COSTA RICA
INVESTMENT CLIMATE STATEMENT
2015

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Executive Summary

Costa Rica is located in Central America. Costa Rica's investment climate has been for many years generally favorable. Consequently, foreign direct investment is high and has been a significant contributor to Costa Rica's economic growth. The country's legal and cultural environment continues to present stumbling blocks to investors. Nevertheless, challenges to the country's competitiveness, including rising operating costs, a complicated legal environment, excessive bureaucratic red tape, and infrastructure deficiencies, are fueling caution on the part of investors.

Costa Rica's continued popularity as an investment destination is well illustrated by historic FDI which climbed steadily from the year 2000 (USD 409 million) to 2008 (over USD 2 billion), and reaching a high of over USD 2.6 billion (5.4 percent of GDP) in 2013 before dropping back to USD 2.1 billion in recently released figures for 2014.

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 was aggressive in signing free-trade agreements, tax information agreements and generally participating in the global arena under former President Laura Chinchilla. The current Solis administration, which took office on May 8, 2014, has been aggressive in seeking FDI inflows and has prioritized foreign visits to potential investors in Asia, Europe and the Americas.

Despite years of trade liberalization, the Costa Rican 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 a significant step forward for port infrastructure, Dutch-based APM Terminals broke ground in early 2015 on its long-delayed USD 1 Billion megaport on the Caribbean coast. Private-public partnerships as well as concessions continue to face numerous legal and procedural challenges that have delayed, or in some cases, canceled key infrastructure projects. Even China, which has sought to invest in two major infrastructure upgrades, has seen these projects stalled by bureaucratic and legal concerns.

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

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 the 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, the European Union and the European Free Trade Association are in force, while an agreement with Colombia is awaiting final approval by the Colombian legislature to enter into force.

Other Investment Policy Reviews

The Organization for Economic Cooperation and Development (OECD) completed a comprehensive investment policy review in September 2013. 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 to be addressed soon. Costa Rica's persistent and growing government budget deficit is of particular concern. (http://www.researchandmarkets.com/reports/2686091/oecd_investment_policy_reviews_costa_rica_2013).

In 2014, Costa Rica became the 45th country to adhere to the OECD Declaration on International Investment and Multinational Enterprises. The OECD has indicated that accession talks for Costa Rica will begin in May 2015 and early signs point to a positive end result. The World Trade Organization (WTO) completed its most recent trade policy review in September 2013. http://www.wto.org/english/tratop_e/tpr_e/s286_e.pdf.

Laws/Regulations of Foreign Direct Investment

The Costa Rican Judicial System is made up of the Civil, Administrative, and Criminal Court structure. 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, including municipal governments which grant construction permits, 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.

Industrial Promotion

Costa Rica’s chief industrial strategy in recent years has consisted of focusing investment promotion and aftercare efforts in particular business sectors in order to encourage the formation of business clusters. The investment and development board (CINDE) has successfully targeted 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 referenced below in the Competition from State-Owned Enterprises in the 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 Superintendence, 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. Given the government's fiscal constraints, they recognize the need to involve the private sector in some large-scale infrastructure projects. Deciding how to structure such public-private partnerships has not yet been resolved.

In a positive step forward, Dutch-based APM Terminals broke ground in January 2015 on their long-stalled USD 1 billion megaport project in Limon (Moin) to mark a significant new chapter for Costa Rica's maritime infrastructure. A modern port facility has been long overdue and will be a huge economic boost to Limon province, one of Costa Rica’s poorest regions. Port construction is expected to last three years.

