

## U.S.-Panama Trade Promotion Agreement

### SERVICES

With the implementation of the U.S.-Panama TPA, U.S. service providers will gain improved access to the Panamanian market and benefit from improved regulatory transparency. Panama made substantial commitments to liberalize its services trade. For example, Panama committed to open its telecommunications and financial services sectors to U.S. companies, to lift restrictions on investment in retail trade, to provide improved access in sectors such as express delivery services, to ensure a predictable legal framework for investment in Canal expansion projects, and to provide new access in professional services that previously had been reserved exclusively to Panamanian nationals. These commitments significantly improve upon Panama's WTO commitments and establish a solid market for exports of U.S. services and investment in most sectors.

#### *Why do services commitments matter?*

The services sector accounts for the majority of jobs in the United States. In the United States, private services industries accounted for 93.2 million U.S. jobs in 2007, or roughly 81 percent of private non-farm employment. U.S. services exports are a vital part of this picture and they continue to grow. In 2007, services exports of \$497 billion accounted for 30 percent of total U.S. exports, generating a services trade surplus of \$119 billion, which helped to offset 15 percent of the U.S. merchandise trade deficit.

U.S. services firms are well positioned relative to their competitors abroad to take advantage of free trade agreements. The intensity and vigor of the U.S. market give rise to extremely competitive companies prepared to meet stringent demands at home and abroad. Consumers in Panama value services that help boost their own productivity and enhance their lives and look to the United States as a model in terms of providing high-quality and cutting-edge services and technologies.

#### ***U.S.-Panama TPA Opens Services Market to U.S. Exporters***

##### *Substantial Market Access Provided*

- Panama will accord substantial access across its entire services regime subject to very few exceptions, using the "negative-list" approach.

##### *Key Sectors Benefit including*

- Telecommunications, distribution services such as wholesaling, retailing and franchising, express delivery services, computer and related services, audiovisual services, transport services, construction and engineering services, tourism, advertising, professional services (e.g. architects, engineers, accountants), environmental services.

##### *Regulatory Transparency Required*

- Transparency in regulatory processes is absolutely essential for services industries because they are often highly regulated.
- The U.S.-Panama TPA requires regulatory authorities to use open and transparent administrative procedures, and provide advance notice and comment periods for proposed rules and regulations.

## *U.S.-Panama TPA Allows Service Providers to Choose Mode of Delivery – a Key Provision for SMEs*

The U.S.-Panama TPA affords U.S. service suppliers, with limited exceptions, to choose whether to supply their services on a cross-border basis or through an investment in Panama. This is a benefit to all U.S. service providers, especially SMEs, who may not have the resources to maintain a presence in Panama or are able to conduct enough business in Panama to warrant a local presence.

The freedom for service providers to choose their mode of delivery becomes increasingly important as technology makes distance less of a service barrier. Panama is a regional leader in Internet use and an innovator in technology applications. The potential for new investments in telecommunications and information systems as a result of the U.S.-Panama TPA would dramatically improve access to IT, benefiting all “e-service” providers.

### *Sector-Specific Benefits for the Service Sector*

Panama’s sectoral coverage in the U.S.-Panama TPA is significantly broader than the commitments it undertook in the WTO General Agreement on Trade in Services (GATS). As with our other free trade agreements, the Agreement uses a “negative list” approach in sectoral coverage, *i.e.*, every sector is covered unless an exception is listed in an annex of non-conforming measures.

U.S. service providers should immediately benefit from U.S.-Panama TPA commitments in a number of key areas. Some examples are provided below.

### *Financial Services*

With the implementation of the Agreement, Panama will further open its dynamic financial services sector to U.S. providers. Panama will allow U.S. providers to have full rights to establish subsidiaries or branches for banks or insurance providers, enabling them to provide credit to underserved areas, potentially increasing competition and thereby reducing financing costs and making credit more readily available to Panamanian consumers.

U.S.-based firms will be able to supply insurance on a cross-border basis, including through electronic means for key markets including reinsurance, brokerage, marine, aviation (within two years after the Agreement enters into force) and transport insurance. U.S.-based banking and other non-insurance firms will be able to offer services cross-border in areas such as provision, transfer, and processing of financial data and information; related software; and the provision of advisory and other auxiliary financial services, excluding intermediation.

U.S.-based asset managers, including insurance companies, will be able to provide investment advice and other portfolio management services to mutual funds and pension funds, including the funds that manage the portfolios of collective investment schemes established in Panama.

### *Advertising*

Panama will provide full market access and national treatment for advertising, an improvement over Panama's limited commitments under the GATS.

