

Panama as Headquarters for Canadian Multinationals



Panama for Canadian Multinationals

1. Introduction: Understanding the Panamanian Market	1
1.1 History	
1.2 Geography & Climate	
1.3 People	
2. Business Environment	2
2.1 Panama's investment climate	
2.2 Regulatory Environment	
2.3 Investment Stability Law	
3. Labour	5
3.1 Labour Code	
3.2 Special Incentives for Multinationals	
4. Canada – Panama Relationship	7
4.1 The Canada - Panama Free Trade Agreement	
4.2 The Free Trade Agreement and Investment	
4.3 The Free Trade Agreement and the Canadian Services Providers	
5. Multinationals	10
5.1 Law 41	
5.2 Activities that can be housed in Panama	
5.3 Benefits for Multinationals	
6. Free Trade Zones and Special Economic Areas	12
6.1 The Special Economic Zone of Panama Pacifico	
6.2 The Colon Free Trade Zone	
6.3 Export Processing Zones	
6.4 Petroleum Free Zones	
6.5 Call Centers	
6.6 Ciudad del Saber	
7. Establishing Your Presence in Panama	16
7.1 Panama as a Regional Gateway	
7.2 Establishing a Business Entity	
7.3 Business Licenses	
8. Finances & Taxation	20
8.1 The Financial System	
8.2 Paying Taxes	
8.3 Getting Paid	
9. The Legal perspective	22
9.1 Dispute Settlement	
9.2 Intellectual Property Protection	
9.3 Corruption	
Appendix A	24



Panama for Canadian Multinationals

Resources for Canadian Companies

1. Introduction: Understanding the Panamanian market

Panama's economy has been expanding rapidly since 2003. This growth has been stewarded by the liberal trade policies of four successive governments. Even the world financial crisis of 2008 was not able to halt this growth: it remained steady, although at a lower rate, and it has accelerated again as the world continues to recover.

There are several reasons for the country's economic vitality. It's a democracy, with one of the most stable and modern governments in Latin America. The Panama Canal has made it a key trade and logistics hub for the Americas and it has consequently become a major banking and services center.

Furthermore, the government is enthusiastic about developing hemispheric free trade agreements (FTA s), and Panama and Canada signed an FTA May 14, 2010, which both countries later ratified, coming into full effect on April 1st, 2013.



1.1 History

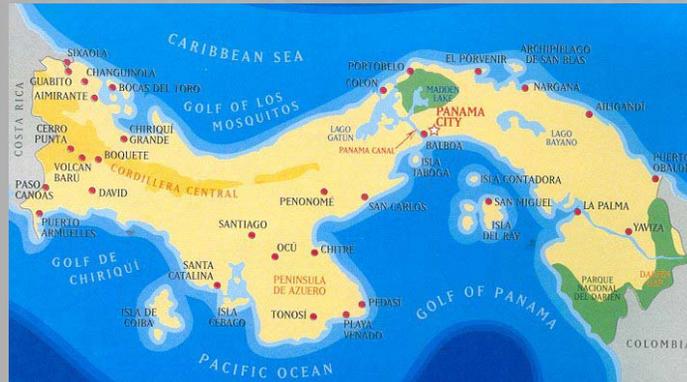
Explored and settled by the Spanish in the 16th century, Panama broke with Spain in 1821 and joined a union of Colombia, Ecuador, and Venezuela - named the Gran Colombia. When the latter dissolved in 1830, Panama remained part of Colombia. With US backing, Panama seceded from Colombia in 1903 and promptly signed a treaty with the US allowing for the construction of a canal. The Panama Canal was built by the US Army Corps of Engineers between 1904 and 1914. In 1977, an agreement was signed for the secure transfer of the Canal to Panama by the end of the century. The entire Panama Canal, the area supporting the Canal, and remaining US military bases was transferred to Panama by the end of 1999. In October 2006, Panamanians approved an ambitious plan (estimated to cost \$5.3 billion) to expand the Canal. The project, which began in 2007 and could double the Canal's capacity, was expected to be completed by 2015, but is pending the dispute resolutions talks between the contractors (GUPC) and the Panama Canal Authority. Most optimistic outlook sets the new completion date for 2017.



Panama for Canadian Multinationals

1.2 Geography & climate

Panama is located in Central America, bordering both the Caribbean Sea and the Pacific Ocean, between Colombia and Costa Rica, forming the land bridge that connects North and South America. The Panama Canal connects the Pacific and Atlantic oceans.



It has an area of 75,420 sq km, which is slightly bigger than the province of New Brunswick. The climate is tropical maritime: hot, humid & cloudy, and it has a prolonged rainy season (from May to December). The highest point is the Volcan Baru (3,475m).

The natural resources sector is dominated by gold and copper mining, shrimp exports, hard woods (mahogany), and hydropower. 7.26% of Panama's lands are used for agriculture (mostly arable land) with only 1.95% used for permanent crops.

Natural hazards are infrequent and relatively mild: Panama has no hurricane season, no earthquakes, just the occasional severe rainstorm.

1.3 People

Panama has a population of 3,405,813, with more than a half living in the Panama City-Colón metropolitan corridor. Panama's population is very young: 29,2% of the Panamanians are below 15 years of age; 63,4% are between 15 and 65, and 7,4% are older than 65. The official language is Spanish, but English is widely used for commercial purposes. The sum of "mestizos" (mixed white and Native American) and the mulattoes (mixed white and black ancestry) accounts for the 70% of the ethnic groups. Other groups found here are Indians (12,6%), afro (9,2%) and minorities like whites and Asians.

Panama has a literacy rate of 94% (98 % in urban areas and 85% in rural areas), and an increasing enrolment rate of the public education. There is also a notable increase in secondary schooling as well as higher education, both led by female enrolment which is spreading to rural areas. This expansion may help alleviate poverty (at 28%) if quality of education and the availability of skilled jobs continues to improve.