While the government focuses on promoting foreign investment in export industries, foreign franchises have prospered in the domestic market over the past thirty years. Investors both foreigner and domestic have brought into the country a wide variety of U.S. brands, including fast food such as; Taco Bell, Kentucky Fried Chicken, Pizza Hut, Domino’s Pizza, Papa John's Pizza, McDonald's, Burger King, Subway, Quiznos and TCBY Yogurt. Other industries include the car rentals; Hertz, Avis, Dollar, Budget and Enterprise. The hotel industry is also represented with such chains as: Marriott, Starwood, Doubletree by Hilton, Regents, Hampton Inn, and Best Western. Price Smart, owned and managed by the founders of Price Club in the U.S., have five stores in Costa Rica.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2014	47 of 175	transparency.org/cpi2014/results
World Bank’s Doing Business Report “Ease of Doing Business”	2015	83 of 189	doingbusiness.org/rankings
Global Innovation Index	2014	57 of 143	globalinnovationindex.org/content.aspx?page=data-analysis
World Bank GNI per capita	2013	USD 9,550	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. Dollar bonds and other dollar instruments may be traded legally. On January 31, 2015, the Central Bank of Costa Rica announced it would eliminate the currency bands in place since 2006 and allows the CRC to float freely on the market. The move has been long recommended by international financial institutions, including the International Monetary Fund (IMF) which urged the action in its annual review of Costa Rica the week prior to the announcement. In practice, the CRC had been floating without Central Bank intervention for several months. In prior years, the band was used to counter appreciation pressures and improve the country's competitiveness. The Central Bank has pledged to intervene, if necessary, to smooth any exchange rate volatility; the Bank has sufficient international reserves for such actions. 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 had become a dirty float with very widely separated upper and lower limits. The exchange rate for the CRC had a fixed lower rate of CRC 500 per 1 USD for several years. In the first quarter of 2014, the CRC experienced 10 percent devaluation. Since then, the exchange rate has stabilized around 530-540 with smooth daily fluctuations.

No restrictions are imposed on capital gains, 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 without negatively affecting capital flows associated with longer-term investments. In 2013, a new law gives the Central Bank a wide range of tools in order to better control short-term investments. Current global financial conditions have reduced the pressure of short term investment funds.

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.

Remittance Policies

Costa Rica does not have restrictions on remittances of funds to any foreign country; however, all funds remitted are subject to applicable withholding taxes that are paid to the country's tax administration. The highest level of withholding tax is 30 percent, with royalties capped at 25 percent, dividends at 15 percent, transportation and communication services at 8.5 percent and reinsurance at 5.5 percent. By Costa Rican law, in order to pay dividends, procedures need to be followed that include being in business for the entire fiscal year and paying all applicable local taxes. Those procedures on dividends in effect put a timing restriction on them. Exceptions to the withholding tax include multilateral and bilateral banks that promote economic and social growth, who pay no withholding tax and companies located in Foreign Trade Zones, who pay no dividend withholding tax plus other tax benefits. Spain has a tax treaty that lowers the withholding tax on dividends paid by a Spanish company.

The Law for Development Banking passed in November 2014 goes into effect on May 31, 2015 and eliminates the provision allowing foreign banks registered with the Central Bank of Costa Rica to be tax exempt. The change is designed to further assist Costa Rican banks promoting Small and Medium Enterprises (SMEs), and will make these formerly competitive foreign banks less competitive in the local market. Industry observers indicate that some foreign banks have already reduced their level of business activities due to the new tax treatment.

Regarding remittances sent primarily by individuals back to their families of origin, a 2013 report of the Inter-American Development Bank (IDB) cites remittances to Costa Rica at USD 561 million, the lowest per capita in Central America. Remittances sent to Central American countries, per IDB, originate almost entirely in the United States. The annual growth rate in remittances to Costa Rica 2012-2013 in US Dollars was 6.5 percent, which translates to 6.0 percent in the local currency (CRC) and adjusts after inflation to a slim 0.7 percent growth in local currency. IDB notes that the 2012 figures reflect adjustments to previous estimates. From 2007 to 2013, remittances to Costa Rica as a percent of GDP have been relatively steady, varying from just over two percent in 2007/08 down to 1.3 percent for 2012 and 2013, the last two reporting years.

In 2013, the costs associated with sending remittances between the U.S. and Costa Rica continued to drop compared to previous years. IDB cites that in the CAFTA-DR region, the transfer costs of smaller wire transfers (below USD 200) on average ran about USD 10.14, representing a 3.9 percent drop in cost from 2012. Transfer costs of medium value remittance (USD 500) showed an even greater drop of 17.8 percent from 2012.

3. Expropriation and Compensation

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 and the Ministry of Environment and Energy - MINAE (National Parks and protected areas). There have been allegations of expropriations of private land without prompt or adequate compensation.

