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## **II. TRADE AND INVESTMENT REGIME**

### **(1) OVERVIEW**

1. Panama joined the WTO in 1997. Since then it has made numerous notifications to the WTO, although in April 2007 it was in arrears in some cases. It has used the dispute settlement mechanism on three occasions as a complainant and once as defendant. Although it is not currently a signatory of any of the WTO plurilateral agreements, it is in the process of joining the Plurilateral Agreement on Government Procurement. Panama has signed the Agreement on Information Technology and was in the process of implementing it in mid-2007. It is participating actively in the Doha Development Round negotiations and has put forward a number of proposals, either individually or in conjunction with other countries.

2. Panama considers that trade liberalization is a valid tool to strengthen development, but believes that the concerns of each WTO member need to be taken into consideration. It also believes that a country's trade development should be achieved through market access, rather than rely on preferences.

3. Panama has free trade agreements in place with El Salvador, Chinese Taipei and Singapore; and it participates in other preferential agreements with Colombia, Costa Rica, Guatemala, Honduras, Mexico, Nicaragua and the Dominican Republic. Panama has also signed a free trade agreement with Chile and has completed negotiations for another with the United States; as of 2007, however, these agreements were not yet in force. The latter agreement could have a major regulatory impact in addition to significant economic effects, since the United States is Panama's main trading partner.

4. Panama's foreign investment regime offers national treatment with some exceptions. The Constitution reserves for Panamanian citizens the acquisition of land located less than 10 km from the country's borders, as well as wholesale trade, fishing in Panamanian territorial waters and broadcasting. In addition, the operation of games of chance and gambling, along with postal and telegraph services, are reserved as State monopolies. In the case of games of chance and gambling, the Tax Code gives the Gaming Control Board of the Ministry of the Economy and Finance (MEF) the power to regulate the exploitation and operation of casinos, bingos, hippodromes and other related activities by signing contracts with private Panamanian or foreign-owned firms. In practice, it also holds a monopoly on electric power transmission. Foreign investment in the air transport sector is subject to restrictions. Panama has bilateral investment treaties in force with 16 countries for the reciprocal promotion and protection of investments.

### **(2) TRADE POLICY AND INVESTMENT FRAMEWORK**

#### **(i) General institutional and legal framework**

5. Panama is a unitary republic. The 1972 Political Constitution of the Republic, as amended by the Reforming Act of 1978, the Constitutional Act of 1983, and Legislative Acts Nos. 1 of 1993, 2 of 1994 and 1 and 2 of 2004, vests executive power in a President elected by direct popular suffrage for a five-year term. A First and Second Vice President are also elected by the same system, along with the President, for a similar term of office. Neither the President nor the Vice Presidents can be re-elected to the same office in two consecutive presidential periods. The most recent elections were held in May 2004. The President appoints Ministers of State, and concludes and signs treaties and other international agreements.

6. The President issues the instructions and regulations needed to enforce legislation, and also participates in the formation of laws, and sanctions and promulgates them. In exceptional circumstances, the Executive may issue decree laws for reasons of necessity and urgency, when the National Assembly is in recess.<sup>1</sup> Decree laws of this type must be submitted to parliament for legislation on the issue during the ordinary session of the legislative following their promulgation. The President of the Republic is empowered to reject a draft law should he or she consider it ill-advised or unenforceable.

7. The President of the Republic, together with the Vice Presidents and Ministers of State, comprise the Cabinet Council, a consultative body that deals with issues submitted by the President for its consideration. The Cabinet agrees with the President of the Republic on the appointments of Supreme Court judges, the National Attorney General, the Attorney General of Administration, and their respective alternates, subject to National Assembly approval; and also on the signing of contracts, negotiation of loans and divestment of national movable or immovable property. The Cabinet Council is also responsible for organizing public credit, recognizing the national debt and arranging for its service, and for setting and altering tariffs, rates and other provisions relating to the customs regime.

