

Coalition of Service Industries
Written Testimony on the Central American Free Trade Agreement
for the Trade Policy Staff Committee
Office of the United States Trade Representative

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Introduction

Thank you for this opportunity to submit written testimony on behalf of the Coalition of Service Industries on the US Free Trade Agreement with Central America. CSI is comprised of US service companies and trade associations seeking to achieve market access in all modes of supply in all negotiating forums. We have prepared a guidebook of services priorities for the FTA as a ready reference to the trade liberalization priorities of most of the sectors represented in CSI's membership.

These negotiating priorities reflect the tremendous economic importance of services in market economies. Services are essential inputs into the production of virtually all products. The price and quality of services influence cost and productivity of all other sectors in an economy including manufacturing and agriculture. Thus when liberalized and made more efficient, services have a strong effect in the competitiveness of an entire economy.

The proposed trade agreement with Central America will include Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua. Services range between 44% and 64% of gross domestic product in these economies¹ with Costa Rica as the only significant exporter of commercial services. All the countries are members of the Central American Common Market (CACM) established in 1960. The CACM has two significant services components: a database of measures affecting services and a convention on recognition of professional service credentials.² All the countries are members of the WTO and active in the services negotiations particularly on the issues of autonomous liberalization and tourism. The Central American economies are distinct in the degree to which they have liberalized services sectors, implemented regulatory reform, and committed to services liberalization in the WTO.

¹ World Bank, World Development Report, 2000 (Services as % of GDP: Costa Rica 64%, El Salvador 59%, Guatemala 60%, Honduras 47%, Nicaragua 44%.)

² The CACM contains the Central American Inventory of Measures that Affect Trade in Services, which is a database that identifies legal and administrative measures, sector or horizontal that could impede intraregional trade in services. The CACM also has a Convention on the Exercise of Post Secondary Professions and the Recognition of Post Secondary Studies, which provides reciprocity in the recognition of professional service credentials.

Costa Rica

Costa Rica maintains state monopolies in insurance (the National Insurance Institute -- INS), telecommunications and energy. The Costa Rican Institute of Electricity (ICE) manages basic and value added telecommunications and energy. RACSA is ICE's subsidiary that provides data communications, and Internet service in conjunction with Amnet and Cable Tica. The government has used concessions in place of privatization to build and manage public works with the exclusion of telecommunications and energy. Legislative efforts to expand concessions into these sectors have failed repeatedly. Government procurement is managed under the Law of Administrative Contracting (Law No. 7494) and provides for foreign participation and registration as preapproved suppliers. Tourism is the greatest foreign exchange earner for Costa Rica. The country has also established a niche market for corporate business service centers including the ones established by Procter & Gamble, Western Union, and L.L. Bean. At the same time, investors have reported that they are subject to procedural and bureaucratic requirements that can be cumbersome and lengthy.³

In 1999, Costa Rica ratified its commitments under the 1997 WTO Financial Services Agreement and accepted the Fifth Protocol of the GATS. Foreign financial service providers may establish 100% owned bank subsidiaries able to offer lending, deposit-taking, leasing, credit card, and financial information services with significant reservations. For example, branching is excluded and commercial banks must lend 10-17% of short-term assets to state owned commercial banks. Securities trading, underwriting and any type of insurance were left unbound in the WTO. Costa Rica requires that professionals including medical practitioners, lawyers, accountants, engineers, architects, and teachers be members of an officially recognized guild with recognition contingent on reciprocity in the country of origin. In the GATS, Costa Rica has made minimal consumption abroad commitments in computer and related services. Costa Rica allows consumption abroad in primary and secondary education and severely limits establishment in the provision of university education. Costa Rica has made commitments on consumption abroad of hospital and dental services. They have very limited bindings in tourism with a 49% foreign equity cap on tour operators. Advertising services are also subject to 100% taxation of commercial shorts. Costa Rica has no bindings in basic or value added telecom, they have not signed the reference paper, nor have they commitments in mobile telecom services.

