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Latin American and Caribbean Competition Forum

Session I – Competition and Poverty

- Contribution from Costa Rica -

28-29 September 2023

The attached document from Costa Rica is circulated to the Latin American and Caribbean Competition Forum FOR DISCUSSION under Session I at its forthcoming meeting to be held on 28-29 September 2023 to be held in Quito, Ecuador.

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Session I – Competition and Poverty

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Interrelation between competition policies and poverty reduction

1. Competition is the force that drives companies to fight with each other and win customers over, offering more product options with higher quality and at a better price than their competitors.
2. In a competitive market, companies compete with each other, striving to be more efficient, increasing the economy's productivity. In addition, if there are no barriers to entry and exit, inefficient companies leave the market, helping raise average productivity. Competition also favors innovation, as to defend their permanence in a market, companies seek to improve their processes, goods, and services. When a single company controls the entire market or a large part of it, it has few incentives to innovate and improve, being able to manipulate prices and supply levels, which significantly affects consumers. Competition drives a country's economic growth and employment by increasing efficiency, productivity, and innovation.
3. The complete absence of competition results in a monopoly. In this case, a particular good or service is provided by a single supplier, who is not interested in covering all market demand, but only that portion that comprises buyers willing to pay a high price for a good or service. Monopolies are generally present in markets of goods or services necessary for a large part of society, where there are no substitutes. Monopolies force buyers to acquire the given good or service under the conditions imposed by the supplier.
4. Anti-competitive behavior is intended to emulate the situation of a monopoly, either through an agreement between competitors or by the abuse of a company's dominant position in a market to exclude its competitors. That is why these are sanctionable practices.
5. Lower-income households are relatively the most affected by lack of competition. Under these circumstances, consumers will experience higher prices and a lower quantity and quality of the goods offered. Those with lower incomes have fewer resources to face elevated prices, so within their already limited budget, the only way out is to restrict the products and services they acquire. In this sense, the absence of competition in the markets translates into greater poverty and drives the inequitable distribution of income and wealth.
6. An effective competition policy can reduce poverty and inequality levels in a country. To achieve this, however, it is necessary to have adequate competition legislation and an authority with the necessary resources - material and human - to execute its procedures effectively. These procedures can be of three types: i) preventive - control of concentrations that may be detrimental to the public interest, ii) corrective - detection, sanction, and elimination of anticompetitive practices, and iii) advocacy - issuance of opinions, recommendations, and market studies that allow the identification of barriers to entry and distortions to the competition process, and that foster their elimination.
7. In the case of Costa Rica, with the enactment of the “Strengthening of the Competition Authorities of Costa Rica Act,” No. 9736, dated September 5, 2019, the country created a legal framework in accordance with the best international practices. This framework provides a solid analytical basis to assess the impact that distortions or restrictions on the process of free and open competition have on the consumer. However,

work still needs to be completed, as the competition authority has limited resources to execute its procedures.

8. The strengthening of the Commission to Promote Competition (COPROCOM) was one of the main objectives sought with the reform of the Competition Act of 2019. In this regard, it is worth mentioning that although the reform was able to establish a fixed statutory budget for the COPROCOM, four years after the enactment of Act No. 9736, this budget has not been received, and this has prevented the Authority from hiring and training staff and from acquiring equipment. The allocation of resources to the national competition authority is essential to guarantee this body's actual technical, administrative, and functional independence and effectively allow it to exercise the new powers granted by law.

9. With regard to the competition legal framework, while the objective of poverty reduction is not explicitly mentioned when referring to each of the procedures carried out by the Commission, the analysis is intended to determine the impact on consumer surplus. So, for example: When analyzing economic concentrations and assessing a transaction's procompetitive and anticompetitive effects, a balance is made between the efficiency gains that concentration can generate and the unilateral effects or increases in prices that can derive from eliminating a competitor from the market.

- If it is determined that the concentration does not drive efficiency gains, it is a fact that the consumer surplus will be reduced if the transaction is authorized.
- Regarding relative monopolistic practices – also known as unilateral conducts and vertical agreements – Costa Rican law considers these illegal only if it can be proven that this damage the concerned competition, if the responsible party has substantial market power in the relevant market, and if that party does not provide a defense based on efficiency reasons. Weighing between efficiency gains and the anticompetitive effects of the practice, for example, restricting the participation of other suppliers, ultimately seeks to determine whether the consumer will be better or worse off by allowing this behavior.
- Absolute monopolistic practices or agreements between competing economic agents are illegal per se. These include acts, contracts, or agreements to fix prices, restrict quantities, divide markets, arrange bids in public tenders, refuse to buy or sell goods or services, and exchange information for the above purposes. These agreements between competitors have highly regressive effects; that is, they hurt lower-income families more.
- When considering barriers to entry or other restrictions arising from legal provisions, it is determined whether harm is caused to consumers, for example by limiting the number of suppliers that can offer services in the market, restricting the possibility of consumers to go to other markets or to change suppliers, limiting the possibilities of suppliers to offer lower prices, to advertise, to offer differentiated goods, etc.

10. Regarding the application of competition legislation to public services, it is important to note that with the reform to the Competition Act of 2019, the regulation is now applicable to all economic agents whose actions generate effects in Costa Rica. In addition, it was established that only actions expressly authorized under special laws shall be exempt from its application. At this point, it should be emphasized that only specific actions are exempted from the application of the Competition Act, but not the entire market or sector. This means that public services are, in fact, subject to the application of the Competition Act.

11. The above is relevant since competition can be restricted not only by anticompetitive behavior of the private sector, but also, in certain circumstances, by interventions of a regulatory nature by the public sector. While regulation may be justified in some sectors or markets, there is also a risk of going beyond what is strictly necessary, sometimes leading to unduly preventing competition. In addition, regulation may lead to the emergence of interest groups that lobby authorities to impose regulatory measures for their benefit, but eventually to the detriment of society at large, particularly consumers who are not organized to defend their interests.

12. High barriers to regulatory entry and high state participation in strategic markets such as electricity, transport, banking, insurance, and oil characterize Costa Rica. Hence, much of COPROCOM's work aims to carry out advocacy work to eliminate competition distortions in regulated sectors.

13. In this context, COPROCOM has issued relevant opinions, among them: Regulation of the price of rice, regulation of taxis and digital transport platforms, recognition of sanitary permits for medicines and fertilizers, restrictions on the coffee and sugar markets, the establishment of mandatory fees for professional services, monopoly of alcohol production, renewal of bus concessions, medical insurance for tourists, prohibition of discrimination in sales prices based on gender, regulation of fintech companies, and repeated opinions in public procurement.