8. Legislative power rests with a single-chamber National Assembly<sup>2</sup>, which currently consists of 78 members, who are elected by direct popular vote as party candidates. Deputies are elected for a five-year term on the same day as the presidential election. Apart from its legislative function, the National Assembly's powers include approving for ratification or rejecting, but not amending, international treaties and agreements signed by the Government; and to establish national taxes and contributions, rents and official monopolies for the provision of public services.

9. Laws are classified as organizational (those deemed necessary to fulfil the purposes and exercise certain functions of the State established in the Constitution), and ordinary (issued in relation to any other matter). To pass an organizational law requires a favourable vote by an absolute majority of all members of the National Assembly, whereas ordinary laws only require approval by a majority of the parliamentarians present.

10. The existing legal instruments are ranked in the following order: the Constitution; international treaties; laws issued by the National Assembly and decree laws; administrative decisions by the Cabinet of Ministers; and resolutions issued by the Cabinet and by the incumbents of regulatory bodies. International agreements have to be approved by the legislature and become an integral part of Panamanian domestic law.

11. The judiciary consists of the Supreme Court of Justice, the higher courts of justice, and the circuit/sectional and municipal courts established by law. The Ex-Officio Ombudsman's Institute (*Instituto de Defensoría de Oficio*) also forms part of the judiciary. The Supreme Court of Justice consists of nine magistrates appointed for a ten-year term by the Cabinet Council, subject to approval by the legislature. Magistrates in the other courts are appointed by the Supreme Court, and judges by their supervisors. There are 36 higher court magistrates.<sup>3</sup>

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<sup>1</sup> Article 159 of the Constitution.

<sup>2</sup> Article 146 of the Constitution.

<sup>3</sup> Judiciary of the Republic of Panama, Organization of the Judiciary. Consulted at: <http://www.organojudicial.gob.pa/contenido/organizacion/judicial/jerarquia.htm>.

12. The Office of the Comptroller General of the Republic is the State supervision body. It is required to submit an annual report on its activities to the Government and the National Assembly.<sup>4</sup>

13. The Constitution provides that the Government will be represented in each province by a Governor who can be freely appointed and dismissed. Each province has a Provincial Council, consisting of all the representatives of the province's districts (*corregimientos*). The Provincial Council acts as a consultative body for the Provincial Governor, as well as for the provincial authorities and national authorities generally.

**(ii) Objectives, formulation and application of trade policy**

14. The Ministry of Trade and Industry (MICI) is responsible for the formulation and implementation of trade policy in Panama. Within the MICI, the Vice Ministry of Foreign Trade (VICOMEX) formulates the country's foreign trade policy. The Office of International Trade Negotiations (ONCI), also attached to MICI, acting through its two subsidiaries, the National Office of International Trade Negotiations Directorate (DINECI) and the National Directorate for the Administration of International Trade Treaties and Trade Defence (DINATRADEC), is responsible for negotiating bilateral and multilateral trade agreements<sup>5</sup>, and subsequently implementing them. To fulfil this task, ONCI coordinates with all public institutions that have jurisdiction on each of the issues covered in the treaties; and it also collaborates with the private and production sector to define negotiating positions and administrative coordination. This coordination is undertaken through the International Trade Negotiations Commission, which is attached to DINECI and consists of government officials and the main representatives and alternates of the most representative private-sector associations. At the present time the MICI is also in the process of creating the Commission for the Administration of International Trade Agreements, which will be attached to the DINATRADEC, to deal with implementation issues arising in current agreements.

15. The main guidelines of Panama's trade policy are contained in the National Foreign Trade Strategy prepared by VICOMEX, which pursues the following objectives: the signing of international agreements on external trade; promotion of Panamanian exports; promotion of the domestic changes needed to improve production; active private-sector participation in the formulation of strategies to improve the business climate; and the formation of clusters in priority sectors.<sup>6</sup>

16. In the context of this review, the authorities stated that the multilateral trading system and the WTO are at the centre of Panama's trade policy. They indicated that the priority of Panamanian trade policy is to move the country towards multilateral integration, involving more open trade practices and greater opportunities for the Panamanian economy. They also stated that Panama relies on the multilateral trade system, in a strong multilateral scenario with clear and transparent rules, in seeking the benefits of stability for a small economy that is dependent on international trade. The authorities see trade policy as a key tool for increasing competitiveness, supported by social and educational policy. Apart from participation in the WTO, the authorities consider that the deepening of regional integration, negotiation of trade and investment agreements, unilateral openness, and a national competitiveness strategy are important elements in attaining its trade policy goals.

