

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF PANAMA ON ENVIRONMENTAL COOPERATION

The Government of the United States of America and the Government of the Republic of Panama, hereinafter referred to as “the Parties”,

CONVINCED of the importance of promoting all possible forms of cooperation to protect, improve and conserve the environment, including natural resources, in the context of achieving their sustainable development objectives,

NOTING the existence of differences in the Parties’ respective natural endowments, climatic, geographical, social, cultural and legal conditions and economic, technological and infrastructural capabilities,

RECOGNIZING the long and productive history of such cooperation between the Parties and the importance of implementing this Environmental Cooperation Agreement (the “ECA”) in close coordination, where appropriate, with existing and future environmental agreements, accords, initiatives and mechanisms for cooperation between their countries,

EMPHASIZING the importance of building capacity to protect the environment in concert with the strengthening of trade and investment relations, as reflected in the United States - Panama Trade Promotion Agreement (“US - Panama TPA”),

ACKNOWLEDGING that economic development, social development and environmental protection are interdependent and mutually reinforcing components of sustainable development and considering the need to augment institutional, professional and scientific capacity to achieve the objective of sustainable development for the well-being of present and future generations,

CONSIDERING that the broad participation of civil society is important for building effective cooperation to achieve sustainable development,

AFFIRMING their political will to further strengthen and demonstrate the importance attached by the Parties to cooperation on environmental protection and the conservation of natural resources,

Have agreed as follows:

ARTICLE I – Objective

The Parties agree to cooperate to protect, improve and conserve the environment, including natural resources. The objective of the ECA is to establish a framework for such cooperation between the Parties. The Parties recognize the importance of both bilateral and regional cooperation to achieve this objective.

ARTICLE II – Modalities and Forms of Cooperation

Cooperation developed under the ECA may occur through bilateral and/or regional capacity building activities, including through coordination with regional activities undertaken pursuant to the Dominican Republic – Central America – United States Environmental Cooperation Agreement (“CAFTA-DR ECA”), taking into account Article 17.10 of Chapter Seventeen (Environment) and other environmental cooperation provisions of the US –

Panama TPA and related instruments, on the basis of technical and/or financial assistance programs, including:

- (a) the exchange of delegations, professionals, technicians and specialists from the academic sector, nongovernmental organizations, industry and the Parties, including study visits, to strengthen the development, implementation and assessment of environmental policies and standards;
- (b) the joint organization of conferences, seminars, workshops, meetings, training sessions and outreach and education programs;
- (c) the joint development of programs and actions, including technological and practical demonstrations, applied research projects, studies and reports;
- (d) the facilitation of partnerships, linkages or other new channels for the development and transfer of knowledge and technologies among representatives from academia, industry, intergovernmental and nongovernmental organizations, and government to promote the development and/or exchange of best practices and environmental information and data likely to be of interest to the Parties;
- (e) the collection, publication and exchange of information on environmental policies, laws, standards, regulations, indicators, national environmental programs and compliance and enforcement mechanisms; and
- (f) any other forms of environmental cooperation that may be agreed by the Parties.

ARTICLE III – Establishment and Operation of the United States-Panama Environmental Cooperation Commission

1. The Parties shall establish an Environmental Cooperation Commission (the “Commission”), which shall be composed of government representatives, appointed by each Party. The Commission shall be responsible for:

- (a) establishing priorities for cooperative activities under the ECA;
- (b) developing a work program as described in Article IV below in accordance with those priorities;
- (c) examining and evaluating the cooperative activities under the ECA;
- (d) making recommendations and providing guidance to the Parties on ways to improve future cooperation; and
- (e) undertaking such other activities on which the Parties may agree.

2. The Commission shall meet once a year, unless the Commission decides otherwise. The Commission shall endeavor, to the extent practicable, to coordinate and hold joint meetings with the CAFTA-DR Environmental Cooperation Commission (“CAFTA-DR ECC”). The first meeting of the Commission should take place within six months after the ECA enters into force. Each Party should ensure that its departments or ministries with an environmental mission play a role, either directly or indirectly, in the work of the Commission.

3. The relevant department or authority for each Party for the purposes of this Article shall be as follows:

(a) The National Environment Authority (ANAM) in Panama and the Department of State in the United States of America.

(b) A Party may change its relevant department or authority by notifying the other Party in writing.