Article 45 of Costa Rica’s constitution stipulates that private property can be expropriated without proof that it is done for public interest. The 1995 Law 7495 on expropriations further stipulates that expropriations require full and prior payment. The law makes no distinction between foreigner's and nationals; both 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 to expropriate 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. The fundamental law is the country's Political Constitution of 1949, which grants the unicameral legislature a particularly strong role. Jurisprudence or case law is only persuasive. 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 and awards 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 can be made in USD but paid in the local Costa Rican currency.

Litigation can be long and costly. 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 several years 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 legal process to resolve cases involving the squatting of land can be especially cumbersome. Land registries are at times incomplete or even contradictory. The Public Registry of Costa Rica is very effective with nationwide information on-line and in real time. However, rural records are the Cadastral Plans (Planos Catastrados) can be outdated and create land and boundary conflicts. Potential buyers should confirm the validity of their land title. Expropriation and related legal proceedings concerning lands within the Leatherback National Park boundary have been ongoing since 2004 (reference; International Arbitration). Buyers should retain experienced legal counsel, to help them determine the necessary due diligence regarding the purchase of property.

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 (reference: Openness to Foreign Investment section) has given way to investment disputes. These disputes may be resolved administratively or through the legal system.

International Arbitration

Since 1993, Costa Rica has been a member state to the convention on International Centre for Settlement of Investment Disputes (ICSID convention). 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.

Chapter 10 of CAFTA-DR allows investors to submit any dispute to international arbitration under either the ICSID convention or UNCITRAL Model law (United Nations Commission on International Trade Law). The arbitration process under CAFTA-DR is designed to be open and transparent; hearings and documents are public, and amicus curiae submissions are authorized. The CAFTA investment chapter includes a provision that allows tribunals to dismiss frivolous claims and award attorney's fees and filing costs. Arbitration awards specify monetary amounts to be paid to the prevailing party. Costa Rica currently has two international arbitration cases under the provisions of CAFTA-DR; details can be found on the Ministry of Foreign Trade website http://www.comex.go.cr/tratados/vigentes/cafta/Casos.aspx.

ICSID Convention and New York Convention

In 1993, Costa Rica became a member state to the convention on International Centre for Settlement of Investment Disputes (ICSID Convention)

Costa Rica is a signatory of the convention on the Recognition and Enforcement of Arbitral Awards (1958 New York Convention).

Duration of Dispute Resolution

The right to solve disputes through arbitration is guaranteed in the Costa Rican Constitution. For years, it was regulated by the Civil Procedural Code, which made it ineffective with no arbitrations until 1997, the year the local Arbitration Act #7727 was enacted. Under the former Act, arbitration had to be conducted in Spanish and only attorneys admitted to the local Bar Association could be named as arbitrators. A 2011 law on alternative conflict resolution (Law 8937), drafted from the United Nations Commission on International Trade Law (UNCITRAL model law), allowed arbitration proceedings to be held in English and authorized foreign attorneys to serve as arbitrators. All cases brought before an arbitration panel must be resolved within 155 days. Parties can withdraw their case or reach an out-of-court settlement before the arbitral tribunal delivers an award. If the award meets the review criteria, the losing party has the option to appeal their award before the Costa Rican Supreme Court. Several arbitration centers are in operation, including one at the Costa Rican - American Chamber of Commerce.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

Costa Rica has been a World Trade Organization (WTO) since 1995 and does not maintain any Trade-Related Investment Measures (TRIMS) inconsistent with the guidelines.

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 (FTZ) 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 (except income tax) on imported inputs of qualifying companies and then exempts the inputs from those taxes when the finished goods using or containing them are exported. The goods must be re-exported within a non-renewable period of one year, with the exception of machinery and accessories, which may remain for an indefinitely renewable period of five years. 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.

Research and Development

Due to overriding budget constraints, the Government of Costa Rica does not have significant investment funds to finance or subsidize research and development programs.

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.

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.

Data Storage

In the telecommunications sector, Costa Rica does not require Costa Rican data to be stored on Costa Rican soil. With the introduction of Law Number 8968 - Personal Data Protection Law Audit Regulation APD-03-076-2014 - on March 24, 2014, companies must notify the Data Protection Agency (PRODHAB) of all existing employee databases which are shared with third parties, within or outside of Costa Rica. The law also stipulates that all companies that use the services of a third party to manage or process personal employee information, including for insurance and salary purposes, must notify PRODHAB of the databases and pay an annual registration fee of USD 200 for each database.