<sup>4</sup> The most recent of these reports (as at April 2007), can be consulted on the Comptroller General Internet site (Office of the Comptroller General of the Republic (2007)).

<sup>5</sup> See: <http://www.mici.gob.pa/negociaciones.php>. Law No. 6 of 15 February 2006 restructured the MICI, creating the Office of the Chief of International Trade Negotiations, who is responsible for negotiations in the WTO, as well as monitoring all related issues.

<sup>6</sup> VICOMEX, *National Strategy on External Trade, Programs, Projects and Targets 2004-2009*. Consulted at: <http://www.mici.gob.pa/comerciointerior/2>.

17. Panama sees trade liberalization as a valid instrument for strengthening development ideals<sup>7</sup>; but, as each country's development and economic conditions are different, the concerns of each WTO Member need to be analysed in order to offer them the tools they need to prosper.<sup>8</sup> Panama also considers that the country's trade development should be achieved through market access, rather than depend on preferences.<sup>9</sup>

18. The authorities believe complementary mechanisms are needed to exploit the advantages generated by this trade liberalization process; and, for this purpose, the Complementary Agenda is being implemented. It has five objectives: strengthening the country's economy by making enterprises more productive; increasing Panama's exports; positioning the country as a destination for foreign direct investment; making human resources, innovation and technological development the driving forces in the economy; and improving trade facilitation schemes with streamlined export mechanisms. The Complementary Agenda is administered by a Council of Ministers for the Complementary Agenda and Competitiveness, chaired by the MICI. In addition, a Technical Secretariat, attached to the Office of the President of the Republic, was created to coordinate, prepare and execute issues within the Council's jurisdiction.

### (3) FOREIGN INVESTMENT REGIME

19. In Panama there is no specific legal statute on foreign investment, and the general legal regime is applied equally to national and foreign investors alike. The Constitution provides that foreigners in the national territory shall receive the same treatment as nationals, but it allows the authorities to impose special conditions or deny access to certain activities to foreigners in general (Article 20 of the National Constitution (C.N.)), for reasons of employment, health, morality, public safety and national economy.

20. The Constitution reserves for Panamanian citizens the acquisition of national or private land located less than 10 km from the country's borders (Article 291 of the C.N.), and exercise of wholesale trade (except in firms that sell products manufactured by themselves) (Article 293 of the C.N.). It also reserves for Panamanian citizens the right to fish in Panamanian waters when the produce is to be sold within the country (Article 286 of the Tax Code), and also the activity of broadcasting (Article 286 of the C.N. and Articles 14 and 25 of Law No. 24 of 30 June 1999). In addition, Panamanian legislation reserves for the State the right to operate certain activities on a monopoly basis; as of mid-2007, these were confined to games of chance and gambling, and postal and telegraph services. At the same date, the State held a de facto monopoly on electric power transmission. According to the Constitution, salt pans, mines, underground and thermal waters, hydrocarbon deposits, quarries and mineral deposits of all kinds may not be privately owned, but they can be exploited by private enterprise through concessions or other types of contract (Article 257 of the C.N.).

21. Law No. 54 of 22 July 1998 (Law on Legal Stability for Investments) promotes and protects investments made in Panama, including foreign investment. The Vice Ministry of Foreign Trade, acting through the National Investment Promotion Directorate, is responsible for trade policy, both domestic and foreign. Law No. 54 states that foreign investors and the enterprises in which they participate have the same rights and obligations as national investors and enterprises, without any restrictions other than those established in the Constitution. The same law allows foreign investors to freely dispose of the proceeds of their investment, guaranteeing free repatriation of capital, dividends,

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<sup>7</sup> WTO document WT/MIN (01)/ST/58 of 11 November 2001.

<sup>8</sup> WTO document WT/MIN (01)/ST/58 of 11 November 2001.

