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PANAMA CANAL THE NEW TREATIES

DEPARTMENT OF STATE

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PANAMA CANAL: THE NEW TREATIES

On September 7, 1977, in the presence of the leadership of 25 other American republics and Canada, President Carter and Panama Chief of Government General Omar Torrijos signed two treaties governing the future operation and defense of the Panama Canal. The signing ceremony is a prelude to the actual advice and consent of the Senate to the treaties and the exchange of instruments of ratification, which comes only after the Senate votes its approval. These treaties would replace the 74 year-old treaty now in force—a treaty which came into being

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under unusual circumstances in a vastly different age, and which has become the source of unnecessary and potentially serious problems for the United States.

The most important fact about the new treaties

with Panama is that they protect the fundamental U.S. interest in an open and secure canal for the long-term future. Our ships, both naval and commercial, will have a guaranteed right of passage through the canal, as will the shipping of all nations on nondiscriminatory terms. We have primary responsibility for the defense of the canal until the year 2000, and we will have the right to act after that to insure in any situation that the canal remains open and secure.

The new agreements are now before the Senate for advice and consent. The Senate and the American people must now consider carefully the substance of the treaties, why they are necessary, why the President and five of his predecessors have strongly supported achieving such agreements, and how they best serve our basic national interests.

WHY WE NEGOTIATED THE TREATIES

The world has changed a great deal in 74 years, and the actions required of us to protect our interests have changed accordingly. We have negotiated new treaties because the old treaty arrangements, by not being responsive to modern political realities, could no longer provide the protection our interests continue to warrant. In today's world, our control of the civilian government in the zone is no longer necessary to operate or defend the canal itself. It contributes only to tensions with Panamanian citizens, who

resent—as we would—the presence of a foreign power running a government within their territory. Today, our best way of insuring permanent access to the canal is not our exclusive or perpetual control of its operation, but rather the active and harmonious support of the Panamanian population. In the opinion of our highest civil and military authorities, the new treaties are the best way of accomplishing this. In the last analysis, the fair solution, the one that shows our understanding and concern for the rational feelings of the Panamanians, is also the one which best preserves our national interests.

The United States controls the Canal Zone, a strip of territory ten miles wide, coast to coast, slicing through the heart of a small, independent country and splitting it in half. The United States controls all Panama's deepwater ports. It exercises exclusive jurisdiction over 550 square miles of Panama's best land, much of it unused, which Panamanians naturally feel could be productively developed to benefit their economy—land which now serves only to hem in Panama's urban areas and stunt their growth. The United States operates virtually all business enterprises within the zone, thereby inevitably curtailing opportunities for the growth of Panamanian commerce.

Within this enclave we operate not just a canal, but a foreign government on Panamanian soil. This government maintains a police force, courts, and jails to enforce U.S. laws, which apply equally to all persons, including both Panamanians and U.S. citizens. Here, an American community of 37,500 soldiers,

workers, and their dependents enjoy a unique lifestyle. We also maintain military bases in the zone.

For all these extraordinary rights, including the right to operate the canal, the United States pays Panama an annuity of \$2.3 million.

Origins of the 1903 Treaty

Dissatisfied with the existing treaty since its first days, Panamanians have blamed its unfavorable terms on the unusual circumstances under which it was concluded. In 1903, Panama was a part of Colombia. After Colombia rejected a treaty which would have allowed the United States to build a canal, the province of Panama revolted. The newly independent state had little bargaining power, and wound up with a canal treaty less favorable than the one that Colombia had rejected. It was a treaty, moreover, that no Panamanian even saw before it was signed. Negotiating for Panama was a Frenchman, a stockholder in the bankrupt French canal company that

"You and I know too well how many points there are in this treaty to which a Panamanian patriot could object."—U.S. Secretary of State John Hay, 1904.

benefited greatly when the United States purchased its assets. He and U.S. Secretary of State John Hay

signed the treaty at Hay's house in the evening, just hours before the arrival of a Panamanian delegation which they feared would hold out for better terms. Later, in a letter to a U.S. Senator, Hay confided that the treaty was "vastly advantageous to the United States, and we must confess, with what face we can muster, not so advantageous to Panama. . . . You and I know too well how many points there are in this treaty to which a Panamanian patriot could object."

