

CHINA-COSTA RICA FREE TRADE
AGREEMENT JOINT FEASIBILITY STUDY

August 15, 2008

INTRODUCTION

The following study was elaborated by a Joint Working Group (JWG), including China's and Costa Rica's competent authorities. From January to July, 2008, JWG held three meetings to exchange information, discuss the draft and finally concluded the Feasibility Study successfully.

As agreed by both sides, the study was divided into six chapters. The first five chapters were developed respectively by China and Costa Rica from their own perspective, and the last chapter, joint conclusions, was worked jointly by the two countries.

On Chapter 1: "Introduction", both countries present information on macroeconomic conditions and on their current FTA status. This chapter shows that both countries have strong macroeconomic indicators, and both sides are actively engaged in FTA constructions.

On Chapter 2: "Trade and Investment Policies and Systems", the most important features of the trade and investment policy of each country are briefly described, including tariffs and non-tariff barriers, rules of origin, sanitary and phytosanitary measures, technical barriers to trade, foreign investment regimes, services, trade remedies, and commitments regarding WTO. This chapter would provide a better understanding of each country's policies and systems, and help identify some existing barriers to trade and investment between the two countries, which can be reduced or eliminated under the FTA framework.

On Chapter 3: "Economic relations, challenges and prospects between China and Costa Rica", both countries analyzed statistics on bilateral trade (in goods and services) and investment. This chapter shows that bilateral trade flows have experienced significant growth since China's WTO accession. Some trade indexes have also been used to evaluate the level of competitiveness and complementarity between the two countries.

On Chapter 4: "Impacts of trade and investment liberalization", both countries used a commonly agreed Partial Equilibrium Model to quantify the impacts on bilateral trade of a possible FTA between China and Costa Rica.

On Chapter 5: "Information Exchange on Other Issues and Economic Cooperation",

both countries elaborated on 12 additional disciplines and institutional issues, such as movement of business persons, transparency, trade and investment promotion, small and medium enterprises cooperation, customs procedures, dispute settlement, trade facilitation, government procurement, competition policy, intellectual property rights, environment and labor.

On Chapter 6: “Conclusion”, the feasibility study has shown important complementarities between the Chinese and Costa Rican economies, as well as the benefits that the negotiation of an FTA would bring to the people and economies of both countries.

CHINA SECTION

Table of Contents

1. INTRODUCTION	7
1.1 Background of China-Costa Rica FTA.....	7
1.2 Major Characteristics of China's Macro Economy.....	7
1.3 Status of China's FTA with other countries.....	9
2. TRADE AND INVESTMENT POLICIES AND SYSTEMS	16
2.1 Introduction.....	16
2.2 Measures Affecting Trade in goods.....	17
2.2.1 Tariffs	17
2.2.2 Non-Tariff Barriers.....	18
2.2.3. Rules of Origin.....	23
2.2.4 Sanitary and Phytosanitary (SPS) Measures.....	24
2.2.5. Technical Barriers to Trade.....	25
2.3 Services	27
2.3.1 Measures Affecting Trade in Services.....	30
2.3.2 International Commitments related to Services	46
2.4 Foreign Investment Regimes.....	49
2.4.1 Treatment of Foreign Investment	49
2.4.2 Special investment regimes and/or zones	52
2.5 Trade Remedies	53
2.5.1 Safeguards.....	53
2.5.2 Anti-dumping Measures and Countervailing Duties	54
2.5.3 Institutional Arrangements.....	55
2.6 China's commitments regarding WTO.....	57
3. ECONOMIC RELATIONS AND PROSPECTS BETWEEN CHINA AND COSTA RICA	61
3.1 Bilateral Trade in Goods.....	61
3.2 Bilateral Trade in Services	63
3.3 Bilateral Investment.....	64
3.4 Tariff Level of China.....	64
3.5 Analysis on the Competitive and Complementary Industries.....	65
4. IMPACTS OF TRADE AND INVESTMENT LIBERALIZATION.....	75
4.1 Liberalization of Bilateral Trade in Goods.....	75
4.2 Liberalization of Bilateral Trade in Service.....	79
4.3 Impact on Bilateral Investment.....	80
5. INFORMATION EXCHANGE ON OTHER ISSUES AND ECONOMIC COOPERATION	82
5.1 Movement of Business Persons	82
5.1.1 Tourists.....	82
5.1.2 Residence	83
5.1.3 Permanent Residence Permit (granted for an indefinite time).....	84
5.1.4 Evaluation of an agreement on Movement of Business Persons.....	84
5.2 Transparency	85
5.3 Trade and investment promotion	86
5.4 Small and Medium Enterprises Cooperation	89
5.5 Customs Procedures	90

5.6 Dispute Settlement.....	92
5.7 Trade Facilitation Measures.....	94
5.8 Government Procurement	96
5.9 Competition Policies	98
5.10 Intellectual Property Rights.....	99
5.10.1 Industrial Property.....	100
5.10.2 Copyrights and related rights.....	101
5.10.3 Geographical indications	101
5.10.4 Chinese policy regarding the main intellectual property right treaties with WIPO framework.....	102
5.10.5 Enforcement of Intellectual Property Rights.....	102
5.11 Environment.....	103
5.12 Labor	105

1. INTRODUCTION

1.1 Background of China-Costa Rica FTA

China and Costa Rica established official diplomatic relations in June 2007. The establishment of diplomatic relations created favorable political conditions and external environment for further comprehensive development of their bilateral economic and trade relations. China has already become Costa Rica's 2nd largest trade partner, and Costa Rica is also an important trade partner of China in Central America.

The two countries have initiated the proposal of establishing an FTA between China and Costa Rica when they decided to establish diplomatic relations. In January 2008, the 1st meeting of the Joint Working Group for a feasibility study of a possible FTA between China and Costa Rica was held in San Jose, capital of Costa Rica. The two parties have reached consensus on the framework and modality of the joint study.

1.2 Major Characteristics of China's Macro Economy

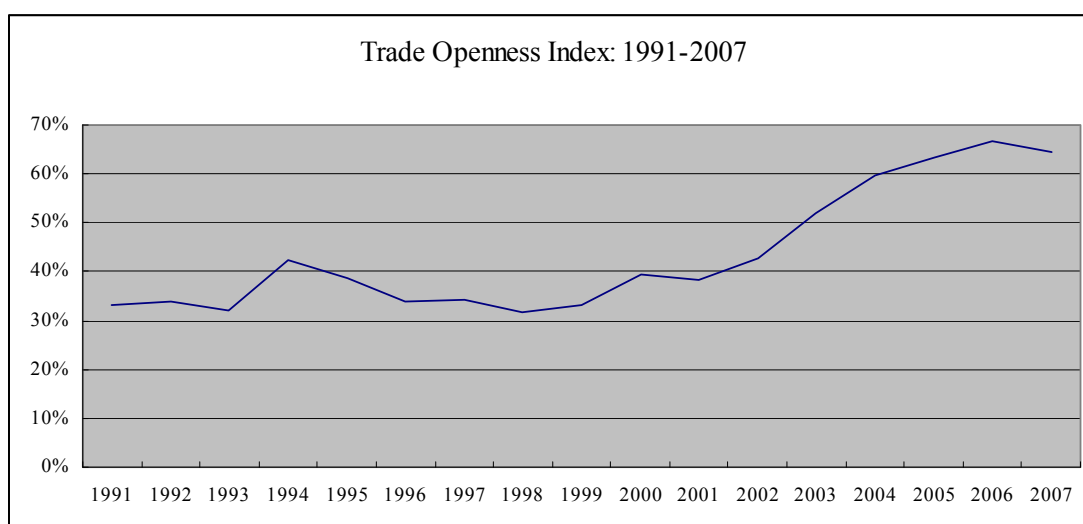
China has made significant achievements in economic development since its reform and opening-up in the late 1970's, with an average annual GDP growth rate of 8%. In 2007, China's GDP grew by 11.4% year on year to reach RMB 24,661.9 billion, equivalent to USD 3,376.2 billion (calculated using the year-end exchange rate), with a per capita GDP about USD 2,500. The number of working population was 769.9 million. The registered urban unemployment rate decreased by 0.1% year on year to 4.0%. China's CPI rose up 4.8% than the year before. In 2007, China enjoyed a trade surplus of USD 262.2 billion, growing by 47.7%. By the end of 2007, China's foreign exchange reserves hit USD 1,528.2 billion, the largest amount in the world. The exchange rate was RMB 7.3046 to USD 1 at the end of 2007, with an appreciation scale of 6.9% compared with the year before. Since China reformed its exchange rate regime and pegged RMB to a basket of currencies on July 21, 2005, the RMB has accumulatively appreciated by 14.7% by March 21, 2008.

Table 1.1 Major Macro Economy Indicators of China (2001-2007)

Year	Growth Rate of GDP	Growth Rate of CPI	Registered Unemployment Rate in Urban Areas	Growth Rate of Investment in Fixed Assets	Growth Rate of M2	Growth Rate of Bank Loans
2001	7.5	0.7	3.6	13.1	17.6	13.0
2002	8.0	-0.8	4	16.1	16.8	16.9
2003	9.1	1.2	4.3	27.6	19.6	29.3
2004	9.5	3.9	4.2	25.8	14.6	14.4
2005	9.9	1.8	4.2	25.7	17.6	12.8
2006	10.6	1.5	4.1	24.0	16.9	14.7
2007	11.4	4.8	4.0	24.8	16.7	16.4

Source: China Statistical Yearbook 2007, Statistical Communiqué of the People's Republic of China on the 2007 National Economic and Social Development.

China's total trade in goods reached USD 2,173.8 billion in 2007, growing by 23.5% over 2006; of which, export and import hit USD 1,218.0 billion and USD 955.8 billion, up 25.7% and 20.8% respectively. The extent of openness of an economy can be reflected from two indicators, one is Trade Openness Index ((Export+Import)/GDP), and the other is the share of stock FDI in GDP (stock FDI/GDP). Trade Openness Index has been over 30% since 1991, and reached 64.39% in 2007. By 2007, the FDI value China has actually utilized amounted to USD 786.63 billion, and the stock FDI has accounted for 23.30% of China's GDP.

Table 1.2 China's Trade Openness Index (1991-2007)

Source: China Customs Yearbook, China Statistical Yearbook 2007, Statistical Communiqué of the People's Republic of China on the 2007 National Economic and Social Development.

China's total investments in fixed assets in 2007 increased by 24.8% to RMB

13,723.9 billion. Investment in industrial sector grew more significantly than that in other sectors. The year 2007 witnessed the establishment of 37,871 enterprises with foreign direct investment in non-financial sectors, down by 8.7 percent; and the foreign capital actually utilized was USD 74.8 billion, up by 13.6 percent. Of the total foreign direct investment actually utilized, the share of investment in manufacturing was 54.7 percent, the real estate 22.9 percent, leasing and business service 5.4 percent, wholesales and retail trade 3.6 percent and transportation, storage and post service 2.7 percent. Savings deposit in RMB and foreign currencies in all items of financial institutions totaled RMB 40.1 trillion at the end of 2007, up 15.2 percent.

Since 2001, industrial, construction, lodging and catering services sectors have been maintaining fast growth momentum. In recent years, the financial sector has witnessed rapid development, with a growth rate as high as 18.5% in 2006. (See Table 1.3)

Table 1.3 Gross Domestic Product Growth by Sectors (%)

	Agriculture	Industry	Construction	Transportation, Storage and Post	Wholesale and Retail	Lodging and Catering	Financial Sector	Real Estate
2001	2.8	8.7	6.8	8.8	9.1	7.6	6.4	11.0
2002	2.9	10.0	8.8	7.1	8.8	12.1	6.9	9.9
2003	2.5	12.8	12.1	6.1	9.9	12.4	7.0	9.8
2004	6.3	11.5	8.1	14.5	6.6	12.3	3.7	5.9
2005	5.2	11.6	12.6	11.3	7.8	12.3	14.1	8.7
2006	5.0	12.9	13.7	8.3	10.9	13.6	18.5	9.1

Source: The data of 2001-2006 is from China Statistical Yearbook 2007

1.3 Status of China's FTA with other countries

China has started the construction of its FTA network since 2003. By far, FTA has become a new form and a new starting point of China's opening cause and a new platform to establish win-win relations with other economies after China's accession to WTO in 2001. In 2007, China initiated the FTA Strategy in the 17th CPC Congress, further emphasizing the significance of FTA construction on China's external trade and economic cooperation. Currently, 12 FTAs concerning 29 economies have been concluded or are in the process of negotiations. Trade with these 29 trade partners covered 1/4 of China's total foreign trade. The related information on these FTAs is described in Table 1.4 and Table 1.5. Besides negotiations with these 29 economies, China has also completed joint studies on the feasibility of FTAs with India and Norway, and is currently undertaking the joint study with Korea.

Table 1.4 China's FTAs Concluded

FTA	Time	Major Contents
<p>Closer Economic Partnership Arrangement (CEPA) Between Mainland China and Hong Kong Special Administrative Region (Hong Kong SAR)</p>	<p>Signed on June 29, 2003</p>	<p>China signed Closer Economic Partnership Arrangements (CEPA) with its Hong Kong Special Administrative Region on June 29 2003. Under the agreements, from January 1st 2004, China began to implement a staged elimination of tariffs on imports originating in Hong Kong, and fully eliminated tariffs on imports originating in Hong Kong by 1 January 2006. Market access requirements for Hong Kong service suppliers would be further relaxed. The implementation of CEPA and their supplements spurred the liberalization of trade in goods and services and the facilitation of trade and investment between the mainland and Hong Kong SAR.</p> <p>4 Respective Supplementary Agreements to the Mainland-Hong Kong CEPA was signed in 2004, 2005, 2006 and 2007, expanding the coverage of CEPAs.</p> <p>Liberalization of trade in goods: The Central Government has eliminated tariffs on products originated in Hong Kong from January 1st 2006; The two sides agreed to eliminate all the tariff quotas and non-tariff measures, and not to initiate anti-dumping and countervailing duty investigations, and has also reached consensus on safeguard measures.</p> <p>Opening of service sectors to Hong Kong SAR: Mainland China will gradually open the market to Hong Kong's services sectors. To facilitate the smooth development of trade in services, the two sides will promote the mutual recognition of business professionals.</p> <p>Trade and investment facilitation: To enhance the cooperation in trade and investment promotion, customs clearance facilitation, SPS, food safety, quality standard, E-commerce, transparency of laws and regulations, SME cooperation, cooperation in traditional Chinese medicine and exhibitions.</p>
<p>CEPA Between Mainland China and Macao SAR</p>	<p>Signed on October 17, 2003</p>	<p>Same with the Mainland-Hong Kong CEPA.</p>
<p>China – ASEAN FTA</p>	<p>The Agreement on Dispute Settlement</p>	<p>China will establish the FTA by 2010 with 6 ASEAN countries, and by 2015 with 4 new ASEAN member countries. Most of the tariff rate</p>

Mechanism and the Agreement on Trade in Goods were signed in November 2004, effective from January 1, 2005 and July 20, 2005, respectively. The Agreement on Trade in Services was signed on January 14, 2007, effective from July 1, 2007.

will be reduced to 0-5%, and non-tariff barriers will be eliminated.

Trade in goods: In 2002, China and ASEAN concluded *China-ASEAN Framework Agreement on Comprehensive Economic Cooperation*, and agreed to implement the “Early Harvest” Program. Under this program, tariff reduction will first be carried out in agricultural sectors, including products of over 600 tariff lines, such as vegetables and fruits. ASEAN and China implemented the Early Harvest Program from January 1st 2004, and tariff rates of these products had already been reduced to zero by January 1st 2006. *The Agreement on Trade in Goods* cover tariff reduction and elimination, transparency, ROO, elimination of non-tariff barriers, safeguard measures, recognition of China’s market economy status. In line with the agreement, China and ASEAN started full tariff reduction as from July 20th 2005. China’s average tariff rate on ASEAN products has been reduced to 8.1% in 2005, 6.6% in 2007, and will be further reduced to 2.4% in 2009. By 2010, 93% of China’s import from ASEAN will enjoy 0 tariff rate. ASEAN countries will made similar commitments towards China. By 2010, 90% of China’s export to ASEAN will enjoy 0 tariff rate.

Trade in Services: *The Agreement on Trade in Services* has 4 parts, consisting of 33 articles and 1 annex. The specific commitments of China and 10 ASEAN countries were listed in the Annex.

As for the part of specific commitments, it includes Market Access, National Treatment, Additional Commitments, Schedule of Specific Commitments, Application and Extension of Commitments, Progressive Liberalization, Modification of Schedules. According to the Agreement, China will, based on its WTO commitments, make new market access commitments to ASEAN countries, covering 26 sub-sectors in the five sectors of construction, environmental protection, transportation, recreational, cultural and sporting services, and business services. ASEAN countries have also made new commitments to China based on their WTO commitments.

Investment: China has signed Agreement on Encouraging and Protecting Mutual Investment with all the ASEAN countries. China and ASEAN

are actively promoting negotiation in investment under the FTA framework.

Dispute Settlement: The Agreement on Dispute Settlement Mechanism entered into force from January 1, 2005, including articles such as Scope and Coverage, Consultations, Conciliation or Mediation, Appointment of Arbitral Tribunals, Composition of Arbitral Tribunals, Functions of Arbitral Tribunals, Proceedings of Arbitral Tribunals, Suspension and Termination of Proceedings, etc. This is the legal instrument dealing with disputes arising under the FTA framework.

This is the first FTA China has concluded with Latin American countries.

Trade in goods: The FTA includes market access, ROO, TBT, SPS, trade remedy, dispute settlement, and related legal and technical issues. According to the agreement, 74% of Chile's tariff lines will be immediately reduced to zero tariff rate on the date the Agreement enters into force, and 63% of China's tariff lines will be reduced to zero by January 1st of 2007. There are also two other categories of products which are applicable for tariff reduction for Chile and China: "Year 5" category, meaning import customs duties shall be removed in five equal annual stages and shall be duty-free by January 1st of 2010; and "Year 10" category, meaning import customs duties shall be removed in ten equal annual stages and shall be duty-free by January 1st of 2015. 97% of tariff lines will be reduced to zero tariff rate by 2015, but the two countries each maintain below 3% of tariff lines as exclusion products, which are not subject to tariff elimination. The exclusion products mainly include textile raw materials from China and certain type wood and paper products.

Trade in services: On April 13, the two countries signed the Supplementary Agreement on Trade in Services of the China-Chile FTA.

The Agreement consists of 22 articles and 2 annexes. The main body could be divided into 4 general parts of Scope and Coverage, Obligations and Disciplines, Specific Commitments, and Institutional articles. The two annexes are Temporary Movement of Business Persons and Schedules of Specific Commitments. According to this Agreement, China's 23 sectors or subsectors including computer, management

China - Chile
FTA

The
China-Chile
Free Trade
Agreement was
signed on
November 18
2005, effective
from October 1,
2006. On April
13 2008, China
and Chile
signed the
Supplementary
Agreement on
Trade in
Services of the
China-Chile
FTA

consulting, mining, environmental, sporting, air transport etc., and Chile's 37 sectors or subsectors including legal, architectural design, engineering, computer, R&D, real estate, advertising, management consulting, mining, manufacture, leasing, distribution, education, environmental, tourism, sporting, air transport etc., will open further to the other party based on their respective WTO commitments. The two countries agreed that they will endeavor to implement the agreement from January 1 2009, after the completion of necessary domestic legal procedures by each Party.

This agreement lists a specific annex on Temporary Movement of Business Persons, and the Parties establish a Working Group on temporary entry of business persons under the Committee on Trade in Services comprising representatives of each Party. The main functions of the Working Group are the facilitation and simplification of visa issues for temporary entry for business persons. The Working Group will meet regularly so as to set up a stable communication mechanism to provide facilitation to business persons.

As agreed, the two countries will commence negotiations on investment on a mutually advantageous basis in due course.

Besides, the two countries also carried out cooperation in economic, SME, cultural, education, science and technology, environmental protection, labor and social security, IPR, mineral product and industrial sectors.

Further detailed information could be found at the MOFCOM website (www.mofcom.gov.cn).

Trade in goods: The Agreement consists of articles in National Treatment and Market Access for Goods, Rules of Origin, Trade Remedies, SPS, TBT, Transparency, Investments, Dispute Settlement, etc. The import customs duties will be eliminated in two phases. The first phase is within five years after entry into force of this Agreement. During this phase, the two countries will reduce or eliminate import duties on 85% of their 8-digit tariff lines, and import duties on 36% of their 8-digit tariff lines will be reduced to 0 within 3 years. The second phase starts from the sixth year after entry into force of this Agreement. The two countries will eliminate the tariffs of no less than 90% of products, both in terms of tariff lines and

China -
Pakistan FTA

The Agreement
was signed in
November
2006, effective
from July 1,
2007.

trade volume within a reasonable period of time.

Trade in Services: 3 rounds of negotiations on trade in services have been carried out.

Investment: The two countries agreed on investment promotion and protection, investment treatment, injury compensation and investment dispute settlement, etc. so as to promote the bilateral investment.

China and New Zealand launched their FTA negotiation from November 2004. During their 15th round of negotiation, the two sides have reached consensus on the effective contents of the FTA. The contents include trade in goods, trade in services and investment.

The Agreement consists of 214 Articles in 18 Chapters. It's a legal document regulating the further market opening to each other and further cooperation between China and New Zealand, based on their respective WTO commitments.

On trade in goods, New Zealand will eliminate all tariffs on imported products from China before January 1, 2016, and China will abolish most tariffs on imported products from New Zealand before January 1, 2019.

On Trade in Services, New Zealand made WTO-plus commitments to China on 16 subsectors of the 4 sectors of business, architecture, education and environmental services, and China made WTO-plus commitments to New Zealand on 15 subsectors of the 4 sectors of business, environmental, sporting and recreational, and transportation services.

On movement of business persons, the two parties committed to further facilitate the exchange of people of their countries. New Zealand will provide 800 working licenses to China's 5 occupations of Traditional Chinese Medicine ("TCM") practitioners, Chinese chefs, Mandarin teaching aides, Chinese *Wushu* martial arts coaches, and Chinese tour guide, and will permit at least 1000 Chinese professionals in 20 occupations of latheman, solderer, computer application engineers, auditors, etc. to work in New Zealand.

On Investment, the Agreement made clear definition on trade promotion and protection, and set up effective mechanism for investment-related dispute settlement.

Besides, the Agreement has also made institutional arrangement on cooperation in

China- New
Zealand FTA

The FTA was
signed on April
7 2008.

customs, sanitary and phytosanitary, IPR, etc between the two countries.

Table 1.5 China's FTAs Under Negotiation

Name	Date of Negotiation Launching	Trade Partners Involved	Contents
China-SACU (Southern African Customs Union)	June 29, 2004	South Africa, Namibia, Lesotho, Swaziland and Botswana	No effective negotiations have been carried out.
China-GCC (Gulf Cooperation Committee)	July 6, 2004	UAE, Bahrain, Kuwait, Oman, Qatar, and Saudi Arabia	4 rounds of negotiations have been carried out.
China - Australia	April 18, 2005	Australia	11 rounds of negotiations have been carried out, concerning recognition of China's market economy status, etc.
China - Singapore	October 26, 2006	Singapore	4 rounds of negotiations have been carried out.
China - Iceland	April 11, 2007	Iceland	3 rounds of negotiations have been carried out, concerning trade in goods, trade in services, investment and economic cooperation.
China - Peru	September 7, 2007	Peru	4 rounds of negotiations have been carried out.

2. TRADE AND INVESTMENT POLICIES AND SYSTEMS

2.1 Introduction

Since 1978, China had been progressively reforming its economic system, with the objective of establishing and improving the socialist market economy. Even before it joined WTO, China has continuously reduced its tariff rate, eliminated non-tariff barriers, broadened the market access opportunities of trade in services, improved its investment environment, and deepened its reform in administrative regime. China has become one of the most open economies in the world.

China's accession to WTO was a new starting point for China's further opening. The overall trade regime will be increasingly tariff-based as China eliminates import quotas, licenses, designated trading practices and other non-tariff barriers, especially since the early 1990s. The substitution of import quotas with tariff-rate quotas (TRQs) for some agricultural commodities should also help strengthen the transparency of the trade regime. Under its WTO commitments, China further reduced its average tariff rate to 9.9 percent by 2005. The average tariff rate in 2007 was reduced to 9.8 percent, of which, the tariff rate for agricultural products was 15.2%, and that for industrial products was 8.95%.

China's WTO commitments on trade in services represent a milestone in its opening to services. A series of new laws and regulations on foreign investment are promulgated concerning such services sectors as insurance, finance, marketing, telecom and professional services, with some other legislation in the process of drafting. In these sectors, full access will eventually be granted to foreign services providers through transparent and automatic licensing procedures. China will also remove restrictions on trading and domestic distribution for most products. The industrial policies for foreign investment, after this extensive amendment, will serve as an impetus for more inflow of investment.

A number of fundamental changes to China's legal and regulatory frameworks at the central government level have been made. Since 2000, the Chinese government had endeavored to make its laws and regulations on import and export consistent with the WTO rules. In September 2001, the State Council issued a special circular requesting the local governments to review local application, non-discrimination and transparency. This work has been finished and a sound and effective legal and regulatory system on trade administration has already been put in place to ensure the uniform implementation

of trade and investment policy. By far, China has issued three basic laws on attracting foreign investment. The new Foreign Trade Law has been published. Matching regulations on the Foreign Trade Law, such as Regulations on Anti-Dumping Measures, Regulations on Countervailing Measures, Regulations on Safeguard Measures, Regulations on Import and Export of Goods, and Regulations on Import and Export of Technology, etc., have been published.

After joining WTO, the WTO Notification and Enquiry Bureau of the Chinese Government was established within MOFCOM, and has already provided accurate and reliable information on trade policies to WTO members.

China not only fully realizes its WTO commitments and promotes liberalization of the multilateral trading system, but also fosters opening and deepening reforms through unilateral, bilateral and regional level. These actions have been crucial in promoting its integration with the global trading system and in the coming years will further facilitate China's ongoing integration with the global economy and generate benefits for most trading partners.

2.2 Measures Affecting Trade in goods

2.2.1 Tariffs

China's tariff policy is to promote economic reform and opening of the economy. The purpose of levying tariffs is to regulate imports so as to promote and support domestic production. It will also serve as an important source of fiscal revenue for the central government.

Bound tariffs are implemented for all products in China. In recent years, China has significantly lowered its simple average import tariff rates, and has realized its WTO commitments ahead of the schedule (See Tables 2.1 and 2.2).

Table 2.1 Simple Average Tariff Level of China (%)

Year	1992	1993	1996	1997	2000	2001	2002	2003	2004	2005	2006	2007
Tariff	43.2	39.9	23.0	17.0	16.4	15.3	12.0	11.0	10.4	9.9	9.9	9.8

Sources: Ministry of Finance, China.

Table 2.2 China's Commitments to WTO on Tariff Level (%)

Year	Average import tariff rate	Average import tariff rate of manufactured products	Average import tariff rate of agricultural products
2005	10.1	9.3	15.5
2006	10.1	9.3	15.5
2007	10.1	9.3	15.5

Source: Protocol on the Accession of the People's Republic of China

Under the Regulation on Import and Export Tariff (Article 9), duty rates on imports include: MFN tariff rates, agreement tariff rates, special preferential tariff rates, general tariff rates, tariff quota rates and interim tariff rates.

MFN tariff rates shall apply to goods imported from and originated in the members of the WTO providing the MFN treatment is mutually reciprocal between the People's Republic of China and these members; or those countries or regions with which the People's Republic of China has concluded a bilateral trade agreements for reciprocal tariff preference; or the Customs territory of the People's Republic of China.

The agreement tariff rates shall apply to goods imported from and originated in the countries or regions which join together with the People's Republic of China into regional trade agreements for tariff preferences.

The special preferential tariff rates shall apply to goods imported from and originated in the countries or regions with which the People's Republic of China has concluded a special tariff preferential agreement. This type of tariff rates is more preferential than the agreement tariff rates.

The general tariff shall apply to the imported goods originated from other resources or/and to the imported goods of undetermined origin;

The tariff quota rates shall apply to imported goods which are subject to the tariff quota administrative regulations;

The interim tariff rates are applied for a specific period of time to certain goods.

At present, the products subject to tariff quota rate administration in China include wheat, corn, rice, sugar, wool, wool tops, cotton and three categories of chemical fertilizers.

China's tariff level and structure will be detailed in Part 3.4.

2.2.2 Non-Tariff Barriers

Apart from tariffs, China has implemented other policies in foreign trade administration, including: technical regulations and standards, conformity assessment procedures, sanitary and phytosanitary measures, pre-shipment inspection, rules of origin, import and export licensing system, customs valuation and trade remedies. After China's accession to the WTO, the Chinese government has been making great

efforts to ensure that the policies adopted are WTO consistent.

AQSIQ is a ministerial administrative organ in charge of national quality, metrology, entry-exit inspection, animal and plant quarantine, import and export food safety, certification, accreditation, standardization, and administrative law enforcement.

Certification and Accreditation Administration of the People's Republic of China (CNCA) is the governmental organ established and authorized by the State Council and administered by AQSIQ for management, supervision and overall coordination of certification and accreditation in China.

China Standardization Administration specializes in the management of national standardization, actively participates in the formulation of international standards and the harmonization between international and national standards.

A Taxes and Duties

There are about 8 categories of taxes in Chinese taxation system. Three major types of taxes are levied on products and services: a) VAT levied on goods and services for processing, maintenance and assembling; b) the Consumption Tax on some selected consumer products; and c) the Business Tax on providing services, transferring intangible assets and selling real estate. Both the VAT and the Consumption Tax are applicable to entities importing goods. VAT and the Consumption Tax on imported goods are collected by the General Administration of Customs at the point of entry. VAT is reimbursed once goods are exported. Exported goods are exempted from the Consumption Tax.

As for the taxation authority, the State Council determines all policies concerning the levying of VAT and the Consumption Tax, adjustment of tax types and tax rates (tax values), as well as the tax exemption of VAT, the Consumption Tax and the Business Tax. The laws and regulations are interpreted and implemented by the Ministry of Finance and the State Administration of Taxation. VAT and the Consumption Tax are levied and administered by the State competent departments of taxation, while the Business Tax is collected and administered by the local competent departments of taxation.

The followings are the scopes and rates of VAT, the Consumption Tax and the Business Tax (table 2.3, table 2.4 and table 2.5).

Table 2.3 Scopes and Rates of VAT

Items	Rates
Exported goods (except those to which there are other national prescriptions)	0
1 agricultural, forestry, livestock and aqua cultural products 2 edible plant oil and stated foodstuff products; 3 water, central heating, air conditioning, hot water, gas, LPG, natural gas, methane, civil coal products 4 books, papers, magazines (except newspapers and periodicals issued by post office) 5 feedstuff, fertilizer, pesticide, agricultural machinery, agricultural plastic film 6 products of mineral and non-mineral, coal	13%
crude oil, well salt and other goods not mentioned above, services of machining, repair, make repairs and supply replacements.	17%

Source: www.chinatax.gov.cn

Table 2.4 Scopes and Rates of the Consumption Tax

Items	Rates (duty level)
Tobacco 1 first-class cigarette 2 second-class cigarette 3 third-class cigarette 4 cigar 5 tobacco filament	50% 40% 25% 25% 30%
Wine and alcohol 1 foodstuff distilled spirit 2 potato distilled spirit 3 yellow wine 4 beer 5 others 6 alcohol	25% 15% 240yuan RMB/ton 220yuan RMB /ton 10% 5%
Cosmetic	30%
Skin and hair protection Products	8%*
Precious bijouterie and jade 1 Gold & silver ornaments 2 others	5% 10%
Firecracker, firework	15%
Gasoline 1 no-lead gasoline 2 lead gasoline	0.2yuan RMB /liter 0.28yuan RMB / liter
Diesel oil	0.1yuan RMB /liter
Automobile tire	10%
Motorcycle	10%
Car	3%、5%、8%**

*: Fancy soap: temporarily reduced, tax rate is 5%; **: According to type and cylinder volume.

Source: www.chinatax.gov.cn

Table 2.5 Scopes and Rates of the Business Tax

Items	Rates
-------	-------

1、Transportation	3%
2、Construction	3%
3、Finance And Insurance	8%
4、Telecommunication	3%
5、Culture And Sporting	3%
6、Entertainment	5%—20%
7、Services	5%
8、Transferring Intangible Assets	5%
9、Selling Real Estate	5%

Source: www.chinatax.gov.cn

B. Prohibited Imports

China prohibits or restricts the importation of certain commodities, including weapons, ammunition and explosives, narcotic drugs, poisons, obscene materials and those foodstuffs, medicines, animals and plants which are inconsistent with China's technical regulations on food, medicines, animals and plants. Up to now China has promulgated five batches of imported goods which are prohibited. They are rhino horns, tiger bones, urban waste, clinic waste, used clothing, used machinery and electronic products and etc.

C. Subsidies

China commits that it annuls all the export subsidies prohibited by SCM (the Agreement on Subsidies and Countervailing Measures), and notifies other subsidies permitted by SCM. China eliminated its export subsidies for agriculture products as early as the beginning of 1990's and committed itself not to resume agricultural export subsidies.

The subsidy items matching with the WTO rules have been listed in the Annex 5A of the Protocol on the Accession of the People's Republic of China. Currently, there are mainly about 14 domestic subsidy items in China (table 2.6).

Table 2.6 Major Domestic Subsidy Items in China

Title	Period covered	Policy objective and/or purpose	Form of the subsidy	Authority for the subsidy
Preferential income tax policies for foreign-invested enterprises in the Special Economic Zone of the Pudong area of Shanghai.	1991—	To accelerate the opening-up of the region and absorb foreign investment.	Application of preferential income tax rate, and exemption of income tax.	State Administration of Taxation and local taxation authorities.
Loans of the State Policy Banks (the State Development Bank, the Export and Import Bank of China, and the Agriculture Development Bank of China).	1991—	To adjust investment structure	Loans	
Financial subsidies for poverty alleviation.	1991—	To alleviate poverty	Direct appropriation and provision of poverty alleviation loans	State Planning Commission, Ministry of Finance, the Agriculture Development Bank of China.
Funds for technology renovation, research and development.	1991—	To encourage and promote application of science and technology in the rural areas.	Grant and loans.	Ministry of Finance
Infrastructure construction funds for agricultural water conservancy projects	1991—	To improve agricultural irrigation systems and flood-defending facilities.	Grant.	Ministry of Finance and the Provincial Bureau of Finance
Preferential income tax treatment to enterprises utilizing waste.	1993—	To encourage resources recycle.	Income tax reduction and exemption.	State Administration of Taxation and local taxation authorities.
Preferential Income tax treatment to enterprises in poverty stricken regions	1993—	To alleviate poverty.	Income tax reduction and exemption.	State Administration of Taxation and local taxation authorities.
Preferential Income tax treatment to enterprises transferring technologies.	1993—	To encourage technology transfer and extension.	Income reduction and exemption.	State Administration of Taxation and local taxation authorities.
Preferential income tax treatment to enterprises which provide job opportunities for the unemployed	1993—	To increase job opportunities.	Income reduction and exemption.	State Administration of Taxation and local taxation authorities.
Preferential Income tax treatment to disaster stricken enterprises	1993—	To bring down disaster losses.	Income reduction and exemption.	State Administration of Taxation and local taxation authorities.
Preferential Income tax treatment to high-tech enterprises.	1994—	To accelerate the development of high-tech industries.	Income tax reduction and exemption.	State Administration of Taxation and local taxation authorities.
Subsidy to the forestry industry.	1994—	To encourage full utilization of forest resources.	Refund of value-added tax	State Administration of Taxation and local taxation authorities.

Source: Protocol on the Accession of the People's Republic of China

2.2.3. Rules of Origin

In China, rules of origin can be divided into non-preferential and preferential rules.

A. Non-preferential Rules of Origin

Regulations on Rules of Origin of Import and Export Goods of the People's Republic of China took effect on January 1st, 2005, and applies in determining the origins of imports and exports in non-preferential trading measures implementation, such as MFN treatment, anti-dumping, anti-subsidy, safeguard measures, administration of marks of origin, country quotas, tariff quotas and other activities such as government procurement and trade statistics. Marks of origin consist of geographical indications which is a part of special origin field for some specific products. General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China (AQSIQ) and State Administration for Industry & Commerce promulgate Administrative Regulations on Protection of Geographical Indication Products.

China's non-preferential rules of origin are based on two criteria, i.e., wholly obtained and substantial change. Substantial change is applicable to origins where two or over two countries/regions are involved in the production. The determination of substantial change of the import and export products use change of tariff lines as the basic criterion, and when change of tariff lines cannot fully reflect the substantial change, ad valorem percentage, stages of production or processing will be used as supplementary criteria.

B. Preferential Rules of Origin

China's preferential rules of origin are applicable to products originally produced by trade partners of the following types. The basic criteria of China's preferential rules of origin are wholly obtained and content of the region. Specific regulation on products has both the criterion of content of the region, and the criteria of change of tariff lines and stage of processing.

a). CEPAs with Hong Kong SAR and Macao SAR

China signed the Closer Economic Partnership Arrangements (CEPA) with its Hong Kong and Macao Special Administrative Regions, respectively. In these two arrangements, rules of origin consist of "substantial processing" criteria including stage of production or processing, change of tariff lines, 30% of value added, other criteria and some mixed criteria.

b) Special preferential tariff treatment

China grants some special preferential tariff treatment to some least developed nations. The rules of origin under these special preferential tariff treatment use “change of tariff lines” or 40% of value added as the substantial change.

c) FTAs

China has signed FTAs with ASEAN, Pakistan, Chile, and New Zealand. Among these FTAs, the ROO of China-New Zealand FTA uses change of tariff lines as the basic criteria, and the ROO of other FTAs uses 40% regional content as the basic criteria. Specific ROOs are adopted for specific products.

All the certificates of origin under FTA agreements established by China and other countries should be approved and issued by the government authorities in China. All the enterprises entitled to apply for a certificate of origin should be registered in the issuing authority in advance. Prior to the exportation of the goods, the issuing authority takes appropriate measures to examine the originating status of the products and fulfillment of the FTA requirements so as to ensure the accuracy and authenticity of the certificate of origin.

Also, information on rules of origin determination, administrative or judicial review and origin pre-determination can be referred to at www.customs.gov.cn. Information with regards to the regulation on the issuance of certificates of origin can be referred to at www.aqsiq.gov.cn.

2.2.4 Sanitary and Phytosanitary (SPS) Measures

In order to protect the life and health of human beings, animals and plants, China adopts and applies necessary SPS measures, and has made every effort to base its SPS measures on international standards, guidelines and recommendations.

With the booming growth of China’s import of agricultural products and food, quarantine inspection measures are required to prevent the import of pest and diseases, protect agricultural and forestry production and at the same time, avoid harm to people’s health through imported unsafe food.

The General Administration of Quality Supervision, Inspection Quarantine of the People’s Republic of China (AQSIQ) is responsible for the entry and exit of plants, animals, their products, and food safety concerning inspection and quarantine. Based on risk analysis, AQSIQ is authorized to determine whether import is permitted, to establish requirements for entry-exit inspection and quarantine, and to negotiate with

related government authorities of other countries on general SPS issues or detailed inspection and quarantine requirements for specific products.

Import permits for animals and plants subject to sanitary requirements, valid for a period of six months, must be obtained from the AQSIQ prior to import. Applications must be submitted to local authorities of inspection and quarantine, and permit or notice of refusal will be issued within 20 working days of receipt of the application once it is accepted. The applicant must reapply for the permit if the quantity shipped exceeds the quantity indicated in the permit by 5%.

China's laws and legislations relating to its SPS regime include: Law of the People's Republic of China on the Entry and Exit Animal and Plant Quarantine, Regulations for the Implementation of the Law of the People's Republic of China on the Entry and Exit Animal and Plant Quarantine, Law of the People's Republic of China on Frontier Health and Quarantine, Regulations for the Implementation of the Law of the People's Republic of China on Frontier Health and Quarantine, and Law of the People's Republic of China on Food Hygiene, and so on..

China's national SPS enquiry point is located in the Research Center of Standards and Technical Regulations of AQSIQ.

2.2.5. Technical Barriers to Trade

In China, the systems of quality license, statutory inspection and CCC certification apply to import and export products.

Technical regulations take a variety of forms, which include relevant laws of the state, regulations and rules promulgated by government agencies, and other regulatory documents instituted by relevant organs, e.g., mandatory standards. Mandatory standards in China are directly related to legitimate objectives such as product safety, health and environmental protection and so on, and their implementation is mandatory, which complies with the definition of "technical regulation" under the Technical Barriers to Trade (TBT) Agreement. Relevant information on preparation and revision of mandatory standards, and adopted standards are timely published on AQSIQ Gazette and /or China Standardization and /or the Standardization Administration of the People's Republic of China (SAC) website.

In 2001, AQSIQ promulgated The Management Measures of Adopting

International Standards, specifying the principles and procedures for adopting international standards. Since 1980, China has always referred international standards as the base for its national standards, which develops into an important technical and economic policy. Relevant laws and regulations of China request a review of its national standards at least every five years, so as to ensure their fitness for economic development, and their alignment with international standards.

China performs the inspection of import and export commodities in accordance with law. The principles followed in China import and export commodity inspection are: protecting human health and safety, animal and plant life and health, and the environment, preventing deceptive practices and preserving security of the State. Import and export inspection refers to conformity assessment as to whether the import and export commodities meet the compulsory requirements of the technical regulations of the State. The procedures for conformity assessment include: sampling, testing and inspection; evaluation, verification and assurance of conformity; and registration and approval as well as their combination, and laboratory certification and metrology.

For the purposes of protection of human life or safety, animal or plant life or health, the environment and State security, compulsory certification is required concerning relevant products. Products subject to CCC certification may be released from the manufacturer, marketed, imported or used for any commercial purposes only after they are certified and have certification mark displayed. With regard to products subject to compulsory certification, the State shall apply one product catalogue, one set of technical regulations, standards and conformity assessment procedures, one obligatory mark and one structural fee chart.

In 1983 China started the export quality license system for some products. At present there are 47 products subject to this system.

According to the Law of Metrology and its implementation regulations, AQSIQ conducts the approval for the model of imported measurement instruments and the verification of imported measurement instruments. It is the function of AQSIQ to popularize legal metrology units, organize establishing, approving, and administering primary national metrological standards, metrological standards and reference materials; to work out national verification system for metrological instruments, verification standards and procedures, and technical standards for measurement; and to organize unit value dissemination and comparison. AQSIQ is also responsible for standardize and

supervise measuring behavior for commodities.

China's laws and legislations relating to its TBT regime include: Law of the People's Republic of China on Import and Export Commodity Inspection, Regulations for the Implementation of the Law of the People's Republic of China on Import and Export Commodity Inspection, Law of the People's Republic of China on Product Quality, Certification and Accreditation Regulation of the People's Republic of China, Standardization Law of the People's Republic of China.

China adopts a registration system for foreign suppliers and domestic consignees of imported solid wastes that may be used as raw materials. Before signing a foreign trade contract, such foreign suppliers or domestic consignees shall procure a registration from AQSIQ or the entry –exit inspection and quarantine authority. China adopts a pre-shipment inspection system for the import of solid wastes that may be used as raw materials, under which the consignee shall, when importing such commodities, present the pre-shipment inspection certificate issued by the entry-exit inspection and quarantine authority or the inspection body designated by AQSIQ.

The consignees of used mechanical and electrical products permitted by China to be imported shall report the import for the record to AQSIQ or the entry-exit inspection and quarantine authority before signing the foreign trade contract. With regard to the imported used mechanical and electrical products that have fairly high value or concern the safety of human lives and property, health or environmental protection, pre-shipment inspection shall be conducted according to relevant provisions of China; and the consignee shall, when importing such commodities, present the pre-shipment inspection certificate issued by the entry-exit inspection and quarantine authority or the inspection body designated by AQSIQ.

China's national TBT enquiry point is located in the Research Center of Standards and Technical Regulations of AQSIQ.

2.3 Services

China has witnessed rapid development of trade in services in recent years. According to the latest statistics released by China State Administration of Foreign Exchange, China's total trade in services amounted to USD 192.83 billion in 2006, with the export and import at USD 92 billion and USD 100.83 billion, 3.7, 3.7 and 3.6 times

as much as that in 1997, respectively. (See Table 2.7 and Figures 2.1-2.5)

Table 2.7 China's Export and Import of Trade in Services

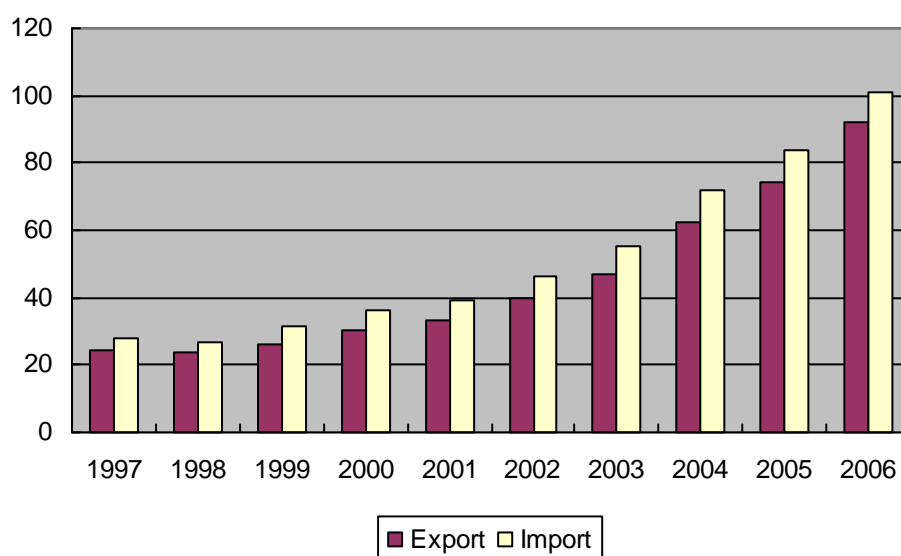
Unit: USD Billion

		1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Trade In Services	Total	52.54	50.57	57.84	66.46	72.60	86.27	102.04	134.57	158.20	192.83
	Export	24.57	23.90	26.25	30.43	33.34	39.74	46.73	62.43	74.40	92.00
	Import	27.97	26.67	31.59	36.03	39.27	46.53	55.31	72.13	83.80	100.83
	Balance	-3.40	-2.78	-5.34	-5.60	-5.93	-6.78	-8.57	-9.70	-9.39	-8.83
Transport	Export	2.95	2.30	2.42	3.67	4.64	5.72	7.91	12.07	15.43	21.02
	Import	9.94	6.76	7.90	10.40	11.32	13.61	18.23	24.54	28.45	34.37
Tourism	Export	12.07	12.60	14.10	16.23	17.79	20.39	17.41	25.74	29.30	33.95
	Import	8.13	9.21	10.86	13.11	13.91	15.40	15.19	19.15	21.76	24.32
Other business services	Export	7.68	6.21	6.91	7.08	7.28	8.76	15.06	15.95	16.88	19.69
	Import	5.25	5.44	6.59	6.12	5.74	4.93	6.46	8.48	9.39	11.26
Consulting	Export	0.35	0.52	0.28	0.36	0.89	1.28	1.88	3.15	5.32	7.83
	Import	0.47	0.76	0.52	0.64	1.50	2.63	3.45	4.73	6.18	8.39

Source: China State Administration of Foreign Exchange

Figure 2.1 Export and Import of Trade in Services (1997-2006)

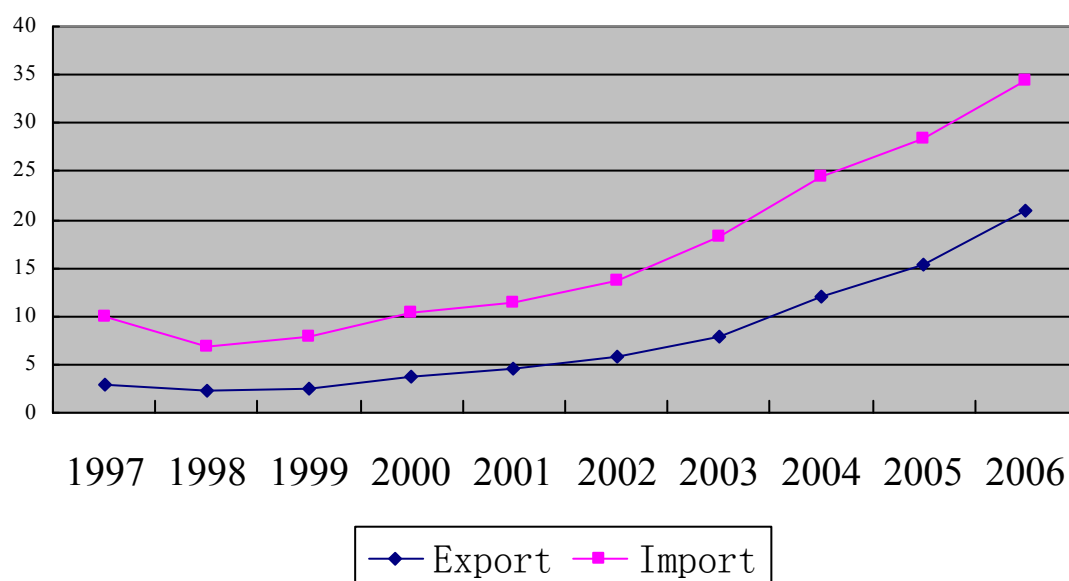
Unit: USD Billion



Source: China State Administration of Foreign Exchange

Figure 2.2 Export and Import of Transport Services (1997-2006)

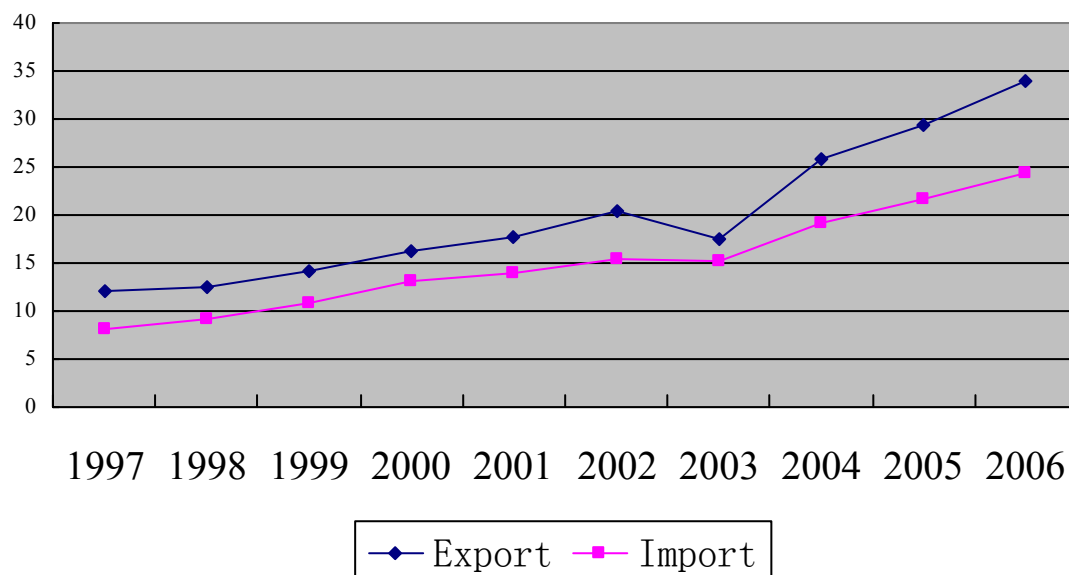
Unit: USD Billion



Source: China State Administration of Foreign Exchange

Figure 2.3 Export and Import of Tourism (1997-2006)

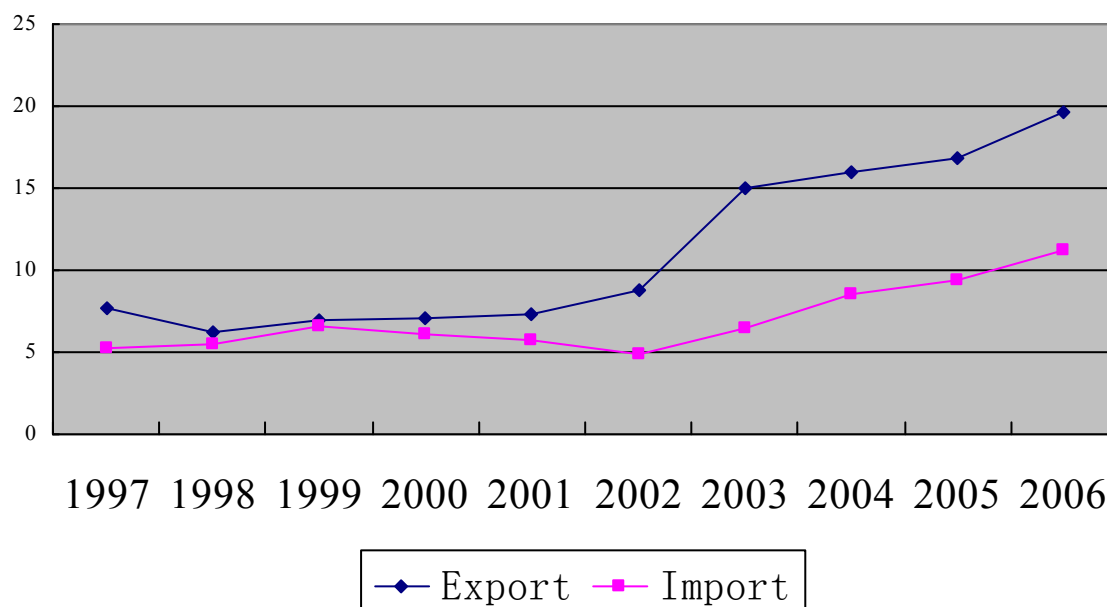
Unit: USD Billion



Source: China State Administration of Foreign Exchange

Figure 2.4 Export and Import of other Business Services (1997-2006)

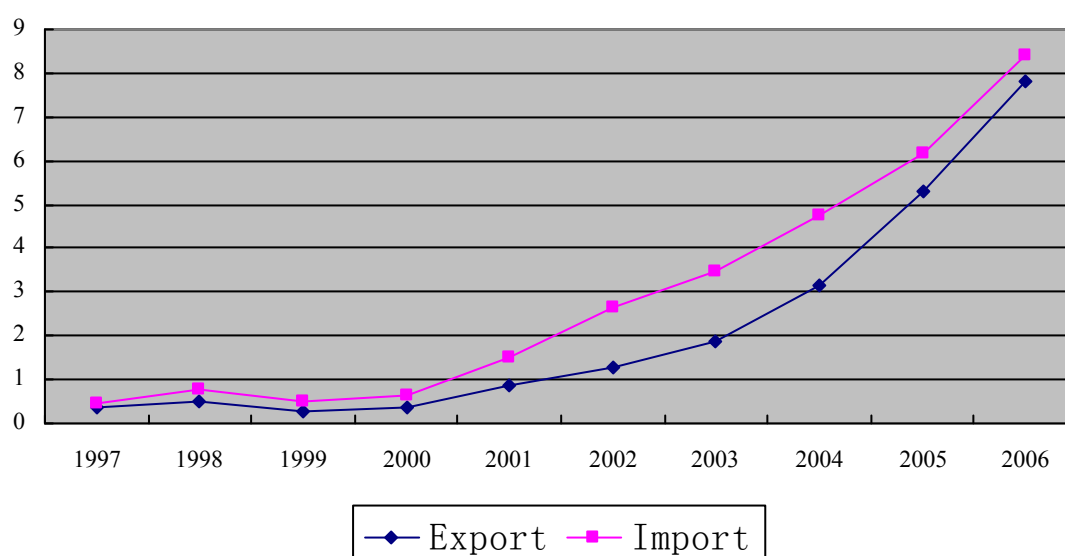
Unit: USD Billion



Source: China State Administration of Foreign Exchange

Figure 2.5 Export and Import of Consulting Services (1997-2006)

Unit: USD Billion



Source: China State Administration of Foreign Exchange

2.3.1 Measures Affecting Trade in Services

China's system of laws on trade in services is based on the Foreign Trade Law of the People's Republic of China taking effect on July 1, 2004 (Thereafter referred to as "Foreign Trade Law"). The system includes laws, regulations and rules concerning various sub-sectors of trade in services. The details are listed in the following sub-sectors description. In March 2007, the State Council promulgated The Decision on

Further Promoting the Development of Services Industry (No. 7 Document) which clearly defined the main goals, policies and measures of accelerating development of service industries.

