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Wagner Part 10

THE DEPARTMENT OF STATE



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PANAMA CANAL TREATY NEGOTIATIONS: BACKGROUND AND CURRENT STATUS

Background

The United States and Panama are currently negotiating a new Panama Canal treaty to replace the Treaty of 1903.

In that treaty Panama granted the United States—in perpetuity—the use of a 10-mile wide zone of Panamanian territory for the “construction, maintenance, operation and protection” of a canal, as well as all the rights, power, and authority within that zone which the United States would “possess if it were the sovereign.” The very favorable terms of the treaty were a major factor in the U.S. decision to build the canal in Panama rather than in Nicaragua as initially planned.

Canal's Economic Value

Since its opening in 1914, the canal has provided benefits to the United States, to Panama, and to the world. Of the total tonnage that transits the canal, about 44 percent originates in, and 22 percent is destined for, U.S. ports. This tonnage represents about 16 percent of the total U.S. export and import tonnages.

The canal has been economically important to Panama, too. More than 30 percent of Panama's foreign exchange earnings and nearly 13 percent of its GNP are directly or indirectly attributed to the presence of the canal. But those contributions represent a smaller portion of Panama's economy now than they did in years past.

In fact, reliance on the canal by all parties has evolved from earlier years. As trading patterns have changed and world commerce has become more sophisticated, alternatives to the canal have begun to emerge. These alternatives include the

Canal, rearrangement of markets and sources, product exchanges, and partial or complete substitution of land or air transport for ocean transport. As canal users take advantage of these alternatives, the canal's value declines relative to the economies of the user nations. For the United States, in particular, a recent study has shown that the canal's impact on the domestic economy is quite small compared to the economy as a whole.

Panamanian Treaty Concerns

Panama has been dissatisfied with the treaty many years. Part of this dissatisfaction has derived from Panama's interpretation of two aspects of the situation which resulted in the Treaty of 1903: (1) Panama's acceptance of unfavorable treaty terms due to its dependence upon the United States to protect its new-found independence from Colombia; and (2) Panama's principal negotiator was a Frenchman who benefited considerably when the United States purchased the private French concession to build a trans-isthmian canal.

Over the years Panama has also charged that the United States has unilaterally interpreted the treaty to Panama's disadvantage and given Panama an inadequate share of the benefits from the operation of the waterway. Even more objectionable in Panama's view, are the provisions in the Treaty of 1903 which give to a foreign power perpetual governmental jurisdiction within a portion of Panamanian territory. Increasingly in recent years Panama has insisted that U.S. control over the Canal Zone prevents the country from realizing its full economic potential.

The United States has responded sympathetically

1905 it recognized Panama's titular sovereignty over the Canal Zone. The treaty was revised in 1936, and again in 1955, to provide Panama with a greater share of the economic benefits of the canal and to remove certain outdated aspects, such as the right granted to the United States to interfere, when it believed necessary, in Panama's internal affairs. Despite these modifications, however, many of the features of the treaty most objectionable to Panama remain unchanged.

The canal has become the major political issue in Panama. In recent years the intensification of Panama's campaign for more favorable treaty terms has produced tensions in U.S.-Panamanian relations. In 1964 the death of 20 Panamanians and 4 Americans brought the Panama Canal issue to the attention of the United Nations and the Organization of American States (OAS).

Evaluation of Bilateral Negotiations for a New Treaty

Following discussion of the issue by the OAS, the United Nations, and other international agencies after the 1964 riots, the United States and Panama agreed in 1964 to begin bilateral negotiations for a new treaty. In so doing, the United States recognized that a comprehensive modernization of its relationship with Panama corresponded to its long-term national interests and to a changing international environment.

U.S. officials entered the negotiations in late 1964 with a view to insuring that:

- The canal should continue to be available to the world's commercial vessels on an equal basis at reasonable tolls;
- It should be operated and defended by the United States for a reasonably extended, but definite, period of time; and
- It should continue to serve world commerce efficiently. To this end, the United States sought the right to provide additional canal capacity if it is needed.

By 1967, the negotiators of both countries had prepared three draft treaties. They provided for operation of the present canal under a joint U.S.-Panamanian authority; for construction and operation of a sea-level canal under a similar joint authority; and for U.S. defense of the old and new canals for the duration of each treaty. Neither Panama nor the U.S. Government moved to ratify these treaties, and the new government headed by General Omar Torrijos, which assumed power in October 1968, formally rejected them.

In 1970 the Government of Panama requested the renewal of negotiations and the U.S. agreed.

President Nixon established negotiating objectives which, although modified by developments, were similar to those set by President Johnson in 1964. The objectives and positions of the United States thus reflect a bipartisan approach to treaty negotiations with Panama. They also are consistent with the broader policy stated in Secretary Kissinger's call in October 1973 for a "new dialogue" with our Latin American neighbors, a policy which President Ford has publicly endorsed.

A Panamanian negotiating team arrived in Washington in June 1971. Intensive negotiations during the rest of the year resulted in a U.S. treaty offer covering most of the issues relevant to the treaty. The Panamanian negotiators carried the offer to Panama for a review in December 1971. Except for some informal conversations in March 1972 and an exchange of correspondence in the fall, the negotiations were not resumed until December 1972, when a U.S. delegation traveled to Panama.

U.S. Security Council Action

At Panama's initiative, the U.N. Security Council met in Panama City from March 15 to March 21, 1973. In those sessions, Panama criticized the U.S. posture on the canal question and sought a resolution supporting its position. Thirteen nations voted for the resolution; the United Kingdom abstained. The United States vetoed the resolution on the grounds that it recognized Panama's needs but not those of the United States; that it was incomplete in its references to the negotiations; and that it was inappropriate because the treaty was a bilateral matter under amicable negotiations. In explaining the U.S. position, the U.S. Permanent Representative committed the United States to peaceful adjustment of its differences with Panama and invited Panama to continue serious treaty negotiations.

New U.S. Approach

In September 1973 Secretary Kissinger charged Ambassador at Large Ellsworth Bunker with the task of renewing discussions with Panamanian officials for the purpose of arriving at a common approach to future treaty negotiations. Ambassador Bunker visited Panama from November 26 to December 3, 1973, and again on January 6 and 7, 1974, to discuss with Panamanian Foreign Minister Juan Antonio Tack general principles upon which a new treaty might be based. These discussions resulted in the Statement of Principles of February 7, 1974 (See p. 3), which has

served as a useful framework for the present negotiations.

U.S. Treaty Objective

The principal objective of the United States in the current treaty negotiations is to protect our basic interests in the Panama Canal. The U.S. Government is seeking to establish a new and mutually acceptable relationship between our two countries whereby the United States will retain essential rights to continue operating and defending the canal for a reasonably extended period of time. A new treaty based on partnership with Panama would enable the United States to devote all its energies to the efficient operation of the waterway. Moreover, it would provide a friendly environment in Panama that is most conducive to protecting our vital interests in keeping the canal open and secure. Such a treaty would be consistent with good business management, represent good foreign and defense policy, and signify a new era of cooperation between the United States and the rest of the hemisphere.

In recent years Latin American nations have made the negotiation of a more equitable canal treaty with Panama a major hemispheric issue and a test of U.S. intentions regarding the "new dialogue."

Issues in the Negotiations

In the months following the February 7 signing of the Statement of Principles, Ambassador Bunker and Foreign Minister Tack met several times in Panama and Washington to define the issues involved in the new treaty arrangement. After agreement was reached, the negotiators moved into substantive talks aimed at resolving these issues.

The United States and Panama have agreed in principle that the Treaty of 1903 should be replaced by a modern treaty that rejects the concept of perpetuity and accommodates the sovereignty of Panama with the interests of the United States, on the understanding that U.S. control and defense of the Panama Canal would continue for a period of fixed duration. In the context of the Statement of Principles the issues the two negotiating parties are working to resolve are:

1. Duration: How long will the new treaty remain in force?
2. Operation and Defense: What rights and arrangements will the United States have to permit it to continue to operate, maintain, and defend the canal? What geographic areas will

the United States require to accomplish its purpose?

3. Jurisdiction: What areas will be controlled and what functions will be exercised by the United States when its jurisdiction terminates, and what is the period of transition?

4. Expansion of Capacity: How will the treaty provide for possible enlargement of canal capacity?

5. Participation: How and to what extent will Panama participate in the administration and defense of the canal?

6. Compensation: What will be the form and level of economic benefits to Panama in any new treaty?

Current Status of Negotiations

Since June 1974, the talks have been taking place in a cordial, informal atmosphere. The U.S. negotiators have been proceeding carefully and methodically. While there is no fixed timetable, the negotiators from both countries have indicated their satisfaction with the progress to date and are hopeful that both countries can reach agreement on a draft treaty.

Any decision which the President might make affecting the future of the canal will, of course, be designed to protect U.S. interests. Indeed, a major reason for negotiating a new treaty is to avert a serious crisis which would endanger our interests.

Any treaty agreed upon by the negotiators and approved by the executive branch will be submitted to the U.S. Senate for ratification and subject to full constitutional process. Panama, for its part, has said that it will submit the new treaty to a plebiscite to insure that it is acceptable to the Panamanian people.

STATEMENT OF PRINCIPLES

Joint Statement by the Honorable Henry A. Kissinger, Secretary of State of the United States of America, and His Excellency Juan Antonio Tack, Minister of Foreign Affairs of the Republic of Panama, on February 7, 1974 at Panama

The United States of America and the Republic of Panama have been engaged in negotiations to conclude an entirely new treaty respecting the Panama Canal, negotiations which were made

possible by the Joint Declaration between the two countries of April 3, 1964, agreed to under the auspices of the Permanent Council of the Organization of American States acting provisionally as the Organ of Consultation. The new treaty would abrogate the treaty existing since 1903 and its subsequent amendments, establishing the necessary conditions for a modern relationship between the two countries based on the most profound mutual respect.

Since the end of last November, the authorized representatives of the two governments have been holding important conversations which have permitted agreement to be reached on a set of fundamental principles which will serve to guide the negotiators in the effort to conclude a just and equitable treaty eliminating, once and for all, the causes of conflict between the two countries.

The principles to which we have agreed, on behalf of our respective governments, are as follows:

1. The treaty of 1903 and its amendments will be abrogated by the conclusion of an entirely new interoceanic canal treaty.
2. The concept of perpetuity will be eliminated. The new treaty concerning the lock canal shall have a fixed termination date.
3. Termination of United States jurisdiction over Panamanian territory shall take place promptly in accordance with terms specified in the treaty.
4. The Panamanian territory in which the canal is situated shall be returned to the jurisdiction of the Republic of Panama. The Republic of Panama, in its capacity as territorial sovereign, shall grant to the United States of America, for the duration of the new interoceanic canal treaty and in accor-

dance with what that treaty states, the right to use the lands, waters and airspace which may be necessary for the operation, maintenance, protection and defense of the canal and the transit of ships.

5. The Republic of Panama shall have a just and equitable share of the benefits derived from the operation of the canal in its territory. It is recognized that the geographic position of its territory constitutes the principal resource of the Republic of Panama.

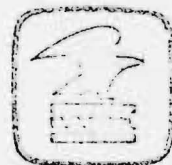
6. The Republic of Panama shall participate in the administration of the canal, in accordance with a procedure to be agreed upon in the treaty. The treaty shall also provide that Panama will assume total responsibility for the operation of the canal upon the termination of the treaty. The Republic of Panama shall grant to the United States of America the rights necessary to regulate the transit of ships through the canal and operate, maintain, protect and defend the canal, and to undertake any other specific activity related to those ends, as may be agreed upon in the treaty.

7. The Republic of Panama shall participate with the United States of America in the protection and defense of the canal in accordance with what is agreed upon in the new treaty.

8. The United States of America and the Republic of Panama, recognizing the important services rendered by the interoceanic Panama Canal to international maritime traffic, and bearing in mind the possibility that the present canal could become inadequate for said traffic, shall agree bilaterally on provisions for new projects which will enlarge canal capacity. Such provisions will be incorporated in the new treaty in accord with the concepts established in principle 2.

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THE WHITE HOUSE
WASHINGTON

August 18, 1975

National Security Decision Memorandum 302

TO: The Secretary of State
The Secretary of Defense

SUBJECT: Panama Canal Treaty Negotiations

After considering the views expressed by the Departments of State and Defense concerning proposals for negotiating instructions on a new United States-Panama Canal Treaty, I have decided to modify the negotiating instructions contained in NSDMs 131 and 115 and to supplement them as follows:

-- The negotiators are authorized to propose to the Panamanians that the treaty duration applicable for defense be separated from its application to operation of the Canal. With regard to duration applicable to operation of the Canal, the United States negotiators should seek to obtain the longest possible period, to terminate not earlier than December 31, 1999. With regard to duration applicable to defense of the Canal, they should seek to obtain a minimum of 50 years, but are authorized to recede to no less than 40 years. They should also make efforts to obtain a right in principle for the United States to participate in Canal defense, including a limited military presence in Panama, following the expiration of the treaty period applicable to defense, such participation to be of a nature and under terms to be agreed upon between the parties not less than one year prior to the treaty's expiration. As a fallback, if deemed necessary to achieve the objective of an extended period for Canal defense or other critical negotiating objectives, the Negotiators may offer a reduction of the duration period applicable to Canal operation to a period of not less than 20 years.

-- With regard to Canal expansion, the United States Negotiators should seek to obtain the longest possible period up to the termination of United States responsibility for operation for a

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By WHM NARS, Date 12/19/84



United States option to exercise definitive and exclusive rights to expand the Canal's capacity, whether by addition of a third lane of locks or the construction of a sea-level canal. As a fallback, they may seek to obtain -- either in lieu of or in combination with definitive rights -- commitments that: (a) Panama will not permit the construction of a sea level canal in its territory during the period of United States control of the existing Canal unless it has first offered to the United States the option to construct such a canal. That option should be under terms and conditions which would accord to the United States rights relating to operation and defense commensurate with the due protection and enjoyment of a United States investment of that magnitude; (b) no country other than the United States or Panama shall have responsibility for operation and defense of an interoceanic canal in Panama; and (c) the neutrality guarantee applicable to the existing Canal will apply to any new canal built in Panama.

-- With regard to land/water areas, the United States Negotiators should seek to obtain Panama's acceptance of the United States offer of January 18, 1975, modified by the addition of such of the following areas as the Negotiators find necessary in order to further our objectives:

- Cristobal Piers
- Land and Water Areas in Gatun Lake
- Fort Sherman jungle training area south of the 22nd grid
- Coco Solo, Fort Randolph and access to them via Randolph Road
- Portions of the Albrook/Clayton Training Areas

If agreement is not possible on the basis of these offers, the United States Negotiators should request further instructions from the President.

-- With regard to the negotiating process, the United States Negotiators should seek to obtain Panama's agreement that the negotiations will remain confidential so that the Panama Canal issue will not be injected into the domestic political process in the United States in 1976.

-- With regard to the resumption of negotiations, the United States Negotiators should proceed promptly to continue their task.

-- With regard to the creation of a favorable national environment for treaty ratification, the Departments of State and Defense should join in regular consultations with the Congress on the course of treaty negotiations and should initiate an effort to build support for a new treaty with Panama.

Ronald R. Ford

cc: The Chairman, Joint Chiefs of Staff
 The Director of Central Intelligence
 The Chief Negotiator for the Panama Canal Treaty

I do not know.

A governmental agency certainly does not know and is incapable of deciding.

The people who watch it will know—each in his own way. And if it becomes necessary to make a decision, that decision will be made in the voting booth. If people do not like the decisions made by their elected representatives on controversial issues of public importance, such as hunting, they can vote them out of office.

That is the way the system should work. And it can work only if the people get all kinds of facts and opinions on all sorts of issues from printed publications and radio and television programs—the press—free from governmental interference.

WHAT FUTURE FOR THE PANAMA CANAL

Mr. McGEE. Mr. President, last week U.S. Ambassador Ellsworth Bunker returned to the negotiating table in Panama. This is a very significant development because, as the press has reported, it is solid evidence that the impasse over the U.S. negotiating position has been broken, thanks to the political courage shown by President Ford.

The President is to be commended for his determination to get on with the canal negotiations. Much of the credit due him on this issue stems from the fact that there are so many misconceptions about the Panama Canal and our relationship to it that any political leader who advocates a new treaty relationship with Panama is, in the eyes of many Americans, automatically guilty of "treason, bribery, or other high crimes and misdemeanors." Endorsing a new treaty relationship with Panama is akin to a public statement denouncing motherhood, apple pie, and "when Johnny comes marching home again"—all rolled into one.

Mr. President, no one has done more to dispell this kind of thinking about the Panama Canal issue than Sol Linowitz, our former Ambassador to the Organization of American States and Chairman of the U.S. Latin American Commission. Ambassador Linowitz has done yeoman's service in helping Americans to overcome the "Panama Canal syndrome," and erase the many misconceptions about the canal and our real interests in it.

In this regard, I want to draw my colleagues' attention to an article by Ambassador Linowitz, which appeared in Friday's—September 5—Washington Post. This article entitled, "What Future for the Panama Canal?" is addressed specifically to Congress because of the recent efforts on Capitol Hill to impede the treaty negotiations, if not postpone them indefinitely.

Mr. President, the Linowitz article goes directly to the gut issues:

SOVEREIGNTY OVER THE CANAL

The simple answer is that the United States never had sovereignty. The 1903 treaty specifically gave the United States authority which it would have "if it were sovereign." Obviously, these words would not have been necessary if the United States were, in fact, sovereign.

NATIONAL SECURITY

"The fact of the matter is that the greatest danger to the security of the United States would be the continuance of the present status of the canal."

POLITICAL INSTABILITY AND VIOLENCE

"If any course is designed to expose the canal to political instability and violence, it would be an anachronistic effort to maintain in effect a treaty negotiated in 1903 which is no longer respected, which is looked upon by Panamanians of all political persuasions as an affront to Panama's national dignity and as a colonial enclave, and which is viewed throughout Latin America as the last vestige of 'big stick' diplomacy."

U.S. COMMERCIAL INTERESTS

"Admittedly, the canal is important to us commercially, but obviously its economic significance has diminished considerably as world commerce patterns and technologies of shipping have changed."

These observations are as timely as they are accurate. They deserve the most careful consideration by each Member of this forum.

I ask unanimous consent that the Linowitz article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHAT FUTURE FOR THE PANAMA CANAL?

(By Sol M. Linowitz)

OAS Secretary General Orfila recently called the Panama Canal "the most explosive issue in Latin America." A lot of other concerned Latin American and U.S. leaders have for some time been warning us about the canal issue and what it may mean to the whole future of the hemisphere.

But most Americans have not been listening—especially Congress.

As though to prove how hard it has not been listening, just before the August recess the House of Representatives passed 246-164 the Snyder Amendment to the State Department appropriation bill, which would have kept the State Department from even negotiating about a new Panama Canal treaty. Only vigorous efforts in the Senate kept that body from adopting the Byrd Amendment to the same effect.

These developments came some weeks after 38 senators and 126 representatives co-sponsored a resolution that sharply opposed the basic objectives of a new treaty.

Obviously there must be some reason otherwise thoughtful members of Congress are lining up as they are with respect to such a potentially dangerous issue. The answer is clear enough: Neither the administration nor those members of the Congress supporting a new treaty have directly responded to the arguments and concerns of those who are opposing the treaty. Rather, they have been content to let the opposition build in the apparent expectation that once a treaty is negotiated they will be able to make their case effectively.

But time is running out and opposition is building. Meanwhile, Ambassador Ellsworth Bunker and Panamanian Foreign Minister Juan Tack make progress toward a new treaty which may face rejection in the Senate. If that happens, we may find that the Panama Canal has become a tinderbox.

It is long past time to take a hard look at the arguments being advanced against the new treaty and to deal with them forthrightly. Good questions are being asked and they deserve responsive answers.

Will the new treaty mean a surrender of United States sovereignty over the Canal?

The simple answer is that the United States never had sovereignty. The 1903 treaty specifically gave the United States authority

which it would have "if it were sovereign." Obviously, these words would not have been necessary if the United States were, in fact, sovereign. A new treaty which recognizes that fact and goes on from there to work out a mutually agreeable arrangement for control of the territory can hardly be called a surrender of United States sovereignty.

Will a new Panama Canal treaty prejudice our national security?

The fact of the matter is that the greatest danger to the security of the United States would be the continuance of the present status of the canal. If there is not a new treaty, we will be running the grave risk that the canal—which is, of course, exceedingly vulnerable under any circumstances—may be damaged or destroyed by irate Panamanians. By the same token we may find ourselves in the position of having to defend the canal by force against a hostile population and in the face of widespread, if not universal, condemnation. Since the new treaty will specifically include provisions for a continued U.S. defense role with respect to the canal, it is hard to see how a new treaty could be adverse to our national security.

Will a new treaty weaken the United States position by exposing the canal to political instability and violence?

If any course is designed to expose the canal to political instability and violence, it would be an anachronistic effort to maintain in effect a treaty negotiated in 1903 which is no longer respected, which is looked upon by Panamanians of all political persuasions as an affront to Panama's political dignity and as a colonial enclave, and which is viewed throughout Latin America as the last vestige of "big stick" diplomacy. Under the new treaty the United States would be able to protect its position while allowing Panama a greater responsibility in the canal's operation.

Will a new treaty adversely affect U.S. commercial interests?

Admittedly, the canal is important to us commercially, but obviously its economic significance has diminished considerably as world commerce patterns and technologies of shipping have changed. Today large vessels cannot use the canal and a major expansion of the present capacity may be necessary—possibly a sea level canal. If the situation remains as it is, it is hardly likely that Panama would accede to the modernization required. In order to accomplish that, there must be assurance of Panamanian cooperation precisely as called for in the proposed treaty.

In the light of these facts, it certainly requires no extended argument to recognize that efforts on our part to adhere to the 1903 treaty would be both damaging to our national interests and in derogation of our hemispheric objectives. By the same token the new treaty would demonstrably offer the prospect of increased security for the canal and the furtherance of our common goals for the Americas.

ZERO TO \$5 MILLION IN JUST 9 YEARS

Mr. NUNN. Mr. President, earlier this year, I was privileged to participate in a ceremony honoring the Georgia Small Businessman of the Year for 1975. This young man, Joe Kelly McCutchen, Jr., of Dalton is an ardent believer in the free enterprise system.

In a recent issue of Georgia Progress magazine there appeared an article describing how Joe Kelly has put his beliefs into practice, enabling his small family firm to grow to international status with annual sales of over \$5 million.

full-faith bargaining. To the contrary, of course, it encourages management negotiators to withhold concessions and compromises.

In fact, Hearing Examiner Present recommended in 1972 that CAB not approve higher strike payments because they could have the effect of swaying an airline's decision "as to when it should settle a strike, to the detriment of the public utilizing air transportation."

There is other solid proof that MAP encourages and prolongs strikes. In 1958 when MAP was organized, airline strikes lasted an average of 30.7 days. Today airline strikes average 95 days—a soaring increase of more than 200% in the 16 years MAP has been at work. This is a far greater increase in the duration of strikes than in any other major industry.

Thousands of St. Paul residents and businessmen have vivid memories of the 1970 Northwest Airlines strike. Although on strike for 160 days, Northwest enjoyed a net profit of \$44,000,000 for that year. Without MAP payments, Northwest would have lost \$2,000,000.

That story is repeated over and over again with other MAP-affiliated airlines. Over and over again airline strikes were induced and then prolonged unreasonably because of the guaranteed profits. As one witness told the Aviation Subcommittee last week, "Why should management be anxious to settle; they can't lose."

Sometimes in unguarded moments, airline executives admit that they like strikes because they're a source of profit. For example, C. C. Tillinghast, Chairman of Trans World Airlines, told a Honolulu newspaper reporter that the longer a strike by flight attendants continued, the higher TWA's profits would be for 1973. TWA banked \$74,484,000 in MAP assistance payments during that 44-day walkout.

As Reporter Eisele quoted me as telling the Subcommittee, "These facts and figures are enough to convince any reasonable person that MAP is a strike inducing, strike-prolonging and strike-breaking instrument."

Your editorial next makes the point that MAP has been upheld by a U.S. Court of Appeals decision. When Senator Gravel was asked about this during the hearing he replied that it is within living memory that some of the nation's highest courts upheld child labor, the shameful 12-hour day of toll for youngsters 11 and 12 years old in coal mines and textile mills. I also point out that the court ruled on the basis of existing national policy brought about by national law. Obviously since there is no law to the contrary, MAP is not in violation of national policy.

Next the Pioneer Press editorial points an accusatory finger, or so it seems, at the pay scales of pilots and ground crews. When this point was briefly raised at the hearing I made this response: "When I fly I feel confident and comfortable when I know there's a pilot up front getting \$50,000 or more and not \$10,000; I know he has to be the best trained and most skilled in the world. And I feel confident and comfortable when I board a plane that has just come from maintenance knowing that the maintenance men are highly paid and therefore highly skilled."

Does the editorial writer want to analogize between an airline pilot in command of a 747 with responsibility for 400 lives, and a steelworker in a highly automated plant?

Pilots do not buy planes. Aircraft get larger and larger; their equipment becomes more and more intricate and complex. They carry more and more people. Consequently there are greater demands of responsibility, skill, experience and judgment imposed on airline pilots than on any other service employees in the world.

Finally, the editorial notes that "airline unions have their own mutual aid program in the form of strike funds."

This is so ill-informed a comment as to be ludicrous.

First off, there is absolutely no mutual aid pact among the airline unions, nothing paralleling MAP with its \$2,000,000-a-day strike subsidy payments to TWA.

The fact is that some unions pay no strike benefits at all. Some unions that do pay, provide only the barest subsistence funds, \$2 to \$7-a-day, and that hardly puts food on the table. Certainly no one can suggest that is profit making.

Senator Gravel (testifying alongside me at the hearing) astonished some Senators by revealing that "Airline clerks and machinists may—if the union strike fund is full—receive \$15 and \$40 a week respectively. The pilots receive one-fifth of their salary but only after one month of a strike." If it will help any, I would agree that airlines get the same proportion of their normal profit that employees get of theirs.

Those facts stultify any remark that "airline unions have their own mutual aid program in the form of strike funds." While a strikebound airline is enjoying up to 20% guaranteed profits, the striking airline clerk or mechanic is looking for a part-time job, applying for unemployment compensation, or standing in line for food stamps.

Finally let me bring forward one aspect of MAP which the Pioneer Press editorial wisely sidestepped: the damage inflicted by MAP-prolonged strikes on whole communities and regions, especially those served by only one airline.

We know of airports in single-airline communities being almost entirely shut down, disemploying airport personnel, maintenance workers and employees of such airport enterprises as restaurants, rent-a-car agencies, freight-forwarding firms, and bus lines.

We know of factories in such communities having to close down because machinery replacement parts could not be obtained by air-freight. We know of retail stores and wholesalers suffering greatly, reduced business because salesmen and suppliers had to come to the community by car, sometimes from long distances.

Those of us responsible for national policy can't forget those communities, even if editorial writers can. We cannot, for example, forget Fargo, North Dakota, which was so badly injured by the 1972 Northwest Airlines strike that it asked CAB to rescind Northwest's certificate and issue a new one to another airline.

We cannot forget the resolutions of protest against MAP that reached us in Congress last year and this year from communities in Texas, Louisiana and New Mexico because of the needlessly prolonged shutdown by Texas International Airlines, a shutdown that ended earlier this year after 125 days.

An investigation into this strike disclosed that 26 Texas communities served only by TI were severely hurt by the closures, with business failures sharply increased.

We cannot forget that the New Mexico State Legislature, alarmed and worried over the effect of the MAP-supported TI strike on the state's economic health, memorialized us in Congress and asked for a "full Congressional investigation of the Mutual Aid Pact."

Congress is now responding to the appeals from Fargo, North Dakota, from scores of communities in Texas and Louisiana, and from the New Mexico State Legislature.

And ironically while we are doing so, the Pioneer Press editorial tells us that "The move against the mutual aid pact in the Senate seems uncalled for . . ."

We hope that in the interests of fairness and press accountability that you will print the foregoing rebuttal. I often marvel at

how smart so many editorial writers can be, absent of most of the facts.

Among the many reasons I ask it, is the fact that people of St. Paul and our city's business community and air traveling public want to prevent a repetition of the 160-day 1970 Northwest Airlines strike which brought no inconveniences to Northwest executives but large profits into their corporate bank accounts.

Sincerely,

JOSEPH E. KARTH,
Member of Congress.

P.S.—I am satisfied that you did not write the editorial because you never write one absent most of the facts.

THE PANAMA CANAL ZONE TREATY NEGOTIATIONS

Mr. HUMPHREY. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Wyoming (Mr. McGEE), and the material attached thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR MCGEE

The negotiations between the United States and the Republic of Panama over a new Canal Zone Treaty has sparked considerable controversy within the Congress. Much of this controversy has been based upon an outdated emotionalism—an emotionalism which ignores basic factual considerations involved in this issue.

Therefore, I would urge my colleagues to give close attention to a paper written by Robert G. Cox for *The Americas in a Changing World*, which was published just this year. The book was compiled by the Commission on United States-Latin American Relations, whose Chairman is former OAS Ambassador, Sol M. Linowitz. Mr. Cox, who was a consultant to the Commission, sets out the issues involved in the Panama Canal Treaty in a very pragmatic and factual manner. He is to be commended for this invaluable contribution to the debate surrounding the issue of a new treaty with Panama.

As Mr. Cox notes: "Americans have been inclined occasionally to overstate the commercial significance of the Panama Canal . . ."

He points out that only 18 percent of the world's total merchant fleet (4,500 out of 25,000 ships over 1,000 tons) transit the canal each year. In an effort to set our factual house in order, it is interesting to note that the United States ranks tenth in the oceanborne commerce it sends through the canal by weight. Nicaragua ranks first with 76.8 percent of that nation's oceanborne commerce transiting the canal each year. The United States sends only 16.8 percent of its oceanborne commerce through the canal.

How vital is an effective and efficient operation of the canal to the two participants in the treaty negotiations—the U.S. and Panama? As Mr. Cox notes, about 30 percent of Panama's gross national product and 40 percent of its foreign exchange earnings are directly or indirectly attributable to the Canal and related institutions. Yet, the Panama Canal affects less than one percent of our total GNP as a nation.

Mr. Cox notes that:

By volume, less than five percent of the total world trade transits the Panama Canal. By value, the proportions would be little more than one percent; an increasing percentage of more expensive cargo is being transported by air (for example, about 10 percent of the U.S. foreign trade), and most Canal cargo is in bulk commodities.

I found this observation by Mr. Cox quite interesting:

The adjective most frequently applied to the Canal by Americans is 'vital.' In terms of U.S. trade, however, the numbers would justify more modest description. Convenient. Useful. The Canal is economically vital to Panama, perhaps also to Nicaragua and a few other Latin American countries, but not to the United States.

These are just but a few of the observations which Mr. Cox offers which I think are important for Senators to consider at this moment, rather than allowing themselves to be deluded by emotional arguments reminiscent of an earlier era. The military and strategic arguments are also handled in the same factual manner by Mr. Cox and certainly should be studied very carefully by members of the Senate.

However, there is one observation which I believe very relevant to our consideration of a new treaty. This observation was made by Jack Vaughn, former U.S. Ambassador to Panama, former Assistant Secretary of State for Inter-American Affairs, former Director of the Peace Corps and former Ambassador to Colombia.

... 'a Latin American Vietnam.' He finds that through the collaboration of Congressional and military supporters of the Canal Zone, 'Presidents' orders have been reversed, diplomatic maneuvers and decisions brushed aside, and the United Nations told to go to hell.' And he concludes, 'The tinder awaits the spark.'

The report ordered to be printed in the RECORD is as follows:

CHOICES FOR PARTNERSHIP OR BLOODSHED IN PANAMA

(By Robert G. Cox)

On November 2, 1903, at 5:30 in the afternoon, the cruiser U.S.S. *Nashville* arrived at Colon in the Republic of Colombia, its mission to block deployment of Colombian troops. The next day citizens in the Panamanian province revolted and declared their independence. The revolution was bloodless, except for the death of one Chinese bystander. Fifteen days later, the U.S. government and the Republic of Panama entered into a treaty, drafted by a Frenchman and consisting entirely of language convenient to the United States. Still in effect today, the treaty granted the right to build and operate forever an interoceanic canal, and to establish, for that purpose, an American enclave in a strip of land and water nearly half the size of Rhode Island, bisecting the Republic on an axis between its two major population centers. The U.S. consummated that right as fast as logistics and technology would permit.

The position of the United States in world politics for nearly two centuries has rested on hegemony in the Western Hemisphere. The country acquired interests during those 17 days in 1903 which included a responsibility for the emergence of a nation, for the administration of a major territorial possession, and for the management of an international public utility of both commercial and military value.

Focusing on current efforts to negotiate and ratify a new treaty, this paper submits some findings of fact and observations concerning the nature of those interests and the fulfillment of that responsibility.

DESCRIPTION OF THE SUBJECT MATTER

Although U.S.-Panamanian affairs are subject to the full range of complexities found in other binational relationships, the principal subject matter has always been, and will continue to be, the Canal and the Zone. It is too early to predict the contents of the

revised draft treaty but the Canal and the Zone will predominate.

Panama, by the 1903 treaty, granted the U.S. perpetual jurisdiction as if it were sovereign over the Canal Zone "to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority."

The Zone extends 5 miles on each side of the center line of the Canal, and has an area of 553 square miles of which 362 are land. It is larger than the American Virgin Islands, Guam, and American Samoa combined. Population was 44,198 at the 1970 census. About 11,000 U.S. Armed Forces personnel have been stationed in the Zone during recent years.

The Canal Zone Government and the Panama Canal Company are the two principal operating agencies, headed by one officer who serves both as Governor of the Canal Zone and President of the Company. The Governor is appointed by the President of the United States and reports to the Secretary of the Army. As President of the Company he reports to the Board of Directors, appointed by the Secretary of the Army. The Canal Zone Government maintains the civil executive authority. The legislative power resides in the U.S. Congress and the judicial power is exercised by a District Court of the U.S. Federal Court System. The Company operates the Canal, the Panama Railroad, and a ship which sails between New Orleans and the Zone.

Another U.S.-Panama treaty was signed January 25, 1955, increasing the annuity and granting Panama some real estate and buildings no longer needed by the Canal Zone administration. U.S.-citizen and non-citizen employees were guaranteed equality of pay and opportunity. The U.S. also agreed to build a bridge over the Pacific entrance to the Canal. The bridge was opened October 12, 1962 on the Inter-American Highway.

Panamanians have shown little immediate determination—of the kind so prevalent in Egypt 20 years ago with the Suez Canal—to assume the burdens and risks of administering the Canal. Nationalization or purchase of the Canal, assuming either were feasible, might require Panama to contribute some effort to its management and defense, and would imply sharing in the losses as well as profits. In 1973, some officials of the Panamanian government considered the possibility of acquiring the Canal by purchase out of net earnings from increased tolls and services.² This, however, seems not to have received serious attention.