Panama for Canadian Multinationals

2. Business Environment



If your company is seeking a welcoming host where you can consolidate your operations abroad, Panama is worth a closer look. Its open economy makes establishing a business presence relatively easy, while the banking system is modern and provides a full range of services. The economy is strongly service-oriented, with 78.4 per cent of GDP concentrated in the services sector in 2013.

Furthermore, there are no restrictions on capital outflows, the corporate tax rate is competitive and there are few if any trade barriers that are likely to affect your company. The country also has a low fiscal deficit, together with good debt service ratios and low inflation, and there is little foreign exchange risk because the economy is based on the U.S. dollar.²

Much of Panama's development is being driven by the 2010–2014 **Government Strategic Plan**, which forecasts expenditures of more than US\$13 billion across a wide range of sectors. The document (available in Spanish only) outlines most of the government's social and economic strategies, financial plans and public investment intentions. The major areas of activity are:

- ❖ Social programs worth US\$3.8 billion, including the Metro de Panama project, low-income housing, new schools and hospitals, water and sewage systems, and national Internet access;
- ❖ Infrastructure investments of US\$5.8 billion for facilities such as irrigation systems, cold chain development, roads and airports; and »general programs worth US\$4 billion, including
- ❖ Educational and professional development, environmental projects and agricultural stimulus packages.

No description of Panama would be complete without a reference to the enormous expansion project now being undertaken for the Panama Canal. With an expected cost of at least US\$5.25 billion and a completion date of 2014, it is one of the largest and most ambitious projects in the region, and will help Panama expand its role as a global logistics platform by doubling the Canal's capacity. The expansion will also make the Canal usable by "Post-Panamax" ships, which are too large for the existing waterways.



Panama for Canadian Multinationals

This is a vital development, because half the vessels now being ordered for containerized shipping by major shipping lines fall into the Post-Panamax category.

The Canal expansion becomes even more of a behemoth when one realizes that it is not part of the Government Strategic Plan, but an independently managed and funded project.



2.1 Panama's Investment Climate

According to an EDC market analysis of late 2010, Panama is very attractive to investors given its fully dollarized economy with no exchange risk; its absence of barriers to repatriation of funds; its low inflation (3.4% Feb. 2014); and its stable and sophisticated banking sector.

Solid economic growth, enhanced tax collection and spending restraint have helped improve the government's fiscal position over the past few years. Fiscal improvements have helped reduce Panama's public debt (domestic and external) from 70% of GDP in 2004 to an estimated 47% in 2012, sitting at -2.6% of GDP at the end of 2013. In addition, good debt management has allowed the government to extend the average maturity of its obligations and reduce interest rates.

Over the medium to long term, Panama's economy will continue to benefit from its position as a major international hub. In addition, Panama faces no threats of civil unrest or external aggression. Protests and strikes intended to sway political decisions and demonstrate public dissatisfaction are not uncommon, but they pose no danger to the country's overall security or political stability.

2.2 The regulatory environment

Foreign companies are subject to the same regulations as domestic firms and the legal system does not make any distinctions based on a company's nationality.

There are no restrictions on mergers or acquisitions and there are no laws preventing overseas businesses from acquiring most kinds of local companies. The two major exceptions to this are the retail sector and the media sector, where businesses must be owned by Panamanian nationals. Some professions, such as law, accounting and medicine, are reserved to Panamanians as well, although this may change when the FTA comes into effect.

There are no performance requirements for foreign companies operating in Panama, such as minimum local equity interest or mandatory technology transfer, nor are there any regulations



Panama for Canadian Multinationals

requiring such businesses to invest in local companies or to purchase goods or services from Panamanian suppliers.

Panama does not restrict transfer of funds abroad and there are no restrictions on capital outflows.

Panama uses the U.S. dollar as its legal tender, so there are no convertibility or exchange-risk issues, and

Canadian companies accustomed to transactions in U.S. currency will be quite at home. Note that you don't need to be legally resident in Panama – or even physically in the country – to establish a corporation or obtain a Panamanian operating license for your Canadian business.



2.3 The Investment Stability Law

Panama's foreign-investment rules are very liberal and the Investment Stability Law (Law No. 54 of July 22, 1998) added specific assurances for investors. This law allows foreign investors to register investments of more than \$2 million, in certain qualifying businesses, with the National Investment Registry of the Ministry of Industry and International Trade (**MICI**). If you're a registered investor, you can obtain a guarantee that your investments will not be adversely affected, for a period of 10 years, by changes in the laws related to employment relations, taxation or customs duties.

3. Labour

There is a shortage of skilled labour in Panama (4.5% unemployment in 2013), so it can be hard to find technically skilled people who are also fluent in English. This situation is aggravated by the requirement that no more than 10 per cent of a company's workforce can be non-Panamanian. However, there are special provisions for multinationals. If the company requires technical or specialized personnel which are not readily available in Panama, it may hire foreign workers as long as these do not exceed 15 per cent of the company's total number of employees. Also, under certain conditions, (in the Free zones or especial Economic Areas) the Ministry of Labour can authorize a higher percentage of technical and specialized non-Panamanian workers. Such foreign employees must obtain one-year work permits from the Bureau of Immigration.

3.1 The Labour Code

The Panama Labour Code regulates all labour transactions, and the Code is applied in equal conditions to locals as well as foreigners. The law was reviewed in 2011, targeting specific areas (i.e. Free Zones and related activity), resulting in a more flexible labour Code.