14. In the case of rice, COPROCOM has issued more than 15 opinions from 1997 to date, in which it has repeatedly indicated that there are no market conditions to justify price regulation and that the market structure and current regulatory scheme facilitate the exchange of information among market participants and increase the risk of collusion. The available estimates indicate that the sector's lack of competition has transferred hundreds of millions of dollars from the consumer to the rice supply chain. The impact of this transfer has been socially regressive because monthly per capita spending on rice had -and has- a higher incidence in lower-income households in Costa Rica. This is around 7%-8% of the per capita income of the persons from the poorest households (1° quintile), in contrast with 0.4%-0.6% of the per capita income of the wealthiest inhabitants (5° quintile).¹

15. More recently, COPROCOM has advocated for greater competition in the awarding of routes for the paid transportation of passengers in buses under concessions, a service required by the country's population. The analysis shows that the concessions awarded for the provision of this service have been perpetuated, which has limited the possibilities of tenders that allow market competition to result in services with better rates and higher quality²; in addition, it has contributed to the concentration of routes in the hands of few economic agents, even failing to comply with the regulations that restrict the number of concessions that a single company can have.

¹ Petrecolla, Diego. Costa Rica, *Agrocadena del Arroz. Estudio Sectorial de Competencia* [Rice Supply Chain. Sectoral Competition Study, if translated] Prepared at the request of: World Bank / International Finance Corporation. Foreign Investment Advisory Service (FIAS). 2006. Available in: <https://www.coprocom.go.cr/publicaciones/informes/InformeFinalArroz.pdf>

² According to information from the Ministry of Public Works and Transportation (MOPT), the ratio of routes concessioned through a tender to all the routes in operation is 0.21%.

Prioritization in the application of competition law

16. The Competition Authority may initiate investigations for absolute or relative monopolistic practices ex officio or due to a complaint. The investigations are initiated by the person in charge of investigations of the Technical Body, either on their initiative or that of the Highest Governing Body of the Competition Authority. Investigations initiated due to a complaint may be filed by any natural or legal person, whether or not this person was adversely affected by the matters described in the complaint.³

17. In the case of ex officio investigations, there is some discretion on the best time to initiate them and the criteria to prioritize cases. In general, given the lack of material and human resources available to COPROCOM, the criteria for prioritizing investigations are oriented to the relative importance that the good or service may have for the consumer, as well as the possibilities that the behavior is anticompetitive and can be sanctioned. Thus, ex officio investigations allow the Authority to focus its efforts on markets that may have a greater impact on lower-income consumers and contribute to the objective of alleviating poverty. This is another reason why providing more resources to COPROCOM is considered essential, as it allows it to investigate markets with high social impact.

18. Concerning complaint-driven investigations, competition law does not provide for the possibility of filing complaints because it considers that a particular market is not as relevant as any other which analysis is suggested, as the investigation thereof is required, provided that the complaint does not concern an anticompetitive behavior, or the case is *de minimis* (of minimum importance). The *de minimis* rule establishes that monopolistic practices carried out by economic agents that jointly represent a share of less than five percent (5%) of the relevant market affected by the behavior will not be sanctioned.

19. In this sense, complaint-driven investigations cannot be discarded for reasons related to the type of product (for example: if it is an essential good for consumers or a superfluous one, if it is a final good or an intermediate good, or if it belongs to a strategic sector of economic activity or not), the origin of the product (national versus local), or the concerned behavior.

20. Unfortunately, once the investigations are ongoing, it is impossible to prioritize those cases that could significantly impact the well-being of consumers and assign more or less staff to the investigations, given the limited resources available to COPROCOM.

21. Among the most relevant investigations that COPROCOM has sanctioned, in terms of the impact that they could have on the poorest people, was the sanction of an agreement made between nine competitors in the agro-industrial sector,⁴ under which they refrained from purchasing rice from domestic producers until a consumer price decree was published. This sanction was in line with the absolute monopolistic practice established under Article 11, paragraph e) of the Promotion of Competition and Effective Defense of the Consumer Act, No. 7472.

22. This case is emblematic, not only because rice is the most consumed grain by the Costa Rican population, but because the sanctioned behavior, *i.e.*, a collusive agreement, has the connotation of nullity *per se*, given the damage it causes to competition. Hence, the economic agents' behavior was classified as very serious under the provisions of article

³In accordance with article 30 of Act 9736.

⁴ Corporación Arrocera Costa Rica S.A.; CoopeLiberia R.L.; Compañía Arrocera Industrial S.A.; Derivados del Maíz Alimenticio S.A.; Comercializadora Inter Global INTERGLO S.R.L.; Arrocera La Julieta Ltda; Cooparroz R.L.; Arrocera Liborio S.A.; and Arrocera San Pedro de Lagunilla S.A.

118, paragraph a) of Act No. 9736. To impose sanctions (individually), article 119, paragraph e) of that same Act was used. This provision establishes that very serious infractions are punished with a sanction amounting from point one percent (0.1%) to ten percent (10%) of the total sales of the economic agent during the fiscal year immediately preceding the sanction. This is the second time COPROCOM has sanctioned rice manufacturers for engaging in collusive practices; the first was in 2001.

23. It should be noted that the money collected from the sanctions imposed by the Competition Authority for engaging in anticompetitive practices is directly deposited in the State's account. The Competition Act does not provide that the funds collected from the sanctions can be allocated to poverty reduction or to the financing of COPROCOM itself, in line with best international practices, as otherwise, this could be construed as a perverse incentive for competition authorities. This does not prevent the Government from allocating these funds, or part of them, for such purposes when formulating its national budget proposal.

Initiatives to promote competition

24. Act No. 9736 authorizes COPROCOM to carry out advocacy activities to promote improvements in the process of free and open competition in the markets, as well as to eliminate and avoid distortions or barriers to entry and raise public awareness and knowledge on the effects that competition has on social welfare and, especially, on the most economically disadvantaged groups of the population.

25. By producing opinions, recommendations, and market research (Title I, article 3, paragraphs g), h), i), j); and Title II Promotion and Advocacy of Competition, articles 21, 23, 24, and 25 of Act 9736), the COPROCOM has non-coercive means to recommend public policy actions to government authorities or measures to private actors to improve the functioning and efficiency of markets.

26. One of the main legal tools that COPROCOM acquired with the amendment of the Competition Act of 2019 was the ability to conduct market studies. These are research projects that consist of a comprehensive economic and regulatory analysis of the dynamics of competition in a sector or productive market. Market studies aim to identify the existence of distortions or restrictions in the efficient operation of the market, but their scope is not that of an investigation of anticompetitive practices or concentration control. In this way, it is not a procedure of a sanctioning nature but rather a corrective one. In particular, it seeks to promote competition by detecting and correcting or eliminating distortions or barriers to competition.

