

**TRADE POLICY REVIEW**

**Report by**

**PANAMA**

Pursuant to the Agreement Establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), the policy statement by Panama is attached.

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Note: This report is subject to restricted circulation and press embargo until the end of the first session of the meeting of the Trade Policy Review Body on Panama.



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## **I. INTRODUCTION**

1. Since its accession to the World Trade Organization (WTO) on 6 September 1997, Panama has taken significant steps towards modernizing its economic and social structure, and has implemented a growing and sustained open trade process.
2. As detailed in this report, Panama has gradually strengthened and built institutions to ensure that the context for this growth and social development is a market economy designed to stimulate higher levels of efficiency and competitiveness, thus creating room for private initiative to play a decisive role.
3. At the same time, the necessary amendments have been made to domestic law in order to channel market forces towards higher levels of sustainable growth, while protecting the interests of the country and society as a whole.
4. In this connection, Panama has redoubled its efforts to simplify procedures and strengthen the performance of institutions that safeguard proper and optimum functioning of the market, for example, by regulating natural monopolies, and ensuring competitive practices and sustainable development.
5. Regarding trade liberalization, the country has carried out a continuous process of eliminating tariff and non-tariff barriers. It has also managed to sign trade agreements with major partners, both in the region and in other hemispheres, while honouring its commitments under all trade agreements, whether multilateral or bilateral, and strengthening its participation in world trade.
6. With respect to public administration, huge efforts have been made to change the pattern of State intervention in the economy, by reducing the State's direct role in public enterprises and transferring their operations to the private sector.
7. In addition, the State has strengthened its role in contributing to the development of entrepreneurial capacities and competitiveness, including among small and medium-sized enterprises. An example of this is the Supplementary Agenda currently being executed by the national Government. The purpose of this ambitious programme, which to date has US\$100 million at its disposal, is to facilitate the integration of domestic production in the global economy. The programme is focused on strengthening the capacity of the production sector in order to increase exports, energize human resources, and spur innovation and technological development.
8. The above demonstrates the importance of international trade to Panama: it is one of the strategic areas of economic growth, for which other institutional, political, social, and cultural developments are also a prerequisite.

## **II. ECONOMIC ENVIRONMENT**

### **1. ECONOMIC AND SOCIAL POLICY**

9. Until the 1980s, Panama's economic policy revolved around an import substitution and State intervention model. With respect to international trade, high tariff and non-tariff barriers prevailed, including a large number of specific tariffs. The virtual non-growth of the Panamanian economy, and the increased poverty and social inequality that characterized economic development in the 1980s,

were unmistakable signs of the need for a new model, one that would eliminate deep-seated economic distortions and pave the way for more sustained and equitable growth.<sup>1</sup>

10. By the end of 1989, the political crisis that Panama was experiencing had exacerbated the already deteriorated economic conditions, causing unemployment to reach record levels and prompting a sharp contraction in the gross domestic product (GDP), as a result of which Panama even suspended payment on its external debt.

11. These circumstances were the preamble to a series of economic and social reforms launched at the beginning of the 1990s. At the economic level, these reforms were focused on basic objectives, such as paving the way for eventually normalizing external debt payments, partially restoring a fiscal balance (the non-financial public sector deficit went from -2.4 per cent as a percentage of GDP in 1998 to 0.5 per cent in 2006), and privatizing some State-owned enterprises. In the social sphere, objectives such as poverty reduction, improving income distribution, development of human capital, and modernization of the State moved to the top of the agenda. On the political front, democracy and civil society representation were strengthened.

12. In the mid-1990s, a change of government occurred that marked the beginning of an accelerated phase of social and economic reforms, including the application of a more aggressive open trade policy. Likewise, the price control system was dismantled, and institutions and standards to promote competitive practices were placed in operation. In addition, a regulatory and institutional framework was established to regulate the various public service companies that were being privatized.

## 1.1 Economic Policy

### 1.1.1 Privatization

13. The programme to privatize State-owned enterprises was launched in the period 1991-1994 to increase enterprise efficiency and production capacity, free up and expand State resources for priority investments and attract foreign private investment. A framework law was adopted to regulate the process and a Privatization Office (PROPRIVAT) attached to the former Ministry of Finance and the Treasury was established. During this period, only small enterprises, such as the *Cooperativa Bananera del Atlántico* – COBANA (Atlantic Banana Cooperative), the *Cooperativa Bananera del Pacífico* – COBAPA (Pacific Banana Cooperative) and *Cítricos de Chiriquí* (Chiriquí Citrus Fruits), were privatized; *Air Panamá* (Air Panama) was also liquidated. In addition, the *Corporación Azucarera la Victoria* (Victoria Sugar Corporation) was privatized in August 1993 and *Cemento Bayano* (Bayano Cement) in 1994.

14. In June 1997, the sale of 49 per cent of the shares of the National Telecommunications Institute (*Instituto Nacional de Telecomunicaciones S.A.* – INTEL, S.A.) to the United Kingdom company Cable & Wireless (C&W) concluded with a value of US\$652 million. The company was awarded a 20-year management contract to provide residential and public fixed telephony services, as well as domestic and international long-distance calls. In addition, concessions were granted for the operation of a mobile telephony system. In March 1996, a concession was granted to the United States company Bell South in the amount of US\$72.4 million for the operation of Band A, and in October 1997, Band B was awarded to C&W Panama for the same amount.

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<sup>1</sup> Source: Annual Economic Reports of the Ministry of the Economy and Finance (MEF).

15. The opening of the telecommunications sector to competition began in January 2003. However, a bidding process was launched in July 2001 so that interested companies could obtain concessions to operate basic telecommunications services, such as local basic telecommunications service, nationwide basic telecommunications service, international basic telecommunications service, public and semi-public telephone service, and leased voice circuit service. The modernization and increased competitiveness of the sector are reflected in the trend of the following indicators.

**Table No. 1**  
**Basic telecommunications sector indicators, 1998 and 2005**

Indicator	Years	
	1998	2005
Mobile telephony subscribers	86,389	1,748,740
Annual ratio of mobile telephones per 100 inhabitants	3.10	58.60
Population coverage (mobile telephony)	68%	89%
Total number of full-time employees in telecommunications services	4,621,00	6,562,00
Percentage of breakdowns repaired within 24 hours	66%	98%
Internet subscribers <sup>a</sup>	17,350	86,518
Public telephones	7,026	8,202
Number of companies providing ILD service <sup>b</sup>	1	11

a There are 14 service providers.

b ILD: international long distance.

Source: Public Services Authority.

16. The Hydraulic Resources and Electrification Institute (*Instituto de Recursos Hidráulicos y Electrificación – IRHE*)<sup>2</sup> was originally divided into four generating companies, three distribution companies<sup>3</sup> and one transmission company. After privatization through a consolidation process, three generating companies remained.<sup>4</sup> The Government retained control of the transmission company (ETESA) and, more recently (in 2006), established an electricity-generating public enterprise (EGESA). It is important to note that following the privatization process, new private generating companies were established, such as Pedregal Power Co., *Corporación de Energía S.A. – COPESA* (Energy Corporation, Inc.), PAN AM Generating Ltd, and other small power stations.

17. Privatization also encompassed the port sector. A concession was granted to the company *Manzanillo Internacional Terminal* (Manzanillo International Terminal), located in the city of Colon at the Atlantic mouth of the Panama Canal, which began operating in April 1995. A concession was also granted to the *Empresa Evergreen* (Evergreen Company) in Coco Solo, an area located near Colon. In addition, the ports of Balboa and Cristobal, located in Panama City and Colon, respectively, were transferred to the *Empresa Panamá Ports Company* (Panama Ports Company) under a concession arrangement in 1997. The competitive advantage of Panamanian ports, stemming from the country's strategic location, has been exploited by privatizing the operations of State-owned ports by means of land-use concessions. This policy has been reflected in the 15.8 per cent annual growth of port operations, from 809,478 twenty-foot equivalent units (TEU) in 1997 to 3,029,872 TEU in 2006.

<sup>2</sup> The State granted 51 per cent of the shares of the distribution and thermoelectric generating companies and 49 per cent of the hydroelectric generating companies. Data supplied by the National Public Services Authority (*Autoridad Nacional de Servicios Públicos – ASEP*).

<sup>3</sup> The three distribution companies are: EDEMET, EDECHI and *Elektra Noreste* (Elektra Northeast). Source: ASEP.

<sup>4</sup> The three generating companies are: EGE Fortuna S.A., AES Panamá and BLM CORP., S.A.

18. Management concessions were also awarded, both for the construction of the North and South Corridors, which contributed significantly to improving road interconnectivity in the capital, and for the management of the Panama Canal Railway, which in turn strengthened the connectivity of the trans-isthmus highway between the endpoints of Panama City and Colon.

19. In 1998, a management concession was granted for the national casinos, and the national racetrack began to be operated privately. Subsequently, in 2003, Tocumen International Airport was converted into an autonomous company, but the shares continued to belong to the State.

20. Lastly, from the start of the 1990s to the present, entities<sup>5</sup> were restructured and established to reflect modern concepts of privatized banking and exchange regulation and competition and consumer protection.

### 1.1.2 Public Finances

21. Beginning in the mid-1990s, the basic public finance objectives included reducing current expenditure, increasing investment and renegotiating external debt. This process was effectively accomplished in July 1996 under the "Brady Plan" financial arrangement. This operation represented a direct reduction of the debt balance by some US\$600 million, and placed the total value of the restructured commercial debt at approximately US\$3.227 billion.<sup>6</sup> This debt renegotiation enabled Panama to improve its risk rating, thereby opening up possibilities for obtaining new loans.

22. By the end of 2000, the Government achieved a sound fiscal balance. Accordingly, there was no need for a higher level of indebtedness, and the deficit was reduced by streamlining expenditure. Furthermore, in 2002 the Fiscal Responsibility Law was adopted to reduce and monitor public expenditure, along with the Tax Reorganization and Simplification Law, which sought to increase the neutrality of the tax system.

23. From 2005 onward, public finances registered a steady "**strengthening**", achieved largely through the adoption of a new fiscal reform called the **Fiscal Equity Law**, which included an expenditure reduction programme, improved the fiscal equity concept still further, and sought to reduce opportunities for tax evasion.<sup>7</sup> In the same period, as a result of a broad dialogue with civil society and cooperation with the United Nations Development Programme (UNDP), a consensus was achieved on restoring the financial and actuarial sustainability of the public pension system managed by the Social Security Fund (*Caja de Seguro Social* – CSS).<sup>8</sup> In addition, the Panama Canal Expansion Project, which has strengthened the country's medium- and long-term economic and trade expectations, was approved by popular referendum.

### 1.1.3 Trade Liberalization

24. A crucial step in the achievement of the objectives set by the country was Panama's accession to the WTO in 1997.<sup>9</sup> During the accession process, quantitative restrictions on imports were abolished, tariffs were reduced, the application of protection measures and trade remedies was regulated, and rules were established regarding, *inter alia*, intellectual property, competition policy, government procurement, and environment, in accordance with multilateral trade principles.

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<sup>5</sup> Described in chapter V of this report (Modernization of the State).

<sup>6</sup> This strategy was adopted to restructure the debt incurred by developing countries with commercial banks, based on debt reduction and debt service operations voluntarily carried out under market conditions.

<sup>7</sup> Law No. 6 of 2 February 2005.

<sup>8</sup> Law No. 172 of 2005.

<sup>9</sup> This subject is addressed in chapter III of this report (Panama and the WTO).



25. A stand-by arrangement with the International Monetary Fund (IMF) was signed in 2000.<sup>10</sup>
26. Beginning in 2002, consistent with the trade liberalization policy, a number of free trade agreements (FTAs) with countries in different hemispheres<sup>11</sup> were approved and implemented. These agreements allow positive steps to be taken towards liberalization across the board, through commitments that provide duty-free entry for a large number of products, both linear and non-linear tariff reduction, the minimizing and phasing out of customs procedures that limit trade, and a forum for dispute mediation and settlement. Being based on reciprocity, because of the benefits the partners grant each other these agreements are a source of mutual encouragement towards open markets in the future which, while not global, are nonetheless important and positive for world trade.

## 1.2 Social Policy

### 1.2.1 Health and Housing

27. At the end of the 1990s, in the framework of a policy programme called "*Economically Efficient Social Development*" (*Desarrollo Social con Eficiencia Económica*), the country increased public investment in social projects.<sup>12</sup> These included the building of the San Miguel Arcángel Hospital (San Miguelito district) and four regional hospitals (in the district capitals of Santiago, Aguadulce, Las Tablas and La Chorrera). With respect to housing, the Ministry of Housing/Inter-American Development Bank programme (MIVI-BID) provided subsidies to middle-income groups for access to housing and the purchase of construction materials. In the same period, rural health projects to reduce malnutrition in children under five years of age and pregnant women, a safe drinking water programme, and a rural basic sanitation programme were carried out.

28. During the period 1999-2003, housing programmes, such as serviced lots and land title programmes, were carried out through the new, restructured Social Investment Fund (*Fondo de Inversión Social* – FIS), resulting in nearly 15,000 housing solutions, including in the Kuna Yala indigenous region. The new Santo Tomás Hospital was also built, as well as an extensive network of latrines, rural aqueducts, and access roads.

29. In 2005, Panama and the IDB signed the "*Programme for the Development of New Operational Instruments for Low-Cost Housing*", aimed at equipping the Government with instruments capable of expanding access to housing for low- and moderate-income groups. The programme has four components: the Comprehensive Neighbourhood Improvement Programme (*Programa de Mejoramiento Integral de Barrios* – PROMEBA), the Rapid Assistance Programme for Low-Cost Housing (*Programa de Apoyo Rápido a la Vivienda de Interés Social* – PARVIS), the Programme for the Provision of Basic Infrastructure (*Programa de Dotación de Infraestructura Básica* – PRODIBA) and the Housing Support Programme (*Programa de Vivienda Solidaria* – PROVISOL).<sup>13</sup> In addition, the "Urban Development/Land Management Law" was adopted in 2006

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<sup>10</sup> The IMF approved a short-term credit arrangement giving Panama access to Special Drawing Rights (SDRs) totalling US\$64 million for a period of 21 months, counted from June 2000, to support the economic programme. Source: Ministry of the Economy and Finance (Annual Economic Reports).

<sup>11</sup> This subject is addressed in chapter III of this report (Bilateral Trade Agreements).

<sup>12</sup> The IDB granted a loan totalling more than US\$70 million to support social investment and small-scale infrastructure projects in low-income communities during the period 1994-1999. One part of this loan was channelled through the Social Emergency Fund (*Fondo de Emergencia Social* – FES) and the other through various ministries. The FES was reorganized in November 1999 and renamed the Social Investment Fund (FIS). Source: Ministry of the Economy and Finance (MEF) and the Inter-American Development Bank (IDB).

<sup>13</sup> Source: Ministry of Housing (MIVI).

with a view to streamlining and regulating urban growth and the construction boom that the country is experiencing, especially in the capital.

30. In the area of health, nutrition and rural health programmes for the low-income population were launched in this period, and designs for the Panama City and Bay Sanitation Project were prepared and approved. The project will improve sanitation and reduce pollution of tributaries and rivers in the metropolitan area by expanding the sewer system and installing treatment plants. Just recently, in June 2007, the Governments of Panama and Japan signed a financing agreement in an amount of US\$160 million for the second phase of stage one of the Panama City and Bay Sanitation Project. The agreement amounts to a formula for the recovery and cleanup of the entire capital city and bay area, which will directly improve the quality of life of one third of the country's population.

31. Lastly, by means of Decree-Law No. 1 of 9 January 2006, the Community Development for Public Infrastructure Programme (PRODEC) was established for the purpose of identifying and planning projects to improve quality of life, mainly among the rural population. The funds for these investments come from Panama Canal operating surpluses, and include components for the construction of road infrastructure, aqueducts, sewer systems, health facilities, and other community facilities and services. The project provides for a total annual amount of US\$50 million.

### 1.2.2 Education

32. In the area of education, for the period 1994-1999, greater access to the school system for low-income groups and better-quality primary and secondary education<sup>14</sup> were promoted through an IDB loan. In addition, a Modernization of Education Law was adopted with the objectives of expanding education coverage nationwide, improving the quality of teaching (teacher training), designing new courses and curricula, providing teaching resources (equipment and laboratories), and repairing and building school facilities.

33. Beginning in 2004, education and training efforts were redoubled as part of the new economic and social strategy. Among the latter's programmes, the following should be underscored: "Development of Human Capital", to promote modernization of the education system at all levels; "English for Life", to offer training to people who aspire to jobs created by the new international projects in Panama; and the technological infrastructure programme, to provide computers and Internet access (through the programme "Connect to Knowledge" (*Conéctate al Conocimiento*)).<sup>15</sup> Mention should be made of the scholarships and assistance granted to indigenous communities that have benefited approximately 1,300 students from different administrative districts (*comarcas*). Scholarships were also granted to students living in Veraguas Province and Gnohe Buglé Administrative District (regions marked by high poverty levels and a large indigenous population).<sup>16</sup> Likewise, students received scholarships from the assistance programme for the eradication of child labour, on condition that they enrolled or remained in school.

### 1.2.3 Poverty Reduction

34. Beginning in the mid-1990s, through the new economic and social policy (*Desarrollo Social con Eficiencia Económica*), Panama set the objective of reducing poverty and inequality through more

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<sup>14</sup> See footnote 12.

<sup>15</sup> Set out in the document "Economic Development and Employment: A Strategic Vision for 2009" (*Visión Estratégica de Desarrollo Económico y de Empleo hacia 2009*), which contains the new economic and fiscal strategies initiated by the Government during the period.

<sup>16</sup> Source: Institute for Human Resources Training and Utilization (*Instituto para la Formación y Aprovechamiento de Recurso Humanos* – IFARHU).

efficient and effective social expenditure, focusing investment on projects and specific areas of greatest need, and increasing access to public services for low-income groups. In pursuit of this objective, the State coordinated an extensive investigation of living conditions and poverty in the country (the last such investigation having been carried out in 1983). As a result, a "New Strategic Approach to Confronting Poverty" (*Nuevo Enfoque Estratégico Frente a la Pobreza*) was devised. It was based on a concept of community development and food production that would provide support for producers in marginalized areas and areas of extreme poverty in the form of food distribution, loans, and basic infrastructure programmes.

35. In 2000, the national Government issued the document "Social Development Policy and Strategy, 2000-2004" (*Política y Estrategia de Desarrollo Social 2000-2004*). Its specific objectives included drastically reducing child malnutrition, making this the number one priority for all State entities. At the same time, an extensive programme of self-sustaining arable farms was carried out in the poorest areas. In addition, the Government of Panama, by means of Law No. 8 of 29 May 2000, established the Micro, Small, and Medium-Sized Enterprise Authority (*Autoridad de la Micro, Pequeña y Mediana Empresa – AMPYME*) as the entity responsible for providing support to small and medium-sized enterprises to enable them to create jobs.

36. Beginning in 2005, a wide range of programmes and works was launched, focusing on low-income groups or communities situated in towns identified as low income on the Poverty Map. In addition, significant investments were made that indirectly improved the quality of life of other social groups. These investments included school nutrition programmes and food assistance for mothers and children and indigenous people, for example, the Rural Sustainable Development and Rural Competitiveness programmes, which have indigenous assistance components.

37. Lastly, beginning in 2005, the Labour Integration Programme, which seeks to integrate more than 4,000 Panamanian workers in the private sector by the end of 2007, was undertaken through the Ministry of Labour and Work Development (MITRADEL). The project goes hand in hand with the human capital and workforce development project of the National Institute of Vocational Training for Human Development (*Instituto Nacional de Formación Profesional y Capacitación para el Desarrollo Humano – INADEH*), an institution at the forefront of the strategic vision on economic development and employment for the period 2004-2009.

