for the Central Bank; however, the exchange rate volatility in 2014 (colon devaluation of 10 percent in the first quarter) has led to questions about Costa Rica's future monetary policy. Any decisions about changing the band will be left to a new Presidential administration, which takes office in May 2014. Dollar bonds and other dollar instruments may be traded legally.

No **restrictions** are imposed on reinvestments or on the repatriation of earnings, royalties, or capital except when these rights are otherwise stipulated in contractual agreements with the government of Costa Rica. However, Costa Rican sourced rents and benefits remitted overseas, including royalties, are subject to a withholding tax in accordance with Title IV of the Income Tax Law No. 7092 at rates varying from 10 to 25 percent. Financial institutions on the Costa Rican Central Bank's list of "first-tier banks" are generally exempt from this payment as it might apply to interest and other financial costs.

The Costa Rican government in late 2013 adopted a new set of transfer pricing regulations consistent with international norms which has addressed many of the concerns of companies in Costa Rica engaged in international trade. Nevertheless, affected companies and law firms caution that the Costa Rican transfer pricing regime continues to be a source of uncertainty for them.

The Costa Rican government and Central Bank have struggled to find ways to limit the entry of short-term investment funds (often termed "hot money") without negatively affecting capital flows associated with longer-term investments. A law passed in early 2014 gives the Central Bank a wide selection of new tools to that end. Current global financial conditions have reduced the pressure of short term investment funds and appear to have precluded the use of these tools for the time being.

The Costa Rican government is actively involved in detecting and preventing money laundering. Costa Rica is a member of the Financial Action Task Force on Money Laundering in South America (GAFISUD), a Financial Action Task Force-style regional body.

3. Expropriation and Compensation

There are allegations of expropriation of private land by the government without prompt or adequate compensation by some Costa Rican and foreign investors. The three principal expropriating ministries in recent years have been the Ministry of Public Works - MOPT (rights-of-way), the Costa Rican Electrical Institute – ICE (rights-of-way) and the Ministry of Environment and Energy - MINAE (National Parks and protected areas).

Article 45 of Costa Rica's constitution stipulates that no property can be expropriated from a Costa Rican or foreigner without prior payment and demonstrable proof of public interest. The 1995 Law 7495 on expropriations further stipulates that expropriations can take place only after full and prior payment is made. Foreigners and Costa Ricans are supposed to receive equal treatment. Provisions include: (a) return of the property to the original owner if it is not used for the intended purpose within ten years or, if the owner was compensated, right of first refusal to repurchase the property back at its current value; (b) a requirement that the expropriating institution complete registration of the property within six months; (c) a two-month period during which the tax office must appraise the affected property; (d) a requirement that the tax office itemize crops, buildings, rental income, commercial rights, mineral exploitation rights, and other goods and rights, separately and in addition to the value of the land itself; and (e) provisions providing for both local and international arbitration in the event of a dispute. The expropriations law was amended in 1998 and then again in 2006 to clarify and expedite some procedures, including those necessary for acquiring land for the construction of new roads.

There is no discernible bias against U.S. investments, companies or representatives during the expropriations process. Costa Rican public institutions follow the law as outlined above and generally have acted in a way acceptable to the affected landowners. However, there are currently several sets of cases in which landowners and government differ significantly in their appraisal of the expropriated lands' value; in those cases, judicial processes have taken years to resolve. In addition, landowners have on occasion been prevented from developing land which has not yet been formally expropriated for parks or protected areas; the courts will eventually order the government to proceed with the expropriations but the process can be long.

Invasion and occupation of private property by squatters, who are often organized and sometimes violent, occurs in Costa Rica. The Costa Rican police and judicial system have at times failed to deter or to peacefully resolve such invasions. It is not uncommon for squatters to return to the parcels of land from which they have been evicted, requiring expensive and potentially dangerous vigilance over the land.

4. Dispute Settlement

Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts: Costa Rica uses the civil law system rather than common law. The fundamental law is the country's Political Constitution of 1949, which grants the unicameral legislature a particularly strong role. The civil and commercial codes govern commercial transactions. The courts are independent, and their authority is respected. The roles of public prosecutor and government attorney are distinct: the Chief Prosecuting Attorney or Attorney General ("Fiscal General") operates a semi-autonomous department within the Judicial branch while the government attorney or State Litigator ("Procurador General") works within the Ministry of Justice and Peace in the Executive branch. **Judgments of foreign courts** and arbitration panels may be accepted and enforced in Costa Rica through the exequatur process. The Constitution specifically prohibits discriminatory treatment of foreign nationals.

Monetary judgments are usually made in Costa Rican colons. However, if the dispute involves a dollar-denominated transaction, the award may first be calculated in dollars.