27. COPROCOM is developing a Market Study Guide that sets out the criteria to prioritize and select those markets that it considers will have a greater impact on consumers and society in general. This prioritization also seeks to optimize the use of human and material resources available to COPROCOM. These criteria include:

- the direct or indirect impact of the market study on consumers, as well as the potential economic benefits that may result from the implementation of the recommendations that arise from the market study;⁵

⁵ For example, markets whose structure and characteristics are related to potential restrictions on competition or regulatory inefficiencies, as well as markets that have a more significant influence on consumers, companies, and the economy in general.

- the strategic importance for COPROCOM and how the market study is related to the annual plans and priorities of COPROCOM
 - whether the COPROCOM is the authority best suited to execute the analysis and implement any recommendations that may arise. In this case, it is assessed whether another regulator could intervene more effectively to improve existing competition conditions;
 - the probability of success of the market study. That is, how likely it is that the results of the market study confirm the allegation of damages raised and that the recommendations that are made can be effectively executed;
 - the human and material resources required for the development of the market study and the possibility of measuring the effectiveness of the intervention in financial terms and its cost-effectiveness, both in terms of time and money
28. Other internal factors relevant to COPROCOM's operation that can be considered to prioritize sectors or markets to be studied include:⁶
- The likelihood that recommendations arising from market studies will be adopted, especially where recommendations could include regulatory or liberalization reforms;
 - The possibility that COPROCOM can anticipate and gain experience in sectors undergoing significant changes at a national or international level. This can make it easier to apply Act No. 7472 in markets that will involve crucial regulatory challenges in the future;
 - The resolution, through a structural analysis of sectors in which there is a history of behavioral problems — absolute or relative monopolistic practices — or where there is no clarity among market participants whether a particular practice is permitted or not under Act No. 7472;
 - The added value of the study compared to other projects to defend competition or to supplement the promotion of competition;
 - Projects already carried out by other regulators or competition authorities in other jurisdictions that could contribute to the analysis of a market study;
 - The availability of information and data to support theoretical and empirical analysis.
29. While poverty reduction is not explicitly contemplated within the criteria for prioritizing the sectors that are analyzed through a market study, it does consider the impact that the market study would have on consumers, as well as the potential economic benefits that could result from this, seeking to focus the scarce resources of COPROCOM in those sectors or markets that generate a more significant social impact.
30. Since the approval of Act No. 9736, COPROCOM has issued the following market studies:
- The “Study on the Regulation and Competition in Maritime Transport,” approved during Ordinary Session No. 27-2021, held on July 15, 2021, presents an analysis of the regulations governing the maritime transport sector in Costa Rica, a

⁶ OECD (2018), Market Studies Guide for Competition Authorities. ICN (2016), Market Studies Good Practice Handbook.

delimitation of the service that is exempt or regulated, a description of its market structure, and an international comparison of the sector under study.

As a result of the study, COPROCOM issued recommendations to the Executive Branch, represented in this case by the Ministry of Foreign Affairs. Specifically, it requested the Government to take appropriate legal and diplomatic actions to render void two provisions of the “Convention on a Code of Conduct for Liner Conferences,” which allow for the distribution of the market and the fixing of prices between competitors, behaviors that -if performed in other markets- would be illegal and sanctionable.

- The “Study on Competition and Free Market Participation of Professional Services in Costa Rica,” approved during Ordinary Session No. 50-2021, held on December 22, 2021, analyzes the restrictions on free and open competition that characterize the provision of professional services in the country and assesses the effects on social welfare that arise from such restrictions.

Among the main recommendations originating from the study are the following:

- Eliminate the possibility for professional associations to establish minimum rates for professional services. Minimum rates limit the autonomy of professionals, promote collusion, restrict citizens' access to services, and sustain higher rates that, in turn, make other goods and services that use professional services more expensive.
- Redefine the aims and functions of professional associations. The essential public purpose of professional associations must be to ensure quality professional services for the benefit of users. The work of professional associations should be restricted to monitoring the exercise of the liberal professions. In professions that are not practiced liberally, it does not appear necessary that a professional association guarantee the suitability of a professional or their ethics, given that companies or employers have mechanisms to do so.
- Limit the compulsory association fee to professions exercised in a liberal manner, which are relevant for the exercise of public functions and are highly qualified given their social impact, as it is in the exercise of these professions where the public function of a professional association is essential.

The Executive Branch accepted the recommendation concerning the elimination of the minimum rates of professional associations, and on September 14, 2022, President Rodrigo Chaves Robles announced the signing of 11 executive decrees for the elimination of the minimum fees of the following associations: Lawyers, Therapists, Chemical Engineers and Related Professionals, Geologists, Public Accountants, Civil Engineers and Architects, Microbiologists and Clinical Chemists, Biologists, Physicists, Chemists, and Nutritionists. However, the press has announced the suspension of several of these decrees as some associations requested precautionary measures in the courts of justice.

The COPROCOM considers that eliminating minimum rates of professional associations could contribute significantly to the poverty reduction objective by generating more opportunities for citizens to access certain services which, being subject to a minimum rate, are unattainable. In addition, it would contribute to reducing the costs of many services that serve as inputs for companies, thus favoring economic activity.

- The “Study on the Concentration of Bus Route Concessions,” approved during Ordinary Session N°17-2023, held on May 11, 2023, showed that five economic interest groups concentrate a large number of bus line concessions that include routes that cover densely populated areas of the Greater Metropolitan Area and strategic tourist areas in the country.

As a result of this study, COPROCOM recommended to the Ministry of Public Works and Transportation, the Council of Public Transportation, and the Regulatory Authority of Public Services to take the appropriate actions to ensure compliance with the provisions of article 11 of Act No. 3503, which governs the maximum number of bus line concessions that can be awarded to a single natural or legal person. It further recommended that the concentration of lines in the hands of a few operators be corrected and prevented, as this violates the principles of free and open competition.

Likewise, COMPROCOM recommended that appropriate actions and studies be executed to organize public tenders that guarantee free and open competition in the market, to improve concessions that had already been awarded but that expire or are suspended or terminated, or if new concessions are required.

Attending to these recommendations could improve the prices and quality of public passenger transportation services in buses in highly populated areas that significantly contribute to the country's economy.