All of these regulations, rules and policies have provided market access opportunities for foreign services suppliers. As shown by statistics, since 2006, foreign investment in China's services sectors has accelerated. The actually utilized foreign investment in services sectors (including banking, insurance and securities) amounted to USD 21.14 billion in 2006, accounting for 30.4% of China's total utilized foreign investment. It is also reported that 7141 foreign-funded enterprises in services sectors were established in 2006, up 106% compared with the year before, accounting for 27.2% of all the newly established foreign-funded enterprises in China. By the end of 2006, 75000 enterprises had invested in services sectors in China, and the registered capitals of foreign investment in Chinese real estate, business service, software, hi-tech exchange and service promotion sector have been USD113.44 billion, USD24.86 billion, USD8.52 billion, and USD74.8 billion, respectively, increased by 25.3%, 58.2%, 41.9%, and 31.4% year on year.

Although China has been opening its services sectors gradually and steadily, it still has some non-discriminatory quantitative restrictions and exceptional measures, mainly related to technical considerations and national safety, while in certain sectors local presence is required to better protect consumer interests or domestic market stability. China is examining such limitations and exceptions in order to reduce or remove them, as appropriate.

(1) Business Services

A. Legal Services

China has gradually opened this area and made great progress in recent years. It has eliminated the quantitative and geographical limitations on foreign law firms, and reduced the limitations on years of professional experience of representatives in these firms. China has committed to approve the establishment of representative office of such firms within 9 months. In addition, China has simplified the administrative management, and streamlined the registering procedures.

Regarding legal services, the representative office of a foreign law firm can engage in the following businesses and charge its clients for services provided: (1) to provide its

clients with consultancy on the legislation of the country/region where the lawyers of the law firm are permitted to engage in lawyer's professional work, and consultancy on international conventions, commercial laws and practices; (2) to handle, where entrusted by its clients or Chinese law firms, legal affairs of the country/region where the lawyers of the law firm are permitted to engage in lawyer's professional work; (3) to entrust, on behalf of foreign clients, Chinese law firms to deal with Chinese legal affairs; (4) to enter into contracts to maintain long-term entrustment relations with Chinese law firms for legal affairs; (5) to provide information on the impact of Chinese laws. At present, foreign law firms are not allowed to provide services related to China's laws, to engage in lawsuit activities, and to employ Chinese certified lawyers.

According to the contracts with Chinese law firms, the representative offices of foreign law firms may directly make a request to the entrusted Chinese law firms. Foreign representative offices can charge its clients when conducting businesses, but they and their members are not permitted to interpret Chinese laws to their clients and to employ Chinese lawyers.

In this area, the Administrative Regulations on Representative Offices of Foreign Law Firms in China took effect on January 1, 2002 and the Regulations on the Implementation of the Administrative Regulations on Representative Offices of Foreign Law Firms by the Ministry of Justice took effect on September 1, 2002. By the end of 2005, China had granted nearly 200 foreign law firms and 60 Hong Kong law firms, and allowed them to run businesses in several cities to provide offshore and international company law services. Half of the biggest 50 foreign law firms in the world have set up their businesses in China.

The competent authority of legal services in China is the Ministry of Justice (<http://www.moj.gov.cn>).

B. Accounting and management Consultancy Services

China provides foreigners with national treatment, and allows them to run joint venture accounting firms with a majority of shares after they pass the Certified Public Accountants (CPA¹) qualifications examination. China allows foreign accounting firms to choose their partners freely, and to engage in profit-making activities, taxation and management consulting services. Under its WTO commitments China allows foreigners

¹ CPA is a professional association with some administrative function under the Ministry of Finance (MOF). For more information on CPA, please visit: <http://www.cicpa.org.cn/>.

to provide business management and consultancy services for domestic enterprises, and to set up branch firms with whole shares.

The Ministry of Finance (MOF) released four revised auditing statements covering accounting estimates, inter-bank confirmation, capital verification, and financial statements audit on commercial bank in 2002. The MOF has been active in standardizing accounting procedures. The Chinese Securities Regulatory Commission² requires that listed companies shall appoint a certified international CPA firm to conduct audits on prospectuses and annual reports in accordance with international standards.

Currently, laws and regulations related to foreign accounting firms include: the Administration of Sino-foreign Cooperative Accounting Firms Tentative Procedures; the Provisional Regulations on Representative Offices of Foreign Accounting Firms; the Notice Concerning Permission for International Accounting Firms to Identify Member Firms in China; the Provisional Regulations on Foreign Accounting Firms to Execute Temporary Auditing Business in China; the Regulations of the People's Republic of China on Chinese Certified Public Accountants.

The competent authority of Accounting Services in China is the Ministry of Finance (<http://www.mof.gov.cn>), while the competent authority of Management Consultancy Services is the Ministry of Commerce (<http://www.mofcom.gov.cn>).

C. Advertisement Services

On December 10, 2005, the Chinese government completely opened advertisement market, in consistency with its commitments to the WTO. Wholly foreign-funded companies are allowed without further restrictions. The Advertising Law of the People's Republic of China has been put into effect. Moreover, the State Council promulgated the Regulation on Foreign-related Advertising Agency. The competent authority of advertisement services in China is the State Administration for Industry and Commerce (www.saic.gov.cn).

(2) Communication Services

A. Telecommunications

China has made great efforts to open its telecommunications services market. Foreign suppliers are permitted to provide a wide range of services through joint ventures with Chinese companies, including domestic and international wired services,

² The organization belongs to the State Council. For more information, refers to <http://www.csrc.gov.cn/>.

data services and mobile voice, value-added services, such as electronic mail, voice mail and on-line information and database retrieval, and paging services. China has cancelled all geographical restrictions on joint ventures in telecommunication services. The share of the foreign capital permitted in the joint ventures has been increasing, reaching a maximum of 49 percent for most of basic telecommunication services, a maximum of 50% for value-added telecommunication services and calling services of basic telecommunication services

On January 1st, 2002, China's Regulations on Foreign-Invested Telecommunications Enterprises went into effect. It defines the requirement of the share holding, registered capital, the Chinese and foreign partners, and licensing procedures. The regulations stipulate that foreign-invested telecommunications enterprises can undertake either basic or value-added telecommunications services. Foreign ownership may not exceed 49 percent in the case of basic telecommunications services (excluding wireless paging) and 50 percent in the case of value-added services (including wireless paging, which is otherwise categorized as a basic service).

China also accepted key principles of the WTO Agreement on Basic Telecommunications Services³ when it acceded to the WTO. In order to abide by these key principles and its commitments, China has separated post and telecommunications services, and split the state-owned China Telecom⁴, the country's largest telecommunications company, into 4 enterprises in 1999. Now, the structure and form of Chinese telecommunication industry have basically formed, and the market share of any one of the 6 biggest companies is not over 50%.

In 2006, the Ministry of Information Industry released a series of regulations: the Management Regulation on the Internet E-mail Service, the Management Regulation on Pollution Control for Electronics Information Products, the Radio Frequency Dividing Rule of People's Republic of China, the Certification Method of Testing and Approving Institutions for Wireless Equipments Shooting Characteristic and so on.

The competent authority of Telecommunication Services is the Ministry of Industry and Information Technology.

³ WTO Agreement on Basic Telecommunications Services is the Reference Paper on Telecommunication Services.

⁴ At that time it was a state owned enterprise. At present all six biggest companies becomes the equity companies.

B. Audiovisual Services (Including Film Imports)

China's Regulations on the Management of Film and Regulations on the Administration of Audio-Visual Products went into effect on February 1, 2002. They are designed to bring more transparency and order to the film and audio-visual industries, with an eye to moving toward greater commercial efficiency in accordance with domestic reform efforts and its commitments to the WTO.

China allows importing twenty foreign films annually by the type of sub-account opening request under its WTO commitments. China also partially liberalized the distribution of audio-visual products. Joint ventures are allowed to be established. Foreign investors may also provide services in construction or renovation of cinemas with foreign share less than 49.0%.

The main legislation relevant to this sector is contained in the Industrial Guidance Catalogue for Foreign Investment in China; the Temporary Regulation on Investing in Movie Theater, the Management Regulation on Investing Audio Visual Products, the Management Regulation on Audio Visual Products Distribution for Chinese-Foreign Contractual Joint Venture.

The competent authorities of Audiovisual Services are the Ministry of Culture (www.mc.gov.cn) the State Administration for Radio, Film and Television (www.sarft.gov.cn), and the General Administration of Press and Publication (<http://www.gapp.gov.cn>).

(3) Distribution and Retailing

According to China's commitment to the WTO, China has canceled the limitations on the location, ownership of a share, quantity for foreign capitals to access the commission agency and wholesales services (excluding salt and tobacco), and the retail service (excluding tobacco), China has also canceled all restricts of charter operation and distribution and retail without the fixed places for the foreign capital. But the chain stores that sale many different categories and brands, in case that their branches are over 30 houses and sale following products: food; cotton; plant oil; sugar; books, newspapers and magazine; pharmaceutical; agrochemical; agriculture film; refined oil; fertilizer; and appointed state-operated trading goods; couldn't be shared the most equities of the company by foreign capital.

On June 1, 2004, the Managing Regulation on Foreign Capital to Invest in

Commercial Fields took effect. According to this Regulation, foreign capital retailers are allowed to set up their branches in any cities at provincial level in China. On December 11, 2004 China canceled limitations on business form, location, ownership of a share, and quantity, which means that China allows foreign capitals to invest retail services without any restrictions. In 2005, 1027 foreign businesses were permitted to enter into Chinese market, 3 times as much as that from 1992 to 2004. By the end of November 2006, Carrefour, Wal-Mart, Lotus had totally developed 229 retail stores.

The main laws and regulations include: the Experimental Measures for Commercial Enterprises with Foreign Investment; the Regulations on Direct Selling Administration. The competent authority of Distribution and Retail services is the Ministry of Commerce (www.mofcom.gov.cn).

(4) Construction and Related Engineering Service

In September 2002, the Ministry of Construction and former Ministry of Foreign Trade and Economic Cooperation (now referred to as Ministry of Commerce) jointly issued Decrees 113 and 114, which opened up construction and related construction design services to joint ventures with majority foreign ownership and wholly foreign-owned enterprises. On February 13, 2003, they also jointly promulgated the Regulations on the Management of Foreign-funded Urban Planning Service Enterprises which took effect as of May 1, 2003. According to the regulations, all foreign companies, enterprises, other economic entities or individuals are allowed to provide services to urban planning.

All foreign companies, enterprises, other economic entities or individuals that hope to specialize in urban planning services in China shall set up Chinese-foreign equity joint ventures, Chinese-foreign contractual joint ventures, or ventures with exclusive foreign investment, and apply for the Certificate of Qualification of Foreign-funded Enterprises for Urban Planning Services. Apart from meeting requirements set in pertinent Chinese laws and regulations on foreign-funded enterprises, the following requirements shall be met for the establishment of foreign-funded urban planning service enterprises: (1) The foreign party shall be an enterprise or professional specializing in urban planning services in its resident country or region; (2) The applicant shall have more than 20 employees specializing in urban planning, architecture,

road transportation, gardening and related disciplines, with foreign specialists accounting for no less than 25 percent of this total, and have at least one expatriate technician specializing in urban planning, architecture, road transportation, and gardening respectively; (3) The applicant shall have technical apparatus and fixed work site as stipulated by the State.

Since December 1, 2002, wholly foreign-owned enterprises have been permitted, but they can only undertake the following 4 types of construction projects: (1) Construction projects wholly financed by foreign investment and/or grants; (2) Construction projects financed by loans or international financial institutions, and awarded through international tendering according to the terms of loans; (3) Chinese-foreign jointly constructed projects with foreign investment equal to or more than 50.0%, and Chinese-foreign jointly constructed projects with foreign investment less than 50.0% but technically difficult to be implemented by Chinese construction enterprises alone; (4) Chinese invested construction enterprises which are difficult to be implemented by Chinese construction enterprises alone can be jointly undertaken by Chinese and foreign construction enterprises with the approval of provincial government. Above permission is belonging to implementation of China's commitments to WTO in advance.

Since December 1, 2002, the following limitations on national treatments have been eliminated: a) registered capital requirements for joint venture construction enterprises are slightly different from those of the domestic enterprises; b) joint venture construction enterprises have the obligation to undertake foreign-invested construction projects. There are no discrimination treatments for domestic and foreign enterprises to enter in this field.

The Administrative Ordinance on Development and Management of Urban Real Estate (Decree No. 248 of the State Council) specifically stipulates that the registration capital and professionals for establishing a real estate development enterprise, and the development and management of real estate. The Administrative Ordinance on Development and Management of Urban Real Estate (Decree No. 248 of the State Council) and the Administrative Regulations on the Qualifications of Real Estate Development Enterprises (Decree No. 77 of MOC) make no specific provisions on the qualification administration of foreign-owned enterprises or joint ventures, with Chinese and foreign enterprises equal in status.

The competent authority of Construction and Related Engineering Services is the Ministry of Housing and Urban-Rural Development (www.mohurd.gov.cn). The main regulation is the Regulations on Administration of Foreign-Invested Construction Enterprises.

(5) Tourism and Travel Services

In December 2001, China issued the Regulations on the Administration of Tourist. It allows large foreign travel and tourism service providers to operate full-service joint venture travel agencies in four major foreign tourist destinations in China: Shanghai, Beijing, Guangzhou and Xian. Within six years after accession, wholly foreign-owned firms catering to foreign inbound tourists will be permitted, and all geographic restrictions will be removed. For now, the agencies must have an annual worldwide turnover in excess of USD40 million, and local registered capital of almost USD 500,000⁵.

China issued the Provisional Measures for the Interim Provisions on the Establishment of Foreign-Controlled and Wholly Foreign-funded Travel Agencies, effective as of July 2003, and fulfilled its commitments to the WTO in advance.

Current laws and regulations include: the Catalogue for the Guidance of Foreign Investment Industries; the Interim Provisions on the Establishment of Foreign-Controlled and Wholly Foreign-funded Travel Agencies, and the Regulations on the Administration of Tourist.

The competent authority of travel agency services, the foreign restaurant, hotel and catering services is China National Tourism Administration (www.cnta.gov.cn).

(6) Financial Services

According to its commitment to the WTO, the Chinese government has opened its financial industry mostly in time and partially even in advance. The Chinese government has committed to expand market access and professional scope. Current laws and regulations include: the Law of the Peoples Republic of China on the Peoples Bank of China, the Law of the People's Republic of China on Commercial Banks, and the Regulations of the People's Republic of China Governing Financial Institutions with Foreign Capital.

A. Banking Services

⁵ The standard is just for the joint venture travel agencies/travel operators without applying for the national agencies.

In December 2003, the Chinese Government increased the stake a single foreign investor can take in a Chinese bank from 15 to 20 percent, with a total combined 24.9 percent allowed for many foreign investors in one Chinese bank, and reduced working capital requirements for various categories of foreign banks by at least RMB 100 million.

To fulfill the WTO commitments, the Regulation of the People's Republic of China for the Administration of Foreign Banks was formally enforced on December 11, 2006. China Banking Regulatory Commission announced that foreign banks could be permitted to establish branches or representative offices in China, and conduct domestic currency business with Chinese enterprises without any geographical limitation. Foreign-funded banks began to enjoy the "national treatment".

By the end of September 2006, China had already allowed foreign-funded banks to develop RMB business in 25 cities, and the number of the foreign-funded banks permitted to operate RMB business had reached 111. 73 foreign banks from 22 countries/regions have opened 191 branches and 61 sub-branches in 24 cities of China. 183 foreign banks from 41 countries/regions have opened 242 representative offices in 24 cities. The total amount of asset including RMB and foreign currency had reached USD105.1 billion, accounting for 1.9% of total asset of financial institutions in Chinese banking sector.

The competent authority of Banking Services is the China Banking Regulatory Commission ([Http:// www.cbrc.gov.cn](http://www.cbrc.gov.cn)). The banking services are regulated by the Regulations of the People's Republic of China Governing Financial Institutions with Foreign Capital and its Implementing Rules.

B. Securities Services

China Securities Regulatory Commission issued regulations on the establishment of joint venture fund management companies and securities underwriting by Chinese-foreign joint ventures shortly after China's WTO accession. Right now foreign securities firms are receiving the right to form joint ventures for fund management upon China's accession to the WTO and joint ventures for securities underwriting.

China has implemented the Provisional Measures on Administration of Domestic Securities Investments of Qualified Foreign Institutional Investors (QFII) and corresponding detailed implementing rules, which set forth the details for QFII's

qualification, criteria, approval procedures, registration and settlement, investment operations, fund management, and so on. Qualified Foreign Institutional Investors are defined in this Regulation as overseas fund management institutions, insurance companies, securities companies and other assets management institutions which have been approved by China Securities Regulatory Commission to invest in China's securities market and granted investment quota by State Administration of Foreign Exchange. Since September 1, 2006, China implemented the revised management regulation on QFII so as to reduce the related limitations and facilitate the QFII.

By far, China has already implemented all its commitments related to capital market, provided opportunities in sharing China's economic booming. By the end of 2006, China had granted to establish 8 joint venture securities companies and 24 joint venture funds management companies in which there are 11 joint venture funds management with foreign capital equity share reaching 49%. Shanghai and Shenzhen stock exchanges, each with 4 special members, and 39 foreign stock institutes in Shanghai and 19 in Shenzhen are operating directly B shares businesses.

Since February 1, 2006 China has implemented the Management Regulation on Strategic Investment to the Listed Companies for Foreign Investor, allowing foreign investors to invest companies which have completed the reforming of the ownership of a share.

The competent authority of Securities Services is China Securities Regulatory Commission (www.csrc.gov.cn).

C. Insurance Services

The competent authority of Insurance Service is the China Insurance Regulatory Commission (CIRC, <http://www.circ.gov.cn>). The insurance service is regulated by the Insurance Service Law. The main law is the Insurance Law of The People's Republic of China.

CIRC issued several new insurance regulations in recent years targeting the regulation of foreign insurance companies. The Regulation on Foreign Insurance Company effective as of Feb 1, 2002, stipulated the basic requirement of market access for foreign insurance companies. In August 2003, CIRC issued new draft implementing rules regarding capitalization requirements and transparency. These draft rules clarify licensing procedures and the lowest capital requirements for market access.

In the field of insurance China has strictly executed all its commitments to the WTO. So far, insurance industry has been completely opened excepted 2 cases, including: the foreign capital insurance companies are not allowed to operate the business of compulsory automobile liability insurance; life insurance companies must be owned by Chinese-foreign equity joint ventures, where the share of foreign capital will not exceed 50%.

(7) Transportation

A. Maritime Transportation

The competent authority of Maritime Transportation is the Ministry of Transport (Website: [Http:// www.moc.gov.cn/](http://www.moc.gov.cn/)). Laws and regulations include: the Regulations on International Maritime Transportation and its Implementing Rules, and the Provisions on Administration of Foreign Investment in International Maritime Transportation.

Upon approval of the Ministry of Transport, foreign investors may, in accordance with relevant laws, administrative regulations and other pertinent provisions of the State, make investment to establish Chinese-foreign equity joint ventures or contractual joint ventures to be engaged in international shipping services, and make investment to establish Chinese-foreign equity joint ventures, Chinese-foreign contractual joint ventures or wholly foreign capital enterprises to offer such routine services as canvassing of cargoes, issuance of bills of lading, settlement of freight and signing of service contracts for their owned or operated vessels; if they have not established any Chinese-foreign equity joint ventures, Chinese-foreign cooperative or wholly foreign capital enterprises within Chinese territory, they must commission a Chinese international shipping agent to undertake the above-mentioned business. In addition, upon the approval of Ministry of Transport, foreign cooperators of international shipping services may establish representative offices within Chinese territory according to law.

The regulations on International Maritime Transportation became effective on January 1, 2002. To be engaged in international liner services, an application shall be submitted to the Ministry of Transport, and the following documents shall be attached thereto: (1) name of international liner service operator, its registered place of business, photocopy of its business license, and information of its main investor(s); (2) names and identification documents of operator's main management staff; (3) particulars of vessels

under operation; (4) description of intended shipping lines, shipping schedules and ports of call along shipping lines; (5) freight tariff; and (6) sample of its bill of lading, passage ticket or multimodal transport documents. The Ministry of Transport shall complete examination and verification within 30 days from the date of receipt of the application for international liner services. If application documents are authentic and complete, registration shall be granted, and the applicant shall be notified of the result, or, if application documents are inauthentic or incomplete, no registration shall be granted and the applicant shall be notified in writing, and given the reasons therefore.

In recent years China has implemented the International Maritime Transportation Regulation and its supplement administration regulations, and provided a "competing, opening, transparent" market environment for the development of Chinese international maritime transportation. More and more offshore shipping service companies entered Chinese shipping market. Currently, more than 100 offshore containers shipping companies have developed the regular international shipping liners in Chinese ports, and the market share is already over 80%. More than 30 international maritime transportation companies have established about 200 ventures or branches with exclusive foreign investment in China.

B. Air transportation

The Provisions on Foreign Investment in Civil Aviation has come into force as of August 1, 2002. According to the provisions, the scope of foreign ownership in China's civil aviation industry is enlarged, a variety of modes of foreign investment is allowed, and the proportion of foreign ownership is increased while the management power of foreign owners is enhanced. Further liberalizing measures were adopted in 2003, including: further opening the 5th freedom traffic rights to foreign air companies, deliberating and approving in principle "opening the 3rd, the 4th, and the 5th freedom rights scheme", and launching the work of opening air transportation market in Hainan special economic zone.

China has effectively improved market access opportunities for foreign services suppliers in the sector of air transportation. Market access for scheduled international services is determined through bilateral Air Services Agreements. Market access for non scheduled services is determined on a case-by-case basis mainly taking into account the market needs. Foreign airlines, maintenance and repair companies, and aviation manufacturers are permitted to establish joint venture aircraft maintenance and repair

companies in China. Foreign ownership of Chinese airlines is permitted up to 49% while a single foreign investor's share should be no more than 25%. Foreign ownership for the airports other than air traffic control systems in China is permitted with Chinese share holders remaining as a majority share holder.

Now, foreign citizens are allowed to hold the post of president of Chinese airlines or airports. The designated foreign airlines are allowed to wet lease third country aircraft and crew to operate the agreed services into China, subject to their compliance with the safety requirements set forth by the aeronautical authority of China.

The competent authority of Air Transportation is the General Administration of Civil Aviation of China (www.caac.gov.cn). Air Transportation is regulated by the Civil Aviation Law of the People's Republic of China.

C. Road transportation

In November 2002, China issued the Notice on Further Opening the Investment Field of Road Transport to Foreign Investors. Since December 12, 2002, foreign investment has been allowed to enter the fields of road cargo transport, storage, cargo handling, and transport related services. The portion of foreign investment could reach 75.0% in the joint ventures.

Project proposal for foreign investment in road transport services and the relevant issues shall be subject to the approval of MOC. The contract and articles of a foreign-invested road transport enterprise shall be subject to the approval of competent foreign trade and economic cooperation department of the State Council.

The operation duration of a foreign-invested road transport enterprise shall be no more than 12 years normally. However, the operation duration of a foreign-invested road transport enterprise may be 20 years, provided more than 50.0% of the total investment of the enterprise is used for the construction of infrastructure, such as passenger and goods transport stations and depots. A foreign-invested road transport enterprise, whose business operation is in compliance with industrial policies on and development plans of road transport industry, and which has passed operation qualification (quality and credibility) assessment, may apply for prolongation of operation duration with a period of no more than 20 years each time upon the approval of the competent department which granted the original approving document.

A foreign-invested road transport enterprise applying for operation duration

prolongation shall submit an application, 6 months in advance of the invalidity of the operation duration, to the competent communications department of a province, where the enterprise is located, and records of operation qualification (quality and credibility) assessment and other relevant documents shall be attached thereto. After being considered and verified by the competent communications department of the province, the documents shall be submitted to MOC and be decided by MOC after consulting with the competent foreign trade and economic cooperation department of the State Council. To suspend, withdraw or terminate a business, a foreign-invested road transport enterprise shall go through the relevant formalities forthwith at MOC, the competent foreign trade and economic cooperation department of the State Council or their authorized department and the industry and commerce administrations.

The Ministry of Transport (www.moc.gov.cn) is in charge of road transportation which is regulated by the Management Regulation on Foreign investment in Road Transportation and its supplementary regulations.

Table 2.8 Regulations related to Trade in Services

Regulation	Effective Date
Regulations on Administration of Foreign-Funded Financial Institutions	01 Feb. 2002
Regulations on International Maritime Transportation	01 Feb. 2002
Regulations on Administration of Travel Agencies	amended 11 Dec. 2001
Measures on the Trial of Foreign-Invested Merchandising Enterprises	25 Jun. 1999
Provisional Regulations Governing the Foreign Invested Movie Theater	25 Oct. 2000
Rules for Establishing Foreign-Invested Securities Companies	01 Jun. 2002
Rules for Establishing Foreign-Invested Fund Management Companies	01 Jun. 2002
Proclamation by the People's Bank of China on the Related Issues of Foreign-Funded Financial Institutions' Market Access	09 Dec. 2001
Regulations on Administration of Foreign Funded Insurance Companies	01 Feb. 2002
Measures for Administration of Representative Offices of Foreign-funded Financial Institutions in China	18 Jul. 2002
Provisions on Administration of Foreign Investment in Road Transport Sector	20 Nov. 2001
Provisions on Administration of International Freight Forwarding Agency Enterprises with Foreign Investment	1 Jan. 2003
Regulations on Administration of Foreign Invested Telecommunications Enterprises	1 Jan. 2002
Regulations on Exploitation of Offshore Petroleum Resources in Cooperation with Foreign Enterprises	23 Sep. 2001
Regulations on Exploitation of On-shore Petroleum Resources in Cooperation with Foreign Enterprises	23 Sep. 2001
Implementing Rules of the Regulations of the People's Republic of China on International Maritime Transportation	1 Mar. 2003
Measures for the Administration of Foreign-invested International Freight Forwarding Agencies	10 Jan. 2003
Measures Governing Foreign Invested Distribution Enterprises for Books, Newspapers and Periodicals	1 May 2003
Interim Regulations on the Establishment of Travel Agencies with Foreign Majority Ownership and Wholly Owned by Foreign Investors	11 Jul. 2003
Administrative Rules Governing the Auto Financing Companies	3 Oct. 2003
Regulations of the People's Republic of China on Chinese-Foreign Cooperation in Running Schools	1 Sep. 2003
Implementing Rules of the Regulations on the Administration of Foreign-funded Financial Institutions	1 Feb. 2002
Provisional Rules on the Establishment of Sino-Foreign Foreign Trade Companies	2 Mar. 2003
Rules Governing the Foreign Invested Urban Planning Service Enterprises	1 May 2003
Regulations on the Administration of Foreign Invested Architectural and Engineering Enterprises	1 Dec. 2002
Regulations on the Administration of Foreign Invested Construction Enterprises	1 Dec. 2002
Notice on Issues Relating to the Experimental Establishment of Foreign Invested Logistic Enterprises	20 Jul. 2002
Implementation Rules for the Administrative Measures on Auto Financing Companies	12 Nov. 2003
Regulations on the Administration of Representative Office of Foreign Law Firms	1 Jan. 2002
Implementation Rules for the Regulations on the Administration of Representative Office of Foreign Law Firms	1 Sep. 2002
Provisional Measures on the Administration of Domestic Securities Investment of Qualified Foreign Institutional Investors (QFII)	1 Dec. 2002

Regulation	Effective Date
Provisional Provisions on Operational Qualification Access to Film Producing ,Releasing and Projecting	1 Dec. 2003
Administrative Measures on Chinese-Foreign Cooperative Enterprises for the Distribution of Audio and Video Products	1 Jan. 2004
Supplementary Provisions to the Provisional Measures of Registering and Approval of Foreign Nationalities to Chinese CPA	1 Jan. 2004
Implementation Rules for the Regulations on the Administration of International Freight Forwarding Agencies	1 Jan. 2004 after amendment
Administrative Measures on the China-based Representative Offices of Foreign Insurance Institutions	1 Mar. 2004
Administrative Measures on Foreign-funded Advertisement Enterprises	2 Mar. 2004
The detail regulation for Foreign capital financing institution	1 Sep. 2004
The stock certificate investor protection fund manages the way	1 Jul 2005
The management rule for QFII	1 Sep. 2006
Foreign capital bank management regulation	11 Dec. 2006
Foreign capital bank management regulation	11Dec. 2006
The management rule for QFII	1 Sep. 2006
Basic rule for enterprise accountancy standard after revising	1 Jan. 2007
The supplement rule on foreign company investing books, newspaper, periodical retail business	1 May 2007
The management rule on registering partnership enterprise registers	1 Jun. 2007(revised)
The management rule on the representative of offshore stock exchange	1 Jul. 2007

Source: edited according to Foreign Economic and Trade Gazette of MOFCOM of the People's Republic of China

2.3.2 International Commitments related to Services

As a result of the Uruguay Round, commercial disciplines extended beyond those related to trade in goods to cover areas such as services, investment and intellectual property. After entry to WTO, China has continued to participate in WTO working groups on services and investment.

Under the GATS, China maintains horizontal commitments on mode 3 (commercial presence) and mode 4 (movement of natural persons). China allows the entry and temporary stay of employees of a corporation of a WTO Member for an initial period not longer than 3 years.

In China, foreign invested enterprises include foreign capital enterprises (also referred to as wholly foreign-owned enterprises) and joint venture enterprises. There are two types of joint venture enterprises: equity joint ventures and contractual joint ventures⁶. The proportion of foreign investment in an equity joint venture shall be no

⁶ The terms of the contract, concluded in accordance with China's laws, regulations and other measures, establishing a "contractual joint venture" govern matters such as the manner of operation and management of the joint venture as well as the investment or other contributions of the joint venture parties. Equity participation by all parties to the contractual joint venture is not required, but is determined pursuant to the joint venture contract.

less than 25 per cent of the registered capital of the joint venture. The establishment of branches by foreign enterprises is unbound, unless otherwise indicated in specific sub-sectors. Representative offices of foreign enterprises are permitted to be established in China, but they shall not engage in any profit-making activities except for the representative offices under CPC 861, 862, 863 and 865 in the sectoral specific commitments. The conditions of ownership, operation and scope of activities, as set out in the respective contractual or shareholder agreement or in a license establishing or authorizing the operation or supply of services by an existing foreign service supplier, will not be made more restrictive than they exist as of the date of China's accession to the WTO. The land in the People's Republic of China is State-owned. Use of land by foreign invested enterprises, domestic enterprises and individuals is subject to the limitations: 70 years for residential purposes, 50 years for industrial purposes, 50 years for the purpose of education, science, culture, public health and physical education, 40 years for commercial, tourist and recreational purposes, and 50 years for comprehensive utilization or other purposes.

Regarding the sector classification, China adopted commitments in 9 of the 12 sectors of GATS⁷: Business Services, Communication Services, Construction and Related Engineering Services, Distribution Services, Education Services, Environmental services, Financial Services, Tourism and Travel Related Services and Transportation Services.

The openness of service sectors in China can be measured by its commitments under GATS. One method is to compute the sector coverage ratio. There are 12 major categories of service sectors and 155 sub-sectors covered by GATS. The sector coverage ratio is the number of committed sub-sectors divided by the total number of sub-sectors of each sector⁸.

Table 2.9 China's Sector Coverage Index under GATS (%)

Sector	China
All Sectors	54.2
Business Services	60.9
Communication Services	66.7
Construction and Related Engineering Services	100.0
Distribution Services	100.0

⁷ The sector analysis is based on the WTO document GNS/W/120, Services Sectors Classification List.

⁸ Each sub-sector or further subdivisions are taken into account, when possible.

Education Services	100.0
Environmental services	100.0
Financial Services	76.5
Health services	0.0
Tourism and Travel Related Services	50.0
Entertainment Services	0.0
Transport Services	17.1
Other services	0.0

Note: calculated according to WTO schedule of specific commitments by China.

China made 100% commitments in construction, distribution, education and environmental services. In business and financial services, China's sector coverage is high.

In Business Services Sectors, China made commitments on Professional Services (Legal, Accounting, auditing and bookkeeping services, Taxation, Architectural, and Engineering), Computer and Related Services, Real Estate Services and Other Business Services. Regarding the services mentioned, China made full commitments on Modes 1 and 2, and partial commitments on Mode 3⁹.

In Communication Services Sectors, China made commitments on sub-sectors of Telecommunication services, including Courier Services, Telecommunication Services and Audiovisual Services. On each of the sub-sectors listed, China made partial market access commitments on Modes 1, 2 and 3, full national treatment commitments on Modes 1, 2 and 3.

In Construction and Related Engineering Services sectors, China made commitments on sub-sectors of CPC511, 512, 513, 514, 515, 516, 517, and 518. On each of the sub-sectors listed, China made full commitments on Modes 2, partial commitments on Modes 3.

In Distribution Services sectors, on all 5 sub-sectors (Commission Agents Services¹⁰, Wholesale trade services¹¹, Retailing Services¹², Franchising, Wholesale or retail trade services away from a fixed location), China made full commitments on Mode 2, partial commitments on Mode 1 and Mode 3.

In Education Services Sectors, on all 5 sub-sectors including Primary, Secondary, Higher, Adult and Other education services, China made full MA commitments on

⁹ Note: Modes of Supply include (1) Cross Border Supply, (2) Consumption Abroad, (3) Commercial Presence and (4) Movement of Natural Persons.

¹⁰ Excluding salt and tobacco.

¹² Excluding salt and tobacco.

¹² Excluding tobacco.

Modes 2, partial commitments on Modes 3 and 4, fully NT commitments on Modes 2, partial NT commitments on Modes 4.

In Environmental Services Sectors, on all sub-sectors including Sewage Services, Solid Waste Disposal Services, Cleaning Services of Exhaust Gases, Noise Abatement Services, Nature and Landscape Protection Services, Other Environmental Protection Services, Sanitation Services, China made full commitments on Modes 2, and partial commitments on mode 1 and 3.

In Financial Services Sectors, commitments were made on almost all sub-sectors (All Insurance and Insurance Related Services, Banking and Other Services, Securities etc.). In each of the sub-sectors listed, China made partial or full MA commitments on Modes 1, 2 and 3. Regarding NT, China made almost full commitments on Modes 1, 2 and 3.

In Tourism and Travel Related Services Sectors, China made commitments on sub-sectors, such as Hotel (including apartment buildings) and Restaurants, Travel Agencies and Tour Operators.

In Transport Services Sectors, China made commitments on Maritime Transport Services, Auxiliary Services, Internal Waterways Transport, Air Transport Services, Rail Transport Services and Road Transport Services on all Modes. China made full commitments on Mode 2, partial commitments on Mode 1 and Mode 3 and made partial commitments on International transport of Maritime Transport Service on Mode 4.

2.4 Foreign Investment Regimes

2.4.1 Treatment of Foreign Investment

Since late 1970s, China has carried out a series of reforms on investment. The government encourages foreign investment into the Chinese market, and has uninterruptedly expanded the scope of investment. Effective and better utilization of Foreign Direct Investment (FDI) is the basic long-term principle for the Chinese government to adhere to.

The Catalogue for the Guidance of Foreign Investment Industries has been revised three times since 1997. The 2nd revision of the Provisional Regulation on Foreign Investment Guidance was completed in 2002 and took effect on April 1, 2002; the 3rd Catalogue for the Guidance of Foreign Investment Industries was completed in 2004, and took effect on December 13, 2004; and the 4th Revised Catalogue came into force from December 1, 2007. In recent years, China has further removed the restrictions on

the proportion of foreign equity in investment projects, and opened more sectors to foreign investment, including telecommunications, urban water supply and drainage, construction and operation of gas and heat distribution network. China has also further opened such service sectors as banking, insurance, distribution, trading right, tourism, telecommunications, transportation, accounting, auditing and legal services. The production and publishing of broadcasting and TV program, and film production is also opened to foreign investors. The timeframe and pace of opening of these markets has been contained in annexes to the Catalogue for the Guidance of Foreign Investment Industries. Foreign investment belonging to the encouraged category will be given preferential policies including exemption from importing equipment tariff and Value Added Tax (VAT) of importing.

The basic laws in China concerning foreign investment are: the Law of the People's Republic of China on Chinese-Foreign Equity Joint Venture; the Law of the People's Republic of China on Chinese-Foreign Contractual Joint Venture; and the Law of the People's Republic of China on Wholly Foreign Owned Enterprises. These three basic laws on FDI have stipulated that the State will not nationalize or expropriate any foreign invested enterprises. Only under special circumstances, for the requirement of social and public interests, foreign invested enterprises may be expropriated in accordance with legal procedures, and appropriate compensation shall be provided.

Upon approval by the National People's Congress and its Standing Committee, China has revised the following laws and regulations at the time given: in October 2000, the Law of the People's Republic of China on Chinese-Foreign Contractual Joint Venture; in October 2000, the Law of the People's Republic of China on Wholly Foreign Owned Enterprises; in March 2001, the Law of the People's Republic of China on Chinese-Foreign Equity Joint Venture; and in July 2001, the Implementation Rules on Law of the People's Republic of China on Chinese-Foreign Equity Joint Venture, including the elimination and cessation of enforcement of requirements on trade and foreign local content, export performance, compulsory technology transfer, and so on. Chinese authorities would not enforce the terms of contracts containing such requirements. The term of foreign exchange balancing¹³, permission or rights for importation and investment would not be conditional upon performance requirements

¹³ One of the common measures using by the developing countries for current account control, etc. is the requirement for the enterprises seeking for their foreign currency balance by themselves partially or completely.

set by national or sub-national authorities, or subject to secondary conditions covering, for example, the conduct of research, the provision of offsets or other forms of industrial compensation including specified types or volumes of business opportunities, the use of local inputs or the transfer of technology. Permission to invest, import licenses, quotas and tariff rate quotas would be granted without regard to the existence of competing Chinese domestic suppliers.

In China, foreign invested enterprises mainly include wholly foreign-owned enterprises, equity joint venture and contractual joint venture. China keeps on searching new forms of FDI. The regulations on setting up venture capital companies, foreign invested share companies and foreign invested holding companies have been either promulgated or complemented. The function for Foreign Invested Holding Companies has been further expanded. China has issued the regulation on M&A which allows foreign investors to use the way of M&A to set up foreign invested companies in China. Foreign investors are encouraged to take part in the restructuring and reform of State-owned Enterprises. The government allows foreign investors to play a role in the restructuring and disposal of the assets owned by the Asset Management Corporations.

A new regulation on venture capital that took effect March 1, 2003, which replaced the previous provisional regulations permitting the establishment of foreign-invested venture capital firms, including wholly foreign-owned enterprises, and which aimed at funding high-technology and new technology startups in industries open to foreign investment. The new regulation lowers capital requirements, allows these firms to manage funds directly invested from overseas, and offers the option of establishing venture capital firms under an organizational form similar to the limited partnerships used in other countries.

On February 15, 2007, the Ministry of Finance and the State Administration of Taxation issued the Document of Tax Policy Regarding Promoting the Development of Venture Capital. If an enterprise of venture capital invests the small and medium high-tech enterprises unlisted by the means of stocks more than 2 years (including 2 years), 70% of its investment for such enterprises would be countervailed the enterprises income tax.

China has expanded the business scope and operations of holding companies. A new regulation that took effect in April 2003 made it possible for holding companies to manage human resources across their affiliated companies, and provide certain market

research and other services to their affiliates. China has also made efforts to expand the foreign invested enterprises to be listed in the stock market by ways of IPO, or directly purchase the shares of enterprises in the stock market.

Examination and approval procedure are required by the Government for setting up foreign invested enterprises. Efforts have been made to further streamline the examination and approval procedures based on the expansion of the approval authorization from central government to provincial governments for all FDI projects in the encouraged category of the Catalogue for the Guidance of Foreign Investment Industries with no limit on its investment scale, and these projects are not subject to national planning. Many provinces can provide one-stop shop services, and each province has set up the investment promotion center to help investors.

For foreign investment, China abides by the Most Favored Nation (MFN) and the National Treatment requirements. Efforts have been made to keep continuity and stability of FDI policies. Currently Foreign invested enterprises still enjoy preferential treatments in terms of taxation and so on, comparing with domestic enterprises. The Dispute Settlement Centers for Foreign Investors/foreign invested enterprises have been established at both central and provincial level to help investors solving problems.

In order to ensure the transparency related to foreign investment, China promulgates the changes of laws and regulations guiding FDI in time; Compiles and publishes investment regulations on an annual basis; seeks opinions/comments from the Foreign Invested Enterprises before the adjustment of some FDI policies; allows a reasonable transitional period for foreign invested enterprises to make adjustments, or to make a comment on the draft of laws and regulations in some cases; allows businesses and other interested parties to get information on FDI on the government website (www.mofcom.gov.cn). The government website designed specially for FDI (www.fdi.gov.cn) has been set up.

2.4.2 Special investment regimes and/or zones

When China carried out its reform cause in 1978, it has also implemented its opening up policy in a planned and step-by-step way. Since 1980, China has established 5 Special Economic Zones (SEZs) in 4 cities of Shenzhen, Zhuhai, Shantou and Xiamen and the Hainan Province. In 1984, China further opened 14 coastal cities, including

Dalian, Qinhuangdao, Tianjin, Yantai, Qingdao, Lianyungang, Nantong, Shanghai, Ningbo, Wenzhou, Fuzhou, Guangzhou, Zhanjiang, and Beihai. After 1985, China has gradually established Yangtze River Delta, Pearl River Delta, Southern Fujian Triangle Area, Shandong Peninsula, Liaodong Peninsula, Hebei and Guangxi as Economic Open Zone. A coastal economic opening belt has thus been formed. In 1990, China began to develop and open Shanghai Pudong New District, and further opened some Yangtze River cities such as Wuhu, Jiujiang, Wuhan, Yueyang, Chongqing and Yichang, and a Yangtze River Economic opening belt led by Pudong New District thus came into shape. Since 1992, China has opened all capital cities of its provinces and autonomous regions. Those special economic areas enjoyed greater flexibility in utilizing foreign capital, introducing foreign technology and conducting economic cooperation with other countries or regions. From January 1, 2008, foreign enterprises in the special economic zones will pay income tax by the rate 25%, the same with that of the Chinese enterprises.

Continuous efforts have been made to encourage foreign investors to invest in new and high-tech industry, fundamental and related industries, conduct technological renovations, and set up R&D centers in China. Many implementing regulations have been promulgated. Preparation work for the revision of the Advantageous Industrial Catalogue in Central and Western China has also been started in order to encourage foreign investors to invest in central and western China. From January 1, 2008, all high-tech enterprises whatever in or not in the special economic zones will be given the preferential enterprises income tax rate, 15%.

2.5 Trade Remedies

2.5.1 Safeguards

Pursuant to the provisions of the Foreign Trade Law of the People's Republic of China and China's WTO commitments, the Regulations of the People's Republic of China on Safeguards was formulated, which became effective on January 1, 2002, and were revised on March 31, 2004, according to the Decision of the State Council on Revising the Regulations on Safeguards of the People's Republic of China.

China has also formulated two administrative rules regarding safeguards, the Provisional Rules on Initiation of Safeguards Investigation and the Provisional Rules on

Hearing in Safeguards Investigation, promulgated by the Ministry of Foreign Trade and Economic Cooperation (MOFTEC) in Decree No. 9 and No. 11 respectively on February 10, 2002. These two rules came into effect on March 13, 2002. In addition, The Rules on Investigations and Determinations of Industry Injury for Safeguards were issued on November 12, 2003 and took effect 30 days later.

By far, only one investigation into safeguard measures has been initiated and duly notified to the WTO Safeguards Committee. The investigation was related to Partial Iron & Steel Products (provisional and final measures were adopted).

2.5.2 Anti-dumping Measures and Countervailing Duties

The State Council issued the new Regulations of the People's Republic of China on Anti-Dumping, which became effective on January 1, 2002. In early 2002, the MOFTEC, which at that time was responsible for making determinations of dumping under the new regulations, issued several sets of rules covering initiation of investigations, questionnaires, sampling, verifications, information disclosure, access to non-confidential information, price undertakings, hearings, interim reviews, refunds and new shipper reviews. The State Economic and Trade Commission (SETC), which at that time was responsible for making determinations of injury, issued rules covering industry injury investigations and public hearings in January 2003. According to the Decision of the State Council on Revising the Regulations on Anti-dumping of the People's Republic of China, the Regulations of the People's Republic of China on Anti-Dumping were revised on March 31, 2004. The Rules on Investigations of Industry Injury for anti-dumping were issued on November 12, 2003 and took effect 30 days later. Meanwhile, this new rules replaced the rules that SETC issued in early 2003.

