



Icaza  
González - Ruiz  
& Alemán

ESTABLISHED 1920

ABOGADOS - ATTORNEYS AT LAW



# ICAZA *news*

NEWSLETTER NO. 01 | JULY 2007

## :: EDITORIAL

### Panama and the United States Free Trade Agreement signed

This past June 28th, Panama and the United States (US) signed a treaty of free trade, formally named Commercial Trade Promotion Treaty (TPC). The TPC, signed by Alejandro Ferrer, Minister of Commerce and Industries of Panama, and Susan Schwab, commercial representative for the U.S., marks the culmination of an effort of four consecutive Panamanian governments and should become an important tool of economic and social development.

The Panamanian Legislative Branch has ratified the agreement and is subject to the ratification by the United States Congress; it is most likely that it will not happen until several months.

First, the agreements signed with Peru and Colombia must be considered. Second, we must wait for the International Trade Commission of the United States to issue its report regarding the impact of the treaty for the United States economy.

This report should be published on September 12th, to which public hearings will follow at the Senate and the House of Representatives. Once they give their recommendations to the USTR Office of the US Trade Representative, the agreement can be sent formally to the Congress for its ratification. This is expected to happen at the end of the year.

## :: LEGAL NOTES



### Panama-Pacific Special Economic Area

This past April 2nd, 2007, the Board of Directors of the Panama Pacific Special Economic Area (AEEPP) granted the public bidding to the company London and Regional Properties Panama S.A. to become the Master Developer of a substantial part of this special area. It is located at Howard, a former air force base that the government of the United States maintained within the Canal Zone and which reverted to Panama once the Torrijos Carter Treaties became effective.

This allows you to take advantage of the world class telecommunications and logistics infrastructure that existed there.

If you will like to read the complete article, please [click here](#).

## :: ON LAW



### Panama Ports: A sector in exceptional growth

The perspectives of the Panamanian port sector, in issues of container movement, are encouraging. In the past eleven years since the privatization of the main terminals, the sector has experienced an extraordinary growth, reflected fundamentally in the number of docked ships and the container cargo volume.

Zoila Yaniselly, director in charge of Auxiliary Ports and Maritime Industries of the Maritime Authority of Panama (AMP) estimates that by 2010, the movement in the two oceans could reach 10 million annual TEUs.

If you will like to read the complete article, please [click here](#).



Icaza  
González - Ruiz  
& Alemán

ESTABLISHED 1920

ABOGADOS - ATTORNEYS AT LAW

ICAZA *news*

## :: ON LAW

### Panama: Commitment with the Industrial Property.

With the recent adoption of a new Penal Code, the Republic of Panama has sent a clear message to the international community: its firm commitment regarding the defense of Industrial Property rights.

Through Law 14 of May 18, 2007, published on Official Gazette No. 25,796 of May 22, 2007, whereby this new legal body has been adopted, an increase on the penalties is included due to Crimes against the Industrial Property making them even and in some cases even surpassing the sanctions given for committing other crimes, such as personal injuries, theft, robbery, corruption of minors, and crimes against the honor and finances, among others.

On the other hand, this new penal legislation sanctions from 2 to 4 years of imprisonment to whomever reveals an industrial or commercial secret, without a justifiable cause after having been warned of its confidentiality, with the purpose to obtain an economic benefit for himself or for a third party or from causing damage to the person keeping the secret or to its authorized user.

As an innovation, the new Code includes sanctions from 2 to 4 years of imprisonment to the public servant who uses or divulges, for his own benefit or the benefit of others, information or documentation inherent to any Industrial Property Right that he may know of due to his office and that should remain secret.

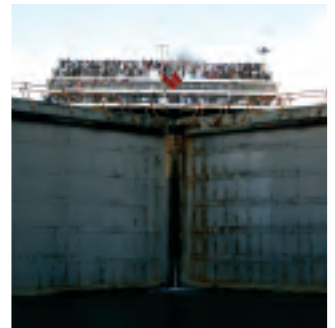
This new Criminal Code shall become effective as of May 22nd, 2008.

If you will like to read the complete article, please [click here](#).

