



PATTON, MORENO & ASVAT
INTERNATIONAL LAWYERS

PMA BUSINESS LETTER



A PMA Group publication

Latest news from Panama

December 2009—N0.15/2009

In this issue

BUSINESS OPPORTUNITIES IN PANAMA

- Panama sells \$1Bn 10-year bonds
 - Panama Canal calls bids for new bridge or tunnel
 - Governments sign principles for liberalization
 - Panama re-elected to IMO Council
 - IMO honors ACP Administrator
 - Promotion and Industry Development
-

PANAMA IN THE INTERNATIONAL NEWS

- Panama: The Next Investment Grade
 - Panama remakes its famous canal for giant ships
-

BUSINESS OPPORTUNITIES IN PANAMA

➤ PANAMA SELLS \$1BN 10-YEAR BONDS

The government of Panama issued \$1Bn 10-year bond priced at 99.796 with a yield of 5.224%. The notes mature in January 2020 and are rated Ba1 by Moody's Investors Service and BB+ by both Standard & Poor's Ratings Services and Fitch Ratings. Deutsche Bank and Credit Suisse were lead book runners on the deal. The issue is just the first since the Central American country's government filed with the Securities and Exchange Commission a plan to possibly sell up to \$2.5Bn in debt securities and warrants.

Proceeds from the program will go toward general governmental purposes, including the refinancing of domestic and external debt. Standard & Poor's analysts said Panama may join the list of investment-grade countries as it raised its ratings outlook to positive. The ratings agency noted the country's improved fiscal outlook, which could strengthen the sovereign's credit profile. If you are interested in receiving details of financial ventures, please contact **Ms. Ivette Martinez**, imartinez@pmalawyers.com

➤ PANAMA CANAL CALLS BID FOR NEW BRIDGE OR TUNNEL

The Panama Canal Authority (ACP) has released a request for proposals to select a contractor to conduct a study of constructing alternative routes for vehicles crossing the canal on its Atlantic side. The scope of work includes analyzing the feasibility of building either a bridge or a tunnel north of the existing Gatun Locks and the new post-Panamax locks complex, and subsequently, determining the best alternative.

The canal authority has set a 30-day deadline (end of December) for contractors to submit their proposals for this non-negotiated best value bid.

A committee of canal authority engineers will evaluate the proposals and reserves the right to contract the services of external consultants to make recommendations on the submissions. The technical portion of the proposals will constitute 65% of the total score, while the price proposals will represent 35%.

The authority expects to award the contract in January 2010. The selected contractor will have seven months to present the studies. If you are interested in receiving details of the Panama Canal expansion and of the tenders opportunities launched by the Panama Canal Authority (ACP) and opportunities in the maritime sector, please contact **Ms. Maria de Lourdes Marengo**, mmarengo@pmalawyers.com and **Ms. Ivette Martinez**, imartinez@pmalawyers.com

➤ GOVERNMENTS SIGN PRINCIPLES OF LIBERIZATION

The International Air Transport Association (IATA) announced the signing of a Multilateral Statement of Policy Principles regarding the Implementation of Bilateral Air Service Agreements by seven states, including Panama, and the European Commission. The states that signed the document are Chile, Malaysia, Panama, Singapore, Switzerland, the United Arab Emirates, the United States of America, as well as the European Commission. In total they represent some 60% of global aviation.

The 65 year-old bilateral system of air service agreements places restrictions on how airlines can do business in ways that no other industry faces. National ownership requirements do not allow airlines to merge across borders, precluding the development of global players that has been seen in other previously regulated industries such as telecommunications. Airlines are also restricted in market access, until government negotiators conclude agreements to allow cross-border services. If you are interested in receiving details of business ventures in the aviation sector, please contact **Ms. Maria de Lourdes Marengo**, mmarengo@pmalawyers.com

➤ PANAMA RE-ELECTED TO IMO COUNCIL

PANAMA has been re-elected as a Category A member of the IMO Council for 2009-11. In the election at the 26th International Maritime Organization Assembly in London on 26 November, the Panama Register collected 124 votes, so it will again join the UK, the US, Japan, Korea, China, Greece, Italy, Norway and Russia in the council category.

If you are interested in receiving details of business opportunities and commercial ventures in the maritime sector and details of Panama's Registry new incentives, please contact Mrs. Maria de Lourdes Marengo, mmarengo@pmalawyers.com, and Mr. Belisario Porras, bporras@pmalawyers.com

➤ IMO HONORS PANAMA CANAL ADMINISTRATOR

The IMO International Maritime Prize for 2008 has been presented to Alberto Aleman Zubieta, administrator of the Panama Canal Authority (ACP), in recognition of his contribution to maritime safety, security and prevention of pollution from ships. The prize is awarded annually to the individual or organization judged to have made the most significant contribution to IMO's

work and objectives. The ACP has previously won awards for its sustainable environment policy, including its comprehensive wildlife rescue package that works alongside the Canal expansion project.

Speaking after receiving the award on Monday evening, Mr. Aleman paid tribute to his 9,000 employees and said that he was accepting it on behalf of all Panamanians, who had voted to support the canal's expansion plans in a referendum held in 2006.