- In addition, market studies of the coffee and sugar sectors are under the process of elaboration. All of these market studies, except for the “Study on the Concentration of Bus Route Concessions,” were included in Costa Rica’s accession roadmap to the OECD and led to recommendations that, if implemented, would result in the have a significant impact on the reduction of the prices of products and services that have a significant impact on the population's purchasing power.

31. Another advocacy tool frequently used by COPROCOM is opinions. The following table shows the opinions issued by COPROCOM from 2014 to 2022.

Table 1. COPROCOM. Opinions issued, 2014-2022

Type/Year	2014	2015	2016	2017	2018	2019	2020	2021	2022
Technical regulations or laws	2	0	3	2	6	1	0	7	5
Bills	1	1	3	6	3	17	14	9	11
Consultations of regulatory bodies	11	15	11	9	11	7	5	0	0
Other - private sector	6	5	8	5	7	6	8	18	13
Total	20	21	25	22	27	31	27	34	29

Source: own elaboration with data from COPROCOM.

32. Although the opinions primarily address the bills referred by the Legislative Assembly to COPROCOM, some issues that are relevant to the Authority are also analyzed ex officio. Some of these issues relate to actions announced by the Government regarding markets in which COPROCOM has issued criteria in the past and are yet to be addressed or otherwise to matters relevant to the population in general. This, in turn, leverages the coverage and efforts that the media makes around the issues that the Government is addressing to analyze and issue criteria about them in terms of free and open competition. Examples of this are the opinions that have been issued in the rice market, paid transportation of passengers through electronic platforms, public procurement not subject

to public bidding processes, or others in which, even though there has been no application, it has been considered important that COPROCOM issue its criterion.

33. Concerning the rice market, COPROCOM has issued several opinions reiterating its view that there are no conditions on the rice market to justify the regulation of the grain's price. The Government, which began in May 2022, welcomed COPROCOM's recommendations regarding the elimination of rice price regulation and the elimination of rice import tariffs. Hence, they issued the following decrees:

- Executive Decree No. 43642, of August 3, 2022, "Modification of the tariff duties on the import of polished and unpolished rice," in force since August 12, 2022, reduces the tax from 35% to 3.5% for unpolished rice and from 35% to 4% for polished rice. Available at: http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=97572&nValor3=0&strTipM=TC
- Executive Decree No. 43643, of August 3, 2022, repeals the reference price of rice unpolished rice, as well as the maximum and minimum price for all qualities of polished rice, and updates the cost structures of the agricultural production of unpolished rice and the industrialization of polished rice. Valid since August 10, 2022. Available at: http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=97560&nValor3=0&strTipM=TC

34. Recently, COPROCOM issued an opinion regarding the "Non-Collective Paid Transportation of Passengers and Digital Platforms" bill, which aims to modify the regulatory framework for the paid transportation of passengers in motor vehicles, including taxi services and digital platforms like Uber.

35. This bill eliminates taxi services as a public service and transforms them into a general-interest economic service. In addition, it eliminates the regulation of tariffs, the payment of fees, and the restrictions by geographical area established in the concessions. On the other hand, the bill establishes regulations for the drivers of such platforms, which economic service is also declared of general interest, including tax and social security obligations and measures to guarantee the safety of passengers.

36. Although the bill attempts to establish an even floor between the providers of both services, COPROCOM expressed some concerns from the perspective of competition policy, among them:

- The bill establishes that the Executive Branch could establish measures to eliminate the possibility of a "ruinous" structure in the transportation of passenger's service, particularly regarding the number of drivers authorized to provide it. COPROCOM requested to eliminate from the bill the power of the Government to determine the number of service providers.
- The bill establishes that the Executive Branch, with the coordination of the Ministry of Public Works and Transportation (MOPT) and the Ministry of Economy, Industry, and Commerce (MEIC), will use a formula to determine the minimum gross profitability per kilometer, on a semi-annual basis, and then formalize this through an Executive Decree. The Commission noted that this profitability margin could facilitate collusion in the market and that determining the margin could be affected by the problem of regulatory capture, granting greater than expected income to service providers to the detriment of users.

37. In this sense, the External Competition Authority is concerned that if the proposed regulation is approved "as is," end users will be most adversely affected, as drivers that provide services through platforms and taxi drivers could raise rates.

38. On the subject of public procurement, the COPROCOM has issued multiple opinions. One of the most relevant is the Framework Agreement on Infrastructure Services using Own Funds, through which 15 companies were selected to offer nine different services related to the construction of buildings and their maintenance. Implementing this Framework Agreement implies that all the institutions of the Central Government and its decentralized bodies are obliged to contract these services only from these companies for two years, with automatic extensions for up to two more years.

39. COPROCOM asked the Ministry of Finance not to continue implementing this agreement, as it considered that it did not favor competition in public procurement and was detrimental to the institutions of the Central Government by forcing them to acquire services from a small number of companies. In fact, for several services, a single company was awarded the contract, and thus, only that company could provide services to the State, thereby eliminating any incentive to offer the best prices to the contracting institutions in the absence of competition.

40. To disseminate COPROCOM's competition advocacy actions, the commission has implemented a strategy to communicate and train economic agents, which includes:

- Presence in social networks

It has a presence in social networks such as: Facebook, Instagram, Twitter, and LinkedIn. This has enabled it to more effectively disseminate its press releases, participation in public forums, and general notices aimed at economic agents and consumers.

- Press releases on the decisions of the authority

During 2022, COPROCOM issued thirteen press releases to report on the main findings of its opinions, such as the liberalization of the price of rice and the elimination of statutory rates for professional services. Likewise, it started relevant investigations, sanctioned two administrative procedures, and analyzed concentrations that could adversely affect competition. These press releases had extensive coverage in the leading written media outlets in the country.

- Participation in events and training sessions

COPROCOM participates actively in public forums, organizes its own events to disseminate its market studies or the publication of its guides and regulations, and provides training to the judicial and legislative branches, universities, public institutions, and business chambers, among others.

41. From the above, it is possible to conclude that the Costa Rican regulatory framework on competition authorizes the COPROCOM to carry out preventive, corrective, and advocacy procedures focusing on consumer-oriented analysis. Thus, the work of the Competition Authority can contribute to improving the purchasing power of consumers, especially those with lower incomes, thereby promoting the reduction of poverty and social inequality. If COPROCOM had more material and human resources, it could increase the social impact of competition policy in the country, as this would increase its chances of starting ex officio investigations and conducting market studies with an increased social impact.