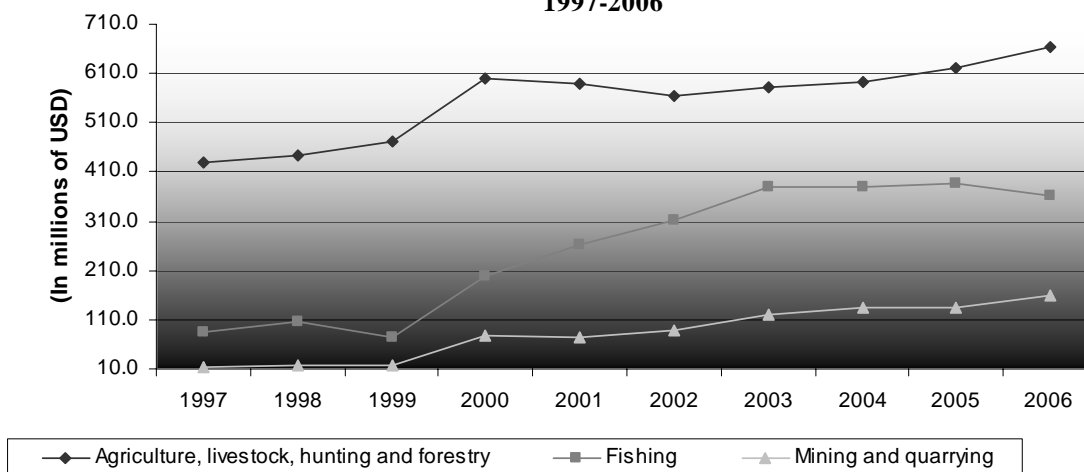
## **2. ECONOMIC PERFORMANCE (1997 – 2006)**

### **2.1 Economic Performance by Sector**

#### **2.1.1 Primary Sector**

38. In the period 1997-2006, the primary sector in general grew steadily, at an annual rate of 6.4 per cent; the vast majority of activities averaged a positive growth rate, with the exception of the fishing sector, which posted a decline in 1999 owing to the white spot virus that affected shrimp exports. Subsequently, in 2002, the agricultural subsector suffered a setback due to an uneven performance in some areas caused mainly by adverse weather conditions and other factors such as the European Union's discriminatory treatment of banana exports from Latin American countries.

Chart No. 1  
Gross Domestic Product of the Panamanian Primary Sector at 1996 Prices  
1997-2006



39. The primary sector represented on average 8.2 per cent of Panama's GDP in the years 2004-2006. The steady growth of non-traditional agricultural exports since 2004 has contributed significantly to diversifying the exportable supply and offsetting the poor contribution of banana production.

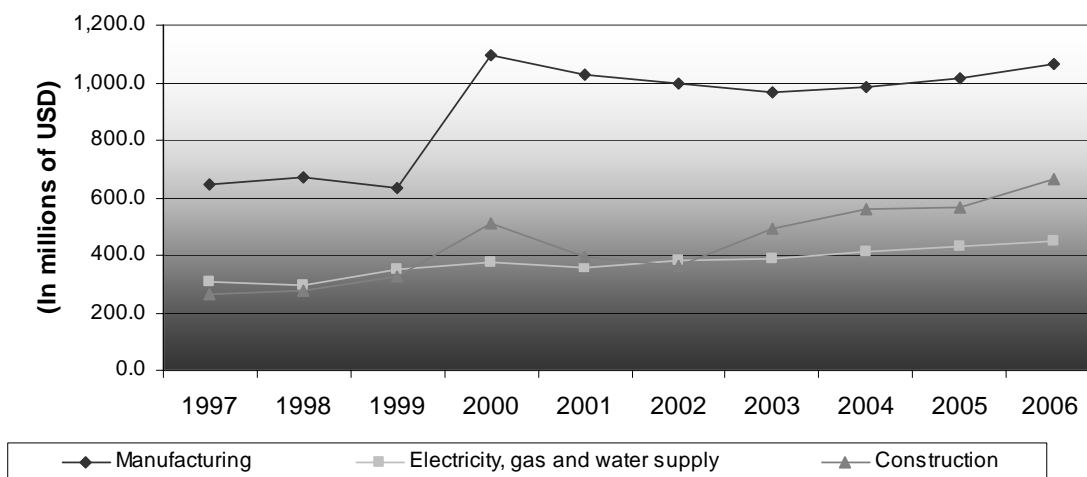
### 2.1.2 Secondary Sector

40. During the period 1997-2006, the secondary sector represented on average more than 16 per cent of GDP. In addition, during the period 1997-2000, all components of the secondary sector posted favourable rates, including manufacturing, electricity, water, and construction. During this period, manufacturing underwent an adjustment and restructuring process in response to the opening up of trade. This transformation of industry generated new concepts of efficiency, reflected in more dynamic entrepreneurial activity in response to competition from imported products.

41. Subsequently, in the period 2000-2003, the secondary sector posted a decline, specifically in the construction and industry subsectors, owing mainly to the closure of the national oil refinery (*Refinería Nacional*).

42. Lastly, manufacturing growth was 3 per cent in 2005 and 5.1 per cent in 2006, while electricity generation and water grew by 5 per cent and 3.6 per cent, respectively. Construction, meanwhile, has seen a marked expansion and been a key engine of growth for the Panamanian economy in recent years. In 2003 and 2004, for example, it expanded by 34.4 per cent and 14.4 per cent, respectively. While in 2005 the sector grew by 1 per cent, in the following period it improved even further, with 17.4 per cent growth, indicating that, despite annual fluctuations, this activity shows a favourable and steady medium-term trend.

**Chart No. 2**  
**Gross Domestic Product of the Panamanian Secondary Sector at 1996 Prices**  
**1997-2006**



### 2.1.3 Tertiary Sector

43. Historically, the sector that provides the greatest support to Panama's GDP has been services. In 1997 and 1998, services grew by 6.5 per cent and 7.3 per cent, respectively. Nevertheless, this situation changed in 2000, 2001, and 2002, when slower growth was seen (2.7 per cent, 0.6 per cent, and 2.2 per cent, respectively).

44. In the past three years (2004, 2005, and 2006), the tertiary sector has developed significantly, with growth rates of 6.8 per cent, 9.4 per cent, and 9.3 per cent. Mention should be made of the Colon Free Zone and of the hotel and restaurant subsector, which grew by more than 10 per cent. Other components of the sector also trended upwards significantly, such as financial intermediation, wholesale and retail commerce, and real estate. The high percentage of GDP that this sector represents and has represented in the past, shows that Panama is a service-oriented economy. In 2006 the sector accounted for 74 per cent of GDP.

## 2.2 Labour Market

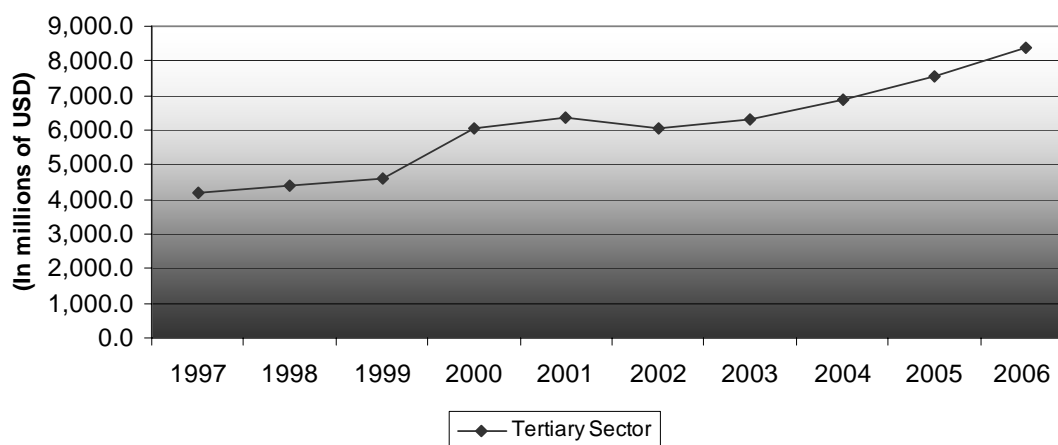
45. At the end of 1999 and in 2000, the labour market was affected by a declining demand for jobs. This led to an increase in the unemployment rate, which went from 11.8 per cent in August 1999 to 13.3 per cent in August 2000.

46. In mid-2004, there was a change in trend, with robust employment growth thanks to job creation in areas such as telemarketing and the call centres that have sprung up in Panama, opening up thousands of job opportunities. Indeed, the total employed population (including the indigenous population) increased by 60,000 during 2005, i.e., by 5 per cent. This positive trend in new job creation was stimulated by labour-intensive sectors, such as construction, hotels, and commerce, in addition to the impetus given by exports of non-traditional agricultural and agro-industrial products.

47. Another important consideration is that the new jobs are of better quality, as evidenced by the 4.3 per cent growth in 2006 of the wage-earning population (excluding domestic workers) and only 2.5 per cent growth of the non-wage-earning population. Mention should also be made of the 8.6 per

cent annual increase in employment in the construction sector. In addition, there was a significant increase in job creation, mainly in urban areas.

**Chart No. 3**  
**Gross Domestic Product of Panama's Tertiary Sector at 1996 Prices**  
**1997-2006**



48. Steady economic growth in the past five years has had a positive impact on the labour market. The unemployment rate has trended downwards, moving from 13.6 per cent in 2003 to 7.3 per cent in 2007, with manufacturing, hotels and restaurants, construction, and commerce being the most dynamic industries in terms of job creation.

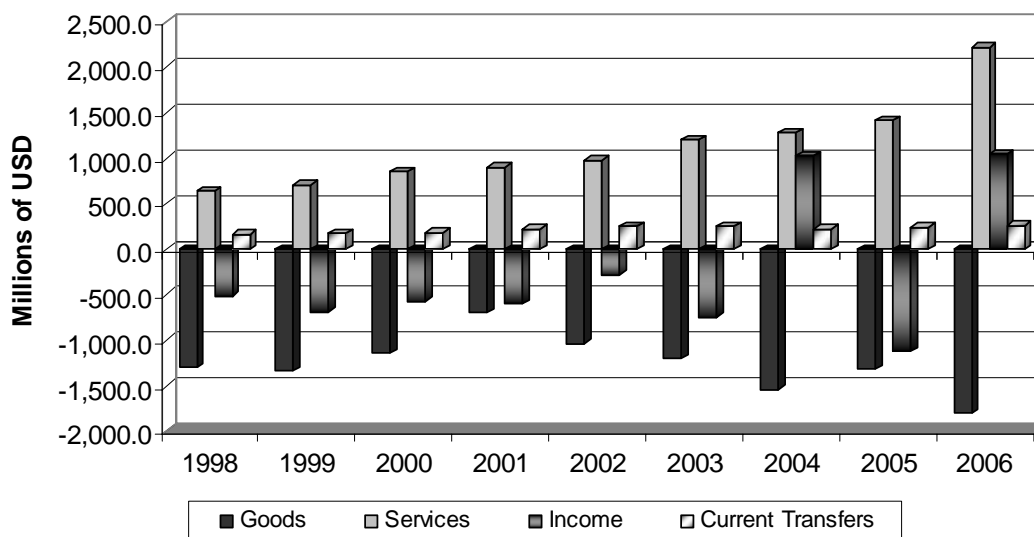
### 2.3 Balance of Payments

49. During the period 1998-2002, Panama posted a recurrent balance-of-payments deficit in its current account as a result of negative balances in the goods component, which recorded a shortfall of approximately US\$1.0371 billion. Among the products most affected were bananas, shrimp, flour, and fish oil, as well as beef cattle on the hoof. It should be emphasized that there was significant growth in some products, for example, melon (77.2 per cent), watermelon (29.6 per cent), and beef (23.6 per cent). The services component also had favourable balances, totalling US\$979.2 million, as a result of increased income from tourist services provided to cruise ships that docked at the ports of Colon 2000, Cristóbal, and Fuerte Amador; banking and financial services; and transportation (specifically the tolls collected from vessels transiting through the Panama Canal). This confirms Panama's uniqueness as a country that imports goods and exports services.<sup>17</sup>

50. Likewise in 2002, the income component showed a deficit of B 284 million as a result of the losses suffered by general-licence foreign banks. The negative balance in the capital and financial account was the result of equilibrium in the asset and liability flows of the international banking centre and of favourable external debt operations, as Brady bond buybacks not only reduced the debt but also generated a nominal saving.

<sup>17</sup> Office of the Comptroller General of the Republic, Panama's balance-of-payment reports.

Chart No. 4

Current Account Balances in Panama's Balance of Payments  
1998-2006

51. Balance of payments behaviour in the period 2003-2006 was similar to that of the previous period, except for the income balance. The services balance was positive during this period, reaching US\$2.2099 billion in 2006 as a result of the boost from Panama Canal toll charges, a good performance by port services (specifically, cargo and container services), and the boom in tourist services. In addition, telecommunications services generated income of US\$65.5 million, of which approximately 60 per cent derived from resale companies which offer basic and mobile services through public, fixed-network and mobile telephones, and the remaining 40 per cent from call centres. Current transfers showed a similar trend, amounting to US\$257.9 million in 2006 as a result of remittances received from workers (mainly from the United States) which remained stable, while outward remittances, primarily to Colombia, increased by 4.5 per cent.

52. In the capital account, there was a significant increase in foreign direct investment (FDI), which rose from approximately US\$1 billion between 2004 and 2005 to US\$2.560 billion in 2006. The main explanation for this increase is the purchase of local banks by foreign banks.<sup>18</sup>

## 2.4 Public Finances

53. During the period 1993-1997, public sector saving rose from 6.6 per cent to 7.5 per cent of GDP, falling back to 6.2 per cent in 1998. Meanwhile, the surplus recorded between 1994 and 1996 became a deficit of 0.3 per cent in 1997 and 2.5 per cent in 1998. This deterioration was due mainly to the decline in current transfers, which the privatized State-owned enterprises had ceased to contribute. Subsequently, in 1999, tax revenues improved as a result of an agreement for the payment of B 49.9 million in National Bank dividends to amortize accumulated debt.

<sup>18</sup> An outgrowth of the purchase of the *Banco del Istmo* (Isthmus Bank) by HSBC, which generated a transaction worth nearly US\$1.7 billion.

54. As from 2000, the Office of the Comptroller General of the Republic has included the Panama Canal Authority (*Autoridad del Canal de Panamá – ACP*) as a non-consolidated agency, so that its net liquid asset flows (equivalent to the ACP surplus or deficit) are reflected in the fiscal balance of the non-financial public sector (NFPS). This enables Canal surpluses to be used for social investment programmes (as in the PRODEC programme in 2006).

55. Public finances were strengthened in 2005. First, reforms were approved both to the tax system, through the Fiscal Equity Law, and to the public pension system of the Social Security Fund. Secondly, tax revenues increased sharply as a result of economic growth and higher taxation of electricity companies. Management of public finances in 2005 consisted essentially in achieving a large increase in revenue with a low increase in expenditure. Most noteworthy is that this balancing coincided with the implementation that year of a solid investment programme of more than US\$800 million, nearly double that of previous years. Sound fiscal management thus enabled the deficit to GDP ratio to be reduced from 4.9 per cent in 2004 to 3.2 per cent in 2005 (2.5 per cent if the exceptional debt refinancing is excluded).

56. According to the 2006 economic report, the NFPS went from a deficit of US\$500.1 million in 2005 to a surplus of US\$87.8 million in 2006. Current saving, meanwhile, went from B 33.3 million in 2005 to US\$576.4 million in 2006. At the same time, non-financial public investment increased, from US\$466.3 million to US\$530.3 million in 2006. In that year, the central Government's finances reflected revenue increases resulting from economic growth, better fiscal management, and an increase in non-recurrent revenue (including US\$199.6 million in additional contributions from the Panama Canal, which contributed US\$603.5 million for the year), the special payment received from the *Panamá Ports* company, and taxes on the capital gains stemming from the sale of a large private bank (*Banco del Istmo*). Likewise, the operating result of the Social Security Fund (CSS) was favourable, going from a deficit of US\$67.2 million in 2003 to a small surplus in 2006.

57. As noted in the preceding paragraphs, the efforts and controls undertaken in the fiscal area yielded positive results, as reflected in the marked improvement in the risk rating attributed to Panama in recent years. Standard and Poor has upgraded Panama's rating to BB/Stable.<sup>19</sup>

## 2.5 Inflation

58. Panama has historically enjoyed a high level of macroeconomic stability. Inflation has been low and stable. The average increase in the consumer price index (CPI) over the past seven years has been only 1.5 per cent. The low inflation is attributable to the fact that there is no excess money supply and that the Government cannot monetize the deficit. In Panama, changes in price levels stem mainly from changes in international inflation, adjusted for domestic economic policy factors (taxes and tariffs). Import prices serve as a transmission mechanism; and local prices are adjusted to expected global inflation. Inflation in Panama compares favourably with inflation in Latin America, where annual inflation rates above 10 per cent are common.

59. The oil price rise has been reflected in slight increases in domestic price levels. In 2006, the inflation rate (as measured by the CPI) was 2.3 per cent, slightly lower than the 3.3 per cent recorded in 2005.

60. As well as low inflation, Panama's economic stability is a result of its monetary system and the stability of its income from services exports, which are related to its geographical position and account for a large percentage of its economy. Macroeconomic stability is enhanced by the fact that Panama issues no currency, which means that there is a budgetary limit on public expenditure (hard

<sup>19</sup> [www.standardandpoor.com](http://www.standardandpoor.com).



budget constraint). There are no policies that create fiscal imbalances. When there is a need to reduce the deficit, expenditure is reduced, particularly investment expenditure, and taxes are increased occasionally.

61. Lastly, the country's macroeconomic stability has been strengthened by the implementation of a set of structural reforms that have enabled Panama to visibly improve its level of economic growth. More importantly, at present, the country has a promising future that will enable it to undertake substantial poverty reduction and bring about a significant improvement in social equity. All of the above is the result of the social and economic policies of successive administrations that have adhered to the highest standards of transparency and democratic continuity. Furthermore, the groundwork has been laid for the country to enjoy solid growth in the coming years, based on the expansion of private investment and foreign trade.

### **III. TRADE POLICY**

#### **1. EVOLUTION OF TRADE POLICY**

62. Beginning in the 1990s, Panama's trade policy pursued the objective of an increasingly open economy. Prior to that, Panama had maintained a conservative position *vis-à-vis* the trade liberalization process. This process began with a transformation of trade policy, which underwent profound changes based on the various plans and programmes implemented from the start of the decade which included the privatization of State-owned enterprises, attracting foreign investment, opening up and liberalizing trade, accession to the General Agreement on Tariffs and Trade (GATT), signing free trade agreements and establishing a more competitive domestic environment.

63. In October 1991, as part of the implementation of its new trade policy Panama expressed its intention to accede to the GATT. This set off a process of ongoing legislative and institutional change and adjustment.

64. With the changes introduced in pursuit of a more open economy, and Panama's accession to the WTO in 1997, new needs arose that were reflected and addressed in a National Foreign Trade Strategy (*Estrategia Nacional de Comercio Exterior*). This strategy has focused mainly on stimulating competitiveness in the supply of goods and services both in domestic and in international markets, promoting access to new markets by opening up trade both multilaterally and bilaterally, promoting opportunities to attract foreign investment, and strengthening comparative advantages.

65. Over the years new needs have been created, requiring government administrators to make constant changes and adjustments to domestic policies and regulations in response to the commitments and opportunities arising from the trade liberalization process.

#### **1.1 Panama and the WTO**

66. By Law No. 23 of 15 July 1997 Panama approved the Marrakesh Agreement Establishing the World Trade Organization (WTO) and embarked upon a new phase in the regulatory and institutional adjustment process, adopting various laws and establishing mechanisms enabling them to be implemented in accordance with the commitments undertaken and the challenges of the liberalization process.

67. A number of issues that illustrate the efforts Panama undertook to meet its obligations, and the opportunities that its accession to the WTO has afforded, are reviewed below.

### 1.1.1 Tariff Structure

68. Accession to the WTO required Panama to develop a set of tariff reforms. That process began in 1995 with the adoption of the National Import Tariff (*Arancel Nacional de Importación*). Based on the Harmonized Commodity Description and Coding System<sup>20</sup>, this nomenclature is versatile and multifunctional for customs purposes, and is also widely used by different countries.

69. From then onwards, a number of reforms were made to the National Import Tariff the main achievements of which were: (1) elimination of all existing specific and combined customs tariffs and their conversion to a wholly *ad valorem* system<sup>21</sup>; (2) adjustment of all customs tariffs to the levels bound at accession, in many cases achieving greater reductions than established in commitments<sup>22</sup>; (3) simplification of the tariff classification and rate structure<sup>23</sup>; and (4) elimination of all existing non-tariff barriers, such as quotas, prior licences, authorizations, and other requirements for the import of certain products.<sup>24</sup>

70. In view of the continuing need for tariff adjustment and reform, Panama adopted the Fourth Amendment to the Harmonized System Nomenclature in May 2007, so as to keep the National Import Tariff up to date in respect of technological developments and international trade requirements.<sup>25</sup>

71. The tariff reductions implemented as a consequence of Panama's accession to the WTO was much deeper than that agreed with the Organization. Bearing in mind that Panama's tariffs were bound at a ceiling of 40 per cent to be reduced to 30 per cent over five years with the exception of certain agricultural products, already by December 1996 approximately 90 per cent of the tariff universe had an import tariff of 30 per cent or less. At that time the National Import Tariff had 8,401 items, a simple average applied rate of 15.86 per cent, and a standard deviation of 37.85 per cent, which indicates the level of tariff dispersion.