## :: UP-TO-DATE

### Expansion of the Panama Canal

The ambitious project of expansion of the Inter-Oceanic way, already in execution, has three principal components: the construction of two complexes of locks, one in the Atlantic and another in the Pacific; the excavation of access beds and



enlargement of the existing navigation beds; and the profundization of the navigation beds and the elevation of the maximum level of operation of the Gatun Lake, which feeds the locks for its operation.

After granting the consultancy and environmental studies contracts, the Panama Canal Authority (ACP) carried out the first bidding for works related with the construction.

If you will like to read the complete article, please [click here](#).

## :: LEGAL INSIGHT

### Migratory Law for a Second Residence

The Panamanian Migratory system offers different types of visas, depending on the needs, goals and economical resources of the petitioner. There are programs of "Pensioner Tourist Visa", "Retiree Rentier", and "Private Financial Solvency". The migratory proceeding in Panama must be carried out by means of an attorney or a law firm.

If you will like to read the complete article, please [click here](#).



Icaza  
González - Ruiz  
& Alemán

ESTABLISHED 1920

ABOGADOS - ATTORNEYS AT LAW

ICAZA *news*

## **Panama and the United States: Free Trade Agreement Signed**

This past June 28th, Panama and the United States (US) signed a treaty of free trade, formally named Commercial Trade Promotion Treaty (TPC). The TPC, signed by Alejandro Ferrer, Minister of Commerce and Industries of Panama, and Susan Schwab, commercial representative for the U.S., marks the culmination of an effort of four consecutive Panamanian governments and should become an important tool of economic and social development.

The Panamanian Legislative Branch has ratified the agreement and is subject to the ratification by the United States Congress; it is most likely that it will not happen until several months. First, the agreements signed with Peru and Colombia must be considered. Second, we must wait for the International Trade Commission of the United States to issue its report regarding the impact of the treaty for the United States economy. This report should be published on September 12th, to which public hearings will follow at the Senate and the House of Representatives. Once they give their recommendations to the USTR Office of the US Trade Representative, the agreement can be sent formally to the Congress for its ratification. This is expected to happen at the end of the year.

[Back to top](#) ^

## **Panama-Pacific Special Economic Area**

*The ideal place to establish your company*

This past April 2nd, 2007, the Board of Directors of the Panama Pacific Special Economic Area (AEEPP) granted the public bidding to the company London and Regional Properties Panama S.A. to become the Master Developer of a substantial part of this special area. The AEEPP was designed by the Government of Panama, with the advice of the International Financial Corporation (member of the World Bank) and specialized consultants, in order to strengthen the regional leadership of this country in the sectors of air and maritime transportation, telecommunications and international services, by taking advantage of its competitive benefits. It is located at Howard, a former air force base that the government of the United States maintained within the Canal Zone and which reverted to Panama once the Torrijos Carter Treaties became effective. This allows you to take advantage of the world class telecommunications and logistics infrastructure that existed there, but also, it is located at 40 minutes from Tocumen International Airport, 10 minutes from the main Pacific container port and one hour away from the Colon Free Zone. On the other hand, the AEEPP is just 20 minutes away from Panama City, notorious for its vocation and its experience as a trade, business, finance and service center. In addition to the foregoing, Howard has been endowed with a series of tax, migration, work and custom benefits granted under the protection of Law 41 of July 20, 2004, which provides it the tools to be converted into the Business Center of the Americas. According to Gilberto Ferrari, the current administrator of the AEEPP Agency, the companies that could produce the greatest benefits of this special area are precisely those defined on Law 41, which count with the low impact manufacturing, logistic and distribution, Internet related industries, communications, real estate and aviation, among others. Companies like Dell Computers and IP Leather, which processes finished leather, have already established themselves there, and Panama Aerospace Engineering, among others, are currently in conversations for the establishment of new activities.