Litigation can be long and costly. Some representatives of US companies have cited the unpredictability of outcomes as a source of rising judicial insecurity in Costa Rica. The legal system is significantly backlogged, and civil suits may take five years or more from start to finish. Some U.S. firms and citizens have satisfactorily resolved their cases through the courts, while others have seen proceedings drawn out over a decade without a final resolution. The process to resolve both civil and penal squatter cases through the courts can be especially cumbersome. Civil archives recording land title are at times incomplete or contradictory. Expropriation and related legal proceedings concerning lands within the Leatherback National Park boundary have been ongoing since 2004 (see "international arbitration" section below for more detail). Potential buyers should retain experienced legal counsel and carefully conduct due diligence to ensure that properties are free of conflicting ownership claims.

Bankruptcy: The Costa Rican bankruptcy law, addressed in both the commercial code and the civil procedures code, is similar to corresponding U.S. law. Title V of the civil procedures code outlines creditors' rights and the processes available to register outstanding credits, administer the liquidation of the bankrupt company's assets, and pay creditors according to their preferential status. As in the United States, penal law will also apply to criminal malfeasance in some bankruptcy cases.

Investment Disputes: Costa Rica's high level of Foreign Direct Investment (see "Openness to Foreign Investment" above) inevitably brings the occasional new investment dispute in which the U.S. investor alleges wrongdoing on the part of the Costa Rican government. These cases may be resolved administratively or through the legal system. Each dispute case has its own unique circumstances which nevertheless tend to highlight the persistent themes of contradictory decisions between or within government institutions as well as a governmental reluctance to act and a tendency to draw procedures out to the degree permitted by law.

International Arbitration: Costa Rica has been a member of the International Center for the Settlement of Investment Disputes (**ICSID**) since 1993, when it acceded to the Washington Convention. Since then, the **ICSID** has successfully resolved Costa Rican cases having to do with land expropriation and investment. Costa Rica is also a member of the World Bank Multilateral Investment Guarantee Agency (MIGA), which provides a forum for international arbitration in investment disputes, as well as investment guarantees. Private energy producers have included international arbitration clauses in their contracts.

The provisions of Chapter 10 of CAFTA-DR ensure that Costa Rica will submit to international arbitration under the rules of either **ICSID** or UNCITRAL (United Nations Commission on International Trade Law) if the aggrieved investors choose that option. The arbitration process under CAFTA-DR is designed to be open and transparent; hearings and documents are public, and amicus curiae submissions are expressly authorized. The CAFTA investment chapter includes checks to help assure that investors do not abuse the arbitration process. The agreement includes a provision that allows tribunals to dismiss frivolous claims and award attorney's fees and filing costs. Potential plaintiffs should be aware that arbitration attorneys' fees and other costs can easily exceed one million USD and the so-called "fork-in-the-road" provision ensures that once a plaintiff has taken the case to arbitration it cannot return to local courts. Furthermore, arbitration settlements never mandate a change in local law or judicial outcome but rather specify monetary amounts to be paid to the plaintiff. Costa Rica currently has two international arbitration cases under the provisions of CAFTA-DR Chapter 10; details can be found on the Ministry of Foreign Trade website http://www.comex.go.cr/tratados/vigentes/cafta/Casos.aspx.

Duration of Dispute Resolution: Local arbitration is theoretically possible under the civil and commercial codes. However, U.S. investors have experienced mixed results from such proceedings organized by local attorneys. A 2011 law on alternative conflict resolution (Law 8937), drafted from the UNCITRAL model law, sought to encourage arbitration and simplify the procedures under which arbitration takes place. Several arbitration centers operate, including one at the Costa Rican - American Chamber of Commerce. Some cases reportedly have been successfully and quickly resolved under the law. Potential litigants should be careful to ensure that their attorneys have skills and experience specifically in arbitration.

5. Performance Requirements and Investment Incentives

WTO/TRIMS: Costa Rica notified the WTO in 1999 that it maintains no Trade-Related Investment Measures (TRIMS) inconsistent with the WTO Agreement on TRIMS.

Investment Incentives**:** Four **investment incentive** programs operate in Costa Rica: the free trade zone system, an inward-processing regime, a duty drawback procedure, and the tourism development incentives regime. These incentives are available equally to foreign and domestic investors. These incentives include tax holidays and training of specialized labor force. Individual companies are able to create industrial parks that qualify for Free Trade Zone status by meeting specific criteria and applying for such status with Costa Rica's Foreign Trade Promotion Authority (PROCOMER). Companies in FTZs receive exemption from virtually all taxes for eight years and at a reduced rate for some years to follow. Established companies may be able to renew this exemption through additional investment. In addition to the tax benefits, companies operating in FTZs enjoy simplified investment, trade and customs procedures, which provide a convenient way to avoid Costa Rica's burdensome business licensing process. Call centers, logistics providers, and software developers are among the companies that may benefit from FTZ status but do not physically export goods. Such service providers have become increasingly important participants in the free trade zone regime.