Nicaragua

Principal growth sectors in Nicaragua include tourism and telecommunications. Tourism represents the second most important source of foreign exchange and is subsidized through tax breaks. The government has authorized the privatization of

³ U.S. Country Commercial Guide 2002

the national telecom provider ENITEL and allows private investment in value added services. The government retains a state enterprise in insurance and has passed a law to reform the National Pension System, which allows the participation of the private sector. In 2000, the National Assembly passed the Foreign Investment Law, Law No. 344, which assures national treatment of foreign investors and eliminates restrictions on foreign capital entry. Government procurement is limited to foreign bidders established in the market. Nicaragua's legal and regulatory framework remains cumbersome and an impediment to investment. Corruption is also reportedly widespread in the court system and government agencies.⁴

Nicaragua has ratified its commitments under the 1997 WTO Financial Services Agreement. These commitments cover most banking services (acceptance of deposits, lending, leasing, guarantees, and foreign exchange services). In banking, the form of establishment is restricted to branching for banks constituted abroad. Nicaragua also maintains minimum share capital requirements on banks. Nicaragua has no commitments in securities, asset management, or other (noninsurance) financial services. In insurance and reinsurance activities, Nicaragua has significant market access restrictions including prior authorization, asset investment, and capital requirements. Nicaragua has made spare commitments in computer and related services leaving unbound modes 1,2, & 4. In telecommunications, Nicaragua has left unbound voice telephone and packet switched data transmission services and bound all other basic and value added telecom services. It has also made a commitment in terrestrial based mobile. Nicaragua has made significant commitments in audiovisual and tourism .⁵ Nicaragua subjects all foreign investment to approval by the Foreign Investment Committee on the basis of stability and economic development, cultural values, and protection of the environment. Nicaragua limits movement of natural persons across all sectors to senior and specialized personnel who must contribute to the training of Nicaraguans. All sectors must maintain a minimum of 75% Nicaraguan employees.

Guatemala

In 1998, Guatemala privatized the state owned electricity and telecommunication companies. The Guatemalan postal system is operated by a Canadian firm granted a concession. Government procurement is open to foreign participation however a local agent is advised. Guatemala undertook a Financial Modernization Program in conjunction with the Inter American Development Bank to improve prudential regulation and information disclosure yet progress is slow. The 1998 Foreign Investment Law seeks to remove administrative impediments to trade and investment, however, implementation lags. Guatemala has ratified the Inter American Convention against Corruption and yet it remains a serious problem. Government regulations often result in ambiguous requirements applied

⁴ U.S. Country Commercial Guide 2002

⁵ US Report on Foreign Trade Barriers & GATS Commitments

inconsistently or retroactively. Public participation in the promulgation of regulations is rare, and there is no consistent legislative oversight of administrative rulemaking.

In the GATS, Guatemala's commitments in computer services leave consumption abroad unbound along with presence of natural persons. In basic telecommunications, Guatemala requires that traffic be routed through the facilities of an enterprise with a frequency user's title and/or Telecommunications Registration Certificate. Guatemala has also bound consumption abroad and establishment in basic telecom and has left value added services unbound. Guatemala does have commitments in terrestrial and satellite based mobile services. Guatemala is a signatory to the 1997 Telecom Reference Paper. In reinsurance, Guatemala has left unbound commercial presence and presence of natural persons. Guatemala has bound the supply, transfer and processing of financial information. Guatemala has made commitments in financial advisory services. In tourism, Guatemala has restricted presence of natural persons to those required for training Guatemalan personnel. In all sectors, Guatemala retains a limitation on market access that requires training of Guatemalan personnel in specialized fields. Employees must consist of 90% Guatemalan workers who must receive 85% of total wages.

Honduras

Honduras is in the process of privatizing the energy and telecommunication sectors and overhauling the national pension system. Honduras has established an independent regulatory authority for the telecom and financial sectors. Government procurement is open to foreign firms on a national treatment basis yet U.S. firms do complain about a lack of transparency in the bid process. Special government authorizations are required for investments in tourism, banking, insurance, financial services, and private education.

