

What are the challenges?

Challenges when doing business with Panama

Be aware that there are challenges when doing business with Panama, which include:

- bureaucracy
- lack of clarity and transparency in public tender
- slow judicial system
- copyright issues

Intellectual Property (IP)

Panama has signed an agreement with the World Intellectual Property Organization, as well as with the Geneva Phonograms Convention, the Brussels Satellite Convention, the Universal Copyright Convention, the Bern Convention for the Protection of Literary and Artistic Works, and the Paris Convention for the Protection of Industrial Property.

See the gov.uk website: <https://www.gov.uk/intellectual-property-an-overview> for more information regarding Intellectual Property.

Patents

The Industrial Property Law in Panama provides patent protection for 20 years from the date that the patent was filed. In regards to pharmaceutical patents, protection is only granted for 10 years. However, this protection can be renewed for a further 10 years if the owner of the patent licenses a national company to use the patent. The national company must have a 30% minimum Panamanian ownership.

Trademarks

The Industrial Property law also provides protection for 10 years on trademarks. This protection can be renewed after the initial 10 years.

Copyright

Panama, along with being a member of the World Trade Organization (WTO), is also in agreement with the Berne Convention for the Protection of Literary and Artistic Rights, the International Convention for the Protection of Performers and Broadcasting Organisations (Rome Convention) and the Convention for the Protection of Producers of Phonograms against Unauthorised Duplication of their Phonograms (Geneva Convention).

In Panama, works created by UK nationals, residents, or works that have been published in the UK first, are entitled to the same protection as works from Panamanian nationals. This is due to the UK and Panama both being in agreements with the Berne Convention.

The 1994 Copyright and Neighbouring Rights Law in Panama protects a number of literary works, including computer programmes, artistic works (photographs), cinematographic works (videos), musical works (sound recordings), and broadcasts.

The protection of copyright works in Panama is flawed as there is a lack of complete protection for pre-existing work, performances and sound recordings, and copyright laws are not fully enforced. Sound recordings are also not protected by rental rights, and the copying of sound recordings and movies, known as copyright piracy, is a serious problem in Panama.

[Source – FCO Overseas Business Risk: Panama, DIT Trade and Export guide: Panama, gov.uk]

Bribery and corruption

According to the UK Bribery Act (2010), it is an offence for British nationals or someone who is ordinarily resident in the UK, a body incorporated in the UK or a Scottish partnership to bribe anywhere in the world. In addition, a commercial organisation carrying on a business in the UK can be liable for the conduct of a person who is neither a UK national or resident in the UK or a body incorporated or formed in the UK. In this case, it does not matter whether the acts or omissions which form part of the offence take place in the UK or elsewhere. The UK has successfully prosecuted companies involved in corrupt practices overseas, and places the responsibility upon firms to ensure they have taken relevant anti-corruption measures.

Panama is a signatory of the 2006 United Nations Convention against Corruption. Panama's Criminal Code's Article 343 will administer punishment of imprisonment of between three to six years to any individual who offers promises or gives a donation to a public servant, or who promises money, benefits or advantages of performing, delaying or omitting any act of their office or employment or in violation of their obligations.

Despite the legislation, there is evidence that bribery and corruption are common occurrences in Panama.

President Varela, however, has stated that his government will stamp out poor practice and will strengthen regulations. The government has therefore stated that they will make Panama a more attractive country in which to do business and invest. The British Embassy Panama City has established a number of activities to support the Panamanian Government's anti-corruption platform. This includes helping to build a

whistleblower website and the UK Ministry of Justice's support of the creation of the draft of a more robust anti-bribery legislation.

In Transparency International's latest 2019 Corruption Perceptions Index (announced January 2020), Panama is ranked 101st out of 180 countries (the UK ranks 12th). See: <https://www.transparency.org/country/PAN>.

[Source – FCO Overseas Business Risk: Panama, DIT Trade and Export guide: Panama, gov.uk]

Financial Transparency

Panama is attempting to bring its financial services sector up to international standards by developing new legislation. In 2015, a law was introduced that tackled money laundering and immobilised bearer shares. They resulted in Panama's removal from the FATF's grey list in February 2016.

An Independent Financial Services Committee was set up by the Panamanian Government following the 'Panama Papers' scandal of 2016. This highlighted the financial sector's desperate need for reform in order to preserve its competitiveness. The Committee immediately created a bill reinforcing due diligence measures for resident agents that made the identification of the beneficial owners of the legal entities for which they provide their services, mandatory. They also enacted legislation that sanctions companies for not keeping up-to-date shares and minutes books.

The country has also been attempting to facilitate a more efficient tax exchange of information by strengthening capacity. Panama has subscribed to a number of agreements over the last decade in order to achieve this. The country is also committed to moving into an automatic information exchange framework on a bilateral basis. Consultations about criminalising tax evasion are currently ongoing.

Protective security advice

The UK Government has advice on crime and fraud prevention in international trade, at: <https://www.gov.uk/guidance/crime-and-fraud-prevention-for-businesses-in-international-trade>.

[Source – FCO Overseas Business Risk: Panama]

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