### *Construction and Engineering Services*

Panama will provide broad coverage for construction services. In addition, improved regulatory regimes and strong investment environments will stimulate growth opportunities for construction consultants and engineers. This is an improvement over the GATS, where Panama only made a limited commitment for engineering services largely based on reciprocal treatment.

### *Distribution Services, including Retail and Wholesale Services, Direct Marketing, and Direct Selling*

Some retailers will benefit from the removal of barriers that inhibit the movement of products among manufacturers, wholesalers, retailers, and consumers. Intellectual property rights provisions will ensure the concept brands of the franchise companies are protected. Retailers working with transportation, telecommunications, financial, computer and other service providers should be able to improve and streamline the supply chain to better serve consumers in the United States and throughout the hemisphere. Direct marketers should benefit from improved wireless telecommunication services and Internet service that are likely to result from the U.S.-Panama TPA, and from Panama's commitments to open specific services sectors that are important to direct marketers, such as travel and tourism.

### *Franchising*

In addition to granting full market access for franchising, other commitments that Panama made under the Agreement will benefit U.S. franchisers. For example, provisions on trademarks will protect the franchiser name, and tariff liberalization will allow the lower-cost import of key equipment needed to supply the franchisee.

### *Entertainment, including Audiovisual and Broadcasting*

Panama made commitments that will improve market access for U.S. films and television programs over a variety of media including cable, satellite, and the Internet. This market opening is in stark contrast with the GATS, where Panama made no commitments in this area. Additionally, the Agreement provides state-of-the-art intellectual property protection and mandates that each Party criminalize the willfully unauthorized receipt or distribution of encrypted satellite signals, thus preventing piracy of satellite television programming. It also requires non-discriminatory treatment for digital products, such as U.S. software, music, text, and videos.

### *Express Delivery Services*

The Chapter on Cross-Border Trade in Services includes an expansive definition of express delivery services, locks in existing competitive opportunities in Panama and prevents cross-subsidization by a postal monopoly. This is in contrast with the GATS, where Panama did not make a commitment in either postal/courier services or in express delivery. The U.S.-Panama TPA provisions on customs trade facilitation will help express delivery service companies provide better services to customers who are seeking to enhance their competitiveness in the hemisphere and global marketplace. Express delivery services are in demand from a wide range of companies--from high-tech to agriculture, and auto manufacturing to retail services. Speed-to-market, just-in-time inventory processes and total quality management are critical to success in today's economy. Commitments in this sector will facilitate U.S. commercial interests in Panama.

### *Energy Services*

The Agreement's extensive obligations on regulatory transparency and investment provide a framework that can yield opportunities for U.S. energy services firms and facilitate the provision of energy services between the United States and Panama.

### *Information Services, including Computer-Related Services, and Telecommunications*

Panama will provide full market access with no exceptions to the information services sector, which is a major improvement over the GATS where Panama made no commitments. The U.S.-Panama TPA covers all modes of delivery of information services, including electronic delivery, such as via the Internet. The "negative list" approach also ensures that rapidly evolving computer services, driven by continual advances in technology, will be covered by commitments contained in the Agreement. Without such an approach, computer and related services definitions and commitments could quickly become obsolete as new services are introduced.

Panama also committed to pro-competitive regulatory obligations for the basic telecommunications sector. These obligations are similar to the WTO Basic Telecommunications Reference Paper, which Panama has not committed to in the WTO. U.S.-Panama TPA obligations also cover "digital products" and other e-commerce products, which will benefit U.S. technology service providers. In addition, as technology users increasingly purchase information technology solutions as a combination of goods and services (including specialized equipment with customized software), Panama's commitment to eliminate tariffs on U.S. information technology goods and to join the WTO Information Technology Agreement will benefit service providers as well. New market access for U.S. service providers in sectors such as banking, financial services, and telecommunications as a result of the U.S.-Panama TPA will increase demand for strong software development, data processing, and other information services.

### *Professional Services, including Accounting, Legal Services, and Management Consulting*

The U.S.-Panama TPA will grant new access in professional services that previously had been reserved exclusively to Panamanian nationals. Liberalization in such sectors as banking, investment, and financial services will offer increased opportunities for professional service

providers. In addition, the Cross-Border Trade in Services chapter includes obligations intended to ensure that administrative decisions related to licensing are transparent and fair. The Services chapter also encourages appropriate bodies in Panama and the United States to work together to develop mutually acceptable standards and criteria for licensing, certification and mutual recognition of professional service suppliers.