In the GATS, Honduras has made significant commitments in computer and related services leaving presence of natural persons unbound. In advertising, Honduras has made commitments in consumption abroad and establishment. Honduras has no commitments in basic or value added telecom services nor in mobile services. Life and non life insurance as well as reinsurance are severely restricted. The central bank applies a market survey before approving establishment, which is further limited by a 60% Honduran share requirement for public limited companies. Banking services are also severely restricted, with establishment contingent upon approval by the Central Bank, a recommendation by the national commission, and a positive market survey. Branching is unbound and Honduras imposes nationality restrictions and new product authorizations. The provision of financial information is unbound except for establishment. Honduras does have significant tourism commitments. All sectors face establishment authorizations based on economic needs tests. Small-scale services are reserved to nationals. All sectors are subject to training requirements in the movement of personnel, a 10% employment ceiling

for foreign nationals, a 15% wage cap for foreign nationals, as well as language requirements for managers and supervisors.

El Salvador

The laws and policies of El Salvador are relatively transparent and generally foster competition. The superintendent of banks supervises the banking system, but market forces determine interest rates. In 1998, the formerly state-owned telephone company was split into a hardwire unit and a cellular unit, and 51% of each was sold off to France Telecom and Telefonica de Espana respectively. The 2000 Procurement Law provides national treatment for foreign firms bidding on government contracts. The 1998 Environmental Law has also driven the growth of environmental services in the market.⁶

El Salvador is the only country that has made significant commitments in professional services. In legal services, a foreigner wishing to practice as a lawyer must be a graduate of a Salvadoran University. There is no provision for foreign legal consultants. In accounting, El Salvador allows establishment for financial auditing, accounting review, and bookkeeping services. El Salvador also allows establishment for tax advisory services including business tax planning and business tax return preparation. El Salvador has made commitments in architectural services including advisory and predesign. Advisory and consultant engineering services are also allowed. In computer and related services, El Salvador has made commitments in data processing services. El Salvador also provides for the establishment of advertising services.

El Salvador has made commitments in basic telecommunication services consistent with its Telecommunications Law (Legislative Decree 807 of 12 September 1996). The country has committed to terrestrial and satellite based mobile services. El Salvador has also signed onto the 1997 Telecom Reference Paper. El Salvador has made commitments in environmental services with the requirement that those providing cleaning, noise abatement, nature and landscape protection, and other environmental protection services apply to the municipal authorities for a concession or license. El Salvador has made limited commitments in banking with extensive ownership provisions. No commitments have been made in life, nonlife or reinsurance. El Salvador is the only Central American country with commitments in trading in securities and underwriting. El Salvador has made significant commitments in tourism. All sectors are subject to detailed establishment requirements and nationality requirements.

Central America Free Trade Agreement (CAFTA)

There are extreme deviations among each country's GATS commitments with particular sectors being severely constrained and with others relatively open. For

⁶ U.S. Country Commercial Guide 2002.

example, Honduras and Costa Rica have absolutely no GATS bindings in telecommunication services. Costa Rica and El Salvador have no bindings in insurance. El Salvador is the only Central American country that has bound in securities and underwriting. Guatemala has only two commitments in financial services in reinsurance and financial information. Guatemala and El Salvador are the only Central American countries that have signed the 1997 Telecom Reference Paper. Achieving a CAFTA with commercially meaningful services commitments will require significant harmonization in each country's approach to the services market.

CSI would encourage USTR to consider a focused trade capacity building program on services that encourages cooperation between the private and public sectors of these countries to promote transparency in domestic regulation, effective participation in the services component of the agreement, expansion of the role of the private sector in services negotiations, and implementation of the CAFTA and current and future GATS commitments.

In the CAFTA, one of CSI's main priorities is a commitment to far-reaching rules providing transparency, like those we described in CSI's "Framework for Transparency in Services". These focus on improving the processes for developing domestic regulation. This testimony will identify priorities for transparency, electronic commerce, temporary entry of natural persons, and acquired rights. It will also highlight priorities for advertising, audiovisual, computer and related, education, express delivery, energy, financial, legal, maritime, multimedia information technology, telecommunications, and tourism services.

We fully recognizes that the liberalization we seek would require dramatic changes in Central American economies⁷. Rather than lower our objectives for agreements with Central America and similar economies, we should encourage strong commitments with sufficient phase in periods to assure a minimum of disruption as change takes place. At the same time, these phase in periods should not be excessively long.

Framework for Transparency in Services

CSI very strongly believes that the trade agreement with Central America must contain cross-cutting disciplines to promote greater regulatory transparency for services. A transparent and fair regulatory system is a precondition for the liberalization of services. The trade agreement with Central America should contain strong disciplines to promote greater transparency across the board for all services.

