

FINANCE

Tropical Forests

**Agreement Between the
UNITED STATES OF AMERICA
and COSTA RICA**

Signed at San Jose September 13, 2007

and

Agreement amending the agreement
Signed at San Jose September 25 and 26, 2007



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966
(80 Stat. 271; 1 U.S.C. 113)—

“ . . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

COSTA RICA

Finance: Tropical Forests

*Agreement signed at San Jose
September 13, 2007;
Entered into force September 13, 2007.
And agreement amending the agreement.
Signed at San Jose September 25 and 26, 2007;
Entered into force September 26, 2007.*

[EXECUTION COPY]

**AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE
REPUBLIC OF COSTA RICA REGARDING A DEBT-FOR-NATURE SWAP PROGRAM UNDER THE
U.S. TROPICAL FOREST CONSERVATION ACT**

The Government of the United States of America and the Government of the Republic of Costa Rica,

Seeking to facilitate the conservation, protection, restoration, and sustainable use and management of tropical forests in Costa Rica, which provide a wide range of benefits to humankind,

Noting that rapid rates of tropical deforestation and forest degradation continue to be serious problems in many regions of the world,

Recognizing that the restructuring of external debt in the context of broader economic reforms can result in increased protection for tropical forests,

Wishing to ensure that resources from debt restructuring will be used for the conservation of tropical forests,

Further recognizing the role played by Conservation International Foundation and The Nature Conservancy in tropical forest protection in Costa Rica, and the success of non-governmental organizations in Costa Rica in conserving and managing tropical forest land in Costa Rica,

In consideration of the Debt Reduction Payment by the Government of the United States and the restructuring of the debt obligation owed to the U S Agency for International Development by the Central Bank of Costa Rica,

In furtherance of the goals of the U S Tropical Forest Conservation Act of 1998, Public Law No 105-214, as amended, and the Foreign Operations, Export Financing, and Related Programs Appropriations Act for U S fiscal year 2005, as contained in Public Law No 108-447, and

Acknowledging that the U S Tropical Forest Conservation Act of 1998 establishes in the U S Department of the Treasury a "Tropical Forest Facility" for the administration of debt reduction involving, inter alia, concessional loans extended by the U S Agency for International Development

Have agreed on this 13th day of September, 2007, and contract as follows

ARTICLE I DEFINITIONS

- 1 Defined Terms The capitalized terms contained and used in this Agreement shall have the respective meanings ascribed to them in this Section 1.1 and elsewhere in this Agreement. If a capitalized term is not defined in this Agreement and it is defined in the Swap Fee Contractual Agreement, Debt Swap Agreement, or the Forest Conservation Agreement, then it shall have the meaning ascribed to it in the Swap Fee Contractual Agreement, Debt Swap Agreement, or the Forest Conservation Agreement, as applicable
- (a) "Administrator" has the meaning ascribed to it in the Forest Conservation Agreement
 - (b) "Agreement" means this Agreement between the Government of the United States of America and the Government of the Republic of Costa Rica Regarding a Debt-for-Nature Swap Program under the U.S. Tropical Forest Conservation Act, as it may be amended from time to time
 - (c) "CBCR" means the Central Bank of Costa Rica
 - (d) "Closing" has the meaning set forth in Section 2.3 of the Debt Swap Agreement
 - (e) "Closing Date" has the meaning set forth in Section 2.3 of the Debt Swap Agreement
 - (f) "CI" means Conservation International Foundation, a nonprofit corporation organized under the laws of the State of California in the United States of America, and any of its successors
 - (g) "Debt Reduction Payment" means the transfer of twelve million, six hundred twenty-four thousand, three hundred thirty-three US Dollars (US\$12,624,333) by the U.S. Department of the Treasury from the Debt Restructuring Account to the USAID Account
 - (h) "Debt Service Account" has the meaning set forth in the Debt Swap Agreement
 - (i) "Debt Swap Agreement" means the Agreement between the Government of the United States of America and the Central Bank of Costa Rica Regarding a Debt-for-Nature Swap with Respect to Certain Debt Owed by the Central Bank of Costa Rica to the Government of the United States of America", dated as the date hereof, as it may be amended from time to time
 - (j) "Forest Conservation Agreement" means the Forest Conservation Agreement among the Government of the Republic of Costa Rica, the Central Bank of Costa Rica, The Nature Conservancy, and Conservation International

