

Schedule of Panama

Annex 1

Central Level Entities

<i>Thresholds</i>	USD 70,079	–	Goods covered in Annex 4
	USD 70,079	–	Services covered in Annex 5
	USD 7,804,000	–	Construction Services covered in Annex 6

1. National Assembly
2. Comptroller General of the Republic
3. Ministry of Trade and Industry
4. Ministry of Agricultural Development
5. Ministry of Economy and Finance
6. Ministry of Education (Note 1)
7. Ministry of de Governance and Justice (Note 2)
8. Ministry of Social Development
9. Ministry of Public Works
10. Ministry of the Presidency (Note 3)
11. Ministry of Foreign Relations
12. Ministry of Health (Note 4)
13. Ministry of Labour and Workforce Development
14. Ministry of Housing and Territorial Planning
15. Ministry of Public Administration (Note 5)
16. Judicial Authority

Notes to the Schedule of Panama

1. Ministry of Education: This Chapter does not cover the procurement of goods classified under Divisions of the United Nations Central Product Classification (CPC) Ver. 1.0, listed below:

- 21 Meat, fish, fruit, vegetables, oils and fats;
- 22 Dairy products;
- 23 Grain mill products, starches and starch products; other food products;
- 24 Beverages;
- 26 Yarn and thread; woven and tufted textile fabrics;
- 27 Textile articles other than apparel;
- 28 Knitted or crocheted fabrics; wearing apparel;
- 29 Leather and leather products; footwear.

2. Ministry of Governance and Justice: This Chapter does not cover the procurement of goods and services listed below by or on behalf of: National Police; National Naval Aviation Service; National Maritime Service, Public Security Institutions Office; and Directorate General of Correctional Services:

(a) classified under Divisions of the CPC Ver. 1.0:

- 21 Meat, fish, fruit, vegetables, oils and fats;
- 22 Dairy products;
- 23 Grain mill products, starches and starch products; other food products;
- 24 Beverages;
- 26 Yarn and thread; woven and tufted textile fabrics;
- 27 Textile articles other than apparel;
- 28 Knitted or crocheted fabrics; wearing apparel;
- 29 Leather and leather products; footwear;
- 431 Engines and turbines and parts thereof;
- 447 Weapons and ammunition and parts thereof;
- 491 Motor vehicles, parts and accessories thereof;
- 496 Aircraft and spacecraft, and parts thereof;

(b) the procurement of food serving services (hot meals).

3. Ministry of the Presidency: This Chapter does not cover the procurement of goods and services listed below by or on behalf of Institutional Protection Service:

(a) classified under Divisions of the CPC Ver. 1.0:

- 21 Meat, fish, fruit, vegetables, oils and fats;
- 22 Dairy products;
- 23 Grain mill products, starches and starch products; other food products;
- 24 Beverages;
- 26 Yarn and thread; woven and tufted textile fabrics;
- 27 Textile articles other than apparel;
- 28 Knitted or crocheted fabrics; wearing apparel;
- 29 Leather and leather products; footwear;
- 431 Engines and turbines and parts thereof;
- 447 Weapons and ammunition and parts thereof;
- 491 Motor vehicles, parts and accessories thereof;
- 496 Aircraft and spacecraft, and parts thereof;

(b) the procurement of food serving services (hot meals); and

this Chapter does not cover the procurement of goods and services by, or on behalf of Public Security and National Defence Council Secretariat and the Social Investment Fund.

4. Ministry of Health: This Chapter does not cover the following:

(a) procurement made in furtherance of public health protection programs, including treatment of HIV/AIDS, Cancer, Tuberculosis, Malaria, Meningitis, Disease of Chagas, Leishmaniasis or other epidemics;

- (b) procurement of vaccines for the prevention of Tuberculosis, Polio, Diphtheria, Whooping Cough, Tetanus, Measles, Mumps, Rubella, Meningitis (Meningococcica), Pneumococcus, Human Rabies, Chickenpox, Influenza, Hepatitis A, Disease for H. Influenza, Hepatitis B, Disease for H. Influenza Type B, and Yellow Fever that are purchased pursuant to an agreement with a not-for-profit international organization such as WHO and UNICEF; or
- (c) procurement of pharmaceutical products under compulsory licensing pursuant to the General Council Decisions of 30 August 2003 on the implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health and of 6 December 2005 on the Amendment of the TRIPS Agreement of the World Trade Organization.