4. All decisions of the Commission shall be taken by agreement of the Parties. These decisions shall be made public by the Commission, unless it decides otherwise, or as otherwise provided in the ECA.

5. Representatives of the Parties may meet between meetings of the Commission to analyze and promote the implementation of the ECA and to exchange information on the progress of cooperative programs, projects and activities. Each Party shall identify a Coordinator from its department or authority identified in paragraph 3 above to serve as a general point of contact for cooperative work under the ECA.

6. The Commission shall periodically inform relevant entities, including the Environmental Affairs Council established under Article 17.6 of Chapter Seventeen (Environment) and other relevant councils or committees of the US – Panama TPA, and, as the Commission deems appropriate, the Environmental Affairs Council established under Article 17.5 of Chapter Seventeen (Environment) of the CAFTA-DR, of the status of cooperation activities developed under the ECA.

7. As it deems appropriate, the Commission shall periodically inform the CAFTA-DR ECC of the status of cooperation activities developed under the ECA.

ARTICLE IV – Work Program and Priority Cooperation Areas

1. The work program developed by the Commission shall reflect national priorities for cooperative activities and shall be agreed upon by the Parties. The work program may include long-, medium-, and short-term activities related to:

(a) strengthening each Party's environmental management systems, including reinforcing institutional and legal frameworks and the capacity to develop, implement, administer and enforce environmental laws, regulations, standards and policies;

(b) developing and promoting incentives and other flexible and voluntary mechanisms in order to encourage environmental protection, including the development of market-based initiatives and economic incentives for environmental management;

(c) fostering partnerships to address current or emerging conservation and management issues, including personnel training and capacity building;

(d) conserving and managing species that are shared, migratory, endangered, or subject to international trade, and management of marine and terrestrial parks and other protected areas;

(e) strengthening capacity regarding domestic implementation of multilateral environmental agreements to which both Parties are party;

(f) promoting best practices of environmental management leading to sustainable development;

(g) facilitating technology development and transfer and training to promote the use, proper operation and maintenance of clean production technologies;

- (h) developing and promoting environmentally beneficial goods and services;
- (i) building capacity to promote public participation in the process of environmental decision-making;
- (j) exchanging information and experiences between Parties, including environmental reviews of trade agreements, at the national level; and
- (k) any other areas for environmental cooperation on which the Parties may agree.

2. In developing cooperative programs, projects and activities, the Parties shall develop benchmarks or other types of performance measures to assist the Commission in its ability to examine and evaluate, pursuant to Article III.1(c) above, the progress of specific cooperative programs, projects and activities in meeting their intended goals. The Commission should consider the extent to which the activities are contributing to the fulfillment of the Parties' long-term national and/or regional environmental goals. As appropriate, the Commission may draw upon relevant benchmarks that have been established through other mechanisms.

3. As the Commission periodically examines and evaluates cooperative programs, projects and activities, it shall seek and consider input from relevant local, regional, or international organizations regarding how best to ensure that it is accurately monitoring progress. Each Party shall periodically share with its public information regarding the progress of cooperative activities.

4. In order to avoid duplication and to complement ongoing and future environmental cooperation undertaken outside of the ECA, the Commission shall endeavor, to the extent practicable, to develop its work program in a manner compatible with the environmental work of other organizations and initiatives in which the Parties have an interest, including the CAFTA-DR ECA, the Central America-United States of America Joint Accord (CONCAUSA) and programs conducted by government agencies of the Parties. As part of its work program, the Commission shall seek to develop proposals and other means to complement and enhance the work of these organizations and initiatives.

5. The Commission may also include in its work program regional environmental cooperative activities of particular interest to the Parties, in order to concentrate on an issue or achieve an objective that the Commission determines is not being fully addressed in other fora.

ARTICLE V – Participation by the Public, Governmental Organizations and Other Institutions

1. Unless otherwise agreed, the Commission shall include a public session in the course of its regular meetings.

2. The Commission shall promote the development of opportunities for public participation in the development and implementation of cooperative environmental activities. Each Party shall solicit and take into account, as appropriate, the views of its public with respect to the work program and should review and respond to such communications in accordance with its own domestic procedures. Each Party shall consider making these communications available to the other Party and to the public.