### *The Master Developer*

This aspect arises for the convenience of the future users of the Economic Area, because the existence of a private operator



Icaza  
González - Ruiz  
& Alemán

ESTABLISHED 1920

ABOGADOS - ATTORNEYS AT LAW

ICAZA *news*

with the law that institutes a special state of business in this area, guarantees them swift transactions and efficient commercial practices. The selected company, London and Regional Properties Panama S.A., shall have the right to administrate, promote and maintain 1,410 hectares of land in a contract with the Panamanian Nation for a period of 40 years extendable for another 40 additional years. To do this, it may use legal commercial practices, such as sale, lease and lease with an option to buy the properties in their charge, granting contracts up to 20 extendable years. According to the offer presented at the time of the bidding, this company shall provide 20 million dollars at the signing of the contract and shall make a minimum capital investment for Phase I (8 years) of approximately 405 million dollars, divided in the following manner: on the second year of the project, it shall invest a minimum of 60 million dollars; on the fourth year, a minimum of 80 million dollars; on the sixth year, a minimum of 80 million dollars; while on the eighth year, 185 million dollars shall be invested (See table).

Recently, the contract with the Developer was approved by the CENA and the Cabinet Council, and in the first days of July it will proceed to be signed and ratified. With regards to the future of the Agency, the administrator Ferrari informs that this is an autonomous entity that will continue to operate in order to collaborate, promote and direct proposals by means of the developer, so it can be concluded that the parties interested in knowing the Howard advantages as a special economical center may approach the Agency as well as the Master Developer.

It is important to emphasize that the law firm Icaza, González-Ruiz & Alemán has been involved since the beginning in the developing process of the AEEPP. Both Law 41 of July 20th of 2004 and its regulations, as well as the contract between the Nation and the Master Developer, were edited by our firm, who have been involved since 2001 up to the present.

For further information visit the website [www.aeepp.gob.pa](http://www.aeepp.gob.pa).

### *Economical Offer of LR properties*

Petitioner	1. London & Regional Properties, S. A.	2. Howard Acquisitions, S.A.
Amount upon the signature of the contract	\$ 20,000,000	\$ 20,000,000
Minimum investment (Phase 1)	\$ 405,000,000	\$ 402,000,000
<i>Break down</i>		
Year 2	\$ 60,000,000	\$ 28,000,000
Year 4	\$ 80,000,000	\$ 42,000,000
Year 6	\$ 80,000,000	\$ 104,000,000
Year 8	\$ 185,000,000	\$ 228,000,000

[Back to top](#) ^

## **Panama Ports**

### *A sector in exceptional growth*

The perspectives of the Panamanian port sector, in matter of container movement, are encouraging. In the past eleven years since the privatization of the main terminals, the sector has experienced an extraordinary growth, reflected fundamentally in the number of docked ships and the container cargo volume.



Icaza  
González - Ruiz  
& Alemán

ESTABLISHED 1920

ABOGADOS - ATTORNEYS AT LAW

ICAZA *news*

The Panamanian port system mobilized, in the first quarter of the current year, 1.2 million in TEUs or 20 ft containers, representing an increase of 44% compared to the January - April 2006 period. Zoila Yaniselly, director in charge of Auxiliary Ports and Maritime Industries of the Maritime Authority of Panama (AMP) estimates that by 2010, the movement in the two oceans could reach 10 million annual TEUs.

These estimates are based on the investment plans of the AMP but, above all, in those of companies that administrate and operate the four international ports that operate in the country under the supervision of said authority, to wit: the port of Balboa, on the Pacific; and those at Cristobal, Manzanillo and Colon Container Terminal, on the Atlantic. Their plans, in turn, respond to factors such as the tendency of the world commerce volume growth, the sign of the Panama and the United States commercial agreement and, primarily, the expansion of the Canal, which once concluded, shall allow the duplication of the cargo transportation capacity, to 600 million annual tons.

#### *The big four*

The Balboa and Cristobal terminals are under the administration of Panama Ports Company (PPC), member of the Hutchinson Port Holding group. In 2006, PPC moved more than a million containers at its terminal in Balboa, and in the first three months of 2007, it doubled its activity volume. This Terminal completed its third expansion phase with an investment of 500 million dollars, which places it on conditions to receive the first post panamax. Additionally, this year the fourth phase was initiated, 300 million dollars, that will allow it to double its current capacity. On the Atlantic, PPC is close to initiating the first expansion phase of Cristobal port, at an estimated cost of US\$200 million.

