

AGREEMENT NO. 35
(May 30, 2000)

“By which the Regulation for Commercial and Industrial Activities or
Performance of Services is approved”

THE BOARD OF DIRECTORS
OF THE PANAMA CANAL AUTHORITY

WHEREAS:

Article 18.9 of the Organic Law authorizes the Board of Directors to approve policies relative to commercial and industrial activities or provision of services for the operation of the Canal, whether directly or through concessions to third parties.

Said activities must be executed pursuant to rules and procedures that shall be approved by the Board of Directors pursuant to Article 18.5.g. and 18.5.h.

The Administrator has submitted the draft of the regulation on the above-mentioned subjects for the consideration of the Board of Directors.

AGREES:

SOLE ARTICLE: The Panama Canal Authority Regulation on Commercial and Industrial Activities and Provision of Services is hereby adopted as follows:

**“REGULATION ON COMMERCIAL AND INDUSTRIAL ACTIVITIES AND
PROVISION OF SERVICES**

Article 1. The performance of commercial and industrial activities and the provision of services by the Authority shall be pursuant to the rules of private law compatible with their legal structure and the public interest, except in such cases specifically established in this Regulation.

Article 2. The actions of those involved in the procedures and contractual processes shall be carried out in accordance with principles of transparency, prudent administration, and responsibility, attempting always to select the most favorable offer and the best conditions for the organization.

Article 3. The following criteria and rules shall apply to specific activities of the Authority:

1. The sale or exchange of Authority property shall be authorized by the Board of Directors, with prior justification by the Administrator that said property is not required for Canal operations.

2. The sale¹ of Authority property shall be preceded by a contractor selection procedure pursuant to the Contracting Regulation. The selective criteria for sales shall be the highest price.
3. The following may be directly contracted for²:
 - a. The sale, exchange to the State, municipalities, and autonomous and semi-autonomous agencies.
4. The use or leasing of Authority property, under specific conditions, rules, and other requirements to be established by the Administrator to obtain impartial treatment and the opportunity of participation by interested parties, shall be directly contracted.
5. The Authority may advantageously utilize its rights to intellectual and industrial property, negotiate, or grant to interested parties only, under a paid contract, a license for the use of any such rights, pursuant to the laws governing the subject. When the license is for the exclusive use of a right, a contractor selection procedure shall be held. The property of such rights shall not be transferred.
6. ³Under policy established by the Board of Directors, the sale of property whose production or extraction is the result of the Authority's capacity to exercise its primary functions, may be directly contracted out.

The Administration shall periodically inform the Board of Directors regarding the activities that are being carried out pursuant to this provision.

Article 4. The Authority may, directly or through concessionaires, render services to provide or sell raw or treated water, electricity, and related electrical services, originating from its watersheds, reservoirs, water treatment plants, power generating plants, systems and related networks, or other related services. Concessions shall be granted pursuant to the provisions of the Contracting Regulation.

Article 5. The Authority may directly use or award contracts with parties for the use of installations, furnishings, and other property along the canal banks or on its waters and adjacent areas, or carry out activities and services in such places, whether part of the Authority's estate or under its administration. The utilization by third parties shall require holding public opening of offers to guarantee the participation of interested parties, pursuant to the contractor selection process stipulated in the Contracting Regulation.

Article 6. The Authority may provide specialized services in such areas as industrial, maritime, dredging, telecommunications, computer technology, consulting, health and

¹ Article modified by article 24 of Agreement No. 102 of August 25, 2005.

² Article modified by article 24 of Agreement No. 102 of August 25, 2005.

³ Paragraph introduced by Agreement No. 57 of August 16, 2002.

occupational safety, training and human resources management, and other specialized services, either by direct pricing and tariffs based on uniform rates, according to the nature of each specific service, or through concessionaires, pursuant to the procedure for granting concessions stipulated in the Contracting Regulation.

Article 6a.^{4 5} In contracts for the use and lease of property and provision of services, the Contracting officer shall determine the type and amount of the guarantees that will be required in these cases. The Administration shall establish and develop procedures considered convenient for implementing guarantee requirements for the use and lease of property and the provision of services.

Article 7. The Administrator may adopt and develop procedures considered convenient for the implementation of this Regulation and is empowered to establish and regulate an executive committee to analyze and evaluate such activities and projects, and establish prices for providing commercial, industrial, and leasing services and accomplishing the activities to which this Regulation refers in accordance with the scope, Authority and jurisdictional limits conferred by said Regulation.

Article 8. The Administration shall periodically submit reports to the Board of Directors regarding the course and condition of the projects and contracts related to the activities referred to in this Regulation. The documents pertaining to the concessions that, according to their amount, require prior authorization from the Board of Directors shall be submitted sufficiently in advance.

Article 9. This Regulation shall become effective upon its approval.”

Issued in Panama, on the thirtieth day of May of the year two thousand.

⁴ Article introduced by article two of Agreement No. 49 of August 7, 2001.

⁵ Article modified by article 24 of Agreement No. 102 of August 25, 2005.