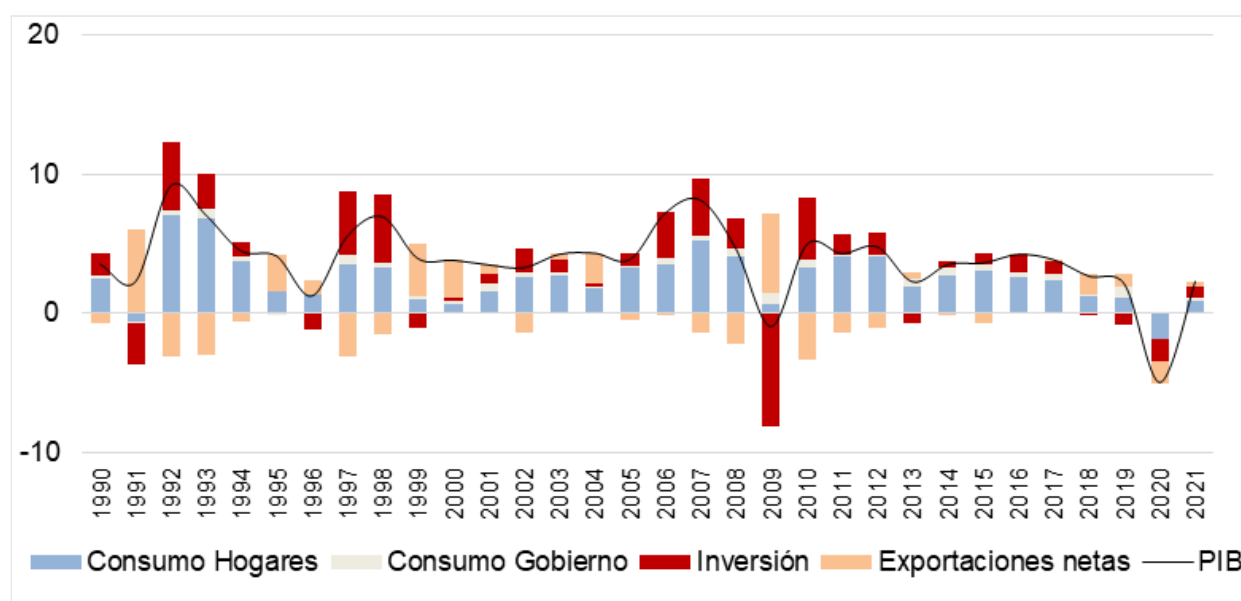
ANNEX

EXHIBIT - ECONOMIC AND SOCIAL CONTEXT OF COSTA RICA

1. Costa Rica is characterized by a dual economy that combines an innovative and dynamic export sector with another sector comprised primarily of local SMEs that do not benefit from the opportunities offered by integration into the global economy. In recent years, the country has made significant progress in strengthening the competition framework and improving the management of state-owned enterprises.⁷ In addition, the liberalization strategy has been successful in attracting significant foreign direct investment (FDI), which has gone from low-value-added sectors, such as agribusiness, to medium and high-value sectors, such as advanced manufacturing, medical devices, and ICT services. This has resulted in an increasingly diversified and sophisticated basket of exports. More policy efforts are being made to promote diversification, especially focusing on the agricultural and rural sectors.

2. The following shows the variation of real GDP and components of expenditure, variables that allow us to observe the economic evolution of Costa Rica since 1990:

Graph 1. Variation of real GDP and contribution according to expenditure components. 1990-2021.



Note: Annual variation in percentages and percentage points.

Source: Own elaboration with data from the Central Bank of Costa Rica, 2023.⁸

⁷The Organisation for Economic Co-operation and Development (OECD) (2020). Estudios económicos de la OCDE-Costa Rica. Recovered from <https://www.oecd.org/economy/surveys/costa-rica-2020-OECD-economic-survey-overview-spanish.pdf>

⁸ Central Bank of Costa Rica (2023). Recovered from [Economic Indicators \(bccr.fi.cr\)](https://www.bccr.fi.cr)

3. Graph 1 shows that Costa Rica responds to external economic recessions and periods of instability, such as the financial crisis of 2008 and the health crisis of 2020 caused by the COVID-19 pandemic; however, the country has shown a rapid recovery.

4. In the case of the most recent crisis, economic activity accelerated in the first quarter of 2023 compared to the fourth quarter of 2022, a result primarily influenced by the increase in external demand and the recovery in gross capital formation.

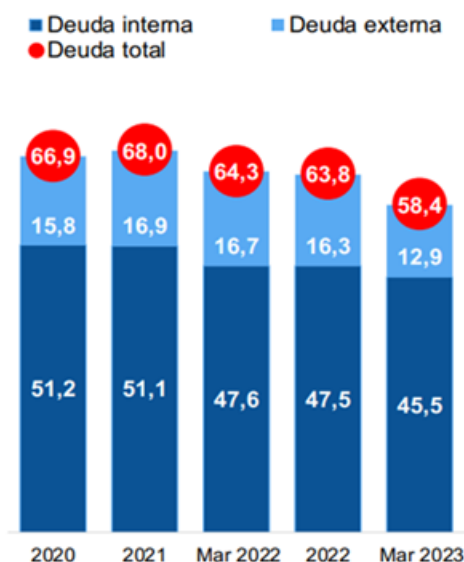
5. It can also be observed that household spending and investment are major components of Costa Rica's aggregate demand. In addition, the great impact that the international financial crisis had on net exports, which have maintained a trade deficit for almost two decades, is noticeable, although, in recent years, imports have practically matched exports in the country.

6. Concerning the production growth rate, from 2000 to 2005, it grew by an average of 3.9%. However, the 2008 production levels recorded a sharp year-on-year decline of 3.6%. This significantly affected the country because of its great dependence on foreign trade, causing production levels to fall by 1%. In 2010, the production rate grew 5%, after the contraction in 2009 (-1.3%). Since 2010, the Costa Rican economy's annual growth has remained just under 5%, slightly decreasing between 2016-2020.

Government debt

7. One of the significant challenges that Costa Rica faces is the high level of public debt, which amounted to 68% of GDP in 2021. This Debt to GDP ratio has forced the Executive Branch to make decisions to slash public spending.

Graph 2. Central Government Debt to GDP ratio



Note: Ratios scaled to the annual GDP published in the Monetary Policy Report [IPM, *Informe de Política Monetaria*] of April 2023.