72. It has been Panama's consistent policy to reduce and simplify its applied tariff rates, which were lowered from an average of 15.86 per cent in December 1996 to an average of 8.6 per cent in March 2006, with a spread not exceeding a standard deviation of 6 per cent. It is nonetheless worth noting that a number of adjustments have also been made on an exceptional basis in the tariffs applied to certain sensitive products, although the corresponding tariff bindings have always been observed.<sup>26</sup> This is the case for a number of dairy products, grains, poultry and pig meat, and certain vegetables and tubers, *inter alia*, on which tariffs were adjusted at the end of 1999 and beginning of 2000.

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<sup>20</sup> Cabinet Decree No. 21 of 12 July 1994.

<sup>21</sup> Cabinet Decree No. 46 of 12 December 1996.

<sup>22</sup> Cabinet Decree No. 25 of 1 November 1995; Cabinet Decree No. 20 of 11 July 1996; Cabinet Decree No. 44 of 12 December 1996; Cabinet Decree No. 38 of 8 August 1997; Cabinet Decree No. 68 of 12 November 1997.

<sup>23</sup> Cabinet Decree No. 2 of 10 January 1995.

<sup>24</sup> Cabinet Decree No. 47 of 26 December 1996. Official Gazette No. 23,196 of 3 January 1997.

<sup>25</sup> Cabinet Decree No. 12 of 16 May 2007. Official Gazette No. 22,795 of 21 May 2007.

<sup>26</sup> Cabinet Decree No. 25 of 13 October 1999 and Cabinet Decree No. 2 of 26 January 2000.

**Table No. 2**  
**Evolution of Panama's average applied tariff, 1996-2006**

Date	Average Tariff <sup>a</sup>	No. of Items
December 1996	15.860	8,401
January 1997	14.187	8,375
January 1998	8.982	8,417
June 1999	9.000	8,542
February 2000	9.197	8,548
December 2001	8.631	8,578
October 2002	8.831	8,852
December 2003	8.700	8,876
January 2004	8.760	8,902
January 2005	8.760	8,912
March 2006	8.620	8,921

a Applied tariff rate (simple average).

Source: Ministry of Trade and Industry.

73. Currently, Panama's applied tariff on agricultural products is a simple average of 15.3 per cent, while its average applied industrial tariff is 7.2 per cent. Panama's WTO applied and bound tariffs can be seen in the following table.

**Table No. 3**  
**WTO applied and bound tariffs**

Product	Applied tariff	Bound tariff
Agricultural	15.3%	28.7%
Non-agricultural	7.2%	22.6%

Source: Ministry of Trade and Industry.

74. With respect to the applied tariff, it can be pointed out that the current National Import Tariff is concentrated at three basic levels (0, 10 and 15 per cent); 29.8 per cent of the applied tariff lines have a rate of 0 per cent; 13.2 per cent have a rate of between 1 per cent and 5 per cent; 22.3 per cent have a rate of between 6 per cent and 10 per cent; 32.2 per cent have a rate of between 11 per cent and 15 per cent; and 2.6 per cent have a rate of over 15 per cent. The tariff lines with a rate of over 15 per cent are products such as chicken cuts, dairy products, sugar, rice, potatoes, coffee, tomatoes, onions, hams, etc.

75. The following table summarizes Panama's applied tariff structure:

**Table No. 4**  
**Applied tariff structure of Panama, September 2006**

Applied tariff	Tariff lines	Percentage	Cumulative percentage
0	2,659	29.8%	29.8%
1% - 5%	1,178	13.2%	43.0%
6% - 10%	1,985	22.3%	65.3%
11% - 15%	2,870	32.2%	97.4%
Over 15%	229	2.6%	100.0%
Total	8,921		

Note: Panama does not apply specific tariffs.

Source: Ministry of Trade and Industry.

76. In addition, Panama is currently preparing regulations that provide for the elimination of tariffs on a number of information technology products, in accordance with the Information Technology Agreement (ITA), which will reduce the percentages of the applied and bound rates for non-agricultural products.

### 1.1.2 Tariff Quotas

77. While Panama is in favour of market liberalization, it is aware that the opening up of trade, with the consequent reduction in tariffs, needs to be gradual enough to allow production to adjust to the new competitive environment. In this way the sensitivity of the products concerned can be safeguarded and at the same time important opportunities can be afforded to WTO Members that wish to participate in the Panamanian market for such products.

78. In accordance with Titles III and IV of Law No. 23 of July 1997 approving Panama's accession to the WTO, the Licensing Committee, consisting of the Minister of Agricultural Development, the Minister of the Economy and Finance, and the Minister of Trade and Industry, is responsible for administering tariff quotas, promoting, approving, supervising and regulating the establishment and running of the Commodity Exchanges<sup>27</sup>, disseminating the opening of quotas before they are made available to the public, and determining, on the basis of the product's characteristics, the periods for which they will be available to interested parties.<sup>28</sup> This mechanism was established in accordance with law and the WTO Market Access and Import Licensing Agreements.

79. Pursuant to domestic law, the Technical Secretariat of the Tariff Quota Licensing Committee was established in the Trade Policy Office of the Ministry of Agricultural Development. Its functions include: organizing notification of the opening of tariff quotas, coordinating the registration of economic agents interested in participating in the bidding for the products under quota, issuing certification to the buyers awarded licences to import products under quota, and carrying out such other functions as the Committee assigns to it in accordance with Law No. 23 of July 1997.

80. The agricultural products subject to tariff quotas under the WTO are: pig meat (20 items plus subdivisions), meat of fowls (2 items plus subdivisions), milk and dairy products (25 items plus subdivisions), potatoes (1 item), beans (1 item), maize (3 items), rice (4 items), and tomato by-products (3 items).

81. Panama's mechanism for administering tariff quotas has proved to be efficient, transparent and secure for any domestic or foreign entity with the desire and capacity to use it, thanks to some of the procedures followed, such as publishing all proceedings and making information accessible.

82. Bidding for products subject to tariff quotas has been carried out in accordance with the prescriptions of the relevant agreements. The requisite bidding rounds have been held for purchase of the quantities announced. Under the corresponding tariff preferences, importers have been able to bring into the country the quota quantities they have allocated during the bidding rounds held in the Commodity Exchange.

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<sup>27</sup> Articles 147 and 164 of Law No. 23 of 1997.

<sup>28</sup> Articles 6 and 7 of Resolution No. 5-98 of 18 November 1998.

**Table No. 5**  
**Summary of results of bidding for ordinary tariff quotas, 2004-2006**  
(In metric tons)

Breakdown	Announced 2004	Allocated 2004	Supplier Countries	Announced 2005	Allocated 2005	Supplier Countries	Announced 2006	Allocated 2006	Supplier Countries
Pig meat <sup>a</sup>	800	607.3	United States and Canada	840	697.7	United States and Canada	880	873.5	United States, Canada, and Costa Rica
Meat of fowl	660	<sup>b</sup>	Void	708	<sup>b</sup>	Void	756	<sup>b</sup>	Void
Milk and dairy products <sup>c</sup>	11,763.9	6,988.6	New Zealand, Chile, Costa Rica, and United States	11,918.5	6,816	Chile, Costa Rica, United States, New Zealand, and Mexico	12,073	7,942	Chile, Costa Rica, United States, Mexico, and New Zealand
Potatoes	562.9	562.9	United States, Netherlands	590.4	530.4	United States	618	480	Canada, United States, Netherlands
Beans	444.4	444.4	Argentina	472.2	472.2	United States, Canada, Argentina	500	490	Argentina
Rice <sup>d</sup>	8,664.6	8,664.6	United States, Guyana	9,188.1	9,188.1	Guyana, United States	9,711.6	9,114.5	Guyana, United States
Maize - sorghum	143,669.8	143,669.8	United States	146,835	146,835	United States, Argentina	150,000	150,000	United States, Argentina
Tomato by-products	1,495.8	1,085.7	United States	1,576	1,286	United States	2,056.3	2,056.3	Spain, United States, Chile

a This quota includes a volume exclusively for Costa Rica that was declared void in 2004 and 2005 because neither bidders nor buyers came forward. The total corresponding to Costa Rica was allocated in 2006.

b Panama is self-sufficient in the production of fowls. Although quotas were announced, neither bidders nor buyers came forward; accordingly, the process was declared void and the quotas were not allocated. Nor were there any out-of-quota imports.

c Some of the dairy product items were declared void because the buyers and bidders did not agree on the product type.

d One item was not allocated because the buyers and bidders did not agree on the product type.

Source: Ministry of Agricultural Development.

### 1.1.3 Production Support Programmes

83. In respect of production support programmes, the Ministry of Agricultural Development (MIDA) together with other State agencies implements policies and programmes to support the agricultural sector. The MIDA applies only "Green Box" and "Development Agenda" special and differential measures; to this end, the sector receives some benefits.

- **Adjustment Support Programme**

84. Four categories are included in the adjustment programme: swine, throughout the country except in Darién; vegetables in Tierras Altas de Chiriquí; industrial tomatoes in Herrera and Los Santos; and maize and sorghum in Coclé, Herrera, Los Santos, and Veraguas.

85. The total programme budget was estimated at B 36,446,364.00. It is destined to provide non-refundable support according to the following breakdown by category:

**Table No. 6**  
**Adjustment Programme Budget by Category**  
(In thousands of US dollars)

Category	Original budget
Maize-sorghum	10,433,940.00
Industrial tomatoes	1,982,424.00
Swine	17,780,000.00
Vegetables	6,250,000.00
Total	36,446,364.00

Source: Ministry of Agricultural Development

86. The notable changes experienced by producers participating in the programme have encouraged others to start using the new technologies acquired. Many producers have had the backing and confidence of State-owned and private banks, as well as cooperatives and commercial firms, to make these new investments.

87. During implementation of the programme, swine producers have invested in individual farrowing and rearing pens, suspended floors with better ventilation for the animals, automatic feeders, water tanks and oxidation vats that meet environmental standards. All of this is reflected in improved competitiveness and reduced costs thanks to better standards of cleanliness on farms, greater utilization of feed and fewer diseases.

88. Vegetable producers have made adjustments in order to establish controlled-environment nurseries (greenhouses), thereby increasing productivity and reducing costs and crop losses.

89. The programme has also enabled tomato and maize producers to improve their production processes by using sprinkler and drip irrigation and plastic mulching to control soil erosion.

- **Agricultural Credit Programme**

90. The agricultural credit programme provides assistance to virtually all agricultural and agro-industrial categories, provided they are economically feasible and are eligible according to the parameters of the Credit Regulations Manual, with the exception of forestry projects. The latter may be considered, however, if they are part of or complementary to an agricultural project, for example, agro-silvo-pastoral projects implemented in watersheds.

91. In the period 2001-2005, the Agricultural Development Bank (*Banco de Desarrollo Agropecuario* – BDA) had US\$172.1 million at its disposal to finance agricultural projects, of which US\$147.6 million (85 per cent) was used. These loans, averaging US\$7,000 per operation, went mainly to micro and small producers. Lack of a market or a sale and purchase agreement, low profitability of projects, and a high level of indebtedness on the part of borrowers were the main obstacles to obtaining financing from the Bank.

**Table No. 7**  
**Implementation of BDA Agricultural Credit Budget**  
**Fiscal years 2001-2005**  
(In thousands of US dollars)

Fiscal year	Budget	Implemented	Per cent
2001	48,019	44,040	91.7
2002	39,839	37,432	94.0
2003	30,540	21,163	69.3
2004	28,087	22,414	79.8
2005	25,589	22,605	88.3
<b>Total 2001-2005</b>	<b>172,074</b>	<b>147,654</b>	<b>85.8</b>

Source: BDA Planning Office.

92. The lack of mortgage guarantees (farms with registered titles) is not a serious hindrance to the development loans offered by the BDA, since other guarantees are accepted, for example, rights of possession, agricultural, livestock, and equipment pledges, fiduciary guarantees and other instruments, such as loan surety bonds, issued by the Micro, Small, and Medium-Sized Enterprise Authority (AMPYME) and the Agricultural Insurance Institute (*Instituto de Seguro Agropecuario – ISA*).

93. The regular portfolio consists of three Bank lending programmes: Own Resources, and the BDA-CBN and BDA-FCA agreements, the last two being financed with resources from the Interest Compensation Special Fund (*Fondo Especial de Compensación de Intereses – FECI*). The special portfolio concerns loans granted under the BDA-FECC Programme (Law No. 24 of 2001) with resources from the Special Fund for Stand-By Loans (*Fondo Especial para Créditos de Contingencias – FECC*), provided by the central Government through the Ministry of Agricultural Development (MIDA).

- **Other Programmes**

94. There are also other programmes, such as the preferential charges granted for the installation and use of electricity in agricultural activities, amounting to a reduction of up to 30 per cent in the prevailing charge; and the simplification of land title procedures by the Ministry of Agricultural Development (MIDA) for any producer applying for the first time for title to a smallholding of less than 50 hectares, through the use of aerial photography and waiving the requirement for submission of an income tax clearance certificate to the Public Registry.

#### **1.1.4 Export Subsidies and Support Programmes**

95. In accordance with the Agreement on Subsidies and Countervailing Measures (SCM Agreement), Panama has some programmes that are regarded as subsidies by the WTO. In respect of export support and incentive programmes, Panama has implemented three programmes in this category, i.e., the Export Processing Zones (*Zonas Procesadoras para la Exportación – ZPE*), Official National Industry Register (*Registro Oficial de la Industria Nacional – ROIN*), and Tax Credit Certificate (*Certificado de Abono Tributario – CAT*) programmes, for which extensions were requested under Article 27.4 of the SCM Agreement.

96. The Export Processing Zones (ZPE) programme is based on Law No. 25 of 30 November 1992, and its objective is to promote social and economic development through tax incentives and labour and migration benefits. Pursuant to Article 27.4 of the SCM Agreement and document G/SCM/39, the Committee on Subsidies and Countervailing Measures granted the

programme an extension until 31 December 2007, on the basis of a commitment by Panama to notify the status of the programme annually and the possibility for Panama to request an extension of the programme or to avail itself of the two-year phasing-out period.<sup>29</sup>

**Table No. 8**  
**Panama: Value of exports from processing zones, 2001-2006**  
(In millions of US dollars)

Year	Number of enterprises	f.o.b. value
2001	57	51.9
2002	68	52.4
2003	74	67.2
2004	45	69.2
2005	56	77.8
2006	61	88.2

Source: Office of the Comptroller-General of the Republic; Vice-Ministry of Foreign Trade, Ministry of Trade and Industry.

97. Currently, Panama, like other Members, has submitted a request for extension of the programme to the Committee on Subsidies and Countervailing Measures on the basis of its economic, financial and development needs.<sup>30</sup>

98. The objective of the Official National Industry Register (ROIN) is to promote exports and stimulate the development of the industrial sector. The programme has its basis in Law No. 3 of 20 March 1986, repealed by Law No. 28 of 20 June 1995 which prohibited enterprises not registered by 1995 from benefiting from the programme, whereas registered enterprises would enjoy the rights granted under the programme until 2010, provided the WTO Committee on Subsidies and Countervailing Measures granted an extension beyond 2007. Extension of this programme was granted under the same parameters as for the ZPE programme.<sup>31</sup>

**Table No. 9**  
**Amount of fiscal incentives granted under the Official National Industry Register, 2004-2006**  
(In millions of US dollars)

Type of benefit	Years		
	2004	2005	2006
Import tax exemption or rebate	17.5	14.1	18.6
Income tax exemption or rebate for reinvestment	11.6	9.7	3.4
Other incentives <sup>a</sup>	10.7	16.6	10.4
<b>Total</b>	<b>39.8</b>	<b>40.4</b>	<b>32.7</b>

a Income tax exemption only.

Source: Department of Tax Studies, Directorate-General of Revenue, Ministry of the Economy and Finance.

99. The purpose of the Tax Credit Certificate (CAT) is to encourage and assist the establishment and development of the manufacture and export of non-traditional products, and to promote the development of the production sector. This programme is regulated by Law No. 108 of 30 December 1974, as amended by Law No. 2 of 20 March 1986 and Law No. 28 of 20 June 1995 and regulated by Executive Decree No. 274 of 29 December 1995.

<sup>29</sup> Document G/SCM/85.

<sup>30</sup> Document G/SCM/W/537.

<sup>31</sup> Document G/SCM/84.



100. The programme was extended by the Committee on Subsidies and Countervailing Measures until 31 December 2005 and adopted by means of Law No. 62 of 26 December 2002. In view of the economic and social needs of the agro-industrial sector, which is concentrated mainly in rural areas with a peasant and indigenous population where the levels of poverty, mortality, malnutrition, and illiteracy are the highest in the country, Panama decided to guarantee agro-industrial sustainability by extending the programme until 31 December 2006 by means of Law No. 25 of 19 July 2005, and limiting programme benefits to non-traditional agricultural, livestock, and aquaculture products. It was subsequently extended until 30 September 2009 by means of Law No. 3 of 8 January 2007 and successive provisions.

#### 1.1.5 Trade Remedies

101. Panama believes that trade remedies are tools to reaffirm the objectives of trade opening in that they provide sufficient security to the production sectors, make the open trade process consistent, and help to strengthen it.

102. The Directorate-General of Trade Defence of the Ministry of Trade and Industry (MICI) is currently the agency responsible for safeguarding the commercial interests of Panamanian industry which has suffered injury from unfair practices, through the use of established investigation procedures. The Directorate validates negotiations on issues pertaining to safeguards and unfair practices, monitors the trading of goods liable to investigation proceedings, and discloses the relevant information.

103. Safeguard and anti-dumping and countervailing proceedings are currently governed by Decree-Law No. 7 of 15 February 2006 and the Marrakesh Agreement, adopted through Law No. 23 of 1997, which establish rules for trade protection and defence. The establishment of the new Directorate-General of Trade Defence and the adoption of the relevant legislation have strengthened institutional capacity, thus ensuring the credibility of trade reforms and the objectives of domestic liberalization.

104. Only one investigation for dumping has been carried out, involving certain imports of sugar from Mexico and Colombia (May 1998); in that case, the application to impose dumping duties was disallowed (February 2000). One safeguards case has been initiated, concerning certain printed roll polypropylene and polyvinyl chloride (PVC) film for manufacturing flexible packaging (2006).<sup>32</sup> In the area of countervailing duties, no investigation has been carried out.

#### 1.1.6 Technical Barriers to Trade

105. Technical standards and regulations in Panama are governed by Law No. 23 of 15 July 1997, which approved the Marrakesh Agreement and enacted provisions on technical standardization, conformity assessment, accreditation, quality certification, metrology and conversion to the International System of Units.

106. The National Standardization Agency (*Organismo Nacional de Normalización – ONN*) is the Directorate-General of Standards and Industrial Technology (*Dirección General de Normas y Tecnología Industrial – DGNTI*)<sup>33</sup>, which is responsible for ongoing promotion and development of technical standardization activities, quality management, and conformity certification. These

<sup>32</sup> At June 2007, there is a final resolution which recommends definitive measures, subject to approval by the Cabinet Council.

<sup>33</sup> Established by means of Cabinet Decree No. 225 of 1969, organizing the Ministry of Trade and Industry and assigning functions to it.

mechanisms help to ensure that the goods and services produced in Panama or imported into the country comply with internationally established quality levels.

107. The DGNTI oversees the legal and institutional environment for the formulation of technical standards and regulations and monitors the process leading to their adoption, implementation and/or accreditation. Technical standards and regulations in Panama are established on the basis of legitimate criteria for the protection of life, human, animal, or plant health, and the environment, and for the prevention of misleading practices.

108. The DGNTI also organizes, develops, facilitates, and promotes a national quality system to pave the way for domestic and international competitiveness through technical standardization and regulation. It engages in ongoing activities to develop a quality management "culture" for the well-being, safety, and health of the population.

109. In addition to its standardizing and certifying role, the DGNTI is also the national enquiry point for the WTO. It provides information through the Regulatory Information Centre (*Centro de Información Normativa – CIN*), offering ongoing assistance to users with respect to domestic and international technical manuals, standards, and regulations.

