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COUNTRY REPORTS -- PANAMA -- Money Laundering

Panama (Primary). Panama is a major financial center, and as such is vulnerable to money laundering. Several factors make Panama an extremely attractive target for money launderers: Panama's international banking center, which has been long established as a tax haven; its operation of the world's second-largest free trade zone, the Colón Free Zone (CFZ); the country's dollar-based economy; and a proximity to major drug producing neighbors. Panama has financial institutions that engage in currency transactions involving international narcotics proceeds that include significant amounts of U.S. dollars.

Only drug-related money laundering is a crime in Panama. The Government of Panama (GOP) has enacted anti-money laundering legislation that provides for know-your-customer requirements and reporting requirements for unusual currency transactions and those exceeding \$10,000 for banks and non-bank financial institutions (including CFZ businesses, export processing zone businesses, finance companies, savings & loan institutions, insurance and reinsurance companies, remittance firms, exchange houses, stock brokerages, casinos, and the national lottery). The law also provides safe haven protection for bank officials who report suspicious transactions and provides punishment for offenders. It permits GOP cooperation in investigations initiated by third party governments and authorizes the tracing, freezing and forfeiture of assets related to money laundering. Most non-drug criminal activities associated with money laundering, such as intellectual property rights fraud, international trafficking in arms, stolen vehicles, etc., and which generate multiple millions in proceeds, are not covered by current Panamanian money laundering legislation.

The prosecution of money laundering cases in Panama is narrowly focused and legally arduous, requiring a criminal prosecution to prove that the money seized was obtained from specific drug trafficking transactions. A succession of Panamanian governments has thus far failed to show the political will to amend the law to facilitate prosecutions. In 1999 the GOP, under former President Balladeres, promised to amend Panama's money laundering law to criminalize money laundering beyond drugs and to provide for information exchange with other countries. The U.S. Government understands that the Balladeres administration had drafted an amended anti-money laundering law. In September 1999, a new administration, under President Moscoso, assumed office in Panama. To date, the amended anti-money laundering law has not been enacted. Panama's banking law, enacted in June 1998, was a major achievement. The law created a Superintendency of Banks to serve as the supreme bank regulatory and supervisory entity, defined the types of banking licenses available, and set capital adequacy and liquidity levels. It also authorized foreign supervisory entities, under prior agreement with the Superintendency, to inspect the branch offices of foreign banks in Panama, which are subject to consolidated supervision. The Superintendency has the authority to grant banking licenses, to request information and periodic reports from banks, and to reorganize and even close banks. Banking licenses fall into two categories: general licenses for local and foreign operations, and

international licenses for Panama's approximately 28 offshore banks. Panama has a large offshore sector, including more than 350,000 international business companies registered within its jurisdiction.

Panama adopted legislation on captive insurance companies (also called offshore insurance companies) by means of Law No. 60 of July 31, 1996. Captive insurance has become one of the most important sectors of the offshore financial industry, second only to banking. Captive insurance companies are corporate entities created and controlled by a parent company, professional association or group of businesses. The captive insurance company provides insurance for the parent, association or group as an alternative to purchasing insurance on the conventional market. Under Panamanian law, captive insurance companies must be authorized by the Superintendency of Insurance and Reinsurance of the Ministry of Commerce and Industry. Captive insurance companies may insure or reinsure only the risks approved by the Superintendency. They may not insure or reinsure local risks pertaining to individuals or companies resident in Panama. Before a captive insurance company can be incorporated, it must request from the Superintendency of Insurance and Reinsurance authorization to adopt the articles of incorporation to organize the company as Panamanian or to register a foreign company in Panama to act as the captive insurance company. If the company intends to carry out the insurance of general risks, the required paid-up capital is \$150,000. If the company intends to carry out insurance of long-term risks, the paid-up capital is \$250,000.

Panama has established a financial analysis unit, the UAF. The UAF reports directly to the President of Panama, and the Director of Panama's UAF serves as the national coordinator for all money laundering affairs in Panama. The UAF gained a new Director as a result of the change in Panama's administration this year. The UAF gets seven or eight unusual transaction reports a month, which are used for developing cases. To date, the UAF has referred 20 cases for prosecution. The process is cumbersome: the referral must go from the UAF through the National Security Council (NSC) to the President's Office, and then to prosecutors in the Public Ministry (Attorney General's Office). This has been the main reason why Panama has not yet fully prosecuted a single money laundering case.

Panama's UAF was one of the first units in the region to be admitted to the Egmont Group in 1998. Panama has officially agreed to host the Egmont Plenary in May 2000. However, Egmont is still awaiting the official word from the new GOP.

In August, Panama hosted the "Third Hemispheric Congress on the Prevention of Money Laundering," organized by the UAF and the Panama Banking Association. Officials and experts from Latin America, the U.S. and Europe gathered to focus on money laundering issues. Panama is a member of the CFATF, the Inter-American Drug Abuse Control Commission, and the Offshore Group of Bank Supervisors. An MLAT and a Financial Information Exchange Agreement are in effect between Panama and the United States.

The GOP should be encouraged to amend its anti-money laundering law to criminalize non drug-related money laundering offenses. It should also authorize the UAF to share information with its foreign counterparts in order to strengthen Panama's anti-money laundering program and to be a fully participating member of Egmont. The GOP also needs to change its law so that when

sufficient information about a money laundering case is available, it can be sent directly to the prosecutors. If Panama lacks the will to remove the NSC from the case review process, the NSC should start turning the cases over for prosecution-Panama has had no prosecutable cases in three years. Another important next step will be for the Banking Superintendency to draft implementing regulations for the 1998 banking law; this is expected to take place by mid-2000. Panama needs to be able to demonstrate that its anti-money laundering laws are effective through the successful prosecution of, and cooperation with foreign authorities in, major money laundering cases.