PANAMA
INVESTMENT CLIMATE STATEMENT
2015

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Executive Summary

Panama is a country located in Central America. Panama boasts the Western Hemisphere's fastest growing economy, with low unemployment, and a stable, democratically elected government. As the home of the Panama Canal and the world's second largest free trade zone, and with an economy nearly 90 percent based on services, including sophisticated logistics and finance operations, Panama is heavily dependent on foreign investment and has worked to make the investment process attractive and simple for investors.

Over the past several years, Panama has actively pursued new trade agreements, bringing into force agreements with the United States, Mexico, and the European Union, and signing an agreement with Colombia. Panama is also pursuing membership in the Pacific Alliance. This pro-trade posture has further increased Panama's openness to foreign investment and has provided new protections and privileges for foreign investors.

Despite these efforts, however, Panama is plagued by a poor educational system, high labor costs, a lack of skilled workers, and consistent reports of corruption, fraud, and a lack of judicial transparency. Foreign investors in Panama have complained about a lack of transparency in the government procurement process and struggle to resolve investment disputes through the courts. Because so many investors have had trouble with Panama's court system, most lawyers recommend including binding arbitration clauses in contracts. U.S. firms have reported inconsistent, unfair, and biased treatment from Panamanian courts which continue to be subject to corruption.

In May 2014, Panama elected a new government. The new President, Juan Carlos Varela, from the centrist Panameñista party took office in July of that same year. His administration has not made significant changes to the investment climate. Despite the challenges, Panama remains one of the safest and most investment friendly countries in Central America and continues to attract high levels of foreign direct investment both from around the region and around the world.

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

Panama actively encourages foreign investment, and with few exceptions, the Government of Panama (GOP) makes no distinction between domestic and foreign companies for investment purposes. Panama continues to enjoy the strongest economic growth in Latin America. It benefits from stable and consistent economic policies, a dollarized economy, and a government that consistently supports trade and open markets.

In 2015, the economy is expected to continue to be one of the fastest growing in the hemisphere, with predicted growth of 6.5 percent, following expansion of 6.2 percent in 2014 and 8.5 percent in 2013. In 2012, Moody's raised Panama's sovereign debt rating to Baa=2 and improved its outlook for Panama from stable to positive. Panama's sovereign debt is also rated as investment grade by Fitch (BBB rating) and by Standard and Poor's (BBB rating). Since the October 2012 entry into force of the U.S.-Panama Trade Promotion Agreement (TPA), opportunities have increased for U.S. companies operating in Panama, and exports from the United States to Panama have increased over 20 percent.

The 2012 U.S.-Panama Trade Promotion Agreement (TPA) has significantly liberalized trade in goods and services, including financial services. The TPA also includes sections on customs administration and trade facilitation, sanitary and phyto-sanitary measures, technical barriers to trade, government procurement, investment, telecommunications, electronic commerce, intellectual property rights, and labor and environmental protection.

While international indices generally rate Panama as one of the best countries in Latin America for business and investment, poor rule of law, lack of judicial independence, a shortage of skilled workers, high levels of corruption, and poorly staffed government institutions all add risk and complication to business dealings. The U.S. Government continues to assist U.S. investors who have experienced fraud and corruption related to property titles, especially in beachfront areas. However, no new reports of title fraud have been received in the last 24 months. The U.S. has also received complaints from some large investors and potential exporters about inconsistent treatment of concessions and the lack of transparency in government procurement processes.

In 1998, the GOP enacted the Investment Stability Law, which guarantees that foreign investors who invest at least two million dollars in Panama will receive equal treatment under the law to their domestic competition. The law was amended in 2013 to include more activities. Under Law 41 (2007), amended by Law 45 of 2012, Panama encourages multinational companies to open regional headquarters in Panama by offering various tax and immigration incentives; as of December, 2014, 112 international companies have been established under this law.

Panama is one of the few Latin American economies that are predominantly services-based. Services represent nearly 90 percent of Panama's Gross Domestic Product. The TPA has improved U.S. firms' access to Panama's services sector and gives U.S. investors better access to the sector than Panama provides to other WTO Members under the General Agreement on Trade in Services. All services sectors are covered under the TPA, except where Panama has made specific exceptions. Under the agreement, Panama has provided improved access in sectors like express delivery, and granted new access in certain areas that had previously been reserved for Panamanian nationals. In addition, Panama agreed to become a full participant in the WTO Information Technology Agreement.

The office of Panama's Vice Minister of International Trade, within the Ministry of Commerce and Industry, is the principal entity responsible for promoting and facilitating foreign investment and exports. Through its Proinvex service (http://proinvex.mici.gob.pa) the government provides investors with information, expedites specific projects, leads investment-seeking missions abroad, and supports foreign investment missions to Panama. In some cases, other government offices may work with investors to ensure that regulations and requirements for land use, employment, special investment incentives, business licensing, and other requirements are met. While there is no formal investment screening by the GOP, the government does monitor large foreign investments.

