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Panama's Constitution Amended to Ensure Canal Operation

According to the Panama Canal Treaty of 1977, the Republic of Panama will assume full responsibility and control of the Panama Canal on December 31, 1999. To ensure its proper administration and to guarantee its safe, continuous, efficient and profitable functioning, Panama's Legislative Assembly recently approved an amendment to Panama's Constitution.

The Amendment creates a new autonomous governmental entity called the Panama Canal Authority. This entity will be entrusted with the administration, operation, conservation, maintenance and modernization of the Canal and its related activities.

The Authority will be governed by an eleven-member board of directors. The board's chairman shall be appointed by the President of Panama (the chairman will also be part of the President of Panama's Cabinet as Minister for Canal Affairs). Of the other ten board members, nine shall also be appointed by the President of Panama, subject to the Legislative Assembly's confirmation, and one more shall be appointed by the Legislative Assembly.

The Panama Canal Authority shall pay to Panama's National Treasury as annual fees, a percentage of whatever it receives in payment from vessels navigating through the Canal. The rate to be paid shall be set by the Authority. Similarly, once all operation and maintenance expenses have been satisfied and all provisions for investment have been established, any excess over the annual budget of the Panama Canal shall be transferred to the National Treasury.

It is also stated that vessels, their cargo, passengers, owners and operations shall not be subject to any other municipal or national charges by virtue of their transit through the Canal.

The Panama Canal Authority will be subject to a special labor regime based on merit. Additionally, a general employment plan shall be adopted, which will guarantee to all workers similar working conditions and rights as those existing on December 31, 1999.

At the present time more than 70% of the Panama Canal's total labor force is Panamanian. Since 1977, the Panama Canal has been under a joint administration, and since 1990, the Administrator and Chief Executive Officer have been Panamanian nationals.

Finally, the Amendment unequivocally establishes that in consideration of the international public service rendered by the Canal, its operations may not be interrupted for any reason and that, once under Panamanian administration, it shall remain open to vessels of all nations whatsoever.

This Constitutional Amendment was submitted to the Legislative Assembly by the administration of former President Guillermo Endara. The Legislative Assembly approved it in December, 1993. By law the Amendment had to be ratified by the next Legislative Assembly to be elected in May, 1994. The new President, Ernesto Perez Balladares — former opposition member— endorsed the Amendment and the new Legislative Assembly ratified it last November.

With this Constitutional Amendment, Panama provides the international community with a new level of assurances for the Canal's peaceful and uninterrupted transition from its present U.S. administration to a complete Panamanian management team.

Free Trade Agreement between Mexico and Costa Rica

On April 5, 1994, Mexico and Costa Rica signed a Free Trade Agreement (FTA). This agreement is the culmination of a decade of negotiations and planning that did not really begin to consummate until the Presidents of the Central American nations (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua) and Mexico signed the Tuxla Gutierrez Declaration as well as an economic complementing agreement. By proposing a gradual liberalization of trade barriers, this latter agreement created the stage the establishment of a free trade area in the future. The FTA between Costa Rica and Mexico, however, has been the only step toward this goal since 1991.

The FTA aims to promote commerce, eliminate trade barriers, simplify the movement of goods and services, encourage fair competition, increase investments, protect intellectual property, establish guidelines for cooperation.

The FTA is divided in ten parts covering, among others, trade in goods and services, normalization measures, government procurement, investment, intellectual property, administrative provisions and dispute settlement.

The Agreement provides for nondiscriminatory treatment of goods by either party. A gradual tariff reduction program is also established, which is to be executed in four stages: at the time the Agreement becomes effective, after five, ten and fifteen years respectively.

There are, however, special provisions for textiles products covering the increase of tariffs, temporary imports, non-tariff measures and export taxation.

Special rules and procedures related to agriculture are also included. These cover the rules of origin, customs, safeguards measures and compensatory quotas.

A bilateral framework of principles is established to regulate trade in services. Some services as aerial and financial services are excluded, however.

Both parties have the obligation to grant each other most-favored-nation treatment and national treatment according to the existing national legislation.

Procedures regulating the temporary entry of persons for business purposes are simplified and a general framework for government procurement is established, thereby guaranteeing the access to public markets in non-discriminatory and transparent conditions.

Substantive rules of obligatory application regulating trademarks, names of origin and copyright are established. These rules are harmonized with the existing international treaties in this sector.

In addition, the FTA settles procedural dispositions and border measures in order to guarantee the application of the substantial norms incorporated.

A treaty administration committee is created. Its primary duties will be to manage the correct functioning and application of the Agreement. For the resolution of any possible conflicts the parties may apply the Dispute Settlement Mechanism of GATT or a special procedure established by the FTA. In the latter one, there is an initial consultation stage, fol-

lowed by the intervention of the Committee, and finally that of an arbitral tribunal organized for each particular case.

(Comments prepared by Fernando Berguido and Maria Ching,
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Venezuela Asks United States to Lift Tuna Ban

The Venezuelan Minister for GATT Affairs, Juan Francisco Misle, urged the United States government to lift its embargo on tuna imports from Venezuela because it is in violation of obligations assumed under the GATT. The request was made during the recent meeting of GATT permanent representatives held in Geneva.

The Venezuelan delegate told the meeting that Venezuelan tuna exports had been seriously affected by the prohibition, which has been a permanent source of friction between the two countries since it began in March 1991. The dispute has been aggravated by the misconceived characterization given to the issue of tuna and dolphins as the central element in the debate on trade and environment.