⁷ World Bank 2000

Central America	GDP	GNP per capita
Costa Rica	15.8 Billion \$	3,960 US \$
El Salvador	12.6 Billion \$	2,000 US \$
Guatemala	19 Billion \$	1,690 US \$
Honduras	5.9 Billion \$	850 US \$
Nicaragua	2.4 Billion \$	420 US \$

Crosscutting transparency commitments should be sought in three areas: (A) Standard-setting; (B) the Regulatory Application Process; and (C) Judicial, Arbitral, or Administrative Tribunals. In particular service sectors, sectoral agreements or scheduling can be used to lay out additional transparency requirements for that sector, including broader regulatory reform as necessary and appropriate. Some sectors may need little supplementation, while other sectors may need many special rules tailored to that sector. For example, in the insurance industry we recommend best practices on solvency and prudential issues, regulation of monopolies, and independent regulatory authority. This approach allows negotiators to respond flexibly to the particular needs of each sector while at the same time building on the transparency disciplines that apply across all sectors.

Temporary Entry of Key Business Personnel

The objective of this proposal is to provide for the entry of persons at professional or highly skilled levels through expeditious issuance of visas that allow for multiple entry and the performance of temporary work assignments. There is no US visa category that covers both intracorporate movement and work for clients or customers in another country where there is no affiliate office of the parent company.

Electronic Commerce

The trade agreement with Central America should include the groundbreaking provisions on digital products contained in the US Singapore FTA, which prevents discriminatory treatment on the basis of origin. The agreement should provide trade-liberalizing provisions that address electronic commerce issues affecting goods, services, and intellectual property as well as binding principles that support the maintenance of open markets for electronic commerce.

The agreement should ensure maximum liberalization in those services that:

- constitute the infrastructure of the Internet: basic telecommunications, value added services (on a technology neutral basis, including wireline, wireless, cable and satellite), computer and related services, and electronic naming and authentication services;
- facilitate e-commerce, e.g. financial (including online payments), distribution, advertising, and express delivery services;
- are traded electronically, e.g. accounting and educational services.

The agreement should provide binding principles with commitments to:

- avoid the creation of any unnecessary barriers to e-commerce;
- ensure where regulations are necessary, they are as least trade-restrictive as possible; and

- ensure that firms are not restricted from using advanced technologies (hardware, software, technical data or know-how) in the conduct of their business.

With respect to intellectual property, the agreement should:

- provide maximum liberalization of the distribution of intellectual property based content including software and audiovisual products;
- adopt and ensure full compliance with existing international intellectual property accords, including the WIPO digital treaties, and
- provide effective and timely implementation and enforcement of TRIPS;
- provide copyright term extension,
- provide TRIPS plus levels of commitments for IP with limitations on liability for Internet service providers as regards copyright protection;
- provide additional higher level commitments consistent with the WIPO digital treaties including anticircumvention measures.

The agreement should ensure that customs valuation for digitized products delivered on a physical medium is based solely upon the valuation of the carrier medium.

The agreement should also require stronger participation in the Information Technology Agreement (ITA), which lowers the tariffs on inputs used to build networks and devices required to access these networks for electronic commerce.

Acquired Rights

An acquired rights provision should be included in the trade agreement with Central America. Service providers already established in the market should not suffer a loss of rights due to insufficient, or graduated commitments in the final outcome of the agreement. To ensure a commercially meaningful agreement, USTR should require inclusion of an acquired rights provision, which stipulates "that the conditions of ownership, management, operation, juridical form and scope of activities as set out in a license or other form of approval establishing or authorizing 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 Central America's signing of the FTA." Such a provision, as used in the US accession agreement with Oman, should prevent a loss of rights.

Central American GATS Commitments in Telecommunication Services⁸

	a.	b.	c.	d.	e.	f.	g.	h.	I.	j.	k.	l.	m.	n.	1	2	3	R P
Costa Rica																		
El Salvador	x	x	x	x		x	x								x	x	x	x
Guatemala	x	x	x	x	x	x	x								x	x		x
Honduras																		
Nicaragua			x	x	x	x	x	x	x	x	x	x	x	x	x			

Telecommunications Services

In telecommunications, Central America should improve on its current GATS commitments. Those countries that have not yet signed the reference paper should be urged to do so. Central America should provide full market access and national treatment for services supplied cross border and through commercial presence for basic telecom services, value-added network services, and computer and related services.