Foundation, dated as of the date hereof, as amended from time to time

- (k) "FCA Obligations" has the meaning set forth in the Debt Swap Agreement.
- (l) "GOOCR" means the Government of the Republic of Costa Rica, acting primarily in this Agreement through the Ministry of Finance.
- (m) "Oversight Committee" has the meaning ascribed to it in the Forest Conservation Agreement
- (n) "Party" means either the USG or the GOOCR, and "Parties" means, collectively, the USG and the GOOCR
- (o) "Swap Fee Contractual Agreement" means the Swap Fee Contractual Agreement among the Government of the United States of America, Conservation International Foundation, and The Nature Conservancy, dated as of the date hereof.
- (p) "TFCA" means the U.S Tropical Forest Conservation Act of 1998, Public Law No 105-214, as amended
- (q) "TFCA Evaluation Sheet" means a measure of TFCA program effectiveness designed by USG in its sole discretion, as it may be reasonably amended by USG from time to time
- (r) "TNC" means The Nature Conservancy, a nonprofit corporation organized under the laws of the District of Columbia in the United States of America, and any of its successors
- (s) "Trustee" has the meaning ascribed to it in the Forest Conservation Agreement
- (t) "USG" means the Government of the United States of America, acting primarily through the U S Department of the Treasury

ARTICLE II CLOSING

2.1 Conditions Precedent of the USG The obligation of the USG to make the Debt Reduction Payment at the Closing shall be subject to the fulfillment or waiver on or prior to the Closing Date of the following conditions, each of which shall be performed to the satisfaction of the USG

- (a) Swap Fee Contractual Agreement TNC and CI shall have executed and

delivered the Swap Fee Contractual Agreement, such agreement shall be in full force and effect as of the Closing Date, and TNC and CI shall have duly performed and complied in all material respects with all agreements, covenants and conditions required to be performed or complied with by it under the Swap Fee Contractual Agreement as of the Closing Date, and

(b) Forest Conservation Agreement The Forest Conservation Agreement shall have been executed and delivered by the parties thereto and the transactions contemplated in Section 3 thereunder shall have been consummated prior to, or concurrently with, the Closing, and the conditions to closing set forth in the Forest Conservation Agreement shall have been satisfied or waived

(c) Debt Swap Agreement The Debt Swap Agreement shall have been executed and delivered by the parties thereto and the transactions completed thereunder shall have been consummated prior to, or concurrently with, the Closing, and the conditions to closing set forth in the Debt Swap Agreement shall have been satisfied or waived

(d) Other Documents USG shall have received from GOCCR such further documents, opinions and certificates as USG shall reasonably request

ARTICLE III COVENANTS OF THE GOCCR

- 3.1 Imposition of Taxes The execution and delivery of this Agreement and the payment of the FCA Obligations to the Debt Service Account are not currently taxed or are exempt under the laws of Costa Rica from any taxes, duties, fees, levies or other assessments or charges ("Taxes") imposed by the GOCCR or any other local government, taxing authority, or subdivision thereof
- 3.2 Consultation The GOCCR agrees to consult with the USG, CI, TNC, and the CBCR before undertaking any action that could reasonably be expected to affect the activities of the Administrator, the Trustee, or the Oversight Committee
- 3.3 Financial Reports The GOCCR agrees to forward to the USG, within thirty (30) days of receipt, all activity reports, financial audits and other reports from the Administrator or the Trustee required by the Forest Conservation Agreement. The USG acknowledges that reports received from the Administrator or Trustee will fulfill the GOCCR's obligation to provide those reports to the USG
- 3.4 Audits and Evaluations The GOCCR agrees to make its best efforts to assist the USG in the satisfactory performance of any audits and evaluations of the Costa Rica TFCA program deemed necessary by the USG in its sole discretion. Such audits and evaluations may be in addition to audits and evaluations required under the Forest Conservation Agreement. The GOCCR further agrees to make its best efforts to assist the USG in obtaining any information requested by the USG for purposes of such audits and

evaluations (such as the TFCA Evaluation Sheet) The GOCR also agrees to make its best efforts to assist the USG in remedying any deficiencies identified by the USG in the performance of the Costa Rica TFCA program through any such audits and evaluations (including the TFCA Evaluation Sheet) The USG agrees to consult with the Oversight Committee on the existence of deficiencies identified through such audits and evaluations (including the TFCA Evaluation Sheet) and on the solutions to such deficiencies

- 3 5 Notice of Amendment The GOCR shall promptly notify the USG of any proposed amendment to the Forest Conservation Agreement The GOCR must obtain the USG's approval prior to adopting any such proposed amendment

ARTICLE IV CONSULTATION

Upon the written request of either Party, the Parties shall consult concerning the implementation or interpretation of this Agreement These consultations shall take place within thirty (30) days after a request for consultations is received from either of the Parties

ARTICLE V AMENDMENT AND NOTIFICATION

- 5 1 Amendment, Waiver This Agreement may be amended with the written consent of both Parties No provision of this Agreement may be waived orally, but only by a written instrument signed by the Party against whom enforcement of such waiver is sought A failure or delay in exercising any right, power or privilege in respect of this Agreement shall not be presumed to operate as a waiver, and a failure or delay in exercising a single or partial exercise of any right, power or privilege shall not be presumed to preclude any subsequent or further exercise, of that right, power or privilege or the exercise of any other right, power or privilege
- 5 2 Notice All notices, consents, requests, instructions, approvals, and other communications provided for herein shall be in writing and shall be deemed validly given (a) on the date of delivery when delivered by hand, (b) on the date of transmission when sent by facsimile transmission during normal business hours with telephone confirmation of receipt, or (c) on the date of receipt in accordance with the records of receipt of a reputable overnight courier that maintains records of receipt, all addressed as set forth below (or to such other address as any Party shall have designated by notice in accordance with this Section 5 2 to the other Party)