110. Panama is a member of the International Organization for Standardization (ISO), which allows the DGNTI to maintain communication and participate directly in standardization processes at the international level, and is also a member of the Codex Alimentarius Commission specifically established by the Food and Agriculture Organization of the United Nations (FAO) to address technical standardization in the area of food. In addition, as the national standardization agency, the DGNTI is the Codex Alimentarius focal point and coordinator in Panama. It is a member of the International Electrotechnical Commission (IEC); the Pan American Standards Commission (COPANT); the American Society for Testing and Materials (ASTM), which ensures technical standardization in the area of construction; the Colombian Technical Standards and Certification Institute (*Instituto Colombiano de Normas Técnicas y Certificación – ICONTEC*); and the Spanish Association for Standardisation and Certification (*Asociación Española de Normalización y Certificación – AENOR*).

111. To date, Panama has 15 technical manuals, 495 technical standards, and 84 technical regulations. Approximately 67 per cent of the technical regulations pertain to the food technology sector, and the remaining 33 per cent are divided among the following sectors: construction materials and buildings, petroleum and its by-products, metrology, and chemical products. All the technical regulations adopted by Panama are based on international principles and standards.

### **1.1.7 Sanitary and Phytosanitary Measures**

112. The WTO Agreement on Sanitary and Phytosanitary Measures (SPS Agreement) is an essential element in taking advantage of the benefits of trade liberalization, since it regulates the adoption and application of sanitary and phytosanitary measures and prevents them from becoming non-tariff barriers.

113. Panamanian law on sanitary and phytosanitary measures is based on the WTO SPS Agreement; Law No. 23 of 15 July 1997, approving Panama's Protocol of Accession to the WTO and setting forth Title I on animal health and agricultural quarantine measures and authorities; Law No. 47 of 9 July 1996, establishing phytosanitary protection measures; and Law No. 11 of 22 February 2006, establishing the Panamanian Food Security Authority (*Autoridad Panameña de Seguridad de Alimentos – AUPSA*) and setting out rules on food security.

114. The launching of AUPSA in mid-2006 led to important changes in the application of sanitary and phytosanitary measures. Significant progress was achieved in improving the system regulating food imports.

115. The AUPSA is the State lead agency responsible for establishing sanitary and phytosanitary requirements and measures for the import, transit, and transshipment of food. It is also entrusted with establishing equivalency among sanitary and phytosanitary measures relating to food imports at the system level. In addition, it is responsible for regionalization; verification of compliance with sanitary and phytosanitary import, transit, and transshipment requirements at Panamanian entry points (land borders, ports, and airports); food analysis and diagnostic assessment to prevent the entry of pests and diseases subject to quarantine; sanitary registration of pre-packaged foods whose import into the country is desired; and certification of laboratories specializing in this area with a view to their accreditation by the National Accreditation Council (*Consejo Nacional de Acreditación – CNA*).

116. Strenuous efforts are currently being made to complete the establishment of the National Commission on Sanitary and Phytosanitary Measures (*Comisión Nacional de Medidas Sanitarias y Fitosanitarias*), on which all the relevant authorities will be represented. The Commission's objective is to support international trade negotiations and coordinate implementation of the WTO SPS Agreement with other relevant international organizations.

117. In addition to enacting SPS legislation, Panama is a member of the Codex Alimentarius Commission and the World Organisation for Animal Health, and is a party to the International Plant Protection Convention and a signatory to the Convention on Biological Diversity.

118. Following its accession to the WTO in 1997, Panama submitted approximately 30 notifications to the Committee on Sanitary and Phytosanitary Measures. Of the notifications submitted in this period, only a small percentage constitute measures prohibiting the import of agricultural products; those measures are based on the principles laid down in the SPS Agreement.

119. In view of international support through the Inter-American Institute for Cooperation on Agriculture (IICA) and its own efforts and interests, Panama participates actively in the Committee on Sanitary and Phytosanitary Measures, which enables it to remain up to date and in the forefront regarding the transformation processes developed and applied by other Members in the area of SPS. This Committee also provides Panama with a forum in which to make its activities and projects known, raise its concerns, and obtain technical assistance and cooperation in improving the implementation of the SPS Agreement.

### **1.1.8 Intellectual Property**

120. Intellectual property rights have broad coverage in the Law on Industrial Property, Law No. 35 of 10 May 1996, and its Regulation, and by Law No. 23 of 15 July 1997 (the Marrakesh Agreement).

121. The agencies directly involved in the protection and enforcement of intellectual property rights are the Directorate-General of the Industrial Property Register (*Dirección General del Registro de la Propiedad Industrial – DIGERPI*), the Council for the Protection of New Varieties of Plants (*Consejo para la Protección de las Obtenciones Vegetales – COPOV*), the Directorate of International Trade Negotiations (*Dirección de Negociaciones Comerciales Internacionales – DINECI*), the Inter-Agency Intellectual Property Commission (*Comisión Interinstitucional de Propiedad Intelectual*), the National Copyright Directorate (*Dirección Nacional de Derecho de Autor*), the Office of the Special Prosecutor for Intellectual Property Offences (*Fiscalía Especializada*

*en Delitos contra la Propiedad Intelectual*), the Third Higher Court (Courts of Special Jurisdiction) (*Tercer Tribunal Superior (Juzgados Especiales de la Competencia)*), and the Colon Free Zone Intellectual Property Office (*Oficinas de Propiedad Intelectual de Zona Libre de Colón*), the Directorate-General of Customs (*Dirección General de Aduanas – DGA*), and the Judicial Technical Police (*Policía Técnica Judicial – PTJ*).

122. Through the Ministry of Trade and Industry (MICI), the IDB, and the World Intellectual Property Organization (WIPO), Panama has developed a project that promotes measures to reduce red tape, institutional excellence and the strengthening of management. As part of this objective, there is a technology infrastructure programme that provides for an Automated Industrial Property System (*Sistema Automatizado de Propiedad Industrial – SIDPI*), through which document digitization, a web site ([www.digerpi.gob.pa](http://www.digerpi.gob.pa)), and interconnectivity (<http://sidpil.digerpi.gob.pa>) were implemented.

123. Implementation of the various programmes related to this subject and to institutional modernization, involves national capacity-building through a formal education programme, seminars, and workshops for the public and private sectors, as well as links to universities. Promotion and dissemination of the programmes through publications and user guides that are distributed at conferences and information centres, have also had an important role.

124. The National System for the Protection of New Varieties of Plants (COPOV) is governed by the Standards for the Protection of New Varieties of Plants, Law No. 23 of 15 July 1997, Title V, and its Regulation. This system is based on the 1978 Act of the International Convention for the Protection of New Varieties of Plants (UPOV Convention) and Executive Decree No. 13 of 19 March 1999 (Regulation). The Law's objective is to recognize and guarantee the protection of plant varieties through patents or a *sui generis* (customized) system. The UPOV system affords the simplest means for countries to have their own systems for protecting plant varieties, with broad international recognition. The Council for the Protection of New Varieties of Plants (COPOV) is chaired by the Minister of Agricultural Development.

125. Collective intellectual property rights and the traditional knowledge of indigenous peoples are protected by Law No. 20 of 26 June 2000 and its Regulation, which establishes a special system of registration, promotion, and marketing to highlight indigenous cultural values, encourage the return of income to indigenous communities and provide them with social justice.

126. The Inter-Agency Intellectual Property Commission was established by Law No. 35 of 10 May 1996 (Article 197) and regulated by means of Resolution No. 177 of 2 May 2001. The Commission ensures the harmonization, coordination, and monitoring of policy in the area of intellectual property. It consists of the Directorate of International Trade Negotiations of the MICI, the Directorate-General of the Industrial Property Register of the MICI, the National Copyright Directorate of the Ministry of Education (MEDUCA), the Customs Intellectual Property Department, the Colon Free Zone Intellectual Property Department, and the Attorney General's Office, through its Special Prosecutor's Office.

127. MEDUCA's National Copyright and Related Rights Directorate is governed by the Law on Copyright and Related Rights (No. 15 of 8 August 1994) and by Decree No. 261 of 1995 regulating Law No. 15 of 1994. It deals directly with matters related to copyright, performance, phonograms, information technology, and the data base of the historical archive of works registered in the Copyright and Related Rights Register.

128. There is a collecting society that administers copyright and economic rights to musical works for its members and representatives, the Panamanian Society of Authors and Composers (*Sociedad*

*Panameña de Autores y Compositores* – SPAC), established through Resolution No. 8 of 30 December 1996.

129. The Attorney General's Office takes action through Law No. 15 of 1994 to eradicate the pirating of protected works, and does so in coordination with the SPAC in the interests of more effective action with a view to fostering respect for intellectual property rights. Various entities play a role in proceedings related to intellectual property; among them are prosecutors, judges, the Judicial Technical Police, and the National Police. Preventive and security measures are carried out by Customs and the Colon Free Zone.

130. Resolution No. 9 of 27 December 2002 established the Office of the Special Public Prosecutor for Intellectual Property Offences. In addition, under Resolution No. 013 of 9 March 2006, Law No. 45 of 4 June 2003, and Law No. 1 of 5 January 2004 articles and machinery used in the infringement of intellectual property rights may be donated or destroyed, the Special Prosecutor's Office has the right to take over criminal matters from the Ninth Public Prosecutor's Office and offences against the rights of others and abuse of industrial property rights may be merged. In intellectual property offences, the Prosecutor's Office carries out formalities for investigation, discovery of the truth and production of evidence, seeks to identify offenders and accomplices and brings criminal proceedings before the competent courts at the national level. From 2005 to April 2007, there were 151 searches, 38 inspections, and 201 expert evaluations. The evidence seized in copyright infringement cases was worth B 81,216, and the evidence seized in cases involving infringement of industrial property rights came to B 2,979,532 during the same period.

131. The Judicial Technical Police has a Special Section for Intellectual Property Offences at the national level, which was introduced by Resolution No. DG-143-03. It operates under the direct supervision of the Auxiliary Property Offences Division of the Attorney General's Office and the Judicial Authority in the investigation and prosecution of intellectual property offences and the punishment of offenders and accomplices.

132. Through Law No. 29 of 1996 on Defence of Competition, the Judicial Authority established circuit courts and the Third Higher Commercial Court with jurisdiction in the area of intellectual property.

133. The Directorate-General of Customs has the power to inspect or retain merchandise being processed in customs that may be infringing the existing legal provisions on intellectual property; this authority is granted through Executive Decree No. 123 of 26 November 1996, regulating Articles 176 and 177 of Law No. 35 of 10 May 1996.

134. Executive Decree No. 79 of 1 August 1997 regulated Articles 176 and 177 of Law No. 35 in respect of the Colon Free Zone and other free or processing zones managed by the State, and established the Industrial Property Department in the Colon Free Zone. Resolution No. 03-98 of 11 June 1998 established the functions and internal organization of the Intellectual Property Department; Resolution No. 04-98 of 11 June 1998 set rates for the entry of rights obtained in the Intellectual Property Register; Resolution No. 05-98 of 26 August 1998 set rates for provision of inspection services in the area of industrial property; and Resolution No. 18-98 of 14 February 1998 adopted the regulation on registration of licences for protected rights.

135. All these efforts have resulted in an efficient system for the protection and observance of intellectual property rights and copyright, which demonstrates Panama's clear commitment in this area.

### 1.1.9 Services

136. Trade, and the competitiveness it generates, has brought with it the formation of so-called "clusters" or groups of enterprises producing goods and/or services that complement one another within the same geographical area. In spite of their recognition by the WTO, the obligations contracted for each of the various services and the trade in goods carried out within the clusters continue to be those laid down in the relevant Agreements and bindings, irrespective of the coordinated relationship between these groups.

- **Financial Services**

137. The Panamanian Financial Centre, consisting largely of banking services, insurance, and securities, is one of the key strategic areas of the country's economy. In recent years, the regionalization of banking and insurance in Latin America has redefined the structure of the Panamanian Financial Centre, which seeks to expand and diversify its operations in the region. For this reason, Panama is promoting open trade practices in the sector, in order to achieve greater access to other markets.

138. In this context it should be emphasized that, in line with Panama's WTO commitments, there is a good level of open trade in financial services. These include banking and other financial services (excluding insurance), such as: deposit-taking; all types of loans, including personal and mortgage loans; financial leasing services; payment and money transfer services; guarantees and pledges; trading on the institution's own account or on behalf of clients, be it on an exchange, in an over-the-counter market, or in some other form; taking part in issues of all categories of securities; foreign exchange brokerage; asset management, for example, management of securities portfolios and pension funds; payment and clearing services involving financial assets; supply and transfer of financial information and financial data processing; advisory services and other back-office financial services.

139. In relation to the insurance and related services sector, Panama has no limitations on commercial presence, but does impose certain restrictions on cross-border supply and consumption abroad.

140. In order to grow, developing countries need capital and a financial infrastructure which also guarantee soundness and stability. As foreign investment flows to emerging markets, it will increase the volume and breadth of those markets. For this reason, in the current negotiating process, Panama is seeking improved access conditions that would allow, *inter alia*, an increase in the number of licences for foreign financial institutions and guaranteed levels of foreign participation in the capital of branches or bank subsidiaries, insurance companies, other financial entities, and other financial services. This will make the sector more competitive, increasing opportunities in external markets and promoting more efficient service delivery.

- **Tourism Services**

141. For Panama, it is important to guarantee access to the tourism service provider market. According to official figures, in the first quarter of 2006, the number of tourists increased by 14.4 per cent and the number of travellers in transit and crew members by 16.4 per cent, producing an increase of 19.2 per cent in expenditures made during these visits.

142. Nevertheless, guaranteeing the elimination of barriers to small-scale tourism investment in hotels and restaurants is also important, as is preventing discriminatory use and anti-competitive

practices by some service providers as regards access to computerized reservation systems and other instruments used in the tourism industry that enhance competitiveness.

143. As a result of the obligations Panama undertook upon its accession, there is unrestricted market access with respect to consumption abroad and commercial presence. These commitments are included in Schedule CXLI, Part II, on Specific Commitments on Services, under 9, A and B, of Panama's Protocol of Accession to the WTO.<sup>34</sup>

144. During the discussions held at the WTO in February 2001<sup>35</sup>, the conclusion was reached that tourism development also requires competitive services in the areas of transport (air and land), finance, and health. Some of these, such as financial and health services, were negotiated in the framework of the WTO. In the case of financial services, Panama bound access to its existing market. In the area of health, hospital services were bound, but not medical services. Air transport services were excluded from coverage under the General Agreement on Trade in Services (GATS) in respect of airspace and frequency of flights, inasmuch as they are regulated by the International Civil Aviation Organization (ICAO), and land transport services were not bound in the WTO. Other tourism-related services are distribution, advertising, and construction.

145. In the framework of the current round of negotiations, many WTO Members have made commitments in tourism services. "This level is greater than for any other sector, and indicates the desire of most Members to expand their tourism sectors and to increase inward FDI as part of efforts to promote economic growth"<sup>36</sup>, a desire promoted and shared by Panama.

- **Logistical Services**

146. Currently, there is no separate category for logistical services in the WTO Services Sectoral Classification List.<sup>37</sup> Nevertheless, elements related to logistics are included under various headings, for example, in the "Transport Services" sector (freight transportation, cargo-handling services, storage and warehouse services, freight transport agency services, etc.) and the "Business Services" sector (inventory control, order processing, etc.). Other related elements, such as customs clearance services, container station and depot services, and maritime agency services, were in fact introduced in the Maritime Model Schedule that served as the basis for the latest negotiations on this sector. Despite the suspension of those negotiations in June 1996, WTO Members generally recognized the specific characteristics and the importance of those elements in achieving the unfettered delivery of goods.

147. The express delivery service sector is believed to be taking on ever greater importance in issues related to logistics and inventories. A clear linkage is also seen between logistical services and other activities, such as electronic commerce and customs and health procedures, areas in which Panama has strengthened its institutional framework and implemented speedier procedures.

148. An analysis of the status of each of these service sectors in terms of their bindings and their development, is set forth below.

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<sup>34</sup> Law No. 23 of 15 July 1997.

<sup>35</sup> [www.wto.org/English/news\\_e/pres01\\_e/pr211\\_e.htm](http://www.wto.org/English/news_e/pres01_e/pr211_e.htm).

<sup>36</sup> Document S/C/W/51.

<sup>37</sup> Document W/120.

- **Transport Services**

149. There are several classifications and subclassifications for the transport sector, in accordance with the Central Product Classification (CPC). In air transport, despite broad freedom of access, there is private regulation through the International Air Transport Association (IATA). On this topic, in the WTO Panama bound trade opening in aircraft maintenance.

150. As far as rules are concerned, all the various other types of transport are covered by the GATS, but there is no commitment to opening trade.

151. Owing to the importance of the shipping industry to WTO Members, the Ministerial Decision on Negotiations on Maritime Transport Services was promulgated during the Uruguay Round negotiations in 1993. This Decision established the Negotiating Group on Maritime Transport Services with a mandate to carry out negotiations during the period from 16 May 1994 to June 1996.

152. Panama did not bind any offer of access to the maritime transport services sector during its WTO accession process, since by that time, the scope of access in the sector was being negotiated at the multilateral level.

153. In spite of the mandate and the efforts of many countries, the negotiations were suspended in 1996, and a new Ministerial Decision was established with a commitment to resume negotiations in a future round.

154. As part of the Guidelines on Trade in Services in the Doha Development Round, the request-offer approach was established as the plurilateral negotiation method for negotiating access to markets, and a plurilateral request was made on maritime services as a sector of interest to several Members, with a view to greater liberalization in international maritime freight and passenger transportation, auxiliary services in storage and warehousing and cargo handling, shipping agencies, and access to/use of port facilities, such as pilotage, berthing and anchorage, provisioning, and multimodal transport.

155. These negotiations are of great importance to Panama. The movement of containerized freight through the Panama Canal and provision of auxiliary services give Panama a competitive advantage as a maritime service provider. For this reason, the country is seeking greater liberalization in other markets, especially in freight movement and unrestricted port facilities.

156. From the standpoint of open trade practices at the domestic level, Panama's economy is broadly liberalized and there is a high degree of competition in port services, although market limitations restrict such liberalization. There are virtually no limitations on access to auxiliary services and international transport.

- **Technology Services**

157. The WTO classifies technology services as computer and related services. Panama bound trade opening, without restrictions on cross-border, consumption abroad, and commercial presence modes of supply, for the following technology services: consultancy services related to the installation of computer hardware; software implementation services; data processing services; database services; and equipment maintenance and repair services. This sector is broadly open to trade, which allows competitive development of logistical services.



158. Related consultancy services in science and technology were bound with no access or national treatment limitations for consumption abroad and commercial presence. In this sector, there is also liberalization for presence of natural persons other than engineers, who must be licensed in Panama.

- **Telecommunication Services**

159. It is important to mention the quality of the supply to which telecommunication service providers have access in Panama. Panama's binding under the WTO has been bettered by its own domestic law. In fact, at the time its WTO commitments were negotiated, Panama had not yet embarked upon an open trade process for this sector, which was in its beginnings. This was reflected in the bindings, which essentially were made only for telecommunication services with added value<sup>38</sup>, while companies were limited to providing these services through partnership with INTEL, S.A. for the first five years and thereafter directly. Basic telecommunication services were unbound.

160. The domestic telecommunication market in Panama has developed more rapidly than agreed in the WTO framework. The formation of the joint venture *Cable & Wireless de Panamá* (Cable & Wireless Panama) allowed private capital to have limited access, for five years, to basic telecommunication services and international calls, and through approval of Law No. 31 of 8 February 1996, added-value services were opened up.<sup>39</sup>

161. Moreover, given that Law No. 31 of 1996 regulates services and not technology, telecommunication infrastructure providers were completely liberalized, since there is no special law regulating that area. In addition, Law No. 23 of 1996 establishes international trade standards and confirms the market opening for telecommunication infrastructure providers.

162. These two laws have made Panama the country in the region where a fibre-optic submarine cable can be laid most easily and with the fewest restrictions. This has given rise to an impressive boom in the laying of submarine cables, which provide vast infrastructure capacity, making Panama highly competitive in the use of telecommunications in logistical services.

- **Business Services**

163. Under the category "Other Business Services" in its schedule of commitments, Panama bound a long list of services. These include services related to management consulting (inventory control services) and related scientific and technological consultancy services, on which Panama has made substantial commitments that guarantee market access, thus facilitating the management of distribution companies.

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<sup>38</sup> Electronic mail, voice mail, online information and data base retrieval, electronic data interchange (EDI), enhanced/value-added facsimile services (including store and retrieve), code and protocol conversion, online information and/or data processing (including transaction processing), and others.