Panama's privatization framework law does not distinguish between foreign and domestic investor participation in prospective privatizations. The law calls for pre-screening of potential investors or bidders in certain cases to establish technical viability, but nationality and Panamanian participation are not criteria. The Government of Panama undertook a series of privatizations the mid-1990s including most of the electricity generation and telecommunications sectors.

The Panama Canal Authority expects to complete the USD 5.25 billion expansion project of the Panama Canal in April of 2016. The project entails building a larger third set of locks, excavating new access channels, deepening Lake Gatun, improving navigational channels, and dredging the canal entrances. The project has been delayed by disputes with the main contractor.

Other Investment Policy Reviews

In 2014 the World Trade Organization (WTO) completed a Trade Policy Review of Panama. The results of the review can be found here:

https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=127724,127725,125292,125291&CurrentCatalogueIdIndex=0&FullTextSearch=

Laws/Regulations of Foreign Direct Investment

The United States – Panama Trade Promotion Agreement (TPA) entered into force on October 31, 2012 and has significantly liberalized trade in goods and services, including financial services. The TPA also includes sections on customs administration and trade facilitation, sanitary and phyto-sanitary measures, technical barriers to trade, government procurement, investment, telecommunications, electronic commerce, intellectual property rights, and labor and environmental protection.

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Industrial Promotion

Not applicable.

Limits on Foreign Control

The GOP imposes some limitations on foreign ownership in the retail and media sectors where, in most cases, ownership must be Panamanian. However, foreign investors can continue to use franchise arrangements to own retail within the confines of Panamanian law (under the TPA, direct U.S. ownership of consumer retail is allowed in limited circumstances).

In addition to limitations on ownership, the exercise of approximately 55 professions is reserved for Panamanian nationals. Specifically, medical practitioners, lawyers, accountants, and customs brokers must be Panamanian citizens. The GOP also requires foreigners in some sectors to obtain explicit permission to work. However, there are no reports of such restrictions hindering U.S. firms operating in Panama.

With the exceptions of retail trade, the media and several professions, foreign and domestic entities have the right to establish, own, and dispose of business interests in virtually all forms of remunerative activity. Foreigners need not be legally resident or physically present in Panama to establish corporations or to obtain local operating licenses for a foreign corporation. Business visas (and even citizenship) are readily obtainable for significant investors.

Privatization Program

Not applicable.

Screening of FDI

While there is no formal investment screening for foreign direct investment (FDI) by the GOP, the government does monitor large foreign investments.

Competition Law

Panama’s Consumer Protection and Anti-Trust Agency, established by Law 45, October 31, 2007, reviews transactions for competition related concerns and serves as a consumer protection agency.

Investment Trends

Recent political and economic turmoil in Venezuela and other Latin American nations has driven new investment to Panama as investors looking to get U.S. dollars out of struggling nations like Venezuela and Argentina find opportunities for business and real estate investments in Panama. Hotels, luxury housing, vacation homes, and franchises are all attractive targets for regional investors.

The Colon Free Zone (CFZ) has struggled because of Venezuela's recent trouble. CFZ merchants are owed nearly USD 1 billion by Venezuelan firms who cannot pay because of discrepancies between official and unofficial exchange rates and economic struggles in Venezuela.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2014	94 of 175	transparency.org/cpi2014/results
World Bank's Doing Business Report "Ease of Doing Business"	2015	52 of 189	doingbusiness.org/rankings
Global Innovation Index	2014	53 of 143	globalinnovationindex.org/content.aspx?page=data-analysis
World Bank GNI per capita	2013	USD 10,700	data.worldbank.org/indicator/NY.GNP.PCAP.CD

2. Conversion and Transfer Policies

Foreign Exchange

Panama's official currency is the U.S. Dollar, so there are no issues or restrictions on foreign exchange.

Remittance Policies

Panama's strategic geographic location, dollarized economy, status as a regional financial, trade, and logistics center; and lax regulatory system make it an attractive target for money launderers. Money laundering in Panama is believed to come in part from the proceeds of drug trafficking due to the country's location along major drug trafficking routes. Tax evasion, bank fraud, and corruption also are believed to be major sources of illicit funds. Numerous factors hinder the fight against money laundering, including the existence of bearer share corporations, a lack of collaboration among government agencies, inconsistent enforcement of laws and regulations, and a weak judicial system susceptible to corruption and favoritism. Money is laundered via bulk cash and trade by exploiting vulnerabilities at the airport, utilizing free trade zones (FTZs), and exploiting the lack of regulatory monitoring in many sectors of the economy. The protection of client secrecy is often stronger than authorities' ability to pierce the corporate veil to pursue an investigation.

In June 2014, in response to continued criticism, Panama developed an action plan to address its AML deficiencies, and the Government of Panama offered a high-level commitment to implement the necessary actions. The government is working with international partners to draft and pass legislation to criminalize money laundering, address CFT, and cover designated non-financial businesses and professions. A key factor contributing to Panama's vulnerability to money laundering is that not all financial and non-financial sectors are subjected to regulations and supervision.