Origins of the New Treaties

This situation is a constant frustration to Panama's desire for national development, and a constant affront to its sense of national dignity. Over the years, the United States has tried to respond to Panamanian objections. The treaty was modified in 1936 and in 1955, abrogating the U.S. rights to intervene in Panama's internal affairs and establishing equal working conditions for Panamanians in the Canal Zone. But these and a few other changes did not remove the 1903 treaty's basic inequities, especially the feature most objectionable to Panamanians: the exercise of rights forever over a large slice of Panamanian territory by the United States as if it were sovereign.

In January 1964, the severe strains in our relations arising from deep-seated Panamanian dissatisfaction culminated in riots along the Canal Zone border, killing 20 Panamanians and 4 Americans and injuring 500 persons. Panama briefly broke diplomatic rela-

tions with the United States and subsequently took its case to the United Nations and the Organization of American States.

In these international forums, the other Latin American nations, most Third World nations, and even our European allies have strongly supported Panama. The depth of feeling has made the negotiation of new treaty arrangements not only a major hemispheric issue, but also the standard by which many countries judge American sincerity in our relations with smaller countries everywhere. For much of the world, the 1903 treaty is seen as inconsistent with traditional American support for self-determination, decolonization, and respect for the dignity of all nations, great and small.

In December 1964, President Johnson, after consulting with former Presidents Truman and Eisenhower, and with bipartisan support, made a public commitment to negotiate a wholly new, fixed-term canal treaty. Presidents Nixon and Ford continued that commitment, and negotiations were successfully brought to a conclusion under President Carter.

The 1977 treaties are thus the product of 13 years of diplomatic efforts by four U.S. administrations, Republican and Democratic. Like all treaties they contain compromises by both sides and, accordingly, they are controversial in both countries. In Panama they have been denounced as "disguised American intervention," in America as a "giveaway." But from the point of view of the United States as a world

power with global responsibilities, the treaties reflect a statesmanlike resolve to move forward from an outmoded and inequitable status quo, and to achieve a fair solution consistent both with our vital national interests and with our national values.

The key to this solution is realizing that the best defense for the canal is the active cooperation of the Government and people of Panama.