3. In developing and implementing the work program, the Commission should take into account the views and recommendations of the appropriate government agencies of each Party, the Environmental Affairs Council established under Article 17.6 of Chapter Seventeen (Environment) and other relevant councils or committees of the US - Panama TPA, and, as it deems appropriate, the Environmental Affairs Council established under

Article 17.5 of Chapter Seventeen (Environment) of the CAFTA-DR FTA and other established regional mechanisms or entities concerned with the environment.

4. The Commission shall encourage and facilitate, as appropriate, direct contacts and cooperation among government agencies, multilateral organizations, foundations, universities, research centers, institutions, nongovernmental organizations, firms and other entities of the Parties, and the conclusion of implementing arrangements among them for the conduct of cooperative activities under the ECA.

ARTICLE VI – Resources

1. All cooperative activities under the ECA shall be subject to the availability of funds and of human and other resources, and to the applicable laws and regulations of each Party.

2. In developing its work program, the Commission should consider the mechanisms by which cooperative activities may be financed and the adequate allocation of human, technological, material, and organizational resources that may be required for the effective implementation of the cooperative activities in accordance with the capacities of the Parties. The following funding mechanisms may be considered for environmental cooperation:

(a) cooperative activities jointly financed as agreed by the Parties;

(b) cooperative activities in which each institution, organization, or agency assumes the costs of its own participation;

(c) cooperative activities financed, as appropriate, by private institutions, foundations, or public international organizations, including through ongoing programs; or,

(d) any combination of the above.

3. Unless otherwise agreed, each Party shall assume the costs of its participation in the work of the Commission.

4. Each Party shall facilitate, in accordance with its laws and regulations, duty free entry for materials and equipment provided pursuant to cooperative activities provided for under the ECA.

5. Commodities provided pursuant to cooperative activities provided for under the ECA and acquired by the United States, its contractors, grantees, or by foreign governments or their agents where such commodities were financed with United States funds, shall be exempt from taxation, including value-added taxes (VAT) and customs duties. If such taxation is imposed by a Party other than the United States of America, then such Party shall provide timely reimbursement to the Government of the United States of America or its agents. Commodities include any materials, articles, supplies, goods, or equipment. These same rules apply to all funds provided for under the ECA, including grants, salaries and all monetary assistance.

ARTICLE VII – Equipment and Personnel

Each Party shall facilitate the entry of equipment and personnel related to the ECA into its territory, subject to its laws and regulations.

ARTICLE VIII – Technical and Confidential Information and Intellectual Property

1. Except as provided below, all technical information obtained through the implementation of the ECA will be available to the Parties.
2. The Parties do not foresee the creation of intellectual property under the ECA. In the event that intellectual property that can be protected is created, the Parties shall consult to determine the allocation of the rights to that intellectual property.
3. In the event that a Party deems information confidential under its laws, or identifies information in a timely fashion as "business-confidential," which is furnished or created under the ECA, each Party and its participants shall protect such information in accordance with their respective applicable laws, regulations, and administrative practices. Information may be identified as "business-confidential" if a person having the information may derive an economic benefit from it or may obtain a competitive advantage over those who do not have it, the information is not generally known or publicly available from other sources, and the owner has not previously made the information available without imposing in a timely manner an obligation to keep it confidential.

ARTICLE IX – Entry into Force, Termination, Amendments

1. The ECA shall enter into force thirty days after the Parties have exchanged notifications that they have completed their respective internal requirements necessary for the ECA's entry into force.
2. If invited by the Parties of the CAFTA-DR ECA to accede to the CAFTA-DR ECA, Panama shall endeavor to complete its internal requirements necessary to accede to CAFTA-DR ECA in accordance with Article XI (Accession) of the CAFTA-DR ECA. The ECA shall terminate upon Panama's accession to the CAFTA-DR ECA. A Party may also terminate this ECA on six months' written notification to the other Party. Unless otherwise specifically agreed, termination shall not affect the validity of any ongoing activities not fully completed at the time of termination.
3. The ECA may be amended by written mutual consent of the Parties.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this ECA.

DONE at Panama City, Panama, this 2nd day of May, 2012, in duplicate, in the English and Spanish languages, both texts being equally authentic.

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA



John C. Law
Chargé d' Affaires, a.i.

FOR THE GOVERNMENT OF THE
REPUBLIC OF PANAMA



Lucia Chandeck C.
Minister and General Administrator