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Costa Rica politics: CAFTA's long hard road

COUNTRY BRIEFING

FROM THE ECONOMIST INTELLIGENCE UNIT

With the Dominican Republic's formal entry into the Dominican Republic Central American Free-Trade Agreement (DR-CAFTA) at the start of March, Costa Rica remains the only one of the signatories of the trade pact with the US that has not yet ratified it. The government of President Oscar Arias is the second consecutive administration to be struggling with tough opposition to the accord and obstructionist Congress. Its newest goal is to have it authorised by October, but more hard bargaining may still lay ahead.

DR-CAFTA came into effect for Honduras, El Salvador, Nicaragua and Guatemala at various times in 2006. Implementation in the Dominican Republic was delayed until that country's Congress approved various regulatory changes to make the legal framework consistent with the trade accord's requirements.

The situation in Costa Rica is more serious. President Arias, of the Partido Liberación Nacional (PLN), has been in battle with the main opposition party, Partido Acción Ciudadana (PAC), over the ratification of the agreement. In recent months the executive has engaged in aggressive bargaining efforts with minor opposition parties, and managed to secure a qualified majority (38 out of 57 deputies) in favour of DR-CAFTA. With the support of its allies, the government has tried to use procedural rules for speeding up the treaty's progress through the country's complicated and long legislative process.

However, this initiative has been partly counteracted by efforts from Ottón Solís—PAC's leader—to make use of available congressional mechanisms to delay ratification. Although the main opposition party has lost influence in recent months, especially after its poor performance at municipal elections in December 2006, it has taken advantage of Costa Rica's consensus-seeking tradition by presenting a large number of motions against the treaty and calling for judicial reviews of constitutionality. As a result, the government's end-February deadline for DR-CAFTA's ratification (itself a delay in relation to its previous target) was not met.

Horse-trading

After more than 13 months of debate, DR-CAFTA was finally approved by the International Relations and Foreign Trade Committee in Congress, which is the third of five stages of legislative procedures. During the discussions, 330 motions to include interpretative clauses in the treaty's text were received, of which only 65 were considered and 17 approved. Following the approval by the committee, the PLN intensified bargaining negotiations with parties that are not strongly opposed to the treaty. The government, which controls the legislative agenda between December and April, presented five bills from the Partido Unidad Social Cristiana (PUSC) and the Partido Unión Nacional (PUN), including a proposal for reforming the Social Development Fund

and Family Allotments Law (a fund for financing the country's most important social programmes) and a constitutional amendment reinforcing the universal right to healthcare services.

In exchange for its concessions to the opposition, the government managed to reach an agreement that had the support of four parties—PUSC, PUN, the Movimiento Libertario (ML) and the Partido Republicano Nacional (PRN)— besides the ruling PLN, to facilitate passage of the bills liberalising the telecommunications and energy sectors, which are required for DR-CAFTA's ratification. The 38 legislators from these five parties also passed an internal congressional rule amendment making international treaties eligible for fast track procedure, which has so far been forbidden. As a result, discussions over the bills from DR-CAFTA will be limited to 22 sessions for reaching the final vote, with a maximum extension of six weeks. A cap on the number of review motions was also included in the amendment.

Two steps forward, one back

However, two legislators who oppose DR-CAFTA sent a request to the Constitutional Chamber, asking it to reject the use of the fast track, which, according to them, cannot be introduced by a rule amendment. The PLN has decided to wait for the Constitutional Chamber's decision before it submits DR-CAFTA to the final vote in Congress. The executive is also considering alternative paths to try to speed up the procedures for the treaty's ratification in case the recently approved amendment is rejected by the Constitutional Chamber, which nevertheless could mean further delay to the process.

While it waits for the Constitutional Chamber's decision, the PLN has decided to move ahead with the three bills that are part of DR-CAFTA's implementation agenda that are currently being discussed by special committees: a telecommunications law; a project to strengthen the Instituto Costarricense de Electricidad (ICE); and a proposal to create a development bank system. The implementation agenda includes 12 bills, of which eleven are at different stages of debate in the Legislative Assembly. So far, only one bill has not been sent by the executive branch to Congress yet (a penal code reform). The government also sent to Congress four of five bills that form the supplementary agenda. Some progress on both agendas has been made over the past three months, while the so-called cooperation agenda (which includes loans from multilateral institutions) is stalled in Congress.

The government's goal is to get DR-CAFTA and all the implementation agenda related to it approved by October, taking advantage of all existing regulatory routes for speeding the procedures up. In the meantime, anti-CAFTA unions and other social groups continue to organise protests, despite attempts by the government to negotiate with some of them. Although the country will remain divided over the benefits of DR-CAFTA, the Economist Intelligence Unit believes that the government will get enough support to ratify the treaty in 2007.