5. Ministry of Public Administration / Office of the Attorney General : This Chapter does not cover the procurement of goods and services listed below by or on behalf of the Judicial Technical Police:

- (a) classified under Divisions of the CPC Ver. 1.0:
 - 21 Meat, fish, fruit, vegetables, oils and fats;
 - 22 Dairy products;
 - 23 Grain mill products, starches and starch products; other food products;
 - 24 Beverages;
 - 447 Weapons and ammunition and parts thereof;
 - 491 Motor vehicles, parts and accessories thereof; and
- (b) the procurement of food serving services (hot meals).

6. This Chapter does not cover procurement for issuing currency, coinage, tax or postage stamps.

Annex 2

Other Covered Entities

Schedule of Panama

<i>Thresholds</i>	USD 350,396	–	Goods covered in Annex 4
	USD 350,396	–	Services covered in Annex 5
	USD 11,213,223	–	Construction Services covered in Annex 6

1. Civil Aeronautics Agency
2. National Customs Agency
3. Panamanian Food Safety Agency
4. Micro, Small and Medium-size Business Agency
5. Land Transit and Transportation Agency (Note 1)
6. Consumer Protection and Competition Defence Agency
7. Panamanian Maritime Agency
8. National Public Services Agency
9. Panamanian Water Resources Agency
10. Public Procurements Office
11. National Environment Agency
12. Agricultural Development Bank
13. National Bingos
14. National Securities Commission
15. Public Ombudsman
16. Agricultural Research Institute
17. Agricultural Marketing Institute
18. Agricultural Safety Institute
19. National Cultural Institute
20. National Sports Institute
21. National Institute for Professional Training and Human Resources Development
22. Panamanian Independent Cooperatives Institute
23. Panamanian Special Training Institute
24. Panamanian Tourism Institute
25. Human Resources Training and Development Institute
26. Public Register of Panama
27. Pension Savings and Capitalization System (SIACAP)

28. Superintendency of Banks
29. Chiriquí Autonomous University
30. Specialized University of the Americas
31. Technological University of Panama
32. Colón Free Trade Zone
33. Electric Transmission Company
34. National Water and Sewers Institute

Notes to Annex 2

1. Land Transit and Transportation Agency: This Chapter does not cover the procurement of license plates or identification stickers for motor vehicles and bicycles.

Annex 3

Panama Canal Authority

1. This Chapter covers procurement by the Panama Canal Authority where the value of the procurement is estimated to equal or exceeds:
 - (a) USD 624,000 for procurement of goods and services; and
 - (b) for procurement of construction services: USD 12,000,000 for 12 years following the entry into force of this Agreement and USD 11,376,255 thereafter.
2. The monetary thresholds set out in paragraph 1 shall be adjusted in accordance with Annex 8.
3. Unless otherwise specified in this Annex, this Chapter covers all agencies subordinate to the Panama Canal Authority.

Notes to Annex 3

1. This Chapter does not cover procurement measures of the Panama Canal Authority designed to promote micro, small and medium enterprises (as defined in Annex 7), in accordance with the following:
 - (a) the Panama Canal Authority may award Panamanian micro, small and medium enterprises a price preference that shall not exceed 10%;
 - (b) further to Article 16.05, Panama shall notify Canada in writing of the establishment of a price preference program established in accordance with subparagraph (a); and
 - (c) a price preference shall be clearly described in the notice of intended procurement or notice inviting suppliers to participate in the procurement and relevant tender documentation.

2. Notwithstanding any other provision of this Chapter, for each of the 12 full fiscal years following the entry into force of this Agreement, the Panama Canal Authority may at its discretion set aside from the obligations of this Chapter procurement contracts for goods, services, and construction services for Panamanian nationals or suppliers owned and controlled by Panamanian nationals, provided that in these fiscal years:

- (a) the total value of the Panama Canal Authority's procurement exceeds USD 200,000,000;
- (b) the total value of the procurement contracts that are set aside does not exceed 10% of the total value of the Panama Canal Authority's procurement contracts for goods, services and construction services awarded in that fiscal year that:
 - (i) are covered by the Chapter, and
 - (ii) exceed the USD 200,000,000 base for the fiscal year; and
- (c) the total value of procurement contracts under any single CPC version 1.0 section that is set aside does not exceed 20% of the total value of the procurement contracts that may be set aside for that year.

3. Where a procurement contract will be set aside pursuant to paragraph 2, the Panama Canal Authority shall clearly state that information in the notice of intended procurement or notice inviting suppliers to participate in the procurement and relevant tender documentation.