In August 2002, the Supreme People's Court issued Rules Regarding Supreme People's Court Hearings on Judicial Review of International Trade Disputes, which provide guidance concerning judicial review of administrative agency decisions affecting international trade, including those in the Anti-dumping area. In September 2002, the Supreme People's Court issued Provisions of the Supreme People's Court on Certain Issues Concerning the Applicability of Laws in the Hearing and Handling of Antidumping Administrative Cases.

According to the above laws and regulations, countervailing and anti-dumping duties may be applied to goods whose importation into the country injures or threatens

to injure the relevant national industry on account of reduced prices owing to artificial conditions, such as subsidies or dumping, in the export markets concerned.

By the end of March of 2007, China had initiated 48 anti-dumping investigations on products from over 20 countries and regions, covering 8 industries including chemicals (33), paper products (5), steel (3), textile (3), light industry (2), electronic (1), pharmacy (1) and agricultural product (1).

Up to now, Chinese investigation authorities have not initiated any investigation on countervailing measure.

2.5.3 Institutional Arrangements

Currently, the Ministry of Commerce (MOFCOM) and the Tariff Commission of the State Council (TCSC) are the two government departments in charge of safeguard matters. According to the Regulations on Safeguards, the MOFCOM is in charge of the investigation and determination of increase of imports, and also responsible for investigation and determination of injury. If a definitive safeguard measure takes the form of quantitative restriction, a decision shall be made and published by the MOFCOM as the foreign trade administrative authority. TCSC is to decide whether to increase tariff level as provisional or final safeguard measure, upon proposal made by MOFCOM on the basis of investigation findings. The reason that MOFCOM and TCSC decide upon different forms of safeguard measures is to ensure the uniformity in administration of trade laws and regulations, as required by Article 10 of GATT 1994. While the MOFCOM is the government agency to formulate and enforce administrative measures concerning trade, TCSC is in charge of matters relating to formulation of custom tariffs.

The Bureau of Fair Trade for Imports and Exports (BOFT) of the MOFCOM is in charge of investigation and determination of dumping and subsidy; The Bureau of Industry Injury Investigation (BIII) of the MOFCOM is responsible for investigation and determination of injury. If a provisional countervailing measure takes the form of undertakings, a decision shall be made and published by MOFCOM as the foreign trade administrative authority. TCSC decides whether to levy provisional or definitive anti-dumping duty and countervailing duty, including the level of duty, upon proposal made by the MOFCOM on the basis of the investigation findings. However, the level of the duty decide by the TCSC cannot exceed the dumping margin determined by the

MOFCOM; no countervailing duties shall be levied in excess to the amount of subsidy as determined in the final determination made by the MOFCOM.

The MOFCOM deals with the other issues related to anti-dumping and countervailing measures, including consultation, notifications, dispute settlement concerning anti-dumping and countervailing measures and so on, other than the above functions carried out by the Tariff Commission.

Table 2.10 Trade Remedy Regime

Regulation	Effective Date
Regulations on Antidumping	01 Jan 2002 (revised on 31 Mar 2004)
Provisional Rules on Initiation of Antidumping Investigations	13 Mar 2002
Provisional Rules on Questionnaire in Antidumping Investigation	15 Apr 2002
Provisional Rules on Public Hearing in Antidumping Investigations	13 Mar 2002
Provisional Rules on Sampling in Antidumping Investigations	15 Apr 2002
Provisional Rules on Disclosure of Information on Antidumping Investigations	15 Apr 2002
Provisional Rules on On-the-Spot Verification in Antidumping Investigations	15 Apr 2002
Provisional Rules on Access to Non-Confidential Information in Antidumping Investigations	15 Apr 2002
Provisional Rules on Price Undertakings in Antidumping Investigations	15 Apr 2002
Provisional Rules on New Shipper Review in Antidumping Investigations	15 Apr 2002
Provisional Rules on Refund of Antidumping Duty	15 Apr 2002
Provisional Rules on Interim Review of Dumping and Dumping Margin	15 Apr 2002
Rules on Investigations of Industry Injury for Antidumping	12 Dec 2003
Regulations on Anti-subsidy	01 Jan 2002 (revised on 31 Mar 2004)
Provisional Rules for Initiation of Countervailing Investigation	13 Mar 2002
Provisional Rules for Questionnaire in Countervailing Investigation	15 Apr 2002
Provisional Rules for On-the-spot Verification of Countervailing Investigation	15 Apr 2002
Provisional Rules for Conduct of Public Hearing in Countervailing Duty Investigation	13 Mar 2002
Rules on Investigations of Industry Injury for Countervailing Measures	12 Dec 2003
Regulations on Safeguard	01 Jan 2002 (revised on 31 Mar 2004)
Provisional Rules on Initiation of Safeguard Investigations	13 Mar 2002
Provisional Rules on Hearing in Safeguard Investigations	13 Mar 2002
Rules on Investigations of Industry Injury for Safeguard	12 Dec 2003
Provisions of the Supreme People's Court on Certain Issues Concerning the Applicability of Law in the Hearing and Handling of Antidumping Administrative Cases	01 Jan 2003
Provisions of the Supreme People's Court on Certain Issues Concerning the Applicability of Law in the Hearing and Handling of Anti-subsidy Administrative Cases	01 Jan 2003

Source: edited according to Foreign Economic and Trade Gazette of the Ministry of Commerce of the People's Republic of China

2.6 China's commitments regarding WTO

China became a WTO member on December 11, 2001 and it has abided by WTO fundamental principles and general applicable stipulations since accession. It would ensure uniform administration and transparency of the trade regime and non-discrimination. It also makes commitments in trade in goods, trade in services and trade-related intellectual property regime and etc. China's Protocol of Accession, accompanying Working Party Report and Goods and Services Schedules are available on www.mofcom.gov.cn.

Like all acceding WTO members, China agreed to assume the obligations of more than 20 existing multilateral WTO agreements, covering all areas of trade in goods, trade in services, as well as IPR etc. China made a commitment that upon accession it would participate in the Information Technology Agreement ("ITA") and would eliminate tariffs on all information technology products as set out in China's schedule; furthermore, China would eliminate all other duties and charges for ITA products. China began to implement relevant tariff reduction on January 1, 2002 and became a member of ITA on April 24, 2003.

One of the most important commitments made by China in acceding to the WTO was in the area of trading rights. The area of trading rights covers both the right to import products into, and export products from, China. In its accession agreement, China committed to substantially liberalize in the area of trading rights. Specifically, China committed to eliminate its system of examination and approval of trading rights, and make full trading rights automatically available for all Chinese enterprises, Chinese-foreign joint ventures, wholly foreign-owned enterprises and foreign individuals, including sole proprietorships, within three years of its accession, or by December 11, 2004, and trading rights will be granted in a non-discriminatory and non-discretionary way, and any requirements for obtaining trading rights will be for customs and fiscal purposes only, and will not constitute a barrier to trade.

Prior to the adoption of an automatic trading rights system, China committed that it would eliminate for both Chinese and foreign-invested enterprises any export performance, trade balancing, foreign exchange balancing and prior experience requirements, such as in importing and exporting, as criteria for obtaining or maintaining the right to import and export. This commitment took effect immediately upon China's accession (on December 11, 2001). China further committed to expand the

availability of trading rights pursuant to an agreed schedule covering the first three years of its WTO membership. First, China committed that it would make trading rights available to Chinese enterprises immediately upon its accession, subject to certain minimum registered capital requirements, to be gradually decreased during the three-year transition period (ending December 11, 2004). The minimum registered capital was to be set at RMB 5 million on December 11, 2001, and then reduced to RMB 3 million one year later (December 11, 2002) and to RMB 1 million two years later (December 11, 2003) before being eliminated three years later (December 11, 2004). Second, China committed that it would make full trading rights available to joint ventures with minority foreign ownership beginning not later than one year after China's accession, except with regard to those goods still reserved for state trading under China's accession agreement. Third, China committed that it would make these same trading rights available to joint ventures with majority foreign ownership beginning no later than two years after China's accession.

China Promulgated the Revised Foreign Trade Law of the People's Republic of China, which became effective on July 1, 2004. Compare to the former Foreign Trade Law, it allows individuals to engage in foreign trade dealings, so the new revised law has extended the scope of foreign trade dealers to individuals who engage in foreign trade dealings in compliance with this law, and other relevant laws and administrative regulations. Furthermore, it has abolished the examination and approval procedures of import and export of goods and technologies dealings, and it has only required foreign trade dealer to register as required.

China's accession agreement also includes several special mechanisms. These include a unique, China-specific safeguard provision allowing a WTO member to restrain increasing Chinese imports that disrupt its market (available for 12 years), a special textile safeguard (available for 7 years) and the continued ability to utilize a special non-market economy methodology for measuring dumping in anti-dumping cases against Chinese companies (available for 15 years). In addition, the WTO also created a special multilateral mechanism for reviewing China's compliance on an annual basis. Known as the Transitional Review Mechanism, this mechanism operates annually for 8 years after China's accession, with a final review by year 10 or the earlier date decided by the General Council.

We should note that China has been fulfilling its WTO accession commitments in a

positive and serious spirit. Great improvement has been made in terms of legislative construction, market access opportunities, policy transparency since China accession to the WTO. China should also enjoy its rights while fulfilling its commitments, but there are some unfair treatments to China. For example, the market economy status of China and the implementation of Annex 7 to our accession protocol by certain members. Despite the fact that China has made remarkable achievements over the past two decades in the establishment of its market-economy, and that Chinese companies are now totally driven by Market Forces in their business operations, we notice that few Chinese companies have been granted market economy treatment. To large extent, this is due to the fact that those criteria and procedures provided for in China's Protocol of Accession, which justifies fair treatment towards Chinese companies meeting market conditions, are not properly reflected in the anti-dumping rules and practices maintained by some Members. These inconsistencies seriously impair the interests of Chinese companies, and impede the normal trade between China and these members.

Table 2.11 Selected Aspects of China's WTO Accession Commitments

Trade in goods—China's average bound tariff level will decrease to 15% for agricultural products. The range is from 0 to 65%, with the highest rates applied to cereals. For industrial goods the average bound tariff level will go down to 8.9% with a range from 0 to 47%, with the highest rates applied to photographic film , automobiles, and related products. Some tariffs will be eliminated and others reduced mostly by 2004 but in no case later than 2010.
<p>Trading and investment regimes.</p> <p>National treatment/non-discrimination—Measures and practices that discriminate against imported products or foreign companies will be removed.</p> <p>Trade-Related Aspects of Intellectual Property Rights (TRIPs)—China will enforce the rights protecting intellectual property within China.</p> <p>Trade-Related Investment Measures (TRIMs)—Foreign investment approvals will no longer be subject to mandatory requirements (e.g., technology transfer or local content requirements).</p> <p>Agricultural subsidies—China committed a 8.5% agricultural domestic support in its “amber box” policy, i.e. subsidy to specific product should not exceed 8.5% of the product's value of production, and that to non-specific product should not exceed 8.5% of the total value of agricultural production (while a maximum of 10 percent subsidy allowed for developing countries under the WTO Agreement on Agriculture). China also committed to eliminate all agricultural export subsidies upon WTO entry.</p> <p>Export subsidies—Upon accession, all forms of export subsidies inconsistent with WTO rules, including grants and tax breaks linked to export performance, were eliminated.</p>
<p>Trade in services—foreign access is to be ensured through transparent and licensing procedures in various sectors, including banking and insurance, legal and other professional services, telecommunications, and tourism. Specifically:</p> <p>Telecoms—Upon China's accession, foreign service suppliers will be permitted to establish joint venture enterprises, without quantitative restrictions, and provide</p>

services in several cities. Foreign investment in the joint venture shall be no more than 25%. Within one year of accession, the areas will be expanded to include services in other cities and foreign investment shall be no more than 35%. Within three years of accession, foreign investment shall be no more than 49%. Within five years of accession, there will be no geographic restrictions.

Banking—foreign financial institutions will be permitted to provide services without client restrictions for foreign currency business upon accession; local currency services to Chinese companies within two years (by December 2003); and services to all Chinese clients within five years (by December 2006)

Insurance—Foreign non-life insurers will be permitted to establish as a branch or as a joint venture with 51% foreign ownership. Within two years of China's accession, foreign non-life insurers will be permitted to establish as a wholly-owned subsidiary. Upon accession, foreign life insurers will be permitted 50% foreign ownership in a joint venture with the partner of their choice. For large scale commercial risks, reinsurance and international marine, aviation and transport insurance and reinsurance, upon accession, joint ventures with foreign equity of no more than 50% will be permitted; within three years of China's accession, foreign equity share shall be increased to 51%; within five years of China's accession, wholly foreign-owned subsidiaries will be permitted.

Anti-dumping. Under WTO agreement, other members can invoke “non-market economy” provisions to determine dumping cases for 15 years following accession. Non-market economy provisions imply that domestic prices cannot be used as a reference point and make it much easier to reach a positive finding in an antidumping investigation.

Transitional product-specific safeguard mechanism—As provided under the WTO Agreement on Safeguards, a country may impose restrictions on imports if it can demonstrate that they cause or threaten to cause serious injury to domestic firms producing similar products.

Source: Edited according to China's Protocol of Accession and Working Party Report

3. ECONOMIC RELATIONS AND PROSPECTS BETWEEN CHINA AND COSTA RICA

3.1 Bilateral Trade in Goods

Since China joined WTO, bilateral trade between China and Costa Rica has witnessed significant development. The total bilateral trade value in 2007 was 32 times more than that in 2001. Statistics from China's Customs show that total trade between China and Costa Rica reached USD 2.87 billion in 2007, growing by 33.29% over 2006. China exported USD 568 million and imported USD 2.31 billion, up 38.83% and 31.99%, respectively. In 2007, China was Costa Rica's 2nd largest trade partner, while Costa Rica was China's 10th largest trade partner in Latin America. (See Table 3.1)

Costa Rica's import commodities from China include both traditional products, such as textile and machinery and mechanical appliances, and high-tech products, such as electrical products, circuits, computers and telecom products. China's imports from Costa Rica are mainly electrical products, accounting for 97% of China's total import from Costa Rica. (See Tables 3.2-3.4)

China has been enjoying trade surplus with Costa Rica before it joined WTO. Since 2002, China has been in the position of trade deficit, and has witnessed continuous widening. China's trade deficit with Costa Rica amounted to USD 1.74 billion in 2007, and the accumulative trade deficit from 2002 to 2007 was as high as USD 4.82 billion.

Table 3.1 China's Trade with Costa Rica, 1996-2007

Unit: USD Million

YEAR	Total Trade	Export	Import	Trade Balance
1996	19.70	18.81	0.89	17.92
1997	24.11	22.75	1.36	21.39
1998	63.29	46.45	16.84	29.61
1999	70.43	63.27	7.16	56.11
2000	75.49	65.18	10.31	54.87
2001	89.58	63.08	26.50	36.58
2002	266.15	81.65	184.49	-102.84
2003	659.40	98.50	560.90	-462.40
2004	795.71	154.42	641.29	-486.87
2005	1,150.84	228.78	922.06	-693.28
2006	2,156.02	408.75	1,747.27	-1,338.52
2007	2,873.56	567.72	2,305.84	-1,738.12

Source: China Customs

Table 3.2 Top 10 Products of Trade between China and Costa Rica (6-digit), 2005

Unit: USD Million

Rank	Costa Rica's Import from China			China's Import from Costa Rica		
	HS	Value	Share %	HS	Value	Share %
1	854221	15.02	3.67	854221	768.84	83.77
2	521052	11.79	2.88	854229	49.22	5.36
3	071333	10.23	2.50	854260	37.70	4.11
4	640299	8.49	2.07	852990	12.93	1.41
5	852812	7.00	1.71	854160	10.59	1.15
6	640411	6.50	1.59	854150	9.76	1.06
7	852190	6.25	1.53	420500	3.28	0.36
8	520959	6.13	1.50	854390	2.90	0.32
9	852731	6.00	1.47	853650	2.25	0.25
10	871120	5.44	1.33	720449	1.91	0.21
Subtotal		82.85	20.24		899.39	98.00
Total		409.25			917.80	

Source: China's import statistics: from China Customs; C.R.'s import statistics: from COMEX

Table 3.3 Top 10 Products of Trade between China and Costa Rica (6-digit), 2006

Unit: USD Million

Rank	Costa Rica's Import from China			China's Import from Costa Rica		
	HS	Value	Share %	HS	Value	Share %
1	854229	22.77	4.11	854221	1,457.16	83.41
2	521052	16.09	2.90	854260	187.78	10.75
3	640299	11.23	2.03	854229	38.55	2.21
4	871120	10.22	1.85	854160	20.07	1.15
5	852812	9.62	1.74	854150	9.99	0.57
6	854221	9.04	1.63	852990	5.98	0.34
7	853400	8.82	1.59	853650	2.94	0.17
8	071333	8.04	1.45	853321	2.82	0.16
9	852190	7.63	1.38	940190	1.70	0.10
10	620462	6.88	1.24	853340	1.60	0.09
Subtotal		110.34	19.92		1,728.59	98.95
Total		554.02			1,746.92	

Source: China's import statistics: from China Customs; C.R.'s import statistics: from COMEX

Table 3.4 Top 10 Products of Trade between China and Costa Rica (6-digit), 2007

Unit: USD Million

Rank	Costa Rica's Import from China			China's Import from Costa Rica		
	HS	Value	Share %	HS	Value	Share %
1	854231	78.42	10.28	854231	2,101.12	91.12
2	950300	19.54	2.56	854232	110.23	4.78
3	871120	18.29	2.40	854239	23.71	1.03
4	521059	13.93	1.82	854160	18.48	0.80
5	640299	12.42	1.63	854150	8.01	0.35
6	852872	10.57	1.39	853720	3.06	0.13
7	071333	10.51	1.38	853321	2.86	0.12
8	640411	8.75	1.15	200830	2.43	0.11
9	690890	8.60	1.13	853650	2.40	0.10
10	401120	8.50	1.11	410419	2.15	0.09
Subtotal		189.56	24.84		2,274.44	98.63
Total		763.18			2,305.84	

Source: China's import statistics: from China Customs; C.R.'s import statistics: from COMEX

3.2 Bilateral Trade in Services

According to the latest statistics released by China State Administration of Foreign Exchange, China's total trade in services amounted to USD 192.83 billion in 2006, an increase of 21.9% over 2005. Among which, the exports amounted to USD 92 billion, growing by 23.6% over 2005; the imports amounted to USD 100.83 billion, up 20.3% over 2005; China has a trade deficit of USD 8.83 billion, down by 5.9% from 2005. According to statistics from *Development Report of China's Trade in Services 2007*,

China's export and import of trade in services in 2006 ranked the 8th and the 7th in the world, respectively. China's export of trade in services accounted for 3.4% of the world's total. While China's export of trade in services maintained fast development in its traditional competitive sectors, its trade structure has improved. Export of computer and information services, telecommunication, and consulting services developed significantly, up by 60.8%, 52.2% and 47.2% over 2005, respectively, and these three sectors' shares in China's services export increased by 1, 0.1 and 1.4 percentage points, respectively. Import of financial services and consulting services grew dramatically in 2006, up by 460% and 35.7% over 2005, and their share in China's services import grew by 0.7 and 1 percentage point, respectively.

By the end of June 2007, China had concluded contracts of engineering project contracting in Costa Rica with a total value of USD 2.62 million, which realized a turnover of USD 670,000. China has not concluded any engineering project contracting in Costa Rica ever since 1997. By the end of June 2007, China has signed labor service cooperation, with a total contractual value of USD 540,000 and a turnover of USD 560,000, and China's labor contracting totaled USD 3.16 million in contract value, with a turnover of USD 1.23 million.

3.3 Bilateral Investment

China and Costa Rica established diplomatic relations only in June 2007. Such political background has hindered their mutual investment. By the end of June 2007, China's Ministry of Commerce has approved and registered only 1 investment project in Costa Rica. The contracted investment value from China is USD 300,000.

By the end of June 2007, Costa Rica has invested in 30 projects in China, with a total contractual investment value of USD 111 million, and the actual investment value of USD 32.47 million. Costa Rica's investment in China covers pharmaceutical, telecom and tourism industry, mostly in China's coastal area, such as Fujian, Shanghai and Dalian.

3.4 Tariff Level of China

According to its WTO commitments, China has committed bound tariffs on all commodities, reduced the tariff rates and taken measures to further open the market. In 2007, the average tariff rate of China is 9.8%, of which, 15.2% for agricultural products

and 8.95% for manufacturing products. Currently, China only exercises the administration of tariff quota on grains (wheat, rice and maize), cotton, vegetable oils, edible sugar, wool and chemical fertilizers, etc. In terms of tariff distributions in 2006, zero-tariff products of China accounted for 8.5% of the total 7,605 tariff headings at 8-digit level. China's WTO commitments on tariff reduction have basically been fulfilled.

Table 3.5 China's Tariff Level

Classification of Products	Average applied tariff in 2006
Animal & Animal products	7.6
Vegetable Products	14
Animal or Vegetable Oil and Fat	12.9
Foodstuff & Beverage	18
Mineral Products	2.8
Chemical Products	8.1
Plastics & Plastic Products	9.9
Leather, Fur skins & Articles	16.1
Wood and Wood Products	6.9
Paper products	3.3
Textile and Apparels	10.4
Footwear, Hats & Umbrellas	18
Products of Mineral Materials	13.6
Jewel and Precious Metal	10.3
Base Metals & Articles Thereof	7.2
Telecoms, Electronics & machinery	8.8
Transportation Equipment	6
Precision Instruments	14.3
Miscellaneous articles	11

3.5 Analysis on the Competitive and Complementary Industries

Trade Specialization Index and Bilateral Reveal Comparative Advantage will be employed here to analyze the competitive and complementary industries.

3.5.1 Trade Specialization Index, TSI

Trade Specialization Index (TSI) is used for analyzing the comparative advantages of a sector in the bilateral trade. Trade Specialization Index (TSI) of a country in a specific products category "s" refers to:

$$TSI = (X_s - M_s) / (X_s + M_s)$$

Where X refers to exports and M refers to imports. TSI may be computed at the

aggregate world level of trade in commodity “s” of a country when exports to and imports from world are used in the above formula. Alternatively, the TSI may be computed for bilateral trade in commodity “s” when exports to and imports from a trading partner are used in the same formula.

A positive value of TSI indicates export advantage (exports more than imports) and a negative TSI indicates export disadvantage (exports less than imports).

According to statistics from the China Customs and Costa Rica’s COMEX, China and Costa Rica has traded an average of 3260 tariff lines of commodities (6-digit HS code) during the period from 2005 to 2007. Among which, China has 2922 tariff lines with the TSI value of 1, 207 tariff lines with the TSI value between 0 and 1 (and 180 lines between 0.5 and 1), 79 tariff lines with the TSI value between -1 and 0 (and 59 lines between -0.5 and -1), and 52 tariff lines with the TSI value of -1.

Table 3.6 Summary of China’s TSI (Average of 2005-2007)

		Average of 2005-2007
	Number of Tariff Lines	3260
TSI=1	Number of Tariff Lines	2922
	Share	89.63%
TSI= 0-1	Number of Tariff Lines	207
	Share	6.35%
TSI= -1-0	Number of Tariff Lines	79
	Share	2.42%
TSI=-1	Number of Tariff Lines	52
	Share	1.60%

Source: Calculated using Statistics from China Customs and Costa Rica COMEX

Table 3.7 Products with TSI between 0.5 and 1

Chapter	Number of Tariff Lines (6-digit HS Code)
85	42
84	26
39	17
73	14
90	12
48	8
61	6
40	4
83	4
94	4
44	3
82	3
87	3
21	2
29	2
34	2
38	2
49	2
69	2
76	2
95	2
12	1
19	1
20	1
32	1
33	1
35	1
42	1
55	1
58	1
59	1
62	1
63	1
64	1
65	1
66	1
70	1
81	1
96	1

Source: Calculated using Statistics from China Customs and Costa Rica COMEX

However, since China's export to Costa Rica has far more tariff lines than China's import from Costa Rica, it might not be enough to analyze the bilateral advantage with only TSI. Under such background, Bilateral Revealed Comparative Advantage is employed for further study.

3.5. 2 Bilateral Reveal Comparative Advantage, BRCA

The concept of Revealed Comparative Advantage (RCA) pertains to the relative trade performance of individual countries in particular commodities. On the assumption that the commodity pattern of trade reflects the inter-country differences in relative costs as well as in non-price factors, the RCA is assumed to “reveal” the comparative advantage of the trading countries.

Balassa (1965) first initiated the measure of relative export performance by country and industry/commodity¹⁴. RCA of an export category of a country is defined as the ratio of share of the country’s export of this category to the world in its total exports to the world (numerator) to the share of world exports of this category in total world merchandise exports (denominator).

The RCA index for country *i* in commodity *s* is calculated as follows:

$$RCA_{is} = (X_{is}^w / X_i^w) / (X_{ws} / X_w)$$

Where

X_{is}^w = country *i*’s export of commodity “*s*” to the world

X_i^w = country *i*’s total exports to the world

X_{ws} = world exports of commodity “*s*”

X_w = total world exports

The index of RCA has a relatively simple interpretation. If it takes a value greater than unity, the country has a revealed comparative advantage in that product.

However, China’s export to Costa Rica accounted for only 0.05% of China’s total export in 2007. Judging from this, it might not be exact enough to analyze the specific situation between the two countries using International RCA. To understand potential for bilateral trade it becomes imperative to assess their export performance in each other’s markets. For this purpose, the concept of Bilateral RCA (BRCA) has been computed in this study. Several authors have used the concept of BRCA in different

¹⁴ Balassa, Bela (1965), “Trade Liberalization and Revealed Comparative Advantage”, the Manchester School, 33, pp 99-123

ways using different formulae. However, in the context of this study, the modified version of Balassa's index called the Pasche formula (2002)¹⁵ has been used.

BRCA of an export category of a country is defined as the ratio of share of the country's export of this category to a specific trading partner in its total exports to the same trading partner (numerator) to the share of the country's export of this export category to the world in country's total exports to the world (denominator).

BRCA of good "s" exported by country "i" to importer "j" is calculated as follows:

$$BRCA_{is}^j = (X_{is}^j / X_i^j) / (X_{is}^w / X_i^w)$$

Where

X_{is}^j = country I's export of commodity "s" to trade partner country "j"

X_i^j = country I's total exports to trade partner country "j"

X_{is}^w = country I's total exports of commodity "s" to the world

X_i^w = country I's total exports to the world

The BRCA compares the share of exporting country ("i") in export of good "s" to country "j" to its share of overall exports of "s" in its total exports. The critical level of the BRCA is 1. If the BRCA is greater than 1, it denotes a bilateral revealed comparative advantage, if it is lower, it reveals bilateral comparative disadvantage.

Using the average trade statistics for the years 2005-2007, 1301 tariff lines of China's have a BRCA greater than 1, accounting for 40.47% of China's total export to Costa Rica. Since Costa Rica accounted for only 0.05% of China's total export, many Chinese products exported to the world were not exported to Costa Rica, hence 2135 tariff lines has a BRCA of 0. (See Table 3.8)

Table 3.8 Summary of BRCA at 6-digit level, 2005-2007

Number of China's export tariff lines to the world	5343
Number of China's export tariff lines to Costa Rica	3215
Number of China's import tariff lines from Costa Rica	338
Number of China's tariff lines greater than or equal to 1	1301
Share of China's products with BRCA	40.47%
Share of Chinese products bilateral penetration	60.17%

¹⁵ Pascha, Werner (2002), "Economic Relations between Germany and Japan", 9th Annual Asia Pacific Conference of German Industry, Tokyo, July.

Number of China's tariff lines less than 1 4042
Of which: number of tariff lines with BRCA of 0 2135
Source: Calculated using Statistics from China Customs and Costa Rica COMEX

Using the average trade statistics for the years 2005-2007, 106 Chinese export commodities (6-digit) to Costa Rica had an export value of over USD 1 million, with a total export value of USD 334 million, accounting for 518.19% of China's total export to Costa Rica. Of which, 94 enjoyed a BRCA greater than 1, accounting for 88.68% of these 106 products. The 17 products with export value greater than USD 5 million all enjoyed BRCA greater than 1 (See table 3.9).

Table 3.9 China's export products with the value greater than USD 1 million and with the BRCA greater than 1 for the average of 2005-2007

Unit: USD Million

Number	HS Code	China's Export to Costa Rica (average of 2005-2007)	Share of total export	BRCA
1	854231	26.14	4.54%	10.99
2	871120	11.32	1.97%	8.01
3	640299	10.71	1.86%	3.43
4	71333	9.59	1.67%	57.17
5	521052	9.29	1.61%	28,057.25
6	854229	8.46	1.47%	19.36
7	854221	8.02	1.39%	1.38
8	852190	7.46	1.30%	1.71
9	853400	6.67	1.16%	1.52
10	950300	6.51	1.13%	3.94
11	620462	6.22	1.08%	2.38
12	640411	6.18	1.07%	11.55
13	401120	6.04	1.05%	3.78
14	690890	5.73	1.00%	12.03
15	852812	5.54	0.96%	1.94
16	851679	5.34	0.93%	10.89
17	640590	5.28	0.92%	9.27
18	520959	4.83	0.84%	223.44
19	640399	4.70	0.82%	1.42
20	521059	4.66	0.81%	4,412.20
21	620342	4.54	0.79%	2.59
22	401110	4.43	0.77%	4.20
23	640220	4.38	0.76%	10.85
24	851650	4.24	0.74%	3.71
25	845020	4.10	0.71%	772.89
26	620630	3.66	0.64%	7.21
27	870421	3.56	0.62%	15.84

28	950390	3.55	0.62%	3.27
29	852731	3.54	0.62%	7.23
30	852872	3.52	0.61%	2.01
31	950691	3.47	0.60%	2.70
32	640219	3.37	0.59%	3.63
33	761699	3.21	0.56%	6.45
34	841510	3.20	0.56%	1.46
35	300490	3.14	0.55%	14.16
36	940320	2.91	0.51%	2.12
37	620520	2.87	0.50%	2.92
38	721230	2.81	0.49%	23.92
39	852580	2.64	0.46%	1.27
40	640319	2.64	0.46%	2.25
41	848180	2.64	0.46%	1.18
42	610821	2.49	0.43%	8.18
43	950510	2.44	0.42%	3.24
44	841451	2.41	0.42%	2.00
45	940510	2.38	0.41%	2.61
46	392690	2.23	0.39%	1.14
47	550810	2.12	0.37%	8.93
48	851190	2.09	0.36%	25.20
49	720852	2.02	0.35%	10.32
50	70320	1.95	0.34%	4.48
51	390760	1.94	0.34%	3.51
52	291890	1.94	0.34%	49.30
53	392410	1.94	0.34%	2.75
54	850940	1.93	0.33%	3.86
55	200310	1.87	0.32%	7.39
56	271220	1.83	0.32%	6.27
57	871200	1.83	0.32%	1.61
58	200290	1.83	0.32%	7.75
59	720918	1.76	0.31%	36.10
60	732690	1.74	0.30%	1.18
61	852791	1.69	0.29%	6.99
62	293100	1.65	0.29%	4.94
63	853931	1.63	0.28%	1.76
64	851671	1.60	0.28%	2.87
65	620343	1.59	0.28%	2.16
66	851640	1.56	0.27%	4.43
67	720839	1.55	0.27%	3.13
68	871499	1.50	0.26%	6.87
69	950210	1.50	0.26%	10.82
70	731815	1.48	0.26%	2.22
71	720916	1.46	0.25%	9.64
72	940161	1.45	0.25%	1.04
73	420222	1.44	0.25%	1.52
74	620530	1.41	0.25%	3.14
75	392490	1.40	0.24%	2.01
76	620640	1.33	0.23%	5.14
77	853669	1.29	0.22%	1.93

78	640419	1.28	0.22%	1.12
79	481810	1.27	0.22%	11.98
80	691200	1.26	0.22%	16.31
81	871491	1.23	0.21%	5.30
82	620920	1.23	0.21%	3.55
83	630260	1.16	0.20%	1.35
84	940130	1.13	0.20%	2.91
85	760429	1.12	0.19%	1.47
86	852713	1.11	0.19%	1.44
87	441299	1.09	0.19%	8.16
88	732393	1.08	0.19%	1.29
89	640291	1.06	0.18%	7.49
90	870323	1.02	0.18%	3.15
91	852390	1.02	0.18%	1.73
92	292429	1.02	0.18%	4.36
93	610610	1.01	0.17%	3.83
94	850410	1.00	0.17%	2.49

Source: Calculated using Statistics from China Customs and Costa Rica COMEX

3.5. 3 Conclusions

China's exported products to Costa Rica are more diversely scattered than China's imported products from Costa Rica. For the average of 2005-2007, China exported 3215 tariff lines products (6-digit) to Costa Rica. Of which, 106 Chinese exported products to Costa Rica had an export value of over USD 1 million, with a total export value of USD 334 million, accounting for 58.19% of China's total export to Costa Rica, and the other 3109 products (96.70% of all the China's export tariff lines) accounted for only 41.81% of China's total export to Costa Rica. China's imports from Costa Rica are more concentrated. From 2005-2007, the top 3 imported products (6-digit) were all circuit products, accounting for 93.24%, 96.37% and 96.93% of China's total import from Costa Rica, respectively. From this perspective, it can be concluded that the two countries are complementary in their trade structure.

Judging from TSI and BRCA together, products with $TSI > 0.5$ and $BRCA > 1$ have more competitiveness. 80 Chinese products with this characteristic listed in table 3.10 have more potential to enter the Costa Rican market.

Table 3.10 Chinese Products with TSI>0.5 and BRCA>1

	HS Code	China' s Import from Costa Rica (Average of 2005-2007)	China' s Export to Costa Rica (Average of 2005-2007)	China' s Export to World (Average of 2005-2007)	Share of C.R in China' s total export	TSI	BRCA
1	830110	1.33	958,777.33	283,086,512.30	0.34%	0.999997	5.79
2	701399	3.00	397,023.67	397,261,835.70	0.10%	0.999985	1.71
3	853922	14.33	883,097.67	129,158,889.70	0.68%	0.999968	11.68
4	830629	6.67	312,221.00	407,577,043.70	0.08%	0.999957	1.31
5	392610	11.00	348,770.67	558,191,725.00	0.06%	0.999937	1.07
6	392329	23.33	531,426.67	424,435,858.00	0.13%	0.999912	2.14
7	852312	2.67	51,429.33	231,197.00	22.24%	0.999896	380.07
8	852359	2.00	34,957.33	26,093,235.33	0.13%	0.999886	2.29
9	611599	4.67	79,942.67	31,343,403.67	0.26%	0.999883	4.36
10	640399	341.33	4,700,910.00	5,675,496,579.00	0.08%	0.999855	1.42
11	854449	48.33	512,796.67	771,834,635.30	0.07%	0.999812	1.14
12	853540	5.00	51,574.67	24,435,196.33	0.21%	0.999806	3.61
13	852580	258.00	2,641,121.67	3,549,261,739.00	0.07%	0.999805	1.27
14	732090	4.00	38,691.67	55,322,425.67	0.07%	0.999793	1.19
15	820570	15.00	66,828.67	46,020,741.00	0.15%	0.999551	2.48
16	846789	139.33	435,645.33	112,586,072.30	0.39%	0.999361	6.61
17	842390	30.00	84,822.33	104,933,062.00	0.08%	0.999293	1.38
18	870880	172.00	473,480.00	225,705,577.30	0.21%	0.999274	3.58
19	841330	155.67	425,090.33	111,275,369.70	0.38%	0.999268	6.53
20	481960	10.67	24,059.67	22,443,199.67	0.11%	0.999114	1.83
21	481141	76.67	143,897.00	40,049,162.33	0.36%	0.998935	6.14
22	848130	129.67	242,846.00	79,200,102.00	0.31%	0.998933	5.24
23	848180	1,433.33	2,635,851.33	3,808,488,147.00	0.07%	0.998913	1.18
24	903089	34.67	63,565.67	27,239,521.00	0.23%	0.99891	3.99
25	340700	68.00	104,099.00	25,449,250.33	0.41%	0.998694	6.99
26	482190	61.67	79,823.67	35,305,292.33	0.23%	0.998456	3.86
27	901780	110.00	139,850.33	184,727,482.30	0.08%	0.998428	1.29
28	850410	823.67	1,002,480.00	688,405,641.00	0.15%	0.998358	2.49
29	691090	487.33	512,971.33	42,285,772.67	1.21%	0.998102	20.73
30	390210	128.67	135,099.00	41,226,010.33	0.33%	0.998097	5.60
31	291539	662.00	464,224.33	70,966,058.00	0.65%	0.997152	11.18
32	392330	344.33	234,071.00	182,564,130.70	0.13%	0.997062	2.19
33	392190	523.67	303,566.33	160,511,570.00	0.19%	0.996556	3.23
34	390760	3,410.33	1,943,949.67	945,352,836.30	0.21%	0.996497	3.51
35	841451	4,763.67	2,405,121.67	2,055,113,174.00	0.12%	0.996047	2.00
36	940310	798.67	385,685.67	160,484,223.00	0.24%	0.995867	4.11
37	551319	258.33	74,209.00	19,425,174.67	0.38%	0.99	6.53
38	611592	2,429.67	647,066.67	499,176,982.70	0.13%	0.99	2.21
39	382490	2,642.67	580,807.00	769,742,849.30	0.08%	0.99	1.29
40	760900	855.33	173,632.00	45,894,904.67	0.38%	0.99	6.46
41	940150	192.00	38,351.67	16,424,312.67	0.23%	0.99	3.99
42	400299	346.00	63,114.33	37,681,126.67	0.17%	0.99	2.86
43	731816	1,526.67	266,727.00	351,792,837.00	0.08%	0.99	1.30

44	853649	382.67	63,891.00	62,667,068.00	0.10%	0.99	1.74
45	210690	1,939.67	294,517.67	431,396,821.70	0.07%	0.99	1.17
46	901850	333.33	39,500.00	27,334,109.00	0.14%	0.98	2.47
47	732020	246.00	25,765.00	39,991,114.67	0.06%	0.98	1.10
48	854370	6,036.00	590,294.33	953,877,746.00	0.06%	0.98	1.06
49	960910	2,638.33	249,039.00	168,763,348.30	0.15%	0.98	2.52
50	732690	18,939.67	1,739,480.33	2,511,239,757.00	0.07%	0.98	1.18
51	841981	2,336.33	193,231.00	13,815,368.67	1.40%	0.98	23.90
52	853929	1,511.67	110,506.33	188,762,640.70	0.06%	0.97	1.00
53	381190	173.00	12,600.67	19,908,126.67	0.06%	0.97	1.08
54	761699	46,513.33	3,206,299.33	848,879,327.30	0.38%	0.97	6.45
55	732010	642.67	39,431.67	41,949,654.67	0.09%	0.97	1.61
56	350610	2,368.67	133,437.67	105,472,118.70	0.13%	0.97	2.16
57	903190	2,894.00	161,023.00	105,215,827.30	0.15%	0.96	2.61
58	903039	489.67	24,914.67	22,479,269.33	0.11%	0.96	1.89
59	441129	3,067.00	130,799.33	52,565,400.00	0.25%	0.95	4.25
60	391690	1,222.67	49,764.33	30,998,884.00	0.16%	0.95	2.74
61	731822	3,719.67	151,016.33	144,748,346.70	0.10%	0.95	1.78
62	391910	11,454.00	411,714.00	290,537,866.00	0.14%	0.95	2.42
63	902680	1,666.67	47,347.67	66,171,142.67	0.07%	0.93	1.22
64	731815	70,708.33	1,481,877.33	1,140,908,403.00	0.13%	0.91	2.22
65	851190	109,063.00	2,089,055.33	141,662,010.00	1.47%	0.9	25.20
66	391990	58,422.00	988,666.67	413,236,132.00	0.24%	0.89	4.09
67	392690	144,058.67	2,225,508.00	3,335,694,713.00	0.07%	0.88	1.14
68	853669	86,744.67	1,290,125.67	1,143,603,291.00	0.11%	0.87	1.93
69	200510	41.33	582.00	200,136.00	0.29%	0.87	4.97
70	392390	15,362.33	209,945.00	204,724,662.00	0.10%	0.86	1.75
71	847990	32,722.00	425,567.33	206,085,428.70	0.21%	0.86	3.53
72	120999	4,957.67	60,665.67	8,236,666.00	0.74%	0.85	12.58
73	811299	27,413.33	322,457.67	81,441,336.33	0.40%	0.84	6.76
74	853229	12,872.33	125,955.33	61,804,003.67	0.20%	0.81	3.48
75	853400	707,132.00	6,671,801.00	7,512,125,859.00	0.09%	0.81	1.52
76	731811	5,906.00	34,928.33	2,821,665.33	1.24%	0.71	21.15
77	401699	43,241.00	244,909.67	324,877,127.70	0.08%	0.7	1.29
78	830140	163,221.67	924,210.00	643,043,452.70	0.14%	0.7	2.46
79	853630	42,482.00	197,598.33	134,814,361.00	0.15%	0.65	2.50
80	853990	24,239.33	92,152.00	85,553,854.67	0.11%	0.58	1.84

Source: Calculated using Statistics from China Customs and Costa Rica COMEX

4. IMPACTS OF TRADE AND INVESTMENT LIBERALIZATION

4.1 Liberalization of Bilateral Trade in Goods

This section attempts to quantify the effects that the elimination of tariffs applicable to goods from China and from Costa Rica would have on imports of the respective importing country, based on all imports from both countries in 2007. For such quantification, the Partial Equilibrium Model is used to measure trade creation and trade diversion impacts for both countries.

4.1.1 The Partial Equilibrium Model

The increase in bilateral trade incurred from an FTA between two countries is achieved at the expense of domestically produced goods, in a process known as “trade creation”, at the expense of imports from other countries outside the FTA bloc, known as “trade diversion” or both. The partial equilibrium model (PEM), following Viner (1950) in his pioneering work, seeks to measure the trade creation and diversion that may arise from a preferential tariff treatment for imports because of an FTA in comparison with the application of MFN tariffs, and the possible effect of this preferential access for the member of the FTA on the imports from other partners.

Trade creation is caused in those goods for which one member of the FTA bloc may offer a price lower than the international price, i.e. goods for which the member of the FTA is the cheapest supplier. Thus, by eliminating the tariff, with the resulting price reduction perceived in the internal market, consumption increases and quantities offered by domestic producers decrease; consequently, there is a net increase of imports, i.e. trade creation derived from the subscription of the Free-Trade Agreement.

By the definition of price elasticity of import-based demand, trade creation for each product is estimated as follows:

$$TC_{r,j} = M_{r,j}^p * E_{r,j} * \frac{(-t_{r,j})}{(1+t_{r,j})},$$

Where: $TC_{r,j}$ = trade creation in goods j by importing region r

$M_{r,j}^p$ = value of initial imports from partner region p

$E_{r,j}$ = Price elasticity of import-based demand

$t_{r,j}$ = Initial ad valorem duty.

It implies that the subscription of the FTA will generate the elimination of ad valorem duties and that the increase of imports from region s will generate a variation

(in foreign currency terms) in the price of imported goods, with which the change of tariff is equivalent to the change in domestic price. Thus, the change in the value of imports would only arise from changes in imported quantity.

On the other hand, trade diversion comes into force when trade is diverted away from a more efficient supplier outside the FTA, towards a less efficient supplier within the FTA. Trade diversion implies a substitution of supply sources due to the relative price change arising from the Free-Trade-Agreement and hence does not necessarily imply great availability of goods. Trade diversion represents a Free-Trade Agreement-derived cost for the economy, as it ends up importing goods at a price higher than that available before the agreement. A trade diversion will emerge in relation to those goods for which China offers a price higher than the cheapest supplier's, since a preferential tariff would push the price down in the domestic market, and this would enable us to substitute China imports for goods offered by more efficient suppliers.

The concept of elasticity of substitution between imported goods from different source regions is used to calculate the increase of imports arising from trade diversion. By assuming the CIF value of imported goods is not affected by the increase of exports of region r , trade diversion for each product is estimated as follows:

$$TD_{r,j} = \frac{M_{r,j}^p * M_{r,j}^o * E_{r,j}^p * (-t_{r,j}) / (1 + t_{r,j})}{M_{r,j}^p + M_{r,j}^o + M_{r,j}^p * E_{r,j}^p * (-t_{r,j}) / (1 + t_{r,j})}$$

Where: $TD_{r,j}$ = trade diversion incurred from substitution of imports from partner region p to imports from the rest of the world.

$M_{r,j}^o$ = value of initial imports from the rest of the world

$E_{r,j}^p$ = elasticity of substitution between imports from partner and imports from the rest of the world.

This model calculates the effect on trade flows on product level on a one-time basis, due to the reallocation of resources driven by changes in relative prices as a result of the tariff reduction. Trade creation improves economic efficiency because the FTA partner country turns out to be a lower-cost supplier, compared with producers at home, of the product that is imported more as a result of an FTA. However, trade diversion might be detrimental to the welfare of both the rest of the world and the importing country because the diverted imports may not be the best choice due to the price discrimination against the third-country product, which actually may have been a cheaper source of supply. Hence, an FTA would have a positive effect only if the benefits derived from trade creation exceed the costs of trade diversion.

This model, however, has some problems that must be kept in mind in interpreting the impact of tariff reductions on imports, as it fails to capture the effect on goods that were not initially imported and disregards dynamic effects incurred from the Free-Trade Agreement on product growth rate.

4.1.2 Results

To apply the model to measure trade creation and diversion for both Costa Rica and China, we first aggregate the trade and tariff information by the concordance between the 6-digit harmonized system and the 57 sectors in Global Trade Analysis Project.

We apply the model to China imports in 2007 and eliminate the tariff levied on Costa Rica goods, these would exhibit an increase of US\$ 366.07 million, representing a 15.87 percent increase in relation to actual imports from Costa Rica, or a 43.16 percent increase in relation to actual aggregate export of Costa Rica goods to China in 2007. Of the increase in imports, US\$262.13 million pertains to trade creation, representing an increase of about 11.36 percent in relation to actual imports from Costa Rica that year. Trade diversion would amount to US\$103.94 million, which implies a share of about 28.39 percent of the increase in imports.

Table 4.1 presents the results in details. It is evident that the impact is centralized on four sectors, i.e. the electronic equipment, other machinery and equipment, other food products, and leather products, which accounts for 97.6 percent both in trade creation and in trade diversion.

Table 4.1: Trade Creation and Diversion
(China 2007 Imports, US \$million)

Sector	Imports from Costa Rica	Imports from Rest of the World	Trade Creation	Trade Diversion
Plant-based fibers	0.28	3585.23	1.19	0.48
Other Crops	2.08	840.12	0.61	0.24
Other Animal products	0.01	2114.87	0.02	0.01
Forestry	1.04	5409.44	0.00	0.00
Sugar	0.00	377.16	0.00	0.00
Other Food products	4.37	6330.68	9.73	3.89
Textiles	0.03	18798.24	0.04	0.02
Leather products	3.44	5525.57	4.60	1.84

Wood products	0.01	2965.16	0.00	0.00
Paper products, publishing	0.04	14569.05	0.04	0.02
Chemical, rubber, plastic products	1.34	128622.78	1.55	0.62
Ferrous metals	0.00	26839.79	0.00	0.00
Other Metals	2.96	46441.29	2.01	0.81
Metal products	0.26	9604.75	0.37	0.15
Motor vehicles and parts	0.33	25030.75	0.45	0.18
Electronic equipment	2276.73	237578.74	228.97	90.69
Other Machinery and equipment	13.62	202251.89	12.53	5.01
Other Manufactures	0.00	5214.88	0.00	0.00
Other	0.00	211877.47	0.00	0.00
Total	2306.56	953977.85	262.13	103.94

Source: Estimated results

Table 4.2: Trade Creation and Diversion by Chapter
(China 2007 Imports, US \$million)

Chapters	Imports from Costa Rica	Imports from Rest of the World	Trade Creation	Trade Deviation
85 Electrical machinery and equipment and parts thereof	2284.07	217204.62	257.35	99.21
20 Vegetable, fruit, nut, other food preparations	2.52	270.41	1.21	1.20
41 Raw hides and skins (other than furskins) and leather	3.44	5959.03	0.66	0.66
84 Machinery and Mechanical Appliances, including parts	4.82	124427.83	0.58	0.58
03 Fish, crustaceans, molluscs and other aquatic invertebrates	1.76	3442.01	0.57	0.57
74 Copper and articles thereof.	1.71	27170.57	0.48	0.48
76 Aluminums and Articles thereof.	1.20	6742.83	0.29	0.29
39 Plastics and articles thereof	1.18	45318.15	0.27	0.27
90 Optical, Photographic, medical apparatus; parts and accessories thereof.	1.46	69403.49	0.22	0.22
52 Cotton	0.28	7722.05	0.17	0.17
87 Vehicles other than Railway, Parts and Accessories	0.33	22114.98	0.09	0.09
35 Albuminoids, modified starches, glues, enzymes	0.15	1330.06	0.05	0.05
21 Miscellaneous edible preparations	0.06	376.76	0.04	0.04
81 Other Base metals; Cermet articles thereof.	0.17	965.67	0.04	0.04
73 Articles of Iron or Steel.	0.08	8038.90	0.02	0.02
83 Miscellaneous articles of base metal.	0.06	1263.46	0.02	0.02
72 Iron and Steel.	0.00	23013.03	0.01	0.00
48 Paper & paperboard, articles of pulp, paper and board	0.04	4292.22	0.01	0.01
09 Coffee, tea, mate and spices	0.02	77.33	0.01	0.01
55 Manmade staple fibres	0.02	2807.44	0.01	0.01
05 other Products of animal origin	0.02	234.79	0.01	0.01
others	3.15	343675.25	0.01	0.01
Total	2306.56	915850.89	262.13	103.94

Source: Estimated results

For trade creation and trade diversion by chapter in China's imports, they are measured at the HS 8-digit level and then aggregated into the HS 2-digit level. The 10 most important chapters of the tariff classification in terms of trade creation and trade diversion are listed as follows:

- Electrical machinery and equipment and parts thereof (chapter 85)
- Vegetable, fruit, nut, other food preparations (chapter 20)
- Raw hides and skins (other than furskins) and leather (41)
- Machinery and mechanical appliances and parts (84)
- Fish, crustaceans, molluscs and other aquatic invertebrates (chapter 03)

- Copper, aluminums and and articles thereof (chapters 74 and 76)
- Plastics and articles thereof (chapter 39)
- Optical, photographic, medical apparatus; parts and accessories thereof.(chapter 90)
- Cotton (chapter 52)
- Vehicles other than railway, parts and accessories (chapter 87)

These 10 chapters would account for above 95% of total trade creation and total diversion as well.