Numerous assessments over the last five years by an array of different institutions have identified Panama's financial intelligence unit, the UAF, as a point of primary concern. The UAF has historically been viewed as ineffective and susceptible to political pressure. Shortly after the new administration took office on July 1, 2014, the president named a new director of UAF and made its reform one of his priorities. The UAF's new director is working to establish an operationally functional unit by strengthening the unit's analytical ability, increasing its coordination with law enforcement and prosecutorial entities, and reviving its international cooperation with foreign counterparts. The new director's initial efforts to improve the UAF are promising but will require adequate funding and longer-term support to be successful.

The judicial branch's capacity to successfully prosecute and convict money launderers remains weak, and judges remain susceptible to corruption. The transition to a U.S.-style accusatory judicial system, which began in September 2010, is expected to be implemented in all the provinces by 2016. All known money laundering convictions are tied to bulk cash cases with an obvious connection to a predicate crime.

3. Expropriation and Compensation

Panamanian law recognizes the concept of eminent domain but it is rarely exercised. In a recent case, a US company voiced concern about being reimbursed at fair market value for the government's revocation of a concession that impacted the access or unhindered use of the investors' property.

There are no current international arbitration cases alleging direct expropriation of property by the Panamanian government.

4. Dispute Settlement

Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts

Panama's court and judicial system is based on a civil law system. Panamanian judges are not bound by judicial precedent in their decisions. Judges rely in the Constitution, followed by codes, laws, and regulations as direct source of law. In September 2011, Panama started the process of converting to the accusatory system with the goal of simplifying and expediting criminal judicial cases. Fundamental procedural rights in civil cases have certain similarities with U.S. civil court procedures.

Bankruptcy

Commercial law is comprehensive and well-established. However, Panama's bankruptcy law is antiquated and is currently undergoing review and revision. A new law is expected to be introduced during the 2015 legislative cycle. The World Bank currently ranks Panama 132 out of 189 economies in the category of Resolving Insolvency due to its antiquated law, slow court systems, and complexity of the process. The new law is expected to address those problems, and when passed, should improve Panama' ranking.

Investment Disputes

Resolving commercial and investment disputes in Panama can be a lengthy and complex process. Despite protections built into the BIT and TPA, investors have repeatedly struggled to resolve investment issues in courts. There are frequent claims of bias and favoritism in the court system and complaints about the lack of adequate titling, inconsistent regulations, and a lack of trained officials outside of the capital. The World Economic Forum 2014-2015 report ranks the independence of Panama's judicial system 116 of the 144 countries evaluated. The court system's lack of independence has been demonstrated in recent cases where politically connected businesses benefited from questionable court decisions or convinced the courts to let sensitive cases linger on the docket for years without taking action. Many Panamanian legal firms suggest writing binding arbitration clauses into all commercial contracts.

International Arbitration

The GOP accepts binding international arbitration of disputes with foreign investors. Panama became a member state to the International Centre for the Settlement of Investment Disputes (ICSID Convention) in 1996. The year 2000, the United States and Panama signed an amendment to the Bilateral Investment Treaty (BIT) to incorporate Panama's membership into ICSID. This amendment took effect in May 2001.

Panama also became a member of the World Bank's Multilateral Investment Guarantee Agency (MIGA) in 1997. In 2012, MIGA issued a guarantee to cover a USD 250 million loan from Citibank for a portion of the construction of Line 1 of the metro system.

ICSID Convention and New York Convention

Panama is a member state to the Convention to the International Centre for the Settlement of Investment Disputes (ICSID convention). Panama is also a signatory to the convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958 New York Convention).

Duration of Dispute Resolution

Resolving disputes through the Panamanian court system can take years, or it can be done in a matter of weeks depending on the issue, the judge assigned to the case, and other, often mysterious factors. In both cases there are often reports of corruption, bribery, and a lack of transparency. The lack of judicial transparency in Panama is consistently cited by investors as a deterrent to doing business in the country. Most foreign investors rely on binding international arbitration clauses to resolve disputes. Companies who are forced to rely on the Panamanian courts consistently complain about unfair treatment, inconsistent enforcement of decisions, and weak institutions.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

Panama is a World Trade Organization (WTO) member and adheres to the Agreement on Trade-Related Investment Measures (TRIMs).

Investment Incentives

There are Special Economic Areas known as the City of Knowledge, Panama Pacifico Special Economic Area, Free Zones and the Colon Free Zone, which have special tax and other incentives for manufacturers, back office operations and call centers to locate in free zones which are located in most areas of the country. Official support for investment and business activity is especially strong for the Colon Free Zone (CFZ), the banking sector, the tourism sector, and the free zones. Companies in the CFZ pay basic user fees and a 5 percent dividend tax (or 2 percent of net profits if there are no dividends). Banks and individuals in Panama pay no tax on interest or other income earned outside Panama. No taxes are withheld on savings or fixed time deposits in Panama. Individual depositors do not pay taxes on time deposits. Free zones offer tax-free status, special immigration privileges, and license and customs exemptions to manufacturers who locate there. Investment incentives offered by the GOP are available equally to Panamanian and foreign investors. The incentives do not discriminate or distinguish between Panamanians and foreign investors.

