PANAMA

TRADE SUMMARY

In 2001, the U.S. trade surplus with Panama was $1.0 billion, a decrease of $265 million from the U.S. trade surplus of $1.3 billion in 2000. U.S. goods exports to Panama were $1.3 billion, a decrease of $279 million (17.3 percent) from the level of U.S. exports to Panama in 2000. Panama was the United States' 50th largest export market in 2001. U.S. imports from Panama were $293 million in 2001, a decrease of $14 million (4.7 percent) from the level of imports in 2000.

The stock of U.S. foreign direct investment (FDI) in Panama in 2000 amounted to $35.4 billion, an increase of 7.2 percent from the level of U.S. FDI in 1999. U.S. FDI in Panama is concentrated largely in the finance, petroleum and wholesale sectors.

IMPORT POLICIES

Panama's import policies have become more open since the country's 1997 accession to the World Trade Organization (WTO), with tariffs ranking among the lowest in Latin America, averaging 15 percent for agricultural goods and 8.25 percent overall. In September 1999, this process was partially reversed as the government raised substantially some agriculture tariffs, some of which reached the maximum amount allowed under Panama's WTO commitments. Nevertheless, current Panamanian tariffs overall remain quite low.

STANDARDS, TESTING, LABELING, AND CERTIFICATION

With certain exceptions, Panama's application of standards and certification requirements generally conforms to WTO standards. However, restrictions have been applied from time to time in response to sectoral unease with Panama's progressive policy of trade liberalization.

Panama requires certification by Panamanian health and agriculture officials of individual U.S. processing plants as a condition for the import of poultry, pork, and beef products. U.S. exporters have assisted Panamanian officials in making inspection visits to U.S. plants. There have been no instances of a U.S. plant failing to be certified, but inspections have been delayed many times for various reasons, including lack of personnel and budgetary constraints in the responsible Panamanian ministries. The government of Panama recently instituted a new requirement that U.S. meat/poultry exporters must fill out lengthy Animal Health questionnaires. The United States considers it a high priority to obtain Panama's system-wide recognition of the U.S. Government's system of packing plant certification, in place of the current plant-by-plant approach.

While importers of non-agricultural products must register them with the Ministry of Commerce and Industry before distribution or sale in Panama, procedures for registration are straightforward and evenly applied. There are no comprehensive labeling or testing requirements for imports.

GOVERNMENT PROCUREMENT

Panama's government procurement regime is governed by Law 56 and managed by the Ministry of Economy and Finance (MEF). The law provides for a transparent bidding process for government contracts, but allows for exceptions, such as procurements for national defense. The Panamanian Government has generally handled bids in a transparent manner, although occasionally U.S. companies have complained of mishandling of certain procedures. However, none has pursued a complaint formally.

Panama's commitment, made at the time of its WTO accession, to become a party to the WTO Government Procurement Agreement (GPA), has unfortunately not led to a satisfactory conclusion. Although the Panama Canal Authority (PCA) has generally followed transparent and fair bidding processes, the United States has been particularly disappointed by the Government of Panama's failure to include the PCA in its accession offer. As a result of these concerns, the United States has suspended a waiver of "Buy America Act" provisions which had previously been applied to Panama. The U.S. Government will continue to urge Panama to move the stalled GPA accession process forward.

EXPORT SUBSIDIES

Panamanian law allows any company to import raw materials or semi-processed goods at a duty of three percent for domestic consumption or processing, or duty free for export production, except for sensitive agricultural products, such as rice, dairy, pork, and tomato products. This was negotiated and approved as part of Panama's accession to the WTO. Extraordinary tariff quotas have been authorized for rice and pork when stocks have gone down in order to prevent scarcity of food products. Companies not already receiving benefits under the Special Incentives Law of 1986 are allowed a tax deduction of up to 10 percent of their profits from export operations through 2002.

Because of its WTO obligations, Panama revised its export subsidy policies in 1997-98. The government originally had stated its intention to phase out its Tax Credit Certificate (CAT), given to firms producing certain non-traditional exports, by the end of 2001. But during the WTO Ministerial Conference in November 2001, the Government of Panama asked for and received an extension for the use of CATs. As of the date of this publication, a final date for a CAT phase-out had not been announced. The policy allows exporters to receive CATs equal to 15 percent of the export's national value added. The certificates are transferable and may be used to pay tax obligations to the government, or they can be sold in secondary markets at a discount. The government has become stricter in defining national value added, attempting to reduce the amount of credit claimed by exporters.

A number of industries that produce exclusively for export, such as shrimp farming and tourism, are exempted from paying certain types of taxes and import duties. The Government of Panama established this policy to attract foreign investment, especially in economically depressed regions, such as the city of Colon. Companies that profit from these exemptions are not eligible to receive CATs for their exports.

The Tourism Law of 1994 (Law 8) allows deduction from taxable income of 50 percent of any amount invested by Panamanian citizens in tourism development.