The United States promised to analyze the request at the next meeting of GATT permanent representatives to be held in September this year. If GATT members approve Venezuela's position, the United States will be obliged to adapt its legislation to GATT rules and end the tuna embargo.

(Comments prepared by
Joaquín Gonçalves - Caracas)

Temporary Reduction of Some Tariffs

The Ministry of Finance made temporary reductions of up to 5 percent ad valorem in the Andean Pact Common External Tariff (as specified in the Customs Tariff, Decree No. 2087 of 6 February 1992) for import of merchandise classified by the tariff codes given below.

Code	Description of merchandise
7209.12.00	Thickness 1 to 3 mm
7209.13.00	Thickness 0.5 to 1 mm
7209.14.00	Thickness under 0.5 mm
7209.22.00	Thickness 1 to 3 mm
7209.23.00	Thickness 0.5 to 1 mm
7209.24.00	Thickness under 0.5 mm
7209.32.00	Thickness 1 to 3 mm
7209.33.00	Thickness 0.5 to 1 mm
7209.34.00	Thickness under 0.5 mm
7209.42.00	Thickness 1 to 3 mm

Code	Description of merchandise
7209.43.00	Thickness 0.5 to 1 mm
7209.44.00	Thickness under 0.5 mm

Customs Administrators are to report the monthly volume of these imports to the Sectorial Directorate General of Customs. (Article 4.13 of the Customs Organic Law and Andean Pact Resolution No. 352 of 6 July 1994.)

(Comments prepared by
Joaquín Gonçalves - Caracas)

Government Studying Action Against Unfair Competition

The government is studying the possibility of coordinating the international trade policies implemented by state agencies. The priority aim is to protect local industry from unfair foreign competition following economic liberalization. The measure goes under the name of Regulations on Trade Policy to Combat Unfair Competition.

Article 9 of the regulations, whose text has not yet been officially released, allows the Ministry of Finance to establish temporary minimum prices for products affected by unfair competition. What is not known is who will determine the items requiring protection and on what parameters, which is sure to create great uncertainty among importers.

Under Article 10, the Ministry of Finance may specify the port of entry for merchandise alleged to be injurious to local industry. The National Products Register (created in June 1993) will be extended to include local and imported products, and products subject to Covenin standards. A procedure which will fetter imports even more. In addition, importers will have to submit a minimum description of the merchandise as part of customs clearance documentation. Importers of products subject to anti-dumping or countervailing duties will also have to present a certificate of origin issued by the exporter and legalized by the local Venezuelan consul.

According to the government, a modern customs service is needed to guarantee control of imports and development of exports. Along these lines, the Ministry of Finance is to prepare before the end of the year a new organic customs law to regulate unfair competition in international trade. The government has, however, forgotten that this area is already regulated by the Law on Unfair Practices in International Trade. Dual legislation will only create more problems. What more, in the opinion of Enrique Mujica, former president of the Anti-dumping Commission, "the regulations are discriminatory and violate international trade agreements signed by Venezuela such as the GATT and they contain serious irregularities in the area of customs which conflict with these agreements". Mr. Mujica added that the measure could lead to international claims against Venezuela.

(Comments prepared by
Joaquín Gonçalves - Caracas)

Confirmation of Countervailing Duties on Blue Jeans Imports

The Antidumping and Subsidies Commission confirmed the application of provisional countervailing duties on the import of jeans from China, modifying the amounts due for specific taxes. The Antidumping Commission decided to extend the imposition of said duties for four months, and to discriminate the amounts according to the type of apparel.

Thus, a combined tax is maintained for a specific amount of 3.95 dollars per each masculine jean, plus an ad-valorem amount equivalent to 100 percent of the CIF value set forth in the import invoice, while the same type of mixed tax is imposed for feminine jeans, but at a specific amount of 2.93 dollars per unit.

On 26 January 1994, the Antidumping Commission agreed for the first time to impose mixed provisional antidumping taxes, after the judicial attorneys of the denouncing companies requested the opening of an investigation, submitting sufficient evidence of the damage to the national industry which fully justified the existence of a serious presumption that gave rise to imposing said duties.

The new amounts of specific taxes are due to the fact that the initial computation of the normal value was based on the price of imports from Indonesia, a country whose economy is similar to that of China, but since this last country has a quota system, a new computation of the normal value was made upon the basis of exports from Indonesia to Saudi Arabia during 1993, as these exports are representative and are not subject to a quota system.

(Comments prepared by
Joaquín Gonçalves - Caracas)

Polish Steel Not Being Dumped

The Antidumping Commission decided that the volume of steel imported from Poland in 1993 did not constitute dumping since it was not significant and did not harm the domestic market. The decision was issued at the conclusion of an inquiry into alleged dumping of hot-rolled steel structural sections (type i2 and type U) 80mm or more in height imported from Poland. The inquiry was requested by Venezuelan steel companies and began on 26 May 1993. The Commission found that in 1993 imports of this type of steel from Poland represented less than 5 percent of domestic output of similar products. The Antidumping Law provides that there is significant harm to domestic output when the volume of imports rises to 5 percent or above. In 1993, the output of the Venezuelan steel companies that requested the inquiry was stable, hence there was no significant harm caused to domestic output. The fall in steel prices in that year was due to declining domestic production costs and not to Polish imports.

The export price (the price paid in Venezuela) for the Polish steel was not less than the normal sale price in Poland. To determine normal value, the Polish domestic price was used since Poland has a market economy. In a similar case — blue jean imports from China which has a centralized economy — the Commission used the price of blue jeans in Indonesia which has a market economy.

(Comments prepared by
Joaquín Gonçalves - Caracas)