

WORLD TRADE ORGANIZATION

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Working Party on
State Trading Enterprises

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STATE TRADING

New and Full Notification Pursuant to Article XVII:4(a) of the GATT 1994 and
Paragraph 1 of the Understanding on the Interpretation of Article XVII

COSTA RICA

The following communication, dated 10 February 1999, has been received from the Permanent Mission of Costa Rica.

REPLIES TO THE QUESTIONNAIRE ON STATE TRADING

(Period from 30 June 1997 to 30 June 1998)

I. ENUMERATION OF STATE TRADING ENTERPRISES

In Costa Rica there is only one enterprise covered by the provisions of Article XVII of the GATT 1994. This is the *Refinadora Costarricense de Petróleo S.A. (RECOPE)* which has a monopoly on the importation, refining and wholesale distribution of crude oil, fuels derived from oil, asphalt and naphtha. RECOPE is a state trading enterprise which was established as a joint stock company. All its shares are held by the State. It is a legal person regulated, as far as its commercial activities are concerned, by private law.

The list of products marketed by RECOPE is as follows:

Product	Tariff heading
Caño Limón	27.09.00.10.00
Lagotreco	27.09.00.10.00
Tiajuana	27.09.00.10.00
Vasconia/Cusiana	27.09.00.10.00
Guafita	27.09.00.10.00
Aviation gasoline	27.10.00.52.90
Diesel	27.10.00.73.20
Regular gasoline	27.10.00.55.10
Gasoline Ron 95	27.10.00.55.20
Gasoline Ron 95 Ox.	27.10.00.55.20
Jet fuel	27.10.00.59.10
LPG	27.11.11.00.00
Fuel oil	27.10.00.72.00
MTBE	29.09.49.00.90
Naphtha Mix	27.10.00.64.00
Heavy naphtha	27.10.00.63.00

II. REASON AND PURPOSE

The Government of Costa Rica considers that the marketing of fuels is a strategic national interest, so that State control or participation in this activity is very important. State intervention is aimed at guaranteeing the best price and the best quality for products needed by the consumer on the domestic market. Given the size of the Costa Rican economy, dividing up the domestic market could lead to inefficient production and marketing, and for that reason a single enterprise works better. A state enterprise is able to take proper account of the needs and responsibilities relating to the country's energy programme and general economic development.

State intervention makes it possible to exercise control over fuel price policy. Fuel prices have a powerful impact on the stability of the prices charged for a wide variety of other goods and services. In Costa Rica, even a slight change in fuel prices is enough to stoke up inflation. Consequently, the State intervenes in order to perform an important social function, namely to maintain macroeconomic stability.

RECOPE has the exclusive right to manage the State monopoly on the importation, refining and wholesale distribution of crude oil and derivatives, including fuels, asphalt and naphtha, in order to satisfy domestic demand.

This right is derived from Law No. 5508 of 8 April 1974 and Law No. 7356 of 24 August 1993 (ratification of the above-mentioned State monopoly administered by RECOPE).

III. DESCRIPTION OF THE FUNCTIONING OF THE STATE TRADING ENTERPRISE

The monopoly held by RECOPE consists firstly in the exclusive right to import and refine all crude oil and oil by-products, and secondly in exclusive wholesale distribution rights for oil and oil by-products. In this connection, in accordance with Executive Decree No. 24943-MINAE of 13 January 1996, wholesale sales are defined, for purposes of establishing the distribution monopoly, in terms of the following minimum volumes:

Product	Minimum volume (litres)
Regular gasoline	1,900
Premium gasoline	1,900
Diesel	1,900
Kerosene	1,900
Bunker oil	1,900
Heavy diesel	1,900
Asphalt	1,900
Asphaltic emulsion	1,900
LPG	757
Aviation gas	1,900
Jet fuel	1,900
Light naphtha	1,900
Heavy naphtha	1,900
IF-380	25,000
IF-180	25,000

Article 4 of the Regulation under Law No. 6588 (law regulating the activity, objectives and other aspects of RECOPE), provides that RECOPE may sell oil and oil derivatives abroad, provided that domestic market requirements are guaranteed. In addition to what was said above, it should be pointed out that, with regard to hydrocarbon exploration and production (national oilfields), Article 36 of the Law on Hydrocarbons provides that such production shall be used as a matter of priority to

cover domestic requirements and the national reserve. These requirements are determined by the Executive, through the Ministry of Natural Resources, Energy and Mining, and every contractor is obliged to sell to the State the amount of output required to satisfy domestic market needs. Accordingly and in view of the monopoly managed by RECOPE, the output of national oilfields must be sold to RECOPE on a priority basis.

Furthermore, Article 6 of Law No. 6588 of 30 June 1981 provides that RECOPE may participate individually or jointly in tendering procedures organized by the Directorate-General of Hydrocarbons for the exploration and production of hydrocarbons, in accordance with the provisions of the Hydrocarbon Law.

RECOPE imports, processes and markets all the crude oil and derivatives consumed domestically in Costa Rica and exported (this country does not produce oil). On the basis of its yearly demand estimates, RECOPE buys crude oil and finished products on the international market. Import quantities are determined on the basis of local demand and the refining and storage capacity of RECOPE's plants. Export levels are set principally in the light of storage capacity and the size of shipments.

With regard to import prices and resale prices for imported products, RECOPE purchases crude oil and oil by-products on the international market on the basis of strict market criteria. These are determined by reference to international market prices in the Caribbean and on the United States Gulf Coast.

RECOPE does not negotiate long-term contracts; import contracts usually have a one-year limit and prices and certain other conditions are negotiated each year in the light of price fluctuations in the international oil market.