Source: Central Bank of Costa Rica with data from the Ministry of Finance and Bloomberg.⁹

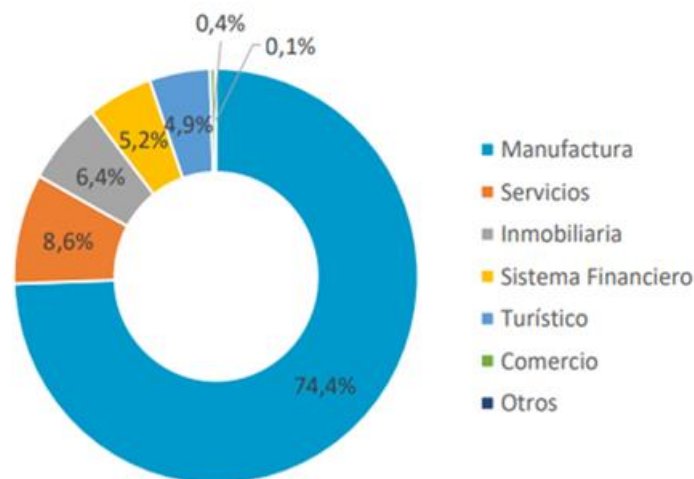
⁹Central Bank of Costa Rica (April, 2023). *Informe de Política Monetaria*. Recovered from <https://www.bccr.fi.cr/publicaciones/DocPoliticaMonetariaInflacin/IPM-abril-2023-informe.pdf>

Foreign Direct Investment (FDI)

8. In the last two decades, FDI has been a key driver of the Costa Rican economy, not only because of the inflow of foreign currency but also because of the generation of employment and the buoyancy it drives in the economy. For example, twenty-two thousand new jobs¹⁰ were created in 2022, as well as the growth of foreign exchange. This results from policies aimed at investing in education and research and development.

9. Likewise, the conditions of the country have incentivized investments. Some of these conditions include qualified human resources, business climate, infrastructure (two international ports and ports on both coasts), strategic location in the middle of America, admission into the OECD, quality of life, political stability, and a competitive free zone regime.

Graph 3. Foreign Direct Investment by Economic Activity in 2022.



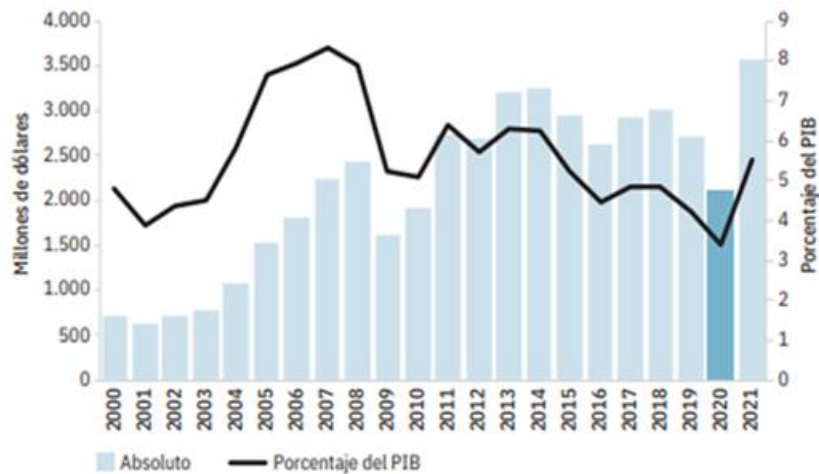
Source: Ministry of Foreign Trade (COMEX), 2023.¹¹

10. Graph 3 shows that although FDI suffered a historic contraction of 23% in 2020, it rapidly recovered and reached a production level of 131% in 2021, higher than pre-pandemic levels. This rapid response increases the economy's financing capacity and contributes to the country's external stability.

¹⁰ Foreign Direct Investment Companies in Costa Rica [CINDE, *Agencia de Promoción de Inversión de Costa Rica*] (2023). *Las empresas de Inversión Extranjera Directa en Costa Rica*. Recovered from <https://www.cinde.org/es/noticias/las-empresas-de-inversion-extranjera-directa-en-costa-rica-invierten-con-proposito-y-contribuyen-a-los-objetivos-de-desarrollo-sostenible>

¹¹ Ministry of Foreign Trade (COMEX) (2023). *Inversión Extranjera Directa*. Recovered from <https://www.comex.go.cr/inversion-extranjera-directa>

Graph 4. Evolution of Foreign Direct Investment flows. 2000-2021.



Source: Ministry of Foreign Trade, (COMEX) based on figures from the Costa Rican Central Bank, 2023.¹²

11. In that sense, FDI has allowed Costa Rica to reach the global stage: it is the largest exporter of pineapple in the world, the second largest exporter of medical devices in Latin America, the second largest exporter of lilies in the world, the third largest exporter in the world of medical instruments and devices to the United States, the fourth largest exporter of canned cassava and heart of palm in the world, and the third country in exports of modern services, among others.

Unemployment and inflation ratio

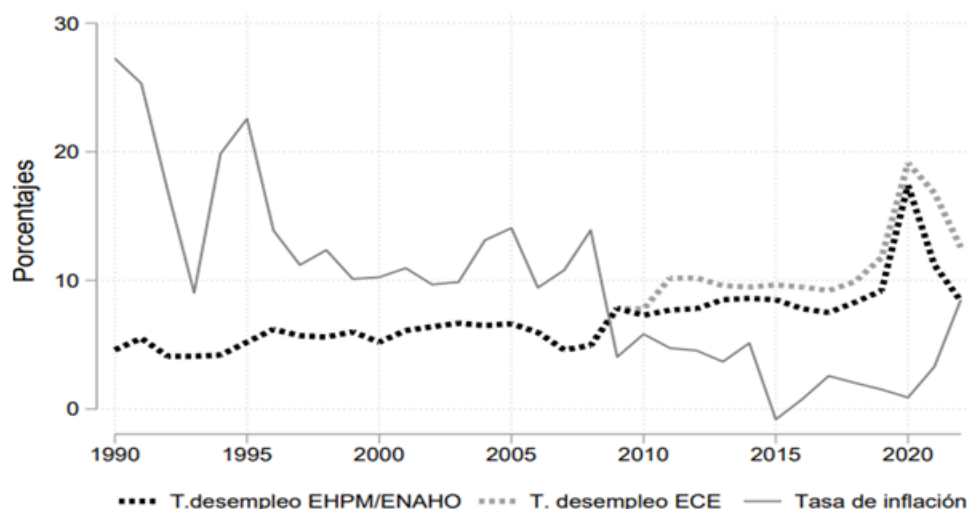
12. Controlling inflation has been one of Costa Rica's most critical challenges. This variable has experienced a downward trend with fluctuations since 1990, as seen in Graph 5, driven by periods of instability. It is worth mentioning that inflation underwent a structural change in 2009, with levels substantially lower than those exhibited in previous decades, and since then, it has remained in the single digits. The reduction in prices of raw materials and transportation costs and the effects of restrictive monetary policy have particularly contributed to the deceleration process. Inflation levels continue to be higher than the Central Bank of Costa Rica's target; in the first quarter of 2023, it was 4.4%.