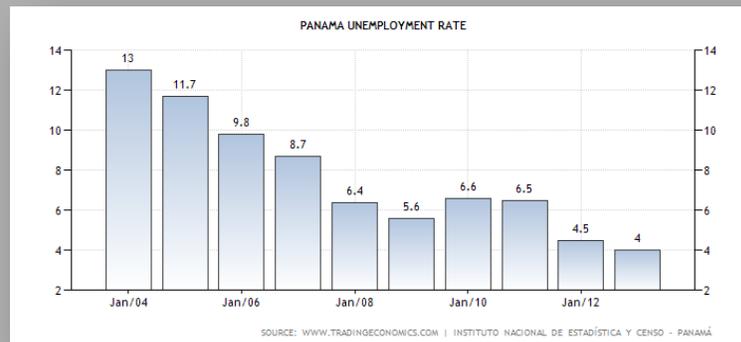
Panama for Canadian Multinationals

As of January 1st, 2014, the minimum wage ranges from about \$430 to about \$624 per month, varying by sector and geographic region, and based on a national medium of \$240 monthly income and a medium of over \$280 monthly household income. The maximum normal work week is 48 hours for daytime work, 42 hours for night work and 45 hours for mixed day and night work.

Panamanian employees are guaranteed a wide range of benefits by law, including:

- ❖ An annual paid vacation of 30 days for every 11 months of continuous employment;
- ❖ Extra compensation that is aggregated at one day's salary for every 11 days worked, and paid in three instalments in April, August and December;
- ❖ Termination compensation, equivalent to a week's salary for each year worked;
- ❖ An unjustified-cause termination payment, the value of which is based on labour code indemnification tables; and
- ❖ Paid maternity leave of 14 weeks.

There are three different contracts in the Labor Code: the permanent contract, the fixed term contract and the project-based contract. The work permit issued to foreigners can be valid for a year and may be extended for a maximum 5 years. Nonetheless, there are several laws that allow foreign residents to obtain permanent residence whether it is for investment or work purposes.



3.2 Special Incentives for Multinationals

Here are some of the main benefits of the new Code, as they relate to foreign business owners in special economic zones:

- ❖ A special labour office has been created for the purpose of mediating any conflict between business owner and an employee of a Free trade zone registered company
- ❖ An employee could be transferred to different departments or production lines, based on the companies requirement
- ❖ Employees could be laid off based on the market's conditions (A formal and previous authorization from the Ministry of Labour is required to enforce this decision).
- ❖ Production premium incentives, bonuses and gratifications are not considered salary.



Panama for Canadian Multinationals

- ❖ The employer (free trade zone Business Company) is entitled to decide the season or period that an employee should enjoy its vacation. This benefit also allows the employer to grants vacation for the full or partial company staff as well as the year season to allocate this labour benefit.
- ❖ The overtime surcharge is a fixed rate of 25% of the salary per hour.
- ❖ that works on it day off is entitle to a surcharge or 50% of its salary.

4. The Panama – Canada Relationship

With a relatively prosperous population of 3.5 million and a growing middle class, Panama is a small but potentially valuable market for Canadian businesses. Bilateral trade has experience a 62% growth during the past 4 years, even though FOB export value from Panama to Canada dropped almost 50%, mainly due to the decline in the price of gold, which account for 84% of Panamanian exports to Canada. On the investment side, Canadian foreign direct investment (FDI) into Panama was worth \$121 million in 2010.



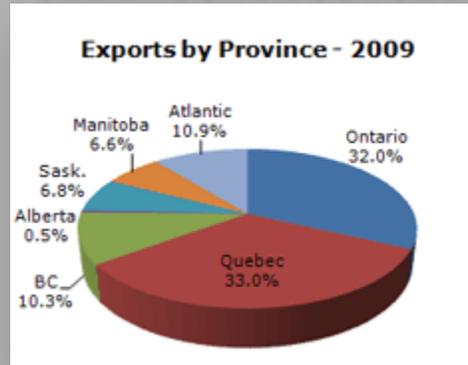
Canadian exports to Panama include machinery, vehicles, electrical and electronic equipment, pharmaceutical equipment and agricultural products such as lentils and frozen potatoes. On the services side, the most active sectors are financial services, engineering and professional services, and information and communication technology (ICT) services. FDI is concentrated in banking and financial services, and in the construction and mining sectors.



Panama for Canadian Multinationals

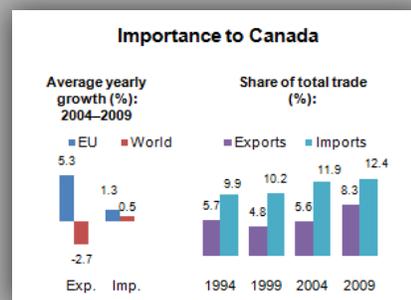
4.1 The Canada-Panama Free Trade Agreement

The most important Canada-Panama trade development of recent years (if not ever) is the **Canada-Panama Free Trade Agreement** that was signed in early 2010.



When both countries have ratified this FTA and it is in full effect, it will have numerous important benefits:

- ❖ It will remove tariff barriers that limit Canadian participation in Panama's expanding markets. This will help make Canadian goods more competitive in sectors such as seafood and agri-food products, construction materials and equipments, forest products, flight simulation and training equipment, industrial and electrical machinery, paper products, and vehicles and vehicle parts. This is especially important for Canadian agricultural goods, where Panamanian tariffs range from 13.4 per cent to as much as 260 per cent on some products. Non-agricultural sectors, where tariffs start at 6.2 per cent and rise as high as 81 per cent, will also benefit. Most of these tariffs will vanish as soon as the FTA is ratified, with the remainder being phased out over the next five to 15 years.
- ❖ In the area of non-tariff barriers to trade, the FTA will provide for the non-discriminatory treatment of imported goods, the use of suitable regulatory practices and international standards, and the establishment of mechanisms to deal with specific technical barriers such as sanitary and phytosanitary (SPS) requirements.



Panama for Canadian Multinationals

- ❖ Canadian manufacturers will have the same preferential market access as exporters from countries that have already signed FTAs with Panama, such as Chile, Taiwan and Singapore.
- ❖ It will provide a secure and predictable environment for investors, new links within various supply and production chains, and fresh opportunities to find new markets, partnerships and customers.