Research and Development

Panama officially supports research and development through its Ministry of Science (SENACYT) and the associated Institute for Research and Development (INDICSAT). These two entities promote and fund research, and provide assistance to researchers looking to commercialize their inventions and discoveries. Panama’s relatively poor educational system, especially in science and technology fields is a limiting factor in research and development.

Performance Requirements

There are no legal performance requirements such as minimum export percentages, significant local requirements of local equity interest, or mandatory technology transfer. There are no established general requirements that foreign investors invest in local companies, purchase goods or services from local vendors or invest in R&D or other facilities. Companies are required to have 90 percent Panamanian employees. Exceptions to this policy are available, but must be approved by the government on a case by case basis. Foreign workers are common in Panama, especially in highly skilled fields. Visas are available and the procedures to obtain work permits are generally not considered onerous. The exception is in fields dominated by strong unions, such as construction. In those cases, the unions have opposed issuing work permits to foreign laborers and some investors have struggled to fully staff large projects.

Data Storage

As part of its effort to be recognized as a hub for finances, logistics, and communications in the region, Panama has committed to establishing itself as a center for data storage. Companies have already invested nearly USD 250 million on data storage facilities in Panama.

According to Eduardo Jaen, head of the Panamanian Authority for Government Innovation (AIG), the majority of these firms offer services to banking and telephone companies in Central America and the Caribbean. "Panama respects the information it stores and we want to keep making the effort for Panama to be a center that is at the forefront of this whole industry," said Jaen.

Panama boasts exceptional international connectivity, with five sets of undersea fiber optic cables and two more under development. It also has a sophisticated information technology sector.

General laws addressing protection of personally identifiable information can be found in the Constitution, the Criminal Code and the Electronic Commerce legislation:

i. The concept of the personal privacy of communications and documents is provided for in the Panamanian Constitution as a fundamental right (Political Constitution, article 29). The Constitution also provides for a right of habeas data, through which a person may require that personal information or data be kept confidential (article 44).

ii. The Criminal Code imposes an obligation on businesses to maintain the confidentiality of information stored in databases or elsewhere, and establishes several crimes for the misuse of such information (Criminal Code, articles 164, 283, 284, 285, 286).

iii. The electronic commerce legislation also states that providers of electronic document storage must guarantee the protection, reliability and proper use of information and data stored on behalf of their customers (Law 51, July 22, 2008, article 55).

6. Right to Private Ownership and Establishment

With the exceptions of retail trade, the media and several professions, foreign and domestic entities have the right to establish, own, and dispose of business interests in virtually all forms of remunerative activity. Foreigners need not be legally resident or physically present in Panama to establish corporations or to obtain local operating licenses for a foreign corporation. Business visas (and even citizenship) are readily obtainable for significant investors.

7. Protection of Property Rights

Real Property

The U.S. Government has received numerous property dispute complaints from U.S. investors and individual property holders. The complaints include breach of contracts, demands for extra payments, title fraud, corruption, and occasional threats of violence. In some cases, these disputes resulted in the loss of the property. Many of these complaints appear to stem from the lack of titled land in Panama, along with inadequate government administration of the property system and a weak judiciary.

The majority of land in Panama, and almost all land outside of Panama City, is not titled; a system of rights of possession exists, but there are multiple instances where such rights have been successfully challenged. The World Bank's 2015 Doing Business report notes that Panama has risen to 61 out of 189 countries in the category of Registering Property, though it still ranks 84 on Enforcing Contracts.

The judicial system's capacity to resolve contractual and property disputes is weak and open to corruption, as illustrated by the most recent World Economic Forum's Global Competitiveness Report, which rates Panama's judicial independence as 116 out of 144 countries. U.S. investors should exercise greater due diligence in purchasing Panamanian real estate than they would in purchasing real estate in the United States. Engaging a reputable attorney and licensed real estate broker is strongly recommended, as is including the option for arbitration in any contract.

Panama enacted Law 80 (2009) to address the lack of titled land in certain parts of the country; however, it does not cure deficiencies in government administration or the judicial system. In 2010, the National Assembly approved the creation of the National Authority of Land Management (ANATI) to administer land titling; however, decisions taken by ANATI have reinforced investors' concerns regarding government administration, corruption, and the ability of the judicial system to resolve these issues.