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; some 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 must demonstrate a continued presence on and control over their land. Secured interests in both chattel and real property are recognized and enforced. Mortgage and title recording are 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.

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

While the legal framework governing intellectual property is basically in place, Costa Rica does not adequately enforce those rights. In 2015, Costa Rica remained on the Watch List in the United States Trade Representative’s (USTR) annual Special 301 Report. The USTR noted in 2014 that IPR enforcement with respect to copyright piracy and trademark counterfeiting required greater priority and resources.

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.

Costa Rica's Customs agency, housed under the Finance Ministry, confirms that no statistics on the seizure of counterfeit goods are made public. They keep all such statistics internal and private. In December 2014, the Costa Rican-American Chamber of Commerce (AmCham) launched a website, www.mercadoilegal.com, which allows for the reporting of tips on counterfeit merchandise. The anonymous tips are then shared with the Finance Ministry for action and enforcement.

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/.

Resources for Rights Holders

Contact at Mission/AIT:

John Reed Payne
Economic Officer
Embassy San Jose
506-2519-2000
SanJoseTradeLeads@state.gov

Local lawyers list can be found at: http://costarica.usembassy.gov/attorney.html

Country/Economy resources:

- 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).
- The Department of Commerce also maintains a list of Business Service Providers that includes law firms specializing in IPR, under the Business Service Provider tab at: http://redirect.state.sbu/?url=www.export.gov/costarica

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

9. Efficient Capital Markets and Portfolio Investment

There are no controls on capital flows in or out of Costa Rica or on portfolio investment in publicly traded companies. However, a law adopted in 2013 allows the Central Bank, in coordination with the executive branch, to discourage short-term investments 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 (reference Conversion and Transfer Policies).

Within Costa Rica, long-term capital is scarce. USD-denominated mortgage financing is popular and common, even for locals. There are more favorable lending terms for USD-denominated loans vs. colón-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.

Money and Banking System, Hostile Takeovers

The three state-owned banks; Banco Nacional, Banco de Costa Rica and BanCredito all have significant advantages over their private competitors. These banks cannot be forced into bankruptcy, and 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 12 billion in December 2013, while consolidated total assets of the eight private commercial banks were approximately USD 5.8 billion and consolidated total assets of the six credit unions were USD 2 billion, for combined assets of all bank groups (public banks, private banks and credit unions) of approximately USD 20 billion as of December 2013.

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 as of December 2013 control over 60 percent of the country's banking assets (reference Efficient Capital Markets and Portfolio Investment). ICE is still a 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 39 percent market penetration as of December 2013 but there are persistent complaints of regulatory and bureaucratic obstacles to truly open competition with the incumbent operator. In the insurance sector, after six years of opening the market to private competition, private insurers hold over 20 percent 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.

OECD Guidelines on Corporate Governance of SOEs

http://www.oecd.org/daf/ca/oecdguidelinesoncorporategovernanceofstate-ownedenterprises.htm

The Ministry of Foreign Trade, lists the adherence of State Owned Enterprises (SOEs) to OECD Guidelines on Corporate Governance for SOEs. Teams have been assigned the task of reviewing the various SOEs, but no results have yet been determined and will require coordination between different parts of the Costa Rican government.

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 high-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, Centro Cultural Costarricense Norteamericano (www.centrocultural.cr), Refugee Education Trust {RET}(www.theret.org), Boy with a Ball (www.boywithaball.com), Hogar Siembra (www.hogarsiembra.org), and Fundacion Omar Dengo (www.fod.ac.cr) are coordinating with companies such as Amazon, SC Johnson, Phillip Morris, DHL, and UPS to leverage CSR programs in a way that advances their activities. CARSI is a U.S. government funded initiative.

OECD Guidelines for Multinational Enterprises

For information, visit: http://mneguidelines.oecd.org/

12. Political Violence

Since 1948, Costa Rica has not experienced significant domestic political violence. 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

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 official 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 together 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.

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. As part of its OECD Action Plan, Costa Rica has voiced interest in signing onto the OECD Anti-Bribery Convention.