<sup>39</sup> Panama adopted a system of service definitions, the legal basis of which is contained in a resolution of the Regulatory Agency, No. JD-025 of 2 December 1996. These definitions do not conform to the definitions used by the WTO, but it can be stated with certainty that nearly all the services immediately liberalized by this resolution are classified as value-added services according to the WTO. Decree-Law No. 10 of 22 February 2006 amended and supplemented Law No. 26 of 29 January 1996, restructuring the Public Service Regulatory Agency under the name National Public Service Authority (ASEP).

### 1.1.10 The Doha Round

164. Panama has participated as a Member in all the WTO Ministerial Conferences that have been held since its accession; in particular, at the Fourth WTO Ministerial Conference held in Doha, Qatar, in December 2001, it supported the launching of the new round of negotiations.

165. The Doha Round gave Panama an important opportunity to participate in decision making on the rules that will govern world trade. Panama recognizes the value of trade liberalization, clear rules, and transparency; for this reason, it participates actively in the various negotiations. It also echoes the call for observance of special and differential treatment, which should be present in all areas of the negotiations.

166. In relation to services negotiations, Panama submitted its initial offer in April 2003. It contains improvements in certain sectors, such as adult education, food supply, maritime transport, collection and elimination of hospital waste, and value-added telecommunication services. Panama has kept its domestic consultation process open in order to prepare its revised offer on services.

167. With respect to financial services negotiations, Panama submitted a joint proposal for financial services liberalization<sup>40</sup> which specifically seeks liberalization commitments in the establishment of joint ventures or branches, elimination of discrimination between domestic and foreign suppliers, and elimination of monopolies, numerical quotas, economic needs tests, and mandatory cessions. The proposal also seeks transparency in the formulation and application of laws and regulations, transparent and swift licensing procedures, and other regulatory issues.

168. Panama has participated actively in the maritime sector as a co-sponsor of greater trade liberalization proposals. It has also participated in such topics as computer and related services, audiovisual services, distribution services, logistical services, architectural and engineering services, and integrated engineering services.

169. In the framework of the agriculture negotiations, Panama submitted, together with other countries<sup>41</sup>, proposals on modalities and implementation for the fullest liberalization of tropical and alternative products.<sup>42</sup> This proposal also provides support for agricultural safeguards and recognition of special products.

170. Panama co-sponsored a proposal that promotes differential treatment in agriculture<sup>43</sup> and an outcome that goes beyond the level for developing countries in the market access negotiations<sup>44</sup> for recently acceded Members.

171. Panama supports the group of small and vulnerable economies and the group of recently acceded Members on a cross-cutting basis and favours greater trade liberalization for fish and fish products.<sup>45</sup>

172. Regarding trade facilitation, Panama co-sponsored a proposal that introduces a causal link between the scope of commitments and capacity for implementation, creating possible elements or bases of interest for developing country Members on technical cooperation and capacity-building.<sup>46</sup>

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<sup>40</sup> WTO documents TN/S/W/43, S/FIN/W/43.

<sup>41</sup> G-33 (Friends of Tropical Products).

<sup>42</sup> WTO document TN/AG/GEN/19.

<sup>43</sup> WTO document TN/AG/GEN/24.

<sup>44</sup> WTO document TN/MA/W/83.

<sup>45</sup> WTO document TN/MA/W/63/Add.1.

173. In the intellectual property negotiations, Panama fully supported, including through ministerial notes, the position of easing access to medicines for the production of generics. In addition, it supported the establishment of a multilateral system for the registration of geographical indications and the linkage of intellectual property rights and biodiversity, in terms of respect for the biological aspects of biodiversity; to this end, the National Environmental Authority (*Autoridad Nacional del Ambiente* – ANAM) has a regulation which establishes such a measure.

## 1.2 Bilateral Trade Agreements

174. Panama does not belong to any economic bloc; the dynamics of its trade are therefore largely determined by the multilateral context, its rights and obligations under the WTO, and its relationship with various partners through trade agreements.

175. The conclusion of trade agreements is encouraged, bearing in mind that such agreements seek to reduce the transaction costs of trade relations and provide a set of rules binding on their members that promote stability, foster transparency, and ensure compliance with the agreed rules. This strengthens investment opportunities in the country, which boosts the economy through production and job creation and stimulates economic and social well-being.

176. Panama initiated bilateral negotiations with Chile, Mexico, and Central America, and succeeded in concluding a basic text with Central America, which was signed on 26 March 2002. Once the negotiations on this text were concluded, bilateral negotiations were initiated with each of the five Central American countries to establish the level of access to goods, services, and investment, as well as the specific rules of origin for the products covered in the basic text. The bilateral protocol with El Salvador was signed together with the basic text and entered into force on 11 April 2003. The bilateral protocol with Honduras was signed on 15 June 2007. Negotiations on the bilateral protocol with Costa Rica concluded on 22 June 2007, and negotiations with Nicaragua and Guatemala are in their final phase.

177. Since the entry into force of the bilateral protocol with El Salvador, Panamanian exports have averaged 17.6 per cent annual growth. According to recent figures on investment in Panama, El Salvador is one of Panama's five key investment partners in the region. Salvadoran investments are distinguished by their presence in sectors such as banking, construction, and distribution and sale of motor vehicles and related parts and accessories.

178. With respect to access by Panamanian products to the Salvadoran market, nearly the whole of El Salvador's tariff universe (81 per cent) is duty free (0 per cent). As to access by Salvadoran products to the Panamanian market, 79 per cent of the products enter duty free (0 per cent). In both cases, the remaining products are subject to the tariff reduction programme.

179. Panama has also signed trade agreements with Chinese Taipei, Singapore, and the United States. In June 2003 it signed a free trade agreement (FTA) with Chinese Taipei, which entered into force on 1 January 2004. This treaty seeks to improve the free trade area between the partners, eliminate barriers to trade, facilitate the movement of goods and services, and increase investment in the territories of the parties. The tariff reduction programme allows immediate access to the Chinese Taipei market for 97 per cent of Panamanian exports, while 60 per cent of imports from Chinese Taipei receive the same treatment.

180. In March 2006, Panama signed an FTA with Singapore, which entered into force on 1 July 2006. This treaty was signed in the interest of attracting investment in maritime, port, air, and

<sup>46</sup> WTO document TN/TF/W/41.

processing zone activities, and of achieving technological cooperation in computer and telecommunication services. Panama achieved immediate access to Singapore for 100 per cent of agricultural and industrial goods of Panamanian origin, while granting Singapore immediate liberalization for 94 per cent of its exports to Panama and different import tariff phase out periods for other tariff lines. Negotiations on market access in investment focused on specific areas of interest to both countries, such as ports, telecommunications, consumer services and goods, and participation in public service companies.

181. Likewise, negotiations on an FTA with Chile concluded in February 2006. The negotiated agreement received the approval of the Panamanian National Assembly on 12 January 2007 and from the Chilean Chamber of Deputies on 4 July 2007. The agreement will enter into force 60 days after the exchange of notes between the two parties. One of the main benefits of the FTA with Chile is that Panama will be trade-integrated with one of the most flourishing economies in South America. This is the first FTA concluded with a South American country. Panama achieved immediate duty free access to the Chilean market for 92.5 per cent of its tariff lines. The FTA establishes suitable conditions for attracting Chilean investment to Panama, and at the same time nurtures the possibility of Panamanian investment in Chile. This trading partner is one of the largest users of the Colon Free Zone, and the FTA will enable Chilean entrepreneurs to benefit from the advantages and facilities that Panama offers foreign investors.

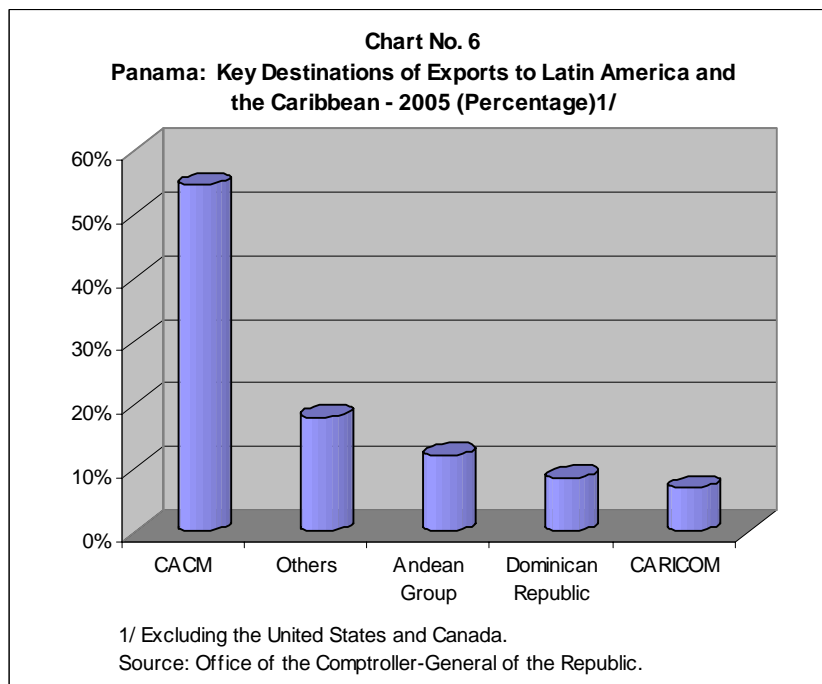
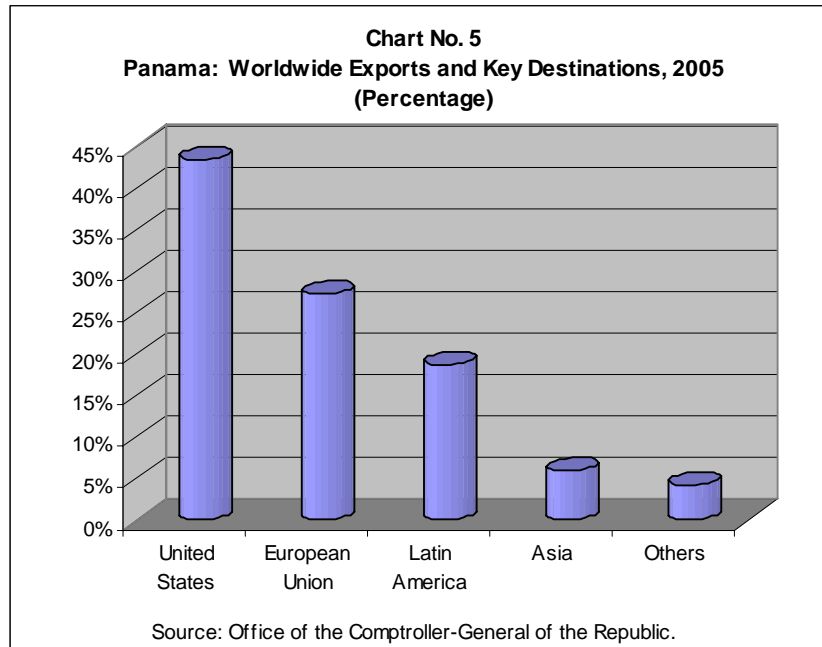
182. Panama also concluded a trade promotion agreement (TPA) with the United States, which was signed on 28 June 2007 and is currently being ratified by the United States Congress and the Panamanian National Assembly. The United States is Panama's main trading partner, with a 40 per cent share of its total exports, while imports from the United States market account for 30 per cent of total imports (see Chart No. 5).

183. The objective of the TPA with the United States is to solidify and expand current trade with Panama's most important trading partner, thereby also increasing foreign investment, the competitiveness of Panamanian enterprises, and exports to the United States market.

184. The United States is the country that has the largest share of foreign investment in Panama, with great potential for annual growth. In consideration of that fact, very flexible rules of origin were negotiated, allowing goods to be assembled and exported to the United States duty free. Recognition for re-manufactured goods was also achieved, making it possible to promote Panama as a re-manufacturing logistical centre through outsourcing for United States companies.

185. For Panama, the TPA represents duty free entry to the United States for 100 per cent of current exports from the industrial and fishing sectors. *Guayabera* shirts, handicrafts, folk and traditional goods, and sunfish will receive the same treatment.

186. In the area of cross-border trade in services, all service sectors are included with the exception of financial services, some air services, services provided by the State (health, education, etc.), and the permanent labour market.



187. These trade agreements have speeded up the market liberalization process and are helping to improve domestic regulatory standards related to international trade. Based on, *inter alia*, the performance of international trade and the results of trade agreements, evaluations are carried out that provide a basis for country proposals at the multilateral, plurilateral and bilateral level and are aimed at helping countries respond and adapt to global trends in the most positive manner possible.

### 1.3 Investment Promotion

188. Investment promotion in Panama has led to structural changes designed to project the image of a safe territory. A set of legal and regulatory provisions have been implemented, ranging from an Investment Framework Law (No. 54 of July 1998) to the signing of reciprocal investment promotion and protection agreements, international dispute settlement agreements in the area of investment, and modernization of laws related to, *inter alia*, competition, privatization, and telecommunications.

189. Panama's geographical position enables it to offer a modern logistical platform via sea, land, and air to both domestic and foreign investors. The Panama Canal is the main hub of the system of container terminals between the Pacific and the Caribbean. Supported by the inter-oceanic railway, it is the freight transshipment and redistribution centre. In addition, Panama has the largest merchandise redistribution free zone in the Western Hemisphere (the Colon Free Zone), as well as the Panama Pacific Special Economic Area (*Área Económica Especial Panamá Pacífico*), an area reserved for the production of high technology services.

190. Panama offers efficient air service through Tocumen International Airport. It has five fibre-optic submarine cables offering substantial connectivity with North and South America, Europe, Asia and the Caribbean, making it an ideal location for telecommunication companies and data centres. It has a sound banking structure governed by the Basel Convention principles. Its medical and health services enjoy international recognition. It has numerous hotels, including some belonging to large international chains; excellent restaurants; large shopping centres; and a variety of entertainment venues. These factors have enabled Panama to be chosen as the registered address of large multinational companies (Samsung Electronics, Inc., DHL, DELL, Hutchinson Port Holding Group, HSBC, BICSA, SCOTIABANK, Assicurazioni Generali, American Life Insurance Company, etc.) and international organizations (the United Nations Children's Fund (UNICEF), the United Nations Development Programme (UNDP), the Organization of American States (OAS), the Spanish International Cooperation Agency (*Agencia Española de Cooperación Internacional* – AECI), and Bladex, among others).

191. Another positive factor for investment promotion is that since Panama was founded in 1904, it has used the United States dollar as legal tender. This has enabled it to enjoy inflation of under 2 per cent in the past 40 years, with zero risk of devaluation.

192. Panama's general legal regime applies equally to nationals and foreigners. This equality is recognized in the 1972 Political Constitution, as amended by the 1978 Reform Acts, the 1983 Constitutional Act, and by Legislative Acts Nos. 1 of 1993, 2 of 1994, and 1 and 2 of 2004.

193. There are constitutional provisions that promote private property and protect intellectual property, free enterprise, and the principle of non-discrimination. The Constitution provides that foreigners who are in the national territory shall receive same treatment as nationals (Articles 19 and 20 of the Political Constitution of Panama).

194. Panama has an investment stability law, Law No. 54 of July 1998, which guarantees equal rights to all foreign and domestic investors.

195. Foreign investment does not require prior authorization, except for investments that take advantage of incentive schemes.

196. The Ministry of Trade and Industry is the public body tasked with promoting investment in the country. With the establishment of the Vice-Ministry (VICOMEX) in 1998, the various responsibilities of the Panamanian Foreign Trade Institute (*Instituto Panameño de Comercio Exterior*

– IPCE) and the Export Promotion Office (*Oficina de Promoción de las Exportaciones – PRO PANAMA*), such as offering specific information and projects to investors, became part of that body's activities.

197. With this restructuring, the Vice-Ministry was assigned various objectives related to foreign investment, among which are attracting investment through export promotion and foreign trade services, as well as promoting foreign investment in sectors such as tourism, export processing zones, ports, mining, and the reverted areas.

198. The entity tasked with regulating and promoting activities related to foreign investment is the Investments and Exports Advisory Council (*Consejo Consultivo de Inversiones y Exportaciones*), which consists of the Minister of Trade and Industry, the Minister of the Economy and Finance, the Minister for Foreign Affairs, and the Minister of Agricultural Development, as well as the Vice-Minister of Foreign Trade and a representative of each of the following institutions: the Chamber of Commerce, Industry, and Agriculture (*Cámara de Comercio, Industrias y Agricultura*), the Panamanian Industrialists' Union (*Sindicato de Industriales de Panamá – SIP*), the Panamanian Association of Exporters (*Asociación Panameña de Exportadores – APEX*), the National Union of Panamanian Agricultural Producers (*Unión Nacional de Productores Agropecuarios de Panamá – UNPAP*), the Panamanian Maritime Authority (*Autoridad Marítima de Panamá*), the Colon Free Zone, and the legislature.

199. Currently, the National Directorate of Investment Promotion (*Dirección Nacional de Promoción de las Inversiones*) of the Ministry of Trade and Industry is the body responsible for offering the following services to investors: expediting airport procedures upon their arrival in Panama; providing advisory services and guidance in identifying potential investment sectors and setting up their businesses in Panama; managing business appointments and trade contacts; organizing promotional tours, talks, and presentations; organizing and coordinating trade and investment missions from and to Panama; providing current trade data and information on international trade fairs; disseminating updated promotional material on statistics, laws, economic sectors, and investment projects; providing a link between investors and the public and private sectors; and periodically monitoring investors.

200. Panama has signed investment protection agreements with 18 countries: the United States (October 1982), France (November 1982), the United Kingdom (October 1983), Switzerland (October 1983), Germany (November 1983), Chinese Taipei (March 1992), Argentina (May 1996), Canada (September 1996), Chile (November 1996), Spain (November 1997), Uruguay (February 1998), Cuba (January 1999), the Czech Republic (August 1999), the Netherlands (August 2000), the Republic of Korea (July 2001), the Dominican Republic (February 2003), Ukraine (November 2003), and Mexico (October 2005). Of these agreements, those signed with the Dominican Republic and Ukraine are pending entry into force.

201. Panama has also signed a number of multilateral reciprocal investment protection agreements, i.e., the Agreement Establishing the Inter-American Investment Corporation (August 1985), the Convention Establishing the Multilateral Investment Guarantee Agency (MIGA) (January 1995), the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (November 1995), and the Agreement Establishing the Multilateral Investment Fund (MIF) (February 1992).

202. Law No. 54 of 22 July 1998, enacting measures for the legal stability of investments, is a response to the process of Panama's economic modernization, integration into the global economy and

market liberalization, and to the need for legislation affording legal certainty to stimulate investment and provide a reliable and safe environment.

203. Under this law, the Ministry of Trade and Industry is the authority responsible for promoting and protecting investments in Panama. "Investment" is defined as the disposal of funds, in the form of cash or credit facilities, capital goods, or asset transfers for actual production of goods and services, in activities such as tourism, industry, export agriculture, agro-forestry, mining, export processing zones, trade and petroleum free zones, telecommunications, construction, port and railway development, electricity generation, irrigation projects, and efficient use of water resources.

204. Natural or legal persons investing in Panama shall, for a period of ten years, enjoy the benefits of legal stability, national and municipal tax stability, and stability of customs and labour regimes. To this end, the Advisory Council on the Legal Stability of Investments, consisting of representatives of different Panamanian business entities, was established in the Ministry of Trade and Industry. Natural or legal persons investing in Panama who wish to avail themselves of the benefits provided under the law must invest a minimum sum of US\$2 million.

205. The main areas in which investment is promoted and protected are:

- **Tourism**

206. Tourism in Panama is promoted through Law No. 8 of 14 June 1994, which establishes certain incentives in the tourism development areas, such as total exemption from income tax for a period of 15 years; total exemption from property tax for a period of 20 years; total exemption from import tax on construction materials, furniture, and equipment of the investor company, subject to certain requirements; total exemption from taxes for a period of 20 years on the use of the dock and airport built by the investor company; and total exemption from income taxes on any interest accruing to creditors in tourism investment operations.

- **Export Processing Zones**

207. Law No. 25 of 30 November 1992 granted tax, labour, and migration incentives for the establishment of export processing zones. These are defined as Free Zones and Free Enterprise Zones (Art. 10). In these zones, all infrastructure, installations, buildings, systems, and supporting services, as well as the necessary operating structure and administrative management, are developed according to criteria of maximum efficiency. For this reason, companies from all over the world that produce goods and services for export are established in these zones.