4.2 The FTA and Investment

Canada and Panama have had a Foreign Investment Protection Agreement (FIPA) since 1998. The FTA Chapter on Investment will replace the existing FIPA. This may have several benefits if you have investments in Panama, or if you're considering making one. The FTA Chapter on Investment will:

- ❖ Protect you from discrimination, while providing for fair and equitable treatment and full protection and security in accordance with international law;
- ❖ Ensure the free transfer of capital related to your investments;
- ❖ Protect you against expropriation without adequate and effective compensation;
- ❖ Provide you with access to international arbitration to resolve disputes; and
- ❖ Promote two-way investment flows through stronger commitments by both countries.

4.3 The FTA and Canadian services providers

As mentioned earlier, Panama's economy is strongly oriented to the services sector, which means that it is an especially promising market if your company is a service firm.

Just as it does for goods exporters, the FTA includes rules that will help your service business thrive in Panama:

- ❖ The FTA's service provisions promote regulatory stability and equitable treatment for a broad range of service sectors. This will be good for Canadian exporters, particularly small and medium-sized enterprises, since a stable business environment is much preferable to an unstable or unpredictable one.
- ❖ The FTA will help Canadian service exporters gain greater market access and better treatment than they now enjoy in Panama under the current WTO General Agreement on Trade in Services. This will apply especially to financial services, information and communications services, environmental services and energy services.
- ❖ Canadian services exporters will benefit from greater regulatory transparency in areas such as the temporary entry of business persons into Panama.
- ❖ The agreement provides for ways in which professional licensing and qualification requirements can be mutually recognized by both countries, so that Canadian professionals can work in Panama without restrictions (and vice versa).



Panama for Canadian Multinationals



5. Multinationals

Not surprisingly, Panama has been chosen by numerous Fortune 500 companies dedicated to all kinds of commercial activities as a profit center and a real base to coordinate their global or regional operations.

Multinational companies have established their distribution base in Panama to commercialize their products and services to the region as well as the rest of the world. Some have consolidated all global operations from Panama, other have moved/established a global or regional division here.

5.1. Law 41

In August 2007 Law 41 came into force promoting the establishment of multinational corporations in the Republic of Panama. This area is the responsibility of the new "Licensing Commission on Multinational Enterprise Headquarters," chaired by the Deputy Minister of Foreign Trade. Some of its functions are:

- I. Establishing licensing requirements for these companies;
- II. Ensuring that Panama becomes an attractive center for multinationals; and,
- III. Creating mechanisms to facilitate monitoring.

All licenses are processed by the Regional Headquarters Office at the Ministry of Industry and Commerce (MICI).

Law 41 also created a new secretariat to grant licenses to companies with the purpose of processing and granting visas to employees, and organizing an official record of multinationals. It is a law inspired by the success achieved by Switzerland and Singapore in this sector of the economy.



Panama for Canadian Multinationals

5.2 Activities that the established companies can housed in Panama

1. Direction and administration of its operations
2. Logistics and storage of parts / components
3. Technical assistance to the company and its subsidiaries
4. Operational support and R & D of product and services
5. Financial management and treasury services
6. Company accounting
7. Drafting, design, support and product development
8. Consulting for marketing and publicity
9. Data processing and operations consolidation

5.3 Benefits for Multinationals

Benefits granted by Law 41 include tax exemptions, in addition to special labour and migration status.



Company Benefits

- ❖ Labour: The Company can hire foreign Executives to fulfill a specific company need; bypassing the at times tedious work permit process.
- ❖ Fiscal: The Company can make legally binding special fiscal arrangements with the General Revenue Directorate (DGI *Spanish*)
- ❖ Income Tax: The Company will pay no Income Tax for services offered by any and all types of institution, which do not generate income within Panama for the Company.
- ❖ Tax & Dividends: The Company will be fully exempt, and it is not required to use the official fiscal cash registers

Executive's Benefits

- ❖ Income Tax: Executive's will be exempt providing the source of their income is outside of Panama
- ❖ » Social Security and Education Tax: Executive's will be exempt providing the source of their income is outside of Panama
- ❖ » Import Tax Exemption: For households goods (including one vehicle) when the executive moves to Panama.



Panama for Canadian Multinationals

Why Panama?

Stable Economy:

- ❖ Regional leader in technology development
- ❖ Modern investment promotion laws
- ❖ Political, economic and social stability
- ❖ Great logistics platform & connectivity
- ❖ Excellent Business Climate
- ❖ International Financial Centre
- ❖ Investment Grade Rating by major agencies: Moody's Baa2 +; Fitch, BBB stable; and S & P BBB+

Stable Country:

- ❖ Stable government
- ❖ Democratic Republic represented by President
- ❖ Poverty rate is 28% of population, considerably below the regional average
- ❖ World class infrastructure and continues to expand
- ❖ High level of security for tourists and business travelers

Note: More than 100 multinational companies have offices in Panama, including:

USA - Coca Cola, FedEx, Continental Airlines, PriceSmart, Citibank, ExxonMobil, ChevronTexaco, Radisson, 3M, AES, Avaya, Caterpillar, Dell, Homewatch CareGivers, Johns Hopkins International Medicine, Procter & Gamble, Western Union, Thunderbird

Spain - Telefonica

Japan - Sumitomo, Itochu, Mitsui, Sony, Matsushita

UK - HSBC, Cable & Wireless, Harcrow

Canada - First Quantum Minerals, SNC Lavalin, Cabo Drilling, Petaquilla Minerals

Korea - Samsung, LG, Hyundai

Switzerland - Nestlé

France - Roche, Peugeot



Panama for Canadian Multinationals

6. Free Trade & Special Economic Zones

There are two major free trade zones (FTZs) in Panama: the Panama Pacifico Special Economic Zone and the much older and well established Colon Free Zone. In addition, there are smaller export processing zones, petroleum free zones, call centers and Ciudad del Saber (“City of Knowledge”) Technology Park, which provides various benefits for companies that establish facilities there.