Law 25 of 1996 provides for the development of "export processing zones" (EPZ's) as part of an effort to broaden the Panamanian manufacturing sector while promoting investment, particularly in former U.S. military bases. Companies operating in these zones may import inputs duty-free if products assembled in the zones are to be exported. The government also provides other tax incentives to EPZ companies.

INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION

Protection of intellectual property rights (IPR) in Panama has improved significantly in recent years. Specialized courts have been created to hear intellectual property-related cases. Intellectual property policy and practice in Panama is the responsibility of an Inter-institutional Committee. This committee consists of representatives from six government agencies and operates under the leadership of the Vice-Minister of Foreign Trade. It coordinates enforcement actions and develops strategies to improve compliance with the law. In 2000, the Government of Panama issued a decree mandating that all computer systems used by government entities be legal and licensed.

Copyrights

Panama's 1994 copyright law modernized copyright protection in Panama, providing for payment of royalties, facilitating the prosecution of copyright violators, protecting computer software, and making copyright infringement a felony. Although the lead prosecutor for IPR cases in the Attorney General's Office has taken a vigorous enforcement stance against piracy and counterfeiting, the Copyright Office remains small and ineffective, and Panama's judicial system has not provided speedy and effective remedies in civil and criminal piracy cases brought under the law. Consequently, Panama continues to be a popular transshipment point for pirated goods.

The Copyright Office has been slow to draft and move forward further improvements to the Copyright Law to implement the 1996 WIPO treaties (the WIPO Copyright Treaty and the WIPO Performances and Phonographs Treaty). Nevertheless, the office's proposal also would establish new offenses, such as for Internet-based copyright violations, raise the penalties for infractions, and enhance border measures. This proposed draft legislation is moving forward with technical assistance from SIECA (the Central American Economic Integration System).

Patents

Panama's 1996 Industrial Property Law provides a term of 20 years of patent protection from the date of filing. Pharmaceutical patents are granted for only 15 years, however, and can be renewed for an additional ten years, if the patent owner licenses a national company (minimum of 30 percent Panamanian ownership) to exploit the patent. This provision appears inconsistent with Panama's TRIPS obligations.

The Industrial Property Law provides specific protection for trade secrets.

Trademarks

Law 35 provides trademark protection, simplifies the process of registering trademarks and allows for renewal of a trademark for ten-year periods. The law's most important feature is the granting of ex-officio authority to government agencies to conduct investigations and to seize materials suspected of being counterfeited. Decrees 123 of November 1996 and 79 of August 1997 specify the procedures to be followed by Customs and Colon Free Zone (CFZ) officials in conducting investigations and confiscating merchandise. In 1997, the Customs Directorate created a special office for IPR enforcement, followed by a similar office created by the CFZ in 1998. The Trademark Registration Office has undertaken significant modernization with a searchable computerized database of registered trademarks that is open to the public.

SERVICES BARRIERS

In general, Panama maintains an open regulatory environment for services. For some professions, such as insurance brokers, customs brokerage, freight forwarding, architects, engineers, medical doctors, lawyers, and psychologists, Panama requires that individuals hold a Panamanian technical license.

INVESTMENT BARRIERS

Panama maintains an open investment regime and is receptive to foreign investment. Over the years the country has focused its efforts on bolstering its reputation as an international trading, banking, and services center. Recently, however, the Panamanian government has been unresponsive to several foreign investors, as a number of firms that are closely regulated by, or hold concessions from the Government of Panama, encountered a lack of cooperation and even antagonism from certain officials. The Government of Panama has lately begun to address these problems more constructively, but several concerns of foreign investors remain to be resolved.

In accordance with the terms of the U.S.-Panama Bilateral Investment Treaty, Panama places no restrictions on the nationality of senior management. Panama does restrict foreign nationals to 10 percent of the blue-collar work force, however, and specialized or technical foreign workers may number no more than 15 percent of all employees in a business.

A 1998 investment law aimed to enhance new investment in Panama by guaranteeing that investors will have no restrictions on capital and dividend repatriation, foreign exchange use and disposal of production inside a limited number of sectors in the economy. The spirit of the law is that for ten years, investors will not suffer any deterioration of the conditions prevailing at the time the investment was made. The guarantees are related to new laws that may be enacted in the future affecting fiscal, customs, and labor regimes.

ELECTRONIC COMMERCE

In mid-2001, Panama became the first country in Central America to adopt a law specific to electronic commerce. The law was a collaborative effort of the public and private sectors, resulting from several months of detailed discussions and broad consultations. Panama's electronic commerce law has several important features: it gives legal force to any transaction or contract completed electronically; it creates the National Directorate of Electronic Commerce to oversee the enforcement of the law; and it defines certification organizations and establishes a voluntary registration regime. Although a regulatory framework to implement the law is still being worked out, the law is expected to have a favorable impact on many sectors of Panama's services dominated economy, particularly the maritime sector.

OTHER BARRIERS

The judicial system can pose a problem for investors due to poorly trained personnel, huge case backlogs and a lack of independence from political influence. In addition, corruption reportedly persists, not only in the judicial system, but also possibly in government procurement and at the municipal level.