Central America should ensure pro-competitive, cost based interconnection and non-discriminatory access to unbundled elements of basic telecommunications networks and services. They should also provide non-discriminatory, cost based access to all communications platforms for value added services. Central America should also grant licenses in mobile telecommunications and liberalize the fixed line sector more quickly.

Central America should commit to ensuring rights of way, requiring number portability, and allowing resale.

Central America should commit to a fair, transparent, and pro-competitive regulatory process and independence and impartiality of the regulator.

Central America should provide a specific timeframe for eliminating cross-subsidies and other types of anti-competitive behavior.

In addition, Central America should ensure that independent regulators have sufficient sanctioning power to prevent the abuse by telecommunication monopolies.

Central America should allow new entrants and new technologies the freedom to respond innovatively without burdening them with traditional telecommunications regulation.

⁸ WTO Guide to the GATS, 2001

Central American GATS Commitments in Financial Services⁹

	life	nonlife	reinsurance	intermediation	deposits	lending	trading in foreign exchange	trading in derivatives	trading in securities	underwriting	asset management	financial informati
Costa Rica					x	x						
El Salvador					x	x	x		x	x		
Guatemala			x									
Honduras	x	x	x		x	x						
Nicaragua	x	x	x	x	x	x	x					

Banking, Securities and Related Financial Services

Stability of domestic financial markets is reinforced by the healthy, nondiscriminatory participation of local and international firms who are equally encouraged to invest capital, talent and technology in environments marked by regulatory strength and transparency. To achieve this in Central America the governments must enforce antitrust regulations and commit itself to transparency. In order to take advantage of the significant contribution financial services can make to all sectors in the Central American economies, negotiators should achieve substantive commitments for cross-border trade and local presence consistent with the following goals:

- Remove barriers to establishment by foreign investors in the financial sector and allow competitive operations through wholly owned subsidiaries, branches or other forms of presence.
- Remove "economic needs tests" and other geographic or product-specific restrictions. Commit to grandfather existing investment in operations and activities.
- Schedule commitments to support financial services provided cross-border without local establishment and by consumption abroad.
- Schedule commitments to facilitate the temporary entry of key financial services personnel required for managerial, technological, systems or risk managements purposes.
- Schedule commitments to support the provision and transfer of financial information, financial data processing and the provision of advisory and software related services.

In addition, Central America should take into account the following forward-looking factors which should be reflected increasingly in the formulation of commitments:

⁹ WTO Guide to the GATS, 2001

- Provide market access and national treatment for asset management and pension fund services provided by the full range of financial services firms.
- Remove discriminatory treatment of capital requirements applied to foreign bank branches including capital restrictions on foreign ownership.
- Eliminate mandatory lending requirements.
- Seek commercially meaningful access commitments consistent with both the 1997 Financial Services Agreement and the goals set forth above.

Insurance

The insurance sector advocates a “Proposed Model Schedule for Future Insurance Commitments by WTO Members.” It is suggested for use in negotiations with Central America in scheduling commitments in services.

The Model Schedule identifies insurance commitments for market access in the four GATS modes of supply and national treatment, together with commitments on regulatory transparency and other areas of regulatory best practice. The Model Schedule provides a basis for seeking a structured pattern of minimum commitments on insurance and a template for assessing whether countries have offered an acceptable set of commitments. The purpose of the Model Schedule is to give greater specificity and predictability to those commitments that are important to the industry. Negotiators should secure agreement to include the Insurance Model Schedule and Best Practices as part of Central American commitments.

The first part of the document identifies commitments to market access and national treatment. Its purpose is to give greater specificity and predictability to commitments important to the industry. The text builds on existing commitments and incorporates certain specific obligations to remove any ambiguity and to ensure that those commitments are built into the more general obligations. It sets forth obligations not addressed clearly in current schedules, including the obligation to fully stage a commitment within a specified timeframe, and to ensure a standstill to protect acquired rights.