On the Atlantic side of the Panama Canal, very near the Colon Free Zone, is the Manzanillo International Terminal (MIT), which is operated by Stevedoring Services of America and makes up the largest terminal for the transfer of containers in all of Latin America. MIT, which in 2006 moved 1.3 million TEU's, has also assured its growth. Recently, it inaugurated a 400 meter long pier for container carrier ships with access ramps and dock for roll-on roll-off ships. Likewise, it started the enabling of areas for gantry cranes and remodeling of the administrative building. According to Carlos Urriola, general manager, the expansion made at a cost of 100 million dollars, increases the annual capacity of this port terminal from 1.5 million to 2.2 million TEU's annually.

On their part, Colon Container Terminal, a subsidiary of the Evergreen group, is celebrating ten years of operations in Panama at their location in the North Coco Solo area, province of Colon. But furthermore, there are new parties interested in this sector.

#### *New actors*

There is a special interest from different companies to be installed in the Pacific side of the Panama Canal, where there is only one operator. One of these companies is Ports Singapore Authority (PSA). PSA moves one fifth of all the commercial cargo in the world, and has announced it will invest 100 million in the construction of a container port at the Rodman area, located on the Pacific bank right next to the Panama Canal. Its goal is to initiate operation in two years with an annual movement of 450,000 containers. For this reason, PSA sub-leased 30 hectares at the Rodman port that in 2002 was granted by concession to Parque Industrial Marítimo S.A. (PIMSA). This will be the first investment from PSA in America and it is expected to set off the commerce flow between Asia, Europe and America.

In turn, Manzanillo International Terminal (MIT), that operates in Colon, has also manifested its interest in placing a container terminal in the Pacific, such as it is permitted by the contract signed with the Panamanian government in 1995.



Icaza  
González - Ruiz  
& Alemán

ESTABLISHED 1920

ABOGADOS - ATTORNEYS AT LAW

ICAZA *news*

Finally, the Maritime Authority of Panama (AMP), conscious of the viability of developing new installations in the Pacific, promotes the construction of a mega port of containers at Farfan. This project is in a very early phase; they had carried out a round of pre qualification among the companies interested in bidding, but the results are about to be defined.

[Back to top](#) ^

## **Panama: Commitment with the Industrial Property**

With the recent adoption of a new Penal Code, the Republic of Panama has sent a clear message to the international community: its firm commitment regarding the defense of Industrial Property rights. Through Law 14 of May 18, 2007, published on Official Gazette No. 25,796 of May 22, 2007, whereby this new legal body has been adopted, an increase on the penalties is included due to Crimes against the Industrial Property making them even and in some cases even surpassing the sanctions given for committing other crimes, such as personal injuries, theft, robbery, corruption of minors, and crimes against the honor and finances, among others.

We observe that the new norms increase penalties to periods from 4 to 6 years of prison, when the following criminal offenses are committed:

- Whoever fakes, alters or imitates a trademark, a commercial name or an advertising slogan or sign.
- Whoever commercializes or circulates a product, or offers or renders services with a fake, altered or imitated trademark.
- Whoever manufactures or assembles a product covered by a patent of invention or utility model, without the consent of the title holder, or commercializes or circulates such a manufactured or assembled product or object.
- Whoever uses a patented procedure without the consent of the title holder.
- Whoever alters or imitates an industrial model or drawing.
- Whoever reproduces, manufactures or assembles a product or object resulting from an industrial model or drawing, without the consent of its title holder.
- Whoever manufactures, commercializes or circulates a product or offers or renders services that have indications of unknown origin or name of origin that infringe industrial property rights.
- Whoever commercializes or circulates a protected vegetable variety that may be used as reproduction or multiplying material, without the consent of the title holder.
- Whoever gets hold or uses information kept as an industrial or commercial secret without the consent of the person guarding it or of the authorized user, with the purpose of obtaining an economical benefit for himself or for a third party or cause damages to the person who is guarding it or to the authorized user.

On the other hand, this new penal legislation sanctions from 2 to 4 years of imprisonment to whomever reveals an industrial or commercial secret, without a justifiable cause after having been warned of its confidentiality, with the purpose to obtain an economic benefit for himself or for a third party or from causing damage to the person keeping the secret or to its authorized user.