➤ **Promotion and Industry Development.**

With Law 76 of 2009, the Certificate for Industrial Promotion (CERFIN) is created, with the aim of encouraging the development of industry, based on the effective integration of technology with high added value. This benefit is applicable to industrial manufacturing companies, agro-processing and marine resources companies, as well as to all the integrated operations of industrial firms engaged in the acquisition and processing of agricultural and forestry raw materials, including micro, small, medium and other companies established or being established in the Republic of Panama.

The Certificate for Industrial Promotion is a non transferable nominative document approved by the authorities, which is exempt from any kind of tax, does not cause any interests, and is valid for eight (8) years from its issuance. The same may be used by the beneficiary for the payment of all taxes and national contributions. The certificate may not be used for payment of taxes, fees or contributions of the company that were generated in fiscal years prior to its issuance, to cover the minimum payment of dividends or complementary taxes, for payment of excise tax on fuel or oil products, or for payment of taxes subject to withholding.

The CERFIN will be granted to agro-industrial businesses that invest in privileged activities, which may receive the benefit of 35% reimbursement of disbursements incurred in such activities and 25% for other industrial activities they perform. The activities encouraged by the law are:

1. Research and development;
2. Management and quality assurance and environmental management;
3. Investment or reinvestment of profits in the establishment or expansion of productive facilities or the capacity to produce;
4. Increase in employment associated with production.

Companies that for whatever reason are enjoying any other benefit or tax incentives, construction companies, communication or power generation, transmission and distribution of electricity, or companies engaged in the packaging and distribution of products without the intervention of industrial processing, are not allowed to request a CERFIN. On the other hand, companies that are established after the entry into force of Law 76 may apply for the CERFIN two years after starting its operations.

Companies which adopt the provisions of Act 76 of 2009 may import raw materials, semi-finished or intermediate products, machinery, equipment, packaging, and other inputs used in the composition or the process of developing their products, paying in addition to the VAT, only the import tax equivalent to 3% of CIF value of foreign inputs.

All companies benefiting from the incentives provided under Law 76 must inform the Ministry of Trade and Industry through a sworn affidavit, the name of beneficiaries who have directly or indirectly more than 5% of the shares of that company. This act shall take effect on 23 January 2010 and is valid for 20 years.

PANAMA IN THE INTERNATIONAL NEWS

➤ **PANAMA: THE NEXT INVESTMENT GRADE** **LATIN BUSINESS CHRONICLE, November 24, 2009**

Panama has weathered the global economic storm better than even we forecasted and we think that 2009 GDP expansion will be stronger than our previous already above consensus call of 2.0 percent. Indeed, GDP expansion will likely come in more than a full percentage point higher at 3.2 percent, the highest growth rate in Latin America this year. We think average annual growth in the second half will be at least 4 percent.

The Next Investment Grade:

The Panama sovereign capitalized on positive market sentiment after the recent move to positive outlook from S&P, indicating that the sovereign is on the verge of an investment grade rating from that agency. Panama has had a positive outlook from Fitch since January of 2008 and is currently rated high double-B by all three major rating agencies (Ba1/BB+/BB+). This move by S&P does not come as a surprise, as Panama is one of the strongest names in the region and one on which we have been bullish for much time. [On November 16] Panama issued \$1 billion of a 10-year bond of an approved amount of \$2.5 billion. The use of the proceeds will be primarily for the refinancing of internal debt obligations as well as for other general budgetary purposes.

Infrastructure Agenda:

President [Ricardo] Martinelli's administration has a significant infrastructure agenda as well, for which the proceeds are likely to be used. The bond was issued at a spread of 187.5bps over 10-year USTs and is trading wide to comparable maturities in Peru, Mexico, and Brazil. We think there is room for Panama to converge on some of these names over the longer term. Comparable 10-year bonds are: Peru at a bid spread of 166bps, Mexico at 163bps, Colombia at 193bps, and Brazil at 133bps.

We view this emission favorably as Panama is a strong fundamental credit and at the same time has been a generally illiquid name, so we recommend adding to a portfolio when there is the opportunity. We view the current spread levels in the 10-year region versus peers as fair in the short term with a longer term bias for spread compression versus comparables as Panama is upgraded by at least two of the three main rating agencies over the next year and in the run-up to the successful completion of the Canal expansion. Issued at par, according to our trading desk these bonds are now trading at 100.75-100.95 at mid-day today.

Strong Economy:

On the economic front, Panama has been posting relatively strong economic growth numbers. Second quarter GDP growth came in better than expected at +1.9 percent with first quarter revised up to +3.0 percent, bringing first half growth to 2.4 percent year-over-year. First half growth, as is usual for Panama, was spread across several sectors, including construction at 12 percent year-over-year, transportation and communications (Canal-related and port activity) at 8 percent year-over-year, and mining at 13 percent year-over-year.