Economic Considerations

Americans have been inclined occasionally to overstate the commercial significance of the Panama Canal, but its value is nonetheless real. Adequate data exists to place it in proper perspective. The recent volume of transits, in number and cargo weight, is as follows.³

Fiscal year:	Total oceangoing transits	Cargo (in million long tons)
1968.....	14,807	106
1969.....	14,602	109
1970.....	14,829	119
1971.....	14,617	121
1972.....	14,238	111
1973.....	14,238	128

The Canal's ultimate capacity is 26,800 transits annually, with certain physical improvements.

Four categories of bulk commodities in

Footnotes at end of article.

fiscal 1973 accounted for most of the transiting cargo.

	Percentage
Petroleum and its products.....	18.2
Grains.....	15.8
Coal and Coke.....	11.1
Ores and metals.....	9.9
	55.0

Since transiting cargo tends to be made up of commodities which are volatile on the world market, traffic forecasting is difficult.

Each year 18 percent of the world's total merchant fleet (4,500 out of 25,000 ships over 1,000 tons) transit the Canal. The size of an average ship transiting the Canal has been increasing over the past ten years.

	P.C. net tons
1964.....	5,910
1969.....	7,658
1973.....	9,100

The countries most dependent on the Panama Canal send the following percentages of the oceanborne commerce through the Canal, by weight:

	Percent
Nicaragua.....	76.8
El Salvador.....	66.4
Ecuador.....	51.4
Peru.....	41.3
Chile.....	34.3
Colombia.....	32.5
Guatemala.....	30.9
Panama.....	29.4
Costa Rica.....	27.2
United States.....	16.8
Mexico.....	16.6
New Zealand.....	15.7

About 30 percent of Panama's gross national product and 40 percent of its foreign exchange earnings are directly or indirectly attributable to the Canal and related installations.

Canal Company tolls, by remaining constant in dollar terms since 1914, have decreased in real terms, and at a precipitous rate, as a result of international monetary readjustments in the 1970s. The result is a growing subsidy to Canal users.

Revenues of the Panama Canal Company were \$200 million in fiscal 1973. Approximately 43 percent of regular receipts came from operations other than Canal tolls. The Company finances its own operations without budgetary support from the U.S. government despite a policy of low toll rates and minimal profits from other operations.

Proportions of the Canal Zone's product derived from various sources in 1970 was as follows:

	Percentage
Canal Company.....	44.7
Zone Government.....	10.2
Military bases and other official agencies.....	39.9
Private enterprise.....	5.2
Total.....	100.0

Of total U.S. foreign trade, by value, the following percentages transited the Canal in the two most recent years for which data is available:

PERCENTAGES	
1971, exports, 12.1; imports, 5.6; total, 8.8.	
1972, exports, 13.0; imports, 5.3; total, 9.0.	
Since foreign trade accounts for less than 10 percent of U.S. gross national product, the Canal affects less than one percent of GNP. By volume, less than 5 percent of the total world trade transits the Panama Canal. By value, the proportion would be little more than one percent; an increasing percentage	

of more expensive cargo is being transported by air (for example, about 10 percent of U.S. foreign trade), and most Canal cargo is in bulk commodities.

COMMENTARY

The adjective most frequently applied to the Canal by Americans is "vital." In terms of U.S. trade, however, the numbers would justify more modest descriptions. Convenient. Useful. The Canal is economically vital to Panama, perhaps also to Nicaragua and a few other Latin American countries, but not to the United States.

One way to analyze the Canal's commercial value is to consider what would happen if it were not there. The figures already provided for U.S. and world trade transiting the Canal—9 percent and 1 percent, respectively—should not be regarded as representing the portion that would be lost if the Canal were inoperative. The decision to send a given shipment through the Canal is frequently a close one, and almost always there are alternative routes or modes of transportation. John Elac* has described the impact of closure of the Canal on total U.S. and world commerce as "inconsequential."

An indicator often cited as proving the Canal's essential worth is: "70 percent of its traffic either originates or terminates in U.S. ports." In the first place, the percentage is a little inflated. It should be 65 percent, but it should then be compared to a totality of 200 percent, not 100 percent, because it refers to both arrivals at and departures from U.S. ports. The indicator, even when placed in that perspective, is spurious because it implies but does not provide an impressive statistical base. Presumably no one believes that if only ten motorboats transited the Canal in 1975, four coming from and three bound for U.S. ports this would reflect some kind of vital U.S. interest.

When we look at U.S. investment in the Canal, it is tempting to include defense costs, as Senator Strom Thurmond does when he says we have committed a total of \$5,695,745,000.¹ But since the Canal is considered a defense asset, we would presumably be spending more than its costs on additional defense if we did not have it. The cost of defending it should be at least off-set by its asset value. Moreover, \$5.7 billion is a small fraction of one percent of U.S. military expenditures during the 60 years of the Canal's operation. Indeed, the entire cost of the Canal might have been lost in the round-off of the defense budget in the fiscal years 1914 to 1973.

As for the \$700 million in actual unrecovered investment, the U.S. government would have had that back by now had it not elected to subsidize the shipping operations of user nations through reductions in real toll charges while demand for transit service was increasing.

MILITARY CONSIDERATIONS

By the turn of the century, the United States had staked out its continental domain, subdued the indigenous peoples, resolved its main internal conflicts, established unquestioned predominance in the Hemisphere, and was ready to become a global power. On April 21, 1898, the nation went to war with Spain, and in three months destroyed the Spanish fleet at Manila, drove the Spaniards from Cuba, conquered the Philippines, took Puerto Rico and Guam. The battleship U.S.S. Oregon made a dramatic 16,000 mile voyage around Cape Horn to participate in the Battle of Santiago de Cuba. During the Spanish-American War, the U.S. annexed Ha-

wai after collaborating in a revolt there. The U.S. then responded to the 1899 Boxer Rebellion in China, by sending two infantry regiments, one troop of cavalry, one battery of light artillery, and two battalions of Marines, commanded by a major general, to join in military operations with the British, French, Japanese and Russians. A transisthmian canal, long regarded as a potential asset to burgeoning U.S. foreign trade, suddenly became a strategic imperative. The Canal has never been interrupted or seriously threatened by hostile action.

FACTS

The Canal remains a prime consideration in the planning for and accomplishment of the safe and timely movement of naval units between the Atlantic and Pacific Oceans. A saving in distance of approximately 8,000 miles is realized by Canal transit (versus rounding Cape Horn), in the deployment of ships from one coast to the other. A time saving of up to 30 days can accrue for slower ships and at least 15 days for fast ships cruising at about 20 knots.

During fiscal 1968, a representative year of the Vietnam conflict, 33 percent of the dry cargo shipped from the continental U.S. by the military sea transport service to South Vietnam, Thailand, and the Philippines, and Guam, transited the Canal. For petroleum, oil, and lubricants the proportion was 29 percent. An unofficial estimate of the proportion of dry cargo used to support U.S. military involvement in Vietnam which transited the Canal is as high as 40 percent.

However, in 1970 there were about 1,300 ships afloat, under construction, or on order which could not enter the Panama Canal locks. There were approximately 1,750 more ships that could not pass through the Canal fully laden because of draft limitations due to seasonal low-water level.

The National Defense Study Group of the Atlantic-Pacific Interoceanic Canal Study Commission specifically noted the "vulnerability of the present canal," and stated the fact that it could be closed by the use of relatively unsophisticated weapons is particularly significant in view of forecasts which anticipate that insurgency and subversion will probably persist in Latin America to the end of the century; interruption for extended periods to Canal service could be achieved with relative ease.²

If Gatun Lake were emptied by simple breach of its dam, for example, the Canal could be out of operation for as long as two years, awaiting sufficient rainfall to refill the lake.

The National Defense Study Group further found that even a sea level canal, though less vulnerable, would face threats of sabotage, clandestine mining, or the attack of shipping by low-performance aircraft or readily transportable weapons. The more traditional forms of attack—blockade, naval, or aerial bombardment, or ultimately attack by missile-delivered nuclear weapons—are unlikely, in the Group's view, because the attacker would be confronted by the total military strength of the United States.³

The Study Group concluded that closure of the Canal for periods of approximately 30 days, provided that they could be anticipated in advance, would not have serious defense implications, but the denial of the Canal to both defense and commercial shipping for two years could have a serious adverse effect on the national defense?

The original purpose of U.S. troops in Panama was to protect the Canal from a foreign aggressor. That is still ostensibly their primary mission. However, the Canal Zone is also a command or coordination center for most U.S. Armed Forces programs and activities in Latin America, including foreign military assistance and training, intelligence, and operational preparedness. The legality of these operations has been questioned. How-

ever, the Zone, as long as it remains relatively secure from renewal of the nationalistic attacks of the 1960s, provides a location of unrivaled excellence for an administrative headquarters, communications center, and training ground.

COMMENTARY

Two military issues concerning the Panama Canal overshadow all others: utility and defensibility.

The Canal's military value during the first half of this century is well established, principally by its contributions to the two World Wars. Regarding the Korean War and the conflict in Southeast Asia, its utility is less certainly established. A former senior officer of the U.S. Budget Bureau Military Division estimates that alternative modes of shipment would have had no adverse effect on the Vietnam War effort and that additional costs would have been negligible.⁴ A ranking State Department expert in Panamanian affairs now terms the Canal "a military asset of declining value."⁵ Nevertheless, a residual utility will remain for some time, largely because of the constraints of U.S. West Coast port facilities, particularly in munitions-handling.

As for the second issue, the Cameron report of the Center for Inter-American Relations puts it succinctly: "The Panama Canal is no longer defensible."⁶ This holds for either a strategic attack or destruction by a determined and resourceful enemy.⁷ The Canal can, of course, be held against some levels of civil disturbance. These informed but independent views do not diverge essentially from the later official judgment of the National Defense Study Group.⁸

As the strategic value and defensibility of the Canal eroded, the Zone has taken on a new military significance. The U.S. bases there form the operational center of American military activity in Latin America. Ambassador Jack Vaughn* thus described the situation last October:

The U.S. military command in Panama is made of two parts: a major general from the Corps of Engineers who governs the Panama Canal Company from Balboa Heights, and a four-star general from the Army (CINCSOUTH) who directs Canal Zone military operations from an underground complex at Quarry Heights. Their overriding common objective is to maintain the status quo, and over the years they have been largely immune to the precepts and changes of U.S. foreign policy.

While the Administration's policy has led to a reduction in all the U.S. military missions assigned to other Latin nations, the Pentagon has maintained its top-heavy command intact in the Zone. (The superabundance of Colonels in the Southern Command has led enlisted men to refer to it as "Southern Comfort.") While the U.S. military in all other Latin nations is under the direct supervision of the U.S. Ambassador, in Panama independent policy control is exercised by the Pentagon. Just when President Nixon was assuring our good neighbors that the U.S. would wear a white hat in the Hemisphere, the Pentagon expanded training of Green Berets in the Zone.⁹

In May 1974, there was some indication in the Pentagon that civilian officials might succeed in abolishing CINCSOUTH as a unified command and reduce the rank of the senior U.S. troop commander in the Zone to major general.¹⁰

POLITICAL CONSIDERATIONS

The history of U.S.-Panama relations has been characterized by (1) Panamanian surprise and mortification over the implemen-

*Dr. John C. Elac is an international economist and a specialist in U.S.-Latin American relations. He was a member of the Board of Directors of the Panama Canal Company and a member of its Committee on Budget and Finance (1967-69).

Footnotes at end of article.

*Jack Hood Vaughn was U.S. Ambassador to Panama (1964-1965); Assistant Secretary of State for Inter-American Affairs (1965-1966); Director of the Peace Corps (1966-1969); Ambassador to Colombia (1969-1970).

tation of the 1903 treaty; (2) increasing Panamanian agitation for revision; (3) an initial dilatory paternalism on the part of the U.S.; and (4) a more recent willingness by the U.S. Executive Branch to relieve Panama's grievances while influential members of the House and Senate demand retention of "personal sovereignty" in the Zone. For the past ten years, off and on, the two countries have been trying to negotiate a way out of the 1903 treaty.

The Canal Zone is an American colony. In the international political context, the word "colony" has two generally accepted definitions: (1) the compact settlement of a group of nationals from one country within the territory of another while the settlers remain loyal to the mother country; and (2) a nonself-governing territory, or a dependency without full self-government, considered by the various governing powers to be a territory under the jurisdiction of the mother country, prevented by social, economic, and political restraints from being fully in charge of its own decisions. The Canal Zone conforms to both of these definitions.

In Panama City, March 21, 1973, the United States vetoed a U.N. Security Council resolution calling on both countries to negotiate a new treaty to "guarantee full respect for Panama's effective sovereignty over all its territory." The U.S. explained its veto, the third in its history, by saying it wanted to negotiate with Panama "without outside pressure." All other Security Council members voted for the resolution except the U.K. which abstained.¹⁴

The multinational forum then shifted to the Organization of American States where hemispheric foreign ministers have, during the past year, expressed unprecedented concern over the Canal Zone issue.

On February 7, 1974, in Panama City, Secretary of State Kissinger and Panamanian Foreign Minister Juan Tack Initialed a statement of eight Principles of Agreement providing that:

Panama will grant the United States the rights and facilities and lands necessary to continue operating and defending the Canal;

The United States will agree to return to Panama jurisdiction over its territory; to recompense Panama fairly for the use of its territory; and to arrange for the participation by Panama, over time, in the Canal's operation and defense;

The new treaty shall not be in perpetuity, but rather for a fixed period, and that the parties will provide for any expansion of Canal capacity in Panama that may eventually be needed.¹⁵

Senator Strom Thurmond on March 29, 1974, introduced Senate Resolution 301 on behalf of himself and 31 other Senators noting, in part, that:

United States diplomatic representatives are presently engaged in negotiations with representatives of the de facto Revolutionary Government of Panama, under a declared purpose to surrender to Panama, now or on some future date, United States sovereign rights and treaty obligations, as defined below, to maintain, operate, protect, and otherwise govern the United States-owned Canal and its protective frame of the Canal Zone; Title to and ownership of the Canal Zone, under the right "in perpetuity" to exercise sovereign control thereof, were invested absolutely in the United States and recognized to have been so vested in certain solemnly ratified treaties by the United States with Great Britain, Panama, and Colombia . . .

United States House of Representatives, on February 2, 1960, adopted H. Con. Res. 459, Eighty-sixth Congress, reaffirming the sovereignty of the United States over the zone territory by the overwhelming vote of three hundred and eighty-two to twelve, thus

demonstrating the firm determination of our people that the United States maintain its indispensable sovereignty and jurisdiction over the Canal and the Zone . . .

And resolving that:

The Government of the United States should maintain and protect its sovereign rights and jurisdiction over the Canal and Zone, and should in no way cede, dilute, forfeit, negotiate, or transfer any of these sovereign rights, power, authority, jurisdiction, territory, or property that are indispensably necessary for the protection and security of the United States and the entire Western Hemisphere . . .¹⁶

Writing in the *New York Times* on May 7, 1974, Senator Thurmond stated that a total of 35 Senators had, with "no great effort" and mostly in a single afternoon, been convinced to co-sponsor the resolution. He added:

In my judgment, the Secretary committed an egregious blunder in committing the United States to a course of action on a new Panama treaty without a reasonable assurance that the requisite two-thirds majority of the Senate supported the abrogation of sovereignty.

In consultations with members of Congress before signing the statement, Mr. Kissinger and his chief negotiator, Ambassador Ellsworth Bunker, were advised that surrender of United States sovereignty in the Canal Zone was not a negotiable item; they apparently chose to ignore this advice.

There is no way in which the Joint Statement of Principles can be reconciled with the Senate resolution.¹⁷

Senator Thurmond and certain members of the House of Representatives contend that the relevant language in the constitution requires that a majority of the House as well as two-thirds of the Senate approve any agreement which cedes land to Panama. The State Department contends it is one of many constitutional grants of power to Congress which is affirmative but not exclusionary, and cites precedents which "in the specific context of Panama, . . . look two ways."¹⁸

The State Department has understood throughout the recent negotiations that no treaty with Panama affecting U.S. jurisdiction will be ratified without the approval or acquiescence of the Joint Chiefs of Staff. The JCS lines to Capitol Hill are time-honored and uncontested. The Chiefs have accepted the eight negotiating Principles of February 7, 1974. It remains to be seen whether they will approve the treaty, if and when it is concluded. Certainly as long as no treaty has been drafted and Senator Thurmond has a blocking third of the Senate aligned against the Principles, the JCS would have no need to take a negative stand, in any case.

In early 1958, a few Panamanian students quietly entered the Zone on the Pacific side and planted small Panamanian flags in pre-designated spot. They called the foray "Operation Sovereignty." The flags were quickly removed by Zone employees. It was the harbinger of other, more serious, demonstrations to follow.

On Independence Day, November 3, 1959, crowds of Panamanians, led by students, tried repeatedly to surge into the Canal Zone and raise their flag. Demonstrators assaulted the U.S. Embassy and Information Service offices in Panama, tore down the Embassy flag, and attacked the American Consulate in Colon. U.S. Army units took up defensive positions on the Zone border. Later that month even larger crowds demonstrated and had to be subdued by American troops.

On April 18, 1961, 500 demonstrators tried to storm the Canal Zone protesting the Bay of Pigs and the role of Zone bases in the invasion of Cuba. In January 1964, rival groups of Panamanian and Canal Zone stu-

dents faced each other at Balboa High School in the Zone over the issue of flying the American flag without the Panamanian flag at the school. The ensuing riots lasted for four days. Sniper fire into the Zone reached 500 rounds an hour at various times. Toll: Four American soldiers and 20 Panamanian civilians killed; over 400 Panamanians and Americans wounded or injured; extensive property damage. From 1964 to 1968 there were riots annually.

On October 11, 1968, the Guardia Nacional seized control of the country after a year of political turmoil. Over the next few months, Colonel (now Brigadier General) Omar Torrijos emerged as the dominant figure in the "revolutionary government."

Treaty negotiations with the U.S. were long underway when Torrijos came to power and were continuing on the third anniversary of the military coup, October 11, 1971. Addressing an anniversary rally of 200,000 Panamanians assembled two blocks from the Zone, Torrijos asked:

"What nation on earth would bear the humiliation of seeing a foreign flag planted in its very heart? What nation would allow a foreign governor on its territory? . . . Our enemies want us to march on the Zone today. When all hope is lost of removing this colonial enclave, Omar Torrijos will come to this same square to tell you: 'Let us advance.' Omar Torrijos will accompany you, and the 6,000 rifles of the Guardia Nacional will be there to defend the integrity and dignity of the people. But today we are not going to the Zone."

The *New York Times* concluded that: General Torrijos cannot turn back without losing face. Violence does not seem imminent, but only a satisfactory agreement will prevent future trouble" . . .¹⁹ And the negotiations continued.

COMMENTARY

The Archbishop of Panama, Marcos McGrath, describes the Canal Zone in these terms:

"... the heartland, the most valuable economic area . . . In Panama today, the growth of her two major cities, Panama on the Pacific and Colon on the Atlantic end of the Canal, is hemmed in by the Canal Zone. Teaming tenements face across the street a fence and open fields or virgin jungles—space unused, space reserved, space denied. Panama City has grown from 200,000 to over 500,000 in the past 15 years. It has had to grow unnaturally along the coast five miles and then cut inland, because of the Canal Zone, creating a clumsy triangle, bottling traffic, and testing the patience of every city planner and in fact of every citizen. Panamanians, to go from one part of their country, in this day and age, still must traverse an area that, though legally it is not, looks like a foreign land: with its own police, courts, post-office, stores, and this across the very waist and heart of the nation."²⁰

Senator Alan Cranston has observed that of the 15,000 workers in the Canal Zone, 4,000 are Americans, and of those, 1,289 work on the Canal while the other 2,700 are employed in schools, movie theaters, bowling alleys, commissaries, gold courses, and a zoo.²¹

The Panamanians, for their part, now have the toughest and most charismatic leader in their history. They proved from 1958 to 1967 that they can be tenacious in the drive to establish national jurisdiction over the Zone. They have also shown that, under Torrijos, they are willing to be patient as long as he remains believable. But history does not permit any national leader total control of his people's destiny, or even his own. The General has four alternatives: he can produce a supportable treaty. He can delay. He can leave office. Or he can attack the Zone. Time is running out on the first two.

Footnotes at end of article.

Futures and interests

The Panama Canal has five alternative futures:

A. *Closure* by hostile action, or by an effective decision that it costs exceed its benefits, or both. There is little evidence that points to such an eventuality, though it is as imaginable today as a seven-year closure of the Suez Canal was 20 years ago.

B. *Internationalization* under the auspices of the United Nations, the Organization of American States, or some other multilateral body. This is a theoretical alternative that continue to be discussed, though it would be far beyond the experience, capacity, and interest of the UN or the OAS. Only a military stalemate between the United States and Panama—inconceivable before the U.S.-Vietnam stalemate, and still most unlikely—could lead to internationalization in the foreseeable future.

C. *Ownership and operation by Panama.* The greatest disservice which the present Canal regime does to Panama is not in withholding benefits, but in withholding the burdens and problems of operating the Canal. Some argue that Panama has been cheated out of its fair share of the benefits. Others contend that Panama was handsomely compensated in 1904 for a strip of mosquito-infested, disease-ridden swamp and jungle, and that the Canal and the Zone constitute an economic windfall which Panamanians could have received only from the Americans. Both arguments have merit. But, by assuming all the burdens of running and protecting the Canal, the United States has denied Panama the experience and the challenge it needs to reach its full maturity as a nation. Panamanians consider their geographic position, which the Canal exploits, to be their principal national resource. Yet, with its management pre-empted by Americans, they are not prepared to assume control of this resource. A new treaty might permit their gradual assumption of operational authority, but Panamanians are neither determined nor able to take full charge in the foreseeable future.

D. *Continued ownership and operation by the U.S. alone.* If the U.S. government decides to hold the Canal and the Zone, it can probably do so for a period of years and perhaps until the Canal's commercial and military asset-value declines to a negligible level. The cost could be high and should be estimated in advance.

E. *Partnership between the United States and Panama.* This alternative is only feasible if the U.S. is genuinely willing to relinquish its exclusive jurisdiction over the Canal Zone. In the words of Ambassador Vaughn, "Intransigence . . . can only inflame the Panamanians, for they now feel grossly abused" by the existence of the American colony.²² If the political, economic, and cultural insulation of the Zone were to disappear, Panama would be drawn inevitably into an evolving operational partnership with the United States in the Canal's support, management, maintenance, defense, and possibly in its further development.

The United States has only three essential objectives relating to the Panama Canal, according to the Atlantic-Pacific Inter-oceanic Canal Study Commission:

1. That is always be available to the world's vessels on an equal basis and at reasonable tolls;
2. That it serve its users efficiently; and
3. That the United States have unimpaired rights to defend the Canal from any threat and to keep it open in any circumstances, peace or war.²³

An American treaty negotiator, authorized to speak for the Executive Branch, subsequently omitted the Study Commission's second objective on efficiency and added:

Footnotes at end of article.

That the United States have the right to expand Canal capacity, either by adding an additional lane of locks to the existing Canal or by building a sea level canal.²⁴

Panama's interests and intentions are Negotiate the Zone out of existence;

Falling that, try to make it too expensive for the U.S. to stay in Panama, recognizing that dollar costs alone may not be very impressive to Americans;

Either way, assume an active role in operating and protecting the Canal.

Problems of Awareness and Attitude

The real content of the Panama-Canal Zone issue may be as much psychological as it is military or commercial. No problem of current international affairs is more encumbered by national pride, convenient misconception, legal abstraction, and ignorance.

Americans have not been perceptive or even consistent about Panama. Theodore Roosevelt could boast one day, "I took Panama," and another day proclaim:

"We have not the slightest intention of establishing an independent colony in the middle of the State of Panama . . . It is our full intention that the rights which we exercise shall be exercised with all proper care for the honor and interest of the people of Panama."

For three generations American democracy has been absent in the Canal Zone, where public officials are not elected, but imposed. Civilian control of the military is inverted: the Governor is a major general, but distinctly junior to the local troop commander. The Zone economy is state socialism, with 95 percent of the productive capacity concentrated in the hands of the government.

The world may well wonder whether the United States knows what it is doing in Panama.

Options and Costs

Given the alternatives governing the future of the Panama Canal and the basic American objectives, there are only two operative choices for U.S. policy: we can pursue our goals in active cooperation with, or in opposition to, the Panamanians. Panama will not participate directly in that decision, but will presumably impose costs for either course.

MAINTAINING THE STATUS QUO

One option is to hold the Canal Zone while we have the capability to fortify and defend it against Panamanians.

Senator Alan Cranston stated in October 1971 that the U.S. Armed Forces had—out of 40,000 officers, men, and dependents in the Zone—only two battalions of Army combat troops and no high performance combat units from the Air Force and Navy.²⁵ But reinforcements are available, and CINCSOUTH presumably learned from its experiences in January of 1964; for example:

That the Guardia Nacional cannot always be relied upon to restrain attacks upon the Zone;

That small arms fire from the Zone into the Republic is not an adequate response even to a few snipers;

That the command had better have its own search-and-destroy capability in any serious future confrontation;

That some of the civilians in the Zone (including 8,000 women and 15,000 children) could become casualties or hostages almost instantly, in the absence of adequate contingency planning, security, fortification, tactical preparedness, and evacuation procedures.

Foreseeable costs of this choice could include the following:

1. Military expenditures and manpower commitments of significant, but not burdensome, levels would have to be made.

2. The United States would have to make the Zone less accessible to unauthorized entry from the Republic and less vulnerable to

amphibious landing, an expensive and exacting task, but not prohibitively so.

3. Despite these defensive measures, some exposure to sabotage, guerrilla attack, or assault by regular military units from the Republic would persist. Such moves, even when easily repulsed, have already involved serious costs even though they have not yet included an act of sabotage or interruption of Canal operations.

4. An overt decision to maintain the status quo in the Zone would undermine the U.S. leadership position in the hemisphere. If it were followed by another bloody episode in or around the Zone, U.S. political leverage would be further diminished and could result in violent responses directed at our enterprises, diplomatic establishments, and citizens throughout the region. The Latin Americans have never before been as united and outspoken in support of Panama's grievances against the United States. An issue that was essentially bilateral in the 1950s has become a matter of legitimate hemispheric concern. Even the United States has acknowledged this by accepting OAS investigation, mediation, and oversight.

5. The world community would condemn U.S. efforts to hold the Zone indefinitely. While most of the countries which use the Canal are interested mainly in efficient operation and reasonable tolls, no civilized nation can be oblivious to a breach of international peace, or the threat of it. This was, in part, the motivation for the Security Council's effort to intervene in 1973.

Most colonial powers that have tried to retain their possessions in the developing world have come to regret it. At a minimum, we should avoid striking a posture that is at once domineering and weak. We should decide in advance, as we regrettably failed to do in Southeast Asia, how many more human lives this real estate is worth to us, and for what period of time. Once the escalation begins it is too late for that kind of analysis.

PARTNERSHIP

Alternatively, the United States could sign and ratify a treaty along the lines of the February 7 Principles. This approach would not rule out Canal defense bases, but it would assume that the U.S. will acknowledge effective Panamanian jurisdiction over the land on which the bases would be located.

Loss of American property would be a direct cost. But the major disadvantage of the partnership option lies in the irretrievable loss of absolute U.S. authority over the enterprise. More specifically:

1. Once we relinquished our position in the Zone, the increasing Panamanian involvement might serve to dilute the operational effectiveness of the Canal.

2. If efficiency declined, world shipping, including our own, would suffer.

3. The United States, having assumed an obligation to the maritime nations and to world commerce, could be criticized for allowing the Canal to deteriorate.

4. Ultimately, the waterway might be closed because of some failure of the Panamanian partners, or the joint management, to perform. While the Canal is no longer a strategic asset against any conceivable enemy, it is still possible that its loss to the United States could in some future national emergency be significant, or even crucial.

In a world of accelerating and violent change accompanied by increasing uncertainty, the United States should not yield military and commercial advantages without careful analysis and commensurate incentive. However, if Americans have a national interest in protecting a distant enterprise that can be marginally useful in their defense and affects less than one percent of their GNP, the Panamanians might have even greater motivation to protect the Canal. It is on their territory, provides almost a

third of their GNP, and constitutes their primary national resource.

ACCOMMODATION WITHOUT A TREATY

Even if the Administration persists in its determination to achieve an accommodation with Panama, its objectives are, for the moment, thwarted by a decisive bloc in the Senate and a potent group in the House, as well. Also, judging by past performance, the JCS is probably capable of producing additional legislative obstacles to any new treaty, if necessary. The Administration knows it could not have obtained ratification of a treaty before the November 1974 elections, which means February or March of 1975 would be the earliest. Much will depend on President Ford and the composition of the new Senate.

Should it become impossible to negotiate a treaty, the Administration—assuming it moves fast and decisively—could head off an immediate confrontation and buy additional time through direct executive action. If the same creative energy that built the Canal Zone were applied to dismantling it, that would probably be sufficient. For example, the Administration could:

1. Drastically reduce the numbers of civilian and military personnel stationed in the Zone.
2. Bring all dependents home, except those of civilian personnel whose permanent employment is critical to the operation of the Canal itself. (This would automatically reduce the visibility of the U.S. government enterprises which Panamanians find most disturbing: golf courses, theaters, commissaries, post exchanges, howling alleys, swimming pools. It would also stimulate the use of privately owned Panamanian commercial and recreational establishments, bringing Americans and Panamanians into more natural contact with each other.)
3. Appoint a civilian Governor of the Canal Zone who speaks Spanish and who is acceptable to Panama, and give him authority over CINCSOUTH, except during a military emergency.
4. Make Spanish a second official language of the Zone for one year, and the only official language thereafter.
5. Require that (a) all U.S. military and civilian personnel study Spanish under Panamanian instructors, and (b) all personnel whose assignment to the Zone is for two years or more attain a working knowledge of the language within one year.

Ambassador Robert Anderson who headed the U.S. negotiating team from 1964 to 1973 acknowledged to his State Department colleagues that he had a recurring "nightmare" of collapsed talks, shattered expectations, exploding emotions, and the Zone under siege. The proposed course of action might avoid that kind of deterioration, provided the Administration maintained credible efforts to conclude a treaty at the earliest date.

Insofar as Panama is concerned, the Commission on United States-Latin American Relations came into being at a fortuitous moment. With the observations outlined here, and the additional evidence which will doubtless be presented by interested parties, the Commission should be able to weigh the alternatives, and reach a sound position on this urgent issue of foreign policy.

Senator Thurmond holds that "there is no way that any treaty can adequately protect and defend our interests in operating the Canal when it has as its basis the abrogation of sovereignty."

Ambassador Vaughn considers Panama "a Latin American Vietnam." He finds that through the collaboration of Congressional and military supporters of the Canal Zone, "Presidents' orders have been reversed, diplomatic maneuvers and decisions brushed aside, and the United Nations told to go to hell." And he concludes, "The tinder awaits the spark."

Neither of these admonitions can be disregarded. Likewise, we ignore at our peril the public commitments of national leaders abroad: indeed, it has been the commonest error of American foreign policy during the past four decades.

FOOTNOTES

¹ Cf. Lyman M. Tondel, Jr. (ed.), *The Panama Canal* (New York: The Association of the Bar of the City of New York, 1965), pp. 42, 43.

² Robert G. Cox, "Questions Concerning the Panama Canal: A Preliminary Opinion" (New York: Transnational Consulting Group, 1973), p. 24.

³ Panama Canal Company, Canal Zone Government, *Annual Reports, 1968-1973* (Balboa Heights).

⁴ Senate Resolution 301, 93rd Congress, 2nd Session, March 29, 1974, p. 3.

⁵ Report of the Atlantic-Pacific Inter-oceanic Canal Study Commission (Washington, 1970), II-11.

⁶ *Ibid.*, II-11.

⁷ *Ibid.*, II-20, 21.

⁸ Interview, May 14, 1974.

⁹ Interview, May 10, 1974.

¹⁰ Cameron, op. cit., p. 4.

¹¹ Canal Study Group, op. cit., pp. II-11, 12.

¹² Jack Hood Vaughn, "A Latin American Vietnam," *The Washington Monthly* (Oct. 1973), pp. 30, 31.

¹³ Interview with Senior Department of Defense Policy Officer, May 10, 1974.

¹⁴ For summary of the State Department position see News Release, op. cit., p. 6.

¹⁵ *Ibid.*, pp. 2, 3.

¹⁶ Senate Resolution, op. cit.

¹⁷ *The New York Times*, May 7, 1974.

¹⁸ Subcommittee on Panama Canal, Hearings, Serial No. 92-30 (Washington, 1972), pp. 13-16.

¹⁹ *The New York Times*, Oct. 12, 1971.

²⁰ "The Canal Question: A Christian View," address before Carnegie Endowment for International Peace, April 16, 1974.

²¹ *The New York Times*, Oct. 19, 1971.

²² Cf. Vaughn, op. cit., p. 32.

²³ Canal Study Commission, op. cit., pp. 8, 9.

²⁴ Hearings, Serial No. 92-30, op. cit., p. 5.

²⁵ *The New York Times*, Oct. 19, 1971.

LESSONS FROM RACIAL HATRED

Mr. MATHIAS. Mr. President, every now and then, some event occurs which is so portentous in nature that our interest and concern become aroused beyond the ordinary level at which we treat daily affairs. Human Kindness Day may well represent one such event.

Washington Post Columnist, William Raspberry, has taken a look at what happened on the Washington Monument grounds two Saturdays ago. His comments, which appeared in the Washington Post's May 19 edition, should be carefully read and reflected upon by all.

One point he made "That what you say to one is heard by all. And some do not always hear it right," struck home with me. It might do well for all public officials, especially those in the metropolitan Washington area to be guided by those words.

In the coming months, each jurisdiction within the National Capital region will be presented with several major decisions affecting the metropolitan area. What is decided by one local government, therefore, will have a bearing on most, if not all of the others. Without question, the issues contained in each decision will be thorny and per-

haps emotional; that is to be expected since public transportation, health care planning, law enforcement, and taxation are all issues which directly touch the lives of every citizen. The manner in which public officials in the metropolitan area respond to and discuss these issues in public forums, however, is equally critical. For what we say, and how we say it, may well influence the attitudes and behavior that neighboring communities will display toward each other.

Will we, out of some misguided sense of parochialism, cavalierly play to a narrow constituency without care for the message we send to our neighbors? Or will be act out of a recognition that the National Capital region is indivisible; that each community's major problems transcend her borders; and that the best long-range interests of all are served when the region as a whole lifts its sights and goals beyond immediate consideration of which community and what group within will achieve some immediate and possibly short-lived gain.