As estimated by Costa Rica side, total import increase of Costa Rica would amount to US\$ 101.50 million, representing a 17.88 percent increase in relation to China's total export to Costa Rica in 2007.

4.1.3 Conclusions

In summary, China would benefit from an eventual China-Costa Rica Free Trade Agreement due to aggregate import increase of 15.87 percent in relation to China actual imports from Costa Rica in 2007, and aggregate export increase of 17.88 percent in relation to China actual exports to Costa Rica in 2007. These increases arise from trade creation and trade diversion, and of them increase from trade creation exceeds the responding increase from trade diversion, for China and Costa Rica respectively. Hence the China-Costa Rica Free Trade Agreement would promote trade development between the two countries.

4.2 Liberalization of Bilateral Trade in Service

In 2006, the total value of China's trade in services hit USD 192.8 billion, accounting for 9.9% of China's total trade in both goods and services. The most important export sectors were tourism (36.9%), transport (22.8%), and other services (21.4%) sectors. The most important import sectors were transport (34.1%), tourism (24.1%), and other services (11.2%) sectors. The Chinese government has issued relevant documents to promote the development of services sectors, aiming at deepening reforms, removing restrictions on market access, breaking monopoly and enhancing market competition. China's trade in services is in the process of opening to the outside world, and China's huge market has allured a great number of foreign investments in the services industry.

To date, trade in services between China and Costa Rica is in an undeveloped

condition. Related statistics are hard to find, and the only available data is some of China's labor contracting to Costa Rica. The services trade between the two countries has yet to be developed in a large scale, with a huge potential in the future.

There are direct impacts and indirect impacts on China's trade in services under the China-Costa Rica FTA. On the aspect of direct impact, bilateral trade in services will increase significantly, if the two governments could achieve agreements on such issues as eliminating barriers on market access and national treatment, etc. On the aspect of indirect impact, the increase of trade in services is closely related to trade in goods and direct investment. The possible China-Costa Rica FTA would reduce the tariff level, and remove non-tariff barriers of trade in goods. The trade in services will be subsequently boosted by the increase of relevant trade in goods and investment, and by investment facilitation and improvement of investment dispute settlement. Therefore, it is predictable that China-Costa Rica FTA will promote bilateral trade in services.

4.3 Impact on Bilateral Investment

Currently, China and Costa Rica both made very limited investment in each other. The establishment of the bilateral FTA will boost the two-way investment, and will also attract more FDIs from economies outside the bilateral FTA.

The China-Costa Rica FTA could promote the mutual investment in the following three aspects:

1. The agreement on investment and agreement on trade and investment facilitation are important parts of the FTA. The FTA could promote the mutual investment through relaxing the market access restrictions in investment, reducing and eliminating the investment barriers and improving the trade and investment facilitation.

2. The FTA establishment could facilitate the flow of factors or production, such as the technology, capital and the skilled labor, and provide such facilitation measures as in profit remittance etc., so as to encourage the mutual investment.

3. The FTA might create trade substitute effect on investment as well as the investment substitute effect on trade. On one hand, the reduced or eliminated tariff and non-tariff barriers will reduce the cost of export and increase the volume of export, therefore the investment which used to evacuate the tariff barriers tend to be reduced, leading to a trade substitute effect on investment. On the other hand, the reduced or eliminated tariff could reduce the enterprises' cost in value chain integration and the resource allocation according to the different advantages of factors in various regions. Enterprises could produce the semi-manufactured goods and the raw materials in one country and assemble them in another country. The reduced vertical integration cost

increases enterprises' investment. Also, the market expansion led by trade liberalization will tend to enlarge the exports of the foreign-funded enterprises, especially those of export-oriented enterprises. The enterprises will then tend to increase the investment in order to expand the output.

China-Costa Rica FTA will enhance the capacity to draw horizontal FDI into these two countries, due to their enlarged market scale under the FTA. Therefore, in general, the horizontal FDI from economies outside the FTA will increase after the establishment of the China-Costa Rica FTA. It is especially true for Costa Rica, since this FTA will lead to opportunities to enter the enormous Chinese market, and more FDIs will be attracted into Costa Rica.

The fact that China and Costa Rica did not have diplomatic relations before 2007 might be one reason why the mutual investment was so limited. Since China and Costa Rica have established diplomatic relations, and the two countries are working to conclude a bilateral FTA, and the Chinese government is encouraging its domestic enterprises to invest abroad, it is believed that more Chinese enterprises will invest in Costa Rica. Also, Costa Rica is an important economic force in Central America and member of several FTAs, and this is another advantage to attract Chinese investment.

To sum up, a China-Costa Rica FTA will have positive impacts on FDIs in both countries.

5. INFORMATION EXCHANGE ON OTHER ISSUES AND ECONOMIC COOPERATION

5.1 Movement of Business Persons

In accordance with the Law of the People's Republic of China on Control of the Entry and Exit of Aliens, aliens who would like to enter into China shall apply for visas from the Chinese diplomatic missions, consular offices or other resident agencies abroad authorized by the Ministry of Foreign Affairs of the P.R.C. The entry of nationals from countries having visa agreement with the Chinese Government shall be handled in accordance with the said agreement. In cases where another country has special provisions for Chinese citizens entering and transiting that country, the competent authorities of the Chinese Government may adopt reciprocal measures contingent on the circumstances.

In specific situations, such as being invited to China to tender a bid or to formally sign an economic or trade contract or being invited to China for scientific or technological consulting services, aliens may, in compliance with the provisions of the State Council, apply for visas to visa-granting offices at ports designated by the competent authorities of the Chinese government. Port visas can be obtained immediately. While in China, foreign business persons may apply for visas and residence permits to the entry-and-exit department of the authorized local public security organs. The processing time is 1-5 working days. The application fee is in the principle of equality.

Chinese visa is a permit issued to a foreigner by the Chinese visa authorities for entry into, exit from or transit through the Chinese territory. The Chinese visa authorities may issue respectively a diplomatic, courtesy, public affairs or ordinary visa to a foreigner according to his status, purpose of visit to China and passport type. The ordinary visas consist of eight sub-categories, which are marked with Chinese phonetic letters (D, Z, X, F, L, G, C, J-1 and J-2 respectively).

5.1.1 Tourists

Aliens who come to China for sight-seeing, visiting relatives or other private purposes should apply for Visa L. For a tourist applicant, in principle he shall evidence his financial capability of covering the traveling expenses in China, and when necessary, provide the air, train or ship tickets to the heading country/region after leaving China. For the applicants who come to China to visit relatives, some are required to provide

invitation letters from their relatives in China.

Aliens who are invited to China on a visit or on a study, lecture, or business tour, for scientific-technological or cultural exchanges, for short-term refresher course or for job-training, for a period not more than six months should apply for Visa F. To apply for Visa F, the invitation letter from the inviting unit or the visa notification letter/telegram from the authorized unit is required. Business persons holding visa F may stay in China for the period prescribed in their visas if not obtaining further residence permits. Visa F can be extended, with each extension not more than 3 months and the total duration of stay not more than 1 year. Accompanying family members are subject to the same terms.

Aliens who make transit through China should apply for Visa G. In application for Visa G, a valid visa for entering the country/region of destination, or connecting tickets in case such a visa is exempt.

Train attendants, air crew members and seamen operating international services, and their accompanying family members should apply for Visa C. In application for Visa C, relevant certificates in accordance with the bilateral agreements concerned or the regulations of the Chinese side are required.

Foreign correspondents who make short trip to China on reporting tasks should apply for Visa J-2. The applicants for J-2 visas are required to provide a certificate from the competent Chinese authorities.

5.1.2 Residence

Aliens who come to China to take up posts or employment and their accompanying family members should apply for Visa Z. To apply for Visa Z, an Employment License of the People's Republic of China for Foreigners (which could be obtained by the employer organization in China from the provincial or municipal labor authorities) and a visa notification letter/telegram from an authorized organization are required. Alien Residence Permit could be extended based on the purposes of the holder's stay. Accompanying family members are subject to the same terms. Family members should not work unless having been granted Employment Permit.

Aliens who come to China for study, advanced studies or job-training for a period of six months or more should apply for Visa X. To apply for Visa X, a certificate from

the receiving organization or the competent department is required, i.e., Application Form for Overseas Students to China (JW201 Form or JW202 Form), Admission Notice and Physical Examination Record for Foreigners.

Resident foreign correspondents in China should apply for Visa J-1. In application for Visa J-1, a certificate from the competent department is required.

5.1.3 Permanent Residence Permit (granted for an indefinite time)

Aliens who are to reside permanently in China should apply for Visa D. In application for Visa D, a permanent residence confirmation form, which may be obtained through application by the applicant or by his /her designated relatives in China from the exit-and-entry department of the municipal or state public security bureau at the place of the applicant's intended residence.

5.1.4 Evaluation of an agreement on Movement of Business Persons

For the purpose of movement of business persons, no inconveniences are foreseen for the execution of an FTA with Costa Rica, as China has made great efforts to facilitate the entry and residence in the past several years, for example, some special policies have been made to facilitate the entry and residence of the following: a) Foreign senior management personnel who come to China to carry out agreements signed by China's central or local governments and foreign governments on major scientific & technological, or key construction projects at the state, provincial or ministerial levels; b) Foreign qualified scientists and technicians or high-level management personnel taking posts in China; c) Foreign nationals coming to China to carry out inter-governmental free aid agreements; d) Foreign investors, especially those investing in China's western areas; As from July 1, 2003, businesspersons holding valid Singaporean and Brunei ordinary passports are exempted from visas when staying in China for no more than 15 days; As from September 1, 2003, business persons holding valid Japanese ordinary passports are exempted from visas when staying in China for no more than 15 days; From August 15, 2004, China began to issue “foreigner’s permanent residence certificate” to qualified foreigners (it was also called the “green card” system). By September 30, 2005, China has approved the issuance of its “green card” to 649 foreigners from 33 countries.

China joined the APEC Business Travel Card (ABTC) Scheme in 2001, and has issued the card in 2003. To facilitate business travel across border, half of the

immigration checkpoints are equipped with Optical Character Recognition (OCR) readers.

5.2 Transparency

China has made great efforts to ensure transparency regarding the laws, regulations and other measures it has issued and implemented. The Government of China issued publications on a regular basis providing information on China's foreign trade system, such as the "Yearbook of Foreign Economic Relations and Trade" and "The Bulletin of the MOFCOM" published by the MOFCOM; "Statistical Yearbook of China", published by the State Statistical Bureau; "China's Customs Statistics (Quarterly)", edited and published by the Customs. China's laws and regulations of the State Council relating to foreign trade are all published, as are rules issued by departments. Such laws, regulations and rules are available in the "Gazette of the State Council", the "Collection of the Laws and Regulations of the People's Republic of China" and the "MOFCOM Gazette". The administrative regulations and directives relating to foreign and domestic trade are also available on the MOFCOM's official website (<http://www.mofcom.gov.cn>) and in periodicals.

There are no foreign exchange restrictions regarding import or export. Information on foreign exchange measures is published by the State Administration of Foreign Exchange (SAFE) and is available on SAFE's website (<http://www.safe.gov.cn>) and via the news media. Information concerning the administration of imports and exports is published in the "International Business" newspaper and the "MOFCOM Gazette".

Information on China's customs laws and regulations, import and export duty rates, and customs procedures is published in the "Gazette of the State Council" and in the press media, and is available upon request. The procedures concerning application of duty rates, customs value and duty determination, refund and collection, as well as the procedures concerning duty exemptions and reduction, are also published. Customs also publish monthly customs statistics, calculated according to country of origin and final destination, on the basis of eight-digit HS levels.

Any bilateral trade agreements concluded between China and its trading partners, and protocols on the exchange of goods negotiated under them are published in "The Treaty Series of the PRC". In addition, the "Directory of China's Foreign Economic Relations and Trade Enterprises" and "China's Foreign Trade Corporations and

Organizations" are two publications which identify foreign trade corporations and other enterprises in China engaged in foreign trade.

The full listing of official journals is as follows: Gazette of the Standing Committee of the National People's Congress of the People's Republic of China; Gazette of the State Council of the People's Republic of China; Collection of the Laws of the People's Republic of China; Collection of the Laws and Regulations of the People's Republic of China; Gazette of MOFCOM of the People's Republic of China; Proclamation of the People's Bank of the People's Republic of China; and Proclamation of the Ministry of Finance of the People's Republic of China.

China set up the China WTO Notification and Enquiry Centre immediately after its accession to provide enquiry service on trade-related information for all WTO members, enterprises and individuals. The establishment of this enquiry point has been notified to the WTO. Chinese government has also designated Foreign Economic and Trade Gazette as the official journal for the laws, regulations and other measures relating to or affecting trade in goods, trade in services, TRIPS or TRIMS. These laws, regulations and measures cannot be enforced before their publication.

5.3 Trade and investment promotion

China has made great efforts to promote trade and investment, for example, the average tariff rate had been lowered to 9.8% in 2007 from 43.2% in 1992; China has reduced some quota tariff rate and non-tariff barriers; made customs and other trade-related laws, regulations and guidelines accessible to the public both in paper form (e.g. publication) and on Internet. For example, China Customs has set up its database containing all information on existing customs laws, regulations and administrative guidelines, which is regularly updated. All information can be obtained via customs website: (www.customs.gov.cn); furthermore, China has taken some measures to facilitate trade in movement of goods, standards, business mobility and electronic commerce.

The China Council for the Promotion of International Trade (CCPIT) is the most important and the largest institution for the promotion of foreign trade in China. It comprises individuals, enterprises and organizations representing the economic and trade sectors in China.

The aims of the CCPIT are to operate and promote foreign trade, to use foreign

investment, to introduce advanced foreign technologies, to conduct activities of sino-foreign economic and technological cooperation in various forms, to promote the development of economic and trade relations between China and other countries and regions around the world, and to improve the mutual understanding and friendship between China and peoples and economic and trade circles of all nations around the world , in line with law and government policies of the People's Republic of China.

With the approval of the Chinese government, the CCPIT established a separate organ— China Chamber of International Commerce (CCOIC) - in June 1988, which worked simultaneously with the CCPIT. The CCPIT admits new members from enterprises in all parts of China and promotes trade through its functions of information consultation, exhibition, legal assistance, etc. Besides the CCPIT and the CCOIC, there are other trade promotion institutions, such as the Trade Development Bureau of the Ministry of Commerce, the China Export & Credit Insurance Corporation and so on.

The Investment Promotion Agency of the Ministry of Commerce, P.R.C. (CIPA) is the important institution for the promotion of investment in China. it's The works of CIPA include: (1) attending the conferences of the World Association of Investment Promotion Agencies (WAIPA) on behalf of the Ministry of Commerce and handle relevant affairs; Engaging in cooperation and communications with the relevant international economic organizations, foreign investment promotion agencies, chambers of commerce and business associations; Organizing and implementing activities of bilateral and multilateral investment promotion agencies; guiding the work of investment promotion agencies of different areas; guiding the work of China International Investment Promotion Center.

(2) Carrying out investment promotion activities at home and abroad; Carrying out topic researches related to investment; Editing and printing publicized materials and relevant investment promotion publications, such as the Compilation of Laws and Regulations on Foreign Investment Utilization, Statistics on FDI in China, and China Investment Guide; Being in charge of the daily operation of the website of 'Invest in China' and offering relevant investment information for domestic and international enterprises.(3) Carrying out the detailed organizing work for China International Fair of Investment and Trade; Undertaking various investment promotion activities designated by the Ministry of Commerce; Planning and organizing large investment promotion activities at home and abroad; Organizing relevant investment activities such as training,

forum, conference and exhibition. (4) Dealing with consultation, information service, market investigation, credit investigation related to investment activities and planning services on investment promotion; Assisting foreign investment enterprises for relevant legal procedures; Accepting and handling with complaints from foreign investment enterprises of trans-provinces, trans-cities, trans-regions and trans-industries. (5) Undertaking other tasks designated by the Ministry of Commerce. China has taken some business facilitating measures to improve its domestic business environment. Improvements have been made on government administration, and the competitive market environment and supportive legal environment have been built up. “Single desk” services have been provided by more local governments, and investment promotion agencies have been established at each province to assist investors.

To create an effective government administrative environment, efforts have been made to the following areas: (1) Gradually reform the existing administrative system to improve government efficiency. Currently the government focuses on decentralization and simplifying the approval procedures for foreign invested projects; (2) Set up governance network among different government departments thanks to the fast development of internet; (3) Conduct training programs for officials in various specialized areas.

To create competitive market environment so as to enhance the investors’ confidence, the government has been working to keep economic activities in order by means of: strengthening the legitimate enforcement of law against infringements on IPR, removing monopolies as well as barriers resulting from regional/local protections, cracking down on behavior of making fake and shoddy products and other illegal activities, discontinuation of collection of all unauthorized fees, levies and fines on foreign invested enterprises (FIEs); strengthening the administration of fee collection.

To create supportive legal environment, Chinese government keeps on reviewing the existing laws, regulations and administrative practices at both central and local level. Both central and local governments have established regular contacts with those main export enterprises in order to provide better services and help them solve the problems during their production and operation. The autonomy on operation and management of foreign invested enterprises is protected through improving related legislation, and intensifying the execution of law. Both the legal rights of all investing parties and workers’ interests and rights are protected by law. The social service system has been

further improved.

5.4 Small and Medium Enterprises Cooperation

China has been encouraging the development of the small and medium-sized enterprises (SMEs). In order to improve the environment for the development of SMEs, provide job opportunities in urban and rural areas and encourage the important role of SMEs in national economic and social development, China issued Law of the People's Republic of China on Promotion of Small and Medium-sized Enterprises, effective on January 1, 2003.

Article 16 of the Law of the People's Republic of China on Promotion of Small and Medium-sized Enterprises points out that the State will take measures to broaden the channels of direct financing for SMEs and give them active guidance in their efforts to create conditions for direct financing through various ways as permitted by laws and administrative regulations. Article 17 regulates that the State, through taxation policies, encourages various kinds of risk investment institutions established according to law to increase investment in small and medium-sized enterprises.

Article 3 underlines that the State will apply the principles of active support, strong guidance, perfect service, disciplining according to law and guaranteed rights and interests, in an effort to create a favorable environment for establishment and development. Article 4 emphasizes that the State Council shall be responsible for formulating policies regarding SMEs and undertaking overall planning for their development of SMEs; The department under the State Council in charge of work in respect of enterprises shall be responsible for the implementation of the State policies and plans concerning the SMEs, making all-round coordination and providing guidance and services in the work regarding SMEs throughout the country. The related departments under the State Council shall, according to the policies and overall planning of the State for SMEs and within the scope of their respective functions and responsibilities, provide guidance and services to SMEs.

Article 5 points out that the department under the State Council in charge of work in respect of enterprises shall, according to industrial policies of the State taking account of the characteristics of the SMEs and the conditions of their development, identify the key areas for support by drafting a guide to SMEs, in order to encourage the

development of all such enterprises. Article 6 outlines that the State protects the investments within the framework of law by SMEs and their investors, as well as the legitimate earnings derived from the investments. No unit or individual may infringe upon the property and legitimate rights and interests of SMEs

In practice, the main measures aimed at promotion of development of the SMEs adopted by Chinese government include: 1) Financial Supports, from both the central and local governments. 2) Support for Establishment of Enterprises. The State supports and encourages the establishment and development of SMEs through taxation policies. 3) Technological Innovation. The State formulates policies to encourage the SMEs to adopt advanced technology to improve product quality. 4) Market Development. The State encourages and supports large enterprises to establish stable cooperative relations with SMEs. 5) Public Services. The State encourages all sectors of the society to establish and improve the service system for SMEs.

With regards to criteria of SMEs, the Law of the People's Republic of China on Promotion of Small and Medium-sized Enterprises, and the Provisional Regulations on the Criteria of the Small and Medium-sized Enterprises outline the overall criteria for classification of the SMEs, and specific standards based on different industries according to ownership, forms of organization, employment size, sales turnover, and assets value, etc.. Detailed information can be obtained at the website: <http://www.sme.gov.cn>.

5.5 Customs Procedures

China joined the International Convention on the Simplification and Harmonization of Customs Procedures in 1988, and signed the Protocol on the Amendment of the International Convention on the Simplification and Harmonization of Customs Procedures on June 15, 2000. The declaration, examination, levying of duties and release measures adopted by China Customs are consistent with international practice.

Being a contracting party of the revised Kyoto Convention, China Customs has been taking actions to simplify its clearance procedures. Pilot operations were carried out in some major regions with significant results achieved. Such initiatives are in line with the principles of the revised Convention and advocated by the World Customs Organization (WCO). The Guidelines on enforcement of the revised Convention has been translated into Chinese and will be made available to all customs officers and

business on request.

China attaches great importance to international customs activities and is an active player in international organizations including the WCO and APEC. In a bid to address the challenges brought about by globalization and rapid progress of science and technology, and fulfill its WTO commitments, China has taken further steps to accelerate its modernization process to facilitate the business and international trade through full implementation of customs-related WTO Agreements and the Collective Action Plans under the APEC Sub-committee on Customs Procedures (SCCP CAP) items, which resulted in considerable improvement of efficiency of Customs, a higher level of credibility, and streamlined customs procedures.

The national informationalized customs clearance operational system established by China's Customs has been working well since it was put into operation. The system has been upgraded from H883 to H2000. H2000 system is being further improved to realize electronic transmission and exchange of trade data or information between customs authority and other trade related government agencies and enterprises. The system is designed to deal with on-line processing of duty payment (electronic fund transfer), refund and manifests, etc. Through China's E-port platform, China's Customs have realized the data exchange by networking with 10 government departments.

On January 1, 2002, China Customs commenced its full implementation of the WTO Customs Valuation Agreement nationwide, and brought into effect accordingly "Measures of the Customs of the People's Republic of China for the Assessment of Dutiable Value of Import and Export Goods". After that, China Customs has implemented the Provisions of the Decision on the Treatment of Interest Charges in Customs Value of Imported Goods and the Decision on the Valuation of Carrier Media Bearing Software for Data Processing Equipment both adopted by the WTO Committee on Customs Valuation. In 2006, China Customs modified the above Measures for betterment.

The overwhelming majority of China's customs duties are *ad valorem*. The customs value of imported goods is assessed according to the C.I.F. transaction price, as defined in the Customs Valuation Agreement. If the transaction value of imported goods is not possible to be specified, the customs value will be determined by other means provided in the Customs Valuation Agreement.

The Customs Law provides for appeal procedures. In the event of a dispute over calculation of duty paid or payable with the Customs, the importer can apply to Customs for a reconsideration of the case. If it is rejected, the importer can appeal to the People's Court. In order to ensure clear appeal provisions and procedures, progress has been made in developing software of Management System of Administrative Appeals System. Nationwide investigation and research on administrative appeal is underway.

As from January 1, 2007, “International Convention for Harmonized Commodity Description and Coding System” (Harmonized System, HS) of 2007 version issued by World Customs Organization was adopted in formulation of the import and export tariff lines and statistical catalogue of China’s customs. For application of Harmonized System and additional provisions of 2007 version, China’s customs has advanced related training for the staff of the customs all over the country.

China’s customs has modified and refined the regulation of classification and issued “PRC Customs Import and Export Goods Classification Administration Rules” which was put into effect on May 1, 2007. Additionally, China’s customs has updated the database of existing tariff listings to ensure all customs in China can make use of it efficiently, and guarantee the consistence of categorization administration.

More specific measures have been taken to raise the level of customs credibility. Credibility Action Plan has been implemented across the country. China Customs is making and will continue to make greater efforts than ever in modernizing its administration and performance. Its objective is to facilitate legitimate trade through more simplified procedures and more efficient administration, while protect the interests of people and country through more effective enforcement of customs laws and regulations.

5.6 Dispute Settlement

Generally speaking, there are three ways of resolving commercial disputes in Mainland China: consultation and mediation, arbitration, and litigation.

First, settlement of international commercial disputes by arbitration is usually preferred in China. As early as in 1956, the Chinese Government set up an arbitration body whose sole purpose was to settle international commercial disputes. Now, China ranks first in terms of the number of cases handled by Chinese arbitration organizations. And there are two foreign-related arbitration organizations in China, which are, the

China International Economic and Trade Arbitration Commission (CIETAC) and the China Maritime Arbitration Commission (CMAC).

Second, disputes could be brought to a people's court in a civil action for settlement if there are no arbitration clauses available in contract between the parties concerned or a written arbitration agreement is not reached.

Third, consultation and mediation is also an option for dispute resolution.

- Consultation can be facilitated by a third party if agreed on by the disputing parties. It is largely an informal way of dispute settlement, but the result can still be legally binding if it is properly recorded in an agreement between the parties. Mediation that is presided over by a judge is a required step during litigation procedures according to the PRC Civil Procedure Law. The judge who hears the case will usually conduct mediation after the initial presentation of the case in court with evidence and argument by both parties.
- In simple words, arbitration is a legal process in which the dispute of the parties is heard by an individual or panel of several individuals (qualified arbitrators), rather than the courts. Arbitration results in an award or decision being made by the arbitrator(s). Arbitration between Chinese and foreign parties in China is usually conducted by the China International Economic and Trade Arbitration Commission (CIETAC) in Beijing, Shanghai or Shenzhen in accordance with its own Arbitration Rules and subject to the PRC Arbitration Law and other relevant laws.
- The basic framework for civil litigation in Mainland China is laid down in the PRC Civil Procedure Law. Other authoritative legal basis include various judicial interpretations by the Supreme People's Court or the Supreme Procuratorate, the PRC Contract Law, the laws and regulations that govern foreign investment enterprises, and the Foreign Investment Enterprise Winding Up Measures.

Since accession into WTO in 2001, China has been extensively involved in the WTO dispute settlement affairs. On June 6 2006, China Council for the Promotion of International Trade (China International Chamber of Commerce) established its dispute settlement center in Xi'an. The center is positioned to provide mediation for business disputes in foreign trade and economic activities.

The settlement center has an advisory board consisting of representatives from government, legislative committee of the people's congress, intermediate court, maritime court, legislative bureau, judicial office, industrial and commercial administration, foreign investment bureau, trade development bureau, arbitrary committee and the Law School of Xi'an University. On top of that, 22 experts with their respective specialties are also in board. The objectives were to seek moderate solutions in an effort to avoid recourse to litigation.

5.7 Trade Facilitation Measures

As a stakeholder and advocator of economic globalization and regional economic integration, as well as a large international trading nation, China is making efforts to accelerate the process of trade facilitation so as to improve its foreign trade efficiency, and reduce the trade costs. On one hand, China is active in taking part in the negotiation on trade facilitation under APEC and WTO framework, on the other hand, China is conducting negotiation on the issues under the RTA with other countries or regions. For example, under CEPA between Hong Kong and Mainland, the measures with regard to trade facilitation include: promotion of trade and investment, facilitation on clearance, inspection and quarantine on merchandise, food safety, quality standard, electronic business, transparency of law and regulations, cooperation on SME and cooperation on Chinese medicine and pharmaceutical industry.

At present, on the aspect of trade facilitation the main measures adopted by China are as follows:

1. Formulation and improvement of the relevant laws and policies, to increase transparency. Chinese government is gradually improving the relevant laws and regulatory rules disciplining intermediary agencies and enterprises on commercial behavior and supervising trade practice according to law to promote trade facilitation. The government publishes information regularly on laws and policies in Chinese and foreign languages, establishes websites to publish the information and deal with the related problems concerning laws and policies.

2. Simplification of goods clearance procedures and shortening of time requirement. The new clearance model, i.e., port coordinating mechanism among the related departments, such as customs, inspection and quarantine, foreign currency etc. is established. All the departments work together as “Single Desk”, to provide facilitating service for traders in terms of customs reporting, international goods transportation, port and banking services, etc. The customs undertakes risk management in combination with post-import inspection so that under the reasonable and strict supervision of customs, the goods flow could be accelerated.

In July 2006, the Port Planning Office of the General Administration of Customs was renamed National Port Management Office, and some new functions were added. These new functions include: studying, initiating and implementing the overall planning of various types of ports and specific measures of port regulations, coordinating the concerned government departments in customs clearance in accordance

with the State Council's overall requirements, and supervising and coordinating the ports operation at local levels, etc.

3. On the aspect of inspection and quarantine, China is gradually improving and perfecting the procedures and standards of goods inspection, adjusting and reducing the number of imported and exported goods required to be inspected and quarantined, simplifying and standardizing the procedures of inspection and quarantine, and reducing the related cost in order to promote trade facilitation.

4. As to foreign currency management, to meet the requirements of market economy development, Chinese government is continuously adjusting rules and regulations on foreign currency management to facilitate trade and provide better service. More and more new measures regarding receiving and paying of foreign currency have been put into practice. For example, some restrict conditions on foreign currency paying for imported goods have been removed.

5. On the aspect of entry and exit of business personnel, as a member of APEC, China has established green passageway to business personnel of APEC members. The administration of entry and exit has been in consistence with international practice. For Chinese commercial personnel, passport application has been simplified and time requirement for passport processing has been shortened significantly, one week in general. Simplifying entry and exit formalities for enterprise staff improves efficiency gradually.

6. Improving infrastructure to facilitate trade. China is improving its ports infrastructure and its complements. Ports have been equipped with modern instruments to promote trade facilitation, including electric automatic check system for automobile passage, customs clearance, full computerized management for entry/exit, customs declaration, import/export, storage, and other intermediary services, i.e., single desk service. Promotion of non-paper clearance, construction of internet network among relevant authorities, sharing information, and mutual certification of digital credentials with other countries, could supply convenience and safety to trade facilitation. Some of automatic electronic checking systems for customs reporting, and vehicle pathway etc. have greatly improved the clearance efficiency.

Since 2000, China Customs has provided an easier clearance procedure for large and high-tech enterprises, such as pre-arrival declaration, on-line declaration, fast transit procedure, checking and release on site, urgent clearance, release with deposit and prioritized consultation. Twenty-four-hour clearance, clearance consultation and quality

service are also provided by the customs offices.

Since August.1, 2001, the sub-system for export exchange collection under "China E-Port" has been fully operated in all customs offices across the country, in the meantime, China Customs has been wasting no time in securing nationwide application of "China E- Port" and working at ways to implement remote filing and declaration for export refund.

5.8 Government Procurement

Government procurement is an institutional innovation in the field of public consumption. At present, this system is an important component for public consumption management for a vast number of nations, and is playing an imperative role in social and economic lives.

To standardize government procurement and integrate government purchasing market, some international organizations have formulated a few international legal documents related to government procurement. Two of them are relatively important--the Government Procurement Agreement (GPA) drafted by the WTO and the Model Law on Procurement of Goods, Construction and Services drafted by the United Nations Commission of International Trade Law (UNCITRAL). GPA is the legal reflection of trade liberalization and economic globalization, and serves as institutional arrangement thereof for government procurement.

China is a newcomer in the practice of government procurement. In mid 1990s, in the process of drafting Bid Law of the People's Republic of China, market competition is introduced for government procurement. From 1996 on, pilot programs had been implemented in Shanghai and Shenzhen successively. After 1999, China promulgated some national regulations and rules concerning government procurement. Based on the Budget Law, the Ministry of Finance (MOF) issued the Tentative Measures on Government Procurement Management in April 4, 1999. In June, 1996, MOF also issued supplementary documents: the Tentative Measures on Supervision of Government Procurement Contract and the Tentative Measures on Bidding for Government Procurement, specifying supervision rules regarding government procurement, and management and supervision plans during the process of invitation and submission of bids for government procurement. In September 2000, the MOF published the Management Measures on Government Procurement Information

Notification and the Catalogue on Government Procurement Items. The former stipulated specifically the means and methods of information release; the latter provided reference for standardized operation regarding government procurement. On June 29 2002, The Government Procurement Law of the People's Republic of China was promulgated, effective as of January 1, 2003.

In July 2006, the MOF launched investigation and evaluation on enforcement of government procurement laws and regulations. Generally speaking, these laws and regulations have played positive role in guaranteeing open, fair and impartial behaviors in government procurement, and achieved remarkable economic and social benefits. From 1998 to 2005, government procurement in the whole country had increased by 77.9% annually in average. In 2005, the actual value of government procurement was RMB 292.76 billion, up 37.1% over the same period in 2004, accounting for 1.6% of GDP, RMB 38.02 billion saved. Based on preliminary statistics, government procurement value in 2006 amounted to RMB 350 billion.

According to Article 10 of the Government Procurement Law of the People's Republic of China, the domestic goods, construction or services should be preferred for all the government procurements in general, except in the following situations:

- 1) Where the goods, construction or services in need cannot be acquired within the territory of the People's Republic of China, or cannot be acquired on reasonable terms and conditions;

- 2) Where the items are procured for use abroad;

- 3) Other circumstances provided for by laws or administrative regulations. The definitions for the domestic goods, construction or services mentioned above should be applied with reference to the relevant regulations approved by the State Council.

In General, the Government Procurement Law stipulates that the goods, construction or services shall be procured domestically. However, it will not apply where relevant goods, construction or services cannot be acquired within China or are procured for use abroad.

Upon its accession to WTO in 2001, China made the commitments that it will launch the negotiations to join the GPA as early as possible. To realize its commitments, the State Council approved that the Ministry of Finance officially launched the

negotiations to join the GPA from December 28, 2007. Although China has not entered the GPA, China has made some beneficial attempts on globalization of government procurement. On May 16, 2006, the first conversation of China and EU on government procurement was held in Beijing. Both sides were satisfied with the communication and cooperation since the establishment of bilateral dialogue mechanism on government procurement, strengthened the importance of regular conversation between China and EU, and agreed that profound development of the conversation mechanism would have a positive impact on deepening bilateral cooperation.

5.9 Competition Policies

In recent years, the government of China has made great efforts to improve its legislation and enforcement of laws and regulations with regard to competition to provide a more transparent and fair competition environment.

China has taken effective measures to combat industry monopoly and local protectionism to maintain fair competition as below: (1) severely punish the practices like abuse of dominant positions, monopoly collusion and mergers which may hinder competitions. Great attentions have been paid to such industries as supply of water, electricity and gas; (2) explore the possible measures to deal with large companies who abuse their dominant positions in China; (3) Regarding anti-unfair competition, Chinese government has severely punished counterfeit of famous commodities of food, medicine, house utensils and agriculture materials, and imitation of the peculiar name, package, decoration and registered trade mark;; (4) crack down on price cheat. Strengthen supervision of online business activities, and punish online unfair competition activities.

Recognizing the importance of establishing a stable market economic order to guarantee the sound operation of economy, and improve the socialist market economic system, China has set up a legal framework oriented at enhancement of market competition in 1980s, including the Law on Anti-Unfair Competition, the Price Law, the Advertisement Law, the Product Quality Law, the Trademark Law, the Patent Law, the Law of Corporation, the Law of Small and Medium-sized Enterprises Promotion, the Temporary Provisions on the Prohibition of Price Monopoly Activities, the Regulations on Telecommunication, etc.

In order to further protect fair competition, China has promulgated the Promotion Law of Small and Medium-sized Enterprises of PRC, the Regulations on Administration

of Technology Import and Export, the Regulations on Prohibition of Implementation of Regional Blockage to Cigarette Business. The Promotion Law of Small and Medium-sized Enterprises of PRC was promulgated in June 2002, and came into force as of January 1, 2003. This law is to promote the healthy development of small and medium-sized enterprises by establishing a fair competition mechanism.

The Temporary Provisions on the Prohibition of Price Monopoly Activities was promulgated in June 2003, and put into effect since November 1, 2003. Its purpose is to promote fair competition, and protect the lawful rights of businessmen and customers by prohibiting price monopoly activities.

Antimonopoly is another focus of China's legislation, since the promulgation of the Regulations on Telecommunication, China has formulated the Temporary Provisions on Foreign Investors' Merger of Domestic Enterprises, and the Temporary Provisions on the Prohibition of Price Monopoly Activities. The awareness of the necessity of antimonopoly legislation has been greatly enhanced.

The State Tobacco Bureau promulgated the Provisions on Prohibition of Implementation of Regional Blockage to Cigarette Business as of June 1, 2001, in order to eliminate regional blockage, and establish a unified, fair and orderly competitive nationwide cigarette market in China.

The Anti-Monopoly Law of the People's Republic of China was promulgated on August 30, 2007, effective as of August 1, 2008. In addition, China is making efforts to draft the Telecommunication Law, in which provisions on monopoly activities will be stipulated. China is also considering the development of laws and regulations relevant to improper and unfair trade activities. The review of the Law on Anti-Unfair Competition is underway.

5.10 Intellectual Property Rights

Protection of intellectual property rights ("IPRs") has become an essential component of China's opening-up policy and socialist legal system reform. The formulation of laws and regulations in this field could be traced back to the late 1970s. Since then, China has joined many international conventions related to IPRs, and actively participated in activities initiated by relevant international organizations, which helped intensify exchanges and cooperation between China and other countries.

5.10.1 Industrial Property

(1) Trademark

The existing trademark legal system in China is built on Trademark Law of the People's Republic of China, the Implementing Regulations of the Trademark Law of the People's Republic of China, and other relevant laws, administrative regulations and sectoral rules, whose objective is to provide protection to right-holders in terms of substance, procedure of trademark registration, and exclusive rights, in line with the international conventions and prevailing practices regarding intellectual property rights. In order to protect trademark owner's exclusive rights, China's Trademark Law contains not only civil and criminal liabilities but also provides for administrative punishment for trademark infringers. The State Intellectual Property Office (SIPO) is responsible for trademark approval, and the Trademarks Bureau under the State Administration for Industry and Commerce (SAIC) is responsible for trademarks registration.

(2) Patent

In order to enhance the awareness of the general public on IPR protection, patent protection in particular, and to build up a sound social environment for promotion and commercialization of inventions, the National People's Congress approved the second revision of the Patent Law of the People's Republic of China on August 25, 2000. The revised patent law, which took effect on July 1, 2001, includes the following elements: (1) a patent owners is entitled to prevent others from marketing of the patented product without his consent (Article 11); (2) for utility model and design patents, the final decision on re-examination and nullification would be made by the people's courts which is different from inventions that were patented prior to the amendment (Articles 41 and 46); (3) patent owners may, before instituting legal proceedings, request the people's court to take provisional measures, such as order to terminate infringing acts and to provide property preservation (Article 61); and (4) conditions for a compulsory licensing would be further clarified.

(3) Protection of the undisclosed information

Article 10 of the Law of the People's Republic of China on Combating Unfair Competition, together with Article 219 of the Criminal Law of the People's Republic of

China, stipulates that a business operator may not infringe upon business confidentiality. In compliance with Article 39.3 of the TRIPS Agreement, China would provide effective protection against unfair commercial use of undisclosed data on experiment or other data submitted to competent authorities in China as required in support of applications for marketing approval of pharmaceutical or of agricultural chemical products which utilized new chemical ingredients, unless disclosure of such data is necessary to protect the public, or where steps have been taken to ensure that the data are protected against unfair commercial use. On May 18, 2006, the State Council promulgated the Regulation on the Protection of the Right to Internet Information Dissemination, effective as of July 1, 2006.

5.10.2 Copyrights and related rights

The Copyright Law of the People's Republic of China, which was promulgated in 1990, established the basic copyright protection system in China, together with the Implementing Rules of the Copyright Law (effective as of May 30, 1991), the regulations on the Implementation of the International Copyright Treaty (effective as of September 25, 1992), and other related laws and regulations. In principle, this system is in compliance with international IPR treaties and practices, and provide legal basis for protection of copyright and related rights, in terms of civil and criminal liabilities, as well as administrative accountabilities with a view to ensure the infringing activities be stopped in a timely and effective manner, and the legitimate rights of the right-holders be respected.

To align China's copyright laws with the TRIPS Agreement, amendments have been made to the Copyright Law, including: specifying payment system by broadcasting organizations for use of the audio products, rights on computer programs and movies in respect of rent, performance, dissemination to the public, and related protection measures, protection of database compilations, provisional measures, and increase of compensation amount and reinforcement of anti-infringement. The Regulations for the Implementation of the Copyright Law and the Provisions on the Implementation of the International Copyright Treaty have also been amended to ensure full consistency with China's obligations under the TRIPS Agreement.

5.10.3 Geographical indications

The relevant rules of the SAIC and the State General Administration of the People's Republic of China for Quality Supervision, Inspection and Quarantine provide some

protection for geographical indications, including appellations of origin. The amendments to the trademark law have specific provisions on protection of geographical indications. China has committed to full compliance with relevant articles in the TRIPS Agreement on geographical indications.

5.10.4 Chinese policy regarding the main intellectual property right treaties with WIPO framework

China became a member of the World Intellectual Property Organization (WIPO) in 1980 and has been a member party in many IPR related agreements (table 5.1).

Table 5.1 China's Participation in International Agreements on Intellectual Property Rights since 1980s

Time	International Agreements on Intellectual Property Rights
1985	Paris Convention for the Protection of Industrial Property
1989	Madrid Agreement Concerning the International Registration of Marks; Treaty on Intellectual Property in Respect of Integrated Circuits
1992	Berne Convention for the Protection of Literary and Artistic Works
1993	Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms
1994	Patent Cooperation Treaty; Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks
1995	Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure; Madrid Agreement Concerning the International Registration of Marks
1996	Locarno Agreement on Establishing an International Classification for Industrial Designs
1997	Strasbourg Agreement Concerning the International Patent Classification
	World Copyright Convention, Nice Agreement on the International Classification for Goods and Services, the International Convention in Protecting New Species of Plant, Agreement on Trade-Related Aspects of Intellectual Property Rights

5.10.5 Enforcement of Intellectual Property Rights

In aspect of legislation, China has issued or amended laws or regulations including the Patent Law, the Copyright Law, the Trademark Law, and the Regulations for the Protection of Computer Software, etc., which have improved the legal system and provided a favorable environment for IPR protection.

In aspect of judicatory, since 1992, special IPR courts have been set up in major cities such as Beijing and Shanghai. Many special tribunals have been established in the Intermediate People's Courts at all levels to solve IPR-related disputes. According to

relevant laws and regulations in China, individuals and enterprises would be held responsible for all their IPR infringing activities, subject to civil and/or criminal liabilities.

In aspect of enforcement, administrative authorities have tried every effort on IPR protection, including severe punishment on infringement or piracy, enhancement of public education in order to ensure that legal environment in China would be able to meet the requirements for enforcing the TRIPS Agreement.

5.11 Environment

Recently, China has made great progress in environment management, environment economy, environment technology, and international cooperation on environment. The government has formulated environmental protection strategy and changed the charge system for waste discharge, and established integrated decision-making mechanism. Rules on, phase-out of outdated equipments, technology and production methods, disclosure of environmental information have come into place step by step. On economic policies, charge for waste and wastewater disposal has been initiated, and consumption tax imposed on low emission automobiles has been lowered. The new technology regulations have been formed to manage the treatment of wastewater, garbage, as well as prevention and control of SO₂, automobile and hazardous waste pollutions. The government clearly encourages the development of environment industry and the adjustment of its structure. Policies on international cooperation have been refined gradually, trade policies related to environment, including on waste import, technology export, have been adjusted.

In March 2008, the Administration of Environmental Protection was elevated to Ministry of Environmental Protection. This move demonstrated that the Chinese government has attached great importance to environmental protection.

Till now, over 40 environmental protection and environment-related laws have been formulated in China. In addition, 30 regulations, 226 ministerial documents by Administration of Environmental Protection, and 102 documents by State Council on environmental protection have been published.

Table 5.2 China's Major Environmental Laws and Environment-related Laws

Name of Law	Date of Promulgation (Year-Month-Date)
Environmental Laws	
Law of the People's Republic of China on Prevention and Control of Pollution From Environmental Noise	1996-10-29
Law of the People's Republic of China on the Prevention and Control of Environmental Pollution by Solid Waste	1995-10-30
Law of the People's Republic of China on the Prevention and Control of Atmospheric Pollution	1995-8-29
Environmental Protection Law of the People's Republic of China	1989-12-26
Law of the People's Republic of China on Prevention and Control of Water Pollution	1984-5-11
Constitution of the People's Republic of China (excerpts of environment-related articles)	1982-12-4
Marine Environment Protection Law of the People's Republic of China	1982-8-23
Environment-related Laws	
Law of the People's Republic of China on the Promotion of Clean Production	2002-6-29
Law of the People's Republic of China on Desert Prevention and Transformation	2001-8-31
Regulations for the Implementation of Forestry Law of the People's Republic of China	2000-1-2
Meteorology Law of the People's Republic of China	1999-10-31
Administrative Reconsideration Law of the People's Republic of China	1999-4-29
Law on the Exclusive Economic Zone and the Continental Shelf of the People's Republic of China	1998-6-26
Fire Control Law of the People's Republic of China	1998-4-29
Law of the People's Republic of China on Protecting Against and Mitigating Earthquake Disasters	1997-12-29
Law of the People's Republic of China on Conserving Energy	1997-11-1
Construction Law of the People's Republic of China	1997-11-1
Flood Control Law of the People's Republic of China	1997-8-29
Highway law of the People's Republic of China	1997-7-3
Law of the People's Republic of China on Township Enterprises	1996-10-29
Law of the People's Republic of China on the Coal Industry	1996-8-29
Electric Power Law of the People's Republic of China	1995-12-28
Law of the People's Republic of China on State Compensation	1994-5-12
Foreign Trade Law of the People's Republic of China	1994-5-12
Law of the People's Republic of China on the Territorial Sea and the Contiguous Zone	1992-2-25
Law of people's Republic of China on the Entry and Exit Animal and Plant Quarantine	1991-10-30
Law of the People's Republic of China on Water and Soil Conservation	1991-6-29
Railway Law of the People's Republic of China	1990-9-7
City Planning Law of the People's Republic of China	1989-12-26
Law of the People's Republic of China on the Protection of Wildlife	1988-11-8
Land Administration Law of the People's Republic of China	1986-6-25
Mineral Resources Law of the People's Republic of China	1986-3-19
Fisheries Law of the People's Republic of China	1986-1-20
Grassland Law of the People's Republic of China	1985-6-18
Forestry Law of the People's Republic of China	1985-6-18
Law of the People's Republic of China on the Protection of Cultural Relics	1982-11-19

Source: Website of Environmental Protection Ministry, www.zhb.gov.cn

5.12 Labor

In China, the government protects the citizens' rights of working and social security in conformity to the *Constitution* of The People's Republic of China and Labor Law of the People's Republic of China. Carrying out a positive employment policy and relying on market-oriented employment mechanism, the government promotes overall employment while making adjustments to employment structure, which greatly contributes to the employment stability and social stability.

On the basis of Labor Law of the People's Republic of China, China has initially formed the legal and regulatory mechanism, which is composed of modulation on labor contract and collective labor contract, tripartite mediation system, labor standard system, dispute arbitration system and supervision system. China has made great effort in maintaining harmonious and stable relationship between employers and employees, new pattern thereof has been formed since income distribution system has been reformed and labor standard redefined.

According to the statistics published by All China Federation of Trade Unions on March 25, 2008, the number of basic level labor unions has reached 1.51 million, covering 3.19 million legal person enterprises, with a total union member of 193 million. Of which, 111,000 foreign-funded enterprises have established labor unions, accounting for 73.1% of all the foreign-funded enterprises. The number of union members of private enterprises has reached 52.21 million, and the number of farmer worker union members has amounted to 61.97 million, or 51% of total number of farmer workers. It is estimated that the total number of union members and number of farmer worker members will reach 200 million and 70 million respectively by the end of 2008. Followings are the standards and stipulations of wages set out in laws and regulations: Minimum wage standard; regulations on Means and frequency of payment; Downtime payment standard: employees are paid according to the labor contract during the period of shut down, if it is shorter than a payment cycle, provided that shut down is not attributed to the employees. If the period exceeds the cycle and the employees offered their labor, wages paid to employees shall not be lower than the local standards on minimum wages.

On June 29, 2007, the Law of The People's Republic of China on Employment Contracts was promulgated and it went into effect as of January 1, 2008. This law has

provided full protection to the labor force.

COSTA RICA SECTION

TABLE OF CONTENTS

1. INTRODUCTION.....	110
1.1 Background of China-Costa Rica FTA.....	110
1.2 Major Characteristics of Macro Economy of Costa Rica.....	110
1.3 Status of China and Costa Rica's FTA with other countries.....	112
2. TRADE AND INVESTMENT POLICIES AND SYSTEMS.....	117
2.1 Introduction.....	117
2.2 Measures Affecting Trade in goods.....	121
2.2.1 Tariffs.....	121
2.2.2 Non-Tariff Barriers.....	121
2.2.3 Rules of Origin.....	123
2.2.4 Sanitary and Phytosanitary Standards.....	123
2.2.5 Technical Barriers to Trade.....	125
2.3 Services.....	127
2.3.1 Measures Affecting Trade in Services.....	131
2.3.2 International Commitments related to Services.....	133
2.4 Foreign Investment Regimes.....	135
2.4.1 Treatment of Foreign Investment.....	135
2.4.2 Special Investment Regimes and Zones.....	136
2.5 Trade Remedies.....	137
2.5.1 Safeguards.....	137
2.5.2 Anti-dumping Measures and Countervailing Duties.....	138
2.5.3 Institutional arrangements.....	139
2.6 Costa Rica's Commitments Regarding WTO.....	139
3. ECONOMIC RELATIONS AND PROSPECTS BETWEEN CHINA AND COSTA RICA.....	141
3.1 Bilateral Trade in Goods.....	141
3.2 Bilateral Trade in Services.....	144
3.3 Bilateral Investment.....	144
3.4 Tariff Level Comparison between China and Costa Rica.....	146
3.5 Analysis on the Competitive and Complementary Industries.....	146
4. IMPACTS OF TRADE AND INVESTMENT LIBERALIZATION.....	151
4.1 Liberalization of Bilateral Trade in Goods.....	151
4.1.1 Analysis on Trade Creation and Trade Deviation.....	151
4.1.2 Impacts on Major Industries.....	154
4.2 Liberalization of Bilateral Trade in Services.....	154
4.3 Impacts on Bilateral Direct Investment.....	155

4.3.1 Overall Impacts on Bilateral Direct Investments.....	155
4.3.2 China's Investment Opportunities in Costa Rica.....	155
4.3.3 Costa Rica's Investment Opportunities in China.....	158

5. INFORMATION EXCHANGE ON OTHER ISSUES

AND ECONOMIC COOPERATION.....159

5.1. Movement of Business Persons.....	159
5.2. Transparency.....	160
5.3. Trade and investment promotion.....	161
5.4. Small and Medium Enterprises Cooperation.....	162
5.5 Customs Procedures.....	163
5.6 Dispute Settlement.....	164
5.7 Trade Facilitation Matters.....	164
5.8 Government Procurement.....	165
5.9 Competition Policies.....	167
5.10 Intellectual Property Rights.....	168
5.11 Environment.....	175
5.12 Labor.....	178

1. INTRODUCTION

1.1 BACKGROUND OF CHINA-COSTA RICA FTA

After the establishment of full diplomatic relations between Costa Rica and China on June 1, 2007, Costa Rica expanded its foreign trade policy objectives with Asia. Actions were directed, particularly, to promoting broader trade and investment relations and, more broadly, to exploring new markets for Costa Rican products and services in the Asian continent.