The inward-processing regime suspends taxes on imported inputs of qualifying companies and then exempts the inputs from those taxes when the finished goods using or containing them are exported. Companies within this regime may sell to the domestic market if they have registered to do so and pay applicable local taxes. The drawback procedure provides for rebates of duties or other taxes that have been paid by an importer for goods subsequently incorporated into an exported good. Finally, the tourism development incentives regime provides a set of advantages, including duty exemption for some purchases, to tourism operators who sign a tourism agreement with the Costa Rican tourism board.

While Costa Rica does not impose requirements that foreign investors transfer technology or proprietary business information or purchase a certain percentage of inputs from local sources, the Costa Rican agencies involved in investment and export promotion do explicitly focus on categories of foreign investor who are likely to take such actions while encouraging local supply chain development and cooperation with local universities.

Performance Requirements: While Costa Rican export authorities place a high priority on maximizing the amount of local content that large multinational enterprises (MNE) incorporate into their export product, efforts to that end have been cooperative rather than coercive. The export promotion agency PROCOMER operates an export linkages department focused on increasing the percentage of local content inputs used by large MNEs; one recent program is dedicated to helping small and medium enterprises (SME) obtain international certifications such as ISO9000. In the telecommunications sector, Costa Rica does not require Costa Rican data to be stored on Costa Rican soil.

While the procedures necessary to obtain residency in Costa Rica are traditionally long and very bureaucratic, immigration officials believe that an immigration law that took effect in March 2010 and Costa Rica's accession to the Apostille Convention, in effect as of December 2011, make the process less burdensome. In any case, existing immigration measures do not appear to have inhibited foreign investors' mobility to the extent that they affect Foreign Direct Investment in the country.

6. Right to Private Ownership and Establishment

All private entities and persons, domestic or foreign, may establish and own businesses and engage in all but a few forms of remunerative activity. The exceptions are in sectors that are reserved for the state (legal monopolies) or that require participation of at least a certain percentage of Costa Rican citizens or residents (electrical power generation, transport services, professional services and aspects of broadcasting). In the areas of medical services, telecommunications and insurance, state firms operate but that does not preclude private sector competition.

7. Protection of Property Rights

Real Property: Investment in Costa Rican real estate requires care and due diligence; many U.S. real estate investors have found it difficult to obtain clean title, have suffered adverse possession by squatters or have found themselves working with unscrupulous lawyers. Landowners should be sure to demonstrate a continuing presence on and control over their land. Secured interests in both chattel and real property are recognized and enforced, and mortgage and title recording is mandatory. The laws governing investments in land, buildings, and mortgages are generally transparent. However, there are continuing problems of overlapping title to real property and fraudulent filings with the National Registry, the government entity that records property titles. While title guaranty is not a service traditionally offered in the country, several reputable companies offer title guaranty and related services.

Investment in beachfront property in Costa Rica faces a unique set of circumstances. Almost all beachfront is public property for a distance of 200 meters from the mean high tide line, with an exception for long-established port cities. The first 50 meters from the mean high tide line cannot be used for any reason by private parties. The next 150 meters, also owned by the state, can only be leased from the local municipalities or the Costa Rican Tourism Institute (ICT) for specified periods and particular uses, such as tourism installation or vacation homes. Concessions in this zone cannot be given to foreigners or foreign-owned companies. Investors should exercise caution and obtain qualified legal counsel before purchasing property, particularly near beachfront areas. Potential investors in Costa Rican real estate should also be aware that the right to use traditional paths is enshrined in law and can be used to obtain court-ordered easements on land bearing private title. Disputes over easements are particularly common when access to a beach is an issue.

Intellectual Property Rights (IPR): While the legal framework governing intellectual property is basically in place, Costa Rica does not adequately enforce those rights. In 2013, Costa Rica remained on the Watch List in the United States Trade Representative's (USTR) annual **Special 301 Report**. The USTR noted that IPR enforcement with respect to copyright piracy and trademark counterfeiting required greater priority and resources. Significant delays in judicial proceedings and a lack of official investigators, public prosecutors, and criminal and civil judges specializing in intellectual property continue to hamper effective enforcement.