Mr. President, I ask unanimous consent that Mr. William Raspberry's article entitled "Lessons From Racial Hatred" be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

LESSONS FROM RACIAL HATRED

(By William Raspberry)

D.C. Del. Walter Fauntroy was participating in a Human Kindness Day TV post mortem the other day when he said something that has occurred to a lot of us.

It's time to move beyond the particulars of that day, he told a "Nine in the Morning" (WTOP) audience, and to start asking ourselves why our children are so full of race hatred.

It's a fair question, and I'm afraid that part of the answer is that they learned race hatred from us—from black adults, militant and moderate alike, who tried hard to teach one lesson and inadvertently taught another.

What we tried to impart was some understanding of the pervasiveness of racism in America. It was our feeling that it was necessary that our children learn the bitter truth about racism in order that they might learn to deal with it.

Some of them learned the lesson, all right. Others got only a piece of it and concluded that if white racism is bad, then white people must be bad. And anyone who had trouble distinguishing between white racism and white people might be led to suppose that the way to fight the former is by attacking the latter.

The need always was for two forums, one of addressing whites, the other tuned to blacks.

That way we could have taken a phenomenon like the 1960s riots and told white people—quite truthfully, by the way:

This is the result of racism. This the price you pay for the continued denial of opportunity. This is what you get when you permit a selected handful of black people to enter the American mainstream but leave the rest behind in the interest of maintaining white supremacy.

We might have sent the children out of the room while we were delivering that message, recalling them to hear this one:

You see what's happening in the streets? That is the result of frustration spawned by denial of opportunity. But look more closely, and you'll see that while it registers



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To: Mr. Jack Mark

As requested, back-ground information on the Panama Canal.

D. Barnes - CRD
426-6331

The attached information is forwarded in response to your recent inquiry. We hope it meets your needs in this matter.

Please do not hesitate to call on us for further assistance.

Sincerely,

A handwritten signature in cursive script that reads "Norman Beckman".

Norman Beckman
Acting Director



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REPORT ON UNITED STATES
RELATIONS WITH PANAMA

by the

Subcommittee on Inter-American Affairs

of the

Committee on Foreign Affairs
U. S. House of Representatives
Eighty-Sixth Congress
Second Session

pursuant to

H.RES. 113

A Resolution Authorizing the Committee on Foreign Affairs
To Conduct Thorough Studies and Investigations of
All Matters Coming Within the Jurisdiction of Such Committee

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FOREWORD

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, D.C., August 31, 1960.

This report has been submitted to the Committee on Foreign Affairs by the Subcommittee on Inter-American Affairs, comprising Hon. Armistead I. Selden, Jr., chairman, Hon. Barratt O'Hara, Hon. Dante B. Fascell, Hon. Omar Burleson, Hon. Donald L. Jackson, and Hon. Chester E. Merrow.

The conclusions in this report do not necessarily reflect the views of all the membership of the Committee on Foreign Affairs. This report is filed in the hope that it will prove useful to the committee and to the Congress as background data.

THOMAS E. MORGAN, *Chairman.*

III

LETTER OF TRANSMITTAL

AUGUST 31, 1960.

Hon. THOMAS E. MORGAN,
*Chairman, Committee on Foreign Affairs,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: There is transmitted herewith the report of the Subcommittee on Inter-American Affairs on "U.S. Relations With Panama." The historical data contained in this report was prepared under my direction by Rosita Rieck Bennett, analyst in Latin American affairs of the Legislative Reference Service of the Library of Congress. The findings and recommendations are those of the subcommittee and are based not only on the report, but on hearings, discussions, and study conducted by the subcommittee during the present session of Congress.

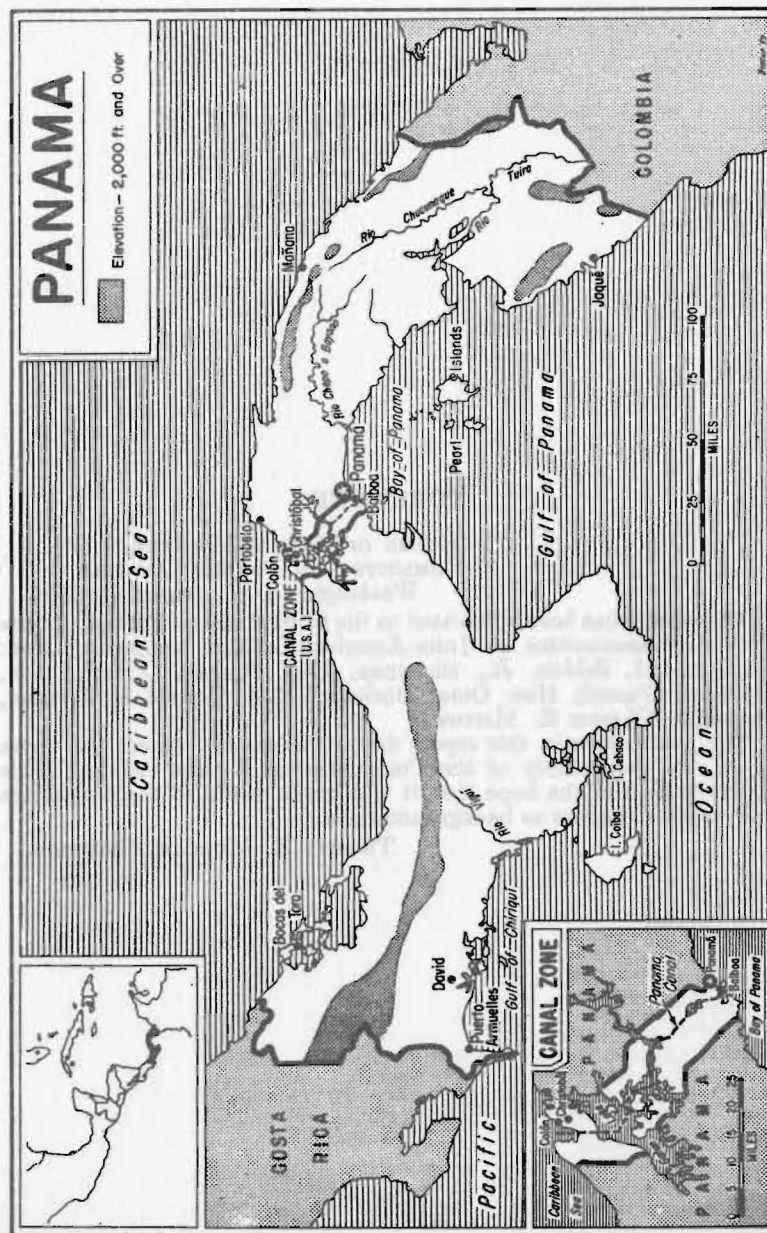
It is hoped that the information contained in this report will be useful to the members of the committee and to the Congress as background information on matters affecting United States-Panama relations.

ARMISTEAD I. SELDEN, Jr.,
Chairman, Subcommittee on Inter-American Affairs.

CONTENTS

	Page
Foreword.....	III
Letter of transmittal.....	V
I. Preface.....	1
II. Background history.....	3
A. U.S. interest in interoceanic canal takes root.....	3
B. Rivalry with Great Britain (Clayton-Bulwer Treaty).....	3
C. U.S. interest dims.....	4
D. New awareness of the strategic value of a canal.....	4
E. The legal obstacle is cleared (Hay-Pauncefote Treaty).....	5
F. The battle for the canal route.....	6
G. Colombia's dilemma.....	6
H. The Hay-Herrán Treaty.....	7
I. Colombian Senate turns down treaty.....	8
J. Panama revolts.....	9
K. Colombia is indemnified.....	9
L. Hay-Bunau-Varilla Treaty.....	10
M. The canal is opened.....	11
N. The Nicaraguan route.....	11
III. Importance of the Panama Canal to the United States.....	12
A. Commercial importance.....	12
B. Strategic importance.....	12
IV. Importance of the Panama Canal to the Republic of Panama.....	13
V. U.S. contributions to Panama's development.....	15
VI. Current points of friction between Panama and the United States.....	16
A. Sovereignty in the Canal Zone.....	16
B. Commissaries.....	22
C. Third-country purchases.....	26
D. Wage and employment opportunities in the zone.....	28
E. The annuity.....	30
VII. Comparison of the legal status of the Suez and Panama Canals.....	32
A. Suez Canal basic agreements.....	32
B. Legal status of the Panama Canal.....	32
VIII. Alternatives to U.S. control.....	33
A. Internationalization of the canal.....	33
B. Organization of American States control.....	35
C. Purchase from Panama.....	36
D. Other suggestions.....	36
IX. Subcommittee findings and recommendations.....	37
Appendix:	
A. Convention for the construction of a Ship Canal, 1903.....	41
B. General Treaty of Friendship and Cooperation between the United States of America and Panama, 1936.....	49
C. Treaty of Mutual Understanding and Cooperation, United States of America and Panama, 1955.....	59
D. Comparison of the rights and obligations of the United States under the terms of the three basic treaties with Panama.....	72
E. Public Law 85-550, July 25, 1958, United States-Panama Wage and Employment Practices Act.....	80
F. Press release on 9-point program for improvement of relations between the United States and Panama, April 19, 1960.....	88

VII



VIII

UNITED STATES-PANAMA RELATIONS

86TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 2218

REPORT ON UNITED STATES RELATIONS WITH PANAMA

AUGUST 31, 1960.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MORGAN, from the Committee on Foreign Affairs, submitted the following

REPORT

[Pursuant to a resolution (H. Res. 113) authorizing the Committee on Foreign Affairs to conduct a full and complete investigation of matters relating to the laws, regulations, directives, and policies including personnel pertaining to the Department of State and such other departments and agencies engaged primarily in the implementation of U.S. foreign policy and the oversea operations, personnel, and facilities of departments and agencies of the United States which participate in the development and execution of such policy]

I. PREFACE

The Panama Canal, built and operated by the United States, slices the Republic of Panama in half. Relations between the United States and Panama are thus unique and intimate.

From the outset of Panama's independence and the construction of the canal (which practically coincide), the two nations have held varying views regarding the canal. The Republic of Panama has regarded the canal as a source of revenue. The U.S. objective has been the efficient operation of the waterway for international commerce at reasonable rates and for defense purposes.

Even without this basic difference in viewpoint, it is probably inevitable that the operation of so vast an enterprise side by side with a small, poor country should give rise to misunderstandings and irritations on both sides. Throughout the last 57 years accommodations have been made to alleviate grievances and to adjust to new circumstances.

In recent years several international developments have complicated the delicate task of maintaining harmonious relations on the isthmus. As elsewhere in underdeveloped regions, Panama is swept by nationalism and by outcries for an end to subhuman living conditions. The canal presents at once the illusion of a cornucopia from which could pour forth an avalanche of funds for development purposes

and an inviting target for nationalist outbursts. Meanwhile, international communism plays on Panamanian nationalism and frustrations to subvert inter-American relations. The Egyptian seizure of the Suez Canal and the rise of Castroism in Cuba also exacerbate Panamanian problems.

During the congressional recess in the autumn of 1959 a number of disquieting events occurred on the Isthmus of Panama. On November 3, 1959, Panama's independence day, mobs led by rabble rousers gathered along the border of the Canal Zone intent upon planting the Panamanian flag within the zone. With Panamanian National Guardsmen conspicuously absent from the scene, the Governor of the Canal Zone was forced to call for U.S. Armed Forces to help quell the ensuing violence. In the Republic of Panama on the same day rioters lowered the American flag at the U.S. chancery and tore it to shreds. They also shattered windows at the chancery and the U.S. Information Agency building.

On November 28, the anniversary of Panama's break with Spain, mobs again tried to gain entry to the Canal Zone. This time they were dispersed by Panama Guardsmen working alongside U.S. troops, but not before at least 30 persons were injured. During this second attempt to forcibly enter the Canal Zone, the presence of Cuban agitators urging on the crowd was noted. After 3 hours of rioting at the zone border, the mobs turned to looting and destroying property several blocks away in downtown Panama City.

When Congress reconvened in January, the Committee on Foreign Affairs learned that the Department of State had under consideration a request from the Republic of Panama (dated November 25, 1959) that the Panamanian flag be flown in the Canal Zone. When it appeared likely that permission might be granted, the chairman of the Subcommittee on Inter-American Affairs (Mr. Selden) requested the Secretary of State to delay a decision until after the subcommittee had an opportunity to study the matter.

Subsequently, the subcommittee held eight meetings on the subject, during which testimony was received from Members of Congress, representatives of the Departments of State and Defense, and private citizens.¹

Out of these meetings grew a conviction that to accede to the Panamanian request, after more than half a century in which only the U.S. flag has been raised in the zone, would constitute a major departure from established policy. In the subcommittee's judgment, such a basic change in treaty interpretation should not be accomplished through executive fiat.

Accordingly, on January 19, 1960, the subcommittee unanimously agreed to the following resolution (H. Con. Res. 459):

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that any variation in the traditional interpretation of the treaties of 1903, 1936, and 1955 between the United States and the Republic of Panama, with special reference to matters concerning territorial sovereignty, shall be made only pursuant to treaty.

¹ See: "United States Relations with Panama," hearings before the Subcommittee on Inter-American Affairs of the Committee on Foreign Affairs, House of Representatives, 86th Cong., 2d sess.

UNITED STATES-PANAMA RELATIONS

The full Committee on Foreign Affairs reported the resolution favorably on January 21, 1960. On February 2 the House of Representatives voted 381 to 12 in support of the resolution.

As a result of its deliberations regarding the issue of the flag, the subcommittee felt a growing concern over the apparent deterioration in U.S. relations with the Republic of Panama. In consequence, the subcommittee undertook to prepare a background study of United States-Panamanian relations. It is hoped that this report can help to clarify the frequently complex issues involved and provide a basis for evaluating current problems and proposed solutions.

II. BACKGROUND HISTORY

A. U.S. INTEREST IN INTEROCEANIC CANAL TAKES ROOT

For centuries the Isthmus of Panama astride the Atlantic and Pacific Oceans has been a crossroads of international passenger and cargo routes. During the colonial period Spanish galleons called regularly to pick up treasures extracted from Spain's colonies on the western coast of South America. Spain's decision in 1814 to build a canal across the isthmus came to nothing since it coincided with the collapse of that nation's imperial power.

Early U.S. interest in an interoceanic highway appears to have been primarily commercial. In 1826 Secretary of State Hay proposed a joint enterprise to the newly independent South American nations meeting at the Congress of Panama, saying:

What is to redound to the advantage of all America should be effected by common means and united exertions, and should not be left to the separate and unassisted efforts of any one power. * * * The benefits of it ought not to be exclusively appropriated to any one nation * * *²

A Senate resolution in 1835 and a House resolution in 1839 urged the President to negotiate with other nations for the construction of a canal and for securing free and equal right to navigation to all nations. Toward mid-19th century the discovery of gold in California, western migration, and the country's growing economy which sought raw materials and markets gave impetus to the idea of an isthmian canal.

In 1846 the United States assured its right of passage across the Isthmus of Panama in a treaty with New Granada (Colombia). The pact guaranteed to the United States "the right of way or transit across the Isthmus of Panama upon any modes of communication that now exist or that may be hereafter constructed." In return the United States guaranteed the neutrality of the isthmus and the rights of sovereignty and property which New Granada possessed over the territory.

B. RIVALRY WITH GREAT BRITAIN

In the meantime, Britain entered into an intense rivalry with the United States over control of the other feasible canal route, through Nicaragua. While the United States engaged in war with Mexico

² Norman J. Padelford, "The Panama Canal in Peace and War." The Macmillan Co., New York, 1942, p. 4.

UNITED STATES-PANAMA RELATIONS

over Texas, Britain proceeded to extend its hegemony in Nicaragua to prevent the United States from gaining exclusive rights over both canal routes.

The two powers checkmated each other in the Clayton-Bulwer Treaty of 1850. By that treaty they pledged never to obtain or maintain exclusive control over a ship canal, or to fortify it, or to assume or exercise dominion over any territory in Central America through which a canal might pass. The Clayton-Bulwer Treaty, while it did limit the United States from obtaining exclusive control over a possible canal, forced Great Britain to relinquish the territorial control which it in fact possessed in 1850 over the Nicaraguan route.

C. U.S. INTEREST DIMS

The same year as the Clayton-Bulwer Treaty, private American interests began the construction of a transisthmian railroad. The railroad was completed in 1855. In ensuing years during periods of insurgent movements on the isthmus against the Colombian Government, on request of or with the consent of the Colombian Government, the United States landed troops to keep transit open.

Following the opening of railroad transportation across the isthmus, U.S. interest in a waterway subsided. The joining of the Union Pacific and Central Pacific Railroads in 1869, linking the Atlantic and Pacific Oceans across continental United States, further dulled interest in an interoceanic canal.

D. NEW AWARENESS OF THE STRATEGIC VALUE OF CANAL

In 1878 a new consideration quickened U.S. interest in a Western Hemisphere canal. In that year a French company, which included Ferdinand de Lesseps of Suez fame, procured a concession from Colombia to build a navigable waterway across the isthmus. Despite the fact that the French company pledged that the canal should "always be kept free from political influence," Secretary of State Evarts protested:

Our Pacific coast is so situated that, with our railroad connections, time (in case of war) would always be allowed to prepare for its defense. But with a canal through the isthmus the same advantage would be given to a hostile fleet which would be given to friendly commerce; its line of operations and the time in which warlike demonstration could be made, would be enormously shortened. All the treaties of neutrality in the world might fail to be a safeguard in a time of great conflict.³

In 1881 President Arthur tried to extricate the United States from the limitations imposed by the Clayton-Bulwer Treaty (see above), but Great Britain refused to negotiate a revision. Meanwhile, the French company went ahead.

At the height of French operations in 1887, a group of American capitalists began a rival project through Nicaragua. In 1889 Con-

³ Evarts to Dickman (Minister to Colombia), dated Apr. 19, 1880. In J. B. Moore, "Digest of International Law." GPO, Washington, 1906, vol. III, p. 14.

UNITED STATES-PANAMA RELATIONS

gress incorporated that enterprise as the Maritime Canal Company of Nicaragua.

That same year the French enterprise collapsed, defeated by graft, corruption, and a series of tropical diseases that felled 20,000 in a total labor force which averaged only 10,000 a year. Some \$260 million had been disbursed in the undertaking. According to American engineers, only \$40 million of this was expended for concessions and work on the canal, the rest being graft.⁴

Three years later the Maritime Canal Company of Nicaragua also went bankrupt, having exhausted its paid-in capital of \$6 million after laying several miles of railroad track and making a small start on excavation. But for its misfortune that the need for new financing arose at the same time as the panic of 1893, the company might have been able to raise enough capital to keep the venture going.⁵

World events toward the close of the 19th century heightened American awareness of the strategic value of a canal under U.S. auspices. The 90-day race of the U.S. cruiser *Oregon* around the tip of South America from the Pacific to the Atlantic battlefield during the Spanish-American War in 1898 dramatized the military advantage of an interoceanic canal. Moreover, the United States emerged from the war as a naval power, with Pacific possessions.

President McKinley in his message to Congress in 1898 stated the new conviction:

That the construction of such a maritime highway is now more than ever indispensable to that intimate and ready intercommunication between our eastern and western seaboards demanded by the annexation of the Hawaiian Islands and the prospective expansion of our influence and commerce in the Pacific, and that our national policy now more imperatively than ever calls for its control by this Government, are propositions which I doubt not the Congress will duly appreciate and wisely act upon.⁶

E. THE LEGAL OBSTACLE IS CLEARED (HAY-PAUNCEFOTE TREATY)

The crescendo of opinion in the United States favoring construction of a canal under the exclusive jurisdiction of the United States led Secretary of State Olney to approach the British again in 1896 about removing the obstacle imposed by the Clayton-Bulwer Treaty. At first reluctant, Britain, involved in the Boer War in Africa and faced with unfriendly nations in Europe, decided to acquiesce.

The resulting Treaty To Facilitate the Construction of a Ship Canal (Hay-Pauncefote Treaty) of 1901 abrogated the limitations imposed by the prior agreement and provided that a ship canal may "be constructed under the auspices of the Government of the United States, directly or indirectly," and that the United States "shall have and enjoy all the rights incident to such construction, as well as the exclusive right of providing for the regulation and management of the canal."

⁴ Hugh Gordon Miller, "The Isthmian Highway." New York, the Macmillan Co., 1929, p. 10.

⁵ Dwight Carroll Miner, "The Fight for the Panama Route." New York, Columbia University Press, 1940, p. 23.

⁶ Quoted in Padelford, *op. cit.*, p. 18.

UNITED STATES-PANAMA RELATIONS

F. THE BATTLE FOR THE CANAL ROUTE

The question of where to build a canal became a hotly contested issue. Colombians and Nicaraguans hoped the canal would open their countries to prosperous international commerce. Public sentiment in the United States overwhelmingly favored the Nicaraguan route. In the popular view, Panama was associated with the French company while Nicaragua was viewed as a "national project." The New Panama Canal Co., organized in 1894 for the purpose of selling the assets of the French venture to the highest bidder, engaged in powerful and sometimes devious lobbying activities to convince U.S. legislators and the public to buy up their investment.

The Walker Commission was appointed in 1897 to study the canal situation. Although many of its technical conclusions were favorable to Panama, it recommended in 1899 the Nicaraguan route as the most feasible because of the unwillingness of the French interests to state definite terms of sale.

Enthusiasts for the Panama route reaped their first success with the passage of a law in 1899 which directed the President to name a commission to examine *all* practical routes, thus hamstringing the passage of Nicaraguan canal bills then pending in Congress.

As the battle waged over which route, the Department of State in 1900 prepared for any eventuality by signing protocols with Costa Rica and Nicaragua by which they agreed to negotiate treaties with the United States for a canal when the President was authorized by Congress to acquire a route through their territories.

Colombia, alarmed at the prospect of not being selected as the site for the international waterway, dispatched a minister to Washington to negotiate a treaty with the United States.

The Walker Commission, in its final report in November of 1901, again recommended the Nicaraguan route. The New Panama Canal Co., fearful that the patience of Congress might be exhausted, in January of 1902 wired an offer to sell its property for \$40 million, the amount which the Walker Commission deemed appropriate. Two weeks later, the Walker Commission issued a supplementary report recommending the Panama route due to the changed circumstances.

In the interim, the House of Representatives had voted the Nicaragua route (Hepburn bill) by the crushing majority of 309 to 2. Sentiment in the Senate favored Panama. A compromise was worked out (Spooner Act) by which the President was authorized to acquire the assets of the New Panama Canal Co. for \$40 million, a strip of land from Colombia not less than 6 miles in width in which to construct and operate the canal, and additional territory and rights which in his judgment would facilitate the general purposes; if these terms could not be fulfilled within a reasonable time, the President was directed to proceed with steps to build the Nicaragua canal. Congress enacted the Spooner Act on June 2, 1902.

G. COLOMBIA'S DILEMMA

While the battle of the routes went on in Washington, Colombia was in the midst of civil war. The Government was beset by administrative disorganization and a desperate financial situation. With the country in a state of siege, the executive ruled by decree.

UNITED STATES-PANAMA RELATIONS

The Colombian Government sorely wished to postpone definitive consideration of the canal problem until the country could be pacified and Congress reconvened. But bills pending in the U.S. Congress authorizing construction in Nicaragua pressed the Colombians into foregoing further delay.

Colombians seem to have desired very much the canal with its accompanying economic benefits which could help the recovery of their war-torn country and bankrupt treasury. Moreover, in the background hovered the threat that Colombia might forfeit not only the canal but the isthmus itself should treaty negotiations with the United States fail. Carlos Martínez Silva, Colombia's negotiator in the United States in 1901, wrote in that vein to José Manuel Marroquín, Vice President and head of the Colombian Government during the period of civil disorders:

* * * the Panamanians of position and financial resources will never willingly submit to the opening of the canal in any other place than at the isthmus. They understand very well that the adoption of the Nicaragua route will be the moral and material ruin of Panama; and this sacrifice, which will have no compensations, may very well prove superior to the concept of a platonic patriotism.⁷

During the negotiations with the United States, Marroquín's administration was so harassed by domestic crisis that Colombia's ministers in Washington frequently went ahead on their own initiative under pressure of events. Marroquín stated his dilemma in a letter dated July 26, 1902:

Concerning the canal question, I find myself in a horrible perplexity; in order that the North Americans may complete the work by virtue of a convention with the Government of Colombia, it is necessary to make concessions of territory, of sovereignty, and of jurisdiction, which the executive power has not the power of yielding * * *.

History will say of me that I ruined the isthmus and all Colombia, by not permitting the opening of the Panama Canal, or that I permitted it to be done, scandalously injuring the rights of my country.⁸

Marroquín reiterated officially on a number of occasions that any canal agreement was subject to ratification by the Colombian Congress.

H. THE HAY-HERRÁN TREATY

The draft agreement, as finally worked out by Secretary of State Hay and Colombia's current negotiator, Tomás Herrán, included the following principal terms: Granted the United States a 100-year lease, renewable at the sole option of the United States, on a zone of land 10 kilometers wide across the isthmus for an initial payment of \$10 million and an annuity of \$250,000 (arts. II and XXV); granted the United States exclusive right to construct, maintain, operate, and protect the canal (art. II); authorized the New Panama Canal Company to sell its rights and properties to the United States (art. I);

⁷ Miter, op. cit., p. 217.
⁸ Ibid., p. 233.

UNITED STATES-PANAMA RELATIONS

recognized Colombia's sovereignty over the canal zone (art. IV): established three types of judicial tribunals—Colombian, United States, and joint (art. XIII); charged Colombia with the defense of the canal and railroad, except "under exceptional circumstances" when—

the Government of the United States is authorized to act in the interest of their protection, without the necessity of obtaining consent beforehand of the Government of Colombia (art. XXIII).

In November 1902 civil war in Colombia ended. President Theodore Roosevelt became impatient with further delay regarding the canal. On January 21, 1903, Secretary of State Hay delivered the following ultimatum to Minister Herrán:

I am commanded by the President to inform you that the reasonable time provided in the statute for the conclusion of the negotiations with Colombia for the excavation of an isthmian canal has expired, and he has authorized me to sign the treaty of which I had the honor to give you a draft, with the modification that the sum of \$100,000, fixed therein as the annual payment, be increased to \$250,000. I am not authorized to consider or discuss any other change.⁹

The following day the treaty was signed in Washington. The U.S. Senate approved it on March 17, 1903.

I. COLOMBIAN SENATE TURNS DOWN TREATY

In March 1903 congressional elections were held in Colombia. In May, Marroquín called a special session of congress for June 20.

During the 5 months between the time the treaty was signed and the Colombian Senate convened, Colombian newspapers carried numerous articles regarding the treaty by the foremost legal minds in a country renowned for its legal talent. Four major objections emerged in these polemics: the loss of sovereignty involved; the doubtful constitutionality of the grant of perpetual jurisdiction to a foreign power; dissatisfaction with the financial compensation; and mistrust of imperialism. Colombian public opinion became aware of the vast distinction between granting a canal concession to a foreign private concern and leasing a strip of territory in perpetuity to a foreign government.

In the debate in the Colombian Senate, the Foreign Minister pointed out that the United States was the only agency willing and able to undertake the gigantic task of uniting the oceans and that the U.S. Government had been most explicit in insisting that it would not assume the cost and responsibility without control over the zone.¹⁰ In his judgment, the only alternative to rejecting the Hay-Herrán treaty was no canal.

On August 12, the Colombian Senate unanimously rejected the convention. The legislature took no further action before its adjournment on October 31, 1903.

⁹ Ibid., p. 195.
¹⁰ Ibid., p. 323.

UNITED STATES-PANAMA RELATIONS

J. PANAMA REVOLTS

Panamanians had never felt a strong attachment for the rest of the country. Isolated from the capital and centers of population by soaring mountains, the Isthmus of Panama had been left largely to its own resources. In the preceding three-quarters of a century since independence from Spain, Panamanian discontent had erupted on a number of occasions into attempts to establish an independent state.

Isthmian delegates to the special session of Congress were outspoken in warning that failure to ratify the treaty would mean rebellion on the isthmus.¹¹

While the Colombian Senate debated, prominent Panamanians met to plot a course of action should the treaty be rejected. The conspirators were aided and abetted by agents of the New Panama Canal Company who were intent on securing the promised \$40 million from the United States.

President Roosevelt and Secretary of State Hay knew that a revolt was imminent. Roosevelt, convinced that the Colombian Government was thwarting an enterprise of "universal utility" for "collective humanity" out of pure greed, welcomed the move. Assurances were conveyed to the conspirators that the United States would send war vessels "to protect life and property" on the isthmus.¹²

When Panamanians raised the standard of independence on November 3, 1903, the railroad was closed to Colombian troop movements and naval forces from the United States were on hand to prevent more Colombian troops from landing. The coup was accomplished with only one casualty, an innocent Chinese who was killed during a brief bombardment.¹³

The United States recognized the Republic of Panama on November 6.

K. COLOMBIA IS INDEMNIFIED

Under the Wilson administration an attempt was made toward repairing the damaged relations with Colombia which resulted from the isthmian affair. By the terms of the Thompson-Urrutia convention, signed in April 1914, the U.S. Government expressed—

sincere regret that anything should have occurred to interrupt or to mar the relations of cordial friendship that had so long subsisted between the two nations.

Colombia agreed to recognize the Republic of Panama in return for an indemnity of \$25 million and special transportation privileges. The Colombian Senate promptly ratified the treaty. The U.S. Senate failed to act, mainly because of spirited denunciations of the agreement by former President Roosevelt whose conduct the treaty obliquely indicted.

In 1921, after Roosevelt's death, the U.S. Senate ratified an amended form of the treaty which retained the indemnity but omitted the apology. The following year Colombia accepted the compromise and the Panamanian incident was closed.

¹¹ Padelford, *op. cit.*, p. 12.

¹² Miner, *op. cit.*, p. 369-370, 387-388.

¹³ *Ibid.*

UNITED STATES-PANAMA RELATIONS

L. HAY-BUNAU-VARILLA TREATY

A treaty with the newly independent Republic of Panama was negotiated in Washington by Secretary Hay and Philippe Bunau-Varilla, former chief engineer of the French company. Bunau-Varilla had insisted on his appointment as diplomatic agent in exchange for his services to the Panamanian conspirators. The provisional government of Panama also appointed two Panamanian ministers to conduct negotiations with the United States. A letter of instructions which they carried to Bunau-Varilla read:

You will have to adjust a treaty for the canal construction by the United States. But all the clauses of this treaty will be discussed previously with the delegates of the junta, MM. Amador and Boyd. And you will proceed in everything strictly in accord with them * * *¹⁴

On November 18, 1903, before Messrs. Amador and Boyd arrived in Washington, Bunau-Varilla and Secretary Hay signed the convention for the construction of a ship canal to connect the waters of the Atlantic and Pacific Oceans. The treaty was ratified by the provisional government of Panama on December 2, 1903.

Terms of the Hay-Bunau-Varilla pact were substantially the same as those of the rejected Hay-Herrán agreement. One change enlarged the area: the United States was empowered to construct a canal through a zone 10 miles in width (as compared with 6 miles in the earlier treaty). Panama agreed that the United States should have the right at all times to use its armed forces in defense of the canal and its auxiliary works. The most significant modification occurs in article III:

The Republic of Panama grants to the United States all the rights, power, and authority within the zone mentioned and described in article II of this agreement and within the limits of all auxiliary lands and waters mentioned and described in said article II which the United States would possess and exercise if it were the sovereign of the territory within which such lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority.

Secretary Hay, fearing that opponents of the Roosevelt administration in the Senate might introduce amendments to the treaty and thus afford Panama an excuse to do likewise, wrote as follows to Senator Spooner on January 20, 1904:

As it stands now as soon as the Senate votes we shall have a treaty in the main very satisfactory, vastly advantageous to the United States, and we must confess, with what face we can muster, not so advantageous to Panama. If we amend the treaty and send it back there some time next month, the period of enthusiastic unanimity, which, as I said to Cullom, comes only once in the life of a revolution, will have passed away, and they will have entered on the new field of politics and dispute. You and I know too well how many points there are in this treaty to which a Panaman patriot could object.

¹⁴ Miner, *op. cit.*, p. 375.

UNITED STATES-PANAMA RELATIONS

If it is again submitted to their consideration they will attempt to amend it in many places, no man can say with what result, then they will feel that we had passed definitely upon the main subject; that the treaty was safe; that their independence was achieved, and that now it was time for them to look out for a better bargain than they were able to make at first.¹⁵

The U.S. Senate consented to the treaty without amendment on February 23, 1904. It was proclaimed by President Roosevelt 3 days later.

M. THE CANAL IS OPENED

The engineering and medical conquests which made possible construction of the Panama Canal in the midst of once pestilential tropical jungle are a matter of great pride to all those who participated and to millions of Americans who have come to admire their courage and abilities.

The canal was opened to navigation in August 1914. However, a slide in October of that year delayed formal completion and opening to regular traffic until July 1920. Total cost of construction amounted to \$366,650,000.

N. THE NICARAGUAN ROUTE

Although advocates of the Nicaragua route were defeated by the selection of Panama as the canal site, the possibility of a canal through Nicaraguan territory has not been abandoned.

In 1914 the United States signed a convention with Nicaragua (Bryan-Chamorro Treaty) which conferred upon the United States exclusive rights to construct, operate, maintain and defend an inter-oceanic canal by a Nicaraguan route in exchange for \$3 million.

The Bryan-Chamorro Treaty was ratified by the U.S. Senate in 1916, more with the objective of preventing the construction of another canal than for the purpose of building one.¹⁶ In the ensuing years, however, as increased commercial traffic has taxed the facilities of the Panama Canal and modern military developments have cast doubt on the ability to defend it, the idea of a Nicaragua canal has occasionally been revived.

The feasibility of constructing a canal in Nicaragua was explored recently by the Board of Consultants contracted by the Committee on Merchant Marine and Fisheries. In its report issued on June 23, 1960, the Board of Consultants recommended against a Nicaraguan canal.¹⁷ The Board based its conclusions on engineering and fiscal grounds. The construction of the sea-level canal in Nicaragua was eliminated completely from the Board's considerations because of excessive cost and because it would involve drainage of Lake Nicaragua or Lake Managua which would seriously affect the economy of the country.¹⁸ The Board estimated the cost to construct a Nicaraguan lock-canal at over \$4 billion.¹⁹

¹⁵ *Ibid.*, p. 375.

¹⁶ J. Fred Ripply, *Globe and Hemisphere*, Chicago, Henry Regnery Co., 1958, p. 109.

¹⁷ U.S. Cong., 86th, 2d sess., "Report on a Long-Range Program for Isthmian Canal Transits," H. Rept. No. 1960, Washington, GPO, June 23, 1960, p. 7, 32.