6.1 Panama Pacifico Special Economic Zone

Panama Pacifico offers a range of tax, labour and legal incentives. It has an onsite government office that can help you establish a business within the zone and can also arrange work visas and investor visas.

Some of the financial benefits for businesses setting up in the Panama Pacifico zone include:

- ❖ Exemption from import duties, if the goods will not be sold within Panama;
- ❖ Income tax exemptions for various business activities;
- ❖ Various exemptions from other taxes, including sales taxes, dividend taxes, stamp taxes, license and real estate property taxes, withholding taxes on interest income and capital gains taxes on company stock transfer;
- ❖ Tax exemptions on payments made to foreign creditors and on royalties paid to foreigners;
- ❖ Municipal tax stability guaranteed for 10 years from date of registration.

There are special provisions for labour as well, including:

- ❖ A fixed surcharge of 25 per cent for overtime;
- ❖ A negotiable weekly rest day;
- ❖ Sunday and holiday business opening;
- ❖ Negotiable employee vacations;
- ❖ Labour contracts that can be terminated because of market or demand changes; and
- ❖ A non-Panamanian workforce of up to 15 per cent.

6.2 The Colon Free Trade Zone

The **Colon Free Zone** (CFZ), located at the Atlantic end of the Panama Canal, handles the logistics and re-export of goods to Latin America and the Caribbean. To establish an operation there, you simply apply to the **Administración de la Zona Libre de Colón** and provide commercial and bank references, a Panamanian Government tax clearance and your articles of incorporation.



Panama for Canadian Multinationals

You don't need a commercial license and there is no minimum capital. However, you do have to employ at least five Panamanian nationals and you must administer the standard payroll deductions for both Panamanian and foreign workers.



You can acquire CFZ business premises in several ways:

- ❖ You can rent them from a private owner.
- ❖ You can obtain a 20-year lease on a plot of land and build your own facilities.
- ❖ You can use an existing company as a representative. There are several firms in the CFZ that offer this arrangement, and they will relieve you of activities such as arranging transport, receiving goods, documenting transactions, packaging, re-exporting and invoicing.
- ❖ You can use the public warehouse system to store your goods and, if you wish, they can provide additional services such as packing, labelling and re-exporting. This arrangement provides you with warehousing and storage facilities while reducing your overhead. You pay for the services rendered through dues levied by the CFZ administration according to the value of the merchandise you have in the system.

Income tax rates for companies in the CFZ are identical to those for companies in Panama itself, and sales by CFZ-resident businesses to companies in Panama are treated as normal imports and taxed accordingly.

The real benefit of setting up in the CFZ lies in its many financial incentives:

- ❖ There are no sales or production taxes.
- ❖ There is various tax exemptions on income derived from abroad.
- ❖ There are no taxes or duties on imports to the CFZ from foreign countries or on re-exports from the CFZ to foreign countries.
- ❖ Dividends to offshore stockholders are untaxed.
- ❖ There is no capital gains tax on the sale of CFZ assets that have been held at least 2 years.
- ❖ There are no capital investment taxes, and no municipal or other local taxes.
- ❖ Further discounts on taxable income are available depending on how many Panamanian nationals you employ.



Panama for Canadian Multinationals

6.3 Export Processing Zones

Export Processing Zones (EPZs) are well-defined areas for establishing industrial, commercial and service facilities, for operation in a free trade system. All or most of the production must be intended for export. A range of incentives have been established to attract companies into the EPZs.

Companies establishing operations in EPZs are those engaged in light manufacturing, assembly, high technology, and specialized and general services, e.g. computer data entry and reinsurance.

Companies establishing operations in an Export Processing Zone are offered the following benefits:

- ❖ Exemption from taxes, duties and other charges related to the import of machinery, equipment, raw materials, semi-processed goods and other materials such as packaging, fuel and lubricants used in the manufacturing process.
- ❖ Exemption from income tax on export profits, exemption from export sales taxes, as well as taxes on capital and assets of the export industry.
- ❖ The EPZ law also includes specific labour and immigration provisions for employees of EPZ firms, which are more favourable than the current Panamanian Labour Code;
- ❖ Six EPZs are currently approved by the Panamanian Government. Some of them are in already in operation and others in early stages of development.

N°	Free Zones	N° of Companies registered
1	Panexport	25
2	Isla Margarita Development	8
3	Proexport International Development (*)	0
4	Davis Free Zone	6
5	Proinexport	2
6	Albrook Free Zone	16
7	Corozal Free Zone - Marpesca, S.A.	33
8	Rail Road Export Processing Zone	1
9	Espanam Iberoamerica (*)	0
10	Eurofusion	1
11	Chilibre Free Zone (**)	0
12	Colon Maritime Investor	6
13	Export Pacific Panama, S.A. (**)	0
14	Hewlett Packard Global Services Panama, S.A.	1
Total		99

6.4 Petroleum Free zones

The Petroleum Free Zones were created to extend Panama's free trade policy to now include the oil industry. The legislation that creates these zones consolidates previous legislation to strengthen the legal framework necessary to establish a petroleum policy in the Republic of Panama, including all other petroleum derived products. The legislation offers new investment opportunities for local and foreign companies. These opportunities allow investors to take advantage of the country's geographical location, petroleum storage capacity, human resources and the new opportunities offered by this changing industry.



Panama for Canadian Multinationals

Operations permitted within Petroleum Free Zones include the refinement, creation, packaging and transportation of petroleum and its by-products, which can be exported, re-exported and sold to vessels transiting the Panama Canal that are destined for foreign ports. Crude oil and petroleum by-products may enter the Petroleum Free Zones without paying taxes, fees, levies or any other duties related to their importation, exportation or re-exportation. All income derived from transactions within these free Zones is also tax exempted.

6.5 Call Centers

Call Centers in Panama have been granted the same benefits enjoyed by EPZs, making Panama one of the most important call center providers in Latin America. The growing Spanish-speaking population in the United States has increased the need for bilingual customer service representatives, and since Panamanian schools have English as a mandatory second language, Panama is home to a significant source of bilingual employees, and local wages and labour costs are much lower than Canadian, hence employing a Panamanian call center can represent important financial savings for any company.