13. On the other hand, the labor market has seen increasing employment levels since 1990, reaching unemployment levels under 7% before the 2008 crisis. After that year, the unemployment rate increased and reached 10.1% in 2011, one of the highest levels in two decades. Unemployment rates fell between 2012 and 2017, in contrast with the last two years of the period under study, during which these increased as the new government came into power. However, in 2021, the effects of the health crisis resulted in the greatest historical contraction recorded, driving many businesses to shut down, especially SMEs. In 2023, employment rates rose in the first bimester,¹³ showing an improvement in contrast even with pre-pandemic levels of 2020, 11% and 12.3%, respectively, although real wages experienced a contraction of around 6%.

¹² Ministry of Foreign Trade (COMEX) (2023). *Inversión Extranjera Directa*. Recovered from <https://www.comex.go.cr/inversion-extranjera-directa>.

¹³ Central Bank of Costa Rica (April, 2023) Informe de Política Monetaria. Recovered from <https://www.bccr.fi.cr/publicaciones/DocPoliticaMonetariaInflacin/IPM-abril-2023-informe.pdf>.

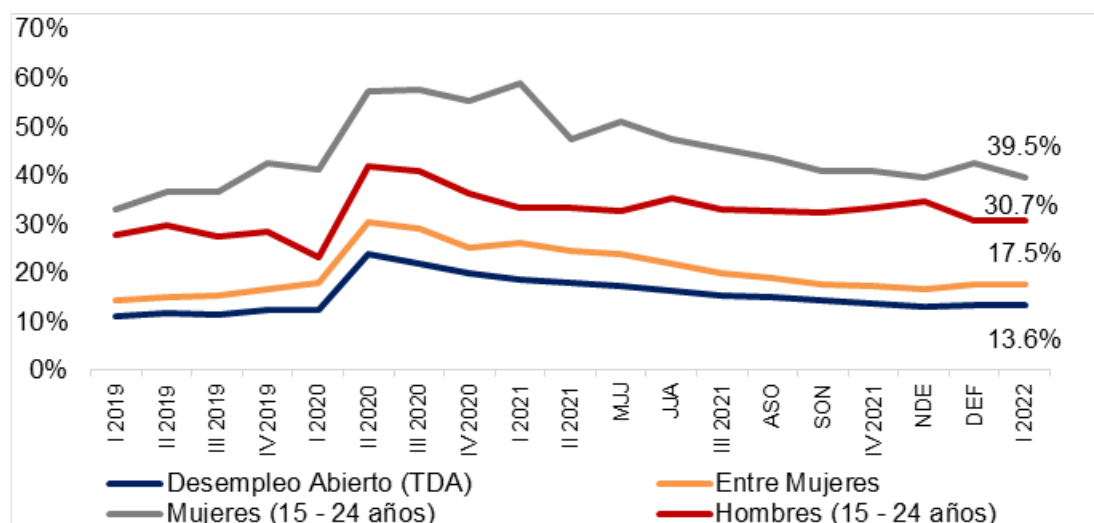
Graph 5. Unemployment and inflation in Costa Rica. 1990-2021. (in percentages)



Source: Prepared by author with data from the National Institute of Statistics and Census [INEC, *Instituto Nacional de Estadística y Censos*] of the EHPM (Multiple Purposes Housing Survey) and ENAHO (National Household Survey) from 1990 to 2010 and the ECE (Continuous Employment Survey) from 2011 onwards.¹⁴

14. It is worth mentioning that unemployment in Costa Rica significantly affects the younger population (between 15 and 24 years old). In 2023, the unemployment rate of young women was 39.5% (almost three times the national average) and 30.7% for young men:

Graph 6. General and adjusted open unemployment rates. Quarter I, 2019 to Quarter I, 2021. (in percentages)



Source: Prepared by author using data from the INEC, ECE¹⁵

¹⁴ Central Bank of Costa Rica (2023) Retrieved from [2022-JIE-02-Indicadores holgura mercado laboral.pdf \(bccr.fi.cr\)](https://www.bccr.fi.cr/indicadores-holgura-mercado-laboral.pdf)

¹⁵ National Institute of Statistics and Census (INEC) (2023). The National Household Survey (ENAHO). Recovered from <https://inec.cr/estadisticas-fuentes/encuestas/encuesta-nacional-hogares>

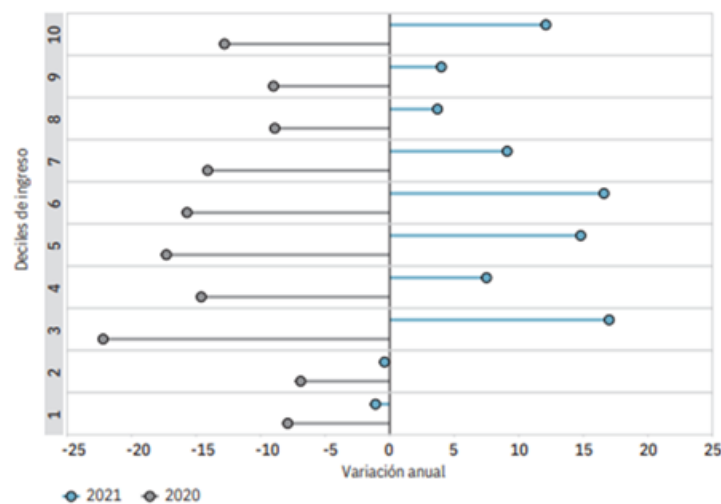
15. On the other hand, the following graph shows the underemployment and informal employment percentages:

Average income per household

16. The minimum wage in Costa Rica is 352,164.91 colones,¹⁶ equivalent to 646 dollars at the exchange rate of 546 colones, in force as of June 18, 2023. By classifying households into ten groups (deciles) according to their per capita income, it is clear that in almost all groups, average incomes increased between 2020 and 2021, except for the households in the bottom 20%, which for the second year in a row experienced a contraction.