Intellectual Property Rights

Panama has an adequate and effective domestic legal framework to protect and enforce intellectual property rights. The government of Panama is making efforts to strengthen the enforcement of intellectual property rights (IPR). Since 1997, two district courts and one superior tribunal have been exclusively adjudicating antitrust, patent, trademark, and copyright cases. Since January 2003, a specific prosecutor with national authority over IPR cases has consolidated and simplified the prosecution of those cases. Law 1 of 2004 added crimes against intellectual property as a predicate offense for money laundering, and Law 14 establishes a 5 year to 12 year prison term, plus possible fines. Law 10 of 2011 moved the Copyright Office from the Ministry of Education to the Ministry of Commerce and Industry. A Committee for Intellectual Property (CIPI), comprising representatives from five government agencies (Colon Free Zone, Offices of Intellectual Property Registry and Copyright under the Ministry of Commerce and Industry, Customs, and the Attorney General), under the leadership of the Ministry of Commerce and Industry, is responsible for development of intellectual property policy in Panama.

In order to implement the requirements of the TPA, Panama passed Law 62 of 2012 (industrial property) and Law 64 of 2012 (copyrights). These laws introduced important updates to Panama's IPR enforcement legislation. These updates offer improved standards for the protection and enforcement of a broad range of IPR, including protections for patents, trademarks, undisclosed test and other data submitted to obtain marketing approval for

pharmaceuticals and agricultural chemicals, and digital copyrighted products such as software, music, text, and videos, as well as further deterrence of piracy and counterfeiting.
For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at http://www.wipo.int/directory/en/.

Counterfeit goods are present in Panama but are not prevalent in public markets.

Resources for Rights Holders

Embassy point of contact:
Colombia Primola
Economic Specialist
PrimolaCE@state.gov

Local lawyers list: http://panama.usembassy.gov/emergencycontact/list-of-attorneys.html

8. Transparency of the Regulatory System

In the banking and finance sector, investors generally give good marks to the Panamanian entities that regulate them, notably the Superintendent of Banks. However, U.S. businesses have expressed concern about the responsiveness and transparency of some regulating agencies and the authorities' failure to consult with businesses before enacting policies or implementing new legislation.

In 2012, Panama passed a banking law to regulate brokers, fund managers, and matters related to the securities industry. The Commission structure was modified to follow the successful Banking Law model and now consists of a superintendent and a board of directors. The Securities Commission is generally considered to be a competent and effective regulator. Panama has committed to seeking the legal authority necessary to allow them to become a fully signatory to the UNESCO MOU.

Panama is a member of UNCTAD's international network of transparent investment procedures http://panama.eregulations.org. Foreign and national investors can find detailed information on administrative procedures applicable to investment and income generating operations including the number of steps, name and contact details of the entities and persons in charge of procedures, required documents and conditions, costs, processing time and legal bases justifying the procedures.

9. Efficient Capital Markets and Portfolio Investment

Panamanian and foreign investors are treated equally by government policy and law with respect to access to credit. Panamanian interest rates closely follow international rates (i.e., the London Interbank Offered Rate - LIBOR), plus a country-risk premium.

Some private companies, including multinational corporations, have issued bonds in the local securities market. Companies rarely issue stock on the local market and, when they do, often issue shares without voting rights. Investor demand is generally limited because of the small pool of qualified investors. Interest from time deposits and certain bonds are tax-exempt. There is a 10 percent withholding tax on dividends, although capital gains from the sale of equities listed on the Panamanian exchange is tax exempt. While wealthy Panamanians may hold overlapping interests in various businesses, there is not an established practice of having cross-shareholding or stable shareholder arrangements, designed to restrict foreign investment through mergers and acquisitions.

Money and Banking System, Hostile Takeovers

Panama's 1998 Banking Law with amendments from 2008 regulates the country's financial sector. The law, which concentrates regulatory authority in the hands of a powerful and well-financed Banking Superintendent (http://www.superbancos.gob.pa), transformed the previously inadequate regime into one that approaches international standards.

Traditional bank lending from the well-developed banking sector is relatively efficient and is the most common source of financing for both domestic and foreign investors, offering the private sector a variety of credit instruments. The free flow of capital is actively supported by the GOP and is viewed as essential to Panama’s large banking sector composed of 91 banks as of the end of 2014.

There are no restrictions on, nor practical measures to prevent hostile foreign investor takeovers, nor are there regulatory provisions authorizing limitations on foreign participation or control or other practices to restrict foreign participation. There are no government or private sector rules to prevent foreign participation in industry standards setting consortia.

Financing for consumers is also relatively open, as mortgages, credit cards and personal loans, even to those earning modest incomes, are widely available on terms similar to those in the U.S.

10. Competition from State-Owned Enterprises

Information not available.

OECD Guidelines on Corporate Governance of SOEs

Not applicable.

Sovereign Wealth Funds

Created in 2012, the Fondo de Ahorro de Panama (FAP) is Panama’s sovereign wealth fund. The SWF is being funded by revenue from an expanded Panama Canal and it acts as both a savings fund and stabilization fund. The main objectives of the SWF are to act as a long-term savings mechanism for any state of emergencies declared by the Cabinet or by an economic recession. The FAP is projected to receive an additional revenue stream after the Panama Canal’s USD 5.25 billion expansion is completed in 2016.