Costa Rica is a signatory of many major international agreements and conventions regarding intellectual property. Building on the existent regulatory and legal framework, CAFTA-DR required Costa Rica to further strengthen and clarify its IPR regime, with several new IPR laws added to the books in 2008. Prior to that, the GATT agreement on Trade Related Aspects of Intellectual Property (TRIPS) took effect in Costa Rica on January 1, 2000. Costa Rica in 2002 ratified the World Intellectual Property Organization (WIPO) "internet treaties" pertaining to Performances and Phonograms (WPPT) and Copyright (WCT). In August 2009, Costa Rica modified its WPPT commitments in a way consistent with its international obligations by notifying the WIPO of its reservations to Article 12 of the Rome Convention and Article 15.1 of the WIPO Performance and Phonograms Treaty (WPPT). These reservations together with a subsequent modification of Costa Rican law - currently under legal challenge - exempt Costa Rican over-the-air broadcasters from payment of "neighboring rights" to music performers and producers. For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's **country profiles** at http://www.wipo.int/directory/en/.

Country/Economy Resources:
- IPR Contact: Molly Flores email: SanJoseTradeLeads@state.gov
- Costa Rican American Chamber of Commerce (AmCham): http://www.amcham.co.cr/
- The U.S. Embassy in Costa Rica (Consular Section) maintains an extensive list of legal service providers, including some firms engaged in intellectual property law. This list does not represent an endorsement on the part of the US government: http://costarica.usembassy.gov/attorney.html).

8. Transparency of the Regulatory System

Costa Rican laws, regulations and practices are generally transparent and foster competition, except in the sectors controlled by a state monopoly, where competition is explicitly excluded. Tax, labor, health and safety laws are not seen as interfering with investment decisions. When applying environmental regulations, the Costa Rican organization that reviews environmental impact statements has been slow in issuing its findings, causing delays for investors in completing projects.

There are several independent avenues for appealing regulatory decisions, and these are frequently pursued by persons or organizations opposed to a public sector contract or regulatory decision. The avenues include the comptroller general (Contraloria General de la Republica), the Ombudsman (Defensor de los Habitantes), the public services regulatory agency (ARESEP), and the constitutional review chamber of the Supreme Court. The State Litigator's office (Procurador General de la Republica) is frequently a participant in its role as the government's attorney.

The process has kept the regulatory system relatively transparent and free of abuse, but it has also rendered the system for public sector contract approval exceptionally slow and litigious. There have been several cases in which these review bodies have overturned already-executed contracts, thereby interjecting uncertainty into the process. Bureaucratic procedures are frequently long, involved and can be discouraging to new investors.

A similarly transparent process applies to proposed laws and regulations. The Legislative Assembly generally provides ample opportunity for supporters and opponents of a law to understand and comment upon proposals. To become law, a proposal must be approved by the Assembly by two plenary votes. The signature of ten legislators (out of 57) is sufficient after the first vote to send the bill to the Supreme Court for constitutional review. Regulations must go through a public hearing process when being drafted.

Costa Rica is a member of UNCTAD's international network of transparent investment procedures: http://costarica.eregulations.org/. Foreign and national investors can find detailed information on administrative procedures applicable to investment and income generating operations including the number of steps, name and contact details of the entities and persons in charge of procedures, required documents and conditions, costs, processing time, and legal bases justifying the procedures.

9. Efficient Capital Markets and Portfolio Investment

Money and Banking System, Hostile Takeovers

There are no controls on capital flows in or out of Costa Rica or on **portfolio investment** in publicly traded companies. However, a recently adopted law allows the Central Bank, in coordination with the executive branch, to discourage so-called “hot money” through the imposition of taxes on interest earned by foreign non-residents on Costa Rican bonds and also provides for a special reserve requirement of up to 25 percent of the value of those bonds. Government officials have said this new instrument will be used very “carefully” and “selectively.” Larger investors often arrange their financing abroad where rates tend to be lower and lending limits are higher. Foreign investors are able to borrow in the local market, but they are also free to borrow from abroad. Some capital flows are subject to a withholding tax (see “Conversion and Transfer Policies” above).

Within Costa Rica, long-term capital is scarce. Dollar-denominated mortgage financing is popular and common, even for Costa Ricans who do not earn their income in dollars, because of more favorable lending terms for dollar-denominated vs. colon-denominated loans. As an alternative to encourage long-term credit, since 2005 the government has published the value of “Development Units” (“Unidades de Desarrollo”), an inflation-adjusted index value that may be used to denominate debt transactions. In addition, many local-currency loans have variable rates tied to the “basic passive rate” calculated from banks’ cost of funds and published regularly by the Central Bank. There is a small secondary market in commercial paper and repurchase agreements. The securities exchange (Bolsa Nacional de Valores) is small and is dominated by trading in government bonds. Stock trading is of limited significance and involves less than ten of the country’s larger companies, resulting in an extremely illiquid secondary market. However, the securities exchange is actively promoting programs in several promising areas including currency contracts, small stocks, and venture capital.