¹⁸ *Ibid.*, p. 32.

¹⁹ *Ibid.*

UNITED STATES-PANAMA RELATIONS

III. IMPORTANCE OF THE PANAMA CANAL TO THE UNITED STATES

A. COMMERCIAL IMPORTANCE

Approximately 70 percent of the total commercial cargo which transited the Panama Canal in fiscal year 1959 originated in or was destined for U.S. ports.²⁰ Thus, financial savings in both intercoastal and foreign trade because of the Panama shortcut represent reduced costs to U.S. consumers.

The canal itself is not regarded in the United States as a source of revenue. The Panama Canal Company is required by law to be self-sustaining, not a profitable enterprise. Gross receipts from the Panama Canal Company amounted to over \$87 million in fiscal year 1959. Net revenue, however, was under \$3 million.²¹ Furthermore, this amount would be cut in half if the full \$1.93 million annuity to Panama were assessed against the company, instead of \$1.5 million being paid from appropriated funds.

B. STRATEGIC IMPORTANCE OF THE CANAL

The Panama Canal has proved to be an invaluable asset to the United States and its allies in time of crisis. During World War I the canal served as a supply line to fighting forces in Europe. During World War II more than 5,300 combat vessels and about 8,500 other craft transporting troops and military cargo transited the canal, with incalculable savings to the Allied nations in terms of time, money and lives. The strategic value of the shortened canal route was again demonstrated during the Korean conflict. In fiscal year 1953, the last full year of the Korean conflict, 1,064 U.S. Government vessels transited the canal carrying supplies and war materials to the United Nations forces in the Far East.

In peacetime, too, the Panama Canal plays an important role in national welfare and defense. The strength of the United States, which rests in large measure upon the nation's economic well-being, depends in turn upon the availability of vital raw materials for transportation and industry. Moreover, when the Suez Canal was suddenly closed to traffic several years ago, effective operation of the Panama Canal did much to prevent serious disruption of the economies and defense capabilities of the nations of the free world.

It is argued in some quarters that modern technological developments have substantially depreciated the canal's strategic significance. It is pointed out that the canal is increasingly vulnerable to sabotage and long-range missiles; that the growth of continental means of transportation, such as high-speed highways, air transport, and continental pipelines for transporting oil, greatly diminish dependence on the canal; and that major U.S. aircraft carriers are now too big to pass through it.

Adm. James S. Russell, Vice Chief of Naval Operations, in testimony before the Subcommittee on Inter-American Affairs, stated the Department of the Navy's continuing conviction of the strategic importance of the canal.²² According to Admiral Russell:

²⁰ Panama Canal Company, Annual Report, fiscal year ended June 30, 1959, p. 10.

²¹ *Ibid.*, p. 48.

²² U.S. Cong., 86th, 2d sess., House of Representatives, Committee on Foreign Affairs, United States, Relations with Panama, hearings before the Subcommittee on Inter-American Affairs, Feb. 2, 1960, pp. 91-107.

Militarily, the greatest threat to commerce on the sea in time of war is the submarine fleet of Soviet Russia, which today has a peacetime strength about equal to Hitler's maximum number of operational submarines at the height of World War II. To reinforce the Pacific antisubmarine forces off the California coast with a squadron of destroyers from the vicinity of the Virginia Capes would entail 21 days steaming via the straits, versus 8 days via the canal.²³

* * * * *

As the range of ballistic missiles increases, as the power of their nuclear explosives gets greater, and, importantly, as the precision of their guidance delivers them with increasing accuracy against their targets, military forces must look more and more to dispersion, mobility, and concealability as an answer to the problem of surviving attack. Thus the vast oceans will have an ever-increasing importance as areas for dispersion, maneuver, and concealment * * *. The *Polaris* submarine, as also the other types of nuclear submarines, can transit the Panama Canal.²⁴

Admiral Russell further pointed out that the United States is allied with 42 nations of the free world in mutual defense agreements and that we are principally an oceanic confederation. Accordingly, he argued:

When one realizes that it is 8,000 miles, and weeks of sailing time farther around Cape Horn than across the Central American Isthmus, it can be seen that the Panama Canal means much to us in terms of getting our own fighting forces, as well as material aid, quickly to a beleaguered ally.²⁵

Admiral Russell granted the vulnerability of the canal.²⁶ But he added:

I would say that the Panama Canal has great value to us in a limited war, and in a general war, if it is not destroyed, would be very useful to us. In all-out war there would be a lot of destruction probably early in the war. Whether the canal goes or not, I don't know, but if it does survive, I think it would be of great use in what comes after the first massive exchange.²⁷

IV. IMPORTANCE OF THE PANAMA CANAL TO THE REPUBLIC OF PANAMA

Although the canal may not be the magic wand of prosperity envisioned by some Panamanians, it does make a large contribution to the economy of the Republic. Income generated by the canal far exceeds the \$1,930,000 annual annuity. In 1958, for instance, income derived from the canal was estimated at approximately \$63 million, or about one-sixth the national income.²⁸ A breakdown of the total in-

²³ *Ibid.*, p. 92.
²⁴ *Ibid.*, p. 93.
²⁵ *Ibid.*
²⁶ *Ibid.*, p. 94.
²⁷ *Ibid.*, p. 95.
²⁸ U.S. Department of State, *Embassy, Panama, Dispatch No. 716, June 29, 1959.*

dicates the following sources of income to Panama from the presence of the canal:

[In millions of dollars]

Direct purchases from Panama.....	12.5
Wages of non-U.S. citizens employed in zone who reside in Panama.....	21.5
Disability and relief payments.....	2.5
Expenditures in Panama of non-U.S. citizens resident in Canal Zone.....	1.6
Expenditures in Panama of U.S. employees including military.....	18.2
Income generated by auxiliary works in zone.....	4.4
Maintenance of Transisthmian Highway.....	.3
Annuity.....	1.93

These receipts have enabled Panama to offset, to a large extent, deficits in the country's balance of payments.

Critics claim that the presence of the canal has attracted people from "productive labor," thus distorting the economy. But long before the construction of the canal Panama's geographical setting favored activities connected with international trade, with the consequent concentration of population and political power in the terminal cities of Panama and Colon and the virtual isolation and neglect of rural areas.

Rural conditions are still bad. While 64 percent of the population live in rural areas, agriculture contributes only about one-third of the national income. Responsibility for lagging agricultural production lies in large measure in the prevailing system of land tenure. Less than 8 percent of the land surface is privately owned.²⁹ Most of the best land suited for cropping is being used for extensive livestock raising and is producing only a fraction of its capacity.³⁰ Meanwhile, nearly one-half of the occupied farmland is held by squatters (85 percent of the farmers), most of whom hack out a bare subsistence on the relatively poor land which is available to them. They have no security of tenure and consequently no access to credit and little incentive to improve their farming methods.³¹

The overwhelming majority of farms have no animal or mechanized power, 99 percent using only handtools for cultivation.³² In addition, rural transportation is very poor. Only 8 percent of farmers send their produce to market by truck, while 77 percent still depend upon packhorse, human carriers, or boat. The balance send nothing, contributing zero to the economy.³³

Meanwhile, population growth in rural areas is high, estimated at between 3 and 3.5 percent per annum.³⁴ Poor living conditions have resulted in wholesale migrations to the cities in search of employment, creating there an explosive mixture of extreme crowding, unhealthy slums, and unemployment.

Panama's economic difficulties lie not in the presence of the canal, but in local indifference for centuries to the development of other potentially profitable resources. Fortunately, Panamanian authorities now are directing their attention to the serious imbalance which exists in the economy. The Panama Canal, far from being a deterrent to

²⁹ P. A. Reid, "Agricultural Development of Panama," prepared by the International Bank for Reconstruction and Development for the Government of the Republic of Panama, Washington, 1957, p. 7.
³⁰ *Ibid.*, p. 11.
³¹ *Ibid.*, p. 8.
³² *Ibid.*, p. 9.
³³ *Ibid.*, p. 13.
³⁴ *Ibid.*, p. 4.

UNITED STATES-PANAMA RELATIONS

development, makes a sizable and steady contribution to the Nation's coffers.

In addition to the canal's economic value, Panama, as a member of the inter-American community pledged to the defense of the Western Hemisphere from aggression, is as deeply concerned with the strategic value of the canal as is the United States.

V. U.S. CONTRIBUTIONS TO PANAMA'S DEVELOPMENT

The United States has contributed substantially to the well-being and the progress of the Republic of Panama. Construction of the canal brought a large injection of capital and employment to the isthmus. At that time Panama City had an estimated population of 18,000 and Colon about 6,000. The entire region was backward, with no paved streets and roads, no sewer and water systems.

The battle waged by U.S. health officers during the construction period against mosquito-borne yellow fever is world renowned. Since the new little Republic lacked the resources to provide essential health services, Canal Zone authorities provided water, removed the sewage, and maintained the sanitary and public health services in Panama City and Colon as well as in the Canal Zone.³⁵ What had once been regarded as a tropical graveyard became a relatively healthful place to live.

Monetary benefits to Panama stemming from the presence of the canal, such as wages to many thousands of Panamanian citizens employed in the zone, purchases in the Republic of Panama of supplies and services by the Panama Canal Company, and purchases made in Panama by the residents of the Canal Zone, were discussed previously (see p. 13).

Another U.S. contribution to Panama's progress was the construction of the Transisthmian Highway which crosses the Republic from Panama City to Colon, at a cost of \$9,785,000 (completed in 1949). The United States continues to assume full responsibility for maintenance of the highway.

Under terms of the 1955 treaty with Panama, construction of the Balboa Bridge across the canal is now underway at an estimated cost to the United States of \$20 million.

Under various assistance programs, the United States has made the following contributions to the Republic of Panama in the period from July 1, 1945, to June 30, 1959:³⁶

	[In millions of dollars]
Technical assistance.....	10.3
Special assistance (Smathers amendment fund)—for sewerage in Panama City.....	2.0
Public Law 480 (title III)—contributions by voluntary relief agencies.....	5.2
Inter-American highway— $\frac{1}{2}$ cost of construction.....	22.3
Total.....	39.8

³⁵ Responsibilities of the Canal Zone government for health in the terminal cities ended in 1953, after 50 years; they were transferred to the Republic of Panama in 1953-55. Responsibility for water supply, sewerage, garbage disposal, etc., was transferred in 1953-54 to a newly created department within the Ministry of Labor, Social Welfare and Public Health.

³⁶ ICA, Office of Statistics and Reports, U.S. External Assistance, Obligations and Commitments, July 1, 1945 through June 30, 1959.

UNITED STATES-PANAMA RELATIONS

In addition, the following loans have been extended to Panama by the Export-Import Bank:³⁷

	[In millions of dollars]
June 21, 1948 (El Panama Hotel).....	2.5
July 26, 1951 (supplementary financing for El Panama Hotel).....	1.5
June 14, 1957 (for financing Panama's $\frac{1}{2}$ contribution to construction of Inter-American highway).....	12.85
July 27, 1959 (airport equipment).....	.25
Total.....	17.10

The Republic of Panama has met its obligations to the Export-Import Bank promptly.

The Republic of Panama's economy also has received a boost from nongovernmental U.S. sources. Direct private U.S. investments in Panama, covering a large range of interests which include manufacturing, public utilities, agriculture, banks, trading operations, real estate, insurance, brokerage houses, and petroleum, amounted to an estimated \$240 million in 1958.³⁸ These investments amount to roughly 50 percent of private capital invested in Panama, 48 percent of the total being Panamanian and the remaining 2 percent French, Swiss, and British interests.³⁹

VI. CURRENT POINTS OF FRICTION BETWEEN PANAMA AND THE UNITED STATES

A. SOVEREIGNTY IN THE CANAL ZONE

Recently there has been much agitation in Panama regarding the question of sovereignty in the Canal Zone. On two occasions in November 1959, mobs led by rabble rousers tried to force entry into the Canal Zone in order to plant Panamanian flags there as symbols of Panama's sovereignty. On November 3 the Governor of the zone was compelled to call for U.S. Armed Forces to help quell the ensuing violence. Within the week Panama's unicameral congress resolved not to rest until the Panamanian flag was raised "on our territory." During the second attempt on November 28 to invade the zone, it took Panama guardsmen working alongside U.S. troops 3 hours to turn back the mob.

On November 26 the Panamanian Ambassador in Washington delivered a note at the Department of State asking the United States to consider the desire of Panama to fly its flag in the zone.

Sectors of the Panamanian press and several demagogic politicians keep the issue red hot. It is also reported that envoys from Cuba and Egypt actively encourage anti-U.S. sentiments. Cuban agitators participated in the riots of November 28. The United Arab Republic delegation is said to be the most active diplomatic mission in Panama although there are few Arab residents and virtually no Arab commercial interests.⁴⁰ Cairo beams two broadcasts nightly to Panama almost entirely devoted to the alleged unfair treatment Panama is receiving from the United States with respect to the canal.⁴¹

³⁷ Export-Import Bank, Office of the Secretary.

³⁸ U.S. Department of Commerce, Office of Business Economics. (This preliminary figure excludes shipping operations, investments by Americans who are residents in Panama, and that portion of holding companies' assets engaged in business in third countries.)

³⁹ U.S. Department of Commerce, Panama desk.

⁴⁰ New York Times, Washington split on Panama policy, Dec. 3, 1959, p. 15; Cuban and Arab active in Panama, Mar. 13, 1960, p. 1.

⁴¹ New York Times, Washington split on Panama policy, *ibid.*

UNITED STATES-PANAMA RELATIONS

The issue of sovereignty in the Canal Zone is almost as old as the treaty of 1903 which was intended to define the respective powers of Panama and the United States with relation to the Canal Zone. The United States had hardly taken formal possession of the Canal Zone when disagreement occurred over the scope of U.S. powers.

The first Panamanian protest arose in 1904 after the United States established ports of entry, customhouses, tariffs, and post offices in the zone. The ensuing diplomatic correspondence between Panamanian Minister to Washington José de Obaldía and Secretary of State Hay sets forth the classic positions held by Panama and the United States down to the present time.

The differing Panamanian-United States interpretations of the treaty of 1903 with regard to sovereignty hinge primarily on articles II and III of that pact. The pertinent part of article II declares:

The Republic of Panama grants to the United States in perpetuity the use, occupation, and control of a zone of land and land under water for the construction, maintenance, operation, sanitation and protection of said canal of the width of 10 miles. * * *

Article III states:

The Republic of Panama grants to the United States all the rights, power, and authority within the zone mentioned and described in article II of this agreement and within the limits of all auxiliary lands and waters mentioned and described in said article II which the United States would possess and exercise if it were sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority.

According to Minister Obaldía, U.S. jurisdiction is not full and complete, but a delegated and limited jurisdiction granted to the United States only in matters pertaining to "the construction, maintenance, operation, sanitation, and protection of said canal." Moreover, Obaldía argued, the term "if it were sovereign" in article III implies that the United States is not sovereign. He claimed that if Panama had had any intention of ceding sovereignty of the Canal Zone, only two articles would have been necessary in the treaty: "one specifying the thing sold and the other expressing the price of the sale."⁴²

Secretary of State Hay replied to the Minister's note as follows:⁴³

If it could or should be admitted that the titular sovereign of the Canal Zone is the Republic of Panama, such sovereign is mediatized by its own act, solemnly declared and publicly proclaimed by treaty stipulations, induced by a desire to make possible the completion of a great work which will confer inestimable benefit upon the people of the isthmus and the nations of the world. It is difficult to believe that a member of the family of nations seriously contemplates abandoning so high and honorable a position in order to engage in an endeavor to secure what at best is a barren scepter.

⁴² Quoted in McCain, *op. cit.*, p. 20.
⁴³ Reply of Secretary of State to Señor de Obaldía, Oct. 24, 1904. In hearings before the Committee on Inter-oceanic Canals of the U.S. Senate, Washington, Government Printing Office, 1906, vol. III, p. 2378.

UNITED STATES-PANAMA RELATIONS

Under the stipulations of article III, if sovereign powers are to be exercised in and over the Canal Zone, they must be exercised by the United States. Such exercises of power must be, therefore, in accordance with the judgment and discretion of the constituted authorities of the United States, the governmental entity charged with responsibility for such exercise, and not in accordance with the judgment and discretion of a governmental entity that is not charged with such responsibility and by treaty stipulations acquiesces in "the entire exclusion of the exercise by it of any sovereign rights, power, or authority" in and over the territory involved.

Article II provides that "the Republic of Panama grants to the United States in perpetuity the use, occupation, and control of a zone of land and land under water for the construction, maintenance, operation, sanitation, and protection of said canal."

The Panamanian authorities now contend that the words "for the construction, maintenance, operation, sanitation, and protection of said canal" constitute a limitation on the grant; that is to say, that the grant is confined to the purposes so stated. The position of the United States is that the words "for the construction, maintenance, operation, sanitation, and protection of said canal" were not intended as a limitation on the grant, but are a declaration, and appropriate words of conveyance.

Secretary of State Hay's definitive declaration of U.S. rights in the Canal Zone by no means brought to an end the first major controversy regarding sovereignty in the Canal Zone. Tension mounted on the isthmus, and as Secretary of War William H. Taft later testified, "it led to passive resistance by Panama to the making or carrying out of any agreement between the United States and the Panamanian authorities necessary in the progress of our work."⁴⁴

Taft was dispatched to the isthmus in November 1904 to settle Panama's grievances. To do so he amicably worked out an arrangement with Panamanian authorities designed to ease the situation during the construction period. It specifically provided, however, that it could not be interpreted as a restrictive or enlarging construction of the treaty.

Taft's minutes of his conferences with President Amador of the Republic of Panama reflect the care he exercised not to jeopardize U.S. rights in the zone:⁴⁵

Assuming the power to the extent declared in Secretary Hay's note, how far can I go in waiving the exercise of these powers and withholding the exercise of powers already exercised, so as to assure the Government of Panama that we wish to exercise no powers that we do not deem necessary in the construction, maintenance, and protection of the canal?

Now, I am not in a position to waive absolutely—I mean to give up the right to exercise—those powers, but I am

⁴⁴ Hearings, *ibid.*, p. 2624.
⁴⁵ *Ibid.*, p. 2680.

UNITED STATES-PANAMA RELATIONS

given authority by the President to establish now, subject to action by Congress, a nonexercise of those powers, such as I hope will be satisfactory to the Government of the Republic, and will continue indefinitely until the construction of the canal shall so affect the relations and conditions existing as to require a new adjustment of the relations between the two Governments.

Taft's view on the question of sovereignty in the Canal Zone is further defined in his report to President Roosevelt of his negotiations with Panama:⁴⁶

The recognition that a citizen of the Republic of Panama may reside in the Canal Zone and not lose his rights as a citizen to the exercise of the elective franchise in the Republic it was wise to make. The truth is that while we have all the attributes of sovereignty necessary in the construction, maintenance, and protection of the canal, the very form in which these attributes are conferred in the treaty seems to preserve the titular sovereignty over the Canal Zone in the Republic of Panama, and as we have conceded to us complete judicial and police power and control over the zone and the two ports at the end of the canal, I can see no reason for creating a resentment on the part of the people of the isthmus by quarreling over that which is dear to them but which to us is of no real moment whatever.

A year and a half later, while testifying before the Senate Committee on Interoceanic Canals, Secretary of War Taft made his now famous statement which is frequently referred to in discussions regarding sovereignty in the Canal Zone:⁴⁷

[Article III] is peculiar in not conferring sovereignty directly upon the United States, but in giving to the United States the powers which it would have *if it were sovereign*. This gives rise to the obvious implication that a mere titular sovereignty is reserved in the Panamanian Government. Now, I agree that to the Anglo-Saxon mind a titular sovereignty is like what Governor Allen, of Ohio, once characterized as a "barren ideality," but to the Spanish or Latin mind poetic and sentimental, enjoying the intellectual refinements, and dwelling much on names and forms, it is by no means unimportant.

Neither Panama nor the United States subsequently has budged on their respective constructions of the terms of the treaty of 1903. In 1924, after negotiations to replace the Taft agreement had gone ahead intermittently since 1915, Secretary of State Hughes stated in conversation with the Panamanian Minister:⁴⁸

This Government would never recede from the position it had taken in the note of Secretary Hay in 1904. This Government could not and would not enter into any discussion affecting its full right to deal with the Canal Zone under

⁴⁶ *Ibid.*, p. 2300.

⁴⁷ *Ibid.*, p. 2327.

⁴⁸ Memorandum by the Secretary of State of a conversation with the Panamanian Minister (Alfaro), Dec. 15, 1923. "Foreign Relations of the U.S. Government, 1923," vol. II, Washington, Government Printing Office, 1938, p. 684.

UNITED STATES-PANAMA RELATIONS

article III of the treaty of 1903 as if it were the sovereign of the Canal Zone and to the exclusion of any sovereign rights or authority on the part of Panama * * *. This must be regarded as ending the discussion of that matter.

The two major revisions of the treaty of 1903—the General Treaty of Friendship and Cooperation of 1936 and the Treaty of Mutual Understandings and Cooperation of 1955—amend and supplement the original pact but leave intact the controversial articles II and III of the early agreement.

During hearings in the Foreign Relations Committee of the U.S. Senate on the 1955 treaty with Panama, Assistant Secretary of State for Inter-American Affairs, Henry Holland, revealed that the Department of State was still zealously on guard against any diminution, then or in the future, of what the United States regarded as its rights in the Canal Zone. The following exchange took place at the hearings:⁴⁹

Senator WILEY. As I understood from you, Secretary Holland, there is nothing in this present treaty that would in the slightest degree depreciate all the attributes of sovereignty that we possess.

Mr. HOLLAND. That is true; and so true is it, that in the course of the negotiations the Panamanians advanced several small requests which, one by one, had considerable appeal, but all of which we refused because we did not want to leave one grain of evidence that could a hundred years hence be interpreted as implying any admission by the United States that we possess and exercise anything less than 100 percent of the rights of sovereignty in this area.

For example, they asked that ships transiting the canal, as a token of deference to Panama, fly the Panamanian flag as well as the U.S. flag.

Now, it seemed, perhaps, a little unfriendly to say, "No," because while the gentlemen representing Panama would never have any misunderstanding as to why that might be done, generations coming after us might have some misunderstanding as to why that was done, and we felt we could not agree to do anything, nor would the Senate approve it if we were to agree to it, which could be construed a hundred years hence as receding 1 millimeter from the position that we possess and exercise all of the rights that we would have if we were the sovereign in that area.

Some Panamanian politicians and jurists and various publicists turn from arguing the legal constructions placed on the treaty of 1903 to criticizing the manner in which the pact was negotiated. They protest that the treaty was negotiated by a Frenchman, in haste (see p. 23), and cast somber doubts as to his motivation and that of the provisional Panamanian government which ratified the treaty. In these arguments it is customary to refer to the letter from Secretary of State Hay to Senator Spooner on January 20, 1904,⁵⁰ in which he points out the advantages of the treaty to the United States and cautions against giving Panama more time to ponder.

⁴⁹ U.S. Senate, 84th Cong., 1st sess., Committee on Foreign Relations, hearings before the Committee on Foreign Relations, the Panama Treaty, Washington, Government Printing Office, 1954, p. 164.

⁵⁰ See p. 10 for the complete text.

UNITED STATES-PANAMA RELATIONS

This attack on the basic document governing Panama's relations with the United States has an emotional appeal to the national pride of the Panamanian people. Nevertheless, by ratifying negotiations in both 1936 and 1955, Panamanian authorities have reaffirmed the handiwork of their founding fathers.

The small group which traditionally has controlled Panama's Government and newspapers has been wont to condemn North American "imperialism." This tactic serves a triple purpose. It provides a convenient scapegoat for their own impotency in solving the nation's pressing economic problems; it is an effective vote getter among a populace which is extremely sensitive to slights to the national pride; and, finally, Panamanian leaders can exploit the nationalistic sentiment they have whipped up to enhance their bargaining power with the United States.

Egyptian nationalization of the Suez Canal in 1956 added fuel to the already well-stoked flames of nationalism in Panama. Panama protested to the United States and Britain for not having been invited to the London conference concerning the Suez Canal in view of the fact that "it was necessary and proper, and of special importance" that it participate in the talks since "the Suez Canal has fundamental analogies with the Panama Canal." Secretary of State Dulles asserted that there was no question of sovereignty in the zone since "the United States has all the rights which it would possess if it were sovereign."⁵¹

In March 1957 a conference on the juridical aspects of the Panama and Suez Canals was held under the auspices of the University of Panama with representatives present from eight Latin American countries. Former Foreign Minister Octavio Fabrega, who headed Panama's delegation to Washington to negotiate the treaty of 1955 (which left intact the relevant terms of the treaty of 1903), asserted that Panama's grant of the Canal Zone to the United States in perpetuity was inconsistent with the sovereignty of the nation.⁵²

Following the attempts in November 1959 to plant the Panamanian flag in the Canal Zone as a symbol of Panama's sovereignty, President Eisenhower and Deputy Under Secretary of State Livingston Merchant made policy statements which bear upon the question. The Deputy Under Secretary, on a visit to Panama, made the following statement on November 24:

During the course of our discussions, in response to a question by the President of Panama, I assured him that the policy of the U.S. Government with respect to the status of the Canal Zone remains as it had been stated more than 50 years ago to the effect that the United States recognizes that titular sovereignty over the Canal Zone remains in the Government of Panama.⁵³

A week later in his press conference, President Eisenhower stated:

* * * I do in some form or other believe we should have visual evidence that Panama does have titular sovereignty over the region.⁵⁴

⁵¹ The New York Times, Aug. 29, 1956, p. 4.

⁵² Perpetual pacts termed invalid. New York Times, Mar. 31, 1957, p. 15.

⁵³ Panama reassured on titular sovereignty in Canal Zone, statement by Deputy Under Secretary Merchant, Department of State Bulletin, Dec. 14, 1959, p. 859.

⁵⁴ Transcript of the President's news conference on foreign and domestic matters, the New York Times, Dec. 3, 1959, p. 18.

UNITED STATES-PANAMA RELATIONS

B. COMMISSARIES

Another controversy which extends back to the construction era relates to the operation of commissaries in the Canal Zone. In order to make living palatable, indeed possible, for workers who were imported to the isthmus to work on the canal, the U.S. Government opened supply stores in the Canal Zone. As early as 1904 Secretary of War Taft noted the "great alarm" felt by Panamanian merchants "lest the United States might use the clause of the Hay-Varilla Treaty which permits the United States to import free of duty into the isthmus all machinery, equipment, material, and supplies needed by it or its employees in the construction of the canal to break up their normal business in native supplies in the zone."⁵⁵

President Roosevelt sent his Secretary of War, Taft, to the isthmus to work out an agreement designed to allay Panamanian fears. In his instructions to Taft, he noted:⁵⁶

Apparently they fear lest the effect be to create out of part of their territory a competing and independent community which shall injuriously affect their business, reduce their revenues, and diminish their prestige as a nation * * *. We have not the slightest intention of establishing an independent colony in the middle of the State of Panama, or of exercising any greater governmental functions than are necessary to enable us conveniently and safely to construct, maintain, and operate the canal under the rights given us by the treaty. Least of all do we desire to interfere with the business and prosperity of the people of Panama.

To pacify Panamanian fears, Taft included a proviso in the modus vivendi of December 1904, which provided for the importation and sale of merchandise "necessary and convenient" for the officers, employees, workmen, and laborers in the service and in the employ of the United States, and for their families, but which excluded from the benefits of the commissaries—

all employees and workmen who are natives of tropical countries wherein prevail climatic conditions similar to those prevailing on the Isthmus of Panama, and who therefore may be presumed to be able to secure the articles of food, clothing, household goods, and furnishings, of the kind and character to which they are accustomed, from the merchants of Panama, Colon, and the towns of the Canal Zone.⁵⁷

In the event that—

such merchants charge prices in excess of legitimate profit, or practice other extortion, the United States, for the protection and assistance of all its employees, whether from the tropical or Temperate Zone, will supply its commissaries with such staple articles as are required and desired by the inhabitants of tropical countries, and permit all its employees and workmen and those of its contractors to avail themselves

⁵⁵ Statement of Hon. William H. Taft, Secretary of War, Apr. 18, 1906, hearings before Committee on Inter-oceanic Canals, op. cit., p. 2527.

⁵⁶ President Theodore Roosevelt to Secretary of War William Howard Taft, Oct. 18, 1904, hearings before Committee on Inter-oceanic Canals, op. cit., p. 2394.

⁵⁷ Ibid., p. 2528.

UNITED STATES-PANAMA RELATIONS

of the benefits and privileges afforded by said Government commissaries.⁵⁸

In 1905, service of the commissaries was extended to all Government workers because, as Taft told the Senate Committee on Inter-oceanic Canals—

after a sudden influx of laborers, the merchants of the zone were apparently quite short of provisions, or else they attempted to make a corner upon them.⁵⁹

After the crash construction program for the canal was completed and activities in the zone settled down to a more steady tempo, Panamanian merchants renewed their laments that U.S.-operated commissaries were depriving them of their legitimate market in the zone. In negotiations during 1919 to replace the Taft *modus vivendi* of 1904, Panamanian authorities charged that one-half the people in Panama City and Colon used articles bought in the commissaries and smuggled from the zone.⁶⁰ With the canal construction completed, the merchants claimed that the United States no longer was justified in underselling them and driving them out of competition.

During negotiations for a new treaty Minister Ricardo J. Alfaro called attention to the old grievance that the Panama Railroad Company operated—

* * * commissaries, livery stables, garages, baggage transportation within the cities of Panama and Colon, dairies, poultry farms, butcheries, packing and refrigerating plants, soap factories, laundries, plants for roasting and packing coffee, sausage and canned meat factories, ironworks, carpenter shops, and cooperages, etc. * * * ⁶¹

The treaty of 1926 did contain an article stating that purchases from commissaries should be limited to employees of the American Government, their families and diplomats accredited to and designated by the Panamanian Government. The Panamanian Congress, however, failed to ratify the treaty after public opinion became stirred over the provision that Panama should enter any war in which the United States was engaged.

When complaints again were made against the Canal Zone commissaries in 1927, the Department of State answered bluntly: "When the ratifications of this treaty are exchanged, the question will be definitely settled."⁶²

With Panama deep in the throes of the world depression in 1933, President Arias decided to make a personal appeal to the new administration in Washington. After several conferences, he and President Franklin Roosevelt issued a joint statement that the treaty of 1903 now covered only—

the use, occupation, and control by the United States of the Canal Zone for the purpose of maintenance, operation, sanitation, and protection of the canal—

and that the—

Republic of Panama is recognized as entitled, as a sovereign nation, to take advantage of the commercial opportunities

⁵⁸ *Ibid.*
⁵⁹ *Ibid.*
⁶⁰ McBain, *op. cit.*, p. 227.
⁶¹ *Ibid.*, p. 230.
⁶² *Ibid.*, p. 240.

UNITED STATES-PANAMA RELATIONS

inherent in its geographical situation so far as that may be done without prejudice to the maintenance, operation, sanitation, and protection of the Panama Canal by the United States of America which is earnestly desirous of the prosperity of the Republic of Panama.

The United States agreed to prohibit sales of "tourist" goods by the commissaries for disposal on ships in transit through the canal, to exercise special vigilance to prevent contraband trade in articles purchased in the commissaries, and to regulate other sales by the commissaries to ships "with the interest of Panamanian merchants in view."

In 1936 a new General Treaty of Friendship and Cooperation embodied a number of revisions in the economic relations between the United States and Panama in the Canal Zone. In order to enable Panama to take advantage of "the commercial opportunities inherent in its geographic situation," the United States agreed to confine sales in the commissaries to U.S. employees and Armed Forces; to impose specific restrictions for regulating the sales by commissaries to ships and tourists passing through the canal; to cooperate in the prevention of contraband trade; and to prohibit the establishment in the Canal Zone of any new private businesses, with the exception of those—

having a direct relation to the operation, maintenance, sanitation, or protection of the canal, such as those engaged in the operation of cables, shipping, or dealing in oil or fuel.

The United States retained freedom of decision as to which businesses have a "direct relation" to the operation and maintenance of the canal.

The treaty of 1936 did not lay to rest the controversy over the Canal Zone commissaries. For a period after the exchange of ratifications in 1939 Panamanian grievances lay dormant. This hiatus was due more to the local prosperity resulting from U.S. wartime expenditures on the isthmus than to results produced by the treaty.

During the war years a number of processing facilities were installed in Panama to meet local needs for goods which no longer could be imported and to fulfill requirements of the influx of Armed Forces personnel.⁶³ As U.S. expenditures tapered off in the postwar period, the new enterprises operated at partial capacity. Strong pressure was brought by Panamanian industry and commerce for withdrawal of the Panama Canal Company from the manufacturing and processing in the zone of a wide range of consumer items and for a halt to the sale of tax-exempt and duty-free goods imported for sale in the zone commissaries.

A new basic agreement between the United States and Panama in 1955 again tackled the problem of the commissaries. Item 9 of the memorandum of understandings attached to the treaty of 1955 states:

With respect to the manufacture and processing of goods for sale to or consumption by individuals, now carried on by the Panama Canal Company, it will be the policy of the United States of America to terminate such activities whenever and for so long as such goods, or particular classes

⁶³ In 1942 and 1943 the zone's population more than doubled as compared with 1940.

UNITED STATES-PANAMA RELATIONS

thereof, are determined by the United States to be available in the Republic of Panama on a continuing basis, in satisfactory qualities and quantities, and at reasonable prices. The United States will give prompt consideration to a request in writing on the part of the Government of Panama concerning the termination of the manufacture or processing of any goods covered in this item as to which the Government of Panama may consider the criteria specified in this item to have been met.

In the course of the Senate hearings on the treaty of 1955, representatives of various Canal Zone organizations indicated deep fears regarding the quality, availability, and price of food products from Panama and the consequent possible deterioration in the living standards of zone residents. Department of State representatives testified that every safeguard would be taken to assure sufficient supplies of good quality.

In accord with item 9 of the memorandum of understandings, the following Panamanian requests for discontinuance of Canal Company activities have been allowed: slaughter house with related meat processing plants; carbonated beverage plant; oxygen and acetylene gas plant; ice-manufacturing plant; industrial laboratory involving the manufacture or processing of some 200 food, drug, and other items (such as mouthwash, shaving lotion, etc.).⁶⁴

The following requests for discontinuance have not been allowed: dairy (Panama does not have the capacity to produce sufficient quantity meeting sanitary standards); bakeries (as in the case of dairy products, it is believed that the Republic of Panama cannot produce enough products meeting sanitary standards); laundry and dry cleaning plants and tire recapping plant (the Panama Canal Company contends that this is not the type of activity contemplated in item 9 of the memorandum of understanding).⁶⁵

The dire consequences predicted by some residents of the Canal Zone do not appear to have materialized. During February 1960, on the average, food prices on the Canal Zone were 1.8 percent lower than those in effect in the average city in the United States.⁶⁶ At the same time, all U.S. employees of the Canal Company and zone government are paid a 25-percent differential rate above that of U.S. Government employees in continental United States and even Department of State employees in the Republic of Panama.

