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Costa Rica Debates USAID Payments to CAFTA

by LADB Staff

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The Costa Rican government rushed to its own defense following an outbreak of news about who is paying its expenses in the CAFTA negotiations. On June 27, the newspaper La Nacion revealed that a private organization called CR-USA had channeled about US\$1.2 million from the US Agency for International Development (USAID) to the Foreign Trade Ministry (COMEX).

CR-USA made two donations, according to the report, one to pay the salaries of the Tico negotiating team during the period from January to April 2002 and another to pay for equipment, the funding of studies, and publication of documents in January 2003. The 2002 dates included the Costa Rica team's appearance at the World Trade Organization (WTO) meetings in Switzerland. The congressional Comision de Control de Ingreso y Gasto Publico reacted to the news of the payments by issuing summonses for the appearance of Foreign Trade Minister Alberto Trejos, Minister of the Presidency Ricardo Toledo, presidential advisor Rina Contreras, and coordinator of the Consejo Economico Ronulfo Jimenez. Hearings were scheduled for July 3. The legislators also sought legal opinions from the Contraloria General de la Republica and from the Procuradoria General de la Republica regarding the relationship between private foundations and the government.

The national ombuds, Jose Manuel Echandi of the Defensoria de los Habitantes, made a public statement that Central American governments must finance the expenses of their CAFTA negotiators. Calling the payments "inadvisable," Eschandi said, "Really, the Central American national governments should pay the costs of the people who are doing the negotiating, so that it can be said that the negotiations transpired with the greatest transparency and the greatest independence on the part of the negotiators." Echandi concluded, "I'm totally sure that there is no coercion or pressure, but what is going on here is not appropriate." Trejos later told the press that the USAID donation does not interfere with the team's work.

He said the transaction occurred under the terms of an Accord of Nonreimbursable Financing between CR-USA and the Ministry of Foreign Trade. "Since the negotiations began, neither honoraria, nor salaries, nor travel expenses have been paid by CR-USA," said Trejos, speaking of the negotiators. He also noted that the first payment came from the foundation before he became minister of COMEX and that his ministry had also received other donations, including US\$400,000 from the Banco Centroamericano de Integracion Economica (BCIE). Trejos explained that CR-USA was created to administer donations that the US government made through USAID. It is, he said, a foundation directed by a five-member board, including one representative of the US ambassador and a representative of the president of Costa Rica.

There is currently no presidential representative because Alberto Dent resigned. Dent is to become head of the Ministry of the Treasury in July. La Nacion takes a stand In addition to breaking the financing story, La Nacion editorialized that the arrangement underscores the need for state reform.

Under the headline

The State and its Resources, the paper said that the option of taking donations from a foundation that channels funds from the US government is an example of administrative inflexibility. "The lack of coherence and of a real sense of the common good that has been introduced in the taking of decisions is one of the most acute evils of our policy," it said in its plea for "policy in the national interest." The editorial criticized the government for adopting stopgap measures rather than overall reform, leading to the current situation, where problems are solved by the creation of "donation and loan-administration entities like CR-USA to cover over systemic problems. We would have preferred that, in place of such a mechanism, all the money destined for the negotiation come from the national budget," read the piece.

There was no accusation of wrongdoing on the part of the foundation; rather the editorial emphasized the urgency to "define what to do in order that, in the future, we will not have to keep using mechanisms at odds with the best practices of control and transparency." The commentary came two days after publication of Trejos' explanatory statements. The paper also printed parts of the accord to which Trejos referred. The agreement spelled out that CR-USA "will support COMEX in the financing required to cover the costs involved in the development of the project" presented by the minister. The "project" was entitled Participation of Costa Rica in the Negotiations of the Free Trade Agreement between Costa Rica and the United States."

Chief Costa Rican negotiator Annabel Gonzalez declined to offer an opinion on the donations on the grounds that she was not a member of the team at the time of the donations, but she did take the opportunity to clarify that, "in the CAFTA negotiation, the government and the president make the basic decisions whether to open the telecommunications [sector to negotiation], not the team of negotiators." This was in reference to the privatization issue that Costa Rica faces alone, because all the other countries have already privatized their energy and communications sectors. The relevance of her statement appears aimed at the possible connection between US funding and US interest in seeing the sector privatized.

CR-USA speaks

Executive director of CR-USA Hermann Faith said that the donations were part of "special projects" of the foundation, and are legal. CR-USA has financed COMEX since the creation of the foundation. "It is wrong to view these donations as limited to the free-trade agreement with the United States. We have also supported COMEX in negotiating other free-trade agreements. We financed the Costa Rican WTO office in Geneva, Switzerland, and the purchase of equipment for the Costa Rican Embassy in Washington," said Faith.

CR-USA projects director Ana Maria Vasquez said that the foundation received these requests for financing through President Abel Pacheco's representative on the board. She explained that this is the usual procedure. At the beginning of each administration, the president sends a letter designating his delegate. The delegate then informs the board of the government's priority projects. The board then researches the projects and funds them based on the results of their research.

Vasquez said the first donation, which paid salaries, was an emergency measure made necessary because COMEX had not included the item in the national budget. "They needed the money; there were team members who hadn't been paid in two months," she said.

Speaking to the question of legality, Roberto Gamboa, chief legal advisor to COMEX, said the mechanisms used for the transfer of funds conformed to the Law of Commercial Negotiations. "Nothing illegal was done," he said. Whether the procedures are legal is one of the questions the Comision de Control de Gastos Publico will be taking up shortly. But the mechanism is, by Gamboa's own admission, designed to circumvent both public and legislative oversight. "It is very complicated to donate money to the state," the advisor advised, "since the donations must pass through the Asamblea, and the legislators have the authority to change the destination of the line-items. To avoid this, the transfer is made through a trust in a private bank." In this case, Banco BCT was used.

According to the agreement between the government and the foundation, the money is deposited immediately. COMEX decides how to use it. All transactions are between the ministry and the bank, and are not subject to public scrutiny.

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