Panama has weathered the global economic storm better than even we forecasted, and we think that 2009 GDP expansion will be stronger than our previous already above consensus call of 2.0 percent. Indeed, GDP expansion will likely come in more than a full percentage point higher, at 3.2 percent, the highest growth rate in Latin America this year. We think average annual growth in the second half will be at least 4 percent.

Canal Expansion:

According to the Panama Canal Authority (ACP), the Canal expansion project is on time to be completed by 2014 if not earlier and under budget (on average some \$300 million below budget in every phase so far). The Canal offers a \$50 million incentive to finish six months early and there is a \$50 million disincentive if it runs more than six months late, according to the ACP. There is very low risk of any delays due to labor issues: There are six labor unions working in the expansion project and all of these contracts have been negotiated through 2014 and 2015. Canal revenues for the period of January through July 2009 were up 9% annually despite the global economic crisis. Traffic through the Canal, however, dropped off during that time period (-4.5 percent year-over-year) but pre-set increases in toll fees have compensated for lower volume. Nonetheless, in the middle of the crisis last year the Canal was able to get \$3 billion in multi-lateral loans to finance the expansion with a 10-year grace period and 20 years to pay the loan. There is no government guarantee on the loan; it is to the ACP itself. As global trade activity rebounds, so too will Canal revenues.

The Canal is a key revenue contributor for the government and we think this is only set to grow in importance in coming years. According to the ACP, for every Panama Canal ton, \$1 is paid to the government. Some \$760 million will be given to the government this fiscal year, which has been the average contribution to the government over the last four years. Meanwhile, a minimum of \$528 million must be paid to the government per year during the construction phase. The Canal is clearly a key part of the fundamentally strong Panama story; indeed, in our view, after this expansion, Panama will become the logistical hub of the Americas. The Panama Canal already accounts for 5 percent of global trade activity. It is a massive and unique asset to the sovereign and its benefits will be reaped over the course of many years.

➤ PANAMA REMAKES ITS FAMOUS CANAL FOR GIANT SHIPS

REUTERS

November 18, 2009

By Sean Mattson---PANAMA CITY (Reuters) - One of the world's greatest engineering marvels is being overhauled as work crews blast through hills to widen and deepen the Panama Canal to make room for a new generation of mega-ships.

Defying the world economic downturn, Panama is spending \$5.25 billion in the first major expansion of the canal since it was opened in 1914.

It is a monumental undertaking that promises to shake up global trade routes, making it easier and cheaper to transport Asian goods to the eastern United States and giving China better access to Latin American oil and other commodities.

"The whole Panama Canal expansion will have a significant impact on the way business is done from the Far East into the Caribbean and into the U.S. itself," said Jay Brickman, a vice president at Crowley Maritime Corp, whose container shipping division services the Caribbean and eastern United States. "It changes the dynamics and it changes the economy."

The canal, long dreamed of by Spanish colonial rulers as a 50-mile (80-km) link between the Atlantic and Pacific oceans and finally built by the United States, risked obsolescence because many new cargo ships are too big to traverse it.

Widening the waterway will mean it can handle a huge new breed of container vessels known as post-Panamax ships. They can carry up to 12,600 cargo containers, almost three times the current number.

It will also be a boost for trade from Asia to the central and eastern United States, with the port of Houston likely to see a big increase in traffic.

At the site of the Pacific entrance locks just west of Panama City, excavators with buckets big enough to hold a large car dump rock and dirt into massive yellow trucks with wheels twice as tall as an average person.

Some 152 million cubic meters (5.37 billion cubic feet) of earth and rocks will be chiseled, blasted and dredged for the expansion that includes new locks at both ends of the canal, equivalent to three quarters of the material excavated during the original project.

"It's got to be the highest profile construction contract, if not in the world, certainly in this hemisphere," said Joe Reeder, who was chairman of the canal in the 1990s, before Washington handed over control to Panama in 1999.

The most lucrative contract, worth about \$3 billion, was won by a consortium led by Spain's Sacyr Vallehermoso and Italy's Impreglio.

'FOR THE WHOLE WORLD'

Panamanians are excited about the project, after many skeptics doubted Panama would administer the waterway well.

"The canal is not just for Panama; it's for the whole world, we're very proud of that," said Santiago Coronel, 50, as he rang a bell on his ice cream cart in a leafy park surrounded by skyscrapers on Panama City Bay. "The canal is at the heart of the world. It is the best route between the two oceans."

When finished in 2014, the larger shipping lane will allow through tankers capable of carrying 1 million barrels of oil, liquefied natural gas carriers and so-called Capesize bulk cargo vessels that transport coal, metals and other commodities, slashing weeks off transit times and shifting global trade patterns.

"The expanded canal gives us a lot of options we don't have today," said Peter Gyde, president of A.P. Moller-Maersk Group's Caribbean Sea Cluster at Maersk Line, which moves containers by rail across Panama because much of its shipping fleet outgrew the canal years ago.

Energy-hungry Asian countries will find it cheaper to buy oil from traditional U.S. suppliers such as Venezuela as shipping costs come down and the amount of crude stored in the Caribbean will likely increase as improved logistics allow traders to take advantage of more arbitrage opportunities.