<sup>9</sup> WTO document WT/MIN (05)/ST/119 of 16 December 2005.

interest and the profits arising from the investment, and freedom to market their production. For firms registered in the National Investment Promotion Directorate, the law freezes all conditions existing at the time an investment is made. Registration is not mandatory, however.

22. There are also certain restrictions relating to the nationality of a firm's executive staff and workers. Up to 10 per cent of a firm's total work force may be foreign nationals, and up to 15 per cent in the case of technical or specialized personnel. The proportion of foreign technical or specialist staff may be increased, for a predefined period, with due authorization from the Ministry of Labour.

23. Although foreign investment does not need prior authorization, registration and licensing requirements exist in certain activities that generate investments, e.g. banks, insurance and reinsurance (chapter IV(iii)).

24. Royalties remitted abroad are subject to a 15 per cent tax on the amount of the remittance; in addition, interest paid abroad is subject to a withholding tax of 6 per cent of the amount remitted (chapter III(4)(i)).

25. The Constitution allows for the possibility of expropriations but only in cases involving public utility or social interest, through a special legal ruling and prior payment of indemnification. The amount of the indemnification is generally established by a market valuation of the property in question, but the legislation does not indicate how compensation should be paid (Article 48 of the C.N. and Article 18 of Law No. 54 of 22 July 1998).

26. Disputes are settled through the national courts; and the foreign investor has access to the same procedural remedies as the local investor. Where investment agreements have been signed with other countries, the provisions indicated in the corresponding agreements are applied. It is also possible to use international arbitration. Panama is a member of the Multilateral Investment Guarantee Agency (MIGA) (Law No. 19 of 8 January 1996), and the International Centre for Settlement of Investment Disputes (ICSID) (Law 13 of 3 January 1996). Only one case has been brought against Panama in ICSID since it joined this organization in May 1996 – a complaint, filed in December 2006, concerning a situation in the electric power sector.<sup>10</sup>

27. Panama has signed agreements for the reciprocal promotion and protection of investments with 18 countries, 16 of which were in force in June 2007.<sup>11</sup> It also has double taxation agreements with eight countries; these agreements are not general but are limited to taxation in the areas of international maritime and/or air transport, depending on the agreement.<sup>12</sup>

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<sup>10</sup> Nations Energy Inc. and others v. Republic of Panama (Case No. ARB/06/19). Information consulted on the ICSID Internet site: <http://www.worldbank.org/icsid/cases/pending.htm>.

<sup>11</sup> The countries are as follows (year of signing the treaty): Argentina (1996), Canada (1996), Chile (1996), China (1992), Cuba (2001), Czech Republic (1999), France (1982), Germany (1983), Korea (1996), Mexico (2005), Netherlands (2000), Spain (1997), Switzerland (1985), United Kingdom (1983), United States (1982) and Uruguay (1998). In 2003, Panama signed agreements with the Dominican Republic and Ukraine which were still awaiting ratification by the countries in question as of mid-2007.

<sup>12</sup> Panama has agreements with: Argentina (maritime transport, 2005), Chile (air transport, 1996), Cyprus (shipping, 1993), France (shipping and aircraft operation, 1995), Mexico (air navigation services on official visits, 2005), Netherlands (aircraft operating enterprises, 1997), Peru (international aircraft operation, 1996), Spain (aircraft operation, 1994) and the United States (maritime and air transport, 1987) (see Ministry of Foreign Relations: <http://www.mire.gob.pa/>).

**(4) INTERNATIONAL RELATIONS**

**(i) World Trade Organization**

28. Panama has been a WTO member since 6 September 1997.<sup>13</sup> It grants MFN treatment or better to all its trade partners. Although it is not a signatory of any of the WTO plurilateral agreements, it has observer status in the Committee on Government Procurement, and is in the process of joining this plurilateral agreement.<sup>14</sup> Given the date of its accession to the WTO, Panama did not participate in the expanded negotiations on telecommunications or financial services within the GATS framework.

29. Panama has signed the Information Technology Agreement (ITA), but has yet to submit formal documentation to the WTO supporting its application.<sup>15</sup> The authorities stated that they are working on implementation of the Agreement.