The treaty of 1955 makes further concessions to the Republic of Panama with regard to sales and services by commissaries in the Canal Zone. The privilege of availing themselves of services offered in the zone is withdrawn after December 31, 1956, from persons employed by zone agencies, who are not citizens of the United States and who do not actually reside in the zone, thus requiring them to purchase the services they desire within the Panamanian economy (item 6, memorandum of understandings).

The memorandum of understandings also provides (item 4) for the withdrawal of the United States, with a few exceptions, from the business of selling supplies to ships transiting the canal.

⁶⁴ Department of State, Panama desk.

⁶⁵ Ibid.

⁶⁶ Panama Canal Co., U.S. Citizen Consumer Price Index, April 1960.

UNITED STATES-PANAMA RELATIONS

C. THIRD-COUNTRY PURCHASES

Another sore point with Panama over the years has been the practice of Canal Zone agencies of buying supplies in the cheapest world market for resale in the zone commissaries and post exchanges. Merchandise so purchased entered the zone duty free. Items included everything from staples, like New Zealand meat, to luxury items like diamonds and Oriental wood carvings. Panama complained that such imports constituted unfair competition with Panamanian merchants who must pay Panamanian duties on similar articles.

During the negotiations of the treaty of 1955, Panama proposed that the United States formally agree that all items needed or desired either by individuals or for the maintenance, functioning, and defense of the canal (except war materiel) would be purchased by U.S. Government agencies from Panamanian production, commerce, and industries, subject to certain provisos with respect to price, quality, and availability. This proposal was in line with Panama's assumption that the commerce and industry of Panama should be enabled to take advantage of the market offered by the Canal Zone.⁶⁷

According to the Secretary of State's report to the President regarding the treaty of 1955, the United States "could not agree to a subsidization of the Panamanian economy at the expense of individuals residing in the zone or in connection with the importation of materials require for the maintenance, operation, and defense of the canal."⁶⁸

Two general statements were included in the memorandum of understandings attached to the treaty of 1955 relative to the problem of third-country purchases.

Item 7. It is and will continue to be the policy of the Panama Canal agencies and of the Armed Forces in the Canal Zone in making purchases of supplies, materials and equipment, so far as permitted under U.S. legislation, to afford to the economy of the Republic of Panama full opportunity to compete for such business.

In the words of the Secretary of State, "item 7 represents the full extent to which the interested agencies of this Government considered it feasible to go in this matter."⁶⁹

Item 8. In general connection with the matter of the importation of items of merchandise for resale in the sales stores in the Canal Zone, it will be the practice of the agencies concerned to acquire such items either from U.S. sources or Panamanian sources unless, in certain instances, it is not feasible to do so.

The Secretary of State's explanatory note to the President gives the Department's interpretation of item 8:⁷⁰

The undertaking in item 8 was drafted with a view to alleviating irritations which have arisen with respect to the sale in the zone of so-called luxury items. Panama is not given a monopoly over sales of the kind to which this item

⁶⁷ U.S. Senate, 84th Cong., 1st sess., hearings before the Committee on Foreign Relations, "The Panama Treaty," Washington, Government Printing Office, 1955, p. 15.

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Ibid., p. 16.

UNITED STATES-PANAMA RELATIONS

relates, and in certain circumstances the zone agencies retain their freedom to acquire desired items elsewhere.

Shortly after the treaty of 1955 was concluded, the Panama Canal Company restricted sales of so-called luxury items in the commissaries to those which sold for less than \$50. No restrictions were placed by the Defense Department upon sales in the post exchanges.

Panama resentment over third country purchases did not abate with the signing of the treaty of 1955. Panama interpreted item 8 of the memorandum of understandings in broader terms than did the United States. In the Panamanian view, item 8 did not specify luxury items and was not intended to have such a restrictive interpretation. Panama argued that the requirement to purchase supplies from either the United States or Panama should apply to all U.S. purchases for resale in the zone.

The ensuing controversy hinged more on the word "feasible." The Panama Canal Company and the Department of Defense took the position that "feasibility" should be determined in terms of price, quality, and assured supply. Panama, on the other hand, insisted that it means supplies must be purchased in the United States or Panama unless it is impossible to buy them in either place.

Within the United States a split developed on U.S. policy. The Armed Forces and Panama Canal Company felt concern lest Panama sources of such items as beef and lamb (which, imported from New Zealand and Australia, retailed in the zone for 25 cents per pound) be higher priced and of inferior quality. The Department of State, on the other hand, held the view that U.S. foreign policy should not be determined by certain fringe benefits to U.S. employees, especially those enjoying a 25-percent wage differential over rates in the United States. According to the Department of State, Panama's economic viability and political stability should be the prime considerations upon which U.S. policy is formulated. Accordingly, the United States should assist Panama in achieving the benefits to be derived from the presence of the Panama Canal down the middle of the nation.

In October 1959, the Panama Canal Company decided to purchase all items for resale in the zone from either the Republic of Panama or the United States. Thus, all merchandise for sale in zone commissaries will pass through either United States or Panama customs barriers.

The Department of Defense, fearful lest such a purchasing policy would establish a precedent in its worldwide operations, resisted the change. On March 15, 1960, at the insistence of President Eisenhower, it was announced that henceforth the Department of Defense would purchase all supplies except gasoline for its operations in the Canal Zone from either Panama or the United States. The Armed Forces also fell into line with the Panama Canal Company's existing policy of a \$50 limit on luxury items that can be sold in post exchanges.

The new ban on third country purchases should bring to an end one of the foremost points of friction between the Republic of Panama and the United States.

Side effects of the ban are already visible. The Panama Canal Company sent purchasing parties all over the Republic of Panama to start farmers cooperatives, and point 4 technicians are teaching cattle growers how to bring meat up to standards. While promoting much needed diversification of the economy, these efforts are engendering an incalculable reservoir of good will.

UNITED STATES-PANAMA RELATIONS

D. WAGE AND EMPLOYMENT OPPORTUNITIES IN THE ZONE

No issue has aroused more bitterness in Panama than the charge that Panamanian citizens are being discriminated against in the Canal Zone with regard to wages and employment opportunities.

The roots of the problem stretch back to construction days. Skilled laborers, most of whom were U.S. citizens, were paid in gold, whereas other laborers, mostly natives from the tropical lands of Panama, Jamaica, Puerto Rico, and the West Indies, were paid in silver. Wages of "silver" employees were generally set at levels equal to or slightly above those prevailing for native labor in the Caribbean area, the theory being that such wages provided for their accustomed standard of living.

The American mechanics and artisans who contributed their skills to the construction of the canal found little in common either with the cultured white Panamanians of Spanish descent or with the predominantly Negro laboring force. Separate housing areas, schools, and commissaries sprang up in the Canal Zone to meet their needs.

The concept of "silver" and "gold" employees almost inevitably took on aspects of racial and nationality discrimination and came to be a severe irritant to Panamanians of all racial origins.

The idea that Panamanians should have access to equal opportunities for employment had little acceptance among U.S. residents of the Canal Zone. For many years only citizens of the United States were eligible for employment in executive, supervisory, professional, subprofessional, and clerical positions. Representatives of organized labor in the Canal Zone, especially during the depression, lobbied for the replacement of "silver" employees in artisan groups with citizens of the United States.

First official recognition of Panama's desire to secure equal treatment for its nationals in the Canal Zone's labor policy occurred in 1936. In an exchange of notes ancillary to the 1936 general treaty, it was stated that the United States—

will favor the maintenance, enforcement, or enactment of such provisions, consistent with the efficient operation and maintenance of the canal and its auxiliary works and their effective protection and sanitation, as will assure to Panamanian citizens employed by the canal or the railroad equality of treatment with employees who are citizens of the United States of America.⁷¹

In 1948 the silver and gold roll designations were replaced. The Canal Zone Government and the Panama Canal Company then followed a practice of dividing positions into two categories, "U.S. rate" and "local rate." In theory, non-U.S. citizens were eligible for "U.S. rate" positions, if qualified. In practice, less than 4 percent of jobs classified as "U.S. rate" were filled by non-U.S. citizens. The Armed Forces maintained its worldwide policy, that is, a dual-wage system whereby all jobs, regardless of their nature, had two wage rates, one for U.S. citizens ("U.S. rate") and one for non-U.S. citizens ("local rate").

In a joint statement issued October 1, 1953, by the President of the United States and the President of Panama, the principle of

⁷¹ *Ibid.*, p. 12.

UNITED STATES-PANAMA RELATIONS

equality of job opportunity and treatment for citizens of Panama was proclaimed:⁷³

We have equally agreed that, inasmuch as the two countries have a mutual and vital interest in the work of the Panama Canal, the principle of equality of opportunity and treatment must have full effect in regard to the citizens of Panama and the United States employed in the Canal Zone as set forth in the exchange of notes of March 2, 1936, on this subject and that wherever circumstances should be found which in any manner interfere with the observance of that principle, appropriate measures will be taken by the United States.

The memorandum of understandings attached to the treaty of 1955 embodies the principle of equal treatment. It is stated in item 1 that:

Legislation will be sought which will authorize each agency of the U.S. Government in the Canal Zone to conform its existing wage practices in the zone to the following principles:

(a) The basic wage for any given grade level will be the same for any employee eligible for appointment to the position without regard to whether he is a citizen of the United States or of the Republic of Panama.

Paragraphs (b) and (c) provide that U.S. citizen employees may receive an overseas differential, an allowance for taxes which operate to reduce their disposable income as compared with employees who are residents of the area, and greater annual leave benefits.

Item 1 further provides:

Legislation will be sought to make the Civil Service Retirement Act uniformly applicable to citizens of the United States and of the Republic of Panama employed by the Government of the United States in the Canal Zone.

The United States will afford equality of opportunity to citizens of Panama for employment in all U.S. Government positions in the Canal Zone for which they are qualified and in which the employment of U.S. citizens is not required, in the judgment of the United States, for security reasons.

The agencies of the U.S. Government will evaluate, classify, and title all positions in the Canal Zone without regard to the nationality of the incumbent or proposed incumbent.

Citizens of Panama will be afforded opportunity to participate in such training programs as may be conducted for employees by U.S. agencies in the Canal Zone.

On July 25, 1958, Congress implemented the obligations assumed by the United States under the memo of understandings with the passage of Public Law 85-550.

Rates of pay for various occupational categories are determined by the area of principal recruitment, without regard to the nationality of the incumbent. Wages for positions for which satisfactory personnel can be recruited locally are based upon local prevailing rates. In practice, present Canal Zone wages for these jobs average from 30 to 200 percent higher than prevailing wages in Panama. Positions demanding special skills, education, or training for which qualified

⁷³ *Ibid.*

personnel must generally be sought outside of the area are paid at rates based on equivalent or closely similar rates prevailing in the Federal service in the United States, plus a 25-percent differential and tax increment in the case of U.S. citizens.

Since implementation of the Treaty with Panama the percentage of non-U.S. citizens paid at U.S. base rates by the Panama Canal Company and the Canal Zone Government has moved upward as follows:⁷⁵

- February 1959: 144 out of a total of 3,520 or 4 percent.
- June 1959: 173 out of a total of 3,542 or 5 percent.
- December 1959: 234 out of a total of 3,702 or 6 percent.
- April 1960: 259 out of a total of 3,702 or 7 percent.

Fears expressed during hearings on the Treaty of 1955 by U.S. citizen employees in the zone that their jobs would be classified down to Panamanian wage-levels have not materialized. In implementing the treaty with Panama no U.S. citizen employees have had their wages reduced to conform to prevailing rates in Panama.⁷⁴

In line with the clause in item 1 of the memorandum of understandings with regard to affording Panamanians—

opportunity to participate in such training programs as may be conducted for employees by U.S. agencies in the Canal Zone—

President Eisenhower announced on April 19, 1960, an increase in the Panama Canal Company's apprenticeship program. Henceforth, 25 Panamanian citizens would be selected each year to participate in the Canal Company's 4-year training course. As a result of the first examinations after the announcement, 27 Panamanians and 10 U.S. citizens have been selected.

Some criticism still is heard regarding employment practices of U.S. zone agencies. Despite the principle of equality of opportunity embodied in the memorandum of understanding and Public Law 85-550, the charge is made that U.S. authorities, in order to give preference to U.S. citizens, stretch the definition of "security" to apply to a large number of positions which actually do not involve security risk.⁷⁵ There are 1,961 positions classified as "security".⁷⁶ Panama, meanwhile, argues that in two World Wars no sabotage occurred, and that continuing discrimination against Panamanians by means of the "security" escape clause, rather than assuring security, creates dissension and the basis for insecurity.

E. THE ANNUITY

The annuity which the United States pays yearly to the Republic of Panama provides a rallying slogan for anti-U.S. agitators in Panama.

The original figure specified by the Hay-Bunau-Varilla Treaty of 1903 was \$250,000. Under the terms of the treaty of 1936, the amount was increased to \$430,000 to adjust to the reduction of the gold con-

⁷⁴ Letter from secretary, Panama Canal Company to chairman, Subcommittee on Inter-American Affairs, Foreign Affairs Committee, Apr. 29, 1960.

⁷⁵ *Ibid.*

⁷⁶ James L. Busey, "Conflict in Panama," *The New Leader*, Feb. 15, 1960, p. 18.

⁷⁷ Letter from secretary, Panama Canal Company, *op. cit.*

tent of the American dollar. Article I of the treaty of 1955 raised the amount of the annuity to \$1,930,000.⁷⁷ The same article contains a provision designed to safeguard the United States against any assertion of the right to demand an increase in the annuity. It is stated that the parties "recognize the absence of any obligation on the part of either party to alter the amount of the annuity."

Some critics of U.S. policy in Panama demand that the gross receipts of the Canal Zone be split 50-50. Gross revenue from the Panama Canal Company (which includes tolls, sales of commodities, and rentals) amounted to over \$87 million in fiscal year 1959. Net revenue, however, was less than \$3 million. Payroll costs for the Canal Company and the Canal Zone Government consumed over \$52 million. Other financial obligations include operating costs, interest and depreciation charges on the U.S. Government's investment in the project, and a part of the \$1,930,000 annuity paid annually to the Republic of Panama.

The following table gives a breakdown of revenues and expenditures:⁷⁸

Comparative statement of revenue and expenses, fiscal years ended June 30, 1959, and 1958

	1959	1958
Revenue:		
Tolls.....	\$46,546,621	\$42,534,006
Sales of commodities.....	18,452,121	17,706,260
Service sales and rentals.....	22,252,129	22,570,343
Total revenue.....	87,250,871	83,110,609
Operating expenses and deductions:		
Payroll and related costs.....	41,065,800	38,399,717
Material and other operating expenses.....	3,673,316	3,498,469
Cost of commodities sold.....	13,685,418	13,547,951
Depreciation.....	4,787,254	5,262,336
Annuity to Republic of Panama (repayment to U.S. Treasury).....	430,000	430,000
Net cost to Canal Zone Government (repayment to U.S. Treasury).....	11,646,136	10,737,194
Interest on net direct investment of U.S. Government.....	8,979,415	8,778,560
Total operating expenses and deductions.....	84,267,339	80,454,227
Net revenue.....	2,983,532	2,656,382

Those who urge that gross proceeds be split 50-50 with Panama turn aside the fact that Panama now receives more than half the net profits of the canal with the argument that the United States receives inestimable benefits from the canal and should be willing to pay. This claim ignores the benefits which accrue to Panama from operations of the Panama Canal (see p. 13).

The demands for a 50-50 split of the gross receipts rest on emotional rather than rational bases. Since construction days the canal has conjured up for many Panamanians a tissuey dream of easy prosperity. With the passage of time reality has shown that the canal is not, after all, a cornucopia of wealth. But the dream persists. The presence in the Canal Zone of an island of prosperous U.S. residents, in sharp contrast to the widespread poverty in the surrounding Republic of Panama, accentuates the notion that the canal can provide high living standards.

⁷⁷ The Panama Canal Company assumes responsibility for \$430,000; the additional \$1,500,000 added by the Treaty of 1955 is paid by funds appropriated to the Department of State.

⁷⁸ Panama Canal Company, Annual Report, fiscal year ended June 30, 1959, p. 48.

VII. COMPARISON OF THE LEGAL STATUS OF THE SUEZ AND PANAMA CANALS

Nationalist and leftwing elements in the Republic of Panama were stirred by Egypt's nationalization of the Suez Canal Co. on July 26, 1956. Recently United Arab Kingdom representatives have been active in Panama. As stated previously, the UAR delegation is said to be the most active diplomatic mission in Panama although there are few Arab residents and virtually no Arab commercial interests. Cairo also beams two radio broadcasts nightly to Panama devoted to the alleged unfair treatment Panama is receiving from the United States with respect to the canal.

UAR, Castro, and Communist propaganda notwithstanding, the legal status of the Suez Canal differs fundamentally from that of the Panama Canal.

A. SUEZ CANAL BASIC AGREEMENTS

The fundamental agreement concerning the Suez Canal was between an international company and the Egyptian Government. The Suez Canal was constructed and operated—until nationalized in 1956—by a private international company, established and recognized for the purpose under a concession granted by the Khedive of Egypt to Ferdinand de Lesseps in 1856 for the formation of an international company of which he was to be the director. The concession was to run for 99 years from the date of the opening of the canal, which took place in November 1869.

The assets of the company, originally in Egyptian and French hands, later were acquired to a preponderant extent by the British Government and British subjects, due chiefly to the extravagances of the Khedive. Riots broke out in Alexandria and the British sent a successful expedition to the isthmus of Suez. After extended negotiations, the Suez Convention was signed in 1888 by Great Britain, France, Austria-Hungary, Germany, Italy, the Netherlands, Russia, Spain, and Turkey (then in nominal control of Egypt). By that multilateral convention, passage through the Suez Canal was to be open at all times to ships of all nations.

When Egypt nationalized the canal in 1956, Great Britain and France, with the support of other users of the canal, claimed before the United Nations that the Suez Canal Co. enjoyed international status and that therefore Egypt had no right to nationalize it. According to this view, the 1888 Convention, with its provision for open passage to all users, was the chief legal instrument violated by Egypt's act. Egypt held that granting the concession was a domestic act; that the nationalization was a legitimate act of sovereignty; and that the Suez Canal Co. was an Egyptian company and no part of the system established by the 1888 convention. An Egyptian announcement in 1957 concerning the future use of the canal stated that the 1888 agreement would be complied with.

B. LEGAL STATUS OF THE PANAMA CANAL

Without passing judgment on the legality of Egypt's nationalization of the Suez Canal Co., the legal status of the Panama Canal is another matter. The story of how the United States came to build the Panama Canal is told in some detail at the beginning of this report.

UNITED STATES-PANAMA RELATIONS

The fundamental agreements governing the Panama Canal are bilateral ones between the U.S. Government and the Government of the Republic of Panama, not between a sovereign state and a private company.

By the Hay-Bunau-Varilla Treaty of 1903, the United States is granted "in perpetuity" (not a 99-year lease) the use, occupation, and control of the Canal Zone as if it were sovereign. No provision is made to terminate the agreement. Treaties of 1936 and 1955 have modified some of the provisions of the treaty of 1903, but no changes were made in the basic arrangements with respect to the legal basis of U.S. operations in the Panama Canal area. In fact, both the later treaties confirm those parts of the 1903 treaty which are relevant to U.S. jurisdiction in the Canal Zone.

VIII. ALTERNATIVES TO U.S. CONTROL

Some observers foresee a rising tide of nationalism in Panama, due in part to the wave of nationalism sweeping the underdeveloped regions of the world, to Castro's Cuban example, and to Communist efforts to aggravate tensions in an area of U.S. interest. These commentators reason that Panama leaders will no longer be able to contain and exploit popular hostility, and that in these explosive circumstances, the United States, regardless of its legal rights on the isthmus, could not uphold its position in the Canal Zone. They further maintain that armed intervention by the United States would not only place the highly vulnerable canal in the midst of an armed camp, but would probably wreck the inter-American system whose cornerstone is the doctrine of nonintervention. Accordingly, a number of alternative suggestions have been put forward for maintaining the canal in effective operation.

A. INTERNATIONALIZATION OF THE CANAL

President Truman proposed at the Potsdam Conference in 1945 that the Panama Canal be internationalized along with other international waterways. In this he was supported by Prime Minister Attlee of Great Britain, but the Russians vetoed the idea.⁷⁹ President Truman's plan was not designed to avoid problems in Panama. Rather, it was a package deal aimed at an international guarantee of free passage along all international waterways as a means of removing possible future trouble spots. Since that time the Suez Canal has been nationalized by Egypt and the Danube River has fallen to the mercy of the Danube Commission which is dominated by Soviet-bloc countries.

Stanford University political scientists, Martin B. Travis and James T. Watkins, in an article appearing in Foreign Affairs, April 1959, present a case for internationalization of the Panama Canal under United Nations auspices.⁸⁰ Their reasons differ from those motivating President Truman's 1945 suggestion. Travis and Watkins contend that the "changed nature of modern warfare" has "deprived the canal of its original importance." With the outmoding of face-

⁷⁹ Demaree Beas, "The Panama Danger Zone," Saturday Evening Post, May 9, 1959, p. 74.
⁸⁰ Martin B. Travis and James T. Watkins, "Control of the Panama Canal: an Obsolete Shibboleth?" Foreign Affairs, April 1959, pp. 407-418.

UNITED STATES-PANAMA RELATIONS

to-face naval engagements, "the two-ocean navy is itself outdated." Consequently:

That left the canal as a waterway for peacetime shipping and as a route of only secondary usefulness for the wartime transportation of critical materials—hardly a target of prime importance to enemy forces. Since then the canal's vulnerability in an atomic-missile war has been demonstrated by the war games of April 1957. Henceforth, the defense of the canal must be fought far out in the Pacific and the Atlantic or from land bases in continental United States. In the event of a limited war the risk of expanding the conflict is likely to deter the enemy from designating as a strategic target what is no longer a vital supply route.

* * * * *
Since World War II, defense of the canal has been assigned a low strategic priority. The military is apparently operating on the conclusion expressed by Hanson Baldwin in 1957 that the canal today is indefensible in total war and short of total war is less defensible and less strategic than ever before.

Reasoning that a "storm is building up in Panama" and "appropriate measures taken soon can protect the real as distinguished from the illusory U.S. interest in the canal, while a policy of drifting along may jeopardize our interests far beyond Central America," Professors Travis and Watkins see the answer to the dilemma in internationalization of the canal under the United Nations. They argue:

To concede to the tiny population of Panama the power to control a vested interest of the whole community of nations would be no more justifiable than to try to continue the present arrangement. To set up under the Organization of American States a hemispheric agency for operating the canal, a waterway which serves all maritime powers directly and all others indirectly, would open it to the same objections which can be charged against a Danube Commission made up only of riparian powers. There remains the alternative of establishing under the United Nations a specialized agency, the Panama Canal Commission, serving and responsible to the community of nations, and including representatives of the canal's principal users.

Internationalization would leave unimpaired the real interest of the United States, namely, the preservation of the canal and access to it, good service at low cost, and a voice in the operation of the canal. The security of the canal would be, if anything, enhanced. Already hopelessly vulnerable, an internationalized canal might seem to a potential aggressor a less attractive target than one under the exclusive jurisdiction of the United States. In any case, the United States would be entitled to come to the defense of the canal, if defense were feasible, by acting within the United Nations under article 51 of the charter or the "Uniting for Peace" procedures. Such action in defense of an international

UNITED STATES-PANAMA RELATIONS

agency would enjoy moral and practical support which the defense of an exclusive interest claimed by the United States could not evoke. The same principle would apply in the event of limited warfare, where, again, the United States would be in a better moral position to attract the support of the world community.

Good service at a reasonable cost could also be expected from an international agency. Indeed, from a strictly economic standpoint internationalization would offer every hope of bringing an improvement. Less exposed to special-interest pressures than is the U.S. Congress, a Panama Canal Commission could more readily determine an optimum toll schedule for facilitating the flow of traffic and yet building up reserves for needed improvements. And finally, participation in the operation of the canal would be insured as long as the United States remained one of the principal users.

It might be argued that internationalization would be injurious to certain interests claimed by Panama, which stands in a special relationship to the canal. Under international jurisdiction, Panama could expect little support for grandiose schemes for third locks or a sea-level channel. But, that, as we have seen, is the present situation. Then, too, Panama's bargaining power, derived from pitting the claims of nationalism against those of the U.S. colossus, would be lost. Yet this would be more than compensated for by the more effective support which Panama would obtain from Latin American representatives on the Panama Canal Commission. Finally, Panama would lose to the international agency powers heretofore claimed (but not exercised) by itself with respect to the canal, but by the same measure it would render itself more secure from the arbitrary exercise of power by others.

B. ORGANIZATION OF AMERICAN STATES CONTROL

The Department of Political Science of Northwestern University, in a study on the Organization of American States prepared, in 1959, on the request of the Senate Committee on Foreign Relations, recommends that the administration of the Panama Canal be turned over to the OAS.⁸¹

They take a dim view of the idea of giving the United Nations control "because of the tendency of the United Nations to invest controversial issues with the politics of the cold war." They note "how the Security Council of the United Nations muddled the Guatemalan situation in 1954."

According to the study, by regionalizing the canal through the OAS, the United States would—

avoid the political dilemma of internationalizing it through a divided U.N. or having it eventually nationalized despite ourselves by the Panamanians.

⁸¹ U.S. Cong., 86th, 1st sess., "United States-Latin American Relations, The Organization of American States," a study prepared at the request of the Subcommittee on American Republics Affairs of the Committee on Foreign Relations, by Northwestern University, Washington, Government Printing Office, Dec. 24, 1959, pp. 66-67.

UNITED STATES-PANAMA RELATIONS

It is stated, moreover, that by regionalization the United States would not only strengthen the Organization of American States but reap a number of political gains:

A promise to multilateralize the Canal Zone will be another striking symbol of the nonimperialistic nature of our foreign policy. The move would be as forceful a demonstration of our integrity as was the honoring of our early-made promise of freedom to the Philippines. Further, the act would give us a firm posture for maneuver with respect to future problems regarding the Suez Canal. However, its most important and fundamental impact would be within the Americas. It would be another demonstration—and a most impressive one—of our long-term willingness to work as partners with the other nations in the hemisphere.

C. PURCHASE FROM PANAMA

Another political scientist, Prof. James L. Busey of the University of Colorado, opposes multilateralization of the Panama Canal under either OAS or U.N. auspices. In his view—

if the United States were to continue to run it under international authority, the bickering would increase. If operations were to be handled by several participating powers, the service would probably deteriorate and controversy would be inevitable. In any event, the unhappiest party of all would be Panama itself.⁸²

Like his counterparts at Stanford and Northwestern Universities, Professor Busey feels that the present circumstances are fraught with danger for the United States. He recommends that the United States—

now enter into negotiations with Panama with the object of abandoning the foggy provisions of the 1903 convention, and of securing full and undivided U.S. sovereignty over the canal and the zone—or better still, propose to purchase the entire Central American half of the Republic of Panama, from the zone's present eastern border to the Costa Rican frontier.⁸³

If negotiations to purchase from Panama fail, Mr. Busey suggests building a canal in Nicaragua which—

has the huge advantage of giving the United States full title to a strip of territory located between two countries, instead of cutting one in half.

D. OTHER SUGGESTIONS

Other suggestions which crop up occasionally include the formation of an agency of canal users to administer the canal or simply letting the canal revert to Panama.

⁸² James L. Busey, "Conflict in Panama," *The New Leader*, Feb. 15, 1960, p. 19.
⁸³ *Ibid.*

UNITED STATES-PANAMA RELATIONS

UNITED STATES-PANAMA RELATIONS

IX. SUBCOMMITTEE FINDINGS AND RECOMMENDATIONS

(1) The subcommittee does not believe that either the interests of the Republic of Panama, the United States, or the users of the Panama Canal would be served by the transfer of the control and operation of the canal.

Turning over the canal's administration to the United Nations is advanced by its proponents as a means of relieving United States-Panama friction which can be exploited by enemies of the free world. Holders of this view rest their case on the presumption that the Panama Canal's strategic value has vanished in the light of recent military developments.

The subcommittee believes that the strategic value of the canal continues to be an important consideration. The subcommittee is convinced, moreover, that giving the United Nations control of the Panama Canal would facilitate Communist endeavors to disrupt the economic and political stability of the Western Hemisphere. As long as the Communists are bent on destroying inter-American unity, it makes no sense to give Communist-bloc countries a voice in the administration of a waterway which traverses the Western Hemisphere.

Administration of the Panama Canal by the Organization of American States poses drawbacks of a different nature.

The subcommittee finds that OAS administration of the canal has a certain regional appeal and might indeed be interpreted by the American Republics as a sincere commitment to partnership with them. However, maritime nations outside the hemisphere who rely on the canal are likely to greet regionalization of the canal less enthusiastically.

The following table showing the principal Panama Canal trade routes discloses the vital interests which nations outside the Western Hemisphere share in the effective operation of the canal:⁶⁴

Major Panama Canal trade routes, ranked by cargo tonnage volume for selected fiscal years

Trade route	1967	1966	1960	1949	1939	1930
East coast United States-Asia	1	1	3	2	2	4
East coast United States-west coast South America	2	3	2	1	5	3
United States intercoasts	3	2	1	3	1	1
West coast South America-Europe	4	4	6	6	3	5
West coast Canada-Europe	5	5	5	4	6	6
Australasia-Europe	6	7	4	5	7	7
Australasia-Europe	7	6	7	7	4	2
West coast United States-east coast South America	8	8	13	12	14	11
East coast United States-Australasia	9	9	9	8	10	8
West Indies-Asia	10	13	(¹)	(¹)	(¹)	14
West Indies-west coast South America	11	10	10	9	12	13
East coast South America-west coast South America	12	11	(¹)	15	15	(¹)
Europe-Asia	13	(¹)	(¹)	(¹)	11	
East coast United States-Hawaii	14	12	8	10	8	9
West Indies-west coast United States	15	15	12	13	9	10

¹ Not among the 15 most important routes.

⁶⁴ U.S. Cong., 86th, 2d sess., "Report on a Long-Range Program for Isthmian Canal Transits," H. Rept. No. 1960, Washington, GPO, June 22, 1960, p. 59.

Furthermore, by the terms of the treaty arrangements between the United States and the Republic of Panama, the consent of both nations would be necessary to undertake any scheme for international or regional administration of the Panama Canal.

As for purchasing the zone outright as has been suggested, given the degree of nationalism in Panama and in Latin America, the subcommittee thinks any effort to effect purchase of the area is not only doomed to failure but is likely to stimulate great hostility and outcries of "imperialism" not only in Panama but throughout Latin America.

The possibility of building a new canal other than in Panama has been mentioned. The United States does hold exclusive treaty rights in Nicaragua to construct, maintain, control, and defend a canal. (See p. 11.) A number of factors militate against the construction at this time of an alternate canal route through Nicaragua. As reported on page 11 of this study, the Board of Consultants contracted by the Committee on Merchant Marine and Fisheries to study the canal situation from a technical viewpoint recommended against a Nicaraguan Canal. However, the Board of Consultants is optimistic about the possibility of a canal in Colombia, recommending that "further engineering studies of sea-level routes across the isthmus in Colombia should be initiated and prosecuted vigorously." The subcommittee concurs fully with the Board of Consultants in this matter.

As for reversion to Panama, responsible Panamanians themselves do not urge such a course. The cost of running the canal at its present capacity and preparing it for future expanded traffic is well beyond the means of the small Republic. The most conservative estimate of the costs to make improvements to provide additional capacity to meet the demands of international commerce beyond the year 2000 is \$61 million.⁶⁵

(2) the subcommittee recognizes that the efficient operation of the Panama Canal depends in large measure upon the good will of the Panamanian people toward the United States. We acknowledge that the overwhelming presence of the United States in Panama makes an inviting target for every sort of agitation. We believe, however, that it is possible for the United States and Panama to maintain normal, friendly relations.

To this end, the subcommittee recommends that the agencies of the U.S. Government in the Panama Canal Zone be scrupulously diligent in applying the provisions of our treaty arrangements with the Republic of Panama—the intent as well as the letter of our agreements.

The subcommittee recognizes that U.S. residents in the Canal Zone perform a great service for their country at certain personal sacrifices. At the same time, American citizens in the Canal Zone have a special responsibility to assist to the maximum extent toward furthering amicable relations with nationals of the Republic of Panama. The subcommittee approves every effort to assure U.S. citizens in the zone a standard of living comparable with that which they would enjoy in continental United States. However, the Republic of Panama is no longer the isolated frontier civilization of construction days which motivated the U.S. Government to adopt measures designed to miti-

⁶⁵ *Ibid.*, p. 82.

UNITED STATES-PANAMA RELATIONS

gate harsh living conditions. Unfortunately, there exists a human tendency to regard emergency measures which endure for a long period of time as vested interests. The subcommittee is confident that officials of the U.S. agencies operating in the Canal Zone, in living up to our treaty commitments with Panama, will take into consideration the welfare of the residents of the zone. At the same time, the subcommittee urges the Panama Canal Company and Zone Government to emphasize to their employees their responsibilities as U.S. citizens living in a unique situation.

(3) The subcommittee recognizes that Panama's unbalanced economy breeds human misery, leading to political instability. As the Republic's principal and most apparent source of income, the Panama Canal becomes the target of bitter popular discontent.

The subcommittee realizes that the Republic of Panama is largely devoid of resources with which the economy could be diversified. But we are of the opinion that proper utilization of the resources which Panama does possess would contribute to raising to satisfactory levels the living conditions of the large masses of Panamanian people. The subcommittee hopes that Panama's leaders recognize that the revenues from the Canal Zone are not adequate to sustain the economic life of the Panamanian community.

The subcommittee recommends that the United States cooperate generously by providing technical and financial assistance for projects designed to broaden the base of Panama's economy. However, the subcommittee realizes that it is up to the leaders of the Government of the Republic of Panama to take the necessary measures which would make U.S. assistance effective.

(4) The subcommittee acknowledges that the question of flying the Panamanian flag within the Canal Zone as a recognition of Panama's "titular sovereignty" is charged with dangers that could explode beyond Panama-United States relations. The issue offers a constant temptation to demagogues, with the consequent possibility of an ugly incident which could be used to arouse anti-American sentiment throughout the hemisphere.

The subcommittee is convinced, however, that to accede to the Panamanian request, after more than half a century in which only the U.S. flag has been raised in the Canal Zone, would constitute a major departure from established policy. In the subcommittee's judgment, such a proposal would represent a basic change in treaty interpretation. Hence, should the Government of the United States determine at any time in the future that a concession of this magnitude would be in the national interest, such a change should be accomplished only after due constitutional process.