4. If in any given fiscal year the total value of procurement contracts set aside by the Panama Canal Authority exceeds the level permitted under paragraph 2, the Parties in conjunction with the Panama Canal Authority shall consult with a view to agreeing on an adjustment in the form of a reduction of the set asides permitted for the following fiscal year.

5. If the Panama Canal Authority proposes to extend the period during which set asides may be applied beyond the twelve-fiscal-year period established in paragraph 2, it shall inform the Parties during the ninth full fiscal year after the entry into force of this Agreement. The Parties, in conjunction with the Panama Canal Authority, shall consult regarding the proposal. If the Parties agree to extend the period, the Panama Canal Authority may continue to apply set asides in accordance with paragraph 2 for the additional period that the Parties agree.

6. Panama shall prepare an annual report providing sufficient detail to establish that set asides have been applied in accordance with paragraph 2.

7. The minimum forty-day time limit set out in Article 16.09(2) shall not apply to the Panama Canal Authority. The Panama Canal Authority shall provide suppliers sufficient time to prepare and submit responsive tenders, taking into account the nature and complexity of the procurement. However, the Panama Canal Authority shall in no case provide for less than 5 business days from the date on which the notice of intended procurement is published on the Internet for the submission of tenders.

8. Article 16.13(5) does not apply to the Panama Canal Authority.

9. Notwithstanding Article 16.13(4), the Panama Canal Authority shall provide no less than 5 business days for suppliers to prepare and submit written challenges, with the understanding that the period shall commence on the first business day that follows the publication of the announcement of the contract award on the Internet.

10. The procurements of the Panama Canal Authority are excluded from the application of Annex 22.03 (Dispute Settlement – Nullification or Impairment).

Annex 4

Goods

This Chapter applies to goods procured by the entities listed in Annex 1 through 3, subject to the Notes to the respective Annex and the General Notes.

Annex 5

Services

This Chapter does not cover the procurement of the following services, as elaborated in the United Nations Central Product Classification (CPC) ver. 1.0.

Code	CPC version 1.0. Description
64	Land transport services
66	Air transport services
6751	Bus station services
6781	Travel agency and tour operator services
68111	Postal services related to letters
68112	Postal services related to parcels
68113	Post office counter services
68119	Other postal services
6911	Electricity transmission and distribution services
692	Water distribution services through mains
81	Research and development services.
91	Public Administration and other Services to the Community as a whole; Compulsory Social Security Services
92	Education Services
93	Health and Social services
9692	Gambling and Betting Services
D304	ADP Telecommunications and Transmission Services, except for those services classified as “enhanced or value-added services”. For the purposes of this provision, the procurement of “ADP Telecommunications and Transmission Services” does not include the ownership or furnishing of facilities for the transmission of voice or data.

D305	Teleprocessing and Timesharing Services
D316	Telecommunications Network Management Services
D317	Automated News Services, Data Services or Other Information Services
D399	Other ADP and Telecommunications Services
M	Operation of Government-Owned Facilities

Annex 6

Construction Services

This Chapter covers all construction services except dredging services.

Annex 7

General Notes

1. This Chapter does not apply to:
 - (a) procurements made under the system of concessions granted by the State, other than public works concession contracts;
 - (b) procurement measures designed to promote micro, small and medium enterprises, in accordance with the following:
 - (i) a “micro, small and medium enterprise” is defined, for purposes of this Annex, as a business that has total annual sales of no more than USD 2,500,000,
 - (ii) for a period of up to 5 years after the entry into force of this Agreement, or a longer period that the Joint Commission determines, the Republic of Panama may award its micro, small and medium enterprises a price preference that shall not exceed 10% in tenders covered by this Chapter,
 - (iii) further to Article 16.05, Panama shall notify Canada of any price preference measure established in accordance with paragraph (ii),
 - (iv) if, before the end of the five-year period established in subparagraph (ii), Panama requests an extension of the period, the Joint Commission shall discuss whether there is a need to extend the period during which price preferences may be applied, and, if it determines that there is such a need, to establish the terms and conditions of the extension,