The three state-owned banks (Banco Nacional, Banco de Costa Rica and BanCredito) have significant structural advantages over their private competitors, namely that they cannot be forced into bankruptcy, a guarantee not afforded to private banks, and that government entities prefer to work with government-owned banks. Nevertheless, credit is generally allocated on market terms, although the state-owned commercial banks are expected to participate actively in activities deemed to be of public interest. A “development bank” structure began functioning in 2009 and mandates that 17 percent of resources from private banks’ checking and savings accounts be destined to small and mid-sized companies. A bank may develop its own program of development lending or cede the funds to an administering bank. While several private banks have expressed some interest in administering those resources, mandated conditions (including a very narrow lending margin and a regulatory requirement that standard risk metrics apply to these loans) have stymied the program to date. Costa Rica hosts a large number of smaller private banks, **credit** unions, and factoring houses as well as subsidiaries of Citibank and Scotiabank. Nevertheless, the three state-owned commercial banks are still dominant, accounting for over 50 percent of the country’s financial system’s assets.

Consolidated total assets of the country’s public commercial banks were approximately USD 20 billion in December 2012, while consolidated total assets of the eleven private commercial banks were approximately USD 10 billion. The combined assets of all bank groups (including affiliated pension funds and brokerage houses, plus factoring houses and **credit** unions) were approximately USD 34 billion as of December 2012. The Costa Rican **banking system** has been notably stable in recent years.

Costa Rica’s national council for the supervision of the financial system (CONASSIF) oversees Costa Rica’s financial sector and consists of four principal components. The country’s general superintendent of financial institutions (SUGEF) regulates banks and other financial institutions. The general superintendent of securities markets (SUGEVAL) oversees the securities exchange. The general superintendent of pensions (SUPEN) oversees pension funds. The superintendent of insurance (SUGESE) oversees all insurance operators. Legal and accounting systems are transparent and consistent with international norms. Many well-known accounting firms in Costa Rica are affiliated with large U.S. firms.

Costa Rican banks have not shown themselves to possess **takeover** defenses designed to prevent foreign capital from entering the market, as evidenced by the relatively high number of bank ownership transactions by foreign bank groups in the past 15 years in Costa Rica. The largest (state owned) banks are not subject to **takeover** in any case while private banks have changed hands or merged as determined by their owners. The Costa Rican financial regulatory system does not appear to have presented a significant obstacle to this merger and acquisition activity.

10. Competition from State-Owned Enterprises

Beyond the electricity, petroleum ***(“Energy & Mining”),*** telecommunications ***(“Information and Communications”)*** and insurance **sectors**, the country has a generally open international trade and investment regime. Electricity generation and distribution remains firmly in the control of the state-owned "National Electrical Institute" ("ICE"), while retail energy distribution is also dominated by ICE with significant participation by municipal utilities and rural electrical cooperatives. Petroleum imports are monopolized by the state petroleum company "RECOPE." State-owned banks control half the country's banking assets (see "Efficient Capital Markets and Portfolio Investment" above). ICE is still the dominant player in an ***Information and Communications*** (telecoms) **sector** that is steadily opening to private competition. The state-owned insurance provider "National Insurance Institute" ("INS") is the dominant player in the insurance market, which is also in the process of opening to competition.

In the ***Information and Communications*** **sector**, the telecommunications regulation board "SUTEL" and the Telecommunications Ministry have worked since 2009 to build the framework of a competitive telecommunications sector, with progressive development of a regulated competitive telecommunications market for internet and Voice-Over Internet Protocol (VOIP), corporate networks and cell phones. Two cellular phone competitors to the state monopoly "National Electrical (and telecommunications) Institute" ("ICE") successfully launched their operations in November of 2011, fulfilling a key CAFTA-DR provision that the cell phone market be opened to multiple competitors. The private operators have since reached 35% market penetration but there are persistent complaints of regulatory and bureaucratic obstacles to truly open competition with the incumbent operator. In the insurance sector, private insurers hold over 10% of Costa Rica's insurance market and are actively competing against state-owned insurance provider National Insurance Institute (INS). Both the insurance regulator SUGESE and telecom regulator SUTEL have won praise for successfully managing market transitions although in both markets new market entrants point to unfair advantages enjoyed by the incumbent operator.

Each state-owned enterprise has its own independent board of directors and internal operating regulations and procedures. The comptroller general's office (which reports directly to the Legislative Assembly) exercises fiduciary oversight and supervision of all public entities, including the state-owned enterprises. Costa Rica's state-owned enterprises do not appear to take direct orders from the Executive Branch; nevertheless, the state-owned enterprises clearly strive to fulfill their role as publicly-owned entities. Recent examples of this orientation have been the Banco Nacional's trust management of the National Stadium and the telecommunications universal service fund, FONATEL, Banco de Costa Rica's (BCR) issuance of licenses and passports, ICE's strong support of the Executive Branch's Technical Secretariat of Digital Government (TSDG) and RECOPE's continued cooperation with ICE in providing fuel to the Garabito electrical generation plant.