(5) The subcommittee believes that U.S. relations with the Republic of Panama are weakened by dissension regarding the Canal Zone within the administration. Conflicting views of the Department of State, the Panama Canal Company, and the Department of Defense should be adjusted at the highest level—the Presidency—and then firmly administered with a single voice.

(6) The subcommittee recognizes that congressional delays in implementing some of the treaty provisions have been responsible for a measure of resentment in Panama. With a view to reducing the possibilities of congressional disapproval, the subcommittee recommends that in the future the appropriate committees of Congress be consulted by

UNITED STATES-PANAMA RELATIONS

the Department of State with regard to any legislation that might be required to meet envisaged commitments.

(7) The subcommittee recognizes that the overwhelming presence of the United States on the Isthmus of Panama will always be the source of some friction between the Republic of Panama and the United States. In the prophetic words of William Howard Taft at the outset of the construction of the canal:

There are many other matters constantly arising between the American representatives on the isthmus and the Panamanian authorities calling for adjustment. We are living in the same house and family with them, so to speak, and if we do not get on in a friendly way it will be uncomfortable for both.

The subcommittee is confident that wise leaders in both the United States and the Republic of Panama will work cooperatively in order to maintain the Panama Canal as a service to Panama, to the United States, and to all mankind.

ARTICLE II.

The Republic of Panama grants to the United States in perpetuity the use, occupation and control of a zone of land and land under water for the construction, maintenance, operation, sanitation and protection of said Canal of the width of ten miles extending to the distance of five miles on each side of the center line of the route of the Canal to be constructed; the said zone beginning in the Caribbean Sea three marine miles from mean low water mark and extending to and across the Isthmus of Panama into the Pacific ocean to a distance of three marine miles from mean low water mark with the proviso that the cities of Panama and Colon and the harbors adjacent to said cities, which are included within the boundaries of the zone above described, shall not be included within this grant. The Republic of Panama further grants to the United States in perpetuity the use, occupation and control of any other lands and waters outside of the zone above described which may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal or of any auxiliary canals or other works necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said enterprise.

The Republic of Panama further grants in like manner to the United States in perpetuity all islands within the limits of the zone above described and in addition thereto the group of small islands in the Bay of Panama, named, Perico, Naos, Culebra and Flamenco.

ARTICLE III.

The Republic of Panama grants to the United States all the rights, power and authority within the zone mentioned and described in Article II of this agreement and within the limits of all auxiliary lands and waters mentioned and described in said Article II which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority.

ARTICLE IV.

As rights subsidiary to the above grants the Republic of Panama grants in perpetuity to the United States the right to use the rivers, streams, lakes and other bodies of water within its limits for navigation, the supply of water or water-power or other purposes, so far as the use of said rivers, streams, lakes and bodies of water and the waters thereof may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal.

ARTICLE V.

The Republic of Panama grants to the United States in perpetuity a monopoly for the construction, maintenance and operation of any system of communication by means of canal or railroad across its territory between the Caribbean Sea and the Pacific ocean.

APPENDIXES

APPENDIX A

CONVENTION FOR THE CONSTRUCTION OF A SHIP CANAL, 1903

Concluded November 18, 1903; ratification advised by the Senate February 23, 1904; ratified by President February 25, 1904; ratifications exchanged February 26, 1904; proclaimed February 26, 1904. (U.S. Stats., vol. 33.)

ARTICLES.

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| I. Independence of Panama. | XIV. Compensation. |
| II. Canal zone. | XV. Joint commission. |
| III. Authority in canal zone. | XVI. Extradition. |
| IV. Subsidiary rights. | XVII. Ports of Panama. |
| V. Monopoly for construction, etc. | XVIII. Neutrality rules. |
| VI. Private property. | XIX. Free transport. |
| VII. Panama; Colon; harbors. | XX. Cancellation of existing treaties. |
| VIII. Panama Canal Company and railroad. | XXI. Anterior debts, concessions, etc. |
| IX. Ports at entrance of canal. | XXII. Renunciation of rights under concessionary contracts. |
| X. Taxes, etc. | XXIII. Protection of canal. |
| XI. Official dispatches. | XXIV. Change of government, laws, etc. |
| XII. Access of employees. | XXV. Coaling stations. |
| XIII. Importation into zone. | XXVI. Ratification. |

The United States of America and the Republic of Panama being desirous to insure the construction of a ship canal across the Isthmus of Panama to connect the Atlantic and Pacific oceans, and the Congress of the United States of America having passed an act approved June 28, 1902, in furtherance of that object, by which the President of the United States is authorized to acquire within a reasonable time the control of the necessary territory of the Republic of Colombia, and the sovereignty of such territory being actually vested in the Republic of Panama, the high contracting parties have resolved for that purpose to conclude a convention and have accordingly appointed as their plenipotentiaries,—

The President of the United States of America, John Hay, Secretary of State, and

The Government of the Republic of Panama, Philippe Bunau-Varilla, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Panama, thereunto specially empowered by said government, who after communicating with each other their respective full powers, found to be in good and due form, have agreed upon and concluded the following articles:

ARTICLE I.

The United States guarantees and will maintain the independence of the Republic of Panama.

UNITED STATES-PANAMA RELATIONS

ARTICLE VI.

The grants herein contained shall in no manner invalidate the titles or rights of private land holders or owners of private property in the said zone or in or to any of the lands or waters granted to the United States by the provisions of any Article of this treaty, nor shall they interfere with the rights of way over the public roads passing through the said zone or over any of the said lands or waters unless said rights of way or private rights shall conflict with rights herein granted to the United States in which case the rights of the United States shall be superior. All damages caused to the owners of private lands or private property of any kind by reason of the grants contained in this treaty or by reason of the operations of the United States, its agents or employees, or by reason of the construction, maintenance, operation, sanitation and protection of the said Canal or of the works of sanitation and protection herein provided for, shall be appraised and settled by a joint Commission appointed by the Governments of the United States and the Republic of Panama, whose decisions as to such damages shall be final and whose awards as to such damages shall be paid solely by the United States. No part of the work on said Canal or the Panama railroad or on any auxiliary works relating thereto and authorized by the terms of this treaty shall be prevented, delayed or impeded by or pending such proceedings to ascertain such damages. The appraisal of said private lands and private property and the assessment of damages to them shall be based upon their value before the date of this convention.

ARTICLE VII.

The Republic of Panama grants to the United States within the limits of the cities of Panama and Colon and their adjacent harbors and within the territory adjacent thereto the right to acquire by purchase or by the exercise of the right of eminent domain, any lands, buildings, water rights or other properties necessary and convenient for the construction, maintenance, operation and protection of the Canal and of any works of sanitation, such as the collection and disposition of sewage and the distribution of water in the said cities of Panama and Colon, which in the discretion of the United States may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal and railroad. All such works of sanitation, collection and disposition of sewage and distribution of water in the cities of Panama and Colon shall be made at the expense of the United States, and the Government of the United States, its agents or nominees shall be authorized to impose and collect water rates and sewerage rates which shall be sufficient to provide for the payment of interest and the amortization of the principal of the cost of said works within a period of fifty years and upon the expiration of said term of fifty years the system of sewers and water works shall revert to and become the properties of the cities of Panama and Colon respectively, and the use of the water shall be free to the inhabitants of Panama and Colon, except to the extent that water rates may be necessary for the operation and maintenance of said system of sewers and water.

The Republic of Panama agrees that the cities of Panama and Colon shall comply in perpetuity with the sanitary ordinances whether of a preventive or curative character prescribed by the United States and

UNITED STATES-PANAMA RELATIONS

in case the Government of Panama is unable or fails in its duty to enforce this compliance by the cities of Panama and Colon with the sanitary ordinances of the United States the Republic of Panama grants to the United States the right and authority to enforce the same.

The same right and authority are granted to the United States for the maintenance of public order in the cities of Panama and Colon and the territories and harbors adjacent thereto in case the Republic of Panama should not be, in the judgment of the United States, able to maintain such order.

ARTICLE VIII.

The Republic of Panama grants to the United States all rights which it now has or hereafter may acquire to the property of the New Panama Canal Company and the Panama Railroad Company as a result of the transfer of sovereignty from the Republic of Colombia to the Republic of Panama over the Isthmus of Panama and authorizes the New Panama Canal Company to sell and transfer to the United States its rights, privileges, properties and concessions as well as the Panama Railroad and all the shares or part of the shares of that company; but the public lands situated outside of the zone described in Article II of this treaty now included in the concessions to both said enterprises and not required in the construction or operation of the Canal shall revert to the Republic of Panama except any property now owned by or in the possession of said companies within Panama or Colon or the ports or terminals thereof.

ARTICLE IX.

The United States agrees that the ports at either entrance of the Canal and the waters thereof, and the Republic of Panama agrees that the towns of Panama and Colon shall be free for all time so that there shall not be imposed or collected custom house tolls, tonnage, anchorage, lighthouse, wharf, pilot, or quarantine dues or any other charges or taxes of any kind upon any vessel using or passing through the Canal or belonging to or employed by the United States, directly or indirectly, in connection with the construction, maintenance, operation, sanitation and protection of the main Canal, or auxiliary works, or upon the cargo, officers, crew, or passengers of any such vessels; except such tolls and charges as may be imposed by the United States for the use of the Canal and other works, and except tolls and charges imposed by the Republic of Panama upon merchandise destined to be introduced for the consumption of the rest of the Republic of Panama, and upon vessels touching at the ports of Colon and Panama and which do not cross the Canal.

The Government of the Republic of Panama shall have the right to establish in such ports and in the towns of Panama and Colon such houses and guards as it may deem necessary to collect duties on importations destined to other portions of Panama and to prevent contraband trade. The United States shall have the right to make use of the towns and harbors of Panama and Colon as places of anchorage, and for making repairs, for loading, unloading, depositing, or transshipping cargoes either in transit or destined for the service of the Canal and for other works pertaining to the Canal.

UNITED STATES-PANAMA RELATIONS

ARTICLE X.

The Republic of Panama agrees that there shall not be imposed any taxes, national, municipal, departmental, or of any other class, upon the Canal, the railways and auxiliary works, tugs and other vessels employed in the service of the Canal, store houses, work shops, offices, quarters for laborers, factories of all kinds, warehouses, wharves, machinery and other works, property, and effects appertaining to the Canal or railroad and auxiliary works, or their officers or employees, situated within the cities of Panama and Colon, and that there shall not be imposed contributions or charges of a personal character of any kind upon officers, employees, laborers, and other individuals in the service of the Canal and railroad and auxiliary works.

ARTICLE XI.

The United States agrees that the official dispatches of the Government of the Republic of Panama shall be transmitted over any telegraph and telephone lines established for canal purposes and used for public and private business at rates not higher than those required from officials in the service of the United States.

ARTICLE XII.

The Government of the Republic of Panama shall permit the immigration and free access to the lands and workshops of the Canal and its auxiliary works of all employees and workmen of whatever nationality under contract to work upon or seeking employment upon or in any wise connected with the said Canal and its auxiliary works, with their respective families, and all such persons shall be free and exempt from the military service of the Republic of Panama.

ARTICLE XIII.

The United States may import at any time into the said zone and auxiliary lands, free of custom duties, imposts, taxes, or other charges, and without any restrictions, any and all vessels, dredges, engines, cars, machinery, tools, explosives, materials, supplies, and other articles necessary and convenient in the construction, maintenance, operation, sanitation and protection of the Canal and auxiliary works, and all provisions, medicines, clothing, supplies and other things necessary and convenient for the officers, employees, workmen and laborers in the service and employ of the United States and for their families. If any such articles are disposed of for use outside of the zone and auxiliary lands granted to the United States and within the territory of the Republic, they shall be subject to the same import or other duties as like articles imported under the laws of the Republic of Panama.

ARTICLE XIV.

As the price or compensation for the rights, powers and privileges granted in this convention by the Republic of Panama to the United States, the Government of the United States agrees to pay to the Republic of Panama the sum of ten million dollars (\$10,000,000) in gold coin of the United States on the exchange of the ratification of this

UNITED STATES-PANAMA RELATIONS

convention and also an annual payment during the life of this convention of two hundred and fifty thousand dollars (\$250,000) in like gold coin, beginning nine years after the date aforesaid.

The provisions of this Article shall be in addition to all other benefits assured to the Republic of Panama under this convention.

But no delay or difference of opinion under this Article or any other provisions of this treaty shall affect or interrupt the full operation and effect of this convention in all other respects.

ARTICLE XV.

The joint commission referred to in Article VI shall be established as follows:

The President of the United States shall nominate two persons and the President of the Republic of Panama shall nominate two persons and they shall proceed to a decision; but in case of disagreement of the Commission (by reason of their being equally divided in conclusion) an umpire shall be appointed by the two Governments who shall render the decision. In the event of the death, absence, or incapacity of a Commissioner or Umpire, or of his omitting, declining or ceasing to act, his place shall be filled by the appointment of another person in the manner above indicated. All decisions by a majority of the Commission or by the umpire shall be final.

ARTICLE XVI.

The two Governments shall make adequate provision by future agreement for the pursuit, capture, imprisonment, detention and delivery within said zone and auxiliary lands to the authorities of the Republic of Panama of persons charged with the commitment of crimes, felonies or misdemeanors without said zone and for the pursuit, capture, imprisonment, detention and delivery without said zone to the authorities of the United States of persons charged with the commitment of crimes, felonies and misdemeanors within said zone and auxiliary lands.

ARTICLE XVII.

The Republic of Panama grants to the United States the use of all the ports of the Republic open to commerce as places of refuge for any vessels employed in the Canal enterprise, and for all vessels passing or bound to pass through the Canal which may be in distress and be driven to seek refuge in said ports. Such vessels shall be exempt from anchorage and tonnage dues on the part of the Republic of Panama.

ARTICLE XVIII.

The Canal, when constructed, and the entrances thereto shall be neutral in perpetuity, and shall be opened upon the terms provided for by Section I of Article three of, and in conformity with all the stipulations of, the treaty entered into by the Governments of the United States and Great Britain on November 18, 1901.

ARTICLE XIX.

The Government of the Republic of Panama shall have the right to transport over the Canal its vessels and its troops and munitions of

UNITED STATES-PANAMA RELATIONS

war in such vessels at all times without paying charges of any kind. The exemption is to be extended to the auxiliary railway for the transportation of persons in the service of the Republic of Panama, or of the police force charged with the preservation of public order outside of said zone, as well as to their baggage, munitions of war and supplies.

ARTICLE XX.

If by virtue of any existing treaty in relation to the territory of the Isthmus of Panama, whereof the obligations shall descend or be assumed by the Republic of Panama, there may be any privilege or concession in favor of the Government or the citizens and subjects of a third power relative to an interoceanic means of communication which in any of its terms may be incompatible with the terms of the present convention, the Republic of Panama agrees to cancel or modify such treaty in due form, for which purpose it shall give to the said third power the requisite notification within the term of four months from the date of the present convention, and in case the existing treaty contains no clause permitting its modifications or annulment, the Republic of Panama agrees to procure its modification or annulment in such form that there shall not exist any conflict with the stipulations of the present convention.

ARTICLE XXI.

The rights and privileges granted by the Republic of Panama to the United States in the preceding Articles are understood to be free of all anterior debts, liens, trusts, or liabilities, or concessions or privileges to other Governments, corporations, syndicates or individuals, and consequently, if there should arise any claims on account of the present concessions and privileges or otherwise, the claimants shall resort to the Government of the Republic of Panama and not to the United States for any indemnity or compromise which may be required.

ARTICLE XXII.

The Republic of Panama renounces and grants to the United States the participation to which it might be entitled in the future earnings of the Canal under Article XV of the concessionary contract with Lucien N. B. Wyse now owned by the New Panama Canal Company and any and all other rights or claims of a pecuniary nature arising under or relating to said concession, or arising under or relating to the concessions to the Panama Railroad Company or any extension or modification thereof; and it likewise renounces, confirms and grants to the United States, now and hereafter, all the rights and property reserved in the said concessions which otherwise would belong to Panama at or before the expiration of the terms of ninety-nine years of the concessions granted to or held by the above mentioned party and companies, and all right, title and interest which it now has or may hereafter have, in and to the lands, canal, works, property and rights held by the said companies under said concessions or otherwise, and acquired or to be acquired by the United States from or through the New Panama Canal Company, including any property and rights which might or may in the future either by lapse of time, forfeiture or otherwise, revert to the Republic of Panama.

UNITED STATES-PANAMA RELATIONS

under any contracts or concessions, with said Wyse, the Universal Panama Canal Company, the Panama Railroad Company and the New Panama Canal Company.

The aforesaid rights and property shall be and are free and released from any present or reversionary interest in or claims of Panama and the title of the United States thereto upon consummation of the contemplated purchase by the United States from the New Panama Canal Company, shall be absolute, so far as concerns the Republic of Panama, excepting always the rights of the Republic specifically secured under this treaty.

ARTICLE XXIII.

If it should become necessary at any time to employ armed forces for the safety or protection of the Canal, or of the ships that make use of the same, or the railways and auxiliary works, the United States shall have the right, at all times and in its discretion, to use its police and its land and naval forces or to establish fortifications for these purposes.

ARTICLE XXIV.

No change either in the Government or in the laws and treaties of the Republic of Panama shall, without the consent of the United States, affect any right of the United States under the present convention, or under any treaty stipulation between the two countries that now exists or may hereafter exist touching the subject matter of this convention.

If the Republic of Panama shall hereafter enter as a constituent into any other Government or into any union or confederation of states, so as to merge her sovereignty or independence in such Government, union or confederation, the rights of the United States under this convention shall not be in any respect lessened or impaired.

ARTICLE XXV.

For the better performance of the engagements of this convention and to the end of the efficient protection of the Canal and the preservation of its neutrality, the Government of the Republic of Panama will sell or lease to the United States lands adequate and necessary for naval or coaling stations on the Pacific coast and on the western Caribbean coast of the Republic at certain points to be agreed upon with the President of the United States.

ARTICLE XXVI.

This convention when signed by the Plenipotentiaries of the Contracting Parties shall be ratified by the respective Governments and the ratifications shall be exchanged at Washington at the earliest date possible.

In faith whereof the respective Plenipotentiaries have signed the present convention in duplicate and have hereunto affixed their respective seals.

Done at the City of Washington the 18th day of November in the year of our Lord nineteen hundred and three.

JOHN HAY [SEAL]
P. BUNAU VARILLA [SEAL]

APPENDIX B

GENERAL TREATY OF FRIENDSHIP AND COOPERATION
BETWEEN THE UNITED STATES OF AMERICA AND
PANAMA

Signed at Washington, March 2, 1936; ratification advised by the Senate of the United States, July 25, 1939; ratified by the President of the United States, July 26, 1939; ratified by Panama, July 17, 1939; ratifications exchanged at Washington, July 27, 1939; proclaimed by the President of the United States, July 27, 1939.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS a Treaty between the United States of America and the Republic of Panama to strengthen further the bonds of friendship and cooperation between the two countries and to regulate on a stable and mutually satisfactory basis certain questions which have arisen as a result of the construction of the interoceanic canal across the Isthmus of Panama was concluded and signed by their respective Plenipotentiaries at Washington on the second day of March, one thousand nine hundred and thirty-six, the original of which Treaty, being in the English and Spanish languages, is word for word as follows:

The United States of America and the Republic of Panama, animated by the desire to strengthen further the bonds of friendship and cooperation between the two countries and to regulate on a stable and mutually satisfactory basis certain questions which have arisen as a result of the construction of the interoceanic canal across the Isthmus of Panama, have decided to conclude a treaty, and have designated for this purpose as their Plenipotentiaries:

The President of the United States of America:

Mr. Cordell Hull, Secretary of State of the United States of America, and Mr. Sumner Welles, Assistant Secretary of State of the United States of America; and

The President of the Republic of Panama:

The Honorable Doctor Ricardo J. Alfaro, Envoy Extraordinary and Minister Plenipotentiary of Panama to the United States of America, and The Honorable Doctor Narciso Garay, Envoy Extraordinary and Minister Plenipotentiary of Panama on special mission;

Who, having communicated their respective full powers to each other, which have been found to be in good and due form, have agreed upon the following:

ARTICLE I

Article I of the Convention of November 18, 1903, is hereby superseded.

There shall be a perfect, firm and inviolable peace and sincere friendship between the United States of America and the Republic of Panama and between their citizens.

In view of the official and formal opening of the Panama Canal on July 12, 1920, the United States of America and the Republic of Panama declare that the provisions of the Convention of November 18, 1903, contemplate the use, occupation and control by the United States of America of the Canal Zone and of the additional lands and waters under the jurisdiction of the United States of America for the purposes of the efficient maintenance, operation, sanitation and protection of the Canal and of its auxiliary works.

The United States of America will continue the maintenance of the Panama Canal for the encouragement and use of interoceanic commerce, and the two Governments declare their willingness to cooperate, as far as it is feasible for them to do so, for the purpose of insuring the full and perpetual enjoyment of the benefits of all kinds which the Canal should afford the two nations that made possible its construction as well as all nations interested in world trade.

ARTICLE II

The United States of America declares that the Republic of Panama has loyally and satisfactorily complied with the obligations which it entered into under Article II of the Convention of November 18, 1903, by which it granted in perpetuity to the United States the use, occupation and control of the zone of land and land under water as described in the said Article, of the islands within the limits of said zone, of the group of small islands in the Bay of Panama, named Perico, Naos, Culebra and Flamenco, and of any other lands and waters outside of said zone necessary and convenient for the construction, maintenance, operation, sanitation and protection of the Panama Canal or of any auxiliary canals or other works, and in recognition thereof the United States of America hereby renounces the grant made to it in perpetuity by the Republic of Panama of the use, occupation and control of lands and waters, in addition to those now under the jurisdiction of the United States of America outside of the zone as described in Article II of the aforesaid Convention, which may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the Panama Canal or of any auxiliary canals or other works necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said enterprise.

While both Governments agree that the requirement of further lands and waters for the enlargement of the existing facilities of the Canal appears to be improbable, they nevertheless recognize, subject to the provisions of Articles I and X of this Treaty, their joint obligation to insure the effective and continuous operation of the Canal and the preservation of its neutrality, and consequently, if, in the event of some now unforeseen contingency, the utilization of lands or waters additional to those already employed should be in fact necessary for the maintenance, sanitation or efficient operation of the Canal, or for its effective protection, the Governments of the United States of America and the Republic of Panama will agree upon such measures as it may be necessary to take in order to insure the maintenance, sanitation, efficient operation and effective protection of the Canal, in which the two countries are jointly and vitally interested.

UNITED STATES-PANAMA RELATIONS

ARTICLE III

In order to enable the Republic of Panama to take advantage of the commercial opportunities inherent in its geographical situation, the United States of America agrees as follows:

1) The sale to individuals of goods imported into the Canal Zone or purchased, produced or manufactured therein by the Government of the United States of America shall be limited by it to the persons included in classes (a) and (b) of Section 2 of this Article; and with regard to the persons included in classes (c), (d) and (e) of the said Section and members of their families, the sales above mentioned shall be made only when such persons actually reside in the Canal Zone.

2) No person who is not comprised within the following classes shall be entitled to reside within the Canal Zone:

(a) Officers, employees, workmen or laborers in the service or employ of the United States of America, the Panama Canal or the Panama Railroad Company, and members of their families actually residing with them;

(b) Members of the armed forces of the United States of America and members of their families actually residing with them;

(c) Contractors operating in the Canal Zone and their employees, workmen and laborers during the performance of contracts;

(d) Officers, employees or workmen of companies entitled under Section 5 of this Article to conduct operations in the Canal Zone;

(e) Persons engaged in religious, welfare, charitable, educational, recreational and scientific work exclusively in the Canal Zone;

(f) Domestic servants of all the beforementioned persons and members of the families of the persons in classes (c), (d) and (e) actually residing with them.

3) No dwellings belonging to the Government of the United States of America or to the Panama Railroad Company and situated within the Canal Zone shall be rented, leased or sublet except to persons within classes (a) to (e), inclusive of Section 2 hereinabove.

4) The Government of the United States of America will continue to cooperate in all proper ways with the Government of the Republic of Panama to prevent violations of the immigration and customs laws of the Republic of Panama, including the smuggling into territory under the jurisdiction of the Republic of goods imported into the Canal Zone or purchased, produced or manufactured therein by the Government of the United States of America.

5) With the exception of concerns having a direct relation to the operation, maintenance, sanitation or protection of the Canal, such as those engaged in the operation of cables, shipping, or dealing in oil or fuel, the Government of the United States of America will not permit the establishment in the Canal Zone of private business enterprises other than those existing therein at the time of the signature of this Treaty.

6) In view of the proximity of the port of Balboa to the city of Panamá and of the port of Cristobal to the city of Colón, the United States of America will continue to permit, under suitable regulations and upon the payment of proper charges, vessels entering at or clearing from the ports of the Canal Zone to use and enjoy the dockage and other facilities of the said ports for the purpose of loading and

UNITED STATES-PANAMA RELATIONS

unloading cargoes and receiving or disembarking passengers to or from the territory under the jurisdiction of the Republic of Panama.

The Republic of Panama will permit vessels entering at or clearing from the ports of Panamá or Colón, in case of emergency and also under suitable regulations and upon the payment of proper charges, to use and enjoy the dockage and other facilities of said ports for the purpose of receiving or disembarking passengers to or from the territory of the Republic of Panama under the jurisdiction of the United States of America, and of loading and unloading cargoes either in transit or destined for the service of the Canal or of works pertaining to the Canal.

7) The Government of the United States of America will extend to private merchants residing in the Republic of Panama full opportunity for making sales to vessels arriving at terminal ports of the Canal or transiting the Canal, subject always to appropriate administrative regulations of the Canal Zone.

ARTICLE IV

The Government of the Republic of Panama shall not impose import duties or taxes of any kind on goods destined for or consigned to the agencies of the Government of the United States of America in the Republic of Panama when the goods are intended for the official use of such agencies, or upon goods destined for or consigned to persons included in classes (a) and (b) in Section 2 of Article III of this Treaty, who reside or sojourn in territory under the jurisdiction of the Republic of Panama during the performance of their service with the United States of America, the Panama Canal or the Panama Railroad Company, when the goods are intended for their own use and benefit.

The United States of America shall not impose import duties or taxes of any kind on goods, wares and merchandise passing from territory under the jurisdiction of the Republic of Panama into the Canal Zone.

No charges of any kind shall be imposed by the authorities of the United States of America upon persons residing in territory under the jurisdiction of the Republic of Panama passing from the said territory into the Canal Zone, and no charges of any kind shall be imposed by the authorities of the Republic of Panama upon persons in the service of the United States of America or residing in the Canal Zone passing from the Canal Zone into territory under the jurisdiction of the Republic of Panama, all other persons passing from the Canal Zone into territory under the jurisdiction of the Republic of Panama being subject to the full effects of the immigration laws of the Republic.

In view of the fact that the Canal Zone divides the territory under the jurisdiction of the Republic of Panama, the United States of America agrees that, subject to such police regulations as circumstances may require, Panamanian citizens who may occasionally be deported from the Canal Zone shall be assured transit through the said Zone, in order to pass from one part to another of the territory under the jurisdiction of the Republic of Panama.

ARTICLE III

In order to enable the Republic of Panama to take advantage of the commercial opportunities inherent in its geographical situation, the United States of America agrees as follows:

1) The sale to individuals of goods imported into the Canal Zone or purchased, produced or manufactured therein by the Government of the United States of America shall be limited by it to the persons included in classes (a) and (b) of Section 2 of this Article; and with regard to the persons included in classes (c), (d) and (e) of the said Section and members of their families, the sales above mentioned shall be made only when such persons actually reside in the Canal Zone.

2) No person who is not comprised within the following classes shall be entitled to reside within the Canal Zone:

(a) Officers, employees, workmen or laborers in the service or employ of the United States of America, the Panama Canal or the Panama Railroad Company, and members of their families actually residing with them;

(b) Members of the armed forces of the United States of America and members of their families actually residing with them;

(c) Contractors operating in the Canal Zone and their employees, workmen and laborers during the performance of contracts;

(d) Officers, employees or workmen of companies entitled under Section 5 of this Article to conduct operations in the Canal Zone;

(e) Persons engaged in religious, welfare, charitable, educational, recreational and scientific work exclusively in the Canal Zone;

(f) Domestic servants of all the beforementioned persons and members of the families of the persons in classes (c), (d) and (e) actually residing with them.

3) No dwellings belonging to the Government of the United States of America or to the Panama Railroad Company and situated within the Canal Zone shall be rented, leased or sublet except to persons within classes (a) to (e), inclusive of Section 2 hereinabove.

4) The Government of the United States of America will continue to cooperate in all proper ways with the Government of the Republic of Panama to prevent violations of the immigration and customs laws of the Republic of Panama, including the smuggling into territory under the jurisdiction of the Republic of goods imported into the Canal Zone or purchased, produced or manufactured therein by the Government of the United States of America.

5) With the exception of concerns having a direct relation to the operation, maintenance, sanitation or protection of the Canal, such as those engaged in the operation of cables, shipping, or dealing in oil or fuel, the Government of the United States of America will not permit the establishment in the Canal Zone of private business enterprises other than those existing therein at the time of the signature of this Treaty.

6) In view of the proximity of the port of Balboa to the city of Panamá and of the port of Cristobal to the city of Colón, the United States of America will continue to permit, under suitable regulations and upon the payment of proper charges, vessels entering at or clearing from the ports of the Canal Zone to use and enjoy the dockage and other facilities of the said ports for the purpose of loading and

unloading cargoes and receiving or disembarking passengers to or from the territory under the jurisdiction of the Republic of Panama.

The Republic of Panama will permit vessels entering at or clearing from the ports of Panamá or Colón, in case of emergency and also under suitable regulations and upon the payment of proper charges, to use and enjoy the dockage and other facilities of said ports for the purpose of receiving or disembarking passengers to or from the territory of the Republic of Panama under the jurisdiction of the United States of America, and of loading and unloading cargoes either in transit or destined for the service of the Canal or of works pertaining to the Canal.

7) The Government of the United States of America will extend to private merchants residing in the Republic of Panama full opportunity for making sales to vessels arriving at terminal ports of the Canal or transiting the Canal, subject always to appropriate administrative regulations of the Canal Zone.

ARTICLE IV

The Government of the Republic of Panama shall not impose import duties or taxes of any kind on goods destined for or consigned to the agencies of the Government of the United States of America in the Republic of Panama when the goods are intended for the official use of such agencies, or upon goods destined for or consigned to persons included in classes (a) and (b) in Section 2 of Article III of this Treaty, who reside or sojourn in territory under the jurisdiction of the Republic of Panama during the performance of their service with the United States of America, the Panama Canal or the Panama Railroad Company, when the goods are intended for their own use and benefit.

The United States of America shall not impose import duties or taxes of any kind on goods, wares and merchandise passing from territory under the jurisdiction of the Republic of Panama into the Canal Zone.

No charges of any kind shall be imposed by the authorities of the United States of America upon persons residing in territory under the jurisdiction of the Republic of Panama passing from the said territory into the Canal Zone, and no charges of any kind shall be imposed by the authorities of the Republic of Panama upon persons in the service of the United States of America or residing in the Canal Zone passing from the Canal Zone into territory under the jurisdiction of the Republic of Panama, all other persons passing from the Canal Zone into territory under the jurisdiction of the Republic of Panama being subject to the full effects of the immigration laws of the Republic.

In view of the fact that the Canal Zone divides the territory under the jurisdiction of the Republic of Panama, the United States of America agrees that, subject to such police regulations as circumstances may require, Panamanian citizens who may occasionally be deported from the Canal Zone shall be assured transit through the said Zone, in order to pass from one part to another of the territory under the jurisdiction of the Republic of Panama.

UNITED STATES-PANAMA RELATIONS

ARTICLE V

Article IX of the Convention of November 18, 1903, is hereby superseded.

The Republic of Panama has the right to impose upon merchandise destined to be introduced for use or consumption in territory under the jurisdiction of the Republic of Panama, and upon vessels touching at Panamanian ports and upon the officers, crew or passengers of such vessels, the taxes or charges provided by the laws of the Republic of Panama; it being understood that the Republic of Panama will continue directly and exclusively to exercise its jurisdiction over the ports of Panamá and Colón and to operate exclusively with Panamanian personnel such facilities as are or may be established therein by the Republic or by its authority. However, the Republic of Panama shall not impose or collect any charges or taxes upon any vessel using or passing through the Canal which does not touch at a port under Panamanian jurisdiction or upon the officers, crew or passengers of such vessels, unless they enter the Republic; it being also understood that taxes and charges imposed by the Republic of Panama upon vessels using or passing through the Canal which touch at ports under Panamanian jurisdiction, or upon their cargo, officers, crew or passengers, shall not be higher than those imposed upon vessels which touch only at ports under Panamanian jurisdiction and do not transit the Canal, or upon their cargo, officers, crew or passengers.

The Republic of Panama also has the right to determine what persons or classes of persons arriving at ports of the Canal Zone shall be admitted to the Republic of Panama and to determine likewise what persons or classes of persons arriving at such ports shall be excluded from admission to the Republic of Panama.

The United States of America will furnish to the Republic of Panama free of charge the necessary sites for the establishment of customhouses in the ports of the Canal Zone for the collection of duties on importations destined to the Republic and for the examination of merchandise, baggage and passengers consigned to or bound for the Republic of Panama, and for the prevention of contraband trade, it being understood that the collection of duties and the examination of merchandise and passengers by the agents of the Government of the Republic of Panama, in accordance with this provision, shall take place only in the customhouses to be established by the Government of the Republic of Panama as herein provided, and that the Republic of Panama will exercise exclusive jurisdiction within the sites on which the customhouses are located so far as concerns the enforcement of immigration or customs laws of the Republic of Panama, and over all property therein contained and the personnel therein employed.

To further the effective enforcement of the rights hereinbefore recognized, the Government of the United States of America agrees that, for the purpose of obtaining information useful in determining whether persons arriving at ports of the Canal Zone and destined to points within the jurisdiction of the Republic of Panama should be admitted or excluded from admission into the Republic, the immigration officers of the Republic of Panama shall have the right of free access to vessels upon their arrival at the Balboa or Cristobal piers

UNITED STATES-PANAMA RELATIONS

or wharves with passengers destined for the Republic; and that the appropriate authorities of the Panama Canal will adopt such administrative regulations regarding persons entering ports of the Canal Zone and destined to points within the jurisdiction of the Republic of Panama as will facilitate the exercise by the authorities of Panama of their jurisdiction in the manner provided in Paragraph 4 of this Article for the purposes stated in Paragraph 3 thereof.

ARTICLE VI

The first sentence of Article VII of the Convention of November 18, 1903, is hereby amended so as to omit the following phrase: "or by the exercise of the right of eminent domain".