208. The immediate objective of the zones is to promote optimum conditions of efficiency and comparative advantages to guarantee exporting companies high levels of competitiveness in international markets.

209. Any natural or legal person, domestic or foreign (Art. 20), wishing to engage in activities for the production of goods and services, such as manufacturing, assembly, processing of finished or semi-finished products, and exports of services, may participate in these zones.

210. The export processing zones are tax free (Art. 27); accordingly, the companies to which this law refers, as well as any activity, operation, transaction, procedure, transfer of goods and property, purchase and import of construction equipment and materials, raw materials, equipment, machinery, tools, accessories, inputs, and any goods or services required for their operations in these zones are 100 per cent free of national direct and indirect taxes, contributions, charges, duties, and levies.



211. The processing zones' capital, and that of the companies established in them, is free of national direct and indirect taxes, including business and licence taxes.

212. The export processing zones are free trade and free enterprise zones (Art. 31). Accordingly, service fees and product prices are set freely by each company that provides or produces them in accordance with the rules of supply and demand, bearing in mind the competitiveness required to participate successfully in the world market.

213. Foreigners who demonstrate that they have invested a sum of at least US\$250,000 (Art. 41) in companies duly authorized as promoters or operators of export processing zones or in companies established in the zones shall have the right to request a permanent residence visa as investors.

- **Colon Free Zone**

214. The Colon Free Zone (*Zona Franca de Colón* – ZLC) was established by means of Decree-Law No. 18 of 17 June 1948, which promotes domestic and foreign investment in commercial and industrial activity. Goods entering the ZLC are exempt from any customs duties. The ZLC is located in the port area at the Atlantic mouth of the Panama Canal, which is also a strategic point for imports and exports.

215. The main external factors that contribute to the productivity and competitiveness of the ZLC are frequent transits through the Canal, especially from Asia; the ports and their transshipment activities; International Banking Centre loans; tax-free operating conditions; management facilities; and international communications. The main competitive factors that characterize operators in the ZLC, in addition to the traditional services of quality, reliability, punctuality, and efficiency, are, *inter alia*, logistical services, just-in-time delivery, inventory control, and computerized sales. Likewise, intermodal transport systems are an important complement to the logistical services, and the combination of maritime ports, airports, railway, and hauling facilities are essential components in the effectiveness of ZLC trade. The transit of vessels through the Canal, and the frequency of air freight, add versatility to the Zone's operations. In the past 20 years, 12.6 per cent of shipments from the ZLC by weight (36.6 per cent by value) were sent by air transport.

216. During the past 20 years, the Zone's trade activities have increased at an annual average rate of over 3 per cent, compared with Latin American trade patterns. This growth demonstrates the competitive advantages of the ZLC. However, the Zone's operations are facing growing competition throughout Latin America. Other free zones in Miami, Iquique, and Uruguay engage in similar re-export business. Nevertheless, the growing open trade policies and financial stability seen in most Latin American countries favour the strengthening of the ZLC as a regional logistical and redistribution centre, in view of its competitive advantages. Currently, new systems, such as logistical services combined with intermodal transport and automated procedures, are being introduced to improve productivity, at the same time that the ZLC is adapting to modern technology and procedures that enhance the effectiveness of customs controls and inspection.

217. Among the tax benefits of the ZLC is a preferential tax programme applied to earnings of less than 8 per cent on the first US\$100,000 of income and 8 per cent on subsequent income; merchandise imports and re-exports are tax free; repatriation of capital or dividends generated abroad are not considered earnings for tax purposes.

218. Companies established in the ZLC that engage solely in export activities are tax-exempt provided they directly create a certain number of jobs.

- **Panama Pacific Special Economic Area**

219. The Panama Pacific Special Economic Area was conceived as the Business Centre of the Americas for companies seeking better investment opportunities or wishing to establish their operations on the American continent.

220. The Area offers excellent benefits for trade and services, such as tax, migration, and labour incentives, simplification of establishment procedures, operations, the best connectivity on the continent, an excellent quality of life, a skilled labour supply, employee training, and a special customs regime.

- **Other Investment Incentives**

221. Law No. 24 of 23 November 1992 provides incentives for reforestation investments that benefit domestic and foreign investors, as well as banks and other financial institutions providing reforestation loans. Reforestation consists of planting forest species on uncultivated land.

222. Some of the incentives offered are: any reforestation between 27 November 1992 and 26 November 2017 is exempt from income tax for a period of 25 years; the sums invested by natural or legal persons in forest improvement and growth are deductible from expenses; machinery, agricultural, forestry, and industrial equipment, chemical and agricultural materials and instruments, forest research material, forest seeds and plants, and other materials required for forestry activities are exempt from taxes upon entering the country; dividends and earnings on bonds or sales of shares and securities are also exempt from income taxes; interest on loans for reforestation activities are deductible from expenses; loans for reforestation activities carry preferential interest rates, and the interest paid on these loans is deductible from income taxes; financial institutions that provide these loans receive an annual tax credit for the first ten years of the contract; foreign investors who demonstrate that they have invested a sum of at least US\$40,000, directly or indirectly, in reforestation in Panama shall have the right to request an immigrant visa as investors.

223. The Law on Chattel Leasing, Law No. 7 of 10 July 1990, also creates incentives for investors. The leasing of property situated outside Panamanian territory is 100 per cent tax free, and earnings on leases of Panamanian vessels are completely tax free. In addition, the law sets no limitations on the type of lease. Leasing companies can be organized quickly, with no requirements other than obtaining a commercial licence and being registered in the Ministry of Trade and Industry's Directory of Companies. Leasing companies are organized under Law No. 32, promulgated in 1927, which regulates Panamanian corporations.

224. Under Law No. 32 of 26 February 1927, financial corporations in Panama also enjoy positive features for investors. For example, earnings on activities performed outside Panamanian territory are not subject to income tax. In addition, a corporation's capital may not be taxed or given in payment, and the corporation is not required to cover the total amount of its authorized capital. Neither directors nor officers need be shareholders or residents of Panama, and the corporation's directors are not required to be managers. Meetings of shareholders and/or directors may be held outside Panama, and both the directors and the shareholders may use a proxy. Lastly, a Panamanian corporation can be organized in approximately four days, and the interested parties need not be physically present in Panama.

## 2. FOREIGN TRADE STRATEGY

225. The National Foreign Trade Strategy (*Estrategia Nacional de Comercio Exterior*) is implemented by the Ministry of Trade and Industry (MICI) through the Vice-Ministry of Foreign Trade. The strategy's basic pillars are: concluding international foreign trade agreements; promoting Panamanian exports; promoting the internal changes necessary to improve domestic production; incorporating active participation by the private sector tailored to improving the business climate; providing periodic information on activities; and promoting the formation of conglomerates or clusters in the sectors chosen as having priority. The strategy is aimed at developing four specific areas: export promotion, competitiveness, agro-industrial development, and the Supplementary Agenda.

### 2.1 Export Promotion

226. The MICI executes the national export promotion programme "*Programa Exporta*", the purpose of which is to increase Panamanian exports to new markets. A part of programme implementation involves creating an alliance to strengthen the export production sector by promoting collaboration between business associations and other organizations related to business development, as well as universities and government agencies.

227. The Export Programme provides for various projects, namely: export promotion, the exporter's manual, export credit agencies (ECA) (export insurance), single window and international network (digitized), and the Exporter of the Year Prize.

### 2.2 National Competitiveness

228. To strengthen its economic and social growth and facilitate the regional integration process and its positioning in the global economy, Panama, in conjunction with the IDB, has been implementing the *Programa Compite Panamá* (Panama Competes Programme) since 2002. This programme's objective is to promote the competitiveness of Panamanian companies by creating a national consensus; to this end, strategies are determined with the private sector, a competitiveness fund was created, and the impact of that fund is monitored. This State programme is built on two main levels, the National Competitiveness Strategy (*Estrategia de Competitividad Nacional*) and the Cluster Competitiveness Strategy (*Estrategia de Competitividad de Clusters*), both of which are part of the National Foreign Trade Strategy, inasmuch as they are involved in State policy and encompass all public and private sectors related to productivity.

229. The Competitiveness Group, which consists of four Ministers of State, the Canal Administrator, four representatives of the private sector, two representatives of the academic sector, and two labour representatives, is the highest body coordinating the Panama Competes Programme.

230. The National Competitiveness Strategy was prepared with participation by the public and private sectors. Its purpose is to identify the barriers to production, create mechanisms to improve the business climate, and stimulate public investment projects to pave the way for increasing production in various sectors of the economy, so that they can gradually contribute to improving national economic output.

231. The Cluster Competitiveness Strategy was formulated and implemented through a participatory process. Its purpose is to implement a new institutional mechanism to promote the establishment of business conglomerates and support them through specialized technical assistance. As a result of this strategy, different conglomerates are emerging in the four sectors of greatest

potential for the Panamanian economy, namely, services (professional, tourism, financial, transport, and logistical services); technology and communication (software, telecommunications, call centres, data centres); energy (hydrocarbons, petroleum, alternative energy sources, wind energy, geothermal energy, hydroelectric energy, etc.); agro-industry; and tourism.

### **2.3 Agro-Industrial Development**

232. The MICI, in coordination with the Ministry of Agricultural Development (MIDA), promotes mechanisms to stimulate domestic production, thereby creating opportunities and potential in the agricultural sector with a view to greater participation in foreign markets.

233. The agro-industrial development strategy seeks to increase growth opportunities for existing non-traditional products and to research and develop new products that meet the demands of international consumers. The products that have aroused the greatest interest in international markets are the "non-traditional products", such as pineapples, melons, watermelons, pumpkins, cassava, yams, handicrafts, beef, and chicken.

234. In addition, new promotional policies are being developed by markets and sectors, for example, the agricultural, marine, handicrafts, industrial, and service sectors, and a schedule of activities is being implemented in coordination with diplomatic missions abroad to evaluate the best opportunities for export promotion.

235. The strategy's objective is to attract investors who are not only looking for business opportunities with local partners, but are also incorporating new technologies in processing, packaging, and preservation – added value which improves product quality and fills market niches – and innovating with new products that yield higher profits.

### **2.4 Supplementary Agenda**

236. The Supplementary Agenda Programme is a tool created by the current Government as an outgrowth of dialogue with Panamanian society. It is aimed at spurring profound transformations in the public and private sector through different projects and tangible initiatives that will enable Panama to derive the greatest possible benefit from the open trade process.

237. The Agenda includes a number of projects and initiatives that fit into the following four central action thrusts: modernization of the State; strengthening human capital; preparing the production sectors for the transition to free trade; and promoting systemic competitiveness.

238. This programme pursues the following objectives: strengthening the national economy; raising the productivity of enterprises; increasing national exports to international markets; positioning Panama as a destination for foreign direct investment (FDI); turning human resources, innovation, and technological development into forces that drive the economy; and improving trade facilitation schemes through nimble export mechanisms.

239. The factors to be utilized in this basic thrust of the Supplementary Agenda are: the programme for micro and small enterprises; the sectoral development projects in agriculture, industry, and services; specialized technical advice, training, and business management; research and technological development; improvement of production infrastructure; infrastructure investments; quality standards; advice on product development; marketing and marketing techniques; compliance with standardization measures, metrology, and SPS; the use of clean and sustainable production techniques; and programmes on forming partnerships, export consortia, strategic alliances, and business social responsibility.

240. The Supplementary Agenda also promotes cross-cutting programmes that support improvement of the business climate; good governance, which promotes transparency and confidence; and reduction of red tape.

#### **IV. GROWTH OF FOREIGN TRADE AND INVESTMENT**

241. The external sector has been a major strategic area of economic growth for Panama during the past ten years (1997–2006). In 1997, trade in goods and services represented 27 per cent of GDP; by the end of the decade, the ratio was 33 per cent. Net exports of both goods and services have averaged 8.4 per cent annual growth, from US\$2.3 billion to US\$4.9 billion, which represents 32 per cent of GDP. Exports of goods, meanwhile, have grown year after year, especially in the second half of the decade, when they grew by 7.8 per cent. In addition, the f.o.b. value of exports grew at an annual average rate of 5.3 per cent during the period 1997-2001, increasing to 7.8 per cent during the period 2002-2006. Service exports have posted more robust growth in comparison with goods exports, from 3.9 per cent to 14.7 per cent during the same period.

242. The performance of trade in goods and services and investment for the period covered by this report is described below.

##### **1. TRADE IN GOODS**

243. Between 1997 and 2006, exports of goods averaged 5 per cent growth, from US\$658 million to US\$1.022 billion, driven mainly by fishing and marine products (10 per cent on average), which have come to represent slightly more than one third of Panama's total exports.

244. However, the analysis of goods exports by five-year periods shows a mixed performance. For the period 1997-2001, while fishing exports showed greater buoyancy (19.1 per cent), agricultural products posted a decline of 3.2 per cent, and industrial products grew by 2.2 per cent. Meanwhile, the agricultural sector has been the one most affected by price fluctuations on the international market, especially in bananas and coffee, while pineapples, melons, and watermelons are gaining in importance.

245. Industrial exports have remained stable, with the sector recording movements on 240 tariff items on average. The most notable exports are petroleum by-products, medicaments, scrap of metal (iron and aluminium), and articles of apparel and clothing accessories of textile materials.

246. In the period 2002-2006, goods exports grew by 7.8 per cent annually, a figure higher than in the previous five-year period, when growth was 5.3 per cent. This period was marked by a change of trend, with the agricultural sector becoming the engine of growth in total exports, increasing at a 16.9 per cent annual rate. The good performance of the agricultural sector was associated with the growth of melon, watermelon, and pineapple exports, which together grew at an annual rate of 49.2 per cent. The growth of gourd family exports can be seen more clearly in terms of total agricultural exports, for while in 2002 the value of melon, watermelon, and pineapple exports represented 18.2 per cent [of GDP], by 2006 that ratio was 48.2 per cent.

247. In absolute terms, in the past five years banana exports have totalled around US\$105.6 million, while the contribution of this category to total agricultural exports has posted a decline, from 48.4 per cent in 2002 to 25.9 per cent in 2006; as stated earlier, it has been affected by market distortions and the tariff policies established by the European Union.

248. The fishing sector accounts for approximately 46 per cent of total exports for the period 2002-2006. The most important categories are fish, fresh, chilled, or frozen, with 74 per cent

(US\$280.9 million), and crustaceans, including the shrimp category, with 18 per cent (US\$67.5 million) of fishing sector exports.

249. Regarding the destination of trade, the United States has been Panama's main trading partner, accounting for 45.3 per cent of exports and 30.1 per cent of imports during the period 2002-2006. In the same period, the European Union accounted for 26 per cent of Panamanian exports (averaging US\$237.8 million), which consist mainly of bananas, melons, watermelons, pineapples, and shrimp, and for 7 per cent of its imports (approximately US\$263 million).

250. The total value of imports in 2006 reached US\$4.83 billion. Spain, Germany, the United Kingdom, and Belgium were the four European Union countries with the largest number of goods exports to Panama, accounting for 1.5 per cent, 1.2 per cent, 0.7 per cent, and 0.5 per cent, respectively. Also in 2006, exports reached US\$1.021 billion. Spain, the Netherlands, Sweden, and Belgium were the main importers in the European Union, representing 8.1 per cent, 6.7 per cent, 5.6 per cent, and 3.8 per cent, respectively, of these exports.

251. The Central American region is of great important to Panama as a trading partner. In 2006, Panama's exports to Central America represented 12 per cent of its global exports (US\$124 million). Costa Rica occupies first place in the ranking of destinations for Panamanian exports to the region, with an export value of US\$45 million, followed by Guatemala, Honduras, Nicaragua, and El Salvador (US\$33 million, US\$17.9 million, US\$17.5 million, and US\$9.2 million, respectively). Live bovine animals, aluminium packing materials, petroleum by-products, medicaments, prepared or preserved meat, meat, marine products (fish, shrimp), paper, fruit and vegetables, and chemical products stand out among the main export categories.

252. The c.i.f. value of goods imports from the Central American region reached US\$420.5 in 2006. Costa Rica was the main supplier, with 59 per cent, followed by Guatemala (21 per cent), El Salvador (15 per cent), Honduras (4 per cent), and Nicaragua (2 per cent). The main products imported from the region are pharmaceuticals, electronic equipment, plastics and articles thereof, detergents and chemical products, edible preparations, and paper and paperboard.

253. As the Central American region as a whole is one of Panama's main trading partners, the country is moving forward in concluding new-generation treaties to obtain greater access for its exports of goods and services. In this way, Panama is seeking to obtain better and sounder terms in those markets to which it already has access, while exploring the feasibility of access to new markets, in consonance with its foreign trade policy.

254. With respect to trade in the Colon Free Zone, the main suppliers of goods (imports) originate in various Asian countries, including Hong Kong, China, the Republic of Korea, Thailand, and Chinese Taipei. The volume of imports from Asia represents nearly 70 per cent, by weight, of the total goods imported by the Colon Free Zone (mainly textiles, footwear and apparel, and electronic articles).

255. As to the main customers of the Colon Free Zone, Colombia remains the chief destination, followed by Venezuela and Panama itself. Colombia accounts for 17 per cent, Venezuela for 16 per cent, Panama for 13 per cent, Ecuador for 4.2 per cent, and Central America for 20.9 per cent, on average, of exports from the Colon Free Zone.

256. Lastly, mention should be made of Panama's reduced dependence on its ten main export markets during the period covered by this report. Thus, with respect to exports of goods by destination country, Panama has reduced its dependence on its ten key export markets, from a concentration of 85 per cent in 1996 to 79 per cent in 2006 (see Table No. 10). The same holds true

for imports, where the share of the ten main supplier countries has declined from 82 per cent to 76 per cent, favouring greater participation and opportunities for new suppliers in the domestic market (see Table No. 11).

**Table No. 10**  
**Panama: Exports by destination country, 2006 and 1996**  
(In millions of US\$)

Rank	Destination country	f.o.b. value 2006	Destination country	f.o.b. value 1996
1	United States	392.9	United States	269.5
2	Spain	83.2	Sweden	57.8
3	Netherlands	68.3	Costa Rica	37.7
4	Sweden	56.9	Germany	25.2
5	Costa Rica	45.7	Belgium/Luxembourg	23.7
6	Belgium/Luxembourg	38.7	Puerto Rico	15.6
7	United Kingdom	34.7	Guatemala	15.0
8	Guatemala	33.0	Spain	14.4
9	Italy	26.4	Canada	11.4
10	Chinese Taipei	23.7	Colon Free Zone	11.1
	Others (66 additional destinations)	218.5	Others (65 additional destinations)	87.9
<b>Total</b>		<b>1,022.0</b>		<b>569.3</b>

Source: Ministry of Trade and Industry.

**Table No. 11**  
**Panama: Imports by country of origin, 2006 and 1996**  
(In millions of US\$)

Rank	Country of origin	c.i.f. value 2006	Country of origin	c.i.f. value 1996
1	United States	1,294.3	United States	1,037.4
2	Colon Free Zone	574.6	Colon Free Zone	378.2
3	Curaçao	488.2	Venezuela	198.8
4	Costa Rica	247.6	Japan	168.0
5	Japan	229.2	Ecuador	107.4
6	Mexico	173.0	Mexico	106.9
7	Colombia	170.0	Colombia	98.3
8	China	169.2	Costa Rica	75.4
9	Republic of Korea	165.6	Republic of Korea	55.8
10	Petroleum Free Zone	162.7	Germany	46.7
	Others (79 additional supplier countries)	1,156.4	Others (102 additional supplier countries)	506.9
<b>Total</b>		<b>4,830.9</b>	<b>Total</b>	<b>2,779.7</b>

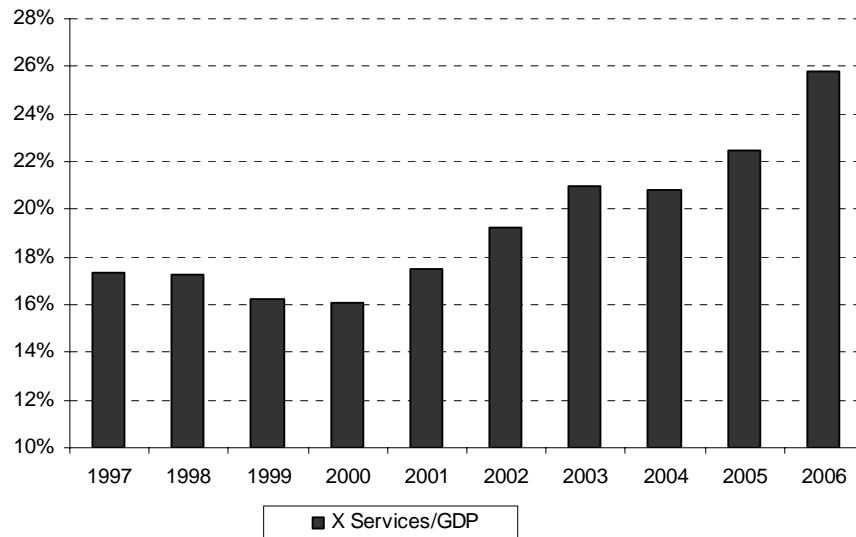
Source: Ministry of Trade and Industry.

