



May 4, 2004

Secretary
U.S. International Trade Commission
500 E Street, S.W.
Washington, DC 20436

Re: TIA Comments on the U.S.-Central American Free Trade Agreement: Potential Economywide and Selected Sectoral Effects (Investigation No. TA-2104-13)


Dear Secretary:

The Telecommunications Industry Association (TIA) is the leading U.S. non-profit trade association serving the U.S. communications and information technology industry, with proven strengths in domestic and international advocacy, market development, standards development, trade shows and e-business. Through our worldwide activities, the association facilitates business development opportunities and a competitive market environment. TIA provides a market-focused forum for its 700 member companies, which manufacture and supply the products and services used in global communications.

TIA supports the successful conclusion of the U.S.-Central American Free Trade Agreement (CAFTA), and we hope for its passage through Congress. The CAFTA is the first U.S. trade agreement with a group of countries in Latin America, which is an important region for the telecommunications sector.

While the text of many of the chapters is important for our members, TIA particularly would like to express its support for a number of key provisions included in the free trade agreement. The following areas are addressed in our testimony:

- 1) Telecommunications Services
- 2) Costa Rican Telecommunications Commitments
- 3) Market Access for Goods
- 4) Customs
- 5) TBT Provisions
- 6) Expansion of WTO ITA Signatories



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Telecommunications Services

Chapter 13 of the agreement contains a number of provisions that will benefit the telecommunications industry. The FTA ensures access to and use of public telecommunications networks and services on a non-discriminatory basis. The non-discriminatory treatment is important, and it is a concept that we wholeheartedly support.

Also notable is the fact that the U.S.-Central American FTA uses a “negative list” approach for services, an important precedent that was established in the U.S.-Singapore FTA last year. The “negative list” approach is beneficial for the introduction of all new services not initially exempted because new services automatically are considered liberalized. As a result, the principles of market access, transparency and non-discrimination for telecom and other services will be reinforced.


TIA also supports the stated principles by which suppliers of information services must abide. These provisions state that, “Neither Party may require an enterprise in its territory that it classifies as an information services supplier, which supplies such services over facilities that it does not own, to:

- supply such services to the public generally;
- cost-justify rates for such services;
- file a tariff for such services;
- interconnect its networks with any particular customer for the supply of such services; or,
- conform with any particular standard or technical regulation for interconnection other than for interconnection to a public telecommunications network.”

These are particularly important because they allow information service providers maximum flexibility in conducting their business without potentially burdensome responsibilities, such as those that apply to the provision of traditional voice services. The result is growth of new businesses, new services, market and cost-based business arrangements and freedom from mandated standards and/or technical regulations.

TIA also firmly supports the provisions ensuring that each party’s telecommunications regulatory body is separate from, and not accountable to, any supplier of public telecommunications services. We believe that this is absolutely critical to ensuring fairness, impartiality and regulatory integrity in each participating country’s telecommunications sector.

Furthermore, TIA supports the inclusion of binding language in the CAFTA calling for technology neutrality in the communications sector. According to Article 13.14, “no party shall prevent suppliers of public telecommunications services from having the flexibility to choose the technologies that they use to supply their services, including commercial mobile wireless services, subject to requirements necessary to satisfy



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legitimate public policy interests.” This language is a significant improvement over the non-binding language included in the U.S.-Singapore and U.S.-Chile FTAs because technology neutrality is critical in fostering competition among technologies. The technology neutrality provision provides a level playing field for all manufacturers and allows the market – not the government – to determine which technologies can best meet the needs of service providers.

Costa Rican Telecommunications Commitments

TIA led a broad coalition of telecommunications manufacturers and service providers in discussions with the U.S. Trade Representative and the Costa Rican government on the issue of Costa Rican telecommunications commitments in the CAFTA. We are pleased that Costa Rica has agreed to liberalize telecom services in three areas – Internet¹, private data² and wireless services³ – no later than January 1, 2007. While the areas of market opening are limited, and we would have liked to see a more ambitious market liberalization plan, we are satisfied that the Costa Rican government is exhibiting a ‘good faith’ effort in this case. TIA recognizes the sensitive nature of telecommunications liberalization in Costa Rica. We know the subject has been a source of great tension between the Costa Rican government and its labor unions, and we can appreciate the long history of ICE, Costa Rica’s monopoly provider, in serving the citizens of its country. However, in order to be a party of an FTA with the United States, all segments of the U.S. telecommunications industry believed that Costa Rican telecom commitments were a non-negotiable requirement. TIA believes that this is of precedent-setting importance to the entire U.S. FTA process. We hope that the Costa Rican government will continue to liberalize other areas of the telecommunications market as quickly as possible.