Benefits of operating a call center in Panama include:

- ❖ Tax Free Operations, including exemptions from sales tax, import tax and income tax
- ❖ Exemptions to the Panamanian Labour Code in areas which include immigration, termination and vacation ruling.

6.6 Ciudad del Saber

The City of Knowledge area ("Ciudad del Saber") is an international complex for education, research, and innovation, developed to promote cooperation among universities, scientific research centers, businesses and international organizations. Centrally located near the Canal and Panama City, it has various benefits for high-technology firms that focus on innovation and sustainability. These include:

- ❖ Tax and immigration benefits through affiliation to the City of Knowledge Foundation project;
- ❖ Telecommunications, IT and educational technology services;
- ❖ Well-maintained and adaptable infrastructure and buildings;
- ❖ Technical, administrative and consulting services;
- ❖ Access to Panama's major higher learning and scientific research centers; and
- ❖ Access to the Panama Canal Basin, a living laboratory for scientific research and technological
- ❖ Innovation on advanced tropical ecosystem management.



Panama for Canadian Multinationals



7. Establishing Your Presence in Panama

Foreign companies can establish a Panamanian presence in several ways, and both foreign and domestic firms must meet the same requirements in order to operate in the country. Panama's framework of corporate law is straightforward and flexible, so it is relatively easy to create a suitable type of enterprise. You should, however, work closely with Panamanian legal counsel when setting up any business presence in the country.

Licenses are required and must be obtained from the Ministry of Industry and International Trade (**MICI**). Construction firms and manufacturers will require an industrial licence, while service companies must have a Class A commercial licence. Class B commercial licences are for retail businesses and are granted only to Panamanian nationals or to companies owned solely by them.

7.1 Panama as a Regional Gateway

Establishing a presence in Panama can make it easier to pursue opportunities in other Latin American countries and the Caribbean. Since the country is such a powerful business and financial hub, seeing it in this "regional gateway" context can be very useful. This is all the more so given Panama's logistical advantages, such as the excellent regional connectivity through the Tocumen International Airport and the Panama Canal. Conveniently, direct air service between Toronto and Panama City was inaugurated in mid-2011. New frequencies and a new destination, Montreal, will be added in June 2014.



7.2 Establishing a Business Entity

The following business types are the most common.

Sociedad anónima

A sociedad anónima (S.A.) is the equivalent of a Canadian corporation. It can be set up by two or more people of any nationality, neither of whom needs to be resident in Panama. Ownership of a Panamanian corporation may reside in a single individual or in another corporation. To set up an S.A., you have to execute articles of incorporation that describe the organization of your Panamanian business and then file them with the Public Registry. Your company must have some authorized capital, in the form of a sum of money of any currency, divided into shares. However, there is no minimum required capital, nor is there a minimum number of shareholders.



Panama for Canadian Multinationals

As for company officers, you will need at least a president, a secretary and a treasurer. You don't have to open a physical office for your corporation in Panama itself, but you do have to retain a resident agent in Panama, who must be a lawyer or a legal firm. The agent will file your corporate documents with the Public Registry and will also pay your annual franchise tax, which is US\$250 in the year of incorporation and US\$300 thereafter.

Sociedad de responsabilidad limitada

A sociedad de responsabilidad limitada (S. de R.L.) is the Panamanian version of a limited liability company (LLC). As with an S.A., two or more people can set one up, and they don't have to be Panamanian or be resident in Panama. The capital requirements of the company are very similar to those of an S.A. The economic liability of each partner for the obligations of the company is limited to the amount of their participation. As with an S.A., you set up an S. de R.L. by executing an incorporation agreement and filing it at the Public Registry.

Partnerships

There are several types of partnerships, including general partnerships, limited partnerships, joint stock partnerships and limited-liability partnerships. They are distinguished mainly by the allocation of liability and the organization of their capital.

Joint ventures

Joint ventures (JVs) are temporary alliances set up to carry out a specific contract, without incorporating or forming a legal partnership. Usually they endure only until the project or contract is completed. For the protection of all parties, JV agreements should specify exactly how the venture is to be structured and operated, and precisely how any intellectual property rights are shared and controlled.

Branches

You can also operate in Panama by setting up a branch of your Canadian corporation. To do this, you have to register the following documents with the Public Registry:

- ❖ The articles of incorporation;
- ❖ a certificate of existence and good standing of the Canadian parent;
- ❖ a list of directors and officers of the Canadian parent;
- ❖ a balance sheet for the Canadian parent;
- ❖ a statement by the parent's board of directors authorizing the establishment of the branch;
- ❖ allocation of capital to the Panama branch; and
- ❖ the appointment of a resident agent for the branch.

Using a branch may offer few advantages over using an S. A., however, since they operate in substantially the same way (there are some differences in how dividend taxes are handled). You should consult legal counsel to find out what benefits, if any, a branch might give you.



Panama for Canadian Multinationals

Sales Agents and Distributors

For industrial goods, sales are normally handled by local agents or distributors, although some Panamanian companies order directly from the manufacturers. There are no regulations pertaining to supplier-agent relationships, which are governed only by the contracts between the businesses involved.

Licensing and Transfer of technology

A licensing or technology transfer agreement means that a Panamanian company is allowed to use your technology or other intellectual property (IP) in return for payment or some other form of reimbursement. These agreements can include the use of copyrights, trademarks, patents or industrial designs; the provision of engineering and technical expertise; the rendering of advisory, consulting and supervisory services; and the licensing of software. Agreements of this type do not require you to establish a permanent Panamanian business entity. When setting up one of these agreements, be very careful to protect your IP from unauthorized use either by your licensee or by third parties. For more information on IP protection, please refer to Section 9.2.