The third paragraph of article VII of the Convention of November 18, 1903, is hereby abrogated.

ARTICLE VII

Beginning with the annuity payable in 1934 the payments under Article XIV of the Convention of November 18, 1903, between the United States of America and the Republic of Panama, shall be four hundred and thirty thousand Balboas (B/430,000.00) as defined by the agreement embodied in an exchange of notes of this date. The United States of America may discharge its obligation with respect to any such payment, upon payment in any coin or currency, provided the amount so paid is the equivalent of four hundred and thirty thousand Balboas (B/430,000.00) as so defined.

ARTICLE VIII

In order that the city of Colón may enjoy direct means of land communication under Panamanian jurisdiction with other territory under jurisdiction of the Republic of Panama, the United States of America hereby transfers to the Republic of Panama jurisdiction over a corridor, the exact limits of which shall be agreed upon and demarcated by the two Governments pursuant to the following description:

(a) The end at Colón connects with the southern end of the east half of the Paseo del Centenario at Sixteenth Street, Colón; thence the corridor proceeds in a general southerly direction, parallel to and east of Bolivar Highway to the vicinity of the northern edge of Silver City; thence eastward near the shore line of Folks River, around the northeast corner of Silver City; thence in a general southeasterly direction and generally parallel to the Randolph Road to a crossing of said Randolph Road, about 1200 feet east of the East Diversion; thence in a general northeasterly direction to the eastern boundary line of the Canal Zone near the southeastern corner of the Fort Randolph Reservation, southwest of Cativá. The approximate route of the corridor is shown on the map which accompanies this Treaty, signed by the Plenipotentiaries of the two countries and marked "Exhibit A".

(b) The width of the corridor shall be as follows: 25 feet in width from the Colón end to a point east of the southern line of Silver City; thence 100 feet in width to Randolph Road, except that, at any elevated crossing which may be built over Randolph Road and the

UNITED STATES-PANAMA RELATIONS

railroad, the corridor will be no wider than is necessary to include the viaduct and will not include any part of Randolph Road proper, or of the railroad right of way, and except that, in case of a grade crossing over Randolph Road and the railroad, the corridor will be interrupted by that highway and railroad; thence 200 feet in width to the boundary line of the Canal Zone.

The Government of the United States of America will extinguish any private titles existing or which may exist in and to the land included in the above-described corridor.

The stream and drainage crossing of any highway built in the corridor shall not restrict the water passage to less than the capacity of the existing streams and drainage.

No other construction will take place within the corridor than that relating to the construction of a highway and to the installation of electric power, telephone and telegraph lines; and the only activities which will be conducted within the said corridor will be those pertaining to the construction, maintenance and common uses of a highway and of power and communication lines.

The United States of America shall enjoy at all times the right of unimpeded transit across the said corridor at any point, and of travel along the corridor, subject to such traffic regulations as may be established by the Government of the Republic of Panama; and the Government of the United States of America shall have the right to such use of the corridor as would be involved in the construction of connecting or intersecting highways or railroads, overhead and underground power, telephone, telegraph and pipe lines, and additional drainage channels, on condition that these structures and their use shall not interfere with the purpose of the corridor as provided hereinabove.

ARTICLE IX

In order that direct means of land communication, together with accommodation for the high tension power transmission lines, may be provided under jurisdiction of the United States of America from the Madden Dam to the Canal Zone, the Republic of Panama hereby transfers to the United States of America jurisdiction over a corridor, the limits of which shall be demarcated by the two Governments pursuant to the following descriptions:

A strip of land 200 ft. in width, extending 62.5 ft. from the center line of the Madden Road on its eastern boundary and 137.5 ft. from the center line of the Madden Road on its western boundary, containing an area of 105.8 acres or 42.81 hectares, as shown on the map which accompanies this Treaty, signed by the Plenipotentiaries of the two countries and marked "Exhibit B".

Beginning at the intersection of the located center line of the Madden Road and the Canal Zone-Republic of Panama 5-mile boundary line, said point being located N. 29°20' W. a distance of 168.04 ft. along said boundary line from boundary monument No. 65, the geodetic position of boundary monument No. 65 being latitude N. 9°07' plus 3,948.8 ft. and longitude 79°37' plus 1,174.6 ft.;

thence N. 43°10' E. a distance of 541.1 ft. to station 324 plus 06.65 ft.;

thence on a 3° curve to the left, a distance of 347.2 ft. to station 327 plus 53.9 ft.;

UNITED STATES-PANAMA RELATIONS

thence N. 32°45' E. a distance of 656.8 ft. to station 334 plus 10.7 ft.;

thence on a 3° curve to the left a distance of 455.55 ft. to station 338 plus 66.25 ft.;

thence N. 19°05' E. a distance of 1,135.70 ft. to station 350 plus 01.95 ft.;

thence on an 8° curve to the left a distance of 650.7 ft. to station 356 plus 52.7 ft.;

thence N. 32°58' W. a distance of 636.0 ft. to station 362 plus 88.7 ft.;

thence on a 10° curve to the right a distance of 227.3 ft. to station 365 plus 16.0 ft.;

thence N. 10°14' W. a distance of 314.5 ft. to station 368 plus 30.5 ft.;

thence on a 5° curve to the left a distance of 178.7 ft. to station 370 plus 09.2 ft.;

thence N. 19°10' W. a distance of 4,250.1 ft. to station 412 plus 59.3 ft.;

thence on a 5° curve to the right a distance of 720.7 ft. to station 419 plus 80.0 ft.;

thence N. 16°52' E. a distance of 1,664.3 ft. to station 436 plus 44.3 ft.;

thence on a 5° curve to the left a distance of 597.7 ft. to station 442 plus 42.0 ft.;

thence N. 13°01' W. a distance of 543.8 ft. to station 447 plus 85.8 ft.;

thence on a 5° curve to the right a distance of 770.7 ft. to station 455 plus 56.5 ft.;

thence N. 25°31' E. a distance of 1,492.2 ft. to station 470 plus 48.7 ft.;

thence on a 5° curve to the right a distance of 808.0 ft. to station 478 plus 56.7 ft.;

thence N. 65°55' E. a distance of 281.8 ft. to station 481 plus 38.5 ft.;

thence on an 8° curve to the left a distance of 446.4 ft. to station 485 plus 84.9 ft.;

thence N. 30°12' E. a distance of 479.6 ft. to station 490 plus 64.5 ft.;

thence on a 5° curve to the left a distance of 329.4 ft. to station 493 plus 93.9 ft.;

thence N. 13°44' E. a distance of 1,639.9 ft. to station 510 plus 33.8 ft.;

thence on a 5° curve to the left a distance of 832.3 ft. to station 518 plus 66.1 ft.;

thence N. 27°53' W. a distance of 483.9 ft. to station 523 plus 50.0 ft.;

thence on an 8° curve to the right a distance of 469.6 ft. to station 528 plus 19.6 ft.;

thence N. 9°41' E. a distance of 1,697.6 ft. to station 545 plus 17.2 ft.;

thence on a 10° curve to the left a distance of 451.7 ft. to station 549 plus 68.9 ft., which is the point marked Point Z on the above-mentioned map known as "Exhibit B".

(All bearings are true bearings.)

UNITED STATES-PANAMA RELATIONS

The Government of the Republic of Panama will extinguish any private titles existing or which may exist in and to the land included in the above-described corridor.

The stream and drainage crossings of any highway built in the corridor shall not restrict the water passage to less than the capacity of the existing streams and drainage.

No other construction will take place within the corridor than that relating to the construction of a highway and to the installation of electric power, telephone and telegraph lines; and the only activities which will be conducted within the said corridor will be those pertaining to the construction, maintenance and common uses of a highway, and of power and communication lines, and auxiliary works thereof.

The Republic of Panama shall enjoy at all times the right of unimpeded transit across the said corridor at any point, and of travel along the corridor, subject to such traffic regulations as may be established by the authorities of the Panama Canal; and the Government of the Republic of Panama shall have the right to such use of the corridor as would be involved in the construction of connecting or intersecting highways or railroads, overhead and underground power, telephone, telegraph and pipe lines, and additional drainage channels, on condition that these structures and their use shall not interfere with the purpose of the corridor as provided hereinabove.

ARTICLE X

In case of an international conflagration or the existence of any threat of aggression which would endanger the security of the Republic of Panama or the neutrality or security of the Panama Canal, the Governments of the United States of America and the Republic of Panama will take such measures of prevention and defense as they may consider necessary for the protection of their common interests. Any measures, in safeguarding such interests, which it shall appear essential to one Government to take, and which may affect the territory under the jurisdiction of the other Government, will be the subject of consultation between the two Governments.

ARTICLE XI

The provisions of this Treaty shall not affect the rights and obligations of either of the two High Contracting Parties under the treaties now in force between the two countries, nor be considered as a limitation, definition, restriction or restrictive interpretation of such rights and obligations, but without prejudice to the full force and effect of any provisions of this Treaty which constitute addition to, modification or abrogation of, or substitution for the provisions of previous treaties.

ARTICLE XII

The present Treaty shall be ratified in accordance with the constitutional methods of the High Contracting Parties and shall take effect immediately on the exchange of ratifications which shall take place at Washington.

UNITED STATES-PANAMA RELATIONS

IN WITNESS WHEREOF, the Plenipotentiaries have signed this Treaty in duplicate, in the English and Spanish languages, both texts being authentic, and have hereunto affixed their seals.

DONE at the city of Washington the second day of March, 1936.

CORDELL HULL [SEAL]
SUMNER WELLES [SEAL]
R. J. ALFARO [SEAL]
NARCISO GARAY [SEAL]

AND WHEREAS the said Treaty has been duly ratified on both parts, and the ratifications of the two Governments were exchanged in the city of Washington on the twenty-seventh day of July one thousand nine hundred and thirty-nine;

Now, THEREFORE, be it known that I, Franklin D. Roosevelt, President of the United States of America, have caused the said Treaty to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States of America and the citizens thereof.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this twenty-seventh day of July in the year of our Lord one thousand nine hundred and [SEAL] thirty-nine and of the Independence of the United States of America the one hundred and sixty-fourth.

FRANKLIN D ROOSEVELT

By the President:
CORDELL HULL
Secretary of State.

ARTICLE I

Beginning with the first annuity payable after the exchange of ratifications of the present Treaty, the payments under Article XIV of the Convention for the Construction of a Ship Canal between the United States of America and the Republic of Panama, signed November 18, 1903, as amended by Article VII of the General Treaty of Friendship and Cooperation, signed March 2, 1936, shall be One Million Nine Hundred Thirty Thousand and no/100 Balboas (B/1,930,000) as defined by the agreement embodied in the exchange of notes of March 2, 1936, between the Secretary of State of the United States of America and the Members of the Panamanian Treaty Commission. The United State of America may discharge its obligation with respect to any such payment in any coin or currency, provided the amount so paid is the equivalent of One Million Nine Hundred Thirty Thousand and no/100 Balboas (B/1,930,000) as so defined.

On the date of the first payment under the present Treaty, the provisions of this Article shall supersede the provisions of Article VII of the General Treaty signed March 2, 1936.

Notwithstanding the provisions of this Article, the High Contracting Parties recognize the absence of any obligation on the part of either Party to alter the amount of the annuity.

ARTICLE II

(1) Notwithstanding the provisions of Article X of the Convention signed November 18, 1903, between the United States of America and the Republic of Panama, the United States of America agrees that the Republic of Panama may, subject to the provisions of paragraphs (2) and (3) of this Article, impose taxes upon the income (including income from sources within the Canal Zone) of all persons who are employed in the service of the Canal, the railroad, or auxiliary works, whether resident within or outside the Canal Zone, except—

- (a) members of the Armed Forces of the United States of America.
- (b) citizens of the United States of America, including those who have dual nationality, and
- (c) other individuals who are not citizens of the Republic of Panama and who reside within the Canal Zone.

(2) It is understood that any tax levied pursuant to paragraph (1) of this Article shall be imposed on a non-discriminatory basis and shall in no case be imposed at a rate higher or more burdensome than that applicable to income of citizens of the Republic of Panama generally.

(3) The Republic of Panama agrees not to impose taxes on pensions, annuities, relief payments, or other similar payments, or payments by way of compensation for injuries or death occurring in connection with, or incident to, service on the Canal, the railroad, or auxiliary works paid to or for the benefit of members of the Armed Forces or citizens of the United States of America or the lawful beneficiaries of such members or citizens who reside in territory under the jurisdiction of the Republic of Panama.

The provisions of this Article shall be operative for the taxable years beginning on or after the first day of January following the year in which the present Treaty enters into force.

APPENDIX C

TREATY OF MUTUAL UNDERSTANDING AND COOPERATION

Treaty, with memorandum of understandings reached; signed at Panamá, January 25, 1955; ratification advised by the Senate of the United States of America, July 29, 1955; ratified by the President of the United States of America, August 17, 1955; ratified by Panama, August 16, 1955; ratifications exchanged at Washington, August 23, 1955; proclaimed by the President of the United States of America, August 26, 1955; entered into force, August 23, 1955.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS a Treaty of Mutual Understanding and Cooperation between the United States of America and the Republic of Panama, together with a related Memorandum of Understandings Reached, was signed at Panamá on January 25, 1955;

WHEREAS the texts of the said Treaty and related Memorandum of Understandings Reached, in the English and Spanish languages, are word for word as follows:

TREATY OF MUTUAL UNDERSTANDING AND COOPERATION BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF PANAMA

The President of the United States of America and the President of the Republic of Panama, desirous of concluding a treaty further to demonstrate the mutual understanding and cooperation of the two countries and to strengthen the bonds of understanding and friendship between their respective peoples, have appointed for that purpose as their respective Plenipotentiaries:

The President of the United States of America:

Selden Chapin, Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Panama,

The President of the Republic of Panama:

Octavio Fábrega, Minister of Foreign Relations of the Republic of Panama,

who, having communicated to one another their respective full powers, found in good and due form, and recognizing that neither the provisions of the Convention signed November 18, 1903, nor the General Treaty signed March 2, 1936, nor the present Treaty may be modified except by mutual consent, agree upon the following articles:

UNITED STATES-PANAMA RELATIONS

ARTICLE III

Subject to the provisions of the succeeding paragraphs of this Article, the United States of America agrees that the monopoly granted in perpetuity by the Republic of Panama to the United States for the construction, maintenance and operation of any system of communication by means of canal or railroad across its territory between the Caribbean Sea and the Pacific Ocean, by Article V of the Convention signed November 18, 1903, shall be abrogated as of the effective date of this Treaty in so far as it pertains to the construction, maintenance and operation of any system of trans-Isthmian communication by railroad within the territory under the jurisdiction of the Republic of Panama.

Subject to the provisions of the succeeding paragraphs of this Article, the United States further agrees that the exclusive right to establish roads across the Isthmus of Panama acquired by the United States as a result of a concessionary contract granted to the Panama Railroad Company shall be abrogated as of the date of the entry into force of this Treaty, in so far as the right pertains to the establishment of roads within the territory under the jurisdiction of the Republic of Panama.

In view of the vital interest of both countries in the effective protection of the Canal, the High Contracting Parties further agree that such abrogation is subject to the understanding that no system of inter-oceanic communication within the territory under the jurisdiction of the Republic of Panama by means of railroad or highway may be financed, constructed, maintained, or operated directly or indirectly by a third country or nationals thereof, unless in the opinion of both High Contracting Parties such financing, construction, maintenance, or operation would not affect the security of the Canal.

The High Contracting Parties also agree that such abrogation as is contemplated by this Article shall in no wise affect the maintenance and operation of the present Panama Railroad in the Canal Zone and in territory subject to the jurisdiction of the Republic of Panama.

ARTICLE IV

The second paragraph of Article VII of the Convention signed November 18, 1903, having to do with the issuance of, compliance with, and enforcement of, sanitary ordinances in the Cities of Panamá and Colón, shall be abrogated in its entirety as of the date of entry into force of this Treaty.

ARTICLE V

The United States of America agrees that, subject to the enactment of legislation by the Congress, there shall be conveyed to the Republic of Panama free of cost all the right, title and interest held by the United States of America or its agencies in and to certain lands and improvements in territory under the jurisdiction of the Republic of Panama when and as determined by the United States to be no longer needed for the operation, maintenance, sanitation or protection of the Panama Canal or of its auxiliary works, or for other authorized purposes of the United States in the Republic of Panama. The lands and improvements referred to in the preceding sentence and the determinations by the United States of America respecting the same,

UNITED STATES-PANAMA RELATIONS

subject to the enactment of legislation by the Congress, are designated and set forth in Item 2 of the Memorandum of Understandings Reached which bears the same date as this Treaty. The United States of America also agrees that, subject to the enactment of legislation by the Congress, there shall be conveyed to the Republic of Panama free of cost all its right, title and interest to the land and improvements in the area known as PAITILLA POINT and that effective with such conveyance the United States of America shall relinquish all the rights, power and authority granted to it in such area under the Convention signed November 18, 1903. The Republic of Panama agrees to save the Government of the United States harmless from any and all claims which may arise incident to the conveyance of the area known as PAITILLA POINT to the Republic of Panama.

ARTICLE VI

Article V of the Boundary Convention, signed September 2, 1914, between the United States of America and the Republic of Panama, shall be replaced by the following provisions:

"It is agreed that the permanent boundary line between the City of Colón (including the Harbor of Colón, as defined in Article VI of the Boundary Convention of 1914, and other waters adjacent to the shores of Colón, and the Canal Zone shall be as follows:

Beginning at an unmarked point called "E", located on the northeasterly boundary of the Colón Corridor (at its Colón extremity), the geodetic position of which, referred to the Panamá-Colón datum of the Canal Zone triangulation system, is in latitude 9° 21' N. plus 0.00 feet (0.000 meters) and longitude 79° 54' W. plus 356.09 feet (108.536 meters).

Thence from said initial point by metes and bounds:

Due East, 2662.83 feet (811.632 meters), along North latitude 9° 21' plus 0.00 feet (0.000 meters); to an unmarked point in Folks River, called "F", located at longitude 79° 53' W. plus 3700.00 feet (1127.762 meters);

N. 36° 36' 30" E., 2616.00 feet (797.358 meters), to an unmarked point in Manzanillo Bay, called "G";

N. 22° 41' 30" W., 1192.00 feet (363.322 meters), to an unmarked point in Manzanillo Bay, called "H";

N. 56° 49' 00" W., 777.00 feet (236.830 meters), to an unmarked point in Manzanillo Bay, called "I";

N. 29° 51' 00" W., 2793.00 feet (851.308 meters), to an unmarked point in Manzanillo Bay, called "J";

N. 50° 56' 00" W., 3292.00 feet (1003.404 meters), to an unmarked point in Limon Bay, called "K";

S. 56° 06' 11" W., 4258.85 feet (1298.100 meters), to an unmarked point in Limon Bay, called "L", which is located on the northerly boundary of the Harbor of Colón.

Thence following the boundary of the Harbor of Colón, as described in Article VI of the Boundary Convention signed September 2, 1914, to monument "D", as follows:

N. 78° 30' 30" W., 2104.73 feet (641.523 meters), on a line to the light house on Toro Point, to an unmarked point in Limon Bay, called "M", located 330 meters or 1082.67 feet easterly and at right angles from the centerline of the Panama Canal;

UNITED STATES-PANAMA RELATIONS

S. 00° 14' 50'' W., 3074.46 feet (937.097 meters), parallel to and 330 meters or 1082.67 feet easterly from the centerline of the Panama Canal, to an unmarked point in Limon Bay, called "N";

S. 78° 30' 30'' E., 3952.97 feet (1204.868 meters), to monument "D", which is a concrete monument, located on the easterly shore of Limon Bay.

Thence following the boundary between the City of Colón and the Canal Zone, as described in Article V of the Boundary Convention signed September 2, 1914, to monument "B" as follows:

S. 78° 30' 30'' E., 258.65 feet (78.837 meters) through monuments Nos. 28 and 27 which are brass plugs in pavement, to monument "D", which is a concrete monument, the distances being 159.96 feet (48.756 meters), 28.26 feet (8.614 meters), and 70.43 feet (21.467 meters), successively, from beginning of the course;

N. 74° 17' 35'' E., 533.60 feet (162.642 meters), along the centerline of Eleventh Street, through monuments Nos. 26, 25, 24 and 23, which are brass plugs in the pavement, to "C", which is an unmarked point beneath the clock pedestal on the centerline of Bolivar Avenue, the distances being 95.16 feet (29.005 meters), 91.02 feet (27.743 meters), 166.71 feet (50.813 meters), 158.66 feet (48.360 meters) and 22.05 feet (6.721 meters), successively, from beginning of the course;

S. 15° 58' 00'' E., 965.59 feet (294.312 meters), along the centerline of Bolivar Avenue, through monuments Nos. 22, 21, 20 and 19, which are brass plugs in the pavement, to monument "B", which is a brass plug, the distances being 14.35 feet (4.374 meters), 143.13 feet (43.626 meters), 238.77 feet (72.777 meters), 326.77 feet (99.600 meters) and 242.57 feet (73.935 meters), successively from beginning of the course. (Monument "B" is the point of beginning referred to in Article I of the Convention between the United States of America and the Republic of Panama regarding the Colón Corridor and certain other Corridors through the Canal Zone, signed at Panamá on May 24, 1950.)

Thence following the boundary between the City of Colón and the Canal Zone, to monument "A", as described in Article I of the Corridor Convention referred to in the next-preceding paragraph:

S. 15° 57' 40'' E., 117.10 feet (35.692 meters) along the centerline of Bolivar Avenue to Monument No. A-8, which is a brass plug located at the intersection with the centerline of 14th Street projected westerly, in North latitude 9° 21' plus 1356.18 feet (413.364 meters) and West longitude 79° 54' plus 1862.57 feet (567.712 meters);

N. 73° 59' 35'' E., 172.12 feet (52.462 meters) along the centerline of 14th Street to Monument No. A-7, which is a brass plug located at the intersection with the line of the west curb of Boundary Street projected northerly in North latitude 9° 21' plus 1403.64 feet (427.830 meters) and West longitude 79° 54' plus 1697.12 feet (517.283 meters);

Southerly along the westerly curb of Boundary Street and its prolongation to Monument No. A-4, which is a brass plug located at the intersection of two curves, in North latitude 9° 21' plus 833.47 feet (254.042 meters) and West longitude 79° 54' plus 980.94 feet (298.991 meters) (this last mentioned course passes

UNITED STATES-PANAMA RELATIONS

through a curve to the left with a radius of 40.8 feet (12.436 meters) and the intersection of its tangents at point A-6 in North latitude 9° 21' plus 1306.23 feet (398.140 meters) and West longitude 79° 54' plus 1669.37 feet (508.825 meters), and a curve to the right with a radius of 1522 feet (436.907 meters) with the point of intersection of its tangents at point A-5 in North latitude 9° 21' plus 958.14 feet (292.042 meters) and West longitude 79° 54' plus 1105.89 feet (337.076 meters));

Through a curve to the left with a radius of 262.2 feet (79.919 meters) and the intersection of its tangents at point A-3 in North latitude 9° 21' plus 769.07 feet (234.413 meters) and West longitude 79° 54' plus 955.43 feet (291.216 meters); a curve to the right with a radius of 320.0 feet (97.536 meters) and the intersection of its tangents at point A-2 in North latitude 9° 21' plus 673.38 feet (205.247 meters) and West longitude 79° 54' plus 836.40 feet (254.935 meters); and a curve to the left with a radius of 2571.5 feet (783.795 meters) and the intersection of its tangents at point A-1 in North latitude 9° 21' plus 302.15 feet (92.096 meters) and West longitude 79° 54' plus 680.96 feet (207.557 meters) to Monument No. "A", which is a 1½ inch brass plug located in the old sea wall, in North latitude 9° 21' plus 45.60 feet (13.899 meters) and West longitude 79° 54' plus 487.65 feet (148.636 meters);

S. 21° 34' 50'' W., 29.19 feet (8.897 meters), to an unmarked point called #1;

Southeasterly, 23.26 feet (7.090 meters), along a curve to the left with a radius of 2596.48 feet (791.409 meters) (the chord of which bears S. 37° 28' 20'' E., 23.26 feet (7.090 meters) to an unmarked point called #2, located on the southwesterly boundary of the Colón Corridor at North latitude 9° 21' plus 0.00 feet (0.000 meters).

The directions of the lines refer to the true meridian.

The above-described boundary is as shown on Panama Canal Company drawing No. 6117-22, entitled "Boundary Line Between the City of Colón and the Canal Zone", scale 1 inch to 600 feet, dated December 23, 1954, prepared for the Canal Zone Government, attached as an annex hereto and forming a part hereof.

Article VIII of the General Treaty signed March 2, 1936, as amended by Article III of the Convention between the United States of America and the Republic of Panama regarding the Colón Corridor and certain other corridors through the Canal Zone, signed May 24, 1950, is hereby modified by removing from the Colón, or westerly, end of the Colón Corridor the portion thereof lying north of North latitude 9° 21' and incorporating such portion within the boundary of the City of Colón as described above.

This Article shall become effective upon completion of the withdrawal by the United States of America from the sections of the city of Colón known as New Cristobal, Colón Beach and the de Lesseps Area, with the exception of the lots retained for consulate purposes, except that it shall in no case become effective prior to the exchange of the instruments of ratification of this Treaty and the exchange of instruments of ratification of the Convention signed May 24, 1950, referred to in the preceding paragraph.

UNITED STATES-PANAMA RELATIONS

ARTICLE VII

The second paragraph of Article VII of the Boundary Convention signed September 2, 1914, between the United States of America and the Republic of Panama, shall be abrogated in its entirety as of the date of entry into force of the present Treaty.

The landing pier situated in the small cove on the southerly side of Manzanillo Island, constructed pursuant to provisions contained in the second paragraph of Article VII of the Boundary Convention of 1914 between the two countries, shall become the property of the Government of the Republic of Panama as of the date of entry into force of the present Treaty.

ARTICLE VIII

(a) The Republic of Panama will reserve exclusively for the purpose of maneuvers and military training the area described in the maps (Nos. SGN-7-54 and SGN-8-54, each dated November 17, 1954) and accompanying descriptions prepared by the Comisión Catastral of the Republic of Panama, attached as the Annex hereto, and will permit the United States of America, without cost and free of all encumbrances, exclusively to utilize said area for the indicated purpose for a period of fifteen (15) years, subject to extension thereafter as agreed by the two Governments. This authorization includes the free access to, egress from, and movements within and over, said area. This utilization will not affect the sovereignty of the Republic of Panama, or the operation of the Constitution and the laws of the Republic over the mentioned area.

(b) The United States Armed Forces, the members thereof and their families actually residing with them, and United States nationals who, in an official capacity, are serving with or accompanying the Armed Forces of the United States and members of their families actually residing with them will be exempted within the said area from all taxation by the Republic of Panama or any of its political subdivisions.

(c) Prior to the expiration of the period envisaged in this Article and within a reasonable time thereafter the United States shall have the right to remove from this training and maneuver area, or otherwise to dispose of, without limitation or restriction all structures, installations, facilities, equipment and supplies brought into, or constructed or erected within this training and maneuver area by or on behalf of the United States. The Republic of Panama will not be required to reimburse the United States for any structures, installations, facilities, equipment and supplies not removed or otherwise disposed of as provided herein.

(d) The United States shall be under no obligation to restore this training and maneuver area or the facilities and installations thereon to their original condition upon the termination of this Article, except for the landing strip which will be returned in at least as good condition as that obtaining at the time of coming into effect of this Article.

(e) The provisions of this Article shall in no manner terminate or modify the provisions concerning the holding of military maneuvers in the Republic of Panama established by the Notes ancillary to the General Treaty signed March 2, 1936 other than as provided herein for this training and maneuver area.

UNITED STATES-PANAMA RELATIONS

ARTICLE IX

The Republic of Panama hereby waives the right under Article XIX of the Convention signed November 18, 1903, to transportation by railway within the Zone, without paying charges of any kind, of persons in the service of the Republic of Panama, or of the police force charged with the preservation of public order outside of the Canal Zone, as well as of their baggage, munitions of war and supplies.

ARTICLE X

The High Contracting Parties agree that, in the event of the discontinuance of the Panama Railroad, and of the construction or completion by the United States of a strategic highway across the Isthmus lying wholly within the Canal Zone intended primarily for serving the operation, maintenance, civil government, sanitation and protection of the Panama Canal and Canal Zone, and notwithstanding anything to the contrary in Article VI of the Convention signed November 18, 1903, the United States of America may in its discretion either prohibit or restrict the use, by busses or trucks not at the time engaged exclusively in the servicing of, or the transportation of supplies to, installations, facilities or residents of the Canal Zone, of that portion of such highway which lies between Mount Hope, Canal Zone and the intersection of such highway with the Canal Zone section of the Trans-Isthmian Highway referred to in the Trans-Isthmian Highway Convention between the United States of America and the Republic of Panama, signed March 2, 1936.

ARTICLE XI

The Republic of Panama agrees, notwithstanding the provisions of Article III of the General Treaty signed March 2, 1936, that the United States of America may extend the privilege of purchasing at post exchanges small items of personal convenience and items necessary for professional use, to military personnel of friendly third countries present in the Zone under auspices of the United States.

ARTICLE XII

The United States of America agrees that, effective December 31, 1956, there will be excluded from the privilege of making purchases in the commissaries and other sales stores in the Canal Zone as well as the privilege of making importations into the Canal Zone all those persons who are not citizens of the United States of America, except members of the Armed Forces of the United States, and who do not actually reside in the Canal Zone but who are included in the categories, of persons authorized to reside in said Zone; it being understood nevertheless that all personnel of the agencies of the United States of America will be permitted under adequate controls to purchase small articles such as meals, sweets, chewing gum, tobacco and similar articles near the sites of their jobs.

The United States of America further agrees that, effective December 31, 1956, and notwithstanding the provisions of the first paragraph of Article IV of the General Treaty signed March 2, 1936, the Government of the Republic of Panama may impose import duties

UNITED STATES-PANAMA RELATIONS

and other charges upon goods destined or consigned to persons, other than citizens of the United States of America, included in class (a) in Section 2 of Article III of said Treaty, who reside or sojourn in territory under the jurisdiction of the Republic of Panama during the performance of their service with the United States of America or its agencies, even though such goods are intended for their own use and benefit.

ARTICLE XIII

The present Treaty shall be subject to ratification and the instruments of ratification shall be exchanged at Washington. It shall enter into force on the date of the exchange of the instruments of ratification.

MEMORANDUM OF UNDERSTANDINGS REACHED

In connection with the 1953-1954 negotiations between representatives of the United States of America and the Republic of Panama, which have resulted in the signature of a Treaty between the two countries, the following understandings have been reached:

On the part of the United States of America:

1. Legislation will be sought which will authorize each agency of the United States Government in the Canal Zone to conform its existing wage practices in the Zone to the following principles:

(a) The basic wage for any given grade level will be the same for any employee eligible for appointment to the position without regard to whether he is a citizen of the United States or of the Republic of Panama.

(b) In the case of an employee who is a citizen of the United States, there may be added to the base pay an increment representing an overseas differential plus an allowance for those elements, such as taxes, which operate to reduce the disposable income of such an employee as compared with an employee who is a resident of the area.

(c) The employee who is a citizen of the United States will also be eligible for greater annual leave benefits and travel allowances because of the necessity for periodic vacations in the United States for recuperation purposes and to maintain contact with the employee's home environment.

Legislation will be sought to make the Civil Service Retirement Act uniformly applicable to citizens of the United States and of the Republic of Panama employed by the Government of the United States in the Canal Zone.

The United States will afford equality of opportunity to citizens of Panama for employment in all United States Government positions in the Canal Zone for which they are qualified and in which the employment of United States citizens is not required, in the judgment of the United States, for security reasons.

The agencies of the United States Government will evaluate, classify and title all positions in the Canal Zone without regard to the nationality of the incumbent or proposed incumbent.

Citizens of Panama will be afforded opportunity to participate in such training programs as may be conducted for employees by United States agencies in the Canal Zone.

UNITED STATES-PANAMA RELATIONS

2. With reference to that part of Article V of the Treaty signed today which deals with the conveyance to the Republic of Panama free of cost of all the right, title and interest held by the United States of America or its agencies in and to certain lands and improvements situated in territory under the jurisdiction of the Republic of Panama, steps will be taken as provided in this Item.

(a) Legislation will be sought to authorize and direct the transfer to the Republic of Panama of all the right, title and interest held by the United States or its agencies in or to the following real property:

1. The J. N. Vialette and Huerta de San Doval tracts in the city of Panamá and the Aspinwall tract on the Island of Taboga.

2. Las Isletas and Santa Catalina Military Reservations on the Island of Taboga. This transfer will include the cable rights-of-way which have a width of 20 feet (6.10 meters) and extend between the Ancon Cove Military Reservation and the Santa Catalina Military Reservation, and between the El Vigia Military Reservation and the Las Isletas Military Reservation.

3. The lot in Colón now reserved for consulate purposes.

4. Certain lands on the westerly shores of the city of Colón described roughly as extending from the southerly boundary of the de Lesseps area (4th Street extended) to the Colón-Canal Zone boundary and bounded on the east by the east wall of the old freight house and, below that structure, by a line 25 feet (7.622 meters) west of the center line of the most westerly railroad track. This transfer will include the certain improvements consisting of the old freight house and Colón Pier Number 3.

(b) Legislation will be sought to authorize and direct the Panama Canal Company to remove its railway terminal operations from the city of Panamá and to transfer to the Republic of Panama free of cost all of the right, title and interest of the Panama Canal Company in and to the lands known as the Panama Railroad Yard, including the improvements thereon and specifically including the railway passenger station. This action will also relieve the Government of the Republic of Panama of its obligation under Point 10 of the General Relations Agreement between the United States of America and the Republic of Panama signed May 18, 1942 to make available without cost to the Government of the United States of America a suitable new site for such terminal facilities.

(c) With respect to those areas in the city of Colón known as de Lessepe, Colón Beach and New Cristobal (with the exception of two lots in the de Lesseps area which the United States intends to use for consulate purposes), legislation will be sought to authorize and direct the gradual withdrawal from these areas and the conveyance or transfer to the Republic of Panama free of cost of all the right, title and interest of the United States and of its agency, the Panama Canal Company, in and to the lands and improvements thereon. Under this process of gradual withdrawal the United States Government, and/or its agencies, will not be obligated to install any new structure in such areas and, as severable parts of the areas cease to be needed, the lands and improvements would be conveyed or transferred. The severability of parts of the areas depends upon a number of practical considerations including those having to do with the present obligations of the United States, with respect to the subject areas, concerning water and sewerage facilities, street cleaning and paving, water

UNITED STATES-PANAMA RELATIONS

supply, et cetera, as stipulated in the Instrument of Transfer of Water and Sewerage Systems, executed between the Governor of the Panama Canal and the Foreign Minister of Panama on December 28, 1945.