## 2. TRADE IN SERVICES

257. During the period 1997-2006, the Panamanian economy exported more than US\$24 billion worth of services. In 1997, exports represented 17 per cent of GDP, and in 2006 that share increased to 26 per cent (see Chart No. 7). A sharper increase was seen at the beginning of 2002, driven mainly by transport services, which represented approximately 57 per cent of Panama's service exports.

Chart No. 7

Relative Share of Exports of Services in the Economy  
1997-2006



Source: Office of the Comptroller-General of the Republic.

258. According to the balance of payments national record of accounts, transport, travel, and financial services, with the exception of insurance, represent 85 per cent of Panama's service exports.

259. In addition, "transport" covers all transport (sea, air, and other – including land, internal waterway, space, and pipeline) services that are performed by residents of one economy for those of another and that involve the carriage of passengers, the movement of goods, rentals of carriers with crew, and related supporting and auxiliary services.<sup>47</sup> In Panama, exports of transport services represented more than 50 per cent of service exports for the period 1997-2006. This category of services averaged 10.4 per cent growth for the period under review, from US\$909 million in 1997 to more than US\$2.2 billion in 2006.

260. Within the transport services segment, the most important components are the Canal toll revenues and port services, which together surpassed US\$1.6 billion in 2006. The port services, aircraft, and railway sector continued its annual growth of around 20 per cent, mainly because of the ongoing expansion of airline services (COPA) and the increase in container movements (measured in TEUs), which averaged 16 per cent during the past five years. In addition, freight transport by rail averaged 55 per cent annual growth during the period 2002-2006.

261. Tourism services classified as travel according to the fifth edition of the Balance of Payments Manual cover mainly the goods and services acquired from an economy by travellers during visits of less than one year in that economy.<sup>48</sup>

<sup>47</sup> International Monetary Fund, Balance of Payments Manual, 1993. Chapter XI, page 61.

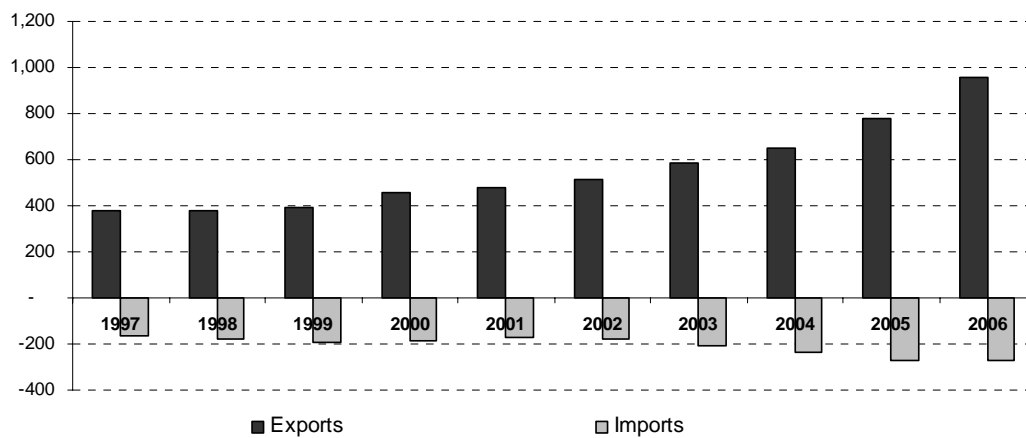
<sup>48</sup> Ibid. Chapter XII, page 64.



262. Panama has been a net exporter of travel services, which increased from US\$211 million in 1997 to US\$688 million in 2006. The activity that supports this sector is personal travel for purposes other than health or education (tourism/leisure activities and shopping). There is a high correlation between this type of travel and the air transport services mentioned earlier.

Chart No. 8

Panama  
Exports and Imports of Travel Services 1997-2006  
(In millions of US\$)

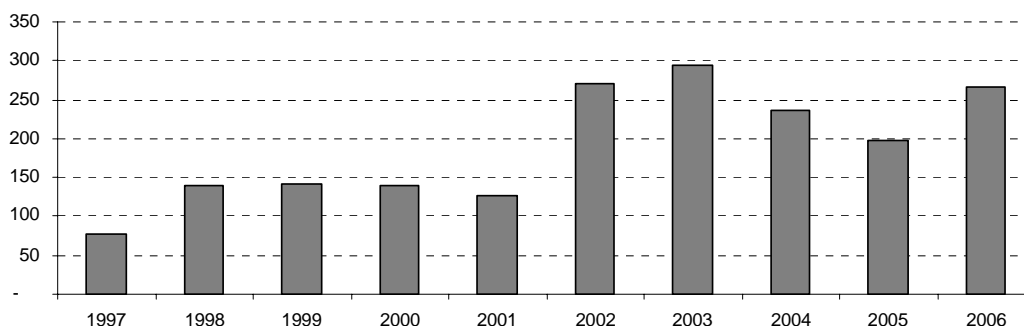


Source: Office of the Comptroller-General of the Republic.

263. Exports of banking services averaged 16 per cent annual growth for the period 1997-2006 as a result of the National Banking Centre boom and its expansion in Central America, as well as the good performance of the Latin American economies.

Chart No. 9

Panama  
Exports of Financial Services 1997-2006  
(In millions of US\$)



Source: Office of the Comptroller-General of the Republic.

264. The role of foreign direct investment (FDI) in stimulating the economy of any country, especially an open and small economy like that of Panama, is indisputable. The common denominator of investments is the necessity for certain conditions to exist in the host country. What stands out in Panama's case are its political and economic stability and the broad freedom of capital movements that it offers.

265. Foreign investment is characterized by its participation in sectors such as mining, public services, the food and chemical industries, transport, wholesale trade, information, finance, and some professional, scientific, and technical services. The most important of these are finance, wholesale trade, and public services.

266. After a contraction between 1997 and 2002 owing to the end of the cycle of privatizations and government concessions, the closing of some banks since 1999 (and bank losses in 2002), and the transformation of the Canal Commission into a national capital stock company in 2002, FDI has increased significantly since 2003.

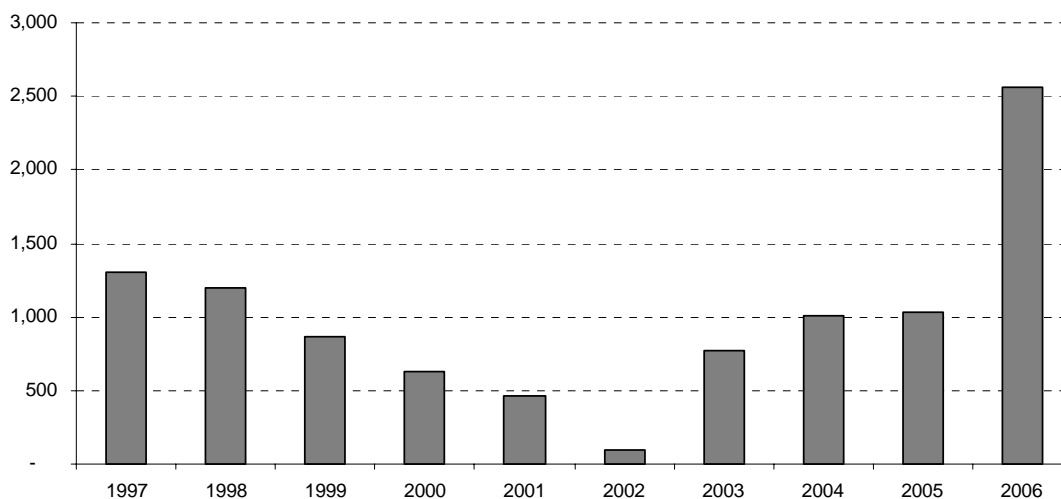
267. In 2006, for example, Panama received FDI totalling US\$2.56 billion, a figure that was nearly triple the receipts in 2005. In addition, this sum makes Panama the second destination for foreign investment in the region, and ranks it as one of the 10 most important Latin American and Caribbean countries in terms of its ability to attract investment.<sup>49</sup>

268. The rebound in 2006 was due in large part to the acquisition of Banistmo and other large banks with registered addresses in Panama. Other sectors in which major investments were made were infrastructure, real estate, and tourism. The expansion of the Panama Canal, approved by referendum in October 2006, should have substantial effects on inward FDI in the next several years (according to 2006 data from the Office of the Comptroller-General and the Ministry of the Economy and Finance).

<sup>49</sup> United Nations Economic Commission for Latin America and the Caribbean (ECLAC), Foreign Investment in Latin America and the Caribbean, 2006.

Chart No. 10

Panama  
Foreign Direct Investment 1997-2006  
(In millions of US\$)



Source: Office of the Comptroller-General of the Republic.

269. On the basis of data relating to the origin of FDI received by other countries, Panama is perceived as one of the key investors in the region. This is partly a reflection of its characteristics as a financial centre, as well as its political and economic stability.

270. According to the Index of Economic Freedom, Panama is regarded as one of the world's most open economies, ranking higher (at No. 47, and in fourth place in Latin America) than countries such as Costa Rica, Argentina, Colombia, Brazil, and Mexico. This factor, recognized worldwide, is due to the absence of the restrictions that typically affect the establishment, operation, conduct, and management of investments.<sup>50</sup>

271. Given the realities of attracting investment to the region in general, Panama has developed a policy that gives it an increasingly important role in promoting factors that are decisive for investment, such as clear rules for trade operations, moderate tax rates, low levels of State intervention in the economy, low inflation, and free movement of capital.

272. Projects such as expanding the Canal, establishing new port facilities that will enhance Panama's potential as a regional and international freight transshipment centre, the Colon Free Zone (ZLC), upgrading the (Howard) Panama Pacific Special Economic Area, and strengthening the financial sector are clear opportunities that will increase the flow of inward FDI.

273. Other such opportunities would be agribusiness, establishing a collection centre and multimodal hub for the export and re-export of perishable products, establishing lines for operating air freight redistribution centres, and research and innovation in the *Ciudad del Saber* (City of

<sup>50</sup> The Heritage Foundation, 2007 Index of Economic Freedom.

Knowledge) to promote and facilitate synergies between universities.<sup>51</sup> In the tourism and energy sectors, mention can be made of the regional refinery, a lubricant processing plant, and the maritime gas pipeline from Cartagena, Colombia, to the city of Colon.

274. It is important to note that in its quest to attract foreign investment, Panama is not neglecting the living standards of its citizens. For this reason, quality of life is a basic objective of Panama's trade policy and approach to attracting investment. Lastly, the signing of new trade treaties enhances conditions for attracting FDI and its variables (investment of capital and securities), by leaving behind the uncertainty that surrounded the investment process and reinforcing legal certainty for investments.

## V. MODERNIZATION OF THE STATE

275. The adoption of a policy of trade liberalization made it necessary to adapt and reform Panama's institutional and legislative structure. These reforms have been introduced in connection with the adoption of various international trade treaties and agreements, starting in the 1990s. As will be seen, the result has been to endow Panama with a modern, practical and efficient legal and institutional framework.

276. The following paragraphs describe the institutions, laws and projects that have been developed in order to fulfil the requirements of globalized trade and the commitments entered into as a result of joining the WTO.

### 1. CONSUMER PROTECTION AND DEFENCE OF COMPETITION

277. The *Comisión de Libre Competencia y Asuntos del Consumidor* (Commission on Free Competition and Consumer Affairs – CLICAC) was established by Law No. 29 of 1996, recently amended by Decree Law No. 9 of 2006, for the purpose of overseeing free competition and consumer protection.

278. Market requirements made it necessary to restructure CLICAC, in order to create other bodies to expedite the procedures by decentralizing decision-making. This restructuring was approved by Decree Law No. 9 of 2006, which modifies the institution and adopts the title *Autoridad de Protección al Consumidor y Defensa de la Competencia* (Authority for the Protection of the Consumer and the Defence of Competition).

279. At the same time, the Ministry of Trade and Industry and the *Ente Regular de los Servicios Públicos* (Public Utilities Regulatory Body) underwent certain changes with respect to their structure and powers. The changes relating exclusively to the subject of Trade Protection are described later in this Section.

### 2. FOOD SAFETY

280. The *Autoridad Panameña de Seguridad de Alimentos* (Panamanian Food Safety Authority – AUPSA) was established by Decree Law No. 11 of 22 February 2006, for decentralization purposes and to create a body to supervise the importation, transit and transshipment of food for human and animal consumption.

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<sup>51</sup> The City of Knowledge is an international complex for education, research and innovation, organized to promote and facilitate synergy between universities, scientific research centres, new economy businesses and international bodies.

281. The AUPSA has taken over the functions previously performed by the Ministry of Agricultural Development and the Ministry of Health in relation to the importation, transit and transshipment of food, with account for the diversity and quality of supplies.

282. The establishment of this new authority has expedited and facilitated the international trade in goods via Panama by ensuring transparency, certainty, flexibility and a reduction in the costs of import, transit and transshipment formalities.

### 3. ENVIRONMENT

283. Law No. 41 of 1998 established the *Autoridad Nacional del Medio Ambiente* (National Environmental Authority – ANMA) and the principles and broad outlines of national environmental policy. This favours the creation of promotion tools and mechanisms and incentives to encourage the process of conversion of the productive system to operating methods compatible with the protection of the environment.

284. With respect to trade, the National Environmental Authority follows up the implementation of the Convention on the International Trade in Wild Fauna and Flora (CITES). The main objective of the Convention is to prevent international trade from becoming a threat to the survival of wild fauna and flora. This is achieved by including them in an approved list in order to regulate and continuously monitor the trade in these species and others that might come to be threatened or endangered.

285. With respect to liberalization and commercial traffic in the field of genetic resources, by Executive Decree No. 257 of 17 October 2006 the Government of Panama regulated article 71 of General Environmental Law No. 41 of 1 July 1998, which among other things established the *Unidad de Acceso al Recurso Genético* (Genetic Resource Access Unit – UNARGEN).

286. Within the framework of the international commitments entered into under the Biological Diversity Convention, adopted at the United Nations Conference on Environment and Development held in Rio de Janeiro, Brazil, in 1992 and all the bilateral treaties ratified by Panama, ANMA's fundamental objective is to ensure fair and equitable participation in the benefits to be derived from the use of genetic and other natural resources, in order to achieve a balance between trade liberalization and the sustainability of the environment.

### 4. GOVERNMENT PROCUREMENT

287. Law No. 22, which entered into force on 28 December 2006, established the *Dirección General de Contrataciones Públicas* (Directorate-General for Government Procurement) as an autonomous entity, with its own assets, legal personality and independence in the performance of its functions. This made the government procurement process more transparent and reaffirmed the principle of non-discrimination.

288. Previously, government procurement had been handled by a non-autonomous directorate-general which was structurally part of the Ministry of the Economy and Finance. The new directorate-general is responsible for regulating, interpreting, supervising and advising on the contractor selection procedures employed by state institutions.

289. This Law lays down the rules applicable to all contracts for goods, services and works awarded by state entities, with the exclusion of the municipalities, communal and local councils, the Social Insurance Fund, and the Panama Canal Authority by constitutional provision.

290. The Directorate-General for Government Procurement has identified within its action plan the implementation of certain investment projects for the year 2007. These will be aimed at building the capacity of the Directorate and government purchasing agencies, modernizing the system, positioning *PanamáCompra* and providing support for micro, small and medium-sized enterprises so as to create conditions enabling them to participate in certain public contractor selection procedures.

## 5. REGISTRATION OF INDUSTRIAL PROPERTY

291. In Panama, industrial property falls within the jurisdiction of the *Dirección General del Registro de la Propiedad Industrial* (Directorate-General for the Registration of Industrial Property – DIGERPI), which was established by Law No. 2 of 11 February 1982 as part of the Ministry of Trade and Industry, for the purpose of encouraging and supporting the technological and economic development of the country by fostering and promoting inventiveness and creativity through appropriate legal protection for all areas of industrial property. Since it was first established, DIGERPI has been responsible for promoting, disseminating, developing, protecting and supervising industrial property, as the country's policy-making body.

292. In order to comply with the principles of trade policy and harmonize procedures, DIGERPI is implementing the non-refundable technical cooperation project known as "Development and Promotion of Intellectual Property", the aim of which is to increase legal certainty in order to improve the conditions of competitiveness and investment in Panama with the specific aim of increasing familiarity and compliance with intellectual property law and raising the number of national registrations.

293. Where industrial property is concerned, there is a preliminary draft amendment to Law No. 35 of 10 May 1996, aimed at creating the legal structure necessary to permit the use of electronic media to speed up and automate all DIGERPI's administrative procedures, by legalizing the electronic submission of applications via the Internet and adapting to international commitments.

## 6. CUSTOMS

294. Panama's accession to the World Trade Organization and the negotiation and ratification of various trade agreements have given rise to a broad panoramic view of the new responsibilities and commitments that the state must assume in relation to the modernization of the customs system.

295. The Directorate-General of Customs of Panama, through the Ministry of the Economy and Finance, is initiating legal and structural changes to the institution in order to be able to provide an automated and efficient service that ensures due respect and protection for the tariff benefits conferred on our trading partners under the Agreements.

296. The changes include the establishment of the *Autoridad Nacional de Aduanas* (National Customs Authority) as an autonomous authority independent of the Ministry of the Economy and Finance, together with the definition of its functions and powers and, in general terms, its administrative organization.

297. In addition, customs auxiliaries and intermediaries are identified and some special rules for customs brokers and others relating to the *Junta de Evaluación de los Agentes Corredores de Aduana* (Customs Brokers Evaluation Board) are established. Similarly, enforcement powers are granted to the competent authority, and the procedural principles, the rights of those administered, the question of minor and more serious offences, the corresponding penalties, the modes of participation in offences, the circumstances that modify responsibility and possible defences are defined. At the same time, the ranges of behaviour characterized as a misdemeanour, smuggling or customs fraud are

broadened, and particular treatment is reserved for cases of non-declaration or false declaration of currency, which is classed as a special customs offence.

298. The preliminary draft deals with everything relating to the administrative and enforcement procedures of the customs authority, including such aspects as notifications and their rules; means of challenging decisions; the procedure for sanctioning minor customs offences, the administrative procedure for settling disputes concerning technical valuation discrepancies, the investigation of the more serious customs offences and the administrative bodies for hearing such cases.

299. Finally, the preliminary draft incorporates transitional, repealing and application provisions and includes framework rules under which the Cabinet Council retains the right to issue regulatory provisions in development of the present proposal.

## 7. SCIENCE AND TECHNOLOGY

300. The National Strategic Plan for the Development of Science, Technology and Innovation 2006-2010, implemented by the State through Cabinet Resolution No. 104 of 21 December 2005, is coordinated by the *Secretaría Nacional de Ciencia, Tecnología e Innovación* (National Secretariat for Science, Technology and Innovation – SENACYT), the unit responsible for the monitoring and evaluation of the plan. All SENACYT's activities, projects and programmes are aimed at strengthening, supporting, influencing and promoting the development of science, technology and innovation with a view to raising the level of productivity, competitiveness and modernization in the private, government and academic research sectors and in the population at large.

301. The principal measures taken in the context of the National Strategic Plan, especially in relation to the promotion of economic incentives, are: the establishment of funds open to public competition with peer review for the promotion of research, development and innovation; the implementation of innovation and technological modernization projects in the priority areas; the strengthening of clusters; innovation capacity building at enterprise level.

## 8. OFFICE FOR INTERNATIONAL TRADE NEGOTIATIONS

302. In 1998, the Ministry of Trade and Industry included among its projects the restructuring of the institution through the establishment of a vice-ministry with special responsibility for promoting foreign trade and attracting investment. Through Law No. 53 of 21 July 1998 this restructuring led to the establishment of the Vice-Ministry of Foreign Trade.

303. From the growth of bilateral trade relations and participation in WTO fora there arose the need to reorganize and modernize the procedures applied to the management of trade relations. To this end, the Ministry of Trade and Industry, through Decree Law No. 6 of 15 February 2006, set up the *Oficina de Negociaciones Comerciales Internacionales* (Office for International Trade Negotiations – ONCI), which took over some of the functions of the Vice-Ministry of Foreign Trade and was assigned functions relating to unfair trading practices and the protection of trade, under Decree Law No. 7 of 2006.