30. Panama has submitted a large number of notifications to the WTO, but several were pending in April 2007, e.g. on agricultural export subsidies (for 2004 and 2005), domestic support (for 2003, 2004 and 2005), and anti-dumping measures as from 2004 (see Table AII.1).

31. Panama has participated in the WTO dispute settlement mechanism as a defendant in one case, as complainant in three; and as a third party in a further three cases. In March 2005, Mexico requested consultations with Panama in relation to Cabinet Decree No. 20 of 17 July 2002, in which Panama created two new dairy product subheadings in its national tariff. Mexico claimed that the new tariff classification for those dairy products could violate several Articles of the GATT 1994 and the Agreement on Agriculture, while at the same time undermining the tariff concessions that Panama granted to Mexico upon joining the WTO. In September 2005, the parties to the dispute notified the DSB that they had found a mutually satisfactory solution.<sup>16</sup>

32. Of the three cases in which Panama participated as a defendant, panels were established in two cases relating to the European Union's banana regime. In the third case, Panama requested consultations with Colombia in July 2006<sup>17</sup>, but in December 2006, it notified the DSB that the case had been settled mutually.

33. In the WTO Doha Round negotiations, Panama has submitted several contributions and proposals either individually or in conjunction with other WTO members. In conjunction with a group of countries that are not founder members of the WTO, it presented a communication calling for differential treatment in the Doha Round agriculture negotiations for countries defined in the proposal as "Recently Acceded Members."<sup>18</sup> With regard to market access for non-agricultural

<sup>13</sup> General Council Decision of 2 October 1996. WTO document WT/ACC/PAN/20 of 11 October 1996.

<sup>14</sup> WTO document GPA/89 of 11 December 2006.

<sup>15</sup> WTO document G/IT/1/Rev.39 of 26 March 2007.

<sup>16</sup> See: [http://www.wto.org/english/tratop\\_e/dispu\\_e/cases\\_e/ds329\\_e.htm](http://www.wto.org/english/tratop_e/dispu_e/cases_e/ds329_e.htm).

<sup>17</sup> See [http://www.wto.org/spanish/tratop\\_s/dispu\\_s/cases\\_s/ds348\\_s.htm](http://www.wto.org/spanish/tratop_s/dispu_s/cases_s/ds348_s.htm), and WTO document G/L/782, G/VAL/D/8, WT/DS348/1 of 25 July 2006.

<sup>18</sup> WTO document TN/AG/GEN/24 of 13 March 2007, *Negotiating proposal by Recently Acceded Members*, submitted in conjunction with Albania, Armenia, China, Croatia, Ecuador, Former Yugoslav Republic of Macedonia, Jordan, Kyrgyz Republic, Moldova, Mongolia, Oman, Panama, Saudi Arabia, The Separate Customs District of Taiwan, Penghu, Kinmen and Matsu, and Viet Nam.

products, Panama also supported a joint proposal for "Recently Acceded Members" which advocates treatment beyond that currently available to developing countries.<sup>19</sup>

34. Panama has participated in a joint communication for the liberalization of tropical products<sup>20</sup>; and it has also submitted joint proposals for the liberalization of financial services<sup>21</sup>, and trade in fish and fish products.<sup>22</sup> Panama circulated its initial offer on services in the context of the Doha Development Agenda negotiations in April 2003. As of June 2007, it had not presented a revised offer.

**(ii) Preferential trade agreements**

**(a) Current free trade agreements**

35. As of April 2007, Panama had free trade agreements in force with El Salvador, Chinese Taipei and Singapore. Its trade with these three countries is small, however: El Salvador accounted for just 1.3 per cent of Panama's total trade in 2005; Chinese Taipei accounted for 0.9 per cent of the total, and Singapore less than 0.1 per cent.