While, historically, economic exchange between Costa Rica and China has been moderate, the first decade of the millennium has shown a significant increase in bilateral trade flows. In 2006, China occupied the second place of importance as export destination for Costa Rica's products, following only the United States.

Within this context, in October 2007 Costa Rica and China decided to initiate a joint study to determine the feasibility of negotiating, in the near future, a free trade agreement between both countries. This document sets out the results of this study.

1.2 MAJOR CHARACTERISTICS OF MACRO ECONOMY OF COSTA RICA

After the negative effects caused by the oil crisis in the 1970s and the external debt crash of 1980-81, the Costa Rican economy shifted from an import-substitution to an export-promotion strategy, based on fiscal incentives for export-processing activities. In the late 1980s, Costa Rica embarked on a trade liberalization process which initially comprised unilateral cuts in import tariffs and the accession to the General Agreement on Tariffs and Trade (GATT) in 1990. This effort was reinforced four years later by acceding to the multilateral agreements of the Uruguay Round and becoming a member of the World Trade Organization. Throughout the last 15 years, Costa Rica's trade policy was advanced and consolidated through bilateral and regional negotiations of free trade agreements. Supporting these measures, Costa Rica also promoted substantial reductions in the fiscal incentives of the export-promotion scheme, and shifted its focus to increasing exports and attracting Foreign Direct Investment (FDI).

Over the last seventeen years, Costa Rica's GDP has followed two different trends: a linear-like path which prevailed during the 1990s and an exponential path which has been observed since 2000. This acceleration in the growth pace is primarily associated to the country's insertion to the international economy and the negotiation of several Free Trade Agreements (FTAs), particularly in regards to the rise in both FDI attraction and exports that stem from the increased market access brought about by such trade policy instruments. Thus, by 2007 Costa Rican GDP surpassed twenty six billion dollars and consolidated the second year in a row with a real rate of growth above 5%. Agriculture accounts for 10% of GDP, while manufacturing provides about a quarter and services a little less than two thirds. The same path has been followed by per capita GDP, thus revealing that Costa Rica has maintained a relatively stable pace of population growth. In fact, by 2007, Costa Rica's PPP-adjusted per capita GDP was shortly below six thousand dollars, and it slightly surpasses ten thousand dollars when adjusted by purchasing power parity (PPP). This shows that, in spite of its small size, Costa Rica is one of the countries with the best average living standards in Latin America and the Caribbean.

Undoubtedly, inflation has been one of the most difficult issues to address by Costa Rican policymakers, to the extent it results from the combination of factors such as oil prices, the size of domestic public debt and the incidence of the fiscal deficits on monetary emission, and the crawling peg exchange rate regime in place until 2006. Costa Rica has not been able to achieve a significant and lasting reduction of the inflation rate below 10%, but instead it has been fluctuating around 11% over the last decade, being 9.5% the lowest (2006) and

14% the highest (2005).

The migration to an administered and bounded flotation regimen for the exchange rate in 2007, has combined with a great performance of both exports and FDI attraction, to bring about a modest appreciation of the exchange rate over the year 2007 and make the inertial inflationary impact originated by the former exchange rate regime vanish¹⁶. However, oil prices continue to sky rocket and much is still to be done in regards to reducing the size of public sector expenditure, in order to reduce inflationary pressures permanently.

In spite of Costa Rica's inability to achieve a significant and sustained reduction of inflation, the real minimum wages have had moderate fluctuations, with a positive balance for the period 1997-2007. This means that the higher productivity and growth achieved through the trade opening, has allowed for an increase in nominal wages that not only offsets the increase in prices, but also increases the workers purchasing power.

This increase in minimum real wages is a positive result, to the extent it has not been achieved at the expense of unemployment. Although the unemployment rate of Costa Rica shows a fluctuating pattern, a consistent reduction has been undergoing over the last three years. Such a result is likely to be correlated with the increased employment opportunities that stem from sustained increase in FDI brought about by the FTAs negotiated by the country.

The increase in real minimum wages (which implies that wages above the minimum have also increased in real terms) along with the reduction in unemployment, have combined together for a significant reduction in the levels of overall poverty. As a result of several policies, such as: early stage of trade liberalization (unilateral), Costa Rica was able to achieve a significant reduction (about one quarter) of poverty and extreme poverty in 1993. Therefore, a new significant reduction of poverty and extreme poverty was achieved in 2007, when the first one reached a historical minimum of 16.7% and the second one did so by falling to 3.3%. Such a result highlights the relevance of trade liberalization as a critical element of the economic development agenda for a small country that pursues its progress through the increased participation in international markets. In this context, the potential subscription of a FTA with China represents for Costa Rica the possibility to enhance and consolidate the process of trade liberalization that has delivered so many positive outcomes over the last 20 years.

Costa Rican exports and imports have followed a continuous growth trend over the 1995-2007 period. In the case of exports, a sharp increase took place between 1996 and 1999, corresponding to the period when INTEL started operations in the country. A change in the composition of exports occurred as well, due to computer microchips becoming the main export product, surpassing crops like bananas, pineapples and coffee. The drop in exports observed in 2000 and 2001 responds to fluctuation of the US economy, which is Costa Rica's main trading partner and accounts for nearly 50% of both imports and exports. The deepening of trade liberalization policy undergone by Costa Rica after 2002, was a contributing factor to the increased dynamism of exports, combined with the recovery of the US economy. Imports show, in turn, a similar behavior to that explained for exports, for the same reasons.

The evolution of Costa Rican imports and exports is reflected by the Trade Liberalization Indicator. The trade opening process implemented consistently by Costa Rica since the late 80s, has developed significant results by increasing the share of trade flows in GDP from less than 60% in 1991 to 85% in 2007. In particular, the increase observed between 2001 and 2007 suggests that the increased participation of the country in international markets has contributed to increase the overall competitiveness of the economy.

¹⁶ Although the average exchange rate for 2007 is slightly higher than that for 2006, an appreciation of the exchange rate took place during most of 2007.

As a result of the increased market access stemming from the FTAs, Costa Rica has observed a sharp increase in the flows of FDI over the last seven years. Besides, an increase in the rate of growth of FDI can be observed from 1996 to 1999, as a result of the establishment of INTEL and the consequent development of a high technology cluster in the Free Trade Zones. However, the largest increase in FDI has taken place in the current decade. It is worth to point out that the extremely large increase observed for the FDI in 2006 responds to a change in the accounting methodology, by which real estate investments were included from this year on. By 2007, FDI represented more than 7% of Costa Rica's GDP, and the main source is, by far, the United States.

Table 1
Main Macroeconomic Indicators of Costa Rica (1991-2007)

Year	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Nominal GDP (million US\$)	7,158	8,575	9,639	10,558	11,717	11,847	12,830	14,103	15,797	15,946	16,403	16,844	17,514	18,593	19,969	22,147	26,132
Nominal per capita GDP, PPP adjusted (PPP US\$)	4,521	4,938	5,288	5,492	5,661	5,664	5,927	6,339	6,795	7,119	7,186	7,352	7,811	8,182	8,714	9,585	10,300
Inflation Rate (percentage)	25.3	17.0	9.0	19.9	22.6	13.9	11.2	12.4	10.1	10.3	11.0	9.7	9.9	13.1	14.1	9.4	10.8
Nominal Exchange Rate	122.5	134.5	142.2	157.1	179.7	207.6	232.6	257.2	285.7	308.2	328.9	359.8	398.7	437.9	477.9	511.3	518.7
Imports (million US\$)	2,308	2,949	3,515	3,783	4,073	4,335	4,965	6,239	6,351	6,373	6,546	7,175	7,643	8,268	9,807	11,531	12,955
Exports (million US\$)	1,899	2,385	2,626	2,597	3,190	3,681	4,190	5,479	6,708	5,897	5,043	5,280	6,100	6,279	7,001	8,198	9,343
Trade Openness Indicator (percentage)	58.8	62.2	63.7	60.4	62.0	67.7	71.4	83.1	82.7	76.9	70.7	73.9	78.5	78.2	84.2	89.1	85.3
Foreign Direct Investment (million US\$)	178.4	226.0	246.7	297.6	336.9	426.9	406.9	611.7	619.5	408.6	460.4	659.4	575.1	793.8	861.0	1469.1	1884.6
Change in Real Minimum Wages (percentage)	n/a	n/a	n/a	n/a	n/a	3.7	6.3	1.5	1.2	0.4	1.3	-2.5	-0.4	-1.6	0.5	3.0	-0.4
Unemployment Rate (percentage)	0.06	0.04	0.04	0.04	0.05	0.06	0.06	0.06	0.06	0.05	0.06	0.06	0.07	0.07	0.07	0.06	0.05
Poverty (percentage)	31.9	29.4	23.2	20.0	20.4	21.5	20.7	19.7	20.6	20.6	20.3	20.6	18.5	21.7	21.2	20.2	16.7

Source: COMEX, with data from Costa Rica Central Bank (BCCR), National Statistic Board (INEC), PROCIMER, and International Monetary Fund (IMF).

1.3 STATUS OF COSTA RICA'S TRADE AGREEMENTS WITH OTHER COUNTRIES

a) Central American Common Market

In 1963, Costa Rica became a signatory to the General Treaty on Central American Economic Integration, which established the Central American Common Market (CACM). El Salvador, Guatemala, Honduras and Nicaragua are also members to the CACM.

The CACM has a number of regional regulations, in areas such as services and investment, dispute settlement, customs transit, customs valuation, origin of goods, and sanitary and phyto-sanitary standards, among others

There are no customs duties applicable for products traded under this agreement, except for 0.2% of tariff lines, which include products such as coffee, sugar, alcoholic beverages, petroleum products and ethyl alcohol¹⁷.

¹⁷ For more information see Central American Integration, Progress Report at <http://www.sieca.org.gt/SIECA:htm>

In 2007, the CACM was the destination for 13.8% of Costa Rica's exports, worth approximately US\$1,285.3 million. Central America's share of Costa Rican imports was about 4.2 per cent, which amounted to US\$541.5 million. Central America remains an important destination for several Costa Rican products such as food preparations, medicines, electrical conductors, household refrigerators, sanitary towels and tampons, sauces, long trousers and shorts, sweet biscuits, insecticides and fungicides. The Central American region is a major Costa Rican supplier for products such as cleansing preparations, medicines, cotton trunks, common beans, flat rolled products, toilet paper, toothpaste and cigarettes.

b) Free Trade Agreement with Mexico

The Costa Rica-Mexico FTA entered into force on January 1, 1995. This agreement establishes rules and disciplines in the areas of goods, services, intellectual property, government procurement and investment.

Under the Costa Rica-Mexico FTA, 97% of products imported from Mexico into Costa Rica were free of import duties in 2006. Products with restricted preferential treatment include tobacco, some dairy products, sugar, foot wear, powder for the preparation of beverages, bovine meat, and cocoa powder.

During the period 2003-2007, Costa Rican exports to Mexico grew steadily at an average annual rate of 15.8 per cent. In 2007, 2.5 per cent of Costa Rica's exports were destined to Mexico. The increase in exports in recent years is mainly, due to increased sales of palm oil and aluminum sheets and strips. In 2007, imports from Mexico amounted to 5.7 per cent of Costa Rican imports of goods and consisted mainly of medicines, television sets, intermediate products of iron, paper and paperboard, electrical conductors, and zinc.

c) Free Trade Agreement with the Dominican Republic

The FTA with the Dominican Republic, in force since 2001, establishes rules and disciplines applicable to trade in goods, trade in services, investment, government procurement, competition policy, dispute settlement and intellectual property. Upon entry into force, the Free Trade Agreement between the Dominican Republic, Central America and the United States will govern trade relations between Costa Rica and the Dominican Republic.

Under the FTA with the Dominican Republic, Costa Rica grants free access to 99.2 per cent of its tariff lines. The main products covered by the tariff reduction programme are meat of bovine animals and swine, prawns, dairy produce, tomato-based preparations, various paper products, various plastic products, and various medicinal products. On the other hand, products such as sugar, petroleum products, coffee, whether or not roasted, wheat flour, ethyl alcohol, rice, chicken, powdered milk, onions, garlic, beans, tobacco, and cigarettes, were excluded from the liberalization undertakings.

In 2007, the main export products were medicines, electric conductors, infusion and transfusion apparatus, household refrigerators, and food preparations.

Main imports from the Dominican Republic include: liquefied natural gas; iron bars or non-alloy steel; cocoa beans; circuit breakers; pipes; and rigid polymers of vinyl chloride.

d) Free Trade Agreement with Chile

The Costa Rica-Chile FTA, in force since 2002, includes provisions relating to trade in goods, trade in services, investment, government procurement, air transport, and dispute settlement. The Central American countries and Chile agreed that market access would be negotiated bilaterally between each of the Central American countries and Chile. Thus, Costa Rica and Chile bilaterally negotiated market access of goods. Chile undertook to accept an asymmetric treatment with longer time periods for Chilean products to access the Costa Rican market.

Costa Rica established the following tariff reduction programme: immediate tariff elimination from the entry into force of the agreement (for products such as salmon, grapes, apples, copper); phasing out over a period of five years (for products such as hake, cod, lobster and some starches); phasing out over 12 years (for products such as food products, mechanical engineering products and plastics); and phasing out over 16 years for some agricultural products (for example, pig meat, avocados and sausages). Bovine meat was subject to a special tariff reduction programme starting in 2006 and ending in 2011. Chicken meat and sausages, dairy products, most vegetables and the forestry sector (timber and furniture) are excluded from the Costa Rican tariff reduction programme.

e) Free Trade Agreement with Canada

The FTA with Canada entered into force on November 1, 2002. The agreement establishes rules on market access for goods and services, investment, government procurement and dispute settlement mechanisms. Environmental and labour agreements were negotiated in parallel to the FTA. This is the first agreement signed by Costa Rica that includes commitments related to trade facilitation. The differences in size and levels of development between Canada and Costa Rica were reflected in the asymmetric treatment agreed for the phasing out of tariffs.

Costa Rica agreed on immediate tariff elimination for 65 per cent of its tariff universe, mostly relating to raw materials not produced in Costa Rica. With regard to the rest of the goods, Costa Rica agreed to eliminate the tariffs on 19 per cent over seven years, and those on a further 15 per cent within 14 years. In general, most of Costa Rican production falls within this latter category. The textile products and clothing are subject to special arrangements. Both parties agreed to eliminate the tariffs on refined sugar within eight years. Regarding the products excluded from tariff reduction, in the case of Costa Rica these include poultry products, dairy produce, fresh potatoes, onions, tomatoes, carrots, beans, rice, sweet red pepper, broccoli, bovine meat and pig meat.

Main exports to Canada include gold, coffee, pineapples and tires. Imports, meanwhile, include products such as vehicles, pre-fried potatoes, potassium chloride, roasted malt, refined petroleum oils, intermediate products of iron and non-alloy steel.

f) Free Trade Agreement with the Caribbean Community

On August 9th, 2005, Costa Rica's Legislative Assembly approved the trade agreement negotiated between Costa Rica and 12 CARICOM countries (Antigua and Barbuda, Barbados, Belize, Dominican Republic, Grenada, Guyana, Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, and Trinidad and Tobago). This concluded the internal process necessary for the agreement to enter into force in Costa Rica. The agreement came into effect between Costa Rica and Trinidad and Tobago on

November 15, 2005, with Guyana on April 30, 2006 and with Barbados on August 1, 2006. In the other CARICOM countries the internal procedures of approval of the agreement have yet to be concluded.

The FTA with CARICOM covers disciplines on market access for goods and services, investment, government procurement, temporary admission, competition policy, and dispute settlement mechanisms. A total of 93.6 per cent of CARICOM products and 94.5 percent of Costa Rican products will become eligible for duty-free access within a period of not more than four years from the entry into force of the agreement. Seasonal access treatment applies to some agricultural products. The products which Costa Rica excluded from tariff reduction include rice, sugar, beer, chicken, swine meat (except for hams and shoulders), liquid and powdered milk, paints and varnishes.

The main products sold to the CARICOM in 2007 include: medicines, food preparations, glass containers, plastic caps, cleansing preparations, and paper or cardboard boxes. On the other hand, natural gas, light petroleum oils and crude petroleum oils accounted for nearly 80% of Costa Rican purchases from CARICOM.

g) Free Trade Agreement with Panama

For more than three decades, trade in goods between Costa Rica and Panama was regulated by a free trade and preferential exchange agreement, which covered a very limited amount of the countries' bilateral trade. In 1998, Costa Rica, together with the rest of the Central American countries, launched an effort to negotiate a new trade agreement with Panama, with the objective of broadening trade and investment flows. A first part of this agreement was negotiated jointly by the six countries, and concluded in May of 2001; while market access negotiations for goods and services took place on a bilateral basis. In the case of Costa Rica, these negotiations encountered several suspensions throughout the process, until reaching their successful conclusion in June of 2007. The Agreement is currently in process of ratification by the Congress of Costa Rica.

The agreement sets out provisions on market access, rules of origin, customs procedures, technical barriers to trade, sanitary and phytosanitary standards, investment, services, competition policy, intellectual property rights, government procurement, institutional provisions and dispute settlement.

In goods, the coverage negotiated is equivalent to 92.3% of Costa Rica's current trade with Panama. This means that Costa Rican products will accede under duty-free treatment within the first 5 years of its entry into force. A number of products were excluded from tariff reduction, including coffee, rice, sugar cane, potatoes, onions, palm oil, chicken legs and quarters, pork meat and automobiles.

h) Dominican Republic-Central America-United States Free Trade Agreement

In January of 2004, after thirteen months of intense negotiations, Costa Rica concluded its negotiations of a Free Trade Agreement with the United States, the countries of Central America and the Dominican Republic.

The agreement was submitted for domestic legislative approval in October of 2005, and finally approved through a national referendum (public consultation) process in October of 2007. At the time, the agreement had already been approved and implemented in the territories of all other signatories. Costa Rica is currently finalizing all steps necessary to effectively implement the provisions set out in this agreement. The process is expected to

conclude by October 1, 2008.

The agreement is structured in twenty two chapters containing provisions on national treatment and market access for goods, rules of origin and origin procedures, customs administration and trade facilitation, sanitary and phyto-sanitary measures, technical barriers to trade, trade remedies, government procurement, investment, cross-border trade in services, financial services, telecommunications, electronic commerce, intellectual property rights, labor, environment, transparency, dispute settlement, exceptions, and a series of institutional matters.

Regarding Costa Rica, preferential market access conditions negotiated are grouped under fourteen different staging categories, which can be classified in five sets: immediate duty-free access (categories A and G), five-year tariff staging (categories B), ten to twelve-year staging (categories C, M and N), fifteen-year staging (categories D, S, R and T), seventeen to twenty-year staging (categories F, U and V) and no tariff reduction (category H). Eight of these categories are only applicable to agricultural products. For most of the agricultural products included in category H—even some that can be considered most sensitive—, a preferential tariff rate quota was established; the in-quota tariff is zero and above-quota, the MFN tariff is applied.

For Costa Rican agricultural export products, the United States committed to removing import tariffs for 89% of tariff lines upon entry into force of the Agreement, while 0.7% of tariff lines will achieve duty-free treatment over periods of 5 to 10 years; the remaining 10.5% of tariff lines received preferential access to the US market through tariff-rate quotas (including products such as sugar, sugar-based products, dairy and bovine meat).

In turn, Costa Rica agreed to grant immediate duty-free access to 39.6% of tariff lines upon entry into force of the Agreement, while 25.2% of tariff lines will receive duty-free treatment within 5 to 10 years; the remaining 35.2% involve special treatment that varies from duty-free periods between 12 and 20 years, to access through tariff-rate quotas.

In the case of manufacturing, the United States committed to liberalize 99.7% of industrial tariff lines (including textiles and clothing), upon entry into force of the Agreement, while the remaining 0.3% of industrial tariff lines (which include canned tuna and sports footwear) will achieve duty-free treatment in 10 years from the entry into force of the Agreement. For the specific case of tuna, tariff reduction starts from a base rate that varies between 1.2 and 2.5%, depending on the characteristics of the product. In turn, Costa Rica will remove import tariffs on 72.3% of manufactured tariff lines, while the remaining 27.7% will become duty-free over periods that run between 5 and 10 years.

i) Other Agreements and Arrangements

Costa Rica is a beneficiary country of the United States' Caribbean Basin Initiative (CBI). Between 2001 and 2005, an average 35% of Costa Rica's exports to the United States entered under CBI preferences. The products traditionally exported by Costa Rica under the CBI include pineapples, clothing, grain alcohol, hair-dryers, flowers and melons.

In addition, Costa Rica currently benefits from unilateral concessions granted by Canada and the European Union (among other countries) under the Generalized System of Preferences (GSP). Despite these unilateral benefits, the country has a free trade agreement with the first and is currently negotiating an Association Agreement—which will include a free trade agreement and a Political Dialogue and Cooperation component—with the latter.

2. TRADE AND INVESTMENT POLICIES AND SYSTEMS

2.1 Introduction

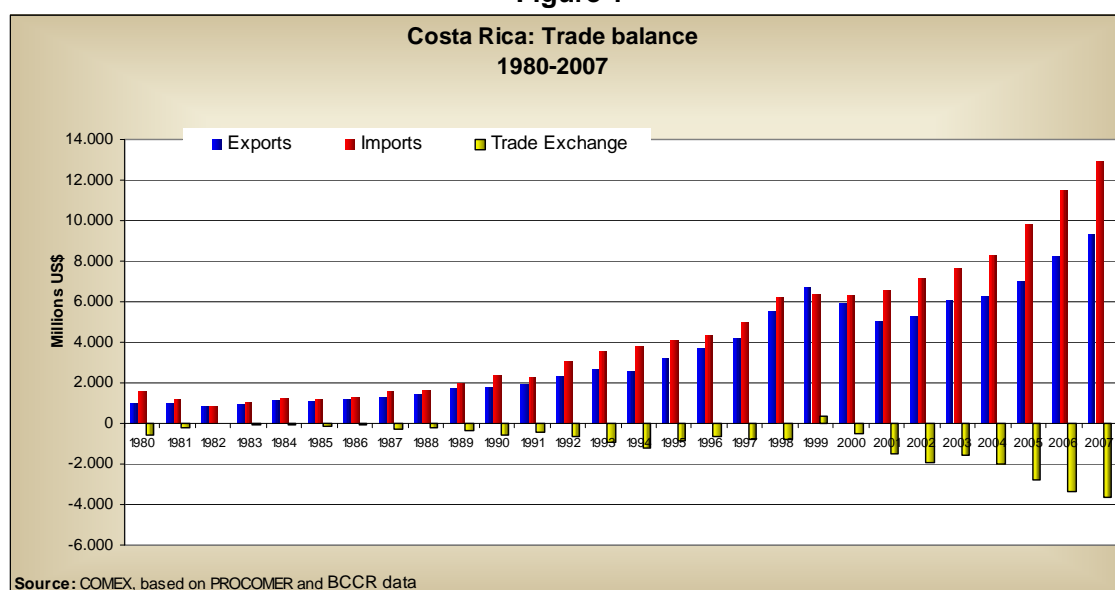
The objective of Costa Rica's trade policy is to promote, facilitate and consolidate the country's insertion into the world economy, in a manner consistent with its economic and social goals. Costa Rica has worked in pursuit of this objective for more than twenty years and it was reaffirmed in the "National Development Plan" of 2006, in which the trade and investment policy is considered an integral part of Costa Rica's path to development.

Costa Rican trade policy has promoted the following objectives: guarantee a better and more secure access to foreign markets for Costa Rican products; defend Costa Rica's trade interests vis á vis against the protectionist actions of other countries; establish rules and procedures for an adequate management of its trade relations; comply with all the obligations derived from trade and investment agreements; engage all productive sectors in export activities; promote Costa Rican exports abroad; and instill the domestic changes necessary to create a more efficient and competitive economy that helps facilitate trade and attract investment.

In order to attain its trade policy objectives, Costa Rica applies a series of complimentary instruments that include an active participation in the multilateral trading system, the deepening of regional integration, and the negotiation of trade and investment agreements.

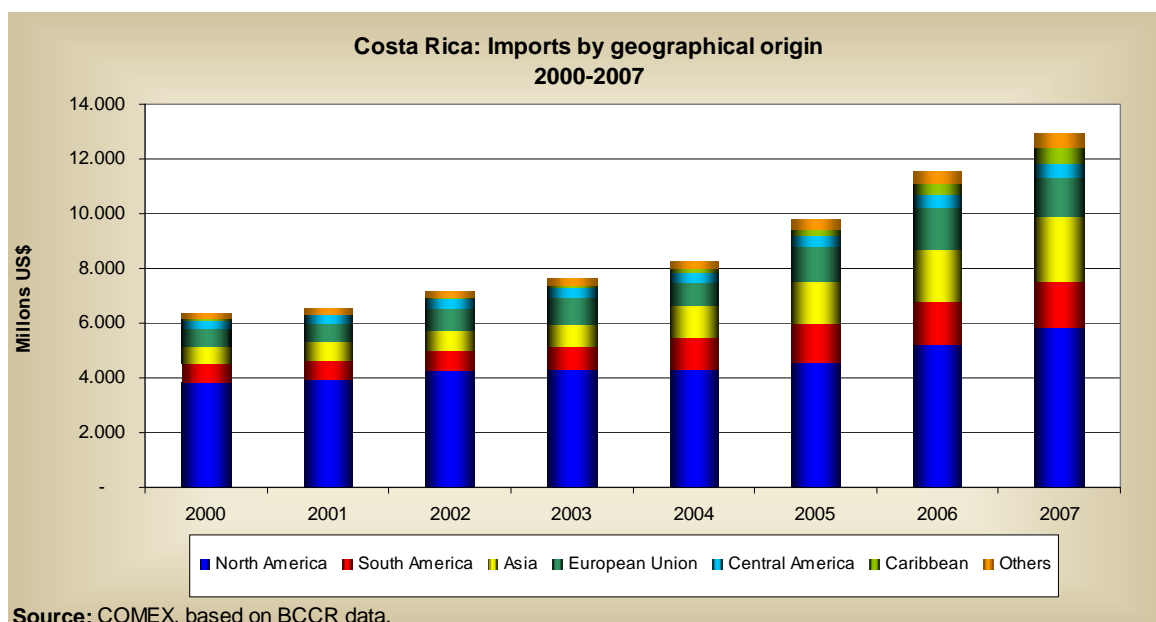
Resulting of these policies, Costa Rican exports registered annual growth rates over 22% for the years 1992, 1995, 1998, and 1999. It is worth to highlight the 31% increase observed in 1998, which is related to the arrival of the firm Intel. On the other side, imports have shown annual growth rates over 21% for the years 1987, 1989, 1992, and 1998, with a peak growth rate of 31% in 1992. Trade balance has remained negative, with the exception of the year 1999, when it registered a positive balance of \$357 million. Costa Rican exports reached \$9,343 million in 2007, which exceeds by 14% their 2006 figure. In turn, imports reached \$12,955 million in 2007, for an annual growth of 12% with respect to the previous year. These figures yield a negative trade balance of \$ 3,611 million. It is worth to point out that the agricultural trade balance has remained positive, as opposed to the industrial trade balance, which has remained negative.

Figure 1



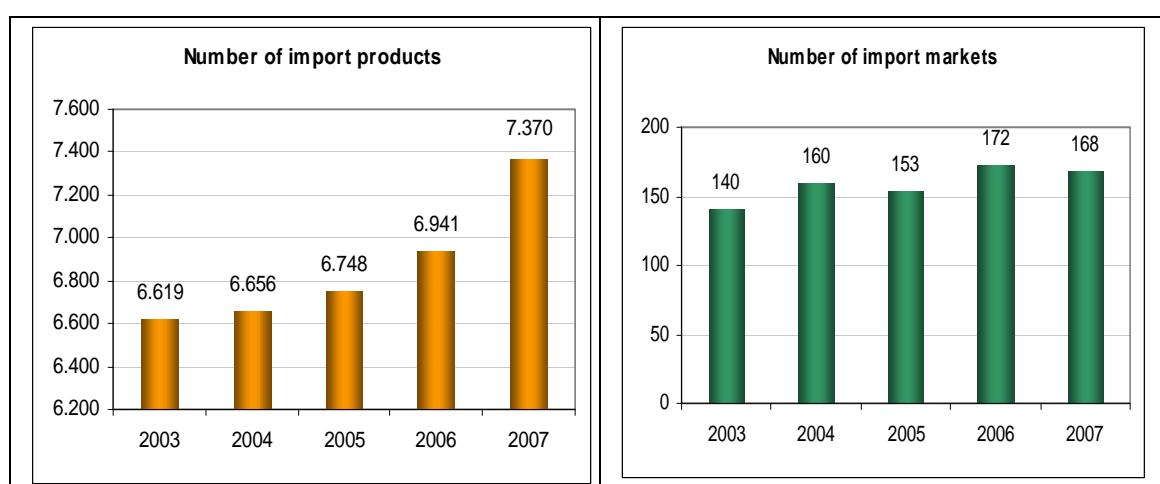
As shown by the next figure, although Costa Rican imports originate primarily in North America, Asia has been noticeably increasing its importance as a supplier. In 2007 the market shares for the main providers were: North America 45.2%; Asia 18.1%; South America 12.8%; the European Union 11.0%; Central America, the Caribbean and the rest of the World 4%.

Figure 2



The number of products that Costa Rica imports from the World has increased over the last five years where 2007 reports an outstanding 6.2% growth, for total of 7,370 imported products. In turn, the origin markets of Costa Rican imports have fluctuated between 160 and 170 for the same period. In 2007, 168 countries sold their products to Costa Rica.

Figures 3 and 4



The main ten import products represent 32.5% of total Costa Rican imports. Among the most important ones, it is worth to mention electronic integrated circuits, fuels and oils; medicines; vehicles; corn; paper and cardboard; and copper wire.

Table 2
Costa Rica
Main import products
2007, by tariff line (SAC 2007)

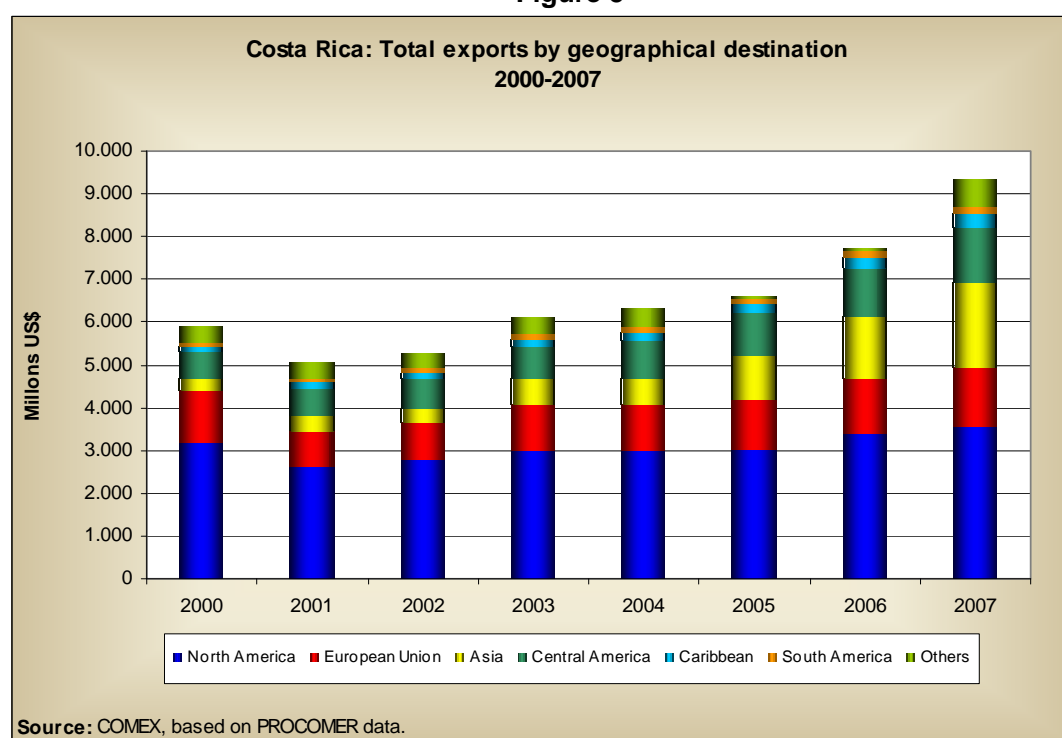
Tariff line	Description ^{1/}	Value (US\$)	Share (%)
854231	Electronic integrated circuits	1.452.437.391	11,2%
271019	Petroleum oils or bituminous minerals, except light oil	567.996.057	4,4%
271011	Light oils and preparations	510.681.902	3,9%
853400	Printed circuits	427.639.992	3,3%
270900	Crude petroleum oils	350.441.788	2,7%
300490	Medicaments, dosed or designed for the retail sale	331.400.400	2,6%
870323	Other vehicles with alternative engine piston, spark ignition, cylinder capacity of more than 1500 cm3 but not exceeding 3000 cm3	195.813.694	1,5%
100590	Corn	143.512.537	1,1%
480411	Paper and paperboard sides (covered) (kraftliner)	124.361.594	1,0%
740819	Refined copper wires	111.586.647	0,9%
Sum		4.215.872.000	32,5%
Others		8.738.790.928	67,5%
Total imports		12.954.662.929	100,0%

Source: COMEX, based on BCCR data

1/ Description is included exclusively as reference.

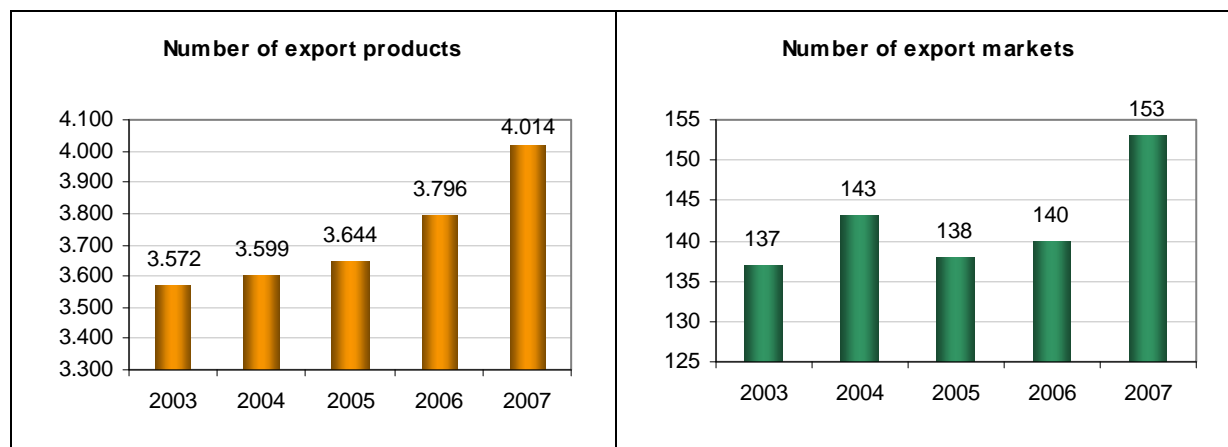
Regarding exports, the main destination markets in 2007 were: North America 38.4%; Asia 21.0%; the European Union 14.7%; Central America 13.8%; and the rest of the World 12.2%. It is worth to highlight the high growth of exports to China, which increased from US\$ 558,3 million in 2006 to US\$ 848,2 million in 2007.

Figure 5



The dynamism of Costa Rican export activities is reflected in the diversification of both products and destination markets over the last five years, particularly in 2007, when 4014 products were sold in 153 different markets, the largest figure by far in recent years.

Figures 6 and 7



The main ten Costa Rican export products, account for 53.8% of total exports. Among the most important can be found: electronic integrated circuits; computer parts; medical and surgical instruments; bananas; medicines; electric conductors; pineapples; and coffee.

Table 3
Costa Rica
Main export products
2007, by tariff line (SAC 2007)

Tariff line	Description ^{1/}	Value (US\$)	Share (%)
854231	Electronic integrated circuits	1.371.354.329	14,7%
847330	Parts and accesories of computers	1.015.412.671	10,9%
080300	Fresh bananas	673.844.919	7,2%
901839	Syringes, needles, catheters, cannulae and similar instruments	486.378.421	5,2%
080430	Fresh or dried pineapples	485.435.044	5,2%
300490	Medicaments, dosed or designed for the retail sale	265.586.515	2,8%
090111	Unroasted and not decaffeinated coffee	252.962.958	2,7%
210690	Food preparations	184.810.674	2,0%
901890	Instruments and appliances used in medical, surgical and veterinary	159.871.922	1,7%
854449	Drivers for electrical voltage not exceeding 80V	129.108.985	1,4%
Sum		5.024.766.437	53,8%
Others		4.318.423.288	46,2%
Total exports		9.343.189.725	100,0%

Source: COMEX, based on PROCOMER data

1/ Description is included exclusively as reference.

2.2 Measures Affecting Trade in goods

2.2.1 Tariffs

Costa Rica's tariff has two components: the import duty (derecho arancelario sobre las importaciones – DAI) and an additional duty of 1 per cent pursuant to Law No. 6946 applicable to all imports with a few exceptions.¹⁸ All tariffs on imports are ad valorem and apply to the c.i.f. value of the goods.

The average tariff protection applied has remained virtually unchanged since 2001 and in 2007 it reached an average of 5.9 per cent. The average for agricultural products (WTO definition) is 13.4 per cent, whereas for other products it is 4.7 per cent.

The applied tariff rate, measured as the weighted average tariff¹⁹, dropped to 3.9% in 2007. However, in practice this number is lower considering that the calculation is based on MFN tariffs only and does not take into consideration the applicable tariffs under preferential agreements.

The vast majority of tariff headings are to be found in the 0 to 15 per cent range and about half of them are 0 or 1 per cent.²⁰ In 2007, 60.7 per cent of the applied tariffs were in the 0 to 5 per cent range, 16.7 per cent between 5 and 10 per cent and 21.1 per cent between 10 and 15 per cent.

Costa Rica defines its own tariff policy within the framework and guidelines established at the CACM level. It applies the Central American Import Tariff, which uses the Central American Tariff System (Sistema Arancelario Centroamericano – SAC) for the official classification of goods. The SAC is based on the Harmonized Commodity Description and Coding System (HS). The Fourth Amendment to the HS was incorporated into the SAC on January 1, 2007.

Costa Rica is entitled to impose tariff quotas under the commitments on minimum access opportunities contained in the WTO Agreement on Agriculture. Tariff quotas exist for products such as poultry, sausages, dairy products, meat preparations, and ice cream. Costa Rica also imposes tariff quotas on products covered by the preferential agreements signed with Mexico, Chile, Canada, and the Dominican Republic.

2.2.2 Non-Tariff Barriers

a) Taxes and Duties

Costa Rica applies the following internal taxes on both domestic and imported products: (i) general sales tax (Impuesto General sobre las Ventas – IGV); (ii) the selective consumption tax (Impuesto Selectivo de Consumo – ISC); (iii) the special tax on alcoholic and non-alcoholic beverages, toilet soap and hydrocarbons; (iv) the Institute for Municipal Promotion and Support (Instituto de Fomento y Asesoría Municipal – IFAM) tax; and (v) the Agrarian Development Institute (Instituto del Desarrollo Agrario – IDA) tax.

The general rate of the IGV is 13 per cent. For sales of goods, the tax is determined on the

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

¹⁹ Weights are calculated based on imports by tariff line at the 8-digit level.

²⁰ In most cases, these lines are subject to a zero tariff (DAI), but pay the 1 per cent tax established in Law No. 6946.

basis of the net selling price, which includes the amount of the ISC as well as any special consumption taxes applicable. When goods are imported, the IGV is calculated by adding the import duty paid to the C.I.F. value, plus any other import charges and the relevant internal taxes.

A few products are exempted from payment of the IGV, including products in the basic food basket; tires for agricultural machinery; veterinary products and agricultural inputs; medicines; kerosene; diesel fuel for fishing excluding sport fishing; books; musical compositions; paintings created in Costa Rica; and coffins. Exports and re-import of Costa Rican goods within three years following their export, are also exempt from payment of the IGV.

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

The special tax on alcoholic beverages is a special tax amounting to C 16.0 per unit of consumption of alcoholic beverages²¹ imposed on domestic production and import of such products.

The IFAM tax applies to liqueurs, distilled beverages and other spirituous beverages. It is imposed on the C.I.F. value plus: the tariff, the ISC, the 1 per cent tax imposed by Law No. 6946 and the IDA tax (see below).

The IDA tax is imposed on cigarettes, liquors, distilled and spirituous beverages, beer, soft drinks, and carbonated beverages. It is imposed on the C.I.F. value plus: the import tariff, the ISC and the 1 per cent tax imposed by Law No. 6946.

b) Import licensing, restrictions and prohibitions

Costa Rica eliminated all import licenses in December 2004, and in general, eliminated any other procedure such as permits, prior authorization and approval for the import of goods with the exception of special requirements in areas such as sanitary, phytosanitary and environmental safety.

Costa Rica bans the import of a limited number of products such as weapons, ammunition and used tires, due to security, environmental protection, phytosanitary, food safety and sanitary reasons.

c) Export restrictions

Costa Rica applies export prohibitions for reasons of national security, heritage protection and environmental reasons. Costa Rica has undertaken to impose restrictions on the export of certain products under the Convention on International Trade in Endangered Species of Wild Fauna and Flora; the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal; and the Montreal Protocol on Substances that Deplete the Ozone Layer. Exports of goods that form part of Costa Rica's cultural, artistic, archaeological and historical heritage are also restricted.

²¹ The following volumes are defined as units of consumption depending on the type of beverage: (a) beers and "coolers": 350 ml; (b) wine, sparkling wine and cider: 125 ml; (c) creams, vermouth, sherry, port, punch and "rompope" punch: 75 ml; (d) other alcoholic beverages: 31.25 ml.

d) Subsidies and other export-related tax benefits

Costa Rica has several programs granting tax exemptions to exporting enterprises. The country has informed the WTO that the free zone and inward processing regimes provide export subsidies. The free zone regime is the only one that allows exemption from income tax (30 %) and is a very important export promotion scheme, accounting for over half of Costa Rica's exports of goods in 2007. This regime and other special investment zones are covered in more detail in section 2.4.2.

2.2.3 Rules of Origin

The regulations related to origin do not apply to imports made under MFN treatment. Costa Rica applies preferential rules of origin as defined in each preferential agreement. Those rules are not harmonized, but in general they are based on the same principles, such as change in the tariff classification, complemented in some cases with accessory rules that define certain processes as necessary to consider a good as an originating one.

Costa Rica applies preferential rules of origin as defined in the Central American Common Market.²² Costa Rica also applies preferential rules of origin under the free trade agreements into force with Canada, Chile, the Dominican Republic, Mexico, the Caribbean Community (CARICOM) and Panama.²³

The certificates of origin under those agreements consist of an affidavit which is filled out and signed by the exporter or the producer. Those certificates are neither issued nor approved by any governmental office, except in the case of the free trade agreement with CARICOM and the Free Trade Agreement and Preferential Exchange with Panama, under which the certificates of origin must contain an approval by the certifying authority of each country. Costa Rica uses the Central American Customs Declaration (FAUCA) for the certification of origin of goods from countries of the Central American Common Market.

Under the Central American- Dominican Republic – United States Free Trade Agreement (CAFTA), the certification of origin is known as a system based on the self-certification of origin made by the importer, whether on the basis on a prior certification made by the exporter or producer of the good, or on the basis of the importer's knowledge regarding the origin of the goods.

2.2.4 Sanitary and Phytosanitary Standards

The Law No. 7664 on Phytosanitary Protection and the Decree No. 32994-MAG on Regulations Governing the Organizational Structure of the National Plant Protection Service (SFE) determines the SFE's organizational structure in order to ensure that the functions assigned to it by Phytosanitary Protection Law No. 7664, international agreements and other related laws are fulfilled. The General Law governing the National Service of Animal Health (SENASA) No. 8495 regulates the protection of animal health, veterinary public health and the operation of the National Animal Health Service SENASA.

²² Central American Regulation about the origin of the goods, adopted through Executive Decree N° 33263-COMEX of June 7, 2006 and Executive Decree N° 33461-COMEX of December 20, 2006.

²³ Chapter IV FTA Costa Rica–México Law N° 7474 of December 20, 1994; Regulation to the FTA Costa Rica–Panamá Executive Decree N° 17188-MEIC of September 12, 1986; Chapter IV FTA Central America- The Dominican Republic Law N° 7882 of June 9, 1999; Chapter IV FTA Costa Rica–Canada Law N° 8300 of September 10, 2002; Chapter 4 FTA Central America –Chile Law N° 8055 of January 4, 2001; Chapter IV FTA Costa Rica and the CARICOM Law N° 8455 of September 19, 2005.

Costa Rica's sanitary and phytosanitary standards regime is organized within the SFE and the SENASA, which depend on the Ministry of Agriculture and Livestock (MAG). In addition, the Ministry of Health, through the Registration and Control Directorate, regulates matters relating to food safety. Sanitary and phytosanitary standards are incorporated in Costa Rica's legal system through laws, decrees and directives issued by the bodies with special responsibility for the area to which each measure applies.

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

According to Law No 7664 and its Executive Decree No. 32994 the SFE is responsible of regulations and activities relating to plant protection, the export/import of plants and plant products, the issuing of phytosanitary certificates, registration and approval of all chemical and biological substances use in agriculture. The SFE is empowered to prohibit the import of such products if they represent an unacceptable risk. Costa Rica's SFE also regulates trade and use of genetically modified organisms for agriculture and their products.

Sanitary and phytosanitary inspection is carried out at the border and at other sites designated by the Ministry of Agriculture according to the risk associated. All products of plant or animal origin are subject to verification.

The cost of inspections, as well as that of other technical services and laboratory analyses, including inspection visits, is paid according to scales established by an executive decree issued by the Ministry of Agriculture through the SENASA and the SFE.²⁴

Risk analysis is mainly carried out by the SFE and the SENASA. The risk analysis procedure may be initiated at the instance of the Ministry of Agriculture through the SENASA and the SFE or at the request of the private sector.

Regarding the SENASA, risk analysis of animals and animal products initiates with a detailed description of the goods and its stages include identification of hazards, assessment, management and communication of the risk according to the OIE's recommendations and guidelines. The outcome of the process is the risk analysis report, which is used for information on the risk and risk management.

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

The time taken to draw up a risk analysis varies and depends on the goods, the country of origin, the sanitary situation in the country and region of origin, and the type of analysis, inter alia.

Upon entry into Costa Rica, imports of: i) plants, plant products or by-products of plant origin, and ii) animals, animal products or by products of animal origin, must be accompanied by the relevant phytosanitary or sanitary certificate, issued by the competent authority of the country of origin.

²⁴ See <http://www.senasa.go.cr/Documentos/legislacion/28560-MAG.htm>

All imports of genetically modified products must not only comply with all the requirements laid down in the handbooks or technical guides to specific requirements, but must also have an authorization from the Biosafety Commission, which is obtained from the Technical Commission on Exemptions and Biotechnology of the National Plant Protection Service of the MAG. This Commission will also act as an advisory body to SENASA in the area of its competence. Information and legislation in SPS matters can be found in the SENASA, SFE and the Ministry of Health sites²⁵

Costa Rica has incorporated sanitary and phytosanitary matters in all the bilateral and regional Trade Agreements signed, referring and developing the principles established in the Sanitary and Phytosanitary Agreement of the WTO.

2.2.5 Technical Barriers to Trade

a) Legal Framework

On May 2002, the Law No. 8279 on the National Quality System (Ley del Sistema Nacional para la Calidad – LSNC) entered into force. The LSNC amended the legal framework and institutional structure for the implementation of the WTO Agreement on Technical Barriers to Trade. This law applies to technical regulations, voluntary standardization and conformity assessment, including metrology, carried out to demonstrate compliance with voluntary or regulatory requirements applicable to goods and services.

The National Quality Council (Consejo Nacional para la Calidad – CONAC) was established under the LSNC with the purpose of defining the general guidelines of the National Quality System (SNC), in accordance with relevant international obligations. The CONAC is composed of those Ministers whose sphere of competence includes activities related to standardization, technical regulations and conformity assessment.²⁶ It also includes representatives of chambers of farmers, exporters, traders and industrialists, as well as universities and consumers' organizations. Its executive secretariat is under the Ministry of Economy, Industry and Commerce (MEIC).

Technical regulations are adopted by executive decree. There is no centralized publication of technical regulations; however, each entity publishes its regulations in the Official Journal (La Gaceta). There is also a digital version of the regulations in the database of the enquiry point for technical barriers to trade, namely the Technical Barriers to Trade Information Center. Most of Costa Rica's free trade agreements include a chapter on technical barriers to trade.

b) Standards

The Costa Rican Technical Standards Institute (Instituto de Normas Técnicas de Costa Rica – INTECO) is the institution in charge of the development of standards. INTECO accepted the Code of Good Practice for the Preparation, Adoption and Application of Standards of the Agreement on Technical Barriers to Trade of the World Trade Organization (WTO), on December 19, 1997.

²⁵ See, for SENASA: <http://www.senasa.go.cr/>; for the SFE: <http://www.protecnet.go.cr/>; for Ministry of Health www.ministeriodesalud.go.cr.

²⁶ For example, the Ministry of Foreign Trade; the Ministry of Agriculture and Livestock; the MEIC; the Ministry of the Environment and Energy; the Ministry of Science and Technology; the Ministry of Health; the Ministry of Public Works and Transport; and the Ministry of Education.

Under Law No. 8279, INTECO is recognized as the National Standardization Authority (Ente Nacional de Normalización – ENN), and as such, it must comply with the ISO Code of Good Practice for Standardization as well as with international standardization codes. INTECO is also the certification authority authorized to certify quality systems.

The Costa Rican government, in accordance with the Law on the National Quality System, promotes the use of voluntary standards and takes an active role in its development.

c) Technical regulations

The Technical Regulation Body (ORT) is the entity responsible for coordinating the preparation of technical regulations with the corresponding Ministries. It is an interministerial commission comprising representatives of seven Ministries²⁷.