304. The Office of the Head of International Trade Negotiations has three administrative units, namely: the Permanent Mission of Panama to the World Trade Organization (WTO), the National Directorate for International Trade Negotiations and the National Directorate for the Administration of International Trade Treaties and Trade Protection.

305. The Permanent Mission in Geneva represents the Office of the Head of International Trade Negotiations in the World Trade Organization and carries out and coordinates its instructions.

306. The National Directorate for International Trade Negotiations carries out and coordinates the instructions issued by the Office of the Head of International Trade Negotiations, as well as negotiating foreign trade agreements, treaties and conventions, multilateral, regional and bilateral.

307. The National Directorate for the Administration of International Trade Treaties and Trade Protection carries out the instructions issued by the Office of the Head of International Trade Negotiations and oversees the proper implementation and enforcement of the trade treaties and agreements ratified by the Republic of Panama, as well as investigating unfair practices and safeguard measures.

308. The above-mentioned institutional and legislative reforms and those envisaged in Annex 1 demonstrate the robust efforts made by Panama to improve its institutional capacity in accordance with the commitments it has undertaken and on the basis of the objectives of its trade and development policy, efforts which have succeeded in strengthening the organizational and functional structure of the public sector. This has made it possible to build up administrative capacity to meet the standards of present-day international trade and, moreover, to pursue a policy of state modernization which takes into account the fact that its effective implementation depends on its being constantly updated and refined.

## **VI. CONCLUSIONS AND PROSPECTS**

309. During the period under review, Panama has developed and put into practice a series of policies and changes which have led to a promising economic and trade performance after approximately ten years of reforms. This has made it possible to maintain a sustained growth rate, which reached 8.1 per cent in 2006, the highest of the decade and one of the highest in Latin America.

310. Trade liberalization has been a decisive factor in the country's growth, contributing to the achievement of higher levels of competitiveness and increases in productivity, especially in export-related sectors. By making good use of its geographical position and the advantages generated by the Panama Canal and the Financial Centre, the country has established liberal policies and centred its economy on activities related with those advantages. Maritime sector activities linked with the international maritime transport of cargo and passengers and auxiliary services have been promoted; re-exportation from the Colon Free Zone has been stepped up; and more recently, with the privatization of the Atlantic and Pacific ports and the Trans-Isthmus Railway, a boost has been given to the distribution and storage of goods, by generating a structure that will support the provision of logistical services. A policy of liberalization of the tourism sector is also being developed.

311. All these activities are based on Panama's comparative advantages, such as its geographical position combined with the use, for more than 100 years, of the US dollar as legal tender. These advantages have defined the course which the country has followed; nevertheless, Panama is aware that, to ensure their primacy and enjoy their benefits, they must be continuously regenerated.

312. Panama's membership of the WTO has played a dominant role in this transformation, together with the free trade agreements it has concluded which have helped to expand Panama's opportunities for trade in both goods and services and to attract investment. This has ensured not only improved access to markets but also a better environment for trade with Panama's various partners, by guaranteeing non-discrimination, increasing certainty and providing efficient instruments to facilitate trade.

313. In the coming years it is hoped to achieve an even greater growth rate. Panama is experiencing a new trend characterized by strong growth, reinforced by the large number of mega-projects in the design or implementation phase, together with a real estate boom, port expansion,



major public investment projects, refinery and electrical interconnection projects, and the project for the enlargement of the Panama Canal. Exports are expected to continue their vigorous growth, boosted by an expanding world economy, particularly in Asia and Latin America (with the latter benefiting from high prices for oil and raw materials); at the same time, a greater volume of traffic and higher tolls should increase the income of the Panama Canal Authority (ACP), while new exports of ores and agricultural products will come onstream.

314. Panama will continue developing its state modernization policy with the intention of strengthening its institutions and improving administrative efficiency in order to meet its commitments and the challenges of trade liberalization.

315. At the same time, it reaffirms its commitment to trade liberalization and the need to take due account of the challenges which that poses for the productive sectors. It also regards the process of validation and consultation as the appropriate mechanism for seeking consensus and greater opportunities for national development. In this connection, it will continue to be an agent and active promoter of change based on the multilateral system, with a view to achieving an ever freer and fairer trading system.

ANNEX 1

**PRINCIPAL LEGISLATIVE REFORMS AND ADAPTATIONS WITHIN  
THE CONTEXT OF PANAMA'S ACCESSION TO THE WTO AND THE  
CONSEQUENT PROCESS OF INSTITUTIONAL MODERNIZATION**

- (i) **Customs procedures and clearance (imports and exports)** ([www.aduanas.gob.pa](http://www.aduanas.gob.pa))
- Law No. 41 of 1 July 1996. Introducing general rules to be followed by the Cabinet Council in issuing provisions concerning the Customs Regime. Published in Official Gazette No. 23.070 of 2 July 1996.
  - Cabinet Decree No. 41 of 11 December 2002. Developing the provisions concerning the Customs Regime under Law No. 41 of 1 July 1996. Published in Official Gazette No. 24.700 of 16 December 2002.
- (ii) **Prohibitions, licences and other controls applied to imports and exports** ([www.aduanas.gob.pa](http://www.aduanas.gob.pa)):
- Law No. 23 of 15 July 1997, Title III (General Provisions for the Processing of Import Licences Issued by State Institutions). Approving the Marrakesh Agreement Establishing the World Trade Organization; Panama's Protocol of Accession to that Agreement, together with its Annexes and Schedules of Commitments; adapting the domestic legislation to international norms and introducing other provisions. Published in Official Gazette No. 23.340 of 26 July 1997.
  - Resolution No. 5 of 18 November 1998. Regulations for administering the granting of Licences for the Importation of Products subject to Tariff Rate Quotas. Published in Official Gazette No. 23.687 of 8 December 1998.
- (iii) **Customs valuation, minimum and reference prices, and preshipment inspection** ([www.aduanas.gob.pa](http://www.aduanas.gob.pa)):
- Cabinet Decree No. 26 of 1 August 1996. Introducing provisions concerning the Customs Regime with respect to the Customs Valuation System. Published in Official Gazette No. 23.096 of 7 August 1996.
  - Resolution No. 704-04-019 of 10 January 1997. Procedure used for the valuation of used vehicles. Published in Official Gazette No. 23.348 of 5 August 1997.
  - Resolution No. 704-04-532 of 17 September 1997. Regulating the value of goods in accordance with Decree No. 26 of 1 August 1996. Published in Official Gazette No. 23.402 of 20 October 1997.
  - Resolution No. 704-04-528 of 10 October 1997. Regulations for the valuation of used goods. Published in Official Gazette No. 23.405 of 23 October 1997.

**(iv) Provisions in force in relation to tariff concessions on both imports and exports (for example, repayment or deferred payment of duties, free zones) (www.aduanas.gob.pa):**

- Law 28 of 20 June 1995. Adopting measures for the universalization of tax incentives to production and introducing other provisions. Published in Official Gazette No. 22.810 of 22 June 2005.
- Executive Decree No. 274 of 29 December 1995. Regulating Law No. 28 of 20 June 1995 relating to the universalization of tax incentives. Published in Official Gazette No. 22.956 of 22 January 1996.
- Law No. 41 of 20 July 2004. Creating a special regime for the establishment and operation of the Panama-Pacific Special Economic Area, and an autonomous state entity known as the Panama-Pacific Special Economic Area Agency. Published in Official Gazette No. 25.103-A of 28 July 2004.

**(v) Anti-dumping and countervailing duties, safeguards (www.mici.gob.pa):**

- Decree Law No. 7 of 15 February 2006. Establishing rules for the protection and defence of domestic production and introducing other provisions. Published in Official Gazette No. 25.491 of 22 February 2006.

**(vi) Government procurement (www.mef.gob.pa):**

- Law No. 56 of 27 December 1995. Governing Government Procurement and introducing other provisions. Published in Official Gazette No. 22.939 of 28 December 1995.
- Executive Decree No. 18 of 25 January 1996. Regulating Law No. 56 of 27 December 1995, which governs Government Procurement and introduces other provisions. Published in Official Gazette No. 22.961 of 29 January 1996.
- Law No. 22 of 27 June 2006. Governing Government Procurement and introducing other provisions. Published in Official Gazette No. 25.576 of 28 June 2006.

**(vii) Competition policy (www.autoridaddelconsumidor.gob.pa):**

- Law No. 29 of 1 February 1996, establishing rules on the defence of competition and adopting other measures.
- Executive Decree No. 31 of 15 July 1997. Regulating Articles 103 and 112 of Law No. 29 of 1 February 1996 on the defence of competition. Published in Official Gazette No. 23.334 of 18 July 1997.
- Decree Law No. 9 of 20 February 2006. Creating the Authority for the Protection of the Consumer and the Defence of Competition, amending and adding provisions to Law No. 29 of 1 February 1996 and adopting other provisions. Published in Official Gazette No. 25.493 of 24 February 2006.

(viii) **Standards and technical regulations** ([www.mici.gob.pa](http://www.mici.gob.pa)):

- Law No. 23 of 15 July 1997, Title II (Provisions on Technical Standardization, Conformity Assessment, Accreditation, Quality Certification, Metrology and Conversion to the International System of Units). Approving the Marrakesh Agreement Establishing the World Trade Organization; Panama's Protocol of Accession to that Agreement, together with its Annexes and Schedules of Commitments; adapting the domestic legislation to international norms and introducing other provisions. Published in Official Gazette No. 23.340 of 26 July 1997.

(ix) **Sanitary and phytosanitary measures** ([www.mida.gob.pa](http://www.mida.gob.pa); [www.minsa.gob.pa](http://www.minsa.gob.pa))

**Animal and Plant Health:**

- Law No. 47 of 9 July 1996. Creating the National Plant Health Directorate and introducing phytosanitary protection measures. Published in Official Gazette No. 23.078 of 12 July 1996.
- Law No. 23 of 15 July 1997, Title I (Zoosanitary and agricultural quarantine measures and powers). Approving the Marrakesh Agreement Establishing the World Trade Organization; Panama's Protocol of Accession to that Agreement, together with its Annexes and Schedules of Commitments; adapting the domestic legislation to international norms and introducing other provisions. Published in Official Gazette No. 23.340 of 26 July 1997.
- Executive Decree No. 39 of 31 August 1999. Approving the organization, administration and functions of the Ministry of Agricultural Development. Published in Official Gazette No. 23.880 of 7 September 1999.

**Food Safety:**

- Decree Law No. 11 of 22 February 2006. Creating the Panamanian Food Safety Authority and introducing other provisions. Published in Official Gazette No. 25.493 of 24 February 2006.

(x) **Financial services** ([www.superbancos.gob.pa](http://www.superbancos.gob.pa))

- Decree Law No. 9 of 26 February 1998. On the Banking Regime and the Banking Supervisory Authority of Panama. Published in Official Gazette No. 23.499 of 12 March 1998.
- Decision No. 4 of 1998. Framework Agreement for the conclusion of agreements and understandings with foreign supervisory bodies. Published in Official Gazette No. 23.667 of 10 November 1998.
- Decision No. 3-2001 of 5 September 2001. On Banking Licences. Published in Official Gazette No. 24.409 of 15 October 2001. See Decision No. 2-2006.
- Decision No. 4 of 2001. Corporate Governance. Published in Official Gazette No. 24.409 of 15 October 2001.

- Decision No. 4 of 2002. Opening of transborder establishments by Panamanian banks. Published in Official Gazette No. 24.529 of 11 April 2002.
- Decision No. 2-2003. On Microfinance Licences. Published in Official Gazette No. 24.765 of 21 March 2003. As amended by Decision No. 6-2003.
- Decision No. 5 of 2003. Electronic Banking Regulations. Published in Official Gazette No. 24.833 of 30 July 2003.
- Decision No. 6 of 2003. Amending Articles 3 and 7 of Decision No. 2-2003 on Microfinance Banks. Published in Official Gazette No. 24.903 of 7 October 2003.
- Decision No. 1 of 2004. Mergers and Takeovers. Revoking Decision No. 10-2003. Published in Official Gazette No. 25.213 of 7 January 2005.
- Decision No. 2 of 2005. Bank Transfers. Published in Official Gazette No. 25.236 of 14 February 2005.
- Decision No. 9 of 2005. Developing Outsourcing. Published in Official Gazette No. 25.420-A of 2 November 2005.
- Decision No. 12-2005 of 14 December 2005. Prevention of the Improper Use of Banking and Fiduciary Services. Published in Official Gazette No. 25.452 of 27 December 2005.
- Special Decision No. 12-2005 of 14 December 2005. Handbook of Examples of Suspicious Transactions. Published in Official Gazette No. 25.455 of 30 December 2005.
- Resolution J. D. No. 032-2005 of 21 December 2005. Establishing the scope of the notion of due diligence contained in Article 3 of Decision No. 12-2005. Published in Official Gazette No. 25.469 of 23 January 2006.
- Decision No. 2 of 2006. Amending Articles 7, 9, 10 and 13 of Decision No. 3-2001 of 5 September 2001 on Banking Licences. Published in Official Gazette No. 25.510 of 24 March 2006.

**(xi) Telecommunications Services** ([www.asep.gob.pa](http://www.asep.gob.pa)):

- Law No. 26 of 29 January 1996. Establishing the Regulatory Body for Public Utilities. Published in Official Gazette No. 22.962 of 30 January 1996.
- Law No. 5 of 9 February 1995. Restructuring the National Telecommunications Institute (INTEL) as a public limited company. Published in Official Gazette No. 22.724 of 14 February 1995.
- Law No. 43 of 21 July 1995. Establishing the tendering procedure for Cellular Mobile Telephony Band A. Published in Official Gazette No. 22.833 of 25 July 1995.

- Executive Decree No. 21 of 12 January 1996. Issuing the Regulations on the Operation of the Cellular Mobile Telephony Service. Published in Official Gazette No. 22.957 of 23 January 1996.
- Law No. 31 of 8 February 1996. Establishing rules for the regulation of telecommunications in the Republic of Panama. Published in Official Gazette No. 22.971 of 9 February 1996. Law No. 31 of 1996 was amended, in its turn, by Law No. 24 of 30 June 1999. Published in Official Gazette No. 23.832 of 5 July 1999.
- Executive Decree No. 73 of 9 April 1997. Regulating Law No. 31 of 8 February 1996. Published in Official Gazette No. 23.263 of 10 April 1997.
- Resolution No. JD-080 of 10 April 1997, establishing the tendering conditions for service No. 106 known as Personal Communications (PCS).
- Resolution No. JD-106 of 30 September 1997, adopting the first part of the National Technical Telecommunications Plan, which includes the National Routing Plan, the National Synchronization Plan, the National Signaling Plan and the National Transmission Plan.
- Resolution No. JD-107 of 30 September 1997, adopting the Plan for the Use of the Radio Frequency Spectrum and the National Frequency Allocation Plan. Amended by Resolutions: No. JD-115 of 23 October 1997, No. JD-740 of 22 May 1998, No. JD-2019 of 13 June 2000, No. JD-2375 of 14 September 2000, No. JD-2481 of 1 November 2000, No. JD-3250 of 21 March 2002, No. JD-4879 of 24 August 2004, No. JD-5110 of 14 January 2005 and No. JD-5824 of 24 January 2006.
- Resolution No. JD-179 of 12 February 1998 and its amendments, adopting the National Numbering Plan, which forms an integral part of the National Technical Telecommunications Plan.
- Executive Decree No. 138 of 15 June 1998. Introducing rules for the use of installations dedicated to the provision of public telecommunications, radio and television services. Published in Official Gazette No. 23.568 of 19 June 1998.
- Resolution No. JD-2802 of 11 June 2001, adopting the Rules governing the provision of Basic Telecommunications Services, as from 2 January 2003, and adopting other measures.
- Resolution No. JD-3127 of 19 December 2001, amending Resolution No. JD-025 of 1996, for locating within the classification of Telecommunications Services type "B" Service No. 223 known as the Call Centre Service.
- Executive Decree No. 97 of 25 September 2002. Regulating Article 2 of Law No. 54 of 25 October 2001 and adding a paragraph to Article 14 of Executive Decree No. 1-D of 28 January 1994 (benefits for Call Centres). Published in Official Gazette No. 24.650 of 1 October 2002.

- Resolution No. JD-4408 of 18 December 2003, adopting the Rules for enterprises providing Cellular Mobile Telephony Service Bands A and B to offer Automatic Routing (pre-subscription) and Access Code facilities on Domestic and International Long Distance calls. Published in Official Gazette No. 24.961 of 6 January 2004.
- Resolution No. JD-5690 of 5 December 2005, amending Resolution No. JD-102 of 1 September 1997 and in consequence adopting the text detailing the regulations applicable to the AUDIOTEXTO Value Added Service. Published in Official Gazette No. 25.455 of 30 December 2005.
- Decree Law No. 10 of 22 February 2006. Reorganizing the structure and functions of the Public Utilities Regulatory Body and introducing other provisions. Published in Official Gazette No. 25.493 of 24 February 2006.

**(xii) Air Transport Services** ([www.aeronautica.gob.pa](http://www.aeronautica.gob.pa))

- Resolution No. 079-JD of 18 June 2002. Approving the Panama Civil Aviation Regulations. Published in Official Gazette No. 24.651 of 2 October 2002.
- Resolution No. 095-JD of 27 August 2002. Amending Resolution No. 079, sections of Books VI and XIV. Published in Official Gazette No. 24.649 of 30 September 2002.
- Law No. 21 of 29 January 2003. Governing Civil Aviation, replacing Decree Law No. 19 of 1963 and introducing other provisions. Published in Official Gazette No. 24.731 of 31 January 2003.
- Law No. 22 of 29 January 2003. Repealing Cabinet Decree No. 13 of 1969 and establishing the Civil Aviation Authority. Published in Official Gazette No. 24.731 of 31 January 2003.
- Law No. 23 of 29 January 2003. Adopting the regulatory framework for the administration of Panama's airports and airfields. Published in Official Gazette No. 24.731 of 31 January 2003.
- Resolution No. 174-AL-DG-AAC of 17 September 2003. Defining the Organizational Structure of the Civil Aviation Authority.
- Resolution No. 009-AL-DG-AAC of 2 February 2004. Annuling Resolution No. 174-AL-DG-AAC of 17 September 2003 and defining the Organizational Structure of the Civil Aviation Authority.
- Resolution No. 002-JD of 12 February 2004. Amending several books of Resolution No. 079 and adding others. Published in Official Gazette No. 25.031 of 19 April 2004.
- Resolution No. 009-JD of 12 February 2004. Approving Book XXIII on Airfield Certification. Published in Official Gazette No. 25.066 of 7 June 2004.

- Resolution No. 030-AL-DG-AAC of 30 March 2004. Annuling Resolution No. 009-AL-DG-AAC of 2 February 2004 and defining the Organizational Structure of the Civil Aviation Authority.

**(xiii) Maritime Transport Services** ([www.amp.gob.pa](http://www.amp.gob.pa)):

- Law No. 38 of 4 June 1995. United Nations Convention on the Law of the Sea done in Montego Bay 10 December 1982. Published in Official Gazette No. 23.056 of 12 June 1996.
- Law No. 36 of 6 July 1995. Amending, adding and repealing articles of the Fiscal Code. Yacht licences, registration of groups of vessels and discounts, arrangements for payment. Published in Official Gazette No. 22.825 of 13 July 1995.
- Law No. 25 of 18 July 1997. Amending article 3 of Law No. 2 of 1980 and article 1053 of the Fiscal Code and introducing other provisions. Published in Official Gazette No. 23.338 of 24 July 1997.
- Decree Law No. 7 of 10 February 1998. Establishing the Panama Maritime Authority. Published in Official Gazette No. 23.484 of 17 February 1998.

**(xiv) Tourism Services** ([www.panamatramita.gob.pa](http://www.panamatramita.gob.pa))

- Law No. 8 of 14 June 1994. Promoting tourism activities in the Republic of Panama. Published in Official Gazette No. 22.558 of 15 June 1994.
- Decree Law No. 4 of 1998. Amending Law No. 8 of 1994 promoting tourism activities in Panama. Published in Official Gazette No. 23.480 of 12 February 1998.

**(xv) Opening Businesses**

- Law No. 5 of 11 January 2007, expediting the process of opening businesses and establishing other provisions. Published in Official Gazette No. 25.709 of 12 January 2007.
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