Franchising

Depending on your company's business, franchising may offer an entry point into the Panamanian market. The franchising sector is becoming steadily more diverse and already is used for business operations such as cleaning services, security services, beauty services and mail and packaging services. There are few restrictions on franchise operations in Panama, and the use of the U.S. dollar as legal tender means that business transactions are quite straightforward and carry no exchange risk.

7.3 Business Licenses

All organizations wishing to carry out commercial activities must obtain a commercial license, or "aviso de operaciones" from the Ministry of Commerce. This rule applies to all companies with a share capital less than US\$10,000.00.

Requirements

In order to obtain their commercial license, all organizations must comply with the following general requirements:

- ❖ Complete the request form (this can be done through your lawyer's office, or online at www.panamaemprende.gob.pa). Information required on the form includes the business name, address, the functions of the company and the company's share capital.
- ❖ The application fee of US\$25 for individuals or \$US50 for legal entities.
- ❖ Initially, a temporary license is given and then, as long as the application complies with all regulations, a permanent license will be granted.
- ❖ The commercial license must remain in a visible place within the address of the company.
- ❖ Further to the application fee, an additional fee is charged in order to obtain the license. This fee ranges between US\$250.00 and US\$750.00, depending on the commercial activities of the organization.
- ❖ An annual licensing fee must be paid, charged as a percentage of the share capital of the company. The minimum annual payment is US\$100.00 and the maximum is US\$40,000.00.

Exemptions

Certain exemptions are allowed under the commercial licensing rules. Individuals and legal entities involved in the agricultural sector or handicraft businesses with less than five employees. Non-profit organizations are also exempt from commercial licenses.



Panama for Canadian Multinationals

Operation Permits

Commercial licenses are divided into three categories: A, B and Industrial.

Type A Permit

Businesses operating under Class A Licenses must only perform wholesale, as opposed to retail, operations. Some examples of companies requiring Class A Licenses are banks, insurance companies, utility companies, finance companies and legal firms, to name a few. A Class A company may be owned by Panamanian or Foreign Citizens.

Type B Permit

Class B Licenses can only be held by Panamanian-owned companies. The business may engage in both wholesale and retail operations. Examples of Class B-licensed companies are restaurants, bars, nightclubs, real estate companies, pharmacies and gas stations, among others.

Industrial Permit

Industrial Licenses are required for any manufacturing, mining or extraction company, including construction companies. Aside from the initial commercial license, some companies need to obtain further licensing in order to begin operations. This depends upon their business sector. For example, an insurance company needs a license from the Superintendence of Insurance Companies and a bank needs a license from the Superintendence of Banks. Legal advice should be obtained at the time of starting a company to ensure all correct licensing is obtained.

8. Finances & Taxation

Panama has become an international banking center, with more than 90 banks in the country. The financial sector is well-developed and efficient; encouraged by the government's view that capital should flow freely.

8.1 The Financial System

Panama's financial sector is regulated by its 1998 Banking Law, with the regulatory authority being the **Superintendency of Banks of Panama**. Amendments added to the 1998 law in 2008 brought the country's regulatory regime to a condition approaching international standards. Because Panama uses the U.S. dollar as its currency, it does not have a central bank and, consequently, has no institutions for setting an independent monetary policy.



Panama's banks include major institutions such as Scotiabank, HSBC and Citibank. They offer a broad range of financing instruments and are the most common source of credit for both domestic and foreign investors.

Panamanian and foreign investors are treated equally with respect to access to credit, and Panamanian interest rates closely follow international rates plus a country-risk premium. Consumer financing for needs such as mortgages, credit cards and personal loans is readily available.



Panama for Canadian Multinationals

8.2 Paying taxes

Corporations resident in Panama are taxed only on income or gains derived through business carried on in Panama itself. In other words, if your Panamanian subsidiary earns revenues from outside the country as well as inside it, the income from abroad is not subject to tax.

Note, however, that Canada and Panama have not negotiated a tax treaty concerning double taxation. Consult a tax professional to find out what this means for your business operations.

At the national level, the major taxes are the following:

- ✓ Corporate income tax, levied at 27.5 per cent in 2010, will be reduced to 25 per cent beginning in 2011. Companies in some sectors, however, such as banking, power, cement manufacturing, telecommunications and insurance, have to pay taxes at a 30 per cent rate in 2010–2011, dropping to 27.5 per cent for 2012–2013, and to 25 per cent beginning in 2014.
- ✓ There is an annual tax on a company's commercial operations permit. This is set at 2 per cent of the company's net worth, capped at US\$60,000. If your company operates in an FTZ, the tax rate is 1 per cent with a cap of US\$50,000.
- ✓ Dividend taxes range from 10 to 20 per cent, depending on the source of the dividends and how they are distributed.
- ✓ There is a Value Added Tax levied on imported goods, on the sale of Panamanian tangible property and on the provision of services in Panama. The normal rate is 7 per cent, with a few exceptions.
- ✓ There are property taxes and capital gains taxes of various kinds.

8.3 Getting Paid

Since Panama is an international banking center, there is a full range of options that your customers can use to pay you. For each party to the transaction, the chosen payment method will have various advantages and disadvantages:

Cash in advance

For you, this is the fastest and most secure form of payment. If selling to a Panamanian company, however, keep it mind that the local company must finance the purchase from its own resources. The buyer also has no guarantee that the goods will be delivered as promised. For the buyer, consequently, cash in advance is the least desirable method of payment, and you may lose the sale if you insist on it.

Confirmed letter of credit (L/C)

This is very secure for both you and your buyer, but confirmed L/Cs can be expensive. Insisting on L/Cs may cost you sales.

Unsecured open account

You, the seller, agree to ship the goods to your buyer/client who will pay for them within 30 to 90 days of either shipment or receipt. This is ideal for the buyer, since it receives the goods before it has to pay for them. For the same reason, it is also the riskiest form of payment for you. A willingness to be paid on this basis can help secure a sale, but be very sure that the buyer's credit is good before you agree to these terms.