(d) With respect to the railroad passenger station and site in the city of Colón, legislation will be sought to authorize and direct the withdrawal from such site and structure at such time as the withdrawal from the areas known as de Lesseps, Colón Beach and New Cristobal, contemplated by the next preceding subparagraph, shall have been fully completed, and the conveyance to the Republic of Panama free of cost of all the right, title and interest of the United States and of its agency, the Panama Canal Company, in and to such site and structure. However, the railroad tracks and trackage area in Colón, being required for switching purposes serving the Cristobal piers, will be retained for such purposes.

(e) All transfers or conveyances of lands and improvements contemplated by this Item, subject to legislative authorization and direction, will necessarily be made subject to any leases which may be outstanding in the respective areas, and will also contain provisions fully protecting the Government of the United States of America against any claims by lessees for damages or losses which may arise as a result of such transfers or conveyances.

(f) The transfers or conveyances contemplated by this Item, subject to legislative authorization, are in addition to the conveyance of Paitilla Point as specifically covered by Article V of the Treaty signed today, and to the transfer of real property effected by Article VI of said Treaty.

3. Articles, materials, and supplies that are mined, produced or manufactured in the Republic of Panama, when purchased for use in the Canal Zone, will be exempted from the provisions of the Buy American Act.

4. Referring to the exchange of notes dated March 2, 1936, accessory to the General Treaty between the United States of America and the Republic of Panama signed on that date, relative to the sale to ships of goods imported into the Canal Zone by the Government of the United States of America, the United States of America agrees, effective December 31, 1956, and in benefit of Panamanian commerce, to withdraw wholly from, and thereafter to refrain from, any such sales to ships, provided that nothing in this Item shall apply—

(a) to sales to ships operated by or for the account of the Government of the United States of America,

(b) to the sale of fuel or lubricants, or

(c) to any sale or furnishing of ships stores which is incidental to the performance of ship repair operations by any agency of the Government of the United States of America.

5. Legislative authorization and the necessary appropriations will be sought for the construction of a bridge at Balboa referred to in Point 4 of the General Relations Agreement of 1942.

6. The United States of America agrees, effective December 31, 1956, to withdraw from persons employed by agencies of the Government of the United States of America in the Canal Zone who are not citizens of the United States of America and who do not actually reside in said Zone the privilege of availing themselves of services which are offered within said Zone except those which are essential to health or necessary to permit them to perform their duties.

UNITED STATES-PANAMA RELATIONS

7. It is and will continue to be the policy of the Panama Canal agencies and of the Armed Forces in the Canal Zone in making purchases of supplies, materials and equipment, so far as permitted under United States legislation, to afford to the economy of the Republic of Panama full opportunity to compete for such business.

8. In general connection with the matter of the importation of items of merchandise for resale in the sales stores in the Canal Zone, it will be the practice of the agencies concerned to acquire such items either from United States sources or Panamanian sources unless, in certain instances, it is not feasible to do so.

9. With respect to the manufacture and processing of goods for sale to or consumption by individuals, now carried on by the Panama Canal Company, it will be the policy of the United States of America to terminate such activities whenever and for so long as such goods, or particular classes thereof, are determined by the United States of America to be available in the Republic of Panama on a continuing basis, in satisfactory qualities and quantities, and at reasonable prices. The United States of America will give prompt consideration to a request in writing on the part of the Government of Panama concerning the termination of the manufacture or processing of any goods covered in this Item as to which the Government of Panama may consider the criteria specified in this Item to have been met.

10. Prompt consideration will be given to withdrawing from the handling of commercial cargo for transshipment on Canal Zone piers so soon as Panamanian port facilities are in satisfactory operation in Colón.

11. The United States agrees that the term "auxiliary works" as used in the Treaty includes the Armed Forces of the United States of America.

On the part of the Republic of Panama:

1. The Republic of Panama will lease to the United States of America, free of all cost save for the recited consideration of one Balboa, for a period of 99 years, two parcels of land contiguous to the present United States Embassy residence site, as designated on the sketch (No. SGN-9-54, dated November 19, 1954) and accompanying descriptions prepared by the Comisión Catastral of the Republic of Panama, attached hereto.

2. The Republic of Panama assures the United States of America that the property, shown and described on the attached map (No. SGN-6-54, dated October 1954) and accompanying description prepared by the Comisión Catastral of the Republic of Panama, in front of the United States Embassy office building site and between the Bay of Panama and Avenida Balboa as it may be extended between 37th and 39th Streets, will be preserved permanently as a park and not developed for commercial or residential purposes.

3. So long as the United States of America maintains in effect those provisions of Executive Order No. 6997 of March 25, 1935 governing the importation of alcoholic beverages into the Canal Zone, the Republic of Panama will grant a reduction of 75 percent in the import duty on alcoholic beverages which are sold in Panama for importation into the Canal Zone pursuant to such Executive Order.

UNITED STATES-PANAMA RELATIONS

4. In connection with the authorization granted to the United States of America in Article VIII of the Treaty, the United States shall have free access to the beach areas contiguous to the maneuver area described in said Article VIII for purposes connected with training and maneuvers, subject to the public use of said beach as provided under the Constitution of Panama.

The provisions of this Memorandum of Understandings Reached shall enter into force upon the exchange of instruments of ratification of the Treaty signed this day by the United States of America and the Republic of Panama.

APPENDIX D

COMPARISON OF THE RIGHTS AND OBLIGATIONS OF THE UNITED STATES UNDER THE TERMS OF THE THREE BASIC TREATIES WITH PANAMA

HAY-BUNAU-VARILLA TREATY, 1903

RIGHTS RECEIVED

(1) In perpetuity, to a zone of land and land under water 10 miles in width and extending 3 miles into the Caribbean sea and 3 miles into the Pacific ocean, plus certain small islands in the Bay of Panama, for the maintenance, operation, sanitation, and protection of a canal across the Isthmus of Panama.

(2) In perpetuity, the use, occupation, and control of any other lands and waters outside of the zone which may be necessary and convenient for the construction, maintenance, operation, sanitation, and protection of the canal.

(3) All the power and authority within the zone and within the limits of all auxiliary lands and waters which the United States would possess and exercise if it were sovereign, to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority.

(4) All the rights of the New Panama Canal Company and the Panama Railroad upon purchase of the Company's rights, privileges, properties, and concessions.

(5) At all times and at its discretion to use its police and its land and naval forces or to establish fortifications for the safety or protection of the canal, or of the ships that transit it, or the railways and auxiliary works.

CONCESSIONS

(1) Guaranteed the independence of the Republic of Panama.

(2) Granted the right to have official dispatches of the Government of Panama transmitted over any telegraph and telephone lines established for canal purposes and used for public and private business at rates not higher than those required from officials in the service of the United States.

(3) \$10 million in gold coin of the United States and an annual payment of \$250,000, beginning 9 years after the date of the exchange of ratifications.

(4) Granted the Republic of Panama the right to transport over the canal its vessels and its troops and munitions of war at all times without paying charges of any kind. The exemption is extended to the auxiliary railway for the transportation of persons in the service of the Republic of Panama, or of the police force charged with the preservation of public order outside of the zone, as well as to their baggage, munitions of war, and supplies.

(5) United States assumes the costs of damages caused to owners of private property of any kind by reason of the grants contained in the treaty or by reason of the operations of the United States, its agents or employees, or by

(6) To use the rivers, streams, lakes, and other bodies of water in the Republic of Panama for navigation, the supply of water, or water power or other purposes as may be necessary and convenient for the construction, maintenance, operation, sanitation, and protection of the canal.

(7) A monopoly in perpetuity for the construction, maintenance, and operation of any system of communication by means of canal or railroad connecting the Caribbean Sea and the Pacific Ocean across Panamanian territory.

(8) To acquire in the cities of Panama and Colon, by purchase or by the exercise of the right of eminent domain, any lands, buildings, water rights, or other properties necessary and convenient for the construction, maintenance, operation, and protection of the canal and of any works of sanitation, such as the collection and disposition of sewage and the distribution of water in the said cities of Panama and Colon, at the discretion of the United States.

(9) To impose and collect water rates and sewerage rates which shall be sufficient to provide for the payment of interest and the amortization of the principal of the cost of such works within a period of fifty years, upon which time the system of sewers and water works shall revert to and become the properties of the cities of Panama and Colon.

(10) To enforce in perpetuity sanitary ordinances prescribed by the United States in the cities of Panama and Colon and the territories and harbors adjacent thereto in case the Republic of Panama should not be, in the judgment of the United States, able to maintain such order.

reason of the construction, maintenance, operation, sanitation, and protection of the canal or of the works of sanitation and protection provided for in the treaty.

(6) After 50 years, the system of sewers and waterworks constructed and maintained by the United States shall revert to and become the properties of the cities of Panama and Colon.

HAY-BUNAU-VARILLA TREATY, 1903—Continued

RIGHTS RECEIVED

CONCESSIONS

(11) In perpetuity, to maintain public order in the cities of Panama and Colon and the territories and harbors adjacent thereto in case the Republic of Panama should not be, in the judgment of the United States, able to maintain such order.

(12) To make use of the towns and harbors of Panama and Colon as places of anchorage, and for making repairs, for loading, unloading, deposition, or transshipping cargoes either in transit or destined for the service of the canal and for other works pertaining to the canal.

(13) Freedom from taxation upon the canal, the railways and auxiliary works, tugs, and other vessels employed in the service of the canal, storehouses, workshops, offices, quarters for laborers, factories of all kinds, warehouses, wharves, machinery and other works, property, and effects appertaining to the canal or railroad and auxiliary works, or their officers or employees, situated within the cities of Panama and Colon, and freedom from taxation upon officers, employees, laborers, and other individuals in the service of the canal and railroad and auxiliary works.

(14) To import at any time into the zone and auxiliary lands, free of customs duties, imposts, taxes, or other charges, and without any restrictions, all materials necessary and convenient in the construction, maintenance, operation, sanitation, and protection of the canal and all

provisions necessary and convenient for employees in the service of the United States and their families.

(15) The right to purchase or lease lands adequate and necessary for naval or coaling stations on the Pacific coast and on the western Caribbean coast of the Republic of Panama at certain points to be agreed upon.

TREATY OF 1936

(1) Jurisdiction of a corridor from Madden Dam to the Canal Zone.

(2) Unimpeded transit across the Colon corridor (provided for in the treaty) at any point, and of travel along the corridor, and to such use of the corridor as would be involved in the construction of connecting or intersecting highways or railroads, overhead and underground power, telephone, telegraph and pipe lines, and additional drainage channels.

(1) Renounces the guarantee of Panamanian independence.

(2) Renounces the right to expropriate without restriction additional land for canal use. Henceforth, in the event of some unforeseen contingency, should the utilization of lands or waters additional to those already employed be necessary for the maintenance, sanitation, or efficient operation of the canal, or for its effective protection, the two governments will agree upon such measures as may be necessary to take.

(3) Renounces right of "eminent domain" in cities of Panama and Colon.

(4) Renounces right to intervene to maintain public order in the cities of Panama and Colon.

(5) Renounces unlimited right to defend canal. In the event that the security of the Republic of Panama or the canal is threatened, the matter will be the subject of consultation between the two governments.

(6) Increases annuity from \$250,000 to \$430,000.

(7) Persons not connected with the operation or administration of the canal are not to rent dwellings in the Canal Zone belonging to the Government of the United States or to reside in the zone.

TREATY OF 1936—Continued

RIGHTS RECEIVED

CONCESSIONS

(8) Sale of goods imported into the zone or purchased, produced, or manufactured there by the Government of the United States is limited to persons employed by the United States in the Canal Zone and members of the Armed Forces of the United States, and their families. Contractors operating in the zone and their employees and persons engaged in religious, welfare, charitable, educational, recreational, and scientific work may purchase such items only when they actually reside in the zone.

(9) All private business enterprises in the zone, with the exception of concerns having a direct relation to the operation, maintenance, sanitation, or protection of the canal, other than those existing at the time of the signature of the treaty, are prohibited.

(10) United States extends to merchants residing in Panama full opportunity for making sales to vessels arriving at terminal ports of the canal or transiting the canal.

(11) United States will permit vessels entering at or clearing from ports of the Canal Zone to use and enjoy the dockage and other facilities of the ports for the purpose of loading or unloading cargoes and receiving or disembarking passengers to or from territory under the jurisdiction of the Republic of Panama.

(12) Republic of Panama is given right to collect tolls from merchant ships in the ports of Panama City and Colon, even though they later pass through the canal.

(13) United States will furnish to the Republic of Panama free of charge the necessary sites for the establishment of customhouses in the ports of the Canal Zone for the collection of duties on importations destined to the Republic and for the examination of merchandise and passengers consigned to or bound for the Republic of Panama. Panama is given exclusive jurisdiction to enforce the immigration or customs laws of the Republic of Panama within the sites so provided.

(14) Republic of Panama given right to determine what persons or classes of persons arriving at ports of the Canal Zone shall be admitted or excluded from its jurisdiction.

TREATY OF 1955

RIGHTS RECEIVED

(1) Exclusive use without cost, for a period of at least 15 years, of a military training and maneuver area (approximately 19,000 acres) in the Rio Hato region.

(2) Panama waives the right, under article XIX of the 1903 convention, to free transportation over the Panama Railroad of persons in the service of the Republic of Panama, or of the police force charged with the preservation of public order outside of the Canal zone, as well as to their baggage, munitions of war, and supplies.

(3) Panama waives certain treaty rights in order to enable the United States to prohibit or restrict the use of a contemplated new strategic highway within the Canal Zone by commercial transisthmian traffic.

(4) Panama waives certain treaty provisions in order to enable the United States to extend limited post exchange privileges to military personnel of friendly foreign countries visiting the Canal Zone under U.S. auspices.

(5) A lease for a period of 99 years without cost to two parcels of land contiguous to the U.S. Embassy residence site in the city of Panama.

(6) Panama will reserve permanently as a park area certain land in front of the U.S. Embassy office building site in the city of Panama.

(7) A reduction of 75 percent in the import duty on alcoholic beverages which are sold in Panama for importation into the Canal Zone.

CONCESSIONS

(1) The annuity is increased from \$430,000 to \$1,930,000.

(2) Subject to certain general conditions, Panama is enabled to levy income taxes on the following categories of personnel employed by Canal Zone agencies: (1) Panamanian citizens irrespective of their place of residence and (2) citizens of third countries who reside in territory under the jurisdiction of Panama.

(3) Renounces monopoly with respect to the construction, maintenance, and operation of transisthmian railroads and highways, with the provision that no system of interoceanic communication by railroad or highway within territory under Panamanian jurisdiction may be financed, constructed, maintained, or operated directly or indirectly by a third country or nationals thereof unless in the opinion of both parties such action would not affect the security of the canal.

(4) Renounces treaty right to prescribe and enforce sanitary measures in the cities of Panama and Colon.

(5) Certain lands, with improvements thereon, previously acquired for canal purposes (including Paitilla Point and the Panama Railroad yard and station in the city of Panama) but no longer needed for such purposes, are to be transferred to Panama and there is to be a gradual transfer to Panama of the New Cristobal, Colon Beach, and Fort de Lesseps areas in Colon.

(6) Canal Zone commissary and import privileges of non-U.S. citizen employees of Canal Zone agencies, except members of the Armed Forces of the United States, who do not reside in the zone are withdrawn.

(7) The U.S. Congress will be requested to enact legislation authorizing establishment of a single basic wage scale for all United States and Panamanian employees of the U.S. Government in the Canal Zone and providing for uniform application of the Civil Service Retirement Act to citizens of the United States and citizens of Panama employed by the U.S. Government in the Canal Zone.

(8) The United States will afford equality of opportunity to citizens of Panama for employment in all U.S. Government positions in the Canal Zone for which they are qualified and in which the employment of U.S. citizens is not required, in the judgment of the United States, for security reasons.

(9) Citizens of Panama will be afforded opportunity to participate in such training programs as may be conducted for employees by U.S. agencies in the Canal Zone.

(10) Articles, materials, and supplies that are mined, produced, or manufactured in the Republic of Panama, when purchased for use in the Canal Zone, will be exempted from the provisions of the Buy American Act.

(11) The U.S. Congress will be requested to enact the necessary legislation for the construction across the canal at Balboa of a bridge.

APPENDIX E

Public Law 85-550

85th Congress, S. 1850

July 25, 1958

AN ACT

To implement item 1 of a Memorandum of Understandings attached to the treaty of January 25, 1955, entered into by the Government of the United States of America and the Government of the Republic of Panama with respect to wage and employment practices of the Government of the United States of America in the Canal Zone.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS

SECTION 1. (a) The Congress of the United States of America hereby finds that the Government of the United States of America and the Government of the Republic of Panama on January 25, 1955, entered into a treaty (known as the Treaty of Mutual Understanding and Cooperation), to which was attached a Memorandum of Understandings Reached (otherwise referred to as the Memorandum of Understandings), signed by such governments on such date.

(b) The Congress further finds that, under such Memorandum of Understandings, the Government of the United States assumed certain obligations set forth in item 1 of such Memorandum as follows:

"I. Legislation will be sought which will authorize each agency of the United States Government in the Canal Zone to conform its existing wage practices in the Zone to the following principles:

"(a) The basic wage for any given grade level will be the same for any employee eligible for appointment to the position without regard to whether he is a citizen of the United States or of the Republic of Panama.

"(b) In the case of an employee who is a citizen of the United States, there may be added to the base pay an increment representing an overseas differential plus an allowance for those elements, such as taxes, which operate to reduce the disposable income of such an employee as compared with an employee who is a resident of the area.

"(c) The employee who is a citizen of the United States will also be eligible for greater annual leave benefits and travel allowances because of the necessity for periodic vacations in the United States for recuperation purposes and to maintain contact with the employee's home environment.

"Legislation will be sought to make the Civil Service Retirement Act uniformly applicable to citizens of the United States and the

Republic of Panama employed by the Government of the United States in the Canal Zone.

"The United States will afford equality of opportunity to citizens of Panama for employment in all United States Government positions in the Canal Zone for which they are qualified and in which the employment of United States citizens is not required, in the judgment of the United States, for security reasons.

"The agencies of the United States Government will evaluate, classify, and title all positions in the Canal Zone without regard to the nationality of the incumbent or proposed incumbent.

"Citizens of Panama will be afforded opportunity to participate in such training programs as may be conducted for employees by the United States agencies in the Canal Zone."

(c) The Congress further finds that the enactment of legislation containing a statement of general policies and principles and other provisions in implementation of item 1 of such Memorandum of Understandings is necessary to the faithful and proper discharge of the obligations assumed by the Government of the United States under such item.

DEFINITIONS

SEC. 2. As used in the following provisions of this Act, the term—

(1) "department" means a department, agency, or independent establishment in the executive branch of the Government of the United States (including a corporation wholly owned or controlled by the United States) which conducts operations in the Canal Zone;

(2) "position" means those duties and responsibilities of a civilian nature under the jurisdiction of a department (A) which are performed in the Canal Zone or (B) with respect to which the exclusion of individuals from the Classification Act of 1949, as amended, is provided for by section 202(21)(B) of such Act as amended by section 16 (a) of this Act;

(3) "employee" means any individual holding a position; and

(4) "continental United States" means the several States of the United States of America existing on the date of enactment of this Act and the District of Columbia.

GENERAL RULES FOR EMPLOYMENT AND WAGE PRACTICES OF UNITED STATES GOVERNMENT IN THE CANAL ZONE

SEC. 3. (a) The head of each department is authorized and directed to conduct the employment and wage practices in the Canal Zone of such department in accordance with—

(1) the principles established in item 1 of the Memorandum of Understandings set forth in section 1(b) of this Act;

(2) the provisions of this Act;

(3) the regulations promulgated by, or under authority of, the President of the United States in accordance with this Act; and

(4) provisions of applicable law.

(b) The President is authorized, to the extent he deems appropriate—

(1) to exclude any employee or position from this Act or from any provision of this Act, and

(2) to extend to any employee, whether or not such employee is a citizen of the United States, the same rights and privileges as are provided by applicable laws and regulations for citizens of the United States employed in the competitive civil service of the Government of the United States.

EMPLOYMENT STANDARDS

SEC. 4. (a) The head of each department shall establish written standards, in conformity with this Act, the regulations promulgated under section 15(b) of this Act, and the Canal Zone Merit System established under section 10 of this Act, for—

(1) the determination of the qualifications and fitness of employees and of individuals under consideration for appointment to positions, and

(2) the selection of individuals for appointment, promotion, or transfer to positions.

(b) Such standards shall be placed in effect on such date as the President shall prescribe but not later than the one hundred and eightieth day following the date of enactment of this Act.

COMPENSATION

SEC. 5. (a) The head of each department shall establish and may revise, from time to time, in accordance with this Act, the rates of basic compensation for positions and employees under his jurisdiction.

(b) Such rates of basic compensation may be established and revised in relation to the rates of compensation for the same or similar work performed in the continental United States or in such areas outside the continental United States as may be designated in regulations promulgated under section 15(b) of this Act.

(c) The head of each department may grant increases in such rates of basic compensation in amounts not to exceed the amounts of the increases granted, from time to time, by Act of Congress in corresponding rates of compensation in the appropriate schedule or scale of pay. The head of the department concerned may make such increases effective as of such date as he may designate but not earlier than the effective date of the corresponding increases provided by Act of Congress.

(d) No rate of basic compensation established under this section shall exceed by more than 25 per centum, when increased by the amounts of the allowance and the differential authorized by section 7 of this Act, the rate of basic compensation for the same or similar work performed in the continental United States by employees of the Government of the United States.

(e) The initial adjustments in rates of basic compensation under authority of this section shall be effective on the first day of the first pay period which begins more than sixty days after the date on which regulations are promulgated under section 15(b) of this Act.

UNIFORM APPLICATION OF EMPLOYMENT STANDARDS AND RATES OF COMPENSATION

SEC. 6. The employment standards established under section 4 of this Act and the rates of basic compensation established under section 5 of this Act shall be applied uniformly, within and among all departments, to the respective positions, employees (other than employees who are citizens of the United States and are assigned to work in the Canal Zone on temporary detail), and individuals under consideration for appointment to positions, irrespective of whether the employee or individual concerned is a citizen of the United States or a citizen of the Republic of Panama.

ADDITIONAL ALLOWANCE AND DIFFERENTIAL

SEC. 7. (a) Each employee who is a citizen of the United States shall receive, in addition to basic compensation at the rate established under section 5 of this Act, such amounts as the head of the department concerned may determine to be payable, as follows:

(1) an allowance for taxes which operate to reduce the disposable income of such United States citizen employee in comparison with the disposable incomes of those employees who are not citizens of the United States; and

(2) an overseas (tropical) differential not in excess of an amount equal to 25 per centum of the aggregate amount of the rate of basic compensation established under section 5 of this Act and the amount of the allowance provided in accordance with paragraph (1) of this subsection.

(b) The allowances and differentials provided for by subsection (a) of this section shall become effective initially on the first day of the first pay period which begins more than sixty days after the date on which regulations are promulgated under section 15(b) of this Act.

SECURITY POSITIONS

SEC. 8. Notwithstanding any other provision of this Act but subject to regulations promulgated under section 15(b) of this Act, the head of each department may designate any position under his jurisdiction as a position which for security reasons shall be filled by a citizen of the United States.

BENEFITS BASED ON COMPENSATION

SEC. 9. For the purposes of determining—

(1) amounts of insurance under the Federal Employees' Group Life Insurance Act of 1954, as amended (5 U.S.C. 2091-2103),

(2) amounts of compensation for death or disability under the Federal Employees' Compensation Act, as amended (5 U.S.C. 751 et seq.),

(3) amounts of overtime pay or other premium compensation,

(4) benefits under the Civil Service Retirement Act, as amended (5 U.S.C. 2251-2267),

(5) annual leave benefits, and

(6) any other benefits which are related to basic compensation, the basic compensation of each employee who is a citizen of the United States shall include—

(A) the rate of basic compensation for his position established in the manner provided by section 5 of this Act, and

(B) the amount of the allowance and the differential determined in the manner provided by section 7 of this Act.

CANAL ZONE MERIT SYSTEM

SEC. 10. (a) There shall be established, in conformity with this Act, and by regulations promulgated by, or under authority of, the President, a Canal Zone Merit System of selection for appointment, reappointment, reinstatement, reemployment, and retention with respect to positions, employees, and individuals under consideration for appointment to positions.

(b) The Canal Zone Merit System, irrespective of whether the employees or individuals concerned are citizens of the United States or citizens of the Republic of Panama, shall—

(1) be based solely on the merit of the employee or individual and upon his qualifications and fitness to hold the position concerned, and

(2) apply uniformly within and among all departments to positions, employees, and individuals concerned.

(c) The Canal Zone Merit System—

(1) shall conform generally to policies, principles, and standards established by or in accordance with the Civil Service Act of January 16, 1883, as amended and supplemented, and

(2) shall include provision for appropriate interchange of citizens of the United States employed by the Government of the United States between such merit system and the competitive civil service of the Government of the United States.

(d) The Canal Zone Merit System shall be placed in effect on such date as the President shall prescribe but not later than the one hundred and eightieth day following the date of enactment of this Act.

SALARY PROTECTION IN CONNECTION WITH CONVERSION OF COMPENSATION BASE

SEC. 11. Whenever the rate of basic compensation of an employee established prior to, on, or after the date of enactment of this Act in relation to rates of compensation for the same or similar work in the continental United States is converted on or after the effective date of the initial adjustments under authority of section 5 of this Act to a rate of basic compensation established in relation to rates in areas other than the continental United States in the manner provided by section 5(b) of this Act, such employee shall, pending transfer to a position for which the rate of basic compensation is established in relation to rates of compensation in the continental United States in the manner provided by such section 5 (b), continue to receive a rate of basic compensation not less than the rate of basic compensation to which he was entitled immediately prior to such conversion so long as he remains in the same position or in a position of equal or higher grade.

APPEALS

SEC. 12. (a) There shall be established, in conformity with this Act and by regulations promulgated by, or under authority of, the President, a Canal Zone Board of Appeals. It shall be the duty of the Board to review and determine the appeals of employees in accordance with this section.

(b) The regulations referred to in subsection (a) shall provide for, in accordance with this Act, the number of members of the Board, the appointment, compensation, and terms of office of such members, the selection of a Chairman of the Board, the appointment and compensation of employees of the Board, and such other matters as may be relevant and appropriate.

(c) Any employee may request at any time that the department in which he is employed—

(1) review the classification of his position or the grade or pay level for his position, or both, and

(2) revise or adjust such classification, grade, and pay level, or any of them, as the case may be.

Such request for review and revision or adjustment shall be submitted and adjudicated in accordance with the regularly established appeals procedure of such department.

(d) Each employee shall have the right to appeal to the Board from an adverse determination made under subsection (c) of this section. Such appeal shall be made in writing within a reasonable time, as prescribed in regulations promulgated by, or under authority of, the President, after the date of the transmittal by the department to the employee of written notice of such adverse determination.

(e) The Board, in its discretion, may authorize, in connection with an appeal under subsection (d) of this section, a personal appearance before the Board by such employee, or by his representative designated for such purpose.

(f) After investigation and consideration of the evidence submitted, the Board shall—

(1) prepare a written decision on each such appeal,

(2) transmit its decision to the department concerned, and

(3) transmit copies of such decision to the employee concerned or to his designated representative.

(g) The decision of the Board on any question or other matter relating to any such appeal shall be final and conclusive. It shall be mandatory on the department concerned to take action in accordance with the decision of the Board.

CIVIL SERVICE RETIREMENT COVERAGE

SEC. 13. (a) Effective on and after the first day of the first pay period which begins in the third calendar month following the calendar month in which this Act is enacted—

(1) the Act of July 8, 1937 (50 Stat. 478; 68 Stat. 17; Public Numbered 191, Seventy-fifth Congress; Public Law 299, Eighty-third Congress), shall apply only with respect to those individuals within the classes of individuals subject to such Act of July 8, 1937, whose employment shall have been terminated, prior to such first day of such first pay period, in the manner provided by the first section of such Act; and

ADMINISTRATION

(2) the Civil Service Retirement Act (5 U.S.C. 2251-2267) shall apply with respect to those individuals who are in the service of the Canal Zone Government or the Panama Canal Company and who, except for the operation of paragraph (1) of this subsection, would be within the classes of individuals subject to such Act of July 8, 1937.

(b) On or before the first day of the first pay period which begins in the third calendar month following the calendar month in which this Act is enacted, the Panama Canal Company shall pay, as an agency contribution, into the civil service retirement and disability fund created by the Act of May 22, 1920, for each individual—

(1) who is employed, on such first day of such first pay period, by the Canal Zone Government or by the Panama Canal Company, and

(2) who, by reason of the enactment of this section and the operation of the Civil Service Retirement Act (5 U.S.C. 2251-2267), is subject to such Act on and after such first day of such first pay period,

for service performed by such individual in the employment of—

(A) the Panama Railroad Company during the period which began on June 29, 1948, and ended on June 30, 1951, or

(B) the Panama Canal (former independent agency), the Canal Zone Government, or the Panama Canal Company during the period which began on July 1, 1951, and which ends immediately prior to such first day of such first pay period,

an amount equal to the aggregate amount which such individual would have been required to contribute for retirement purposes if he had been subject to the Civil Service Retirement Act during such periods of service.

(c) Nothing contained in this section shall affect—

(1) the rights of any individual existing immediately prior to such first day of such first pay period above specified, or

(2) the continuing obligations of the Canal Zone Government and the Panama Canal Company under section 4(a) of the Civil Service Retirement Act (5 U.S.C. 2254(a)), to reimburse the civil service retirement and disability fund for Government contributions to such fund covering service performed, on or after such first day of such first pay period above specified, by the employees concerned.

PARTICIPATION IN TRAINING PROGRAMS

SEC. 14. Any training program established by a department shall be applied uniformly to each employee irrespective of whether such employee is a citizen of the United States or of the Republic of Panama. Each such employee who is a citizen of the Republic of Panama shall be afforded opportunity to participate in such training program on the same basis as that upon which opportunity to participate in such training program is afforded to employees who are citizens of the United States.

SEC. 15. (a) The President shall coordinate the policies and activities of the respective departments under this Act.

(b) The President is authorized to promulgate such regulations as may be necessary and appropriate to carry out the provisions and accomplish the purposes of this Act.

(c) The President is authorized to delegate any authority vested in him by this Act and to provide for the redelegation of any such authority.

CHANGES IN EXISTING LAW

SEC. 16. (a) Paragraph (21) of section 202 of the Classification Act of 1949, as amended (5 U.S.C. 1082), is amended to read as follows:

“(21) (A) employees of any department who are stationed in the Canal Zone and (B) upon approval by the Civil Service Commission of the request of any department which has employees stationed in both the Republic of Panama and the Canal Zone, employees of such department who are stationed in the Republic of Panama;”

(b) The following provisions of law are hereby repealed:

(1) paragraph (32) of section 202 of the Classification Act of 1949, as amended (5 U.S.C. 1182);

(2) subsection (c) of the first section of the Act of October 25, 1951 (65 Stat. 637);

(3) section 804 of the Postal Field Service Compensation Act of 1955 (69 Stat. 130; 39 U.S.C. 1034); and

(4) section 404 of the Act of May 27, 1958 (72 Stat. 146; Public Law 85-426).

(c) Subsections (a) and (b) of this section shall become effective on the first day of the first pay period which begins more than sixty days after the date on which regulations are promulgated under section 15 (b) of this Act.

APPLICABILITY OF CERTAIN EXISTING LAW

SEC. 17. Nothing contained in this Act shall affect the applicability of—

(1) the Veterans' Preference Act of 1944, as amended (5 U.S.C. 851-869),

(2) section 6 of the Act of August 24, 1912, as amended (5 U.S.C. 652), and

(3) section 23 of the Independent Offices Appropriation Act, 1935 (48 Stat. 522), as amended (5 U.S.C. 673c), or section 205 of the Federal Employees Pay Act of 1945, as amended (5 U.S.C. 913), to those classes of employees within the scope of such sections 23 and 205 on the date of enactment of this Act.

EFFECTIVE DATES

SEC. 18. Except as otherwise provided in sections 4, 5, 7, 10, 13, and 16 of this Act, this Act shall become effective on the date of its enactment.

Approved July 25, 1958.

APPENDIX F

PRESS RELEASE ON 9-POINT PROGRAM FOR IMPROVEMENT OF RELATIONS BETWEEN THE UNITED STATES AND PANAMA, APRIL 19, 1960

THE WHITE HOUSE,
Augusta, Ga.

The President today approved a nine-point program for improvement of relations between the United States and Panama in reference to operations in the Canal Zone. The program calls for substantial employee benefits including pay increases and improved housing for Panamanian employees, the expansion of the apprentice program to train more Panamanians in skilled trades and support of legislation to increase the pensions of disabled former employees.

The program also calls for the installation of a new water main to serve the city of Panama, and a reduction in the rate charged for water sold to the Government of Panama for distribution within that country. The President has also directed that jobs in the Canal Zone be continuously reviewed with a view to employing the maximum number of Panamanians.

Nearly all of the items in the program will be made effective immediately.

The complete program includes the following points:

1. A 10 percent increase in the wage rate schedules of unskilled and semiskilled employees.

2. The Panama Canal Company's apprentice program will be expanded to afford an opportunity to 25 Panamanians each year to begin 3- and 4-year courses leading to qualification as skilled workmen in various trades. This is a marked expansion of opportunity for Panamanians to learn those skills that are useful both in the Canal Zone and in the Republic of Panama. This program, in implementation of assurances given in the treaty, will provide to Panamanians upon graduation access to more positions, the pay rates of which are based on those in the United States.

3. Substandard housing occupied by Panamanian employees in the Canal Zone will be replaced by modern construction. Construction of approximately 500 units of modern rental housing is planned. Construction of the first houses in the program will be commenced immediately.

4. The Panama Canal Company will also pursue a course of action leading to the construction of 500 houses in Panama for sale to Panamanians employed in the Canal Zone but living in Panama.

5. The Panama Canal Company will proceed with the construction of a new water main at a cost of \$750,000 to supply the rapidly expanding suburbs of the city of Panama.

6. The Panama Canal Company will also substantially reduce the rate at which water is sold to the Government of Panama for distribution in the cities of Panama and Colon.

7. The Panama Canal Company and Canal Zone Government will support legislation now pending in Congress to increase the gratuity paid to employees who previously were not within the civil service retirement system and who were terminated because of physical disability.

8. Teachers in the Latin American schools in the Canal Zone will receive a 10-percent pay increase.

9. All agencies in the Canal Zone have been directed by the President to review the list of jobs reserved for citizens of the United States with a view to placing more Panamanians in skilled and supervisory positions.

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