17. Despite real growth, no group has regained the purchasing power it had before the pandemic. The only decile that almost recovered from the decline experienced in 2020 is the top ten percent (10% of households with higher income).¹⁷

Graph 7. Real variation of the average household income by per capita income decile



Source: ENAHO 2020-2021, from INEC.¹⁸

¹⁶ Ministry of Labor and Social Security (2023). Salaries. Recovered from <https://www.mtss.go.cr/temas-laborales/salarios/lista-salarios.html>

¹⁷ State of the Nation Program [PEN, Programa Estado de la Nación] (2022). State of Nation Report. Recovered from https://estadonacion.or.cr/wp-content/uploads/2022/11/PEN_informe_estado_nacion_completo_2022.pdf

¹⁸ National Institute of Statistics and Census (INEC) (2023). The National Household Survey (ENAHO). Recovered from <https://inec.cr/estadisticas-fuentes/encuestas/encuesta-nacional-hogares>

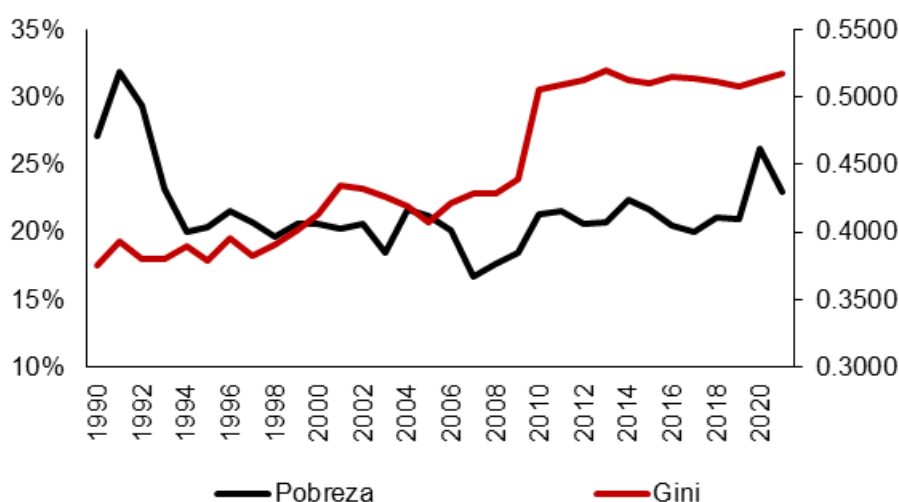
Table 2. Averages of net income per household by per capita income quintile of households, in dollars, in 2022.

Total	Per capita income quintile in dollars ¹⁹				
	I	II	III	IV	V
724	124	260	439	758	2042

Source: Prepared by author with data from INEC, 2023.²⁰

Poverty and inequality

18. Poverty and vulnerability can vary not only by the behavior of the per capita income of the household but also by the cost of the basic food basket and poverty lines. In 2021, 23% of households experienced poverty in terms of per capita income. Of this percentage, 17.7% of households were classified within the poverty segment (represents the minimum amount required for a person to meet food and non-food needs), while the other 5.7% were classified within the extreme poverty segment (the per capita income is compared with the cost of the basic food basket, which includes only food needs.) On the other hand, in 2022, income inequality measured using the Gini coefficient was estimated at 0.504.²¹

Graph 8. Households in poverty and Gini coefficient. 1990 – 2021 (in percentage)

Source: Prepared by author with data from INEC, 2023.²²

¹⁹ Translated using the exchange rate of 546 colones, valid as of June 18, 2023.

²⁰ National Institute of Statistics and Census (INEC) (2023). The National Household Survey (ENAH). Recovered from <https://inec.cr/estadisticas-fuentes/encuestas/encuesta-nacional-hogares>.

²¹ State of the Nation Program [PEN, Programa Estado de la Nación] (2022). State of Nation Report. Recovered from https://estadonacion.or.cr/wp-content/uploads/2022/11/PEN_informe_estado_nacion_completo_2022.pdf.

²² National Institute of Statistics and Census (INEC) (2023). The National Household Survey (ENAH). Recovered from <https://inec.cr/estadisticas-fuentes/encuestas/encuesta-nacional-hogares>

19. According to the previous graph, since 1994, the poverty line has not fallen under the 20% line. In addition, since 2004, there has been a sustained increase in inequality in Costa Rica.

Products and services of consumers with lower incomes

Products

20. Below is the list of the main products purchased by lower-income consumers in Costa Rica. This list stems from the enactment in 2020 of Act No. 9914, known as “Definition of the Basic Basket for the Integral Welfare of Families,” which establishes the basic tax basket, understood to be the set of essential consumer goods of the bottom thirty percent (30%) of the population, to make up the basic tax basket and thus counteract the regressivity that characterizes this type of tax, establishing progressive criteria to protect different vulnerable sectors of the population, such as people in poverty.

Table 3. List of products of lower-income consumers.

Oil	Breads	Flours
Margarine	Tortillas	Cereals
Fruits	Pastries	Milk
Beans	Vegetables, leafy vegetables	Cheese
Sugar	Fish and Tuna	Eggs
Salt	Pasta	Rice
Sauces	Meat: chicken, beef, pork	Cold cuts
Ground coffee	Personal hygiene products	Cookies
Tubers	School supplies	Oats

Source: Prepared by author using information of Executive Decree 0053, MEIC 2022.²³

²³Executive Decree MEIC (2022). Executive Decree: Regulation to the list of goods. Recovered from https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.hacienda.go.cr%2Fdocs%2FDecreto_Ejecutivo_0053_H_MEIC_S_ReglamentacionListadeBienes_CBTBIF_16_09_2022.docx&wdOrigin=BROWSELINK

*Services***Table 4. Percentage of households with access to basic services in 2019.**

Services	Total	Per capita income quintile				
		I	II	III	IV	V
Electricity	99.7	99.0	99.7	99.7	100.0	100
Water by aqueduct	95.4	90.0	94.9	95.7	97.5	98.8
Toilet	98.1	95.0	97.9	98.3	99.4	100
Vehicle	48.8	24.4	36.0	43.8	60.8	79.1
Residential telephone	33.7	17.1	25.6	29.0	39.4	57.4
Mobile phone	96.8	94.9	94.7	97.0	98.6	98.8
Desktop computer	14.3	5.0	7.7	11.0	20.3	27.2
Laptop	41.7	20.3	27.4	31.0	53.0	76.7
Tablet	19.1	6.4	10.4	13.2	22.7	42.9
Internet	77.5	65.3	73.2	73.8	82.7	92.7
LCD, Plasma or LED display	80.4	65.3	74.5	81.0	86.9	94.6
Cable or paid TV	72.0	52.1	67.3	71.4	80.8	88.6

Note: Prepared by author with data from INEC, 2023.²⁴

²⁴ National Institute of Statistics and Census (INEC) (2023). The National Household Survey (ENAH0). Recovered from <https://inec.cr/estadisticas-fuentes/encuestas/encuesta-nacional-hogares>

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