OECD Guidelines on Corporate Governance for SOEs:
http://www.oecd.org/daf/ca/oecdguidelinesoncorporategovernanceofstate-ownedenterprises.htm

Sovereign Wealth Funds: Costa Rica does not have a Sovereign Wealth Fund.

11. Corporate Social Responsibility

The Costa Rica government actively highlights its role in attracting hi-tech companies to Costa Rica; the strong Corporate Social Responsibility (CSR) culture that many of those companies cultivate has become part of that winning package. Large multinational companies commonly pursue CSR goals in line with their corporate goals and have found it beneficial to publicize such CSR activities in Costa Rica. Many smaller companies, particularly in the tourism sector, have likewise integrated CSR activities into their way of doing business. There is a general **awareness** of CSR among both producers and consumers in Costa Rica.

The Government of Costa Rica maintains and enforces laws with respect to **labor** and employment rights, consumer protection and **environmental** protection. Beyond that, some Costa Rican government agencies have taken the principals of public-private partnership to heart by working with private companies in addressing specific social issues. For example, the NGO "Aliarse" (http://www.aliarse.org) specializes in helping its member companies to effectively coordinate CSR policy with government, community groups and other companies. Many Central America Regional Security Initiative (CARSI) grantees, Fundacion Accion Joven (www.accionjoven.org*)*, Refugee Education Trust {RET}(www.theret.org), Boy with a Ball (www.boywithaball.com), Hogar Siembra (www.hogarsiembra.org), and FundaVida (www.fundavida.org) are coordinating companies such as Intel, IBM, Western Union, and Sykes to leverage CSR programs in a way that advances their activities. For example, IBM now sends employees to the "El Triangulo" precario to assist Boy With a Ball in providing mentorship and English tutoring to at-risk youth and Intel works with the Centro Cultural (www.centrocultural.cr) to provide English classes for the young women at Hogar Siembra. CARSI is a U.S. government funded initiative.

OECD Guidelines for Multinational Enterprises: http://mneguidelines.oecd.org/

12. Political Violence

Costa Rica has not experienced significant domestic political violence since 1948. There are no indigenous or external movements likely to produce political or social instability. However, Costa Ricans occasionally follow a long tradition of blocking public roads or ceasing port operations for a few hours as a way of pressuring the government to address grievances; the traditional government response is to react slowly, thus giving the grievances time to air. This practice on the part of peaceful protesters can cause logistical chaos.

13. Corruption

UN Anticorruption Convention, OECD Convention on Combatting Bribery: Costa Rica ratified the Inter-American Convention Against Corruption in 1997. This initiative of the Organization for Economic Cooperation and Development (OECD) and the Organization of American States (OAS) obligates subscribing nations to implement criminal sanctions for corruption and implies a series of follow up actions: http://www.oas.org/juridico/english/cri.htm. Costa Rica also ratified the UN Anti-Corruption Convention in March 2007.

Costa Rica has **laws, regulations and penalties to combat corruption**, though the resources available to enforce those laws have been limited. A series of high-profile corruption cases in recent years involving directors of state-owned enterprises as well as two ex-presidents have helped emphasize that even senior officials may be prosecuted on corruption charges. Allegations of lower-level corruption are common, and some prosecutions have resulted.

The attorney general (Fiscal General de la Republica), state litigator (Procuraduria General de la Republica), comptroller general (Contraloria General de la Republica) and ombudsman (Defensoria de los Habitantes) work in conjunction with each other in an effort to combat corruption. The comptroller general, the Organization of Judicial Investigation (OIJ), and the public prosecutors' office investigate allegations of corruption. The comptroller general is responsible for approving or rejecting public contracts, auditing results, and detecting instances of corruption.

In addition to these existing structures and safeguards, the Government of Costa Rica is implementing several initiatives centered on greater transparency in government. The Merlink paperless procurement program is modeled on South Korea’s government procurement, has been operating for over three years, represents about 80 percent of Costa Rican government procurement and continues to incorporate new government entities. Merlink provides both users and interested third parties with a comprehensive data base of the entire purchase process, encompassing bidding, contracting, deliveries, payment and quality control. As a member of the Open Government Partnership (OGP), Costa Rica has been developing websites for many of its government offices with data sets of interest to civil society; Costa Rica’s 2014 OGP action plan is to ensure enhanced civil society interaction both through those sites and through Merlink.

While U.S. firms have not identified corruption as a major obstacle to doing business in Costa Rica, some have made allegations of corruption in the administration of public tenders and in approvals or timely processing of permits. Developers of tourism facilities periodically cite municipal-level corruption as a problem when attempting to gain a concession to build and operate in the restricted maritime zone.