36. The Free Trade Agreement (FTA) between Central America and Panama and the Bilateral Protocol between El Salvador and Panama were signed on 6 March 2002, and ratified by Panama through Law No. 24 of 2003, in the first case, and Law No. 25 of 2003, in the second. The Central America-Panama FTA entered into force for El Salvador and Panama on 11 April 2003, laying the foundations for creating a free-trade zone with the other Central American countries.<sup>23</sup> The FTA eliminates most customs duties, albeit with some exceptions. In the case of Panama, these mainly involve alcoholic beverages, clothing and textiles, and automobiles, for which the MFN tariff will continue to be applied. The agreement also regulates rules of origin, customs procedures, safeguard measures, unfair trade practices, technical barriers to trade, sanitary and phytosanitary measures, investment, cross-border trade in services, financial services, telecommunications, temporary entry of business personnel, competition policy, government procurement, intellectual property and dispute settlement. The FTA includes disciplines on export subsidies and domestic support for agriculture, but allows certain restrictions on imports and exports.<sup>24</sup> The agreement contains a positive list of commitments on services.

<sup>19</sup> WTO document TN/MA/W/83 of 26 February 2007. *Market access for nonagricultural products, negotiating proposal of Recently Acceded Members*. Communication of Albania, Armenia, Croatia, Ecuador, Former Yugoslav Republic of Macedonia, Jordan, Kyrgyz Republic, Moldova, Mongolia, Oman, Panama, The Separate Customs District of Taiwan, Penghu, Kinmen and Matsu, and Viet Nam.

<sup>20</sup> WTO document TN/AG/GEN/19 of 8 June 2006. *Proposals on modalities and implementation for the fullest liberalization of tropical and alternative products*, Communication of Colombia, Costa Rica, Guatemala and Panama.

<sup>21</sup> WTO document TN/S/W/43, S/FIN/W/43 of 8 June 2005. Communication of Australia, Bahrain, Canada, the European Communities, Japan, Norway, Oman, Panama, Singapore, Switzerland, The Separate Customs District of Taiwan, Penghu, Kinmen and Matsu, and the United States.

<sup>22</sup> Jointly with Canada, Iceland, Norway, New Zealand, Singapore and Thailand. WTO document TN/MA/W/63/Add.1 of 22 May 2006.

<sup>23</sup> The text of the agreement and the full list of tariff reductions can be consulted on the Internet site of the Central American Integrated Economic Information System (SIECA), [http://www.sieca.org.gt/Publico/RelacionesComercialesExternas/TLC-CA\\_Panama/listapan.pdf](http://www.sieca.org.gt/Publico/RelacionesComercialesExternas/TLC-CA_Panama/listapan.pdf).

<sup>24</sup> In the case of Panama, these include narcotic drugs, gunpowder and explosives, scrap rubber, retreaded or used tyres, used clothing and footwear, used vehicles and armaments, among other items.

37. The FTA with Chinese Taipei was signed on 21 August 2003 and entered into force on 1 January 2004. It was ratified in Panama and incorporated into domestic legislation through Law No. 62 of 18 October 2003.<sup>25</sup> The agreement freezes tariffs on merchandise trade as from the moment it enters into force; it also defines a group of goods subject to immediate tariff reduction, proposes progressive elimination of other tariffs through a reduction schedule, and establishes mechanisms for consultation on goods, rules of origin and customs procedures. The tariff reduction schedule encompasses products to be liberalized over five or ten years, in equal annual instalments, and another group for which tariff duties will remain at the base level. The agreement provides guidelines on rules of origin, customs procedures, sanitary and phytosanitary measures, technical barriers to trade, competition policy, government procurement, investment, cross-border trade in services, financial services, telecommunications, electronic trade, transparency and dispute settlement. It also contains a positive list of commitments on services.

38. The FTA with Singapore was signed on 1 March 2006 and entered into force on 1 July 2006. In Panama it was ratified and incorporated into domestic legislation through Law No. 19 of 20 June 2006.<sup>26</sup> The agreement freezes tariffs on merchandise trade as from the moment it enters into force; and it proposes progressive tariff elimination through a reduction schedule, and establishes consultation mechanisms on goods, rules of origin and customs procedures. The authorities state that Panama granted Singapore immediate liberalization of an estimated 94 per cent of its exports, and tariff reduction periods of five or ten years in equal annual instalments for the remainder of its tariff lines. For other products, the tariff will remain at the base rate for ten years and then will either be eliminated or remain at the base level without reduction.<sup>27</sup> The FTA provides guidelines on rules of origin, customs procedures, sanitary and phytosanitary measures, technical barriers to trade, competition policy, government procurement, investment, cross-border trade in services, financial services, telecommunications, electronic commerce, transparency and dispute settlement. It also includes a positive list of commitments on services.