As an innovation, the new Code includes sanctions from 2 to 4 years of imprisonment to the public servant who uses or divulges, for his own benefit or the benefit of others, information or documentation inherent to any Industrial Property Right that he may know of due to his office and that should remain secret.



Icaza  
González - Ruiz  
& Alemán

ESTABLISHED 1920

ABOGADOS - ATTORNEYS AT LAW

ICAZA *news*


These sanctions will increase from a third part to a half whenever the following assumptions take place:

- That the act is made through a criminal organization.
- That the act be executed by a contractor, partner, employee or former employee of the right's holder.
- That the benefit obtained is higher than the sum of US \$50.000.00.

The new legislation also establishes that when some of the above listed conducts endanger the public health, the punishment shall be increased to a sixth of a third part.

In addition to the foregoing, the sanction from 5 to 12 years of prison is maintained to whomever commits Money Laundering Crimes, among which are included money laundering coming from activities related to Crimes against Industrial Property.

This new Criminal Code shall become effective as of May 22nd, 2008.

[Back to top](#) 

## **Expansion of the Panama Canal**

### *First Contract of land movement*

The ambitious project of expansion of the Inter-Oceanic way, already in execution, has three principal components: the construction of two complexes of locks, one in the Atlantic and another in the Pacific; the excavation of access beds and enlargement of the existing navigation beds; and the profundization of the navigation beds and the elevation of the maximum level of operation of the Gatun Lake, which feeds the locks for its operation.

After granting the consultancy and environmental studies contracts, the Panama Canal Authority (ACP) carried out the first bidding for works related with the construction. And, pursuant to the established program, at the beginning of July they announced the name of the company –Constructora Urbana S.A.- that presented the lowest offer -41 million dollars- for the execution of the land movement. It involves the dry excavation of the north access bed, which shall connect the complex of locks of the Pacific, which shall be built in the southwest of the current Miraflores lock, with the bed of Gaillard Cut, circumvallating Miraflores Lake. The construction of this bed, which shall have an extension of 6.7 kilometers wide, shall require the removal of approximately 7.5 millions of cubic meters of material. And this is barely the first of five new contracts into which the excavation works of the beds of navigation which shall connect the new locks with Gaillard Cut were divided.

Within the Project of the Third Set of Locks presented by the ACP, the estimate for the referred dry excavation, the one of the Pacific access beds, amounts to 400 million dollars. The calculation includes, besides the mentioned stretch, the corresponding south access bed, which goes from the new lock until the entrance to the sea, in the Pacific Ocean, and which shall have 1.8 kilometers of extension.

Parallel, ACP advances the terms of reference for the design contract and construction of two new lock complexes, the Atlantic and the Pacific, which bidding shall take place in 2008. From the total amount of investment required for the expansion project, estimated in 5 thousand 250 million dollars, this component shall absorb a 60%. As a previous step to the adjudication of the contract, ACP plans to carry out a pre-qualification of several groups interested.

The expansion of the Panama Canal by means of the construction of a third set of locks is without any doubt a work of



Icaza  
González - Ruiz  
& Alemán

ESTABLISHED 1920

ABOGADOS - ATTORNEYS AT LAW

ICAZA *news*

major importance. This is confirmed by the specialized magazine TEN, a new publication of Business News Americas, which qualified it as the most important infrastructure project of the next decade in Latin America, among a list of ten important works to be carried out in the region the period comprised between 2007 and 2017. To guarantee the efficiency in the financing thereof, the ACP recently selected the Japanese bank Mizuho Corporation, as a financial consultant. The contract was granted for 4.4 million dollars, after verifying the proposal of 15 interested companies.

The public bids of the Panama Canal Authority are subject to a special regulation, different to those that applied in case of public acts of other institutions of the Panamanian state. This is because the rules of the game are generated from the Organic Law of the Authority of the Panama Canal and the regulations adopted by the aforementioned Authority. The firm Icaza, González-Ruiz & Alemán has had the opportunity of counseling companies interested in participating in the bids of the Authority of the Panama Canal, including the one related to the North-Pacific Approximation Channel.