11. Corporate Social Responsibility

Panama maintains strict domestic laws relating to labor and employment rights and environmental protection. While enforcement of these laws is not always stringent, major construction projects are required to complete environmental assessments, guarantee worker protections and comply with government standards for environmental stewardship.

In May 2012, Panama adopted ISO 26000 to guide businesses in the development of CSR platforms. In addition, business groups including the Association of Panamanian Business Executives (APEDE) and the American Chamber of Commerce (AMCHAM) are active in encouraging and rewarding good CSR practices. Since 2009, the AMCHAM has given an annual award to recognize member companies for their positive impact on the local community and environment.

OECD Guidelines for Multinational Enterprises

Not applicable.

12. Political Violence

Though Panama is a peaceful and stable democracy, large-scale protests can turn violent and disrupt commercial activity in affected areas. Mining and energy projects have been particularly sensitive, especially those that involve development in the designated indigenous areas (comarcas).

In May 2014, Panama held national elections that international observers agreed were free and fair. The transition to the new government was smooth and uneventful. Panama's Constitution provides for the right of peaceful assembly, and the government generally respects this right. No authorization is needed for outdoor assembly, although prior notification for administrative purposes is required. Unions, student groups, employee associations, elected officials, and unaffiliated groups frequently attempt to impede traffic and commerce in order to force the government or business to agree to demands.

Protests in Panama do occasionally become disruptive and violent. In June 2010, the GOP passed Law 30, which revised several aspects of the Labor Code and eight other laws. Labor leaders, environmentalists, the media, and business groups opposed the law. In early July 2010, the Sitrabana union in the province of Bocas del Toro began a strike opposing the law. The strike and related protests turned violent as police intervened. Following a broad-based dialogue with labor, businesses and civil society groups in the wake of the violence, the government revised the law.

In early February 2011, the GOP passed Law 8, which amended the mining code to allow foreign government-owned companies or sovereign wealth fund equity investments to hold equity shares in mining concessions. Indigenous, environmental, media, and student groups sought the revocation of the law through a concerted political campaign, which included daily protests and blocking of major roads and highways. Through a mediated agreement, the government repealed the law in March 2011 and also agreed to restrict mining and hydro plants in the Ngäbe-Buglé comarca in a future bill.

In January 2012, protests erupted in Western Panama concerning hydroelectric and mining concessions around the Ngäbe-Buglé comarca. Protestors shut down the Inter-American highway for six days and were eventually dispersed by the police. Two deaths were reported from the incident.

In October 2012, protests erupted in Colon over Law 71 to sell land in the Colon Free Trade Zone. The protests lasted for several days, resulting in four deaths and many injuries. Protests also spread briefly to Panama City, where some businesses were looted and burned. The Government agreed to repeal the law and hold a dialogue on the issues.

In 2014 and 2015, scattered protests continued especially in the Ngäbe-Buglé comarca, where protesters continue to object to planned hydroelectric development. The largest construction workers union, SUNTRACS, has also convened several strikes, stopping construction activity, and at times impacting traffic and commerce around the country.

13. Corruption

President Varela campaigned on a pledge to eliminate corruption in the government, increase transparency, and prosecute corrupt officials. His government has filed charges against several high ranking officials of the previous government, including the former head of the Supreme Court who was sentenced to five years in prison for corruption.

The former President, Ricardo Martinelli campaigned on a similar promise in 2009 but his administration was consistently plagued with allegations of corruption by politicians and the business community.

In the most recent edition (2014) of the Transparency International Corruption Perceptions Index, Panama ranked 94 out of 175 countries measured. The Panamanian judicial system continues to pose a problem for investors due to poorly trained personnel, case backlogs, and a lack of independence from political influence. Supreme Court judges are typically nominated to 10-year terms on the basis of political considerations.

Under Panamanian law, only the National Assembly may initiate corruption investigations against Supreme Court judges and only the Supreme Court may initiate investigations against members of the National Assembly, thereby encouraging, in effect, a “non-aggression pact” between these two branches of government.

The fight against corruption is also hampered by the GOP’s refusal to dismantle Panama's dictatorship-era libel and contempt laws, which can be used to punish whistleblowers, while those accused of acts of corruption are seldom prosecuted and almost never jailed.
Anti-corruption mechanisms exist, such as asset forfeiture, whistleblower and witness protection, and conflict-of-interest rules. However, the general perception is that anti-corruption laws are not applied rigorously, and that government enforcement bodies and the courts are not effective in pursuing and prosecuting those accused of corruption, particularly in high profile cases.

Panama's government lacks strong systemic checks and balances that incentivize accountability. The lack of a strong professionalized career civil service in Panama's public sector also hinders systemic change.

Panama ratified the United Nations' Anti-Corruption Convention in 2005 and the Organization of American States' Inter-American Convention Against Corruption in 1998. However, there is a perception that Panama could more effectively implement the conventions.