Technical regulations are developed following two main guidelines: (i) the Regulations on the Preparation and Presentation of National Standards (Executive Decree No. 19029-MEIC NCR of 7 June 1989); and (ii) the Guidelines for the Preparation of Technical Regulations, annexed to Decree No. 32068-MEIC-S-MAG-MICIT-MOPT-COMEX-MINAE of May 19, 2004. The Guidelines for the Drafting and Presentation of Central American Technical Regulations are also used as a reference for the elaboration of technical regulations.

Costa Rica notifies its technical regulations to the WTO. The time limit for public consultation at the WTO is 60 calendar days, calculated from the date of the notification published at the WTO. The comments received are analyzed by the ORT, which decides on their convenience.

Technical regulations may enter into force six months or more after they have been published in the Official Journal “La Gaceta”, or at their date of publication, if they facilitate trade. Costa Rica currently applies over two hundred technical regulations.

d) Conformity assessment

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

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

Regarding fees for conformity assessment procedures, the Executive Board of the ECA publishes in the Official Journal the fees payable for assessment services and accreditation of testing and calibration laboratories, as well as inspection and certification bodies.

²⁷ Its representatives come from the same ministries as those belonging to the CONAC, with the exception of the Ministry of Education.

e) Metrology

The Costa Rican Metrology Laboratory (Laboratorio Costarricense de Metrología – LACOMET) is the technical organization that deals with metrology and is the national metrology reference, providing services as a secondary laboratory in areas within its sphere of competence.

f) Market Surveillance

The entity responsible for ensuring compliance with the law as regards verification and market research concerning quality and consumer information is the Consumer Support Unit of the MEIC. The Ministry of Health is responsible for verifying health aspects in the market. A cooperation agreement between the LACOMET and the National Consumer Commission is in effect for the purpose of implementing a monitoring programme.

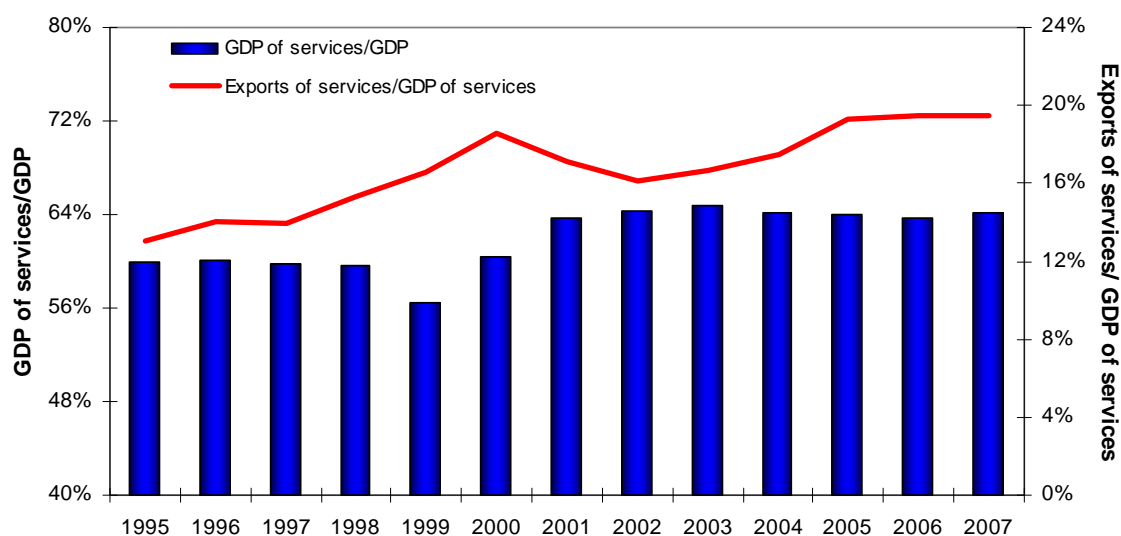
A permanent program for joint verifications, which includes the competent authorities of the MEIC, MAG, the Ministry of Health and the National Production Council, was created on December 13, 2007, under Executive Decree No 34129. The aim of the program is for all competent entities to cooperate between them in the inspection, sampling and verification of food products and other products commercialized in the country for human consumption. The program is expected to optimize the government resources used for the surveillance of law enforcement and technical regulations needed to guarantee consumers the access to safe products.

2.3 Services

Services generate an elevated percentage of Costa Rica's national production, 64% of the gross domestic product (GDP) in 2007. Since 1995, Costa Rican exports in this sector have grown at an average rate of 21.6%, increasing its relative participation in the GDP in services. In 2007, services exports accounted for 19.5% of the country's GDP in services.

Figure 8

Costa Rica: Participation of the sector services in the GDP



Source: Ministry of Foreign Trade with data from Central Bank of Costa Rica.

Tourism, business services, and computer and information services are the three most dynamic sectors of services exports. In 2006, tourism generated a total income of \$1,731.5 million, while in 2007; it was \$1,973.7 million and represented approximately 56% of the country's foreign services sales.

Business, computer, and information services, produced US \$868.4 million in foreign sales in 2006, representing 29% of the total services exports; in 2007, they reached \$1,142.1 million in sales, representing 32% of the total volume of services exports for that period.

Table 4
Costa Rica's Export and Import of Trade Services
Unit: US\$ Million

Items		1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Trade in services	Total	2144.5	2485.2	2877.1	3225.8	3105.4	3051.2	3265.7	3626.3	4126.5	4591.4	5343.1
	Export	1142.3	1359.4	1682.0	1952.3	1925.5	1868.2	2021.0	2241.8	2621.2	2975.8	3531.8
	Import	1002.2	1125.8	1195.1	1273.5	1179.9	1183.0	1244.6	1384.5	1505.2	1615.6	1811.3
	Balance	140.2	233.6	486.9	678.8	745.7	685.2	776.4	857.4	1116.0	1360.2	1720.4
Transport	Export	184.5	202.2	263.0	273.6	267.8	244.2	240.4	245.7	282.4	287.3	325.6
	Import	373.6	415.8	439.4	417.2	424.9	447.2	508.3	581.8	632.5	624.9	626.6
Tourism	Export	742.3	913.5	1098.3	1302.4	1173.3	1160.7	1293.1	1458.5	1670.8	1731.5	1973.7
	Import	348.0	408.9	447.1	485.4	364.4	344.9	353.2	405.7	469.5	485.3	586.1
Other business services	Export	103.9	117.9	145.6	194.1	241.1	243.4	260.6	266.7	332.1	497.4	603.6
	Import	127.9	152.6	173.9	200.0	224.5	195.1	178.2	171.0	174.3	205.5	270.9
Computer and information Services	Export	0.0	2.5	57.6	59.7	124.6	153.4	166.8	200.3	254.8	370.9	538.5
	Import	1.2	1.9	3.4	9.3	14.3	14.8	10.2	16.4	11.0	13.6	15.2
Other services	Export	111.6	123.2	117.4	122.6	118.7	66.5	60.2	70.6	81.2	88.6	90.4
	Import	151.5	146.6	131.3	161.6	151.7	180.9	194.8	209.6	217.9	286.2	312.7

Source: Ministry of Foreign Trade with data from Central Bank of Costa Rica.

Figure 9



Source: Ministry of Foreign Trade with data from Central Bank of Costa Rica.

Figure 10

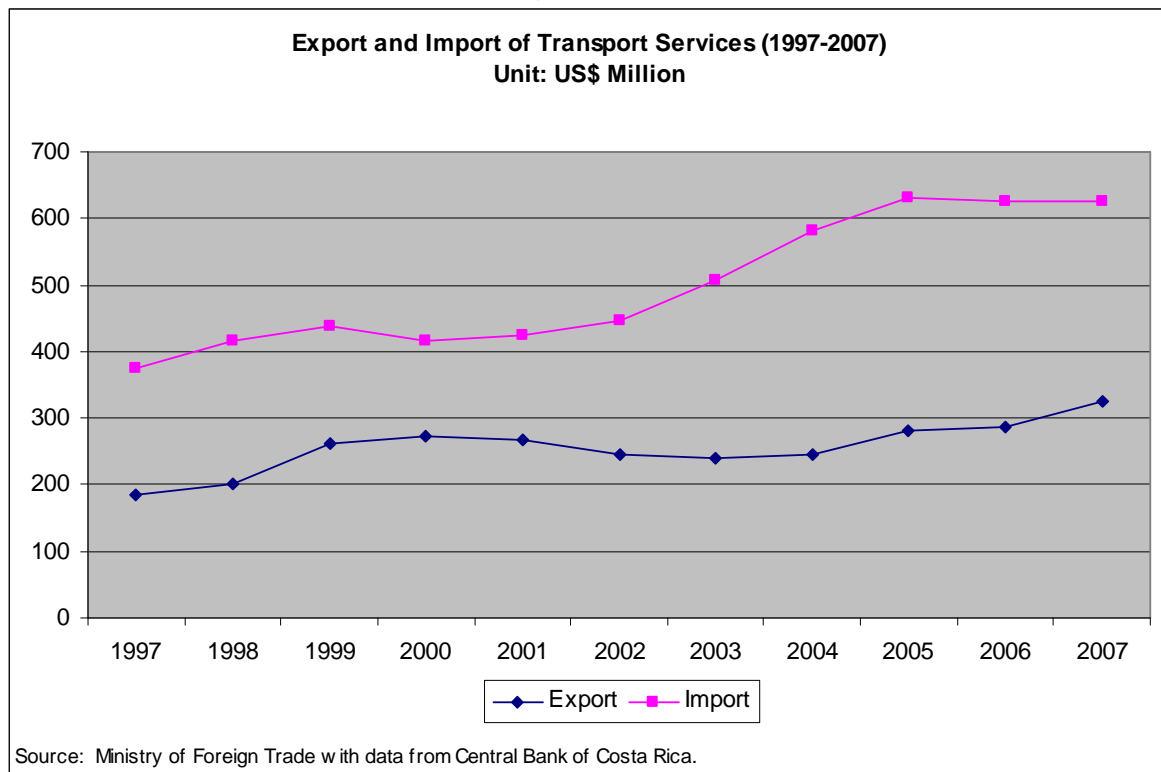


Figure 11

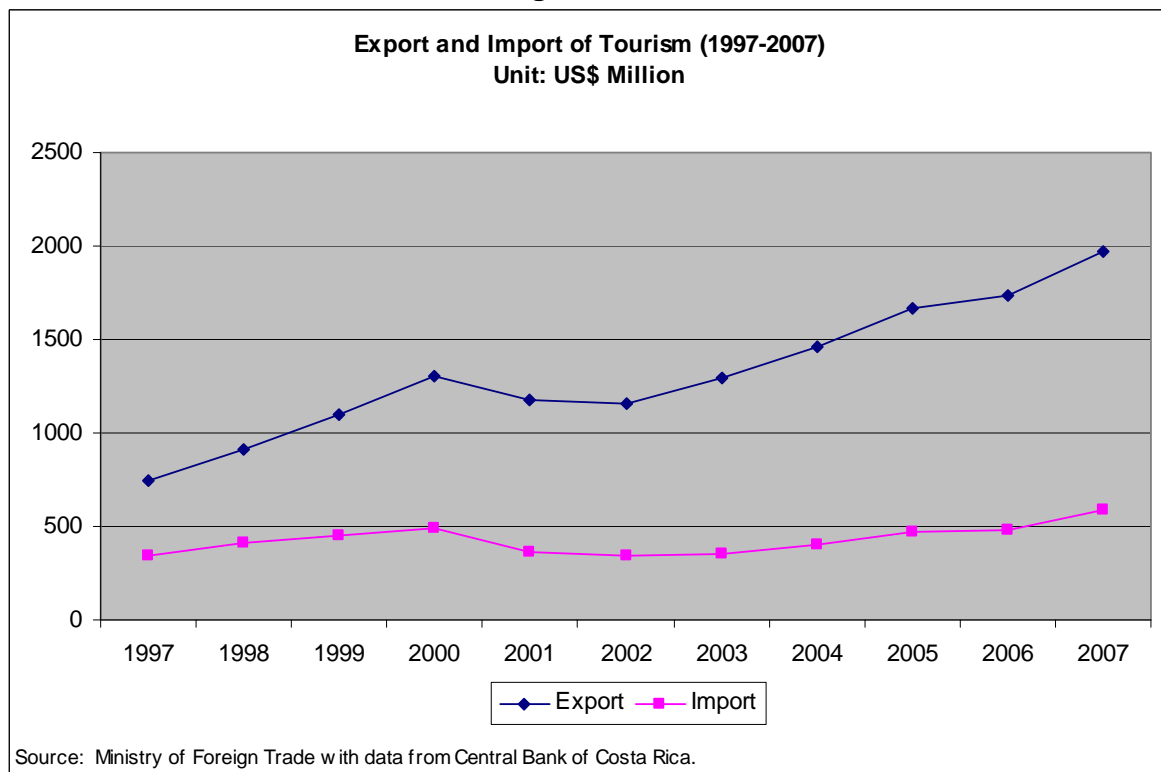


Figure 12

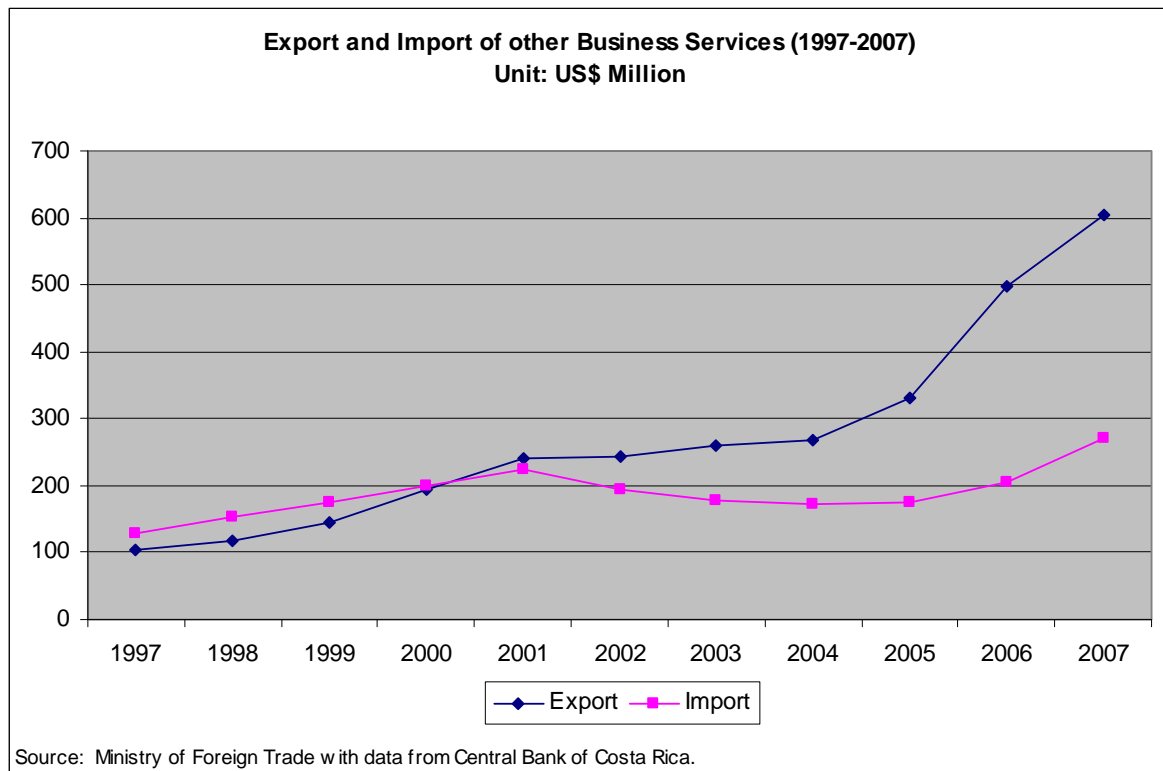
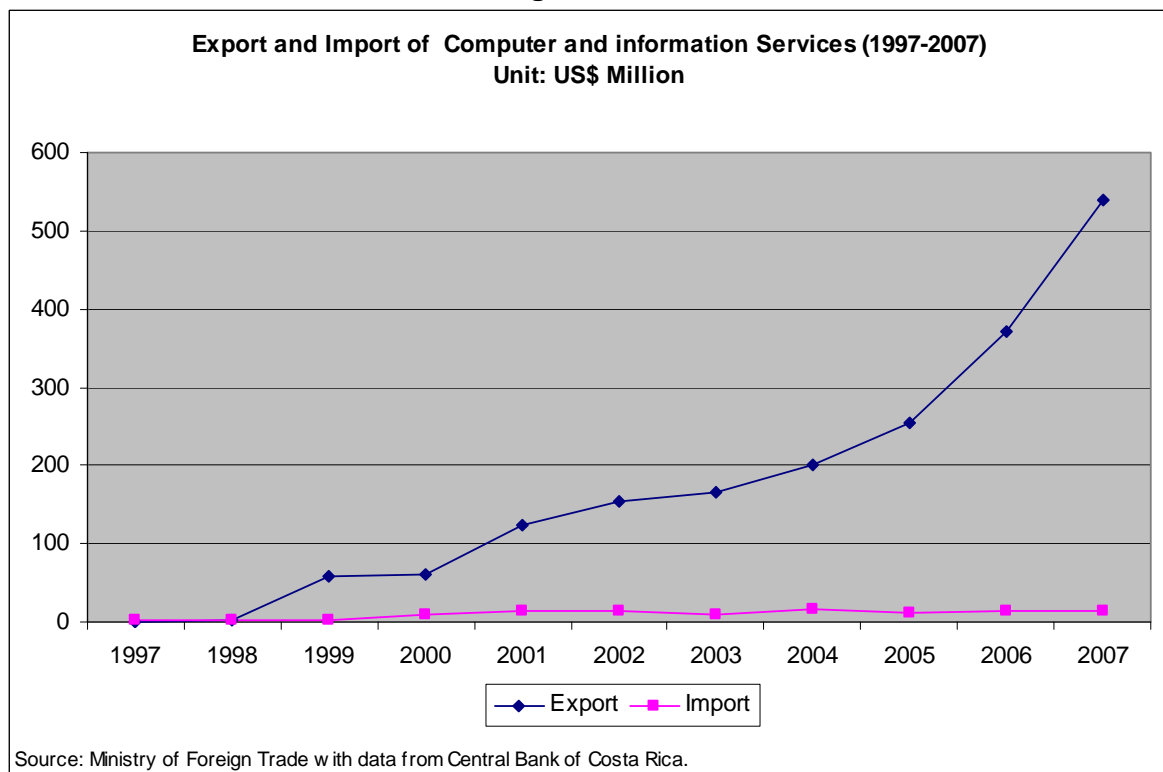


Figure 13



2.3.1 Measures affecting trade in services

Applicable provisions on trade in services are established on the Costa Rican Political Constitution and the national legislation for each services sector. National legislation is available at the Costa Rican System of Juridical Information (http://www.pgr.go.cr/scij/index_pgr.asp).

a) General provisions

In accordance with the Costa Rican Political Constitution, powers obtained from public waters; deposits of coal, wells and deposits of oil and any other hydrocarbons, as well as deposits of radioactive minerals, existing within the national territory; and wireless services; cannot be permanently removed from State ownership. These can only be exploited by the public administration or by private parties in accordance with the law, or under special concessions granted for a limited time and on the basis of conditions and stipulations established by the Legislative Assembly. National railroads, docks and airports, while in use, are not allowed to be sold or leased, directly or indirectly, or otherwise removed from State ownership and control.

The State keeps a monopoly over some services sectors, such as the import, refining and distribution for wholesale of crude oil and its derivatives. Additionally, it acts as sole concessionaire of determined postal, electric energy and telecommunications services. Important legal reforms have been discussed in the Legislative Assembly, specifically in the telecommunication and insurance services sectors. Pursuant to the specific commitments of Costa Rica under the Dominican Republic, Central America and United States Free Trade Agreement, in the case of telecommunications, the reform establishes selective and gradual market opening of private network services, Internet services and mobile wireless services; and in the case of insurance, the reform implements a series of gradual market access opening commitments in cross-border supply of insurance services and the right of establishment for insurance providers.

Other services sectors contain some limitations on national treatment, most favored nation treatment, market access or local presence requirements. These limitations have been reserved within the framework of Costa Rica's international commitments, at a bilateral, regional, and multilateral level.

b) Public services

Public services may be subjected to public monopoly or exclusive rights granted to public or private juridical persons. In accordance with the Law of Public Services Regulatory Authority, No. 7593, public services in Costa Rica are the following: electric energy supply (including generation, transmission, distribution and commercialization); telecommunications services whose regulation is authorized by law; supply of sewage and water services (including drinkable water, recollection, treatment and evacuation of sewage, residual and pluvial waters); fuel supply derivatives from hydrocarbons (including petroleum, asphalts, gas and naphtha), intended to supply national demand in distribution stations, as well as the derivatives from petroleum, asphalts, gas and naphtha destined to final consumer; irrigation and drainage; remunerated public transport of persons, except for the air transportation; maritime and air transport services; freight transport by railroad; recollection and treatment of solid and industrial wastes; social services of postal communication; and any other services that, given their importance for the sustainable development of the country, are recognized and regulated as such by the Legislative Assembly.

The provision of public services requires specific concessions or permits issued by the pertinent public entities. Public institutions and companies legally mandated to provide any

of these services are excluded from this obligation. Public services suppliers shall not have any monopolistic right over the service and shall be subject to the limitations and modifications that must be implied by legislation. New concessions or permits may be granted when the demand justifies it, or when they can be offered in better conditions to consumers; in these cases, priority is granted to concessionaries already supplying the service. State monopolies are excluded from the above. The competent authority of public services is the Public Services Regulatory Authority (www.aresp.go.cr).

c) Professional services

The foreign professional services suppliers shall be incorporated to the respective professional association in Costa Rica and fulfill, among others, the requirements of nationality, residence, incorporation exams, accreditations and evaluations, or to be subject to an economic need test. To be incorporated in some of the professional associations, the foreign professional service suppliers shall demonstrate that there is reciprocity, in other words, they need to demonstrate that Costa Rican professional service suppliers can practice the profession in similar circumstances in the other country.

d) Telecommunications

Legal reforms are being promoted by the Government to liberalize the telecommunications services. At the present, the state-owned Costa Rican Electricity Institute (ICE) or its affiliates, have exclusive concessions to supply such services. In this sense, two laws have been approved in order to reform the telecommunications market: the General Telecommunications Law and the Law on Strengthening and Modernization of Public Entities in the Telecommunications Sector. The first law opens the telecommunications market to private enterprises, creates a specific regulatory authority and establishes a fund to guarantee and finance the universal service. The second law reorganizes the telecommunications sector by separating the supervisory, regulatory and operational functions, all three of which are exercised by the State, and makes the regulatory framework governing ICE more flexible, by increasing its borrowing limit and facilitating the acquisition of goods and services. Both laws are part of the implementation agenda of the Dominican Republic, Central America and United States Free Trade Agreement.

The competent authorities of telecommunication services are the Ministry of Environment, Energy and Telecommunications (www.minae.go.cr) and the Public Services Regulatory Authority (www.aresp.go.cr).

e) Tourism

In accordance with the Maritime-Terrestrial Zone Law, No. 6043, a concession is required to perform any type of development or activity in the maritime-terrestrial zone. Such a concession shall not be granted to or held by: (a) foreign nationals that have not resided in the country for at least five years; (b) enterprises with bearer shares; (c) enterprises domiciled abroad; (d) enterprises incorporated in the country solely by foreign nationals; or (e) enterprises where more than 50 percent of the capital shares or stocks are owned by foreigners. The enterprises that have concessions shall not yield or trespass quotas or shares, neither its partners, to foreign nationals.

The Law of Incentives for Tourism Development, No. 6990, establishes a special incentives regime for tourism enterprises. The competent authority of tourism is the Costa Rica Tourism Board (www.visitcostarica.com).

f) Financial services

In 1995, the public bank monopoly was eliminated in relation to public deposits reception and current account deposits. This represented one of the most important steps in the financial liberalization process of Costa Rica of the last 20 years.

The sector is dominated by financial groups that typically include a domestically established bank, an offshore bank, a stock broker, an investment fund, an insurance marketing firm, a pension fund and a leasing company.

Costa Rica maintained a public monopoly over the insurance sector through the National Insurance Institute (INS). This was the only entity allowed to underwrite insurance policies, although other entities were allowed to market its products. Unlike other financial services activities, the insurance sector did not have a specific regulatory authority. In this sense, two laws have been discussed by the Legislative Assembly to reform the insurance market: the Insurance Market Regulatory Law and the Insurance Contracts Regulatory Law. The former opens the insurance market to competition, which will be supervised by an Insurance Superintendence. Such law has been approved by the Legislative Assembly and is part of the implementation agenda of the Dominican Republic, Central America and United States Free Trade Agreement. The second law would update and facilitate insurance policy applicable regulation and is in process of legislative approval.

The competent authorities of financial services are the Central Bank of Costa Rica (www.bccr.fi.cr), the National Council for the Supervision of the Financial System (www.conassif.fi.cr), the General Superintendence of Financial Institutions (www.sugef.fi.cr), the General Superintendence of Securities (www.sugeval.fi.cr) and the Superintendence of Pensions (www.supen.fi.cr).

2.3.2 International commitments related to services

a) World Trade Organization (WTO)

Costa Rica's schedule of specific commitments under the General Agreement on Trade in Services (GATS)²⁸ is limited to the following sectors: business services, educational services, financial services, social and health services, and tourism and travel-related services. The list reflects the market access and national treatment limitations applicable to those sectors.

Additionally, Costa Rica adopted exemptions to the principle of most favored nation treatment in the sectors of professional services, publicity, transport services by ground (freight and passengers) and issues concerning bilateral agreements on reciprocal promotion and protection of investments.²⁹

In April 2004, Costa Rica presented an initial services offer in the context of the Doha Development Agenda, and to date, a revised offer has not been presented.

b) Free trade agreements

²⁸ Document of the WTO GATS/SC/22 of April 15th, 1994.

²⁹ Document of the WTO GATS/EL/22 of April 15th, 1994.

As mentioned in Section 1.3, all of Costa Rica's free trade agreements include provisions on trade in services and investment.

In the Free Trade Agreement between Costa Rica and Mexico, the chapters that address issues in these areas are: one that sets out the general principles of trade in services; another that deals with temporary entrance of business persons; and a chapter on investment.³⁰ Additionally, this agreement incorporates annexes on existing non conforming measures, economic activities reserved to the State, exceptions to most favored nation treatment and non discriminatory quantitative restrictions.³¹

In the Free Trade Agreement between Costa Rica and Chile, the chapters that address issues in these areas are: one that deals with cross border trade in services; another that contains provisions on air transport; a third that addresses temporary entrance of business persons; and finally, a chapter on investment, which incorporates the agreement for the reciprocal promotion and protection of investments, signed between both countries in 1996. Additionally, this agreement incorporates annexes on existing non conforming measures, future measures and non discriminatory quantitative restrictions.³²

In the Free Trade Agreement between Costa Rica and the Dominican Republic, the chapters that address issues in these areas are: one that deals with investment, another on trade in services, and a chapter on temporary entrance of business persons. The agreement foresees annexes that contain existing non-conforming measures and non discriminatory quantitative restrictions.³³

In the Free Trade Agreement between Costa Rica and Canada, there is a chapter on services where specific provisions about services are not developed, but there is recognition of the rights and obligations under the GATS and a commitment to develop those provisions in a later stage. As regards to investment, the agreement for the reciprocal promotion and protection of investments signed between both countries in 1998 is incorporated. In addition, the agreement contains a chapter on temporary entrance.³⁴

In the Free Trade Agreement between Costa Rica and the Caribbean Community (CARICOM), there is also a chapter on services where specific provisions about services are not developed, but there is recognition of the rights and obligations under the GATS and a commitment to develop those provisions in a later stage. In addition, the agreement contains a chapter on investment and another on temporary entrance.³⁵

In the Free Trade Agreement between Costa Rica and Panama, the chapters that address issues in these areas are: one that deals with investment, another on cross border trade in services, a third chapter on financial services and a chapter on temporary entrance of business persons. Additionally, this agreement incorporates annexes on existing non conforming measures and future measures on services and investment, economic activities reserved to the State, exceptions to most favored nation treatment, non discriminatory quantitative restrictions and existing non conforming measures and future measures on financial services. This agreement is in process of legislative approval.³⁶

In addition to these bilateral agreements, Costa Rica is Party to the Treaty of Investment and Trade in Services between Central America, signed on March 24th, 2002.³⁷ This instrument

³⁰ Available at: <http://www.comex.go.cr/acuerdos/comerciales/TLC%20Mexico/Texto.pdf>

³¹ Available at: <http://www.comex.go.cr/acuerdos/comerciales/TLC%20Mexico/anexos.htm>

³² Available at: <http://www.comex.go.cr/acuerdos/comerciales/tlc%20chile/default1.htm>

³³ Available at: <http://www.comex.go.cr/acuerdos/comerciales/TLC%20Dominicana/default0.htm>

³⁴ Available at: <http://www.comex.go.cr/acuerdos/comerciales/TLC%20Canada/espanol/default.htm>

³⁵ Available at: <http://www.comex.go.cr/acuerdos/comerciales/centroamerica/Caricom/espanol.pdf>

³⁶ Available at:

<http://www.comex.go.cr/acuerdos/comerciales/TLC%20Panama/Firma%20del%20Tratado/Parte%20Normativa%20y%20Acceso%20a%20Mercados/default.htm>

³⁷ Agreement between Costa Rica, El Salvador, Guatemala, Honduras y Nicaragua.

sets out applicable provisions on services and investment matters within the framework of the Central American economic integration subsystem. It is structured in eight chapters: initial provisions, general applicable definitions, investment, cross border trade in services, telecommunications, financial services, temporary entrance of business persons, exceptions, administration, transparency and final provisions. Subsequently, on February 22nd, 2007, the countries subscribed a protocol to the treaty which modifies some provisions of the regulatory framework and incorporates annexes that contain existing non conforming measures and future measures on services and investment and existing non conforming measures and future measures on financial services. The treaty and its protocol are both in process of legislative approval.³⁸

Finally, in the Free Trade Agreement between the Dominican Republic, Central America and the United States there is a chapter on investment; another dealing with cross border trade in services; a third containing provisions on financial services; a chapter addressing telecommunications services; and a chapter on electronic commerce. Additionally, it incorporates annexes that contain: existing non conforming measures and future measures on services and investment and existing non conforming measures and future measures on financial services. This agreement incorporates specific commitments of liberalization on insurance and telecommunications services for Costa Rica. The agreement was approved by referendum and its implementation agenda is in process of legislative approval.³⁹

2.4 Foreign Investment Regimes

2.4.1 Treatment of Foreign Investment

a. Legal framework

Costa Rica does not have a special legislation governing foreign investment. In general terms, investment is bound to specific legislation applicable by sector, as well as a number of special regimes, which provide incentives aimed at attracting investment.

Under the Costa Rican legal system, foreign investors' rights are equivalent to national investors' rights. In accordance with article 19 of Costa Rica's Constitution, foreign investors are subject to the same obligations and enjoy the same individual and social rights as those granted to Costa Ricans with the exceptions and limitations established in the Constitution and laws. The article 33 provides that every person is equal under the law and that discrimination shall not be allowed.

Most favored nation treatment is guaranteed to foreign investors under the provisions of bilateral investment treaties, free trade agreements, and the GATS. Foreign investors are eligible for the same incentives as those granted to Costa Rican enterprises.

In addition to the agreements signed with Mexico, Chile, Canada, the Dominican Republic, CARICOM, Panama, Central America, and the United States, described in previous sections, Costa Rica has ratified agreements related to investment with multilateral organizations such as the Inter-American Development Bank (Agreement establishing the Inter-American Investment Corporation) and the World Bank (the country is a member of the Multilateral Investment Guarantee Agency-MIGA).

During the past twenty years, Costa Rica has also negotiated a number of bilateral agreements on promotion and reciprocal protection of investment, with countries such as Argentina, Belgium and Luxembourg, Bolivia, Canada, Chile, Czech Republic, Ecuador, El

³⁸ Available at:

<http://www.comex.go.cr/acuerdos/comerciales/centroamerica/Inversion%20y%20Comercio%20Servicios/default.htm>

³⁹ Available at: <http://www.comex.go.cr/acuerdos/comerciales/CAFTA/textofoliado/default.htm>

Salvador, Finland, France, Germany, Netherlands, Korea, Paraguay, People's Republic of China, Spain, Switzerland, United Kingdom, and Venezuela. Five of these agreements are pending legislative approval.⁴⁰

b. Investment Attraction

Complementing the policies dictated by the Costa Rican government to attract foreign investment, the Costa Rican Investment Promotion Agency (CINDE) is a private organization that aids governmental efforts targeting this objective.

Under guidance from the Ministry of Foreign Trade's Investment and Cooperation Directorate, the Foreign Trade Corporation of Costa Rica (PROCOMER) has strengthened its capacities to support the attention of investors interested in doing business in Costa Rica.

2.4.2 Special investment regimes and zones

Several special regimes for investment exist in Costa Rica:

a) Free trade zone regime

Free zones are an important export promotion instrument, used in Costa Rica to provide incentives and benefits to new investors who meet the requirements and obligations set out in the Law on Free Trade Zones. This law contributes to the socio-economic development of Costa Rica, by attracting both foreign and domestic investment and by promoting exports.

Persons engaged in the handling, processing, manufacturing, production, reparation or maintenance of goods or in the supply of services, intended for export or re-export can be eligible to the benefits of this regime. The initial investment in fixed assets is required to be of at least \$150,000 within the free zone industrial park, and \$2 million outside this physical area.

Incentives under the regime include exemption from all taxes and consular fees on imports of raw materials, spare parts, packing materials and other products, machinery, equipment, replacement parts, fuel and oil; exemption from all taxes relating to the export or re-export of products; exemption from taxes on capital and net assets and land taxes; exemption from sales and consumption taxes on purchases of goods and services; exemption from all taxes on profits; and exemption from municipal or business taxes. Beneficiaries are also authorized to introduce into the customs territory of Costa Rica as much as 25% of their total sales, after complying with applicable legal requirements. For exporting service companies, this percentage is twice as much. Marketing firms are not authorized to sell in the country.

Costa Rica's free trade zone regime is currently undergoing a process of reform, which is intended to adjust and bring the system into compliance with WTO requirements set out in the Agreement on Subsidies and Countervailing Measures. The country has committed to dismantle the incentives that are directly related to export performance requirements, by the year 2015. To this end, eligibility criteria and incentives are being modified.

b) Active finishing regime

With the objective of promoting output, employment, foreign and domestic investment and increase exports and local consumption, the active finishing regime enables goods to enter the national customs territory without paying taxes and under warranty surrender. Benefits

⁴⁰ Belgium and Luxemburg, Bolivia, Ecuador, Finland and China.

under this regime are not associated to income taxes, and goods covered by this benefit are required to be re-exported within the time limits determined by local regulations (the general rule is one year), after being subjected to a process of transformation, repair, reconstruction, assembly, or incorporation into sets.

c) Special drawback system

This regime allows the refund of amounts actually paid or deposited with authorities as tax contributions for the definitive import of inputs, packing or wrapping materials incorporated in products for export, occurring within twelve months from the date of import of such goods. The system is not widely used.

2.5 Trade Remedies

In the context of its bilateral trade negotiations, Costa Rica favors the inclusion of provisions regulating the application of anti-dumping and countervailing duties mechanisms, in accordance with GATT Article VI, the WTO Agreement on Antidumping and the WTO Agreement on Subsidies and Countervailing Measures. Costa Rica also favors the establishment of safeguards regimes consistent with the rights and obligations set out under GATT Article XIX and the WTO Agreement on Safeguards.

2.5.1 Safeguards

The legal framework governing safeguard measures in Costa Rica stems from GATT Article XIX, the WTO Agreement on Safeguards, and the Central American Regulations on Safeguard Measures. The competent authority appointed to initiate and conduct investigations relating to safeguard measures, as well as to propose the imposition of safeguard measures, is the Office of Unfair Trade Practices and Safeguard Measures, set up within the Ministry of Economy, Industry and Commerce.

In this context, safeguard measures investigations may be initiated on application by a party or, in exceptional cases determined by the investigating authority, *ex officio*. If the investigation demonstrates that a product is being imported in such increased quantities—absolute or relative to domestic production—and under such conditions as to cause or threaten to cause serious injury to the domestic industry, that produces like or directly competitive products, safeguard measures in the form of tariffs or quantitative restrictions may be applied. Investigations must conclude within six months after their initiation, except in exceptional circumstances and as determined by the investigating authority. Provisional measures can be applied in cases where critical circumstances threatening damages due to delay, or difficult repair of the domestic industry, occur.

Since Costa Rica joined the WTO in 1995, it has never applied definitive safeguard measures in accordance with Article XIX and the WTO Agreement on Safeguards.

2.5.2 Anti-dumping and countervailing measures

Costa Rica's legal framework for antidumping and countervailing measures comprises a

significant number of agreements, including GATT Articles VI and XVI, the Agreement on Implementation of GATT Article VI of 1994, the Agreement on Subsidies and Countervailing Duties, the WTO Agreement on Agriculture, and the Central American Regulations on Unfair Business Practices. The competent authority responsible for initiating and conducting investigations related to safeguard measures and in charge of deciding the imposition of safeguard measures is the Office of Unfair Trade Practices and Safeguard Measures, under the Ministry of the Economy, Industry and Commerce.

This authority may conduct an investigation if the complainant provides evidence of a distortion (dumping or the existence of a subsidy), or can prove threat or cause of threat to the domestic industry. As provided by the WTO Agreement on Implementation of GATT Article VI of 1994, in special circumstances, investigations may also be initiated *ex officio*.

If the competent authority decides that there is sufficient evidence to justify an investigation, it must issue a resolution opening an investigation procedure. The resolution shall be notified within ten days of the date of issue, to the interested parties and they will have a period of thirty days to object. The resolution shall be published in one of the daily newspapers of national circulation and in the Official Journal *La Gaceta*. Before reaching a decision, the authority must conduct public hearings, and if based on available information, it considers necessary to establish the existence of price distortions causing or threaten to cause material injury to the affected domestic industry, the decision will state a recommendation to establish an anti-dumping or countervailing duty. The investigation shall be concluded within twelve months of its date of initiation, though in exceptional circumstances, it can be extended for a longer period of time if requested by the investigating authority or an interested party.

Anti-dumping and countervailing duties imposed cannot exceed the dumping or subsidy limit, which is calculated by comparing dumped or subsidized imports with non-dumped imports. Provisional duties can be applied when necessary, to prevent serious injury or damage to a domestic industry. The implementation period cannot exceed five years except in special cases where this time limit may be extended, if sufficient reasons justify the measure to prevail. Once a measure has been adopted, it may be reviewed at any time.

Since 1995, Costa Rica has applied three anti-dumping measures (see Table 5, below).

Table 5
Anti-dumping procedures, 1995-2008

Type of product	Product	Origin of imports	Initiation of investigation	Provisional duties	Definitive duties
Production inputs	Flexible packaging of made polypropylene, metallized, printed, entering Costa Rica under SAC tariff line 3920.20.21	Chile	09/01/06	10.56% for 4 months	13.17% applied on 17 Jan.07 for a period of 5 years
Paint	Water-based latex paint, entering Costa Rica under SAC (Central American Tariff System) tariff line 3209.90.10.00	United States	13/09/05	516% dumping margin, for six months	516% applied on 31 Jan.07 for a period of 4 years
Final products	Lavatories and washbasins (to be built in or with pedestals) of glazed porcelain	Venezuela	18/08/98 Investigation ended on 27 Sept.04	n.a.	108% applied on 10 Nov.03; Definitive

Type of product	Product	Origin of imports	Initiation of investigation	Provisional duties	Definitive duties
	6910.90.00				duties revoked on 27 Sept.04

Source: WTO Secretariat, based on information provided by authorities and notifications to the WTO

Concerning countervailing measures, Costa Rica undertook an investigation regarding Colombian subsidies on palm oil and margarine exports, but at the end no countervailing measure was imposed.

2.5.3 Institutional Arrangements

In Costa Rica the authority in charge of unfair trade practices and safeguards measures is the Ministry of Economy, Industry and Trade (MEIC). In 2002, the MEIC issued a decree creating the Office of Unfair Business Practices and Safeguard Measures. This Office is in charge of all administrative procedures related to investigating, analyzing and evaluating cases involving unfair trade practices and safeguard measures, as well as advising the Minister of the MEIC on the application of anti-dumping duties, safeguards and countervailing measures.

2.6 Costa Rica's commitments in the WTO

Costa Rica acceded to the GATT in 1990 and is an original Member of the World Trade Organization (WTO). Since then, Costa Rica has played an active role in the multilateral trading system, taking advantage of the benefits of more liberalized markets, and aiming to secure the country's commercial interests in the international market.

The WTO Agreements were adopted by Costa Rica through Law No. 7475 of December 26, 1994. These agreements are an integral part of the national legislation, and as such, may be invoked directly before the courts. WTO Agreements take precedence over domestic law, with the exception of the Political Constitution.

A law on the implementation of the Uruguay Round Agreements entered into force as of December 27, 1994 (law No. 7473), with the objective of aligning Costa Rican legislation with Uruguay Round commitments. In addition, the country has introduced amendments or new laws in specific spheres such as customs valuation, intellectual property, trade in services and allocation of tariff quotas for exports. Costa Rica grants at least MFN treatment to all its partners and has made use of the transition periods available to developing countries.

Costa Rica is part of the WTO Information Technology Agreement. The country also took part in the negotiations on financial services and has accepted the Fifth Protocol annexed to the General Agreement on Trade in Services, which was approved by Law No. 7897 of August 18, 1999. Costa Rica was neither involved in the negotiations on telecommunications, nor is a party or observer in any plurilateral agreement.

Costa Rica has used the multilateral dispute settlement mechanism to protect its trade interests. Due to the ensuing benefits, both the authorities and the public at large hold a positive perception of the multilateral trading system and its impact on small countries. Multilateral commitments have proved a key catalyst for domestic reform in the past.

Costa Rica has continued an active role in the work of the WTO, having made various contributions within the context of the Doha Development Round work program. The country is placing special emphasis on the negotiations on agriculture and access for non-agricultural goods. It has submitted an initial offer in the WTO negotiations on services.

3. ECONOMIC RELATIONS AND PROSPECTS BETWEEN CHINA AND COSTA RICA

3.1 Bilateral Trade in Goods

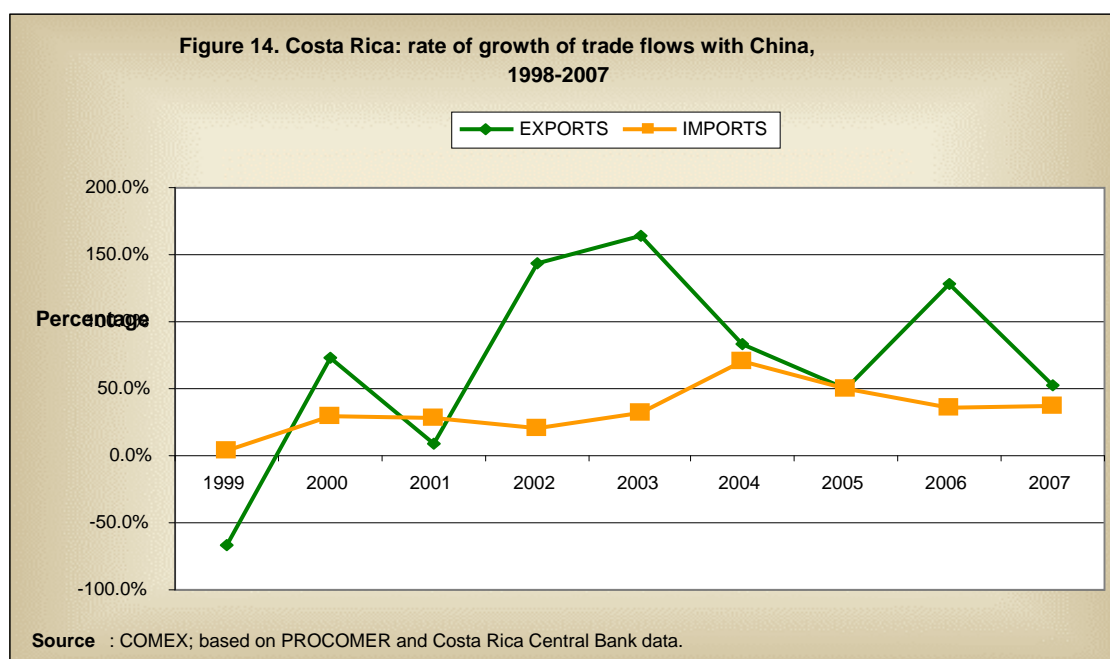
Over the last years China has become one of Costa Rica's major trade partners, due to the substantial growth on trade flows between the two countries. Costa Rican exports to China have grown at rates over 40% in the last six years, varying from \$ 33.7 million in the year 2002; to \$ 848 million in 2007(see table 6 and figure 14). Furthermore, imports have shown lower annual rates of growth, although they have not been less than 20% per year since 2000. As a result of the higher growth of exports, the trade balance with China moved from a recurring deficit, to a trade surplus in 2006.

When comparing the Costa Rica-China trade profile to the one existing between Costa Rica and the rest of the world, it is noticeable that the rates of growth of trade flows with China surpass those of the trade flows with the world. Exports to China represented 0.4% of the exports to the world in 1998, but that number increased to 9%, 9 years later. Besides, imports from China represented less than 1% of total imports from the world in 1998, but came to represent almost 6% in 2007.

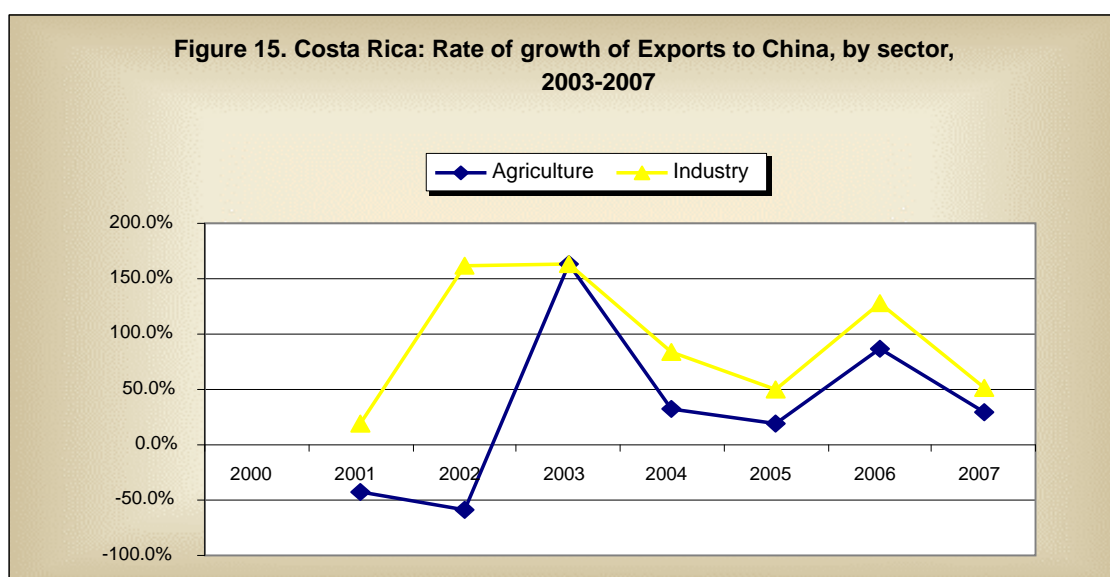
Table 6. COSTA RICA:
Trade Balance with China, the World and relative importance
(Million dollars and percentages)
1998 - 2007

Costa Rica-China										
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
EXPORTS	22.2	7.3	12.7	13.8	33.7	88.9	163.3	244.7	558.3	848.2
<i>Growth rate X (%)</i>		-67.1%	73.4%	9.2%	143.6%	163.8%	83.7%	49.9%	128.1%	51.9%
IMPORTS	58.1	60.5	78.4	100.5	121.6	160.2	272.5	409.2	554.0	763.2
<i>Growth rate M (%)</i>		4.1%	29.6%	28.2%	21.0%	31.7%	70.2%	50.2%	35.4%	37.8%
TRADE BALANCE	-35.9	-53.2	-65.8	-86.7	-88.0	-71.3	-109.3	-164.5	4.2	85.1
<i>Growth rate (X-M) (%)</i>		48.2%	23.6%	31.8%	1.5%	-18.9%	53.3%	50.5%	-102.6%	1907.8%
<i>Total trade flows (X+M)</i>	80.3	67.8	91.1	114.3	155.3	249.0	435.8	654.0	1,112.3	1,611.4
World										
EXPORTS	5,478.6	6,707.9	5,897.3	5,042.8	5,280.5	6,100.2	6,279.3	7,000.6	8,198.2	9,343.2
<i>Growth rate X (%)</i>		22.4%	-12.1%	-14.5%	4.7%	15.5%	2.9%	11.5%	17.1%	14.0%
IMPORTS	6,238.7	6,350.7	6,373.3	6,546.3	7,174.5	7,643.0	8,268.0	9,806.7	11,531.4	12,954.7
<i>Growth rate M (%)</i>		1.8%	0.4%	2.7%	9.6%	6.5%	8.2%	18.6%	17.6%	12.3%
TRADE BALANCE	-760.2	357.2	-476.0	-1,503.6	-1,894.1	-1,542.8	-1,988.8	-2,806.1	-3,333.2	-3,611.5
<i>Growth rate (X-M) (%)</i>		-147.0%	-233.2%	215.9%	26.0%	-18.5%	28.9%	41.1%	18.8%	8.3%
Relative importance										
EXPORTS	0.4%	0.1%	0.2%	0.3%	0.6%	1.5%	2.6%	3.5%	6.8%	9.1%
IMPORTS	0.9%	1.0%	1.2%	1.5%	1.7%	2.1%	3.3%	4.2%	4.8%	5.9%

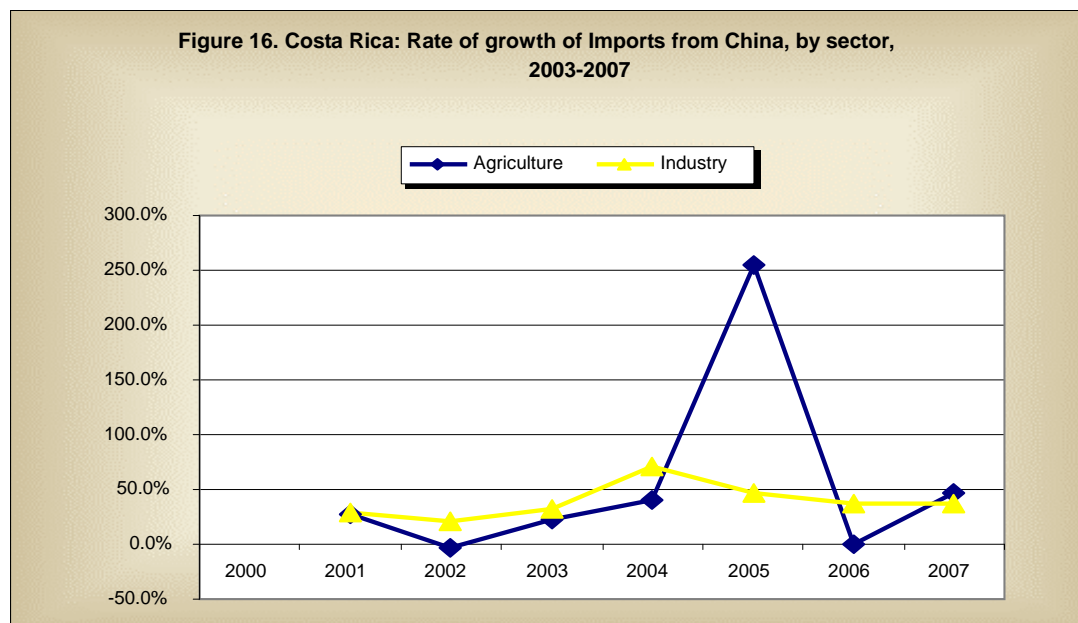
Source: COMEX based on PROCOMER and Costa Rica Central Bank data.