Acts of bribery, including those directed against government officials, are criminal acts punishable by imprisonment. Public officials convicted of receiving bribes are subject to prison sentences up to ten years, according to the Costa Rican Criminal Code (Articles 340-347). Entrepreneurs may not deduct the costs of bribes or any other criminal activity as business expenses. In recent years, Costa Rica has seen several publicized cases of firms prosecuted under the terms of the US Foreign Corrupt Practices Act for corrupt acts committed to the detriment of Costa Rican institutions.

Resources to Report Corruption – Contact within government Anti-Corruption Agency:

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14. Bilateral Investment Agreements

Costa Rica has **Bilateral Investment Treaties** (**BIT**s) in force with Argentina, Canada, Chile, the Czech Republic, France, Germany, Korea, the Netherlands, Paraguay, Qatar, Spain, Switzerland, Taiwan, and Venezuela. The investment chapter of CAFTA-DR includes all aspects of a **BIT** thereby making a separate **BIT** with the United States unnecessary.

Bilateral Taxation Treaties: Costa Rica's only current **bilateral taxation treaty** is with Spain; Costa Rica and the United States do not have a **bilateral taxation treaty**. Costa Rican and U.S. tax authorities currently coordinate under the terms of a U.S.-Costa Rica intergovernmental agreement titled "Agreement between the Government of the United States of America and the Government of the Republic of Costa Rica to Improve International Tax Compliance and to Implement FATCA." This tax information exchange agreement was signed in December 2013. Costa Rica has active bilateral or regional tax information exchange agreements with 10 other countries, in addition to several signed agreements that are not yet in force. Costa Rica is also a party to the OECD "Convention on Mutual Administrative Assistance in Tax Matters", with Entry-Into-Force in August 2013: http://www.oecd.org/tax/exchange-of-tax-information/Status_of_convention.pdf .

15. OPIC and Other Investment Insurance Programs

The Overseas Private Investment Corporation (OPIC) offers both financing and insurance coverage against expropriation, war, revolution, insurrection and inconvertibility for eligible U.S. investors in Costa Rica. OPIC can provide insurance for U.S. investors, contractors, exporters and financial institutions. Financing is available for overseas investments that are wholly owned by U.S. companies or that are joint ventures in which the U.S. firm is a participant.

At the end of 2013, OPIC held a diversified portfolio of 563 projects (including 364 finance projects, 35 funds projects and 188 insurance projects). In Costa Rica, OPIC's 2013 portfolio exposure totaled USD 194 million. The bulk of the portfolio consists of projects in housing, mortgage lending, SME (small and medium enterprise) lending and finance.

U.S. investors should be aware that OPIC, in accordance with statutory requirements, may not support projects that would result in the closing of a U.S. operation, the reduction of a U.S. workforce, or be in a sector that has experienced significant U.S. job loss in the past decade. The Government of Costa Rica approves prospective OPIC-insured projects taking into account possible balance of payments or labor problems. Costa Rica is a member of the Multilateral Investment Guarantee Agency, a member of the World Bank group.

In the event that OPIC should pay an inconvertibility claim, the local currency accepted by OPIC would be made available, pursuant to the bilateral agreement providing for the OPIC program, to fund the U.S. Embassy in Costa Rica. U.S. Embassy yearly expenses in local currency are calculated to be roughly USD 10 million.

16. Labor

The Costa Rican labor force is relatively well-educated compared to other countries in Central America. While Costa Rica has historically placed a high priority on education and the creation of a skilled work force, long-term government investment in education fell behind in the past decade. The country claims a literacy rate of 97 percent. Costa Rica's national vocational training institute (INA) and private sector groups provide technical and vocational training. The rapid growth of Costa Rica's service, tourism and technology sectors has stimulated demand for English-language speakers and prompted the Costa Rican Government to declare English language and computer literacy to be a national priority at all levels of education. However, only 11 percent of Costa Ricans are proficient in English. An analysis by the Costa Rican government found that a shortage of English-speaking workers is causing the country to "lose opportunities in its competitive position because its labor pool has limitations." Testing in 2008 revealed that about 38 percent of teachers of English in public schools did not possess adequate English skills and were consequently seriously deficient in their ability to teach English; the Ministry of Education has been actively identifying and training those instructors. Several public and private institutions have also been active in Costa Rica's drive to English proficiency, including the 60-year-old U.S.-Costa Rican binational center (the Centro Cultural Costarricense Norteamericano), which offers general and business English courses to as many as 5,000 students annually, and receives U.S. government funding. In 2010, the Peace Corps initiated a program in Teaching English as a second language. While the presence of companies such as Intel, Procter & Gamble, Western Union, and a growing number of call center operators and business process outsourcing (BPO) companies has drawn down the supply of speakers of fluent business and technical English, the pool of job candidates with English skills in the Central Valley has been sufficient to meet current demand.