(a) To the USG

Deputy Assistant Secretary for International
Development Finance and Debt
U S Department of the Treasury
1500 Pennsylvania Avenue, N W
Washington, D C 20220 U S A

(202) 622-0070 (telephone)
(202) 622-0658 (facsimile)

(b) To the GOCR

Tesoreria Nacional
Ministerio de Hacienda
Avenida 2da, Calles 1 y 3
San Jose, Costa Rica
(506) 284-5000 (Telephone)
(506) 233-3662 (Facsimile)
Attn Jose Adrian Vargas Barrantes

5 3 Counterparts. This Agreement (and each amendment, modification and waiver in respect of it) may be executed and delivered in counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one instrument. This Agreement shall not be effective unless and until signed by each party hereto.

ARTICLE VI ENTRY INTO FORCE AND TERMINATION

6 1 Entry into Force. This Agreement shall enter into force on the date of the last signature below ("Effective Date"). Each Party's signature below evidences that all necessary domestic legal requirements for entry into force of the Agreement shall be fulfilled under the respective Party's laws.

6 2 Termination. This Agreement shall terminate (a) on September 28, 2007, if the Closing shall not have occurred before that date, or (b) if the Closing has occurred, upon the distribution as grants of all funds paid by the CBCR to the Trustee. In addition, a Party hereto may terminate this Agreement upon or after the termination of the Forest Conservation Agreement, the Debt Swap Agreement, and the Swap Fee Contractual Agreement, provided that the Party intending to terminate this Agreement (i) notifies the other Party by notice seven calendar days in advance of the requested termination date which shall be a Business Day ("Termination Date"), and (ii) is not in default under this Agreement, the Forest Conservation Agreement, the Debt Swap Agreement, or the Swap Fee Contractual Agreement.

[End of text, signature page follows]

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have executed and delivered this Agreement

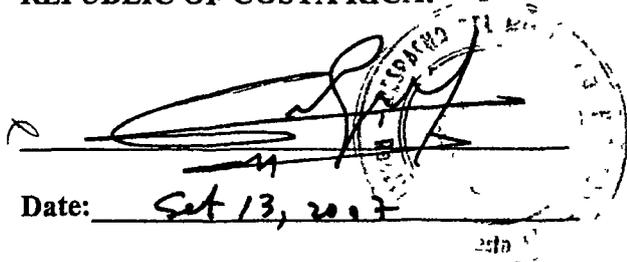
DONE at San Jose, Costa Rica, in the English language, this 13th day of September, 2007.

**FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:**



Date: 9-13-07

**FOR THE GOVERNMENT OF THE
REPUBLIC OF COSTA RICA:**



Date: Set 13, 2007

AMENDMENT NO. 1 TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF COSTA RICA REGARDING A DEBT-FOR-NATURE SWAP PROGRAM UNDER THE U.S. TROPICAL FOREST CONSERVATION ACT (THE "DEBT SWAP PROGRAM AGREEMENT")

The Government of the United States of America and the Government of the Republic of Costa Rica (the "Parties"),

Recognizing that the Parties recently signed the Debt Swap Program Agreement, on September 13, 2007, which became effective on that date pursuant to section 6.1 of the Debt Swap Program Agreement;

Whereas section 5.1 of the Debt Swap Program Agreement allows its amendment with the written consent of both Parties;

In light of the desire by the Parties to resolve in a timely manner an issue concerning the opinion of the Attorney General of Costa Rica that is a requirement under the Forest Conservation Agreement among the Government of the Republic of Costa Rica, the Central Bank of Costa Rica, The Nature Conservancy, and Conservation International Foundation, dated as of September 13, 2007,

Have agreed to delete section 3.5 of the Debt Swap Program Agreement in its entirety and to amend section 6.2 of the Debt Swap Program Agreement by deleting "(a) on September 28, 2007, if the Closing shall not have occurred before that date" and inserting in its place "(a) October 12, 2007, if the Closing shall not have occurred on or before that date".

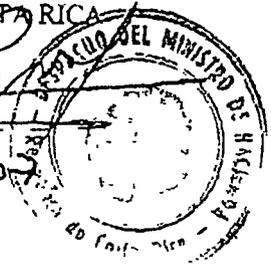
This amendment may be executed in counterparts and shall enter into effect upon the date of the last signature hereto

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA



Date: 9-25-2007

FOR THE GOVERNMENT OF THE REPUBLIC OF COSTA RICA



Date: Sept. 26, 2007