Article 4 of Law No. 5508 provides that, given RECOPE's public enterprise status (carrying with it certain general prerogatives or privileges which it enjoys exclusively or in conjunction with all other public entities) the Ministry of Finance is authorized, on the State's behalf and under its responsibility, to give RECOPE the guarantee(s) it needs to obtain financing for its working capital, provided that the total amount does not exceed US\$5 million. To that end, Central Bank approval must be obtained and loans must be negotiated with leading banks and institutions.

Lastly, RECOPE has an obligation, which also takes the form of a right, to engage in an activity related to its principal, statutory and routine corporate activity, when situations arise requiring the efficient and effective supply of fuels in the national interest. This obligation and right is derived directly from Article 5, first paragraph of Law No. 5598, which in turn comes within the framework of the strictly public tasks assigned to RECOPE. For example, RECOPE would be required to engage in wholesale distribution activity when there is a need for an effective supply at that level and development of the activity is affected by serious or unexpected problems.

In conclusion, as regards market structure, RECOPE - as was said earlier - has a monopoly on the importation and domestic distribution of petroleum products, since it has the exclusive right to import and private traders are not legally authorized to import any of these products. The situation is different with regard to exports, since any natural or legal person who buys the product from RECOPE can resell it for export to another country. However, this type of transaction is not at all common.

IV. STATISTICAL INFORMATION

The Annex to this notification contains three statistical tables with comparative figures on imports, exports and domestic activities, respectively, set out in terms of quantity and value. Information is provided for individual products.

V. REASON WHY NO FOREIGN TRADE HAS TAKEN PLACE

There has been foreign trade, as described above.

ANNEX

TABLE I

State Trading: RECOPE

Statistical Information: Imports

Product description	Tariff heading	Quantity imported by the state trading enterprise (MT)	Average import price (\$/MT)	Representative average sales price on the domestic market (\$/MT)	Increase in import prices compared with 1996 (\$/MT)	Domestic production (MT)
Caño Limón	27.09.00.10.00	174,742	138.45	-	-9.89	-
Lagotreco	27.09.00.10.00	294,869	140.28	-	-14.08	-
Tiajuana	27.09.00.10.00	53,829	93.41	-	-8.64	-
Vasconia/Cusiana	27.09.00.10.00	74,922	128.59	-	-	-
Guafita	27.09.00.10.00	41,233	127.05	-	-	-
Av Gas	27.10.00.52.90	2,728	409.41	463.32	-6.21	-
Diesel	27.10.00.73.20	423,308	167.97	213.78	-16.77	177,962
Regular gasoline	27.10.00.55.10	40,316	240.26	319.06	+42.48	-
Gasoline Ron 95	27.10.00.55.20	326,770	234.40	-	+10.96	-
Gasoline Ron 95 Ox.	27.10.00.55.20	14,827	237.68	330.48	+3.04	-
Jet fuel	27.10.00.59.10	74,445	202.24	242.56	-18.32	28,409
LPG	27.11.11.00.00	49,083	271.92	297.60	-22.80	1,621
Fuel oil	27.10.00.72.00	33,221	109.28	108.46	-12.64	302,396
MTBE	29.09.49.00.90	13,400	312.48	-	-8.32	-

TABLE IIState Trading: RECOPE*Statistical Information: Exports*

Product description	Tariff heading	Quantity exported by the state trading enterprise (MT)	Average representative price on the domestic market (\$/MT)	Average export price (\$/MT)	Domestic production (MT)
Av Gas	27.10.00.52.90	236	463.32	526.95	-
Diesel	27.10.00.73.20	10,681	213.78	216.93	177,962
Regular gasoline	27.10.00.55.10	15	319.06	387.34	-
Gasoline Ron 95	27.10.00.55.20	46	-	431.23	-
Jet fuel	27.10.00.59.10	20,651	242.56	301.20	28,409
LPG	27.11.11.00.00	52	297.60	330.96	1,621
IFO-380	27.10.00.72.00	86,441	-	109.09	86,441
IFO-180	27.10.00.72.00	1,543	-	118.24	1,543

Source for Tables I and II: International Programming Department, RECOPE, October 1998.

TABLE IIIState Trading: RECOPE*Statistical Information: Domestic Activities*

Product description	Tariff heading	Purchases on the domestic market (in cubic metres)	Domestic production (in cubic metres)	Sales on the domestic market (in cubic metres)	Domestic consumption (in cubic metres)
Regular gasoline	27.10.00.55.10	-	-	323,240	No data available
Diesel	27.10.00.73.20	-	198,056	680,598	No data available
Kerosene	27.10.00.61.00	-	7,654	11,194	No data available
Búnker oil	27.10.00.72.00	-	305,290	208,705	No data available
Asphalt	27.14.90.00.10	-	30,810	23,333	No data available
Heavy diesel	27.10.00.71.00	-	-	3,312	No data available
Emulsion	27.15.00.00.12	-	242.56	6,901	No data available
LPG	27.11.11.00.00	-	3,092	90,776	No data available
Jet fuel A-1	27.10.00.59.10	-	36,133	96,997	No data available
AV Gas	27.10.00.52.90	-	-	4,571	No data available
Heavy naphtha	27.10.00.63.00	-	7,292 (MT)	2,591	No data available
Premium gasoline	27.10.00.55.20	-	-	282,006	No data available
Light naphtha	27.10.00.64.00	-	-		No data available

Source for Table III: Customer Service Directorate, Marketing Department, RECOPE, October 1998.