Rates of growth for Costa Rican exports and imports with China, divided by activity are represented in figures 15 and 16. Exports of manufactured goods to China have grown faster than exports of agricultural products for every single year in the period 2001-2007, except for 2003, when the rate of growth of the exports of both sectors were the same. The faster growth of manufactured exports is closely related to the development of the high-tech free trade zone clusters, led by INTEL. In the other hand, imports of both agricultural and manufactured goods have been growing at a similar pace with a slight advantage of manufactured imports for the period 2001-2007, with the exception of 2005, when the growth of agricultural imports from China was five times bigger than the growth of manufactured imports. According to the records of the Ministry of Foreign Trade of Costa Rica, such a high increase in agricultural imports from China is due to the import of beans, one of the most important agricultural products in the Costa Rican diet.



Source: COMEX, based on Procomer and the Costa Rica Central Bank data.



Source: COMEX, based on Procomer and the Costa Rica Central Bank data.

Concerning the trade flow structure between Costa Rica and China, it is important to point out that, while 98% of exports are raw materials, only 32% of imports are raw materials, provided that 48% of the imports are final consumption of goods. This is easy to explain, considering the importance of the electronics industry in the trade flows with China, as well as the high level of competitiveness of the Chinese manufacturing sector.

The main products that Costa Rica exported to China in 2007 were: electronic integrated circuits (74%), parts and accessories of automatic data-processing machines (13%), monolithic integrated digital circuits (7%), parts of electrical ignition (1%), waste and scrap of copper (1%), parts of microelectronic circuits and micro-assemblies (1%), and waste and scrap of aluminum (1%).

Furthermore, the main products that Costa Rica imported from China in 2007 were: electronic integrated circuits (10%), toys (3%), motorcycles (2%), shoes (2%), woven fabrics of cotton (2%), television sets (1%), beans (1%), sports footwear (1%), ceramic floor or wall tiles (1%), pneumatic tires (1%), video recording devices (1%), and video cameras (1%).

3.2 Bilateral Trade in Services

There is no available statistics information about bilateral trade in services between China and Costa Rica.

3.3 Bilateral Investment

a) Costa Rican Investment in China

At the moment, there are no records on Costa Rican investment in China, since there is not a defined official methodology to account for it. Nevertheless, it might be possible to identify –with the help of entrepreneurial organizations–, some investments in the services

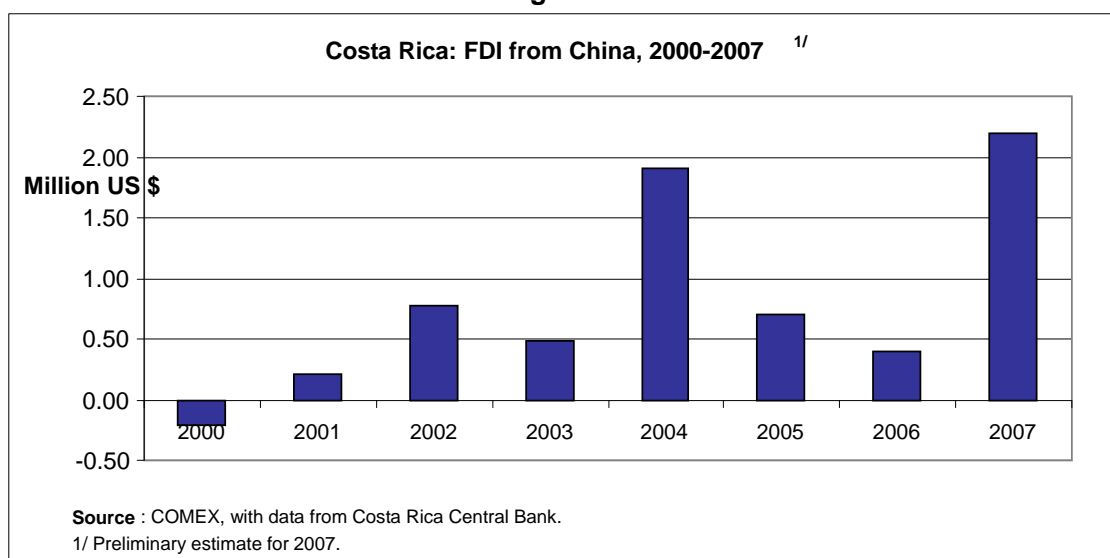
and manufacturing sectors.

b) Chinese Investment in Costa Rica

Chinese investment in Costa Rica in the year 2007 was estimated at \$ 2.2 million, exceeding the previous year by 450% (merely \$ 0.4 million). This investment was primarily oriented to the financial (\$ 0.9 million) and the real estate (\$ 1.3 million) sectors. It is important to notice that 2004 was another high inflows year for Chinese investment in Costa Rica, with \$ 1.9 million.

In spite of the high rate growth of Chinese investment in Costa Rica during 2007, the total share of foreign investment is still very low, accounting for merely 0.1% of the \$ 1.89 billion of Foreign Direct Investment received this year.

Figure 17



Over the last 5 years, Chinese investment has not accounted more than 0.1% of total FDI inflows, which confirms the importance of establishing promotion and cooperation mechanisms, tending to increase the investment flows between the two countries.

TABLE 7. FOREIGN DIRECT INVESTMENT INFLOWS, BY COUNTRY OF ORIGIN
(million US \$)

COUNTRY	2000	2001	2002	2003	2004	2005	2006	2007
China	-0.20	0.21	0.77	0.48	1.90	0.70	0.40	2.20
WORLD TOTAL	408.56	460.38	659.36	575.06	793.80	861.00	1,469.10	1,884.60
Share (%)	-0.05	0.05	0.12	0.08	0.24	0.08	0.03	0.12
Growth Rate (%)	n.a.	-2.03	2.66	-0.38	2.97	-0.63	-0.43	4.50

1/ Preliminary estimate for 2007

Source: Costa Rica Central Bank

3.4 Tariff Level Comparison between China and Costa Rica

China and Costa Rica have made continuous efforts to unilaterally reduce their applied tariffs, and as a result, their simple average tariff level equaled 9.8% for China and 5.9% for Costa Rica in 2007. Costa Rica's average tariff level is almost four points lower than China's, mainly due to a greater level of openness in the industrial sector. While China's average import tariff for manufactured goods equals 9.3%, Costa Rica's average is a low 4.7%. In agricultural goods, however, the average tariff levels are more similar, reaching 15.5% for China and 13.4% for Costa Rica in 2007. Both countries apply preferential tariffs for partners under free trade agreements.

3.5 Analysis on the Competitive and Complementary Industries

For the purposes of this section, two complementary analytical tools will be used: the Revealed Comparative Advantage Index (RCAI), developed by Balassa (1965), and the Trade Specialization Index (TSI). Both indicators have the purpose of estimating potential comparative/competitive advantages, but they follow different approaches, as will be explained next.

a) Revealed Comparative Advantage Index (RCAI)

The RCAI in the Chinese market for a Costa Rican product that classifies in tariff line j , can be computed as follows:

$$RCAI_{CR,j}^{China} = \frac{\frac{X_{CR,j}^{China}}{X_{World,j}^{China}}}{\frac{\sum_j X_{CR,j}^{China}}{\sum_j X_{World,j}^{China}}}$$

Where:

- X is the average value of exports in US\$, between 2005 and 2007
- The first subscript index accounts for the country where the good is produced
- The superscript index accounts for the country that purchases the good
- j is the 6-digit tariff line where the goods is classified

The main idea of this instrument is that those tariff lines for which the RCAI is greater than one, possess revealed comparative advantage in the destination market, provided that the Costa Rican export of good j to China represents a larger share in the world exports of good j to China, than the total share Costa Rican exports to China represent from world total exports.

For the purpose of applying this method, two main inputs were used: the Chinese imports from Costa Rica (that are also the Costa Rican exports to China) and the world exports to China (which correspond to the Chinese imports from the world), both at 6-digit of the Harmonized System (HS).

b) Trade Specialization Index (TSI)

The TSI is an alternate measure to approach comparative advantages, but provides a

different framework than the RCAI. While the last one compares the relative success of a country in exporting a good to a specific market with respect to the country's overall exporting performance to that market, the first one considers the level of specialization a country has developed in the production/consumption of each good. Therefore, the TSI only uses information about the producing country and indicates the level of specialization of the country: if it yields -1, it means that the country is fully specialized in the consumption of the good (i.e., the country imports the good but does not export it); whereas if it yields +1, it means that the country is fully specialized in the production of the good (i.e., the country exports the good but does not import it at all).

The TSI in the Chinese market for a Costa Rican product classified in tariff line j , can be computed as follows:

$$TSI_{CR,j}^{China} = \frac{X_{CR,j}^{China} - M_{CR,j}^{China}}{X_{CR,j}^{China} + M_{CR,j}^{China}}$$

Where: M is the average value of imports in US\$, between 2005 and 2007
The rest of subscripts and superscripts operate the same as for the RCAI

In the case of the TSI, there are no definite criteria about the best way to judge the results; however, for the purposes of this analysis, a value greater than 0.5 will be considered as an indication of high export specialization.

In order to take advantage of the two analytical tools hereby explained, both are calculated for all tariff lines and only those yielding $RCAI > 1$ and $TSI > 0.5$ simultaneously, will be considered likely to bear a revealed comparative advantage for exporting. Nevertheless, the results for each indicator will be analyzed separately.

c) Summary of results

As depicted in Table 8, a total of 246 6-digit tariff lines scored a TSI greater than 0.5. These 246 tariff lines can be grouped into 42 different chapters of the Harmonized System. Indeed, 58% of these 246 tariff lines correspond to chapters 85 (85 lines), 84 (39 lines) and 90 (19 lines). Although tariff lines from chapter 85 account for the highest export values to China, a broader look at the results suggest that the Costa Rican products with the highest export specialization in the Chinese market, according to the TSI, include: integrated electronic circuits, transistors and semi-conductors, prepared citric fruit, parts of seats, leather products, vegetable seedlings, dried fish, frozen sanya and root cuttings.

In contrast, the results for the RCAI show only 35 6-digit lines possessing revealed comparative advantage in the Chinese market, as shown in Table 9.

Table 8
Number of tariff lines scoring TSI>0.5, by Chapter

HS Chapter	Description	Number of 6-digit tariff lines	Percentage
85	Electrical machinery and equipment and parts thereof	85	34.6%
84	Machinery and mechanical appliances; parts thereof	39	15.9%
90	Optical, photographic, cinematographic, measuring, checking, precision medical or surgical instruments and apparatus; parts and accessories thereof	19	7.7%
39	Plastics and articles thereof	10	4.1%
29	Organic chemicals	7	2.8%
73	Articles of iron or steel	7	2.8%
3	Fish and crustaceans, molluscs and other aquatic invertebrates	5	2.0%
41	Raw hides and skins (other than furskins) and leather	5	2.0%
74	Copper and articles thereof	5	2.0%
82	Tools, implements, cutlery, spoons and forks, of base metal	5	2.0%
20	Preparations of vegetables, fruit, nuts or other parts of plants	4	1.6%
44	Wood and articles of wood; wood charcoal	4	1.6%
9	Coffee, tea, maté and spices	3	1.2%
48	Paper and paperboard; articles thereof	3	1.2%
81	Other base metals; cermets; articles thereof	3	1.2%
83	Miscellaneous articles of base metal	3	1.2%
94	Furniture; bedding, mattresses; lamps and lighting fittings; prefabricated buildings	3	1.2%
5	Products of animal origin	2	0.8%
6	Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage	2	0.8%
8	Edible fruit and nuts	2	0.8%
21	Miscellaneous edible preparations	2	0.8%
32	Tanning or dyeing extracts; dyes, pigments, paints, varnishes, putty and mastics	2	0.8%
35	Albuminoidal substances; modified starches; glues; enzymes	2	0.8%
47	Pulp of wood or of other fibrous cellulosic material; waste and scrap of paper or paperboard	2	0.8%
52	Cotton	2	0.8%
61	Articles of apparel and clothing accessories, knitted or crocheted	2	0.8%
72	Iron and steel	2	0.8%
76	Aluminum and articles thereof	2	0.8%
11	Products of the milling industry	1	0.4%
12	Oil seeds and oleaginous fruits; industrial or medicinal plants	1	0.4%
16	Preparations of meat, of fish or of crustaceans, molluscs or other aquatic invertebrates	1	0.4%
17	Sugars and sugar confectionery	1	0.4%
22	Beverages, spirits and vinegar	1	0.4%
28	Inorganic chemicals; organic or inorganic compounds of precious metals, of rare-earth metals, of radioactive elements or of isotopes	1	0.4%
33	Essential oils and resinoids; perfumery, cosmetic or toilet preparations	1	0.4%
40	Rubber and articles thereof	1	0.4%
42	Articles of leather	1	0.4%
45	Cork and articles of cork	1	0.4%
55	Man-made staple fibers	1	0.4%
69	Ceramic products	1	0.4%
71	Natural or cultured pearls, precious or semi-precious stones, precious metals and articles thereof; imitation jewelry	1	0.4%
87	Vehicles; parts and accessories thereof	1	0.4%
Total		246	100.0%

Source: own calculations.

Table 9
Costa Rica: Share of Exports to China with RCAI >1, by 6D code

HS 6D Code	Description ^{a/}	Exports share Costa Rica to China	RCAI
854221	Monolithic digital integrated circuits	44,77%	7,9
854231	Digital processors and controllers	42,26%	12,7
854260	Hybrid integrated circuits	4,53%	7,1
854232	Memories	2,22%	2,1
854229	Monolithic non digital integrated circuits	1,77%	1,2
854160	Mounted piezoelectric crystals	0,99%	4,7
854150	Semiconductor devices	0,56%	8,3
853650	Switches, sectioners and commutators	0,15%	1,2
853321	Electrical fixed resistors, for a power handling capacity not exceeding 20 W	0,14%	1,6
854390	Parts of electrical machines and apparatus	0,11%	3,0
853340	Electrical variable resistors	0,08%	1,7
200830	Citrus preparations, even with added sugar or alcohol	0,07%	21,8
940190	Parts of seats or sofas	0,07%	1,4
420500	Articles of leather or composition leather	0,07%	6,8
060290	Seedlings of vegetables and tobacco	0,06%	19,0
410419	Bovine and equine tanned hides and skins	0,06%	1,3
030559	Dried fish, not smoked (excluding cod)	0,05%	22,1
030375	Frozen "Sanya" fish	0,04%	27,0
901839	Catheters and cannulae	0,03%	1,4
854890	Electric parts of machines and apparatus	0,03%	1,6
060210	Unrooted cuttings and slips	0,03%	150,0
853331	Electrical variable resistors, for a handling capacity not exceeding 20 W	0,02%	7,8
854470	Optic fiber cables	0,01%	2,4
030520	Fish livers and roes	0,01%	15,9
853329	Electrical fixed resistors, for a power handling capacity exceeding 20 W	0,01%	2,1
830140	Locks and padlocks	0,01%	2,0
810196	Tungsten wire	0,00%	1,8
051191	Products of fish, crustaceans, molluscs or other aquatic invertebrates	0,00%	2,6
200799	Fruit jellies (excluding those of citrus)	0,00%	6,7
090121	Roasted coffee not decaffeinated	0,00%	1,7
200980	Fruit or vegetable juices	0,00%	1,2
940380	Furniture made of rattan, osier, bamboo or similar materials	0,00%	2,0
450490	Agglomerated cork	0,00%	2,0
050690	Unworked bones and horn-cores of animals	0,00%	1,6
160210	Homogenised preparations of meat	0,00%	24,8

Source: COMEX, based on own calculations.

a/ The description is used only as a reference.

Thirty four out of the 35 tariff lines for which the RCAI scored 1 or higher, satisfy simultaneously the criteria established for possessing comparative advantage in the Chinese market according to both the TSI and the RCAI, with the exception of tariff line 830140 (locks). The list of the products showing a RCAI greater than one and accounting for the highest export values to China perfectly match the list presented in the previous paragraph. Therefore, such a list represents the main Costa Rican products that can be considered to bear comparative advantage in the Chinese market, listed next in Table 10.

Table10
Share of Exports to China with RCAI >1 and 0.5<TSI<1, by 6-digit tariff line

6-digit tariff line	Description ^{a/}	Exports share Costa Rica to China	RCAI	TSI
854221	Monolithic digital integrated circuits	44,77%	7,9	1,00
854231	Digital processors and controllers	42,26%	12,7	1,00
854260	Hybrid integrated circuits	4,53%	7,1	1,00
854232	Memories	2,22%	2,1	1,00
854229	Monolithic non digital integrated circuits	1,77%	1,2	1,00
854160	Mounted piezoelectric crystals	0,99%	4,7	1,00
854150	Semiconductor devices	0,56%	8,3	1,00
853650	Switches, sectioners and commutators	0,15%	1,2	0,95
853321	Electrical fixed resistors, for a power handling capacity not exceeding 20 W	0,14%	1,6	1,00
854390	Parts of electrical machines and apparatus	0,11%	3,0	1,00
853340	Electrical variable resistors	0,08%	1,7	1,00
200830	Citrus preparations, even with added sugar or alcohol	0,07%	21,8	1,00
940190	Parts of seats or sofas	0,07%	1,4	0,67
420500	Articles of leather or composition leather	0,07%	6,8	0,99
060290	Seedlings of vegetables and tobacco	0,06%	19,0	1,00
410419	Bovine and equine tanned hides and skins	0,06%	1,3	1,00
030559	Dried fish, not smoked (excluding cod)	0,05%	22,1	1,00
030375	Frozen "Sanya" fish	0,04%	27,0	1,00
901839	Catheters and cannulae	0,03%	1,4	1,00
854890	Electric parts of machines and apparatus	0,03%	1,6	1,00
060210	Unrooted cuttings and slips	0,03%	150,0	1,00
853331	Electrical variable resistors, for a handling capacity not exceeding 20 W	0,02%	7,8	1,00
854470	Optic fiber cables	0,01%	2,4	1,00
030520	Fish livers and roes	0,01%	15,9	1,00
853329	Electrical fixed resistors, for a power handling capacity exceeding 20 W	0,01%	2,1	1,00
810196	Tungsten wire	0,00%	1,8	1,00
051191	Products of fish, crustaceans, molluscs or other aquatic invertebrates	0,00%	2,6	1,00
200799	Fruit jellies (excluding those of citrus)	0,00%	6,7	0,97
090121	Roasted coffee not decaffeinated	0,00%	1,7	1,00
200980	Fruit or vegetable juices	0,00%	1,2	0,62
940380	Furniture made of rattan, osier, bamboo or similar materials	0,00%	2,0	1,00
450490	Agglomerated cork	0,00%	2,0	1,00
050690	Unworked bones and horn-cores of animals	0,00%	1,6	1,00
160210	Homogenised preparations of meat	0,00%	24,8	1,00

Source: COMEX, based on own calculations

a/ The descriptions used only as a reference.

For products from this list for which China happens to register a TSI<1 (in other words, the ones that do register imports) the Costa Rican exports to that market represent a complementary industry, given the fact that, they help China complement its domestic production to reach higher consumption levels. This is an element that must not be underestimated, particularly for a market of more than 1.3 billion people.

4. IMPACTS OF TRADE AND INVESTMENT LIBERALIZATION

4.1 Liberalization of Bilateral Trade in Goods

4.1.1 Analysis on Trade Creation and Trade Diversion

This section attempts to quantify the effects that the elimination of tariffs applicable to Chinese goods would have on Costa Rican imports, using the average imports from that country for the period 2005-2007. As agreed with China in the preliminary meetings celebrated in January, 2008, the Partial Equilibrium Model (PEM) will be used to conduct the analysis of trade creation and trade diversion.

The PEM seeks to determine the trade creation and diversion that may arise from a preferential tariff treatment on imports from China instead of the application of MFN tariffs. Thus, by the elimination of tariffs and the resulting domestic price reductions, consumption and imports would increase in Costa Rica. In this sense, new and increased trade flows would be created due to the subscription of a FTA. Besides, the tariff concessions that the FTA grants in favor of a trade partner, it does not produce an increase in total imports from the world, but rather an increase in imports from the FTA trade partner only, that will substitute current imports from other countries. (trade diversion)

In the PEM model used, trade creation is estimated according to the definition of the price elasticity of import-based demand. The model assumes that the subscription of the FTA will, at some point, lead to the removal of all ad valorem duties, and the consequent increase of Costa Rican imports would produce a reduction in domestic prices. Thus, the change in the value of imports would only arise from changes in imported quantity (since Costa Rica is a small country that cannot affect international prices), and trade creation for each product shall be calculated as follows:

$$TC_j = \frac{M_{CR,j}^{China} * \varepsilon_j * (-MFN_{CR,j})}{(1 + MFN_{CR,j})}$$

where: ε_j is the price-elasticity of import-based demand for good j
 $MFN_{CR,j}$ is Costa Rica's Most Favored Nation ad valorem duty for good j
The rest of the variables, subscripts and superscripts are identical to the ones described in section 3.5.

The application of the PEM to estimate trade creation depends on the existence of reliable estimates for import-based demand price-elasticities. A reliable set of these estimates for Costa Rica was found in a research paper by Kee, Nicita and Olarreaga (2007). However, the set of estimates is incomplete as there are no estimates for some of the Harmonized System (HS) tariff lines at the 6-digit level. To overcome this problem, the average of the elasticities for the corresponding tariff lines at the 4-digit level was used instead. When no elasticity estimate was available for the corresponding set of tariff lines at the 4-digit level, the average of elasticities for the corresponding tariff lines at the chapter level (2-digit) was used as a last instance resort. For the few tariff lines for which this procedure was not applicable, the estimates of "similar" goods were used instead ("similar" to the extent that they have similar uses and characteristics), as indicated next:

- The elasticity of umbrellas was used for watches.
- The elasticity of car accessories was used for clocks for vehicles' dashes or consoles.
- The elasticity of wall mirrors was used for wall clocks.

- The elasticity of perfumes was used for paints, antiques and other art crafts.

These criteria allowed to have a complete set of estimates for price elasticities of import-based demands and thus permitted the use of the PEM to estimate trade creation.

On the other hand, trade diversion is considered to take place when granting a preferential tariff to China, equilibrates this country's access level to the Costa Rican market with that of other current FTA trade partners. Then, Costa Rica can substitute imports from other FTA trade partners with Chinese goods. Trade diversion does not imply an increase in imports, but instead a pure substitution across supply sources that stems from the change in relative prices brought about by the FTA.

For the calculation of trade diversion, the PEM provides a formula similar (but not identical) to the one used to estimate trade creation, but uses instead the elasticity of substitution between imports from China and imports from the rest of the world. Since no estimates for the elasticities of substitution were found for Costa Rica, this study proposes an alternate procedure to create an upper bound estimate for the trade diversion that would arise from an FTA with China.

This procedure followed to estimate the upper bound for trade diversion is based on two main assumptions:

- a) Disregarding trade distortions, China can be a more price-competitive provider than any other current FTA partner of Costa Rica.
- b) All MFN duties will be removed at some point as a result of the application of the FTA with China.

The first assumption can not be rejected a priori, given the strong price competitiveness of the Chinese economy. However, it is clear that the combination of the two assumptions produces an extreme and unlikely scenario, in which all Costa Rican imports from its current FTA partners are substituted by imports from China (of course, only for those goods which China produces and exports, because even such a strong and large economy is unable to be fully self sufficient for several products). Such an extreme case is necessary to estimate the upper bound for trade diversion, which will in turn allow getting a reasonable conjecture about the mean-point estimate for trade diversion.

The procedure starts by filtering the tariff lines at the 8-digit level that Costa Rica currently imports from its current FTA partners but not from China. Out of these, only the tariff lines with MFN duties of 10% or higher were selected, since no significant trade diversion could be expected for the goods with relatively low MFN tariffs (i.e., 6% or less). Then, the value of Costa Rican imports from current FTA partners was totaled at the 6-digit level for these tariff lines.

This allowed for a one-to-one match with Chinese exports to the world, out of which only the tariff lines whose ratio of Chinese exports to the world to Costa Rican imports from current FTA partners is equal to or greater than 86⁴¹, were picked. These are the tariff lines whose trade structure replicates or surpasses the average ratio of Chinese exporting capacity to Costa Rican importing needs. It is this set of 6-digit tariff lines, the one for which Costa Rican imports from current FTA partners are likely to be replaced by Chinese imports, in the event that all MFN duties were removed by a FTA with China. Therefore, the estimate of the upper bound for trade diversion is calculated as the sum of Costa Rican imports from current FTA partners for this set of tariff lines.

This upper bound estimate corresponds to an unlikely scenario in which all current imports from Costa Rica's FTA partners are substituted by imports from China. The opposite would

⁴¹ This number represents the ratio of Chinese total exports to the world, to Costa Rican total imports from the world.

be a scenario in which no imports from Costa Rica's FTA partners are substituted by imports from China, meaning that the lower bound for trade diversion is zero. Therefore, a mean-point estimate for trade diversion can be computed using the results for the upper and lower bound estimates.

Finally, it is worth to point out that the PEM tends to underestimate trade creation effects of tariff reductions on imports, as it fails to capture the impact on goods that were not initially imported, the trade of which may become profitable as a result of the tariff reduction. Moreover, the static nature of the model prevents it from capturing dynamic effects on the rate of growth of GDP and trade flows, which clearly underestimates the extent of trade creation as well.

Results

Using the PEM, trade creation is estimated at US \$ 48.4 million, which represent 6.3% of Costa Rican total imports from China in 2007. Although this figure may seem relatively small, it looks quite realistic at the same time. The strong price-competitiveness of China makes the country's exports less sensitive to import tariffs, meaning that the tariff cut implied by the FTA should not be expected to have a very strong incidence on Costa Rican imports from China. Moreover, it is important to bear in mind the small size of the Costa Rican market, which limits the expansion of the import-based demand associated to trade creation.

Results for trade creation were grouped by chapter (2-digit level), to show that 18 chapters of the tariff classification would account for 85% of total trade creation. These chapters correspond, in order of importance, to the following products:

- Textiles and clothing (chapters 52, 54, 61, 62 and 63)
- Electronic machines and integrated circuits (chapter 85)
- Footwear (chapter 64)
- Toys (chapter 95)
- Black beans and garlic (chapter 07)
- Furniture and its parts (chapter 94)
- Fans and air conditioning equipment (chapter 84)
- Plastic dinnerware and gloves (chapter 39)
- Bicycles, tricycles, motorcycle parts and carriages for babies (chapter 87)
- Ceramic dinnerware and tiles (chapter 69)
- Granite (chapter 68)
- Manufactures of stainless steel and iron (chapter 73)
- Flat, laminated iron or steel manufactures (chapter 72)
- Wood and its manufactures (chapter 44)

More precisely, the products for which the larger trade creation could be expected in the Costa Rican market include: black beans, ladies' footwear, printed fabrics, TV sets, video recorders/players, granite, cotton pants and shorts, ceramic tiles, sports footwear, dyed fabrics, toys, ladies' cotton shirts and blouses, rubber sandals, freight tricycles, men's cotton shirts, electric fans, metal furniture, cotton panties, and exercise equipment.

Following the procedure proposed above, the upper bound for trade diversion was estimated at \$53.9 million. Given the lower bound estimate for trade diversion is zero, the mean-point estimate for trade diversion amounts to \$27 million. This mean-point estimate for trade diversion is, in fact, lower than the \$48.4 million estimate for trade creation.

As it was done for the case of trade creation, a set of products for which the largest trade diversion would take place was identified. These products were grouped by chapter (2-digit level), which showed that 82% of total potential maximum trade diversion would be concentrated in 10 chapters, which are listed next:

- Petroleum oils (chapter 27)
- Diesel-powered freight trucks (chapter 87)
- Cotton socks (chapter 61)
- Pears, walnuts and mandarin oranges (chapter 08)
- Copper or aluminum thread, braids and cable (chapter 85)
- Chemical products (chapter 38)
- Ethyl Alcohol (chapter 22)
- Apple juice concentrate; peanuts (chapter 20)
- Wood fiber boards; wood boxes, cages, containers and reels (chapter 44)
- Slim plates, sheets and strips of aluminum (chapter 76)

4.1.2 Impacts on Major Industries

The purpose of this section is to discuss potential impacts that the trade creation estimated above, may have on the main Costa Rican domestic industries. Out of the list of products for which the largest trade creation could be expected, only the following are produced domestically in Costa Rica:

- Beans and garlic
- Furniture and its parts
- Plastic dinnerware and gloves
- Ceramic dinnerware and tiles
- Flat, laminated iron or steel manufactures
- Wood and its manufactures

Agricultural crops such as beans and garlic, as well as plastic and wood manufactures, have been given a special consideration in past negotiations and, they are likely to be treated accordingly in future negotiations. The extent of the potential impact of trade creation on these activities will largely depend on the level of the tariff reduction (if any) and the policy agenda that could be implemented to attend their needs (including cooperation).

Even if tariff duties were fully removed on Chinese imports for the products listed above, the impact on domestic production is not likely to be significant, given that the estimated trade creation is quite modest and, as explained before, tariff reductions should not be expected to have relevant effects on imports from such a price-competitive economy like China.

4.2 Liberalization of Bilateral Trade in Services

In 2007, the total value of Costa Rica's trade in services was \$5,343.1 million, accounting for 20% of Costa Rica's total trade in both goods and services. In the same year, total value of Costa Rica's exports in services represented 27.6% of total exports, while Costa Rica's imports in services represented 13% of total imports.

Costa Rica's government has made important efforts in order to liberalize some services sectors. In this respect, in 1995 the public bank monopoly was eliminated in relation to public deposits reception and current account deposits, likewise legal reforms have been promoted by the Government to liberalize the telecommunications and insurance services.

A free trade agreement between Costa Rica and China would contribute in the development of the economic relations between both countries; it would increase the trade of services and the establishment of new investments. The agreement shall ensure a stable and transparent climate for the trade in services and investment.

4.3 Impact on Bilateral Direct Investment

4.3.1 Overall Impacts on Bilateral Direct Investments

In general terms, the liberalization of trade in services would open investment opportunities in Costa Rica for Chinese investors. As discussed in section 4.2, Costa Rica completed the liberalization of current account deposits in 1995, and is currently undergoing important reforms in order to authorize the participation of private suppliers in the markets for insurance, internet and mobile telephone services.

These reforms create new business opportunities for Chinese investors in sectors that require financial capital and technology, two assets in which the Chinese economy has consistently proven to be strong and competitive.

At least two other interesting areas of business opportunities are already open to Chinese investors and may well be enhanced by the greater commercial exchange between the two countries that would follow from the entry into force of an FTA. One of them has to do with the booming activities related to real estate and construction, mainly along the Pacific coastline and extensive to the rest of the Costa Rican territory.

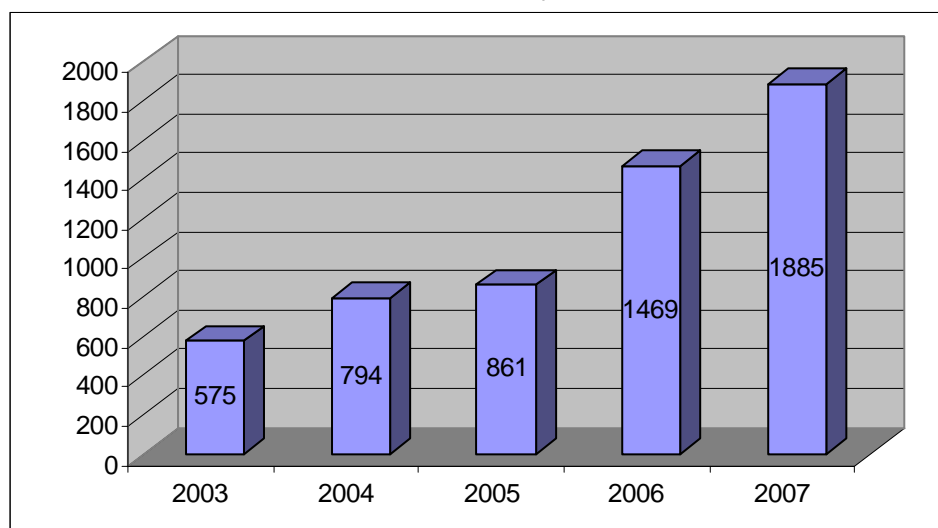
The other is of a more general nature, and is related to the advantages that Costa Rica offers to Chinese business groups, as a “bridge” to gain preferential access to the United States market. Costa Rica is geographically close to the United States, has a very competitive labor force, and will soon put in effect the FTA with the United States. These conditions should make Costa Rica a very attractive destination for Chinese investments in the industrial sector. In fact, a huge opportunity exists for Chinese investment in Costa Rica for the production of textiles, which could be used as an input for garment production in Costa Rica and the rest of Central America and for duty free export to the United States. This is only one example of a possible area of interest for Chinese investors.

4.3.2 China's Investment Opportunities in Costa Rica

a) Evolution of Foreign Direct Investment (FDI) in Costa Rica

The FDI reached \$1.89 billion in 2007, while more than \$1.7 billion are expected for 2008. In 2007, the amount of FDI received by Costa Rica was 20% bigger than the Balance of Payments' Current Account deficit.

Figure 18
Costa Rica: Foreign Direct Investment by sector of destination
Million \$



Source: COMEX, with data from Costa Rica Central Bank.

As shown above, FDI inflows have grown continuously during the years. In 2007, FDI inflows grew by 28.3% with respect to 2006. By taking a look at the breakdown by sectors, manufacturing, real estate and tourism appear to be the most important ones. This trend is expected to continue during 2008.

Table 11

Table 6 Costa Rica: Foreign Direct Investment by sector of destination

	2000	2001	2002	2003	2004	2005	2006	2007
Agriculture	-11,2	0,5	-8,6	-36,3	50,6	37,1	66,1	1/-8,9
Agricultural industry	11,5	5,2	2,8	8,4	-0,3	29,6	-3,2	17,4
Commerce	15,5	11,1	15,2	6,0	23,9	47,6	57,0	98,2
Industry	296,2	231,6	483,0	386,7	456,0	344,9	435,5	691,1
Services	17,3	57,4	52,8	83,2	17,3	73,3	60,9	65,7
Financial System	27,1	43,1	17,2	2,2	22,6	40,9	343,4	15,6
Turism	51,3	102,5	76,0	88,3	41,4	53,5	131,9	328,8
Real Estate	15,0	9,0	21,0	31,0	178,4	234,6	373,5	638,1
Others/n.d	-14,1	0,0	0,0	5,7	3,9	-0,5	4,1	38,5
TOTAL	408,6	460,4	659,4	575,1	793,8	861,0	1.469,1	1.884,6

1/ Preliminary estimate

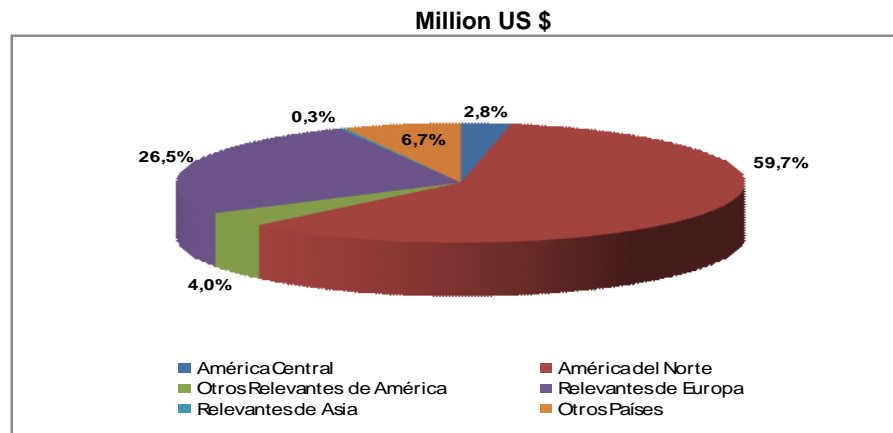
Source: Costa Rica Central Bank

According to Central Bank data, FDI inflows were distributed among the most important sectors of the economy, as follows: manufacturing sector (37%), being the subsectors of food and beverages, electronics, medical devices and pharmaceuticals the most important; real estate (33,9%), mainly due to the purchase of houses and properties by non-residents; and tourism (17,4%), given the development of new projects and the expansion of the existing infrastructure.

Regarding the main countries of origin of the FDI Costa Rica received in 2007, 59.7% came from the United States, 26.5% from Europe (Netherlands, Germany, Switzerland, Spain, Italy, France and England), and 4% from Central America.

Figure 19

Costa Rica: Foreign direct Investment by origin, 2007



b) Opportunities in strategic sectors

In regards to the opportunities for Chinese investors in Costa Rica, it is worth to point out that the country has established a promotion strategy that has contributed to the development of some strategic and innovative sectors, such as: services, medical devices, electronics and tourism. Firms operating in these sectors have continued to grow and some clusters have started to slowly emerge.

Also, investment potential exists in the agro-industrial sector and in public works concessions, which are very important for the modernization of Costa Rica's infrastructure. Other sectors where significant investments have been made include:

- **Medical Devices:** within this industry, twenty three different companies have been established in Costa Rica in the last six years, creating 6.500 jobs. In 2007, exports of medical devices occupied the fourth place of importance in Costa Rica's total exports, totaling US \$780 million.
- **Services:** this sector's dynamic growth rate has been placed third in the area of job creation. Software development, engineering and design, as well as shared services, back offices and call centers, are some of the important services showing outstanding performance in Costa Rica during the past few years.
- **Electronics:** this is one of the strongest services sectors in Costa Rica, with more than 20 years of presence in the country. Companies in the industry have created close to 11,000 jobs for qualified workers, accounting for approximately 30% of the total labor force located in Costa Rica's free zones.
- **Tourism:** this activity has been very successful in terms of investment attraction. Estimates provided by the Costa Rican Tourism Board indicate that in 2007, the tourism sector generated around \$1,894.7 million in income, an amount totaling \$265,4 million more than the previous year. Costa Rica received nearly 1,979,789 tourists last year, 254,528 tourists more that in 2006, representing a growth rate of 10.8 %. The arrival of new airlines during 2007 and the consequent increase of the flight frequencies were two of the main factors that contributed to this evolution; the total number of available seats increased by 22 % (675.000 new spaces). New hotel chains of international prestige and renovation of pre-existing hotels also supported growth in this sector.

- **Biotechnology:** the evolution of the Costa Rican economy has brought about increased efforts to seek and attract investment flows that promote high technology entrepreneurship. One important subsector is biotechnology, in areas such as: food industry, agricultural production industrial biotechnology, molecular biology, medical industry, bio IT, environment and energy, and conservation of biodiversity.

- **Concession of public works**

Costa Rica has promoted growth and improvement of its infrastructure supporting industry, trade and productivity by various means, including private investment in public works. The government seeks to develop specific projects on areas such as: airports, ports and route infrastructure.

4.3.3 Costa Rica's Investment Opportunities in China

The opportunities of Costa Rican investment in China are tied to the possibilities of developing strategic alliances for the exportation and marketing of Costa Rican products in this country. Opportunities have been identified in these sectors: gourmet / organic products, fish, ornamental plants, fruit concentrates, industrial waste, high technology components and meat remains.

5. INFORMATION EXCHANGE ON OTHER ISSUES AND ECONOMIC COOPERATION

5.1 MOVEMENT OF BUSINESS PERSONS

a) World Trade Organization (WTO)

As mentioned above, Costa Rica's schedule of specific commitments under the GATS is limited in this area.⁴² In this sense, for all sectors in the schedule, related to both market access and national treatment, Costa Rica has bound, as a horizontal commitment, measures affecting entry and temporary stay of managers, administrative directors, supervisors, and general executives of companies; however, a total of two people per category can not be exceeded. Costa Rica's schedule also incorporates a series of additional limitations for mode 4, in some specific sectors.

b) Free trade agreements

With the exception of the Free Trade Agreement between the Dominican Republic, Central America and the United States, all trade agreements signed by Costa Rica include a specific chapter on temporary entrance of business persons. Specifically, such provisions are included as Chapter X in the agreement with Mexico, Chapter XIV in the agreement with Chile, Chapter XI in the agreement with the Dominican Republic, Chapter X in the agreement with Canada, Chapter XI in the agreement with the Caribbean Community, Chapter XIV in the agreement with Panama, and Chapter VII in the agreement between Central America.

The treatment is similar in the above mentioned agreements. In general terms, all include provisions seeking to facilitate temporary entrance through the incorporation of general principles, applicable definitions, authorization requirements, transparency commitments, existing migratory measures, categories and business activities, covered timeframes and other provisions such as dispute settlement.

Authorization of temporary entrance is subjected to the requirements established in existing migratory measures and those related with health and security issues. Also, the need to guarantee border security and to protect the national work force and permanent employment in each territory is reflected. In all cases, it is clear that authorization of temporary entrance does not replace the requirements necessary for the exercise of a profession or activity, in accordance with the applicable legislation from the country that authorizes such entrance.

Authorization of temporary entrance is facilitated through different categories established in these chapters, such as business visitors, merchants and investors, as well as intra-corporative transfers of personal. These categories are developed in the respective annexes.

c) Statistics on permits for stay

In accordance with the General Directorate of Immigration (www.migracion.go.cr), a total of 8,806 applications of stay were approved in the year 2007. Table 12, below, details the

⁴² Document of the WTO GATS/SC/22 of April 15th, 1994.

applications approved in each migratory category.

Table 12. Costa Rica
Stays granted by category (2007)⁴³

Migratory category	Approved applications
Permanent residency	5,814
Temporary investor residency ¹	20
Temporary retired residency ¹	163
Temporary <i>rentistas</i> residency ¹	122
Other temporary residencies ²	1,017
Refugee special category	182
Other special categories ³	865
No residents under stay category	623
TOTAL	8,806

¹ Due to specificity considerations, investors, retired and “*rentistas*”, are separated from the temporary residency category.

² Includes temporary residencies: religious, executives, representatives, managers and technical personnel of established companies in the country, scientists, professionals, athletes, press correspondent, press staff, and family reunification residencies.

³ Includes the following special categories: temporary workers, specific occupation workers, students, asylums, stateless (*apatridas*), special guests for security reasons, witnesses in judicial processes, artists, athletes and members of public spectacles and workers linked with specific projects.

5.2 TRANSPARENCY

Transparency can be a key area in international trade agreements when viewed as a mean to facilitate communication between the Parties, and to make information regarding issues covered by the Agreement available. Provisions on transparency can also support government efforts towards assuring that individuals have the necessary tools and opportunities to become acquainted with applicable rules and thus be in a position to abide by them.

In Costa Rica, regulations issued by government agencies, such as laws, regulations, procedures and any administrative ruling of general application shall be published without delay in the Official Journal “La Gaceta”, in accordance with the principles of transparency set forth in the Political Constitution. The Official Journal is edited by Costa Rica’s printing authority “Imprenta Nacional”. La Gaceta can be consulted in its written version and is also available in electronic version through its website (<http://www.lagaceta.go.cr>).

Additionally, the Costa Rican System of Legal Information (“*Sistema Costarricense de Información Jurídica*”), known as SCIJ, allows consultations of legislation adopted since 1821, including laws, regulations, international treaties, decrees, administrative rulings of general application, and jurisprudence from the different judicial and administrative tribunals. This information can be consulted in the SCIJ’s website: <http://www.pgr.go.cr>.

On matters related to foreign trade and investment, the website of the Ministry of Foreign

⁴³ Migratory categories are regulated in the Immigration Law, No. 8784, available at: http://www.pgr.go.cr/Scij/Busqueda/Normativa/Normas/nrm_repartidor.asp?param1=NRM&nValor1=1&nValor2=56050&nValor3=61418&strTipM=FN

Trade (<http://www.comex.go.cr>) contains abundant information on Costa Rica's trade policy. Among this information, the complete texts of Costa Rica's free trade and bilateral investment agreements can be found, as well as every decision adopted by the different administrative bodies set out in the different free trade agreements negotiated by Costa Rica. Information on tariffs, import and export statistics, balance of trade and foreign direct investment statistics, among other, can also be found in this website.

Another important source of trade information is the website of the Foreign Trade Corporation of Costa Rica –PROCOMER- (<http://www.procomer.com>) where information on trade statistics, proceedings, export regimens, publications and an investment guides can be found.

Provisions on transparency are also a common practice in Costa Rica's free trade agreements. Some of the provisions usually included in trade agreements concluded by Costa Rica and its trading partners are: points of contact, publication of measures related to matters covered by the agreement, notification and provision of information, administrative proceedings, due process in matters concerning administrative procedures which may affect aspects covered in said agreements, and review panel.

These provisions have proven to be of great relevance in Costa Rica's negotiating history, setting out a minimum standard of transparency in order to provide an appropriate administrative mechanism for the respective trade agreements.

5.3 TRADE AND INVESTMENT PROMOTION

The Foreign Trade Corporation (PROCOMER) is the entity in charge of designing and coordinating all programs related to exports and investment. It was created in November, 1996⁴⁴ and its work focuses in the following areas:

- a) **Strengthening export capacity.** PROCOMER supports companies in their preparation process to sell products in international markets; training of exporters and promotion of linkages between large exporting enterprises and small and medium national suppliers, are among the courses of action included in this field.
- b) **Trade promotion.** PROCOMER offers tools to insert Costa Rican products in international markets, such as trade fairs, exporters' missions, buyers' missions, business agendas, activities to promote the country, among others. The Corporation has offices in Canada, the United States, Mexico, El Salvador, Chile, the Dominican Republic, Puerto Rico, Trinidad & Tobago, Germany, and China.
- c) **Research and information.** This area is oriented to gather, generate and analyze information on matters related to foreign trade. Among the services of this department, exporters can find market research, statistics, an enquiry point, a virtual information center, among others.
- d) **Foreign trade and investment logistics.** In this area, PROCOMER seeks to facilitate, centralize and simplify the procedures used in foreign trade. PROCOMER also provides advice and technical assistance to companies that desire to work within the framework of special export regimes.

Particularly regarding the Chinese market, on October 25, 2007, PROCOMER opened a commercial office in China. The main goal of this office is to serve as a bridge for the creation of new and strong trade and investment relations between Costa Rica and China.

⁴⁴ Law No. 7638

Its main function is to support Costa Rican companies that wish to enter the Chinese market and to collaborate in the creation of alliances between companies from both countries.

The office's work is focused in three promotion areas: country image, exports and investment and contact and follow up services. Among the objectives for 2008, specific activities include:

- A visit of companies from the food and beverage sector to Beijing.
- A visit of Chinese high tech companies to Costa Rica.
- Seminars in Costa Rica on the Chinese market.
- Attendance of Asian buyers in the X Buyers Mission.
- Participation in the Canton Fair.
- Attraction of Chinese investment flows towards Costa Rica and promotion of alliances.
- Organization of a product exhibition and a lecture on trade opportunities and business climate in Costa Rica, including a coffee tasting and a business agenda.

As part of the work that is expected to be developed with Chinese organizations, PROCOMER has signed agreements with CCPIT, CIPA and MOFCOM.

5.4 SMALL AND MEDIUM ENTERPRISES COOPERATION

According to the Ministry of Economy, Industry and Commerce (MEIC) 98% of the 52,260 total amount of enterprises registered in the country are small and medium sized enterprises (SMEs). These enterprises' activities are divided in the following way: 55% are service companies, 24% are devoted to trade, 8% are in the industry and 13% are dedicated to agricultural activity.

Due to the importance that SMEs have in Costa Rica's productive structure, in the year 2004 a law to support small and medium enterprises was published.⁴⁵ The General Directorate to Support Small and Medium Enterprises (DIGEPYME) was created under this law to formulate specific promotion, development and strengthening policies for SMEs in Costa Rica.

DIGEPYME's support focuses on training and technical assistance, marketing, formal education, innovation, technological development, financing, information, international cooperation and productive linkages. Institutional coordination plays an important role in the successful execution of DIGEPYME's work.

In 2005, with the objective to ensure that rural SMEs benefit from government promotion policies, Regional Centers for SME attention (CREAPYME) were opened. These centers are decentralized units that seek to understand the conditions in which regional SMEs are working, in order to support them with a differentiated approach. These offices work together with PROCOMER regional trade promotion offices.

In spite of the efforts made and the importance of SME as tools to distribute wealth and create jobs, their access to technical assistance, market intelligence and financing continues to be very limited. This is why, in the context of the relations with China and as a way to strengthen the productive and export capacity of SMEs, it is Costa Rica's interest to promote projects in the following cooperation areas:

- a) Improvements in the technical support given to enterprises parallel to, and in accordance with, the quality, safety, traceability, verification and inspection programs that are implemented nationwide.