Complaints by American investors about allegedly corrupt judicial and governmental decisions prejudicial to their interests remain common and problematic. However, despite allegations of corruption, other than cases involving drug trafficking, GOP officials, judges, and legislators are rarely investigated, much less convicted on corruption charges.

UN Anticorruption Convention, OECD Convention on Combatting Bribery

Not applicable.

Resources to Report Corruption

Contact at government agency or agencies are responsible for combating corruption:

Angelica Maytin
Directora Nacional de Transparencia y Asseso a la Informacion (ANTAI)
Autoridad Nacional de Transparepncia y Acceso a la Informacion
Ave. del Prado, Edificio 713, Balboa, Ancón, Panamá, República de Panamá
(507) 527-9270 / 71/72/73/74
www.antai.gob.pa

14. Bilateral Investment Agreements

The United States – Panama Bilateral Investment Treaty (BIT) entered into force in 1991 and was subsequently amended in 2001. The BIT ensures that, with some exceptions, U.S. investors receive fair, equitable, and nondiscriminatory treatment, and that both Parties abide by international law standards, such as for expropriation and compensation and free transfers. With the October 31, 2012 implementation of the TPA, the investor protection provisions in the TPA have supplanted those in the BIT. However, until October 30, 2022, investors may choose to invoke dispute settlement under the BIT for disputes that arose prior to entry into force of the TPA, or for disputes relating to investment agreements that were completed before the TPA entered into force.

Panama also has bilateral investment agreements with the United Kingdom, France, Switzerland, Germany, Taiwan Canada, Argentina, Spain, Chile, Uruguay, the Czech Republic, Netherlands, Cuba, Mexico, the Dominican Republic, Korea, Ukraine, Sweden, Qatar, Finland, Mexico and Italy. Commerce Ministry officials note that there have been some exploratory talks toward investment agreements with Belgium and Luxemburg, but they acknowledge that these discussions have a lower priority than ongoing free trade negotiations. Ministers from the Member States of the European Free Trade Association (EFTA) – Iceland, Liechtenstein, Norway and Switzerland – and from Costa Rica and Panama have signed a Free Trade Agreement (FTA) on June 2013

Bilateral Taxation Treaties

Panama does not have a bilateral taxation treaty with the United States.

15. OPIC and Other Investment Insurance Programs

Panama signed a comprehensive Overseas Private Investment Corporation (OPIC) agreement in April 2000. OPIC offers both financing and insurance coverage against expropriation, war, revolution, insurrection, and inconvertibility for eligible U.S. investors in Panama. OPIC can insure up to USD 200 million per project for U.S. investors, contractors, exporters, and financial institutions. Financing is available for overseas investments that are wholly owned by U.S. companies or that are joint ventures in which the U.S. firm is a participant. Panama has been a member of the Multilateral Investment Guarantee Agency (MIGA) since 1996.

16. Labor

Panama's official unemployment rate is 4.5 percent, close to what most economists consider full employment. Economists in Panama estimate that the unemployment rate for skilled workers is negative, indicating a shortage of workers for skilled jobs including accounting, IT, customer service, and specialized construction skills. Employers frequently cite the lack of skilled labor and English language speakers as a limiting factor on growth.

Panama's non-agriculture labor force is approximately 1.5 million persons. 41 percent of workers are employed in the informal sector, with a lower rate of informal employment in Panama capital area (37 percent) compared to the indigenous areas (80 percent).

While the government has periodically revised its labor code, including a modest revision in 1995, it remains highly restrictive. Several sectors, including the Panama Canal Authority, the Colon Free Zone, and export processing zones/call centers are covered by their own labor regimes. Employers outside of these areas, such as the tourism sector, have called for greater flexibility, easier termination of workers, and the elimination of many constraints on productivity-based pay. The GOP has issued waivers to the regulations on an ad hoc basis in order to address employers' needs, but there is no consistent standard for obtaining such a waiver.

Despite spending of approximately 12.6 percent of the central government budget and 2.5 percent of GDP on education, approximately half of students fail their university entrance exam. The 2013 World Economic Forum Global Competitiveness Report ranked Panama 68 out of 144 countries for quality of education and pointed to an inadequately educated workforce as the most problematic factor for doing business. This poor showing underscored the 2010 OECD Program for International Student Achievement (PISA) analysis, which ranked Panama second worst among participating Latin American countries.

The law provides for the right of private-sector workers to form and join unions of their choice subject to the union's registration with the government.

The law provides for the right of private sector workers to strike except in areas deemed vital to public welfare and security, including police and health workers. All private sector and public sector workers have the right to bargain collectively, and the law prohibits employer antiunion discrimination, and protects workers engaged in union activities from loss of employment or discriminatory transfers. Strikes must be supported by a majority of employees and related to improvement of working conditions, a collective bargaining agreement, or in support of another strike of workers on the same project (solidarity strike).