The second part of the document entitled “Best Practices in Insurance” takes the form of “additional commitments” under GATS Article XVIII. It covers aspects of domestic regulation that are not addressed by the market access or national treatment provisions, like transparency, solvency and prudential issues, regulation of monopolies, and independent regulatory authority.

Negotiators should use the proposed model schedule for future insurance commitments and pay particular attention to eliminating foreign capital limitations and non-discriminatory treatment of foreign service providers.

Financial Information

The agreement should contain language ensuring the ability to provide financial information to all end-users, including cross-border provision.

Advertising Services

Central America should make commitments in advertising services to provide full market access and national treatment, as well as commit to the adoption of the least trade restrictive measures for advertising.

Advertising commitments should be interpreted as technology neutral. The type of technology or distribution platform used should not affect the coverage of a commitment.

Audiovisual Services

With regard to audiovisual services, the agreement should include:

- Full market access and national treatment for production, distribution, and projection services (including cinema theater ownership and management) for motion pictures and sound recordings.
- Full market access and national treatment for radio and television services and transmission services.
- Customs valuation on the basis of the carrier medium for goods needed in the conduct of AV services.
- Tariff reductions on AV line items, including production equipment and final products, and zero duties on DVDs and other digital products.

Computer and Related Services

The trade agreement with Central America should ensure that the following priorities are achieved in computer and related services:

- Trade negotiations for the information technology services sector should achieve full market access and national treatment commitments for all services relating to information technology in the on-line and off-line services.
- Liberalization commitments in all services, including computer and related services should be taken at the highest level possible.

- Existing GATS commitments for all services should apply when these services are made available over the Internet.
- Software and other digitized products made available online, whether classified as a good or a service, should receive market access, MFN and national treatment no less favorable than the products would receive if it were traded as a good through physical delivery.
- Both general management consulting and information technology consulting should be fully liberalized.
- As part of negotiations on information technology services, Central America should ensure that technical regulations are not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to international trade in computer and related services.
- Central American countries should reduce or remove, where appropriate, measures that impede or restrict the temporary movement of key business personnel.
- Central America should commit to market access and national treatment in government procurement while ensuring a transparent procurement process.
- Services that are needed to create the infrastructure for electronic commerce and services that can be delivered electronically should be liberalized.

Education Services

The trade agreement with Central America should create conditions favorable to suppliers of higher education, adult education, and training services (including testing services) by removing and reducing obstacles to the transmission of such services across national borders through electronic or physical means. Agreements should also remove or reduce barriers in Mode 3 (commercial presence) and Mode 2 (consumption abroad). Examples of barriers are included in the guidebook.

Energy Services

Both market access and regulatory issues must be addressed in the trade agreement negotiations. The agreement on energy services should ensure the broadest possible market access commitments. Energy services providers should have the opportunity to distribute their services through all four modes of supply: cross border supply, purchase and consumption abroad, establishment of a commercial presence, and through the temporary movement of natural persons. Classifications for energy services should be flexible and cover the full array of commercial activities to encompass new energy activities and technologies.

To ensure that energy services providers can use the best available technology, market access should be allowed without regard for the technology used to provide the energy services. Energy services providers should also be allowed to import, on a temporary duty-free basis, tools of the trade and equipment essential to the provision of those services.

Energy services companies should also have the right to the temporary entry of essential personnel with highly specialized skills necessary to provide a covered service.

Central America must adopt regulatory systems that provide:

- Transparency in the formulation, promulgation and implementation of rules, regulations, licenses, technical standards, and arbitration and judicial review;
- Non-discriminatory third-party access to and interconnection with energy networks and grids.
- An independent regulatory authority separate from and not accountable to any supplier of energy services.
- Transparent, objective and timely procedures for the allocation of scarce network resources, such as transmission capacity and rights of way.

Environmental Services

Negotiators should seek commitments that include services for environmental clean-up, remediation, prevention and monitoring. With this broad scope of services, negotiators should seek deep and broad commitments across all modes of supply. Environmental services providers should also be allowed to import, on a temporary duty-free basis, tools of the trade and equipment essential to the provision of those services.