- (v) if the *Trade Promotion Agreement between the United States and Panama* (TPA) enters into force at a later date than this Agreement, the five-year period established under subparagraph (ii) is extended so that it ends on the same date as the five-year period established under paragraph 1(b)(i) of Panama's Schedule to Section H of Annex 9.1 (Government Procurement) of the TPA,
 - (vi) any price preference shall be clearly described in the notice of intended procurement or notice inviting suppliers to participate in the procurement and relevant tender documentation, and
 - (vii) If following the entry into force of this Agreement, the Republic of Panama proposes to implement a procurement measure that is intended to provide an exclusive right for its micro, small and medium enterprises to provide a good or service covered by this Chapter, Panama shall notify such proposal to Canada and enter into consultations with Canada regarding the need, and any terms and conditions, for such a measure. The Republic of Panama may implement the measure subject to such terms and conditions as the Joint Commission may determine;
- (c) procurement of agricultural products linked to agricultural development and support and food aid programs;
 - (d) procurement made by a Panamanian entity to another Panamanian entity; and
 - (e) procurement of transportation services that form a part of, or are incidental to, a procurement contract.

2. The Notes in this Annex apply to this Chapter and all of the Annexes to the Panamanian Schedule.

Annex 8

Threshold Adjustment Formulas

1. The thresholds will be adjusted at two-year intervals, with each adjustment taking effect on January 1, beginning on January 1, 2012.

2. The thresholds for:

- (a) construction services procured by entities listed in Annex 1, and
- (b) goods and services procured by the entity listed in Annex 3,

will be adjusted in accordance with the *WTO Agreement on Government Procurement GPA/1*, Annex 3. Canada shall notify Panama in writing of the adjusted threshold values in the applicable currencies in December of the year before the adjusted thresholds take effect.

3. The thresholds for:

- (a) goods and services procured by entities listed in Annex 1, and
- (b) goods, services and construction services procured by entities listed in Annex 2,

will be adjusted in accordance with Annex 1001.1c of the *North American Free Trade Agreement between the Government of Canada, the Government of the United Mexican States and the Government of the United States of America*, done at Mexico, Ottawa and Washington on 17 December 1992 (“NAFTA”). Canada shall notify Panama in writing of the adjusted threshold values in the applicable currencies in December of the year before the adjusted thresholds take effect.

4. The thresholds for:
- (a) construction services procured by the entity listed in Annex 3 that are applicable the thirteenth year following the entry into force of this Agreement will:
 - (i) if the TPA enters into force, be set at the thresholds established under Annex 9.1 (Government Procurement), Section D (Panama Canal Authority) of the TPA, and be adjusted under Section I (Threshold Adjustment Formula) of the TPA, or
 - (ii) if the TPA has not entered into force, be adjusted in accordance with paragraph 3 of this Annex;
 - (b) construction services in Annex 3, applicable for 12 years following the entry into force of this Agreement (USD 12,000,000), will not be adjusted.

5. If a major change in a currency used by a Party during a year creates a significant problem with regard to the application of the Chapter, the Joint Commission shall determine whether an interim adjustment is appropriate.

6. In the event that:
- (a) Canada withdraws from the *WTO Agreement on Government Procurement* pursuant to Article XXIV of that Agreement, or the NAFTA pursuant to Article 2205 of that Agreement,
 - (b) the *WTO Agreement on Government Procurement* or the NAFTA is terminated, or
 - (c) a threshold adjustment formula referenced in paragraphs 1, 2, 3 or 4 is altered,

the Committee on Procurement shall determine a suitable alternative threshold adjustment formula.

Annex 9

Transitional Thresholds for Goods and Services Procured by Central Level Entities of Panama

Transitional Thresholds

1. For a transitional period of 3 years from the date of entry into force of this Agreement, Panama shall apply a threshold of SDR 95,000 for goods and services procured by entities listed in Annex 1.

Domestic Currency Adjustment

2. Panama shall adjust the transitional threshold value of this Annex based on an average of the daily conversion rates of the U.S. dollar in terms of SDRs, published by the International Monetary Fund in its monthly “International Financial Statistics”, for the two-year period ending September 30 of the year before the adjusted transitional thresholds take effect.

Adoption of Permanent Thresholds

3. At the end of the transitional period, Panama may adopt the thresholds in Annex 1 for goods and services.

4. If Panama is not able to adopt the thresholds in Annex 1 for goods and services procured by entities listed in Annex 1:

- (a) Panama shall notify Canada a minimum of 3 months before the end of the transitional period; and
- (b) the Parties shall adopt the threshold listed in paragraph 1 of this Annex.

5. The new thresholds adopted under paragraphs 3 or 4 will replace the thresholds for goods and services for Canada and Panama procured by entities in Annex 1, and the new adopted threshold values will be adjusted for Canada and Panama in accordance with Annex 8, paragraph 2 or 3 as appropriate.