The law prohibits all forms of forced labor of adults or children. The law establishes penalties of 15 to 20 years' imprisonment for forced labor involving movement (either cross-border or within the country) and six to 10 years' imprisonment for forced labor not involving movement.
The law prohibits the employment of children under age 14, although children who have not completed primary school may not begin work until age 15. Exceptions to the minimum age requirements can be made for children 12 and older to perform light farm work if it does not interfere with their school hours. The law does not set a limit on the total number of hours that these children may work in agriculture or define what kinds of light work children may perform. The law prohibits 14- to 18-year-old children from engaging in potentially hazardous work and identifies such hazardous work to include work with electrical energy, explosives, or flammable, toxic, and radioactive substances; work underground and on railroads, airplanes, and boats; and work in nightclubs, bars, and casinos.

17. Foreign Trade Zones/Free Ports/Trade Facilitation

Law 18 of 1948 established the Colon Free Zone (CFZ), which is now the second largest free trade zone in the world, after Hong Kong. Most merchandise (clothing, footwear, electronics, pharmaceuticals, medicines, perfumes, cosmetics, liquor, cigarettes, textiles, bedding, linens and fine jewelry) is transshipped from the Far East (particularly China, Hong Kong, and Taiwan) through the CFZ to other parts of the Western Hemisphere (particularly Venezuela and Colombia). Through 2014, the CFZ imported/exported USD 24 billion down from USD 27 billion in 2013 and 30 billion 2012. The 20 percent decrease over the last three years is because of changing logistics capabilities of Chinese manufacturers, political and economic troubles in Venezuela, and an ongoing trade dispute with Colombia.

Law 41 of 2004 provides for the development of "Panama Pacific Special Economic Area" in the former Howard Air Base to encourage investment in the area, particularly in the logistics sector. Establishing a company in the SEA can be done in as little as six months. Many large American firms including Dell, WR Grace, 3M, SAMTEC, VF sourcing Latin America, Grainger, Singapore Technologies Aerospace, and Caterpillar are among the 177 multinational companies located there.

Law 32 of 2011 provides updated regulations for the development of free trade zones (not including the Colon Free Zone) in an effort to broaden the Panamanian economic development while promoting investment in former U.S. military bases transferred to Panama. The law also includes specific labor and immigration provisions that are more favorable than the current

Panamanian labor code. The government also provides numerous tax incentives to companies that operate in free trade zones. Companies, whether Panamanian or foreign, operating in these zones may import inputs duty-free if products assembled in the zones are to be exported. There are currently 14 free zones with 92 companies registered. They face difficulties due to Panama's higher-than-regional-average wages, limited existing industrial base, and weak infrastructure, particularly outside the Panama-Colon Corridor. Law 25 of 2006 also provides for the development of call centers; seventy-eight companies are currently licensed to operate call centers.

18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

	Host Country Statistical source*		**USG or international statistical source**		**USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other**
Economic Data	**Year**	**Amount**	**Year**	**Amount**	
Host Country Gross Domestic Product (GDP) ($M USD)	2012	36.25	2013	42.65	http://www.contraloria.gob.pa/inec/ www.worldbank.org/en/panama
Foreign Direct Investment	**Host Country Statistical source***		**USG or international statistical source**		**USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other**
U.S. FDI in partner country ($M USD, stock positions)	2013	1,023	2013	5,796	BEA data available 3/19/14 at http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm
Host country's FDI in the United States ($M USD, stock positions)	2013	N/A	2013	1,231	BEA data available 3/19/14 at http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm
Total inbound stock of FDI as % host GDP	2013	2.8%	2013	13.6%	

Table 3: Sources and Destination of FDI

Direct Investment from/in Counterpart Economy Data					
From Top Five Sources/To Top Five Destinations *(US Dollars, Millions)*					
Inward Direct Investment			**Outward Direct Investment**		
Total Inward	32,073	100%	Total Outward	N/A	100%
United States	5,498	17%			
Colombia	4,052	13%			
Brazil	3,261	10%			
Peru	2,498	8%			
Costa Rica	2,372	7%			
"0" reflects amounts rounded to +/- USD 500,000.					

Source: IMF Coordinated Direct Investment Survey

Table 4: Sources of Portfolio Investment

Portfolio Investment Assets								
Top Five Partners (Millions, US Dollars)								
Total			**Equity Securities**			**Total Debt Securities**		
All Countries	1084	100%	All Countries	542	100%	All Countries	9,543	100%
United States	6189	61%	United States	234	43%	United States	5,955	62%
Colombia	774	8%	Canada	76	14%	Colombia	765	8%
Brazil	522	5%	Luxembourg	52	10%	Brazil	519	5%
Peru	367	4%	Ireland	37	7%	Peru	366	4%
Costa Rica	224	2%	Virgin Islands, British	19	3%	Costa Rica	223	2%

Source: IMF Coordinated Portfolio Investment Survey

19. Contact for More Information

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