(b) Other treaties and preferential agreements

39. Panama had four free trade and preferential exchange treaties in force in April 2007, with Costa Rica, Guatemala, Honduras and Nicaragua, all of which have the same basic design<sup>28</sup> and were signed in the 1970s. The agreements were being renegotiated in mid-2007 along the lines of the Panama-El Salvador agreement. Each agreement relates exclusively to products included on a positive list, which are duty-free, albeit subject to tariff quotas in some cases.<sup>29</sup>

<sup>25</sup> The full text of the agreement can be consulted at: <http://www.mici.gob.pa/>.

<sup>26</sup> The full text of the agreement can be consulted at: [http://www.mici.gob.pa/negociaciones/25574\\_2006%20Singapur.pdf](http://www.mici.gob.pa/negociaciones/25574_2006%20Singapur.pdf).

<sup>27</sup> MICI, Panama-Singapore Free Trade Agreement. Consulted at: <http://www.mici.gob.pa/encuentro1/Presentacion%20mici%20Singapur.pdf>.

<sup>28</sup> The texts of these treaties can be consulted at the MICI and MIRE internet sites: (<http://www.mici.gob.pa/tratados.php>) and (<http://www.mire.gob.pa/>), respectively. The agreement with Costa Rica was signed on 8 June 1973, approved through Law No. 2 of 8 November 1973 and entered into force on 16 January 1974. The agreement with Guatemala was signed on 20 June 1974, approved through Law No. 2 of October 1974 and entered into force on 25 April 1975. The agreement with Honduras was signed on 8 November 1973, approved through Law No. 13 of 9 November 1973 and entered into force on 14 February 1974. The agreement with Nicaragua was signed on 26 July 1973, approved by Law No. 4 of 8 November 1973 and entered into force on 18 January 1974.

<sup>29</sup> The list of products included in the Free Trade and Preferential Exchange Agreement between Costa Rica and Panama can be consulted on the Internet site of the Ministry of Foreign Trade of Costa Rica (<http://www.comex.go.cr/acuerdos/comerciales/TLC%20Panama/lista.pdf>). The list of products included in the



40. As of April 2007, Panama also had partial scope agreements with Colombia, Mexico and the Dominican Republic.

41. The partial scope agreement between Panama and Columbia was signed on 9 July 1993 and entered into force on 18 January 1995. Protocols amending lists of concessions entered into force in 2003 and 2005.<sup>30</sup> Preferences of 50, 70 or 100 per cent are applied to a small group of products.<sup>31</sup> The partial scope agreement between Panama and Mexico was signed on 22 May 1985 and entered into force on 24 April 1986. It grants unilateral preferences for a small group of Panamanian products to access the Mexican market; Panama does not grant preferences under this agreement.

42. The partial scope agreement between Panama and the Dominican Republic was approved by Law No. 19 of 27 December 1985 and entered into force on 8 June 1987. An annex to the agreement lists 120 products for which trade between the two countries is duty-free in both directions<sup>32</sup>; and there is a list of 25 Panamanian export products for which the Dominican Republic grants duty-free access, and a list of 26 products for which Panama grants duty-free entry from the Dominican Republic. The latter include products such as fish, plastic fibres, paints and yarns, among other items.

(c) Preferential agreements awaiting entry into force

43. Panama has also signed free trade agreements with Chile and the United States, but they were not yet in force at April 2007.

44. The Panama-Chile FTA was signed on 27 June 2006, and approved by Panama through Law No. 7 of 12 January 2007. The treaty envisages stepwise elimination of tariffs between the two countries, starting on 1 January of the year in which the agreement enters into force. In the case of Panama, the reduction schedule includes goods for which tariffs will be eliminated immediately; goods that will be liberalized progressively over 5, 10, 12 or 15 years; and others for which tariff duties will remain at the base rate without reduction. The treaty also covers rules of origin, customs procedures, sanitary and phytosanitary measures, technical barriers to trade, competition policy, government procurement, investment, cross-border trade in services, financial services, telecommunications, electronic commerce, transparency and dispute settlement. The FTA contains a positive list of commitments on services. In 2005, trade with Chile accounted for 0.6 per cent of Panama's total trade.