More information can be obtained at [www.panacanal.com](http://www.panacanal.com) under the program of expansion of the Canal.

[Back to top](#) ^

## Living in Panama

### *Panamanian Migratory Law for a Second Residence*

With a growth rate for 2007 estimated in 7% of PIB, a dollar economy, political stability and a real estate sector in frank development, there are many persons considering Panama as a second residence. The Panamanian Migratory system offers different types of visas, depending on the needs, goals and economical resources of the petitioner. There is the program of “Pensioner Tourist Visa”, designed for the retiree or pensioned persons, for foreign companies, foreign governments and international organizations, which receive monthly benefit equal or higher than \$500.00 dollars, plus US\$100.00 additional por each dependent and its spouse. Or the “Retiree Rentier”, applicable to those foreigners who deposit in the National Bank of Panama a time deposit account for the minimum term of five (5) years which accrued the monthly minimum rent of US\$750.00 in concept of interests, free of encumbrance and taxes. This allows him to obtain a special passport for the Retiree Lessor, his wife and his dependents younger than 18 years old.

Those who are not within these categories, but are interested in a second option of residence and to carry out investments in the real estate sector, have the alternative to opt for the program of “Private Financial Solvency”.

### *Private Financial Solvency*

To qualify, the petitioner must prove that have economical and sufficient means to reside in the Republic of Panama to cover its own and family expenses including housing, feeding, education, health, transport and others, according to each case. The qualification is obtained choosing among three possible alternatives: (1) to present a Time deposit account with a duration of two (2) years minimum, in his name, in a local bank, for a minimum amount of two hundred thousand dollars (US\$200,000.00); (2) to have obtained, in his own name, a real estate in the national territory for the minimum amount of two hundred thousand dollars (US\$200,000.00) and to disclose and provide evidence of the source and amount of the income (reference letter from a bank) with which he shall cover his general expenses or; (3) to have obtained, in his own name a real estate in the national territory and, established a Time deposit account, for the term of two (2) years minimum, in his name, in a local bank, provided the invested capital, in the Time deposit account as in the real property, having a minimum total value of two hundred thousand dollars (US\$200,000.00) and, to announce and provide evidence of the source and the amount of incomes (reference letter from a bank) with which he shall cover general expenses.



Icaza  
González - Ruiz  
& Alemán

ESTABLISHED 1920

ABOGADOS - ATTORNEYS AT LAW



ICAZA *news*

In case of alternative No. 1, the foreign petitioner must provide a letter issued by a local bank, as proof that the interested party has, in his own name, the mentioned account. In the case of alternative No. 2, he must provide the Public Registry Certificate which evidences the existence and ownership of the real estate, as well as the compared copy of the Sales Contract by means of which the petitioner acquired this real estate. In case of alternative No. 3, the foreign petitioner must provide a Public Registry Certificate which evidences the existence of the real estate ownership and the supplemented with copy of the Sales Contract by means of which it was acquired; also a letter issued by a local bank, where it is certified that he has the required Time deposit account.

This program, the “Private Financial Solvency”, grants the foreign petitioner and his dependents a migratory card, which is considered a personal identity certificate for the foreigner in Panama and serves as a personal identity certificate which grants the foreigner the free transit, within the Panamanian national territory. The first migratory card is considered a provisional card of permanency and is valid for one (1) year, after which the petitioner must request the definite permanency, for which he must present proof that he effectively maintains a Time deposit account in a local bank and/or is the owner of a real estate. This migratory card is indefinite (has no expiration date), and besides it entitles the foreigner to obtain a Panamanian personal identity certificate a foreigner.

This Residence Program does not establish a time limit or period of time during which the resident foreigner must stay in the Panamanian national territory. However, article 68 of Law Decree No. 16 of June 30th, 1960, establishes that the foreigners who stay uninterruptedly abroad for more than two (2) years, shall lose their capacity as Resident of the Republic of Panama.

The migratory proceedings in Panama, no matter what the selected alternative is, must be done through the assistance of an attorney or a law firm. If you need more information in this regard, you may contact an attorney of our firm at email [anagm@icazalaw.com](mailto:anagm@icazalaw.com).

[Back to top](#) <sup>▲</sup>