Market Access for Goods

TIA supports the provisions included in Chapter 3, National Treatment and Market Access for Goods. Specifically, we are pleased that more than 80 percent of U.S. exports of consumer and industrial products will become duty-free upon implementation of the agreement, and the telecom and information technology sectors will be key beneficiaries of this. While a majority of relevant products for our sector already are imported from the Parties duty-free, a significant number of the balance will receive duty-free treatment upon entry-into-force of the agreement. Thus, the elimination of duties on communications goods will facilitate trade, increase U.S. exports, improve transparency in trade and reduce costs for exporters, importers, consumers and businesses.

Customs

TIA supports many of the provisions in Chapter 5 on Customs Administration. As a result of the agreement, laws, regulations, guidelines, procedures and administrative rulings governing customs matters will be promptly published, either on the Internet or in print form. This will promote the highest standards of transparency. Moreover, we applaud the commitment of all Parties to endeavor to publish regulations in advance and

¹ No later than January 1, 2006.

² No later than January 1, 2006.

³ No later than January 1, 2007.

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provide an opportunity for interested persons to comment on those regulations before they are put into force. These provisions support an inclusive environment in which parties can participate in the creation of relevant regulatory frameworks.

TIA also supports the provisions that call for each party to adopt procedures that provide for the quick and efficient release of goods upon entry into each other's customs territory. These provisions will expedite the customs clearance process, thus enabling firms to save storage costs and better manage their inventories.

Technical Barriers to Trade (TBT)


Standards, technical regulations and conformity assessment procedures are ever-changing at both international and national levels in the United States and the six Central American countries that are parties to the CAFTA, including the Dominican Republic. Thus, the CAFTA's TBT chapter takes a positive step toward eliminating those standards, technical regulations and procedures that have slowed trade growth in telecommunications products and services in recent years. The FTA promotes the elimination of technical barriers to trade, provides for on-going cooperation between the trading partners and facilitates the continual compliance with evolving standards and technical regulations.

The CAFTA incorporates many positive points in its TBT chapter. First, the agreement affirms each party's rights and obligations with respect to each other under the WTO TBT Agreement. The chapter also provides for enhanced cooperation between the Parties, and it is consistent with the WTO principles of openness, non-discrimination and transparency. This is important to the telecommunications sector, in particular, because the removal of costly and burdensome regulatory procedures helps exporters in all concerned countries. Enhanced efforts to address these technical regulatory issues are especially important to the fast-paced telecommunications sector, as delays in time to market are particularly damaging to the competitiveness of the latest U.S. technology.

The agreement also supports the exchange of information on technical standards and regulations for all goods. TIA is supportive of this concept because better understanding on the part of all parties about standards and regulations for goods will facilitate efficiencies in the way those goods are brought to market, facilitate testing and certification and promote transparency. This will benefit manufacturers, service providers, conformity assessment bodies, regulators and consumers alike.

Expansion of WTO Information Technology Agreement (ITA) Signatories

TIA also praises the countries of Dominican Republic, Guatemala, Honduras and Nicaragua for agreeing to join the World Trade Organization Information Technology Agreement upon implementation of the CAFTA. This guarantees that nearly all information technology products will be permitted duty-free entry. Information technology products will contribute to the more than 80 percent of exports from all six countries that will become duty-free upon the agreement's entry-into-force.



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Conclusion

Once again, TIA would like to express its support for the U.S.-Central American Free Trade Agreement. We believe that the benefits to businesses, governments and consumers will be positive and wide-ranging. We hope that Congress will approve this agreement as quickly as possible, and we look forward to its successful implementation.

Sincerely,



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President



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