Express Delivery Services

The agreement should include:

- Language that appropriately defines express delivery services to include the full scope of services provided.
- Narrowly drawn reservations on services related to express delivery services, such as ground transportation or warehousing. Such reservations should specify that they do not apply to express delivery services.
- A narrowly tailored reservation on postal services. This reservation should make clear that it does not apply to express delivery services.
- A prohibition on cross-subsidies of revenues derived from a postal service's monopoly operations into competitive express delivery service operations.
- Trade facilitation provisions that expedite treatment of express delivery shipments.

The agreement should provide full national treatment and market access in the express delivery services sector. Barriers in the areas of customs, postal, ground transportation, operational control, radio frequency, licensing and ownership should be eliminated. Commitments in electronic commerce are also sought.

Legal Services

The agreement on legal services should ensure that individual lawyers and law firms are permitted to create and maintain their professional establishments in Central America to supply legal services under the name used in the US. Lawyers or law firms should be permitted to establish a presence in Central America in any form available to suppliers of legal services in the US, including as a branch.

Central American countries should require lawyers or law firms from the US to register with its competent authority. The competent authority should make administrative criteria and procedures, including procedures for applying for registration, publicly, available in writing, and ensure that they are administered in an objective and impartial manner, within a reasonable period of time. As a condition to registration of an establishment, the competent authority should require a registration by one or more lawyers who are responsible for the establishment, and the giving of an undertaking by the law firm.

The competent authority should require lawyers to abide by each country's respective rules in regards to the legal profession, and to subject them to the

disciplinary rules of the host country. Disciplinary actions should be administered in a reasonable, objective and impartial manner.

The establishment should be permitted to supply legal services which the lawyers or law firms are authorized to render in their home country. Authorized lawyers should be allowed to supply services relating to the law of each respective country even if they are not members of the professional staff. Lawyers should be given a reasonable opportunity to qualify as legal professionals in each respective country. Rules applicable to lawyers from the US should be no more restrictive than rules for each respective country's lawyers.

An establishment should be permitted to include members of each respective country's legal profession on its professional staff, either as employees, or as partners or shareholders or the equivalent. A lawyer should be allowed to use a professional title authorized by each respective country or the US with an appropriate reference.

Lawyers should be permitted to participate in any capacity in arbitration proceedings in Central America without subjecting the lawyers to any registration or other requirements applicable to establishments.

Maritime Transportation

Maritime matters should be excluded from the current negotiations. However, the trade agreement with Central America should ensure elimination of the 50 per cent *ad valorem* duty on ship repairs to US flag vessels outside of the US¹⁰.

The position on elimination of the 50% *ad valorem* duty is shared by major US flag maritime companies and associations.

Multimedia Information Technology

The ability of multimedia information technology firms to advance international business objectives depends on the creation of a global, regional and country-specific environment that enables the investment, production, distribution and sale of content, technology and services around the world. Trade negotiations are an important means of creating this environment. This trade agenda is also a tangible way to increase revenues and decrease costs for multimedia operations globally.

¹⁰ The 50% *ad valorem* duty is imposed on ship repairs to U.S. flag vessels outside of the U.S. It is clearly in the interest of U.S. shipping companies that this burdensome duty be eliminated for repairs to U.S. flag vessels outside of the United States. The *ad valorem* duty has been in place to encourage job creation in U.S. shipyards, but has been a policy failure that is nothing more than an unnecessary tax on U.S. flag ship owners.

The specific priorities to be pursued multilaterally, regionally and bilaterally include eliminating restrictions on the ability to invest or acquire overseas media and communications assets and engage in those lines of business. Governments should lower the costs for producing and moving both physical and digital products and network inputs and access devices. They should ensure fair and non-discriminatory access to all communications platforms. Governments should eliminate the barriers to digital delivery of multimedia information technology products and e-commerce and strengthen IPR protection.

Tourism Services

The agreement should strive to generate investment for tourism by removing obstacles to the establishment and operation of hotels and other lodging places; by making it easier for travelers to visit and make purchases in Central America; and by reducing the problems faced by organizers of international conferences and conventions.

Conclusion

A US-Central America FTA that provides meaningful liberalization will serve as an important example for other developing countries. It could demonstrate that commitments to trade liberalization and internal economic reform are necessary for economic development, higher standards of living, and global competitiveness.