In addition to these existing structures and safeguards, the Government of Costa Rica is implementing several initiatives centered on greater transparency in government. 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 was to ensure enhanced civil society interaction both through those sites and through Merlink, the paperless procurement program modeled on South Korea's government procurement. A new OGP action plan is due June 30, 2015.

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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Contact within Civil Society:

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14. Bilateral Investment Agreements

Costa Rica has Bilateral Investment Treaties (BITs) 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 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.

In Costa Rica, OPIC's 2014 portfolio exposure totaled USD 174 million on three property investments in the construction, transportation and financial services sector. OPIC did not approve any new projects in 2014.

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 and labor issues. 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 a reported 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 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. A 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 internationally recognized labor rights.

The law provides for 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. President Solis lifted the veto on a Labor Code Reform (LCR) bill in December 2014 that had been put in place by former President Chinchilla, which essentially brings the original LCR bill into law in June 2016. Before the law becomes effective in mid-2016, the National Assembly will likely review several aspects of the bill, including the rules governing strikes, the definition of 'essential services', and the prohibition of hiring temporary staff to replace workers on strike.

Based on 2013 statistics, 45 percent of government employees are in a union as compared to four percent in the private sector.

Costa Rica currently has 75 collective bargaining agreements for public sector entities and 23 agreements within the private sector. The government has started a process of review and renegotiation of collective bargaining agreements in the public sector. In the past two years, the Supreme Court has repealed sections of collective bargaining agreements between public sector unions and government agencies citing concerns that certain public employees received disproportionate and excessive fringe benefits such as paid leave and less working hours. According to labor unions, permanent workers' committees have displaced labor unions on collective bargaining issues.

17. Foreign Trade Zones/Free Ports/Trade Facilitation

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.

The Costa Rican Ministry of Foreign Trade has a staff position, Trade Facilitation Director, responsible for all aspects of Trade Facilitation including the Customs and Border Modernization initiative. A Customs Mutual Assistance Agreement (CMAA) between Costa Rican Customs and United States Customs and Border Patrol (CBP) is in the final stages of negotiations and is expected to be signed in April 2015. Costa Rica was part of Phase 1 of the Pathways for Prosperity Trade Facilitation pillar and a public-private group of stakeholders meets regularly at the U.S. Embassy to discuss trade facilitation issues.

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: BEA; IMF; Eurostat; UNCTAD, Other
Economic Data	**Year**	**Amount**	**Year**	**Amount**	
Host Country Gross Domestic Product (GDP) ($M USD)	2013	49,237	2013	49,621	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 ($M USD, stock positions)	n.a.	n.a.	2013	969	http://bea.gov/international/factsheet/factsheet.cfm?Area=205
Host country's FDI in the United States ($M USD, stock positions)	n.a.	n.a.	2013	-55	http://bea.gov/international/factsheet/factsheet.cfm?Area=205
Total inbound stock of FDI as % host GDP	2013	5.4%	n.a.	n.a.	

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

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	22,101	100%	Total Outward	1,840	100%
United States	13,107	59%	United States	412	22%
Spain	1,642	7%	Panama	348	19%
Mexico	1,174	5%	Netherlands	235	13%
United Kingdom	929	4%	El Salvador	232	13%
Panama	589	3%	Guatemala	192	10%
"0" reflects amounts rounded to +/- USD 500,000.					

Source: IMF Coordinated Direct Investment Survey

Table 4: Sources of Portfolio Investment

Portfolio Investment Assets								
Top Five Partners (Millions, US Dollars)								
Total			**Equity Securities**			**Total Debt Securities**		
All Countries	1,235	100%	All Countries	181	100%	All Countries	1,054	100%
United States	547	44%	United States	125	69%	United States	422	40%
United Kingdom	132	11%	Panama	21	12%	United Kingdom	127	12%
Panama	89	7%	Luxembourg	10	6%	Panama	68	6%
Luxembourg	67	5%	Brazil	10	5%	Canada	60	6%
Canada	63	5%	United Kingdom	5	3%	Luxembourg	56	5%

Source: IMF Coordinated Portfolio Investment Survey

19. Contact for More Information

Contact Point at Post for Public Inquiries

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