Open account with receivables insurance

This could also be called "secured open account." In this form of payment, a financial institution such as Export Development Canada (EDC) provides you with accounts receivable insurance (ARI)



Panama for Canadian Multinationals

so that you'll get your money even if your buyer fails to pay. At the same time, because the financial institution secures your payment, you can offer your customer all the benefits of open-account payment with minimal risk to your bottom line. This form of payment is an excellent option for both buyer and seller. EDC specializes in ARI and can provide it in various forms to suit your needs. For more information, please refer to your local / provincial EDC office.

Documentary collections

With documentary collections, your Canadian bank sends shipping documents to a correspondent Panamanian bank. When the goods arrive at Panamanian Customs, the Panamanian bank presents the documents to the buyer, who then pays before actually receiving the goods. This is known as *documents against payment* (D/P). It is very secure for you, and your customer doesn't have to pay until the goods arrive at Panamanian customs. In addition, your customer knows the goods have arrived in Panama, so there is no worry about non-delivery. This form of payment is also inexpensive compared to an L/C.

An alternative is *documents against acceptance* (D/A). In this arrangement, the buyer can pay within 30, 60 or 90 days of the documents being presented by the bank. This is good for the buyer, who is being provided with credit for up to 90 days at your expense. It is risky for you, however, because your buyer receives the goods before paying for them.

9. The Legal Perspective

For the most part, Panama's commercial law is comprehensive and well-established. However, you should not become involved in legal disputes if you can possibly avoid it, since the judicial system is not always as transparent or objective as it might be.

9.1 Dispute settlement

Panama accepts binding international arbitration of disputes with foreign investors. The country is a member of the International Center for the Settlement of Investment Disputes and a member of the World Bank's Multilateral Investment Guarantee Agency.

In addition, because the judicial system is fraught with delays, Panama has set up an alternative dispute settlement mechanism, the Conciliation and Arbitration Center (CAC), which can be a powerful instrument for foreign investors.

9.2 Intellectual property protection

It is important to realize that intellectual property (IP) protections registered in Canada, such as copyrights, trademarks and patents, do not extend to Panama. To protect your rights in the latter country, you must register and enforce them under Panamanian law. It's best to do this with the help of local legal counsel.

The protection of IP in Panama is better than it was a decade ago and the country now has Commercial courts dedicated exclusively to hearing cases related to patents, trademarks and copyrights. There is also a national prosecutor assigned specifically to the handling of IP protection cases. Panamanian-registered copyrights are protected under a 1994 law that provides copyright protection for the life of the author plus 50 years. The country's Industrial Property Law protects patents for 20 years from the date of filing, and includes protections for trade secrets. There is a fairly simple process for trademark registration, and trademarks can be renewed for 10-year periods.

Panama is a member of the World Intellectual Property Organization (WIPO), the Geneva Phonograms Convention, the Brussels Satellite Convention, the Universal Copyright Convention, and the Bern Convention for the Protection of Literary and Artistic Works, the Paris Convention for the Protection of Industrial Property and the International Convention for the Protection of Plant Varieties.



Panama for Canadian Multinationals

9.3 Corruption

You may never encounter corrupt behaviour while doing business in Panama, but you should be sensitive to its existence. Needless to say, your company should never become involved in it. Note that Canadians who become embroiled in corrupt activities, such as bribery of government officials, can be prosecuted in Canadian courts under Canada's *Corruption of Foreign Officials Act*. For more information about corruption levels in world markets, you can refer to the **Transparency International** web site.



Panama for Canadian Multinationals

Appendix A

Resources for Canadian Companies

Panama-specific resources

- The **Panama-Canada Chamber of Commerce** supports the development of business links between the two countries. Refer to Appendix B for more detail contacts
- The **Panamanian Chamber of Commerce** offers extensive information (in Spanish) about the country's business environment.
- **Business Panama** gives the latest business news about the country, plus resources on real estate, investment and travel facts.
- The **Central American Business Network** (primarily in Spanish) covers Panama as well as its immediate neighbours.
- Deloitte's quarterly Spanish publication, **Barometro de Empresas**, is a comprehensive analysis that measures perceptions and expectations of the local business community.
- In 2010, the Panamanian Vice-Ministry of Foreign Trade created the Investment and Export Promotion Agency (**PROINVEX**) to promote foreign investment in Panama.

General resources

- **Canada Business** is a collaborative network of federal and provincial government services that helps Canadian entrepreneurs and exporters build their companies.
- **Canada's International Market Access Report** is an online resource that describes the federal government's priorities for improving Canadian access to foreign markets.
- **Export Development Canada** (EDC) is a Crown corporation that provides financial services and global market expertise to Canadian companies intending to sell their products and services abroad.
- **Foreign Affairs and International Trade Canada** (DFAIT) provides information about foreign affairs, foreign policy, the Canadian economy, international trade, travel assistance and passport services.
- The **Canadian Trade Commissioner Service** (TCS), part of DFAIT, provides services to Canadian businesses in Canada and abroad, including market research studies and country-specific reports. The Virtual Trade Commissioner, also available through the TCS, is a personalized, web-based resource that will give you market information and leads specific to your business interests. You can register for the Virtual Trade Commissioner when you visit the TCS web site. For Trade Commissioner Service contacts in Panama, please refer to Appendix B.
- **CanadExport** is a free, online DFAIT publication. It provides news about trade opportunities, export programs, trade fairs, business missions and more.
- **Industry Canada** is an excellent source of information, offering market reports as well as the **Trade Data Online** research tool.

<http://www.parl.gc.ca/Content/LOP/ResearchPublications/2010-77-e.pdf>

http://www.superbancos.gob.pa/documentos/noticias_y_eventos/2012/Int_Financ_Center2012.pdf

<http://www.edc.ca/EN/Knowledge-Centre/Publications/Pages/exporting-to-panama.aspx>