Costa Rican law guarantees the right of workers to join labor unions of their choosing without prior authorization. Unions operate independently of government control and may form federations and confederations and affiliate internationally. The vast majority of unions are located in the public sector, including state-run enterprises. In the private sector, many Costa Rican workers join "solidarity associations," under which employers provide easy access to saving plans, low-interest loans, health clinics, recreation centers, and other benefits. While this Solidarity Movement has long been influential in Costa Rica, a new 2011 law solidified that status by giving solidarity associations constitutional recognition comparable to that afforded labor unions. Solidarity associations and labor unions coexist at some workplaces, primarily in the public sector. Business groups claim that worker representation by solidarity associations provide for better **labor relations** compared to firms with workers represented only by unions. However, labor unions allege that private businesses use solidarity associations to hinder union organization in contravention of International Labor Organization rules.

The constitution protects the right of workers to organize. The Labor Code enacted in 1943 provides protection from dismissal for union organizers and members and requires employers found guilty of anti-union discrimination to reinstate workers fired for union activities. However, the labor courts are backlogged and the legal process can be lengthy.

17. Foreign Trade Zones/Free Ports

Free trade zones operate near the port cities of Limon/Moin (Caribbean) and Puntarenas (Pacific) as well as in various central valley locations. The benefits, primarily fiscal, are described in the section entitled Performance Requirements and Incentives.

18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

TABLE 2: Key Macroeconomic data, U.S. FDI in host country/economy

	Host Country Statistical source*		USG or international statistical source		USG or international Source of data (Source of Data: BEA; IMF; Eurostat; UNCTAD, Other)
Economic Data	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) (*Millions U.S. Dollars)*	2012	45,375	2012	45,100	http://www.worldbank.org/en/country
Foreign Direct Investment	Host Country Statistical source*		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in partner country (*Millions U.S. Dollars, stock positions)*	n.a.	n.a.	2012	1,681	(BEA) click selections to reach. • Bureau of Economic Analysis • Balance of Payments and Direct Investment Position Data • U.S. Direct Investment Position Abroad on a Historical-Cost Basis • By Country only (all countries) (Millions of Dollars)
Host country's FDI in the United States (*Millions U.S.*	n.a.	n.a.	2012	-109	(BEA) click selections to reach • Balance of Payments and Direct Investment Position

Dollars, stock positions)					Data • Foreign Direct Investment Position in the United States on a Historical-Cost Basis • By Country only (all countries) (Millions of Dollars)
Total inbound stock of FDI as % host GDP (***calculate***)	2012	5%	Insert (Year)	Amount	Source: Central Bank of Costa Rica. Total 2012 FDI (from all sources: $2,287.8mm) as a percentage of 2012 GDP.

* Costa Rican statistical source is Central Bank of Costa Rica: http://indicadoreseconomicos.bccr.fi.cr/indicadoreseconomicos/Cuadros/frmVerCatCuadro.aspx?idioma=1&CodCuadro= 259

TABLE 3: Sources and Destination of FDI
Costa Rica 2012

Direct Investment from/in Counterpart Economy Data					
From Top Five Sources/To Top Five Destinations *(US Dollars, Millions)*					
Inward Direct Investment			**Outward Direct Investment**		
Total Inward	18,743	100%	Total Outward	1,544	100%
United States	11,513	61%	United States	406	26%
Spain	1,359	7%	Netherlands	233	15%
Mexico	973	5%	Panama	196	13%
United Kingdom	902	5%	Guatemala	187	12%
Switzerland	482	3%	Nicaragua	171	11%
"0" reflects amounts rounded to +/- USD 500,000.					

Source: IMF website http://cdis.imf.org
These accumulated foreign direct investment (FDI) statistics reveal that the United States is by far the biggest source and destination of Costa Rican FDI. Annual FDI in Costa Rica climbed steadily from the year 2000 ($409 million) to 2008 (over $2 billion), slumping in 2009 and 2010 but reaching over $2.2 billion (5% of GDP) in 2012.

TABLE 4: Sources of Portfolio Investment
Costa Rica, 2012

Portfolio Investment Assets								
Top Five Partners (Millions, US Dollars)								
Total			**Equity Securities**			**Total Debt Securities**		
World	990	100%	World	190	100%	World	799	100%
United States	401	40%	United States	169	89%	United States	232	29%

United Kingdom	131	13%	United Kingdom	7	4%	United Kingdom	124	16%
Brazil	45	5%	Canada	3	1%	Brazil	44	5%
Panama	41	4%	Luxembourg	2	1%	Panama	41	5%
Germany	35	4%	Spain	2	1%	Germany	34	4%

Source: *IMF website http://cpis.imf.org*

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