⁴⁵ Law N° 8262

- b) Design and drafting of a plan to reduce the costs of doing business for SMEs, especially in rural areas.
- c) Drafting of a plan to boost sustainable competitiveness and generation of added value in the production sector as a key sector of the national economy.
- d) Design and implementation of a program to enhance the performance of marketing systems that will help small and medium-size enterprises access markets, increase their efficiency and improve their competitiveness.
- e) Efforts to boost scientific capacity and technological innovation with a view to improving production, encouraging the formation of value chains, and increasing the amount of value added.
- f) Improvements in the managerial skills of SMEs, through training programs that incorporate follow-up activities in their original design.
- g) Design of an institutional database that enables the public institutions involved in SME development to access, and that centralizes information on SMEs and their level of preparedness for participation in export activities or production chains.
- h) Development of training and technical assistance programs to help SMEs form useful associations.
- i) Improvement of linkages between foreign investors and local business, including promotion of SMEs as suppliers of bigger multinational exporting enterprises, fostering an integration of the productive sector as a whole.
- j) Development of competitiveness activities, e.g. cluster development, competitiveness councils, and workforce development strategies.
- k) Generation of new and innovative financial services, e.g. venture capital and small and micro-scale finance.

5.5 CUSTOMS PROCEDURES

The "General Customs Law," Law 7557, amended by Law 8373 of August 18, 2003 requires regular importers to be registered with the National Customs Valuation and Verification Authority (Órgano Nacional de Valoración y Verificación Aduanera - ONVVA) at the Directorate-General of Customs. For determination of the customs value of imported goods, Costa Rica follows the provisions of the WTO Customs Valuation Agreement, which state that the customs value of imported goods is the transaction value.

Under Costa Rican law, the main features of customs procedures include the following components:

With few exceptions,⁴⁶ services rendered by customs agents (customs brokers) must be used in most customs regimes.

Control is based on risk methods and exercised under a computerized customs procedures

⁴⁶ The services of customs agents are optional under the following regimes or customs procedures: free zones, export, bonded warehouses, ship's stores and outward processing, as well as for the following: baggage, relief consignments, samples of no commercial value, urgent or "courier" dispatches, postal dispatches, duty-free shops, non-commercial imports, dispatches of a family nature, industrial or commercial dispatches to the customer's premises and imports by the Government or its institutions and, in general, consignment of goods subject to regimes or procedures that do not require customs agents.

system, which was implemented and tested during the period between the years 2001 and 2006, under the name of “Information Technology for Customs Control” (Tecnología de Información para el Control Aduanero – TICA.). This system is fully in force today.

Definite import must be declared by an electronic declaration (DUA). This declaration must be annexed with a customs value declaration if the value of the goods exceeds 1,000 Central American pesos (US\$1,000), with some exceptions.

After a customs declaration has been accepted and the relevant charges have been paid, the customs authority indicates whether the goods are to be inspected or can be cleared. Customs declarations are subject to a selective random procedure to decide whether there is to be immediate verification of the goods declared; if immediate verification is decided, the documents may be checked or the goods may be physically inspected. Checking of the documents may result in a request for physical inspection of the goods, if this is considered necessary, in order to confirm the information declared. Where it is decided to carry out a physical inspection of the goods, it may be indicated whether this is to be carried out integrally or by taking samples. According to data from competent authorities, in 2006 15.5 % of all imports were subjected to some form of documentary or physical inspection. Of these cases, 9.8% underwent both physical and documentary inspection, while 5.7% involved checking of documents.

For imports and exports originated in free zones, unique declaration called “Free Zone Customs Declaration, Series B,” is used. Currently, actions are underway to adapt these declarations to the information technology system (TICA) mentioned above.

5.6 DISPUTE SETTLEMENT

A dispute settlement system is essential to ensure the proper functioning of a trade agreement, since it guarantees that any dispute that arises between the Parties shall be resolved in a secure, impartial and rules based manner.

Usually, dispute settlement chapters contained in trade agreements reaffirm the Parties' compromise of arriving at a mutually satisfactory solution of any dispute through cooperation and consultations. Their rules determine the scope of application of the system and the possibility of choosing a forum. In previous trade agreements negotiated by Costa Rica with strategic partners, the dispute settlement system comprises four well-defined stages, namely: consultations, intervention of the Free Trade Commission (good offices, conciliation and mediation), a procedure before an Arbitration Panel and the compliance of the Final Report.

Costa Rica underlines the importance of including a dispute settlement system in these agreements, in order to guarantee the compliance of the rights and obligations negotiated by the Parties. Costa Rica considers that a system that is rule of law oriented is the best way to settle a dispute; this has been demonstrated in the processes where the country has participated under the Dispute Settlement Understanding of the WTO.

5.7 TRADE FACILITATION

Costa Rica has been an active and constructive participant in the multilateral discussions on trade facilitation currently underway in the World Trade Organization. Costa Rica is member of the Colorado Group, an alliance of countries which favor advancement of negotiations in this area within the Doha Round.

Under important trade agreements signed by the country, including the Free Trade

Agreement with Canada and the Dominican Republic-Central America-United States Free Trade Agreement, trade facilitation has also been included. Provisions on this matter address topics such as the principles and specific obligations applicable to the parties, the objective of achieving an increase in trade flows, and promoting a continuous and permanent improvement of trade. Other areas covered include transparency, publication, simplification of procedures, and standardization, among others.

5.8 GOVERNMENT PROCUREMENT

a) Legal and Institutional Framework

In the area of government procurement, the Costa Rican government has recognized, in various forums of international trade negotiation, the convenience of establishing clear and predictable legal frameworks, based on principles of transparency and non discrimination which guarantee the greatest possible access to government procurement markets of the involved trade partners.

Costa Rica has established disciplines regarding government procurement in the Free Trade Agreements negotiated with Mexico, Chile, the Dominican Republic, the United States, and Panama.

Domestically, the government procurement market represents more than 18% of GDP. In 2005, the governmental sector as a whole (central government, municipalities, autonomous institutions, and State-owned enterprises), procured 1,746,629.9 million colones (equivalent to \$3,655.6 million), goods and services. This represented 18.3% of the GDP for that year.⁴⁷ The value of procured goods and services by the central government alone totaled 43,618 million colones (around \$91.3 million).⁴⁸

In Costa Rica's legal system, government procurement procedures are based on the principles of efficiency, equality and free competition, publicity and legality. Within this regime, the State is required to maximize and efficiently utilize public resources in its purchases.

The country has a modern and transparent legislation in this area, which guarantees non discriminatory participation and transparency in procurement procedures, based on due process and respect for the Law. Currently, suppliers from any part of the world have access to Costa Rica's government procurement market, through the principles contained in national legislation and in the Constitution. In addition, in recent years measures have been taken to promote transparency in the government procurement system, through the adoption and launching of an on-line system called "Compra RED," aimed at automating the process of disseminating information on public tenders.⁴⁹

The legal framework regulating government procurement of goods and services is comprised in the "Administrative Procurement Law," Law 7494 of June 8, 1995 and its amendments and implementing regulations (Decree 25038 of March 28, 1996 and amendments thereto); the "General Law on Public Works Contracts" (Law 7762 of April 14, 1998) and its implementing regulations (Decree 27098 of June 12, 1998); the "Industrial Production Incentives Law" (Law No. 7017 of December 16, 1985) and its implementing regulations (Decree 32448 of April 28, 2005), and the Regulations on Use of the Register of Suppliers (Decree 25113 of April 20, 1996).

⁴⁷ Comptroller-General of the Republic, Memoria Annual 2005, consulted at:

http://documents.cgr.go.cr/content/dav/jaguar/Documentos/Memoria/2005/Memoria_Anuar_2005.pdf

⁴⁸ Ministry of Finance, Technical Secretariat of the Budgetary Authority, Analysis and Fiscal Monitoring Unit (2005).

⁴⁹ Decree No. 32717 of 16 September 2005 (Regulation of the Use of the Compra RED Government Procurement System).

Aside from this legislation, since 2002 Costa Rica's government authorities are required to establish a special program to ensure a minimum participation by small and medium sized enterprises (SMEs) in government procurement, all in conformity with the provisions of Law 8262 of May 2, 2002, implemented by Decree 33111 of April 6, 2006. This program was regulated in 2006 by Decree 33305 of June 13, 2006, which sets out a series of guidelines and establishes the mechanisms to ensure participation by SMEs in the procurement of goods and services by the State.

Law 7494 does not apply to, *inter alia*, agreements with other states or with entities subject to public international law, nor contracts between public entities, and other activities which are subject to special regimes of public procurement under the law. It sets out a number of various methods of government procurement of goods and services, with the possibility for public authorities to include prior qualification requirements in the procedures, auctions and bidding with financing.

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

Additionally, the law establishes specific exceptional cases in which limited or direct tendering may be used, such as: agreements with other States or with public international law bodies; activities between public law entities; activities which because of their nature or the prevailing circumstances so require (for example, a single supplier, substantiated security reasons, utmost urgency); or where the business involves only minor amounts.

The procedure for each public procurement is determined based on the total budget of the corresponding entity and the estimated amount of the procurement.

Regarding the criteria used to evaluate and compare bids, the tender documentation must indicate the factors to be taken into consideration, the degree and importance of each of them in the overall comparison of bids, and the method used to evaluate and compare bids in relation to each factor.⁵⁰ In the case of services, in addition to price, the selection criteria may include the personal, professional or business situation of the bidders. Authorities may at any time nullify their contractual relations for various reasons, but must comply with a predetermined procedure and pay for the works already undertaken as well as any damages incurred.

Costa Rican law allows interested parties to lodge administrative appeals and judicial proceedings against the awarding of contracts. In particular, the Law provides for objecting procedures the tender documentation, annulment and appeal procedures. Annulment or appeal procedures may be used depending on the amount of the contract awarded and the budget of the procuring entity. Judicial appeals may be presented against decisions irrespective of the amount; nevertheless, the amount serves as a reference to determine what procedure is to be followed at the administrative level. No further appeal may be lodged against a ruling by the Higher Administrative Tribunal.

Each procurement department keeps a register of suppliers interested in participating in government procurement procedures.⁵¹ At least once a year, through the Official Journal, authorities invite suppliers to register; however, natural and legal persons may request

⁵⁰ General Regulation on Government Procurement No. 25038-H (Article 41.1.10)

⁵¹ Procurement Departments are regulated by Decree 30640 of June 27, 2002 (Regulation on the Operation of Procurement Departments of Government Ministries).

registration at any time. The regulations on use of the register of suppliers are contained in Decree 25113 of April 24, 1996, which lays down the general procedures for natural and legal persons to become registered suppliers.

There are special procedures for public works contracts in Law 7762 of April 14, 1998 ("General Law on Public Works Contracts"), as well as Decree 27098 of June 12, 1998 ("General Regulations on Public Works Contracts"). As a matter of example, contracts for hydrocarbons exploration and exploitation are among the activities subject to special government procurement regimes.⁵²

b) International agreements

As indicated above, Costa Rica has agreed to the establishment of disciplines regarding government procurement in its free trade agreements with Mexico, Chile and the Dominican Republic, as well as those negotiated with the United States and Panama.

Under its free trade agreements with Chile, Mexico and the Dominican Republic, Costa Rica grants suppliers from these countries, national treatment for the procurement of goods and services covered by the agreements. Additionally, in the Dominican Republic-Central America-United States Free Trade Agreement, Costa Rica agreed to grant national treatment to the goods and services of suppliers from Central America, Dominican Republic and the United States which are covered by the agreement, and the country also agreed to a complete coverage for the goods and services originating from the rest of the Central American countries.

In the multilateral stage, Costa Rica is neither a member nor an observer to the WTO Plurilateral Agreement on Government Procurement. Nevertheless, the country has participated actively in the work of the WTO Working Group on Transparency in Government Procurement.

5.9 COMPETITION POLICY

Costa Rica assigns importance to including provisions related to competition policy in its trade agreements, because the country recognizes the value of assuring that the potential benefits of trade liberalization promoted under these instruments will not be undermined by anticompetitive activities. In its previous negotiations, Costa Rica has also sought to promote cooperation and coordination between the competition authorities of the parties to these agreements, as a means to strengthen capacities in this area.

Costa Rica understands that through the opening of markets and trade liberalization, competition can be enhanced; but there can also be risks of increasing anticompetitive practices by economic agents. Distortions and, in general, restrictions imposed on competition, may affect trade and should thus be prevented. For this reason, Costa Rica favors the inclusion of provisions directed to ensure that anti-competitive agreements, concerted practices, and abusive behavior resulting from single or joint dominant positions, not distort the proper functioning of markets nor undermine the benefits of trade liberalization.

Considering that establishing an effective competition regime internally is a necessary step to achieve this objective, Costa Rica has in place a legal system to protect and promote

⁵² Law 7399 of May 3, 1994 (Hidrocarbons Law), Decree 24735 of September 29, 1995 (Implementing Regulations for the Hydrocarbons Law), Decree 25785 of January 22, 1997 (Regulations on the Bidding Procedure for Hydrocarbons Exploration and Exploitation Contracts) and the General Regulations on Contracting by the Costa Rican Petroleum Refining Company (RECOPE), adopted by RECOPE's Executive Board on November 26, 2002.

competition. Within this context, the country has established and maintained an impartial competition authority responsible of taking appropriate remedial action to avoid anticompetitive business conducts, ensure fair and equitable proceedings on a non-discriminatory basis, and ensure transparency in all decisions that may affect other parties' interests.

In order to increase the efficiency and effectiveness of enforcement by the competition authorities and reduce the risk of two or more jurisdictions reaching conflicting or incompatible decisions in individual cases, Costa Rica favors agreements focused on increasing cooperation and coordinated enforcement actions, including notification, consultation, exchange of information, and technical assistance, among others.

5.10 INTELLECTUAL PROPERTY RIGHTS

a) Legal and institutional framework

Costa Rica protects intellectual property rights through a combination of international and national provisions. These include the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), ratified by Law No. 7475 of 20 December 1994, which has been in force in Costa Rica since January 1st 1995. Additionally, Costa Rica is a member of the World Intellectual Property Organization (WIPO) and is Party to several international agreements on the protection of intellectual property rights (see Table 13).

Intellectual property is an issue that has also been dealt with in a number of recent and very important trade agreements negotiated by Costa Rica with strategic partners. Such is the case of the bilateral trade agreements with Mexico, Chile, the Dominican Republic, Panama, and the United States.

As part of the process of implementation of commitments derived from the TRIPS Agreement, in the year 2000 Costa Rica approved a series of laws and international agreements on intellectual property, which secure a wide level of protection in all areas of intellectual property, consistently with international standards. In particular, this legislation covers copyright and related rights, trademarks, geographical indications, patents, industrial designs, lay out designs of integrated circuits, undisclosed information, and enforcement of intellectual property rights.

Additionally, in recent years the country has continued its efforts to further modernize intellectual property legislation in order to ensure an adequate protection of these rights, considering the most recent technological developments. Specifically, in the year 2002 Regulation No. 30151-J ordering the central government to prevent and fight the illegal use of computer programs was put into force; and in May, 2007 Regulation No. 33743-COMEX-J, Regulating the provisions on Geographical Indications and Appellations of Origin contained in the Law of Trademarks and other distinctive signs, was put in force. The objective of this regulation is to develop the procedures for the recognition, protection and maintenance of national and foreign geographical indications and appellations of origin, as well as the functions of the Industrial Property Registry as the responsible national authority in this area.

In addition to the aforementioned initiatives, as part of the implementation process for the Dominican Republic-Central America-United States Free Trade Agreement, several initiatives to amend various laws on intellectual property and to ratify a number of international agreements have been presented to the Legislative Assembly in the past two years. In particular, these initiatives include ratification of the International Convention for the Protection of New Varieties of Plants, the Trademarks Law Treaty, and the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure.

Table 13
Intellectual property treaties ratified by Costa Rica

International treaty	Law and date of ratification
Convention Establishing the World Intellectual Property Organization (WIPO)	Law No. 6468 of 18 September 1980
Copyright and related rights	
Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention, 1961)	Law No. 4727 of 5 March 1971
Universal Copyright Convention (Geneva Convention) and its two protocols	Law No. 5682 of 5 May 1975
Berne Convention for the Protection of Literary and Artistic Works	Law No. 6083 of 29 August 1977
Geneva Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of their Phonograms (Geneva Convention, 1971)	Law No. 6486 of 25 September 1980
Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (Brussels Convention, 1974)	Law No. 7829 of 22 September 1998
WIPO Performances and Phonograms Treaty (WPPT, 1996)	Law No. 7967 of 22 December 1999
WIPO Copyright Treaty (WCT, 1996)	Law No. 7968 of 22 December 1999
Trademarks and other distinctive signs	
Paris Convention for the Protection of Industrial Property	Law No. 7484 of 28 March 1995
Lisbon Agreement for the Protection of Appellations of Origin and their International Registration	Law No. 7634 of 3 October 1996
Protocol to the Central American Agreement for the Protection of Industrial Property (Marks, Trade Names and Advertising Slogans or Signs)	Law No. 7982 of 14 January 2000
Patents, industrial designs and utility models	
Paris Convention for the Protection of Industrial Property	Law No. 7484 of 28 March 1995
Patent Cooperation Treaty	Law No. 7836 of 22 October 1998

Source: WTO Secretariat. WT/TPR/S/180

The Industrial Property Registry and the Copyright and Related Rights Registry, both part of the National Register of the Ministry of Justice, administer the respective intellectual property rights. In 2005, the structures of these two registries were merged and they were grouped together in a single department with the purpose of maximizing the use of available institutional resources.⁵³ Despite this departmental merge, the two registries continue to exist independently. Additionally, a legal department was also established to support both registries.

In regards to enforcement of intellectual property rights, three public entities share responsibilities: the Ministry of Justice, the Public Prosecutor's Office and the Ministry of Finance. Within these institutions, the bodies tasked with enforcement of these rights are, respectively, the Industrial Property and Copyright and Related Rights Registries, the Inspectorate for Miscellaneous Offences, and the Directorate-General of Customs.

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

b) Trademarks

In Costa Rica, trademarks are regulated under the "Law on Trademarks and other Distinctive Signs," Law No. 7978 of January 6, 2000 (see Table 14), and the institution responsible of implementation is the Industrial Property Registry.

⁵³ National Registry, Informe Labores 2005: <http://www.registronacional.go.cr/memoriasrn2005-2006.pdf>

The term of protection of trademarks is of ten years, calculated from the date upon which the right is granted and renewable for an additional ten-year term. Trademarks right holders have resources available in administrative, civil and criminal venues to file claims against any violation of their rights, as well as the possibility of requesting damages. Aside from this, judicial authorities have the power to order the destruction of counterfeit goods.

c) Copyright and related rights

Copyright and related rights are regulated in Costa Rica under the “Copyright and related rights law,” Law No. 6683, of October 14, 1982. In general, the term of protection for copyright and related rights is of 70 years (see table 14).

As is the case with trademarks, in copyright and related rights violations –including piracy, among others— right holders have resources in administrative, civil and criminal venues to defend their rights, as well as the possibility of requesting damages. Judicial authorities are also empowered to order the destruction of pirated goods.

Costa Rican legislation in the area of copyright and related rights is currently undergoing a process of reform as part of the implementation of the Dominican Republic-Central America-United States Free Trade Agreement.

d) Geographical indications

National and foreign geographical indications and appellations of origin, as well as homonymous geographical indications, are all protected under the Law on Trademarks and Other Distinctive Signs (see Table 14).

In addition, the Regulation on the provisions on Geographical Indications and Appellations of Origin, contained in the Law on Trademarks and Other Distinctive Signs, Regulation No. 33743-COMEX-J, further details the requirements and procedures for the recognition, protection and maintenance of national and foreign geographical indications and appellations of origin, and defines the functions of the Industrial Property Registry, as the responsible national authority in this area.

e) Undisclosed information

Undisclosed Information related to trade and industrial secrets is protected under Law No. 7975, in accordance with article 39.3 of the TRIPS Agreement. Additionally, under the Dominican Republic-Central America-United States Free Trade Agreement, Costa Rica granted protection to test data for a period of 5 years for pharmaceutical products and 10 years for agricultural chemical products. Implementation of said protection is currently being developed.

f) Patents

Costa Rica’s Patent Law establishes the protection of invention patents in all areas of technology, consistently with the provisions of the TRIPS Agreement. The term of protection awarded to patents is of twenty years from the date of filing of the patent application.

The granting of a patent entails the obligation to work it in national territory permanently and regularly, so that the market is adequately and reasonably supplied, within a period of three years as of the date in which the patent is granted or four years as of the date of the patent application, whichever is later. The law allows the granting of compulsory licenses if the applicant has tried without success to obtain the consent of the patent holder on reasonable commercial terms, in the case of dependent patents, so as to maintain competitiveness in

the market, or in circumstances of extreme urgency or public utility, subject to the payment of an adequate remuneration to the right holder. The law also allows for parallel importation of goods protected under patents.

g) Industrial designs

In Costa Rica Industrial designs are protected through the “Law on Patents, Industrial Designs and Utility Models,” Law No. 6867 of April 25, 1983. The term of protection awarded to industrial designs is of ten years.

h) Layout-designs of integrated circuits

Layout-designs (topographies) of integrated circuits are protected under Law No. 7961 (see Table 14). The term of protection under the law is of ten years. Compulsory licenses may be granted in the same terms as those relating to patents, in accordance with Law No. 6867 and its amendments.

i) Plant varieties

The Law on the protection of new plant varieties was recently approved by the Costa Rican Legislative Assembly. Its objective is to establish an effective system of protection of new plant varieties, awarding plant breeders who comply with certain specific conditions, an exclusive right for a determined period of time.

With this objective in mind, the law sets out a national legal regime for protection of new plant varieties, in accordance with international standards, thus supporting research and development efforts of seeds, both by the public and private sectors, while at the same time preserving the right of farmers to use necessary seeds.

The law is consistent with the principles and provisions of the International Convention for the Protection of New Varieties of Plants (UPOV Convention 1991), currently undergoing the corresponding process of legislative approval.

j) Enforcement

Enforcement of intellectual property rights is regulated under the “Law on Intellectual Property Rights Enforcement Procedures,” Law No. 8039 of October 12, 2000.

This law entails resources in administrative, civil and criminal venues for the protection of intellectual property rights, establishing prison terms of 1 to 3 years for criminal infractions of intellectual property rights and granting customs authorities the power to apply border measures ex officio, when necessary and justified.

The law also creates the Administrative Registry Tribunal, under the Ministry of Justice, where appeals against the acts and final decisions of all the registers of the National Registry (including the Industrial Property Registry and the Copyright and Related Rights Registry), can be filed. Regulations for the Administrative Registry Tribunal were approved in 2002 and entered into force in May of that year.

As part of the implementation of the Dominican Republic-Central America-United States Free Trade Agreement, a number of articles in the Intellectual Property Enforcement Procedures Law are being amended with the objective of strengthening the available

resources and powers of judicial authorities in the application of measures to protect these rights. Amongst other changes, Judicial Authorities are given the authority to order the destruction of implements and materials used for the infringement of intellectual property rights, and the applicable sanctions are being modified, including the possibility to impose monetary sanctions.

Table 14
Overview of Costa Rica's domestic legislation pertaining to intellectual property rights (2006)

Legislation and scope	Duration	Comments, limitations and exclusions
<p>Article 47 of the Constitution of 1949 (Recognition of intellectual property rights)</p> <p>Scope: Works, inventions, trademarks or trade names, in accordance with the law.</p> <p>Copyright and related rights</p> <p>Law No. 6683 of 14 October 1982 (Law on Copyright and Related Rights)</p> <p>Decree No. 24611-J of 4 September 1995, as amended by Decree No. 26882-J of 20 April 1998 (Regulations to the Law on Copyright and Related Rights)</p> <p>Law No. 7397 of 3 May 1994, Law No. 7686 of 6 August 1997 and Law No. 7979 of 6 January 2000 (Amendments to Law No. 6683)</p> <p>Decree No. 30151-J of 1 February 2002</p> <p>Scope: Literary and artistic works, i.e. all productions in the literary and artistic domain, whatever the form of expression thereof, including computer programs. Moral and economic rights are protected in both cases.</p> <p>Law No. 7440 of November 1994 (Law on Public Performances)</p> <p>Decree No. 26937-J of May 1998</p> <p>Scope: Dissemination and marketing of audiovisual and printed materials.</p> <p>Patents</p> <p>Law No. 6867 of 25 April 1983 (Law on Patents, Industrial Designs and Utility Models)</p> <p>Decree No. 15222-MIEM-J of 12 December 1983 (Regulations to the Law on Patents, Industrial Designs and Utility Models)</p> <p>Law No. 7979 of 6 January 2000 (Amendment to the Law on Patents, Industrial Designs and Utility Models)</p> <p>Decree No. 17602 of 11 May 1987 (Reform of the Regulations to the Law on Patents)</p> <p>Scope: Any invention (i.e. any creation of the human intellect which can be applied in industry) which is new, involves an inventive step and is capable of industrial application. This includes pharmaceutical products and agricultural chemicals.</p>	<p>Not applicable</p> <p>For economic rights: the lifetime of the author (or last co-author) and 70 years following his death.</p> <p>Dictionaries, encyclopaedias and other works of joint authorship and anonymous or pseudonymous works: 70 years from the date of publication (i.e. from the date when the first edition goes on sale).</p> <p>Cinematographic works: 70 years from the first public showing.</p> <p>Related rights: 70 years of protection from 31 December of the year of the fixation, performance or broadcast.</p> <p>Not applicable</p> <p>Twenty years from the date of filing an application.</p> <p>Non-renewable.</p>	<p>The Constitution recognizes that every author, inventor, producer or trader shall enjoy temporary exclusive ownership.</p> <p>Protection does not cover ideas, processes, operating methods or mathematical concepts <i>per se</i>. Protection does not cover news of a factual nature; however, the medium used to reproduce or retransmit such news must indicate the original source.</p> <p>Speeches delivered in deliberative assemblies or at public meetings and pleadings before the courts may be published in the periodical press or broadcast on the radio or television without authorization; they may not, however, be published as separate editions or in a collection without the consent of the author.</p> <p>Public performances may not be prohibited or restricted because of the ideas they contain; they may, however, be prohibited or restricted when the activity incites subversion, vice or crime, or religious, racial or nationality-based hatred, or when the content is strictly pornographic.</p> <p>The following are not patentable: inventions, the commercial exploitation of which must be prevented in order to protect public order, morality, human, animal or plant life or health and the environment; diagnostic, therapeutic and surgical methods; plants and animals; and essentially biological procedures for the production of plants and animals.</p> <p>The following are not deemed to be inventions: discoveries, scientific theories, mathematical methods and computer programmes taken in isolation; purely aesthetic creations, literary and artistic works; economic plans, principles or methods for advertising or business and those pertaining to purely mental or intellectual activities or to games; the juxtaposition of known inventions or mixtures of known products, the alteration of their form, use, dimensions or materials, except where the combination or fusion is in such a manner that the elements cannot function separately or where their characteristic qualities or functions are so modified as to obtain an industrial result that is not obvious to an expert in the matter.</p>

Legislation and scope	Duration	Comments, limitations and exclusions
<p>Industrial designs and utility models</p> <p>As for patents.</p> <p>Scope: New and original industrial designs obtained independently (i.e. any composition of lines or colours, or any three-dimensional form, whether or not associated with lines or colours, provided that such composition or form gives a special appearance to a product of industry or handicraft and can serve as a model or pattern for its manufacture) and utility models (i.e. any new arrangement or shape obtained or introduced in known tools, work instruments or utensils, which improves their performance or provides them with a special function).</p> <p>Layout-designs of integrated circuits</p> <p>Law No. 7961 of 17 December 1999 (Law on Layout-Designs of Integrated Circuits)</p> <p>Scope: Original layout-designs (i.e. the three-dimensional disposition, however expressed, of the elements, at least one of which is an active element, and of some or all of the interconnections of an integrated circuit, or such a three-dimensional disposition prepared for an integrated circuit intended for manufacture).</p> <p>Trademarks and other distinctive signs</p> <p>Law No. 7978 of 6 January 2000 (Law on Trademarks and Other Distinctive Signs), Law No. 8020 of 6 September 2000 (Amendment to Articles 94 and 95 of Law No. 7978 on Trademarks and Other Distinctive Signs and permanent funding for the publishers <i>Editorial Costa Rica</i> and <i>Editorial del Instituto Tecnológico de Costa Rica</i>).</p> <p>Scope: Any sign or combination of signs capable of distinguishing goods or services. Such signs may also consist of the shape, presentation or packaging of the products, their containers or wrapping, or the mode or place of sale of the corresponding products or services.</p>	<p>Ten years from the date of registration.</p> <p>Ten years from the last day of commercial exploitation or from the date of entry in the Register, whichever is earlier.</p> <p>Ten years from the date granted. Renewable indefinitely for ten-year periods.</p>	<p>Compulsory licences may be granted in cases of insufficient use, dependent patents, anti-competitive practices or for reasons of extreme urgency, public interest or national emergency or security.</p> <p>Does not include elements or characteristics of the industrial design which serve only to achieve a technical or functional effect.</p> <p>The following are not protected: designs which are contrary to public order, morality or decency, on the condition that such exceptions do not unreasonably conflict with the normal exploitation of the protected industrial design and do not unreasonably prejudice the legitimate interests of the owner of the protected design.</p> <p>Compulsory licences may be granted under the same conditions as those applicable to patents.</p> <p>The following, in particular, may not be registered as trademarks: any sign consisting of a form that gives a functional or technical advantage to the product or service; a common or usual designation for the product or service; and any sign which could be used in trade to qualify or describe a characteristic of the product or service; which is not sufficiently distinctive with respect to the product or service; which is contrary to public order or morality; which contains an element that offends or ridicules persons, ideas, religions or national symbols of any country or international body; which could mislead or create confusion as to the geographical source, nature, method of manufacture, qualities, suitability for use or consumption, quantity or any other characteristic of the product or service; which reproduces or imitates the shield, flag or other emblem, sign, name or abbreviation of the name of any State or international organization, without authorization; or which reproduces or imitates an official control sign or guarantee adopted by a State or a public body without authorization.</p> <p>Some trademarks are also inadmissible because of third-party rights.</p>

Legislation and scope	Duration	Comments, limitations and exclusions
<p>Geographical indications As for trademarks.</p> <p>Scope: Geographical indications in general and appellations of origin. An appellation of origin is a geographical name, designation, expression, image or sign of a country, region or locality, which serves to designate a product originating in the territory of a country, or in a region or locality of such territory, the quality or characteristics of which are due exclusively to the geographical environment in question, including natural and human factors.</p> <p>Law No. 8063 of 22 December 2000 (Law on Identification of Costa Rican Bananas in International Markets) Scope: Export bananas of Costa Rican origin</p> <p>Undisclosed information Law No. 7975 of 4 January 2000 (Law on Undisclosed Information) Scope: Protection of undisclosed information relating to commercial or industrial secrets. Undisclosed information relates, in particular, to the nature, characteristics or purpose of goods and to production methods or processes.</p> <p>Protection of intellectual rights relating to biodiversity</p>	<p>Appellations of origin are registered for an indefinite duration.</p> <p>Not applicable</p> <p>Permanent</p>	<p>No indication may be used that is liable to create confusion or error as to the geographical origin of the product. Expressions such as "kind", "type", "style", "imitation" or the like may not be used in the registration of trademarks.</p> <p>At the request of a person with a legitimate interest or ex officio, an appellation of origin may not be registered if it: (a) does not conform to the definition of appellation of origin set forth in Article 2 of Law No. 7978; (b) is contrary to morality or public order or could mislead the public as to the geographical origin, nature, method of manufacture, characteristics or qualities or suitability for use or consumption of the products in question; (c) is the common or generic name of a product.</p> <p>All producers, manufacturers or craftsmen engaged in activities in the defined geographical area, including those who are not applying for registration, have the right to use the appellation of origin.</p> <p>Only the producers, manufacturers and craftsmen authorized to use a registered appellation of origin commercially are allowed to use it with the expression "Appellation of Origin".</p> <p>Incentives and exceptions are subject to the obligation to indicate the Costa Rican origin of the bananas.</p> <p>Protection does not cover:</p> <p>(a) information in the public domain;</p> <p>(b) information which is obvious to an expert in the field on the basis of previously available information;</p> <p>(c) information which must be disclosed by legal provision or court order.</p> <p>The Law does not cover access to biochemical or genetic material of human origin or the exchange among the indigenous people and local communities of biochemical or genetic resources or the associated knowledge resulting from non-profit making practices, uses or customs. Protection is not granted to sequences of deoxyribonucleic acid <i>per se</i>; plants and animals; non-genetically modified microorganisms; essentially biological processes for the production of plants and animals; natural processes or cycles; inventions essentially derived from knowledge associated with traditional or cultural biological practices in the public domain; and inventions which, if exploited commercially in the form of a monopoly, could affect agricultural processes or products that are considered fundamental for maintaining the food supply and health of the country's inhabitants.</p> <p>The Law establishes the registration procedure and licensing requirements for genetically modified organisms.</p>

Source: WTO Secretariat. WT/TPR/S/180

5.11 ENVIRONMENT

a) Legal framework

Traditionally, Costa Rica has been committed to the promotion of sustainable development, as is reflected in various policies and measures. Environment is one of the main areas where important efforts and actions have been carried out with the purpose of advancing sustainable development objectives.

Costa Rica has vast national environment legislation and numerous innovative instruments for environmental protection, all supported on domestic policies which find their basis on the right that every person has, to an ecologically balanced environment. The Costa Rican system grants maximum legal significance to this right, by safeguarding it at a constitutional level. As set out in Article 50 of the Constitution, failure to respect and uphold this right can trigger various responsibilities and penalties, all determined by law.

In this context, Costa Rican environmental law contains a set of principles and guidelines that steer government action in this matter. The most important law is the Organic Law of the Environment, which provides a number of measures that are instrumental for advancing the right to a healthy and ecologically balanced environment. The law includes provisions that deal with issues such as environmental impact and land use planning; protected areas and protection of marine resources, coastal and wetland biodiversity, forest resources, and energy resources; pollution; use of air, water and soil; and organic production, as well as citizen participation and environmental education. In addition, other regulatory frameworks address more detailed issues in the areas of biodiversity, forestry, wildlife conservation, water, and use and conservation of soil, among others.

The priority that Costa Rica assigns to the protection of the environment is also palpable at the international level. Costa Rica is Party to more than thirty international environmental agreements, including the Convention on Biological Diversity, the Vienna Convention for the Protection of the Ozone Layer, the Basel Convention on Control of Transboundary Movements of Hazardous Wastes, the Stockholm Convention about Organic Persistent Pollutants, the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Kyoto Protocol to the United Nations Framework Convention on Climate Change, and the Cartagena Protocol on Biosafety, among others.

Environment is a topic also dealt with in some of the trade agreements negotiated by Costa Rica with strategic partners. Such is the case of the Free Trade Agreement between Canada and Costa Rica, which has a side agreement on environmental cooperation; the chapter on Environment contained in the Dominican Republic-Central America-United States Free Trade Agreement and a cooperation agreement derived from said chapter. These agreements contribute to the goal of strengthening Costa Rica's capacity to enforce and implement environmental laws.

b) National Environment Agenda

In accordance with the national and international framework described above, Costa Rica's environment agenda is developed and advanced through two main instruments: the National Development Plan and the Peace with Nature Initiative.

➤ National Development Plan

The National Development Plan sets out the objectives that guide governmental action during the 2006 to 2010 period. With human development as its central component, the Plan includes as one of its objectives, to ensure the sustainable use of natural resources. In this

sense, the National Development Plan rejects the flawed belief of an inherent conflict between economic growth and environmental sustainability and argues that both are imperative in the pursuit of human development.

In this context, the environmental section of the Plan enumerates the following ambitious objectives:

To encourage an integrated and sustainable management of water resources within a renewed legal and institutional framework.

To promote the conservation and sustainable use of the components of biodiversity and fair and equitable participation of the benefits obtained through the sustainable use of genetic resources.

To stop the deterioration of marine and coastal resources and implement a sustainable model for their use.

To implement effective policies for the protection of wilderness areas.

To strengthen the sustainable use of forest resources on private lands, overcome limitations in the policy of payment of environmental services and seek a gradual reduction of forest fires.

To improve air quality based on international standards.

To order and regulate land use, contributing to the goal of putting an end to the degradation process.

To reduce the dependence on imported fuels, encourage the use of renewable energy sources, and produce 100% of the country's electricity from said sources.

To reform institutions in the area of environment and energy, filling in existing competitive gaps through effective sectoral steering.

To project Costa Rica as a country committed to sustainable development and an international leader in the fight against climate change and in policy-making aimed at achieving peace with nature.

Ultimately, the National Development Plan seeks to task environment policy with the responsibility of contributing to development by consolidating forms of cleaner energy production, positioning financial instruments targeting the protection and sustainable use of natural resources, and strengthening the country's position in the international stage, as a promotor of peace with nature and an emblematic leader in the pursuit of sustainable development.

This sectoral view translates into a series of long term goals which range from creation and adoption of legislation to adjacent policies in the areas of water resources management, coastal marine resources, protected areas, environmental services and illegal logging, energy supply and effective use of hydrocarbon, biofuels, and climate change.

➤ **Peace with Nature Initiative**

Peace with Nature is an initiative of the Costa Rican government which seeks to encourage all nations to unite in a joint effort aimed at strengthening political actions and commitment to

reverse the environmental degradation caused by human activities which impact the planet's ecosystems.

Based on the principle of common but differentiated responsibilities, *the Peace with Nature initiative* calls upon countries –including public and private sectors, civil society, and individuals in general– to approach conservation of the planet for the present and future generations, in a responsible manner. In order to achieve the common goal of maintaining and restoring the ecosystems that sustain life on Earth, the initiative considers essential that all nations, both developed and developing, form a global alliance under a new ethic that recognizes our interdependence.

To this end, Costa Rica purports to lead an initiative of promoting interaction among developing countries to share successful experiences and work on the design and implementation of innovative mechanisms, both for internal administration and for the establishment of alliances with developed countries. At the same time, Costa Rica seeks to increase and improve spaces for dialogue and consensus with developed countries to advance these objectives. Thus, under the Peace with Nature initiative, Costa Rica has undertaken to prepare work agendas both of national and international scope, focused on achieving environmental sustainability with a view to maintaining and restoring the ecosystems that make life on Earth possible.

At the international level, Costa Rica pledges to implement a proactive agenda which pursues global objectives derived from environmental agreements, promotes greater commitment and political action, and facilitates dialogue and consensus among countries, with a view to offering a rapid response to the worldwide environmental crisis. The idea is to create a new negotiation platform for establishing alliances between developed and developing countries, through cooperation and shared responsibility among all countries.

At the national level, the agenda sets environmental sustainability as a long-term policy, closely related with actions directed at economic and social development. This involves:

Focusing on solutions. The challenge assumed by Costa Rica requires it to move beyond assessments and to focus on identifying and implementing solutions to the country's most pressing environmental problems.

Identifying partners outside the public sector. The pursuit of environmental sustainability is a compromise that should be shared between the public and private sectors, and between civil society and individuals.

Designing solid and coherent frameworks for environmental management. Adequate conditions within the public administration to effectively implement the action plans in this area need to be created.

Adapting to a continuously evolving process. Fulfilling the objectives of the Peace with Nature initiative is an evolving process that requires adjustments which effectively respond to changing circumstances and emerging needs.

Incorporating sound environmental practices into Public Administration. Actions aimed at environmental sustainability need to involve the State as a whole, which should set the example for the population.

Preparing action plans in priority areas of environmental management. Through the work of multidisciplinary and multisectoral groups of experts, action plans are being developed in twelve priority areas for Costa Rica's sustainable development. These are:

Climate change
Organization of the national system of protected areas
Funding for the protected areas
Foreign policy and the international agenda
Water resources
Energy
Reduction and management of waste and residues
Education
Tourism
Marine resources
Land use planning
Toxic and hazardous materials

5.12 LABOR

a) Legal framework

Costa Rica has a broad range of labor measures and policies aimed at protecting workers' rights, which have been subject to constant improvement over the years. Costa Rica's comprehensive legal framework includes a number of rights and obligations in different labor issues, with provisions set out at a constitutional level, international labour conventions derived from the agenda of the International Labour Organization, and domestic laws.

The Constitution of Costa Rica includes the right to a lawful, useful and duly compensated employment (Article 56), the right to a minimum wage (Article 57), the right to a regular work day (Article 58), the right to one day of rest after six consecutive days of work and to annual paid vacations (Article 59), the right to organize freely and form labor associations (Article 60), the right to strike (Article 61), and the right to negotiate collective labor agreements (Article 62), among others.

In conformity with this constitutional framework, Costa Rica has signed and ratified all the core international conventions of the International Labour Organization covering the areas of:

- Freedom of association and union, as well as effective recognition of the right to negotiate (Conventions 87 and 98)
- Elimination of all forms of forced or compulsory labour (Conventions 29 and 105)
- Abolition of child labour (Conventions 138 and 182)
- Elimination of employment and occupation discrimination (Conventions 100 and 111)

Labor is a topic also included in some trade agreements negotiated by Costa Rica with strategic partners. Such is the case of the Free Trade Agreement between Costa Rica and Canada, which has an agreement on labor cooperation; and the Dominican Republic-Central America-United States Free Trade Agreement, which has a labor chapter.

At the domestic level, Costa Rican Labor Law consolidates a number of fundamental principles and rights, on which different government actions are based. The Labor Code is the main piece of legislation, and develops through different provisions, the general aspects of labor contracts; regulations on compensation, freedom of association, non-discrimination,

and prohibition of child labor; treatment of hazards in the workplace; and prohibition of all forms of forced or compulsory labor, among many other issues. In addition, a set of complementary laws establish further regulations in different areas such as childhood rights, occupational health and safety, equal opportunity rights and gender rights.

b) National labor agenda

Strategic government action in the area of labor is derived from Costa Rica's international commitments set out in the fundamental ILO conventions, as well as the legal framework described above. As described below, effective protection of workers' rights is enforced in Costa Rica through a number of different initiatives.

- **Freedom of association and recognition of the right to negotiate collectively**

In Costa Rica, freedom of association involves the right to form social organizations without the need of prior employer authorization. This means that workers organized under these schemes cannot be dismissed by their employers because they have elected to exercise this right.

Labor organizations have both organizational and financial autonomy, and are free to elect their own representatives. They have access to a number of different mechanisms aimed at strengthening the protection of rights in the workplace. Among other rights, labor organizations can also resort to collective negotiation and voluntarily exercise the right to strike.

- **Elimination of discrimination**

The elimination of discrimination involves two components: equality in remuneration and equal access to employment opportunities. Equal opportunity means that employers are not allowed to discriminate because of race, disability, gender, age, religion, marital status, political opinion, social origin, or economic status, limiting access to equality opportunities or submitting to differentiated treatment in the workplace.

As a result, any appointment, recognition or dismissal exercised in violation of this prohibition, can be subjected to nullification under Costa Rican law. Procedures of personnel recruitment must be in conformity with these provisions.

- **Effective abolition of child labor**

Effective abolition of child labor is a priority of the Costa Rican legal system regarding the protection of labor. This right involves granting access to education, setting measures to safeguard normal physical and mental development and growth, enforcing minimum age standards for admission to employment, and establishing special work day provisions to regulate the duration of the regular work age giving special consideration to age.

Costa Rica has worked on strengthening monitoring and control mechanisms in the area of combating child labor. In particular, the country is implementing a national action plan for the prevention and abolition of child labor and for the special protection of adolescent workers, which covers the 2005 to 2010 period. Under this plan, a multi-institutional effort covering various public institutions has been set in motion to promote information campaigns on children's rights and the prohibition of child labor.

- **Elimination of all forms of forced or compulsory labor**

Costa Rica encourages and promotes the abolition of all forms of forced or compulsory labor, through different provisions set out in the Labor Code. Such is the case of the right granted to inmates to work while in the penitentiary system, voluntarily.

JOINT CONCLUSIONS AND SUGGESTIONS

JOINT CONCLUSIONS AND SUGGESTIONS

1 General Conclusion

The making process of a Feasibility Study for a proposed FTA between China and Costa Rica had as main objective, to offer both countries' governmental authorities, valuable information related to the opportunities and challenges that a mechanism of such nature represents. It also facilitates the decision making process on the best ways of strengthening the trade relations and the economical development between both countries.

To develop this analysis a Joint Working Group (hereinafter referred as JWG) was set up and it met in three occasions, to revise the progress of the study. As methodology, members from China and Costa Rica carried out respective studies on the first five chapters, in which they analyzed the trade opportunities and challenges by using a Partial Equilibrium Model to quantify the potential impact of a proposed FTA on bilateral trade. In addition, the following general conclusions were worked jointly by the two countries.

China is a developing country with the largest population and one of the fastest economic growth rates in the world. Although China's total GDP, trade volume and foreign exchange reserves rank among the top countries in the world, its per capita GDP has not entered the list of the top one hundred countries in the world. Costa Rica is a small economy in Central America that ranks amongst the most open economies and the second largest per capita exporter in Latin America and the Caribbean.

Since China's accession into WTO in 2001 –and furthermore, after the establishment of diplomatic relations in 2007–, the two countries have witnessed significant development in their bilateral trade and economic relations. This has driven authorities from both countries to express their interest, on defining the best way to establish larger and more diversified commercial exchange of goods, services and investment, as well as to foster cooperation in a mutually beneficial manner.

As JWG general conclusion, the feasibility study has shown important complementarities that exist between the Chinese and Costa Rican economies, as well as, the benefits that the negotiation of an FTA would bring to the people and economies of both countries. A bilateral FTA would have strategic significance for each side. In the case of China, it helps to strengthen its economic and trade relations with Latin America, especially Central America. In the case of Costa Rica, it is an important step to strengthen links with China. For both countries, it is expected to produce a win-win outcome in terms of trade exchange, economic cooperation and mutual investment.

The establishment of an FTA between China and Costa Rica would, as immediate result, improve the business environment between the two countries, offer new business and investment opportunities and stimulate, with an agreement based on clear rules, the economic and commercial relationship.

Considering the positive results of this feasibility study and in order to secure the mutual benefits and build on the long-term economic relations between China and Costa Rica, the JWG recommends to the governments of both countries, as a general conclusion, to consider commencing negotiations for an FTA, at their earliest convenience and after fulfilling their internal procedures.

Following, more detailed conclusions and recommendation on each subject matter will be developed.

2 Trade in Goods

Foreign trade plays an important role in the economic growth of both China and Costa Rica. The bilateral trade in goods between the two countries has experienced a very dynamic growth in the past years. Statistics show that since China's accession to WTO, bilateral trade has witnessed significant development. The bilateral trade volume in 2007 was 24 times higher than it was in 2001.

The gradual liberalization and facilitation of bilateral trade and investment between China and Costa Rica under the FTA framework will create new market opportunities for each other and expand the exports of their most competitive products, hence bringing trade creation effects to the markets of both countries, which have been estimated to represent 10.1% of total trade flows between China and Costa Rica in 2007. Such trade creation effects will promote growth of exports and employment in both countries. It would also help both countries to further diversify their export structure.

The results for trade creation show that Chinese imports from Costa Rica are expected to increase by \$262 million, which represents 11.4% of current imports from Costa Rica. In turn, Costa Rican imports from China are expected to increase by \$48.4 million, representing 6.3% of current imports from China. The gap between these figures can be explained by the differences in the sizes of both countries.

Results for trade diversion show that China is expected to substitute imports from other trade partners with imports from Costa Rica for about \$104 million, which represents 4.5% of current imports from Costa Rica. In turn, Costa Rica is expected on average to substitute imports from other trade partners with imports from China for about \$27 million, which represents 3.5% of current imports from China.

Therefore, the JWG came to the following conclusions with regards to a possible FTA that could be negotiated for Trade in Goods:

- A. An FTA between China and Costa Rica which reduces tariffs and removes non-tariff barriers will be mutually advantageous, because it will promote economic growth through the increase of exports, trade specialization and the improvement of resource allocation.
- B. Both sides agreed that the proposed FTA between China and Costa Rica should be WTO consistent.
- C. The issues related to Technical Barriers to Trade and Sanitary and Phytosanitary Measures need to be addressed also, to ensure the effective execution of the benefits under trade liberalization.

3 Trade in Services

The importance of trade in services not only consists of its contribution as inputs in the manufacturing sector, but also in improving the overall efficiency and competitiveness of the economy. Therefore, the welfare gains derived from the liberalization of trade in services may have larger spillover effects.

China ranks among the top countries of trade in services. However, the current level of bilateral trade in service between China and Costa Rica is still relatively low. This does not match the important role of services in their GDP and their rapid growing trade in goods; therefore, there are great potentials to be tapped for the development of bilateral trade in services.

The top three sectors of China's service export are tourism services, transportation services and other business services, and for Costa Rica, the three most dynamic sectors of service exports are tourism services, business services, and computer and information services.

Therefore, concerning trade in services matters, the JWG has come to the following conclusion, related with a possible FTA:

A. There is a wide scope of cooperation in services, such as: tourism, transportation, construction, computer and information, business services and telecommunication.

B. Considering the identified potentialities in trade in service between China and Costa Rica, both countries should explore possibilities to remove barriers to trade in services.

C. Trade in services under a possible FTA framework can be construed on the basis of the following broad principles:

- i. Negotiation of services disciplines and coverage in accordance with the General Agreement on Trade in Services, to maximize the welfare of the two economies.
- ii. A substantial sector coverage, in accordance with each Party national legislation;
- iii. Priority treatment shall be given to the services sectors with great potential and complementarities between the two countries.

4 Mutual Investment

Both China and Costa Rica rank among the top Foreign Direct Investment (FDI) destinations in the world.

The economic complementary characteristics of the two countries, the huge Chinese domestic market, the possible benefits of Costa Rica's FTA network, and the increasingly enhanced friendly relationships between the two countries can provide important opportunities for bilateral investments. The impact of the proposed FTA on bilateral trade in goods and trade in service could be expected to drive the growth of mutual investment. As of date, mutual investment between China and Costa Rica is very low and neither of the two countries has, so far, become a key destination for investment to the other.

Therefore, the JWG concludes that the establishment of China-Costa Rica FTA will actively promote the increase of mutual investment and enhance their attractiveness to FDI from outside. It creates favorable environment for the enterprises of both countries to strengthen their commercial ties through mutual investment.

5 Trade Facilitation

Bearing in mind a positive role that trade facilitation can play in supporting bilateral trade flows in the framework of a future FTA, the JWG proposes to incorporate relevant provisions on the issue in the FTA negotiation.

6 Economic Cooperation

Joint efforts should be made by China and Costa Rica to promote economic and industrial cooperation, so as to further strengthen economic relations between the two countries. China and Costa Rica have certain unique characteristics, in terms of the size of economy, resources endowments and domestic markets, and they could cooperate in fields of common interests and of advantage to share their development experience.

The following could be considered the priority areas for cooperation in the near future:

- Trade and investment promotion;
- Trade facilitation
- Information and communication technology;
- Science & Technology;
- Small & Medium enterprises;
- Infrastructure and transportation;
- Textile, clothing and leather;
- Tourism
- Energy
- Agriculture and rural development;
- Environment