45. Negotiations leading to the Trade Promotion Treaty (TPA) between Panama and the United States were completed on 19 December 2006. The draft treaty envisages phased elimination of tariffs between the two countries, starting on 1 January of the year in which the agreement enters into force. In general, the maximum phase-out period in the case of Panama is 20 years. Some products (e.g. potatoes and fresh onions for Panama) do not have any tariff reduction commitment and will be liberalized only through a quota. In the agriculture sector, grace periods of two and ten years were

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Free Trade and Preferential Exchange Agreement between Honduras and Panama can be consulted at: <http://www.mici.gob.pa/honduras/Correlacion%20Honduras%20ordenadov.htm>.

<sup>30</sup> See <http://www.mici.gob.pa/segundo%20protocolo%20colombia/Preferencia%20que%20Panama%20aplicara%20a%20Productos%20de%20Colombia%202005.pdf>.

<sup>31</sup> These include fish, seafood, certain fruits and vegetables; aluminium, acetic acid; aniline and its salts; cosmetic products; lacquers; ointments; hygiene, medical or surgical articles; office utensils; bobbins; hats; deodorants; mirrors; pipes; screws.

<sup>32</sup> These include a group of agricultural products, fish and seafood, medicines, creams, paper, wood products, certain garments and furniture. The full list can be consulted at <http://www.mici.gob.pa/rdom/Anexo-Lista-de-Productos-Negociados-Final-60203.pdf>.

agreed upon, during which the tariff will not be lowered. Tariff reduction is concentrated in the final years of the programme for some industrial products. The TPA also covers trade in services, investments, intellectual property, institutional provisions and dispute settlement; and it contains provisions on environmental protection and labour issues.

46. According to a document prepared by the MICI, Panama will immediately liberalize about 67 per cent of its agricultural tariff universe when the TPA enters into force; 8.5 per cent will be liberalized in five years; 9.8 per cent over periods of up to ten years; 14.6 per cent in periods longer than ten years, and 0.1 per cent (potatoes and onions) will not be liberalized at all.<sup>33</sup> In the industrial sector, Panama will immediately eliminate tariffs on 71.2 per cent of the tariff universe; in five years it will liberalize 10.8 per cent; and it will liberalize the rest on a straight-line basis over ten years. About 88.5 per cent of United States products will enter Panama duty-free as soon as the treaty enters into force; 4.5 per cent will be liberalized in five years; and 7 per cent in ten years. In 2005, trade with the United States accounted for 30.8 per cent of Panama's total trade.

47. In its trade with the United States, Panama benefits from unilateral preferences under the Caribbean Basin Initiative (CBI) and also under the Generalized System of Preferences (GSP). According to the Office of the United States Trade Representative, over 95 per cent of merchandise exports from Panama entered the United States duty-free in 2005.<sup>34</sup>

48. Panama also benefits from the GSP of Canada, the European Union, Japan, New Zealand, Norway, Russia, Switzerland and Turkey.<sup>35</sup> It does not participate in the Global System of Trade Preferences among Developing Countries (GSTP).

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<sup>33</sup> Ministry of Trade and Industry (2007).

<sup>34</sup> See [http://www.ustr.gov/assets/Document\\_Library/Fact\\_Sheets/2006/asset\\_upload\\_file138\\_10233.pdf](http://www.ustr.gov/assets/Document_Library/Fact_Sheets/2006/asset_upload_file138_10233.pdf).

<sup>35</sup> UNCTAD, Generalized System of Preferences, List of Beneficiaries. Consulted at: [http://www.unctad.org/en/docs/itcdtsbmisc62rev1\\_en.pdf](http://www.unctad.org/en/docs/itcdtsbmisc62rev1_en.pdf).