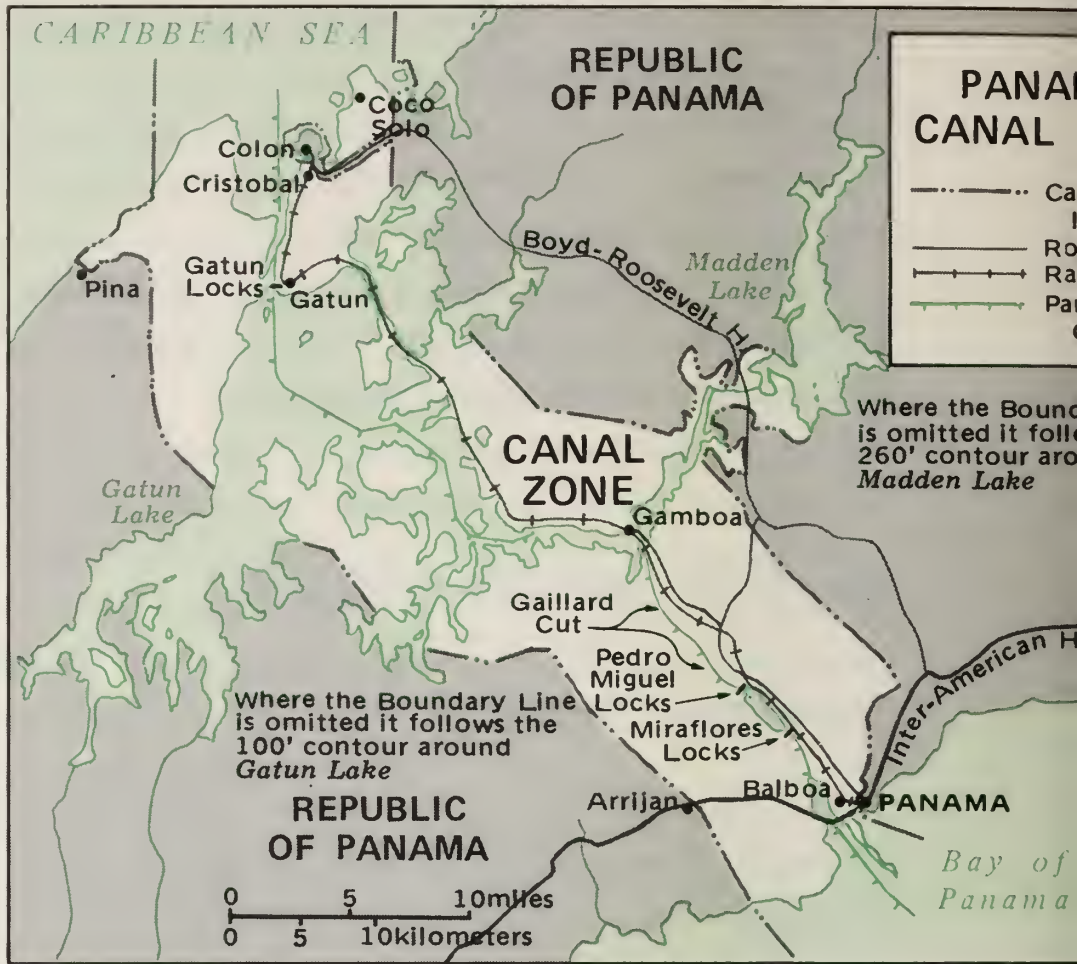
WHAT THE TREATIES CONTAIN

Panama Canal Treaty

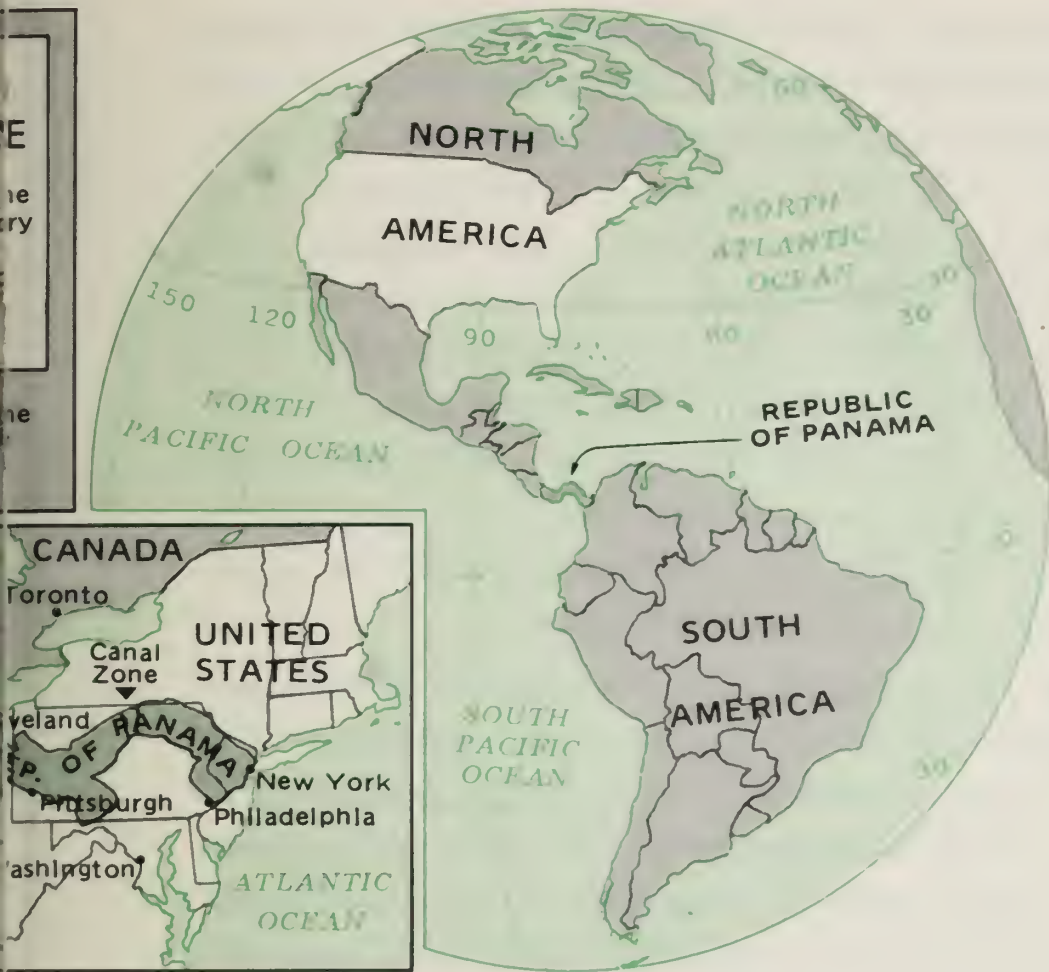
The first of the new treaties (formally called "Panama Canal Treaty") terminates and supersedes previous treaties related to the canal. It also spells out ways in which the canal is to be operated and defended until the year 2000:

- The United States retains primary responsibility for canal operations and defense until the end of the century, but with increasing Panamanian participation. The Panamanians—who already make up more than 70 percent of the work force—will thus have ample preparation to take over responsibility in 2000.

- The Canal Zone as an entity ceases to exist, and Panama assumes general jurisdiction over the area. The United States retains the right to use all



land and water areas and installations necessary for the operation, maintenance, and defense of the canal until the end of the century. Until then, the United States retains bases to provide full security for the canal. In allowing Panama to assume jurisdiction over the zone, the United States is not giving up sovereignty over territory which belongs to us, like Alaska or the Louisiana territory. Legally the zone has always remained Panamanian territory and the United States has never had sovereignty over it, merely treaty rights within it.



● The canal is to be operated by a U.S. Government agency called the Panama Canal Commission, with five American and four Panamanian directors. Until 1990 the canal Administrator (chief executive officer) will be American, with a Panamanian deputy; thereafter the Administrator will be Panamanian with an American deputy. The United States will be able to set tolls until the end of the century. Increased economic benefits to Panama under the treaty will come exclusively from a share in these canal tolls, not from the U.S. taxpayer.

- The treaty has extensive provisions concerning personnel. While providing more opportunities for Panamanians at all levels, it contains a number of safeguards for U.S. citizen employees, who are assured of rights and protections similar to those which U.S. Government employees have elsewhere abroad. U.S. criminal jurisdiction over American citizens is to be phased down during the first three years of the treaty, but U.S. citizen employees and dependents charged with crimes will have procedural guarantees and those convicted of crimes will be able to serve any sentences in the United States.

- The two countries agree to study the feasibility of constructing a sea-level canal in Panama. If the study indicates that such a canal is necessary—and such a study will include examination of environmental impacts—the two parties will agree on terms for construction. U.S. studies have shown that the best routes for a sea-level canal—which, if feasible, would be easier to operate and defend than the present lock canal and could handle bigger ships—lie in Panama. For this reason the United States agreed during this century not to negotiate with any other country for the construction of a sea-level canal in the Western Hemisphere, and Panama agreed that no sea-level canal would be constructed in Panama except by agreement with the United States.

The treaty provides for payments to Panama as follows: a share of tolls (depending on the level of traffic, this would initially yield \$40 to \$50 million

per year); an annuity of \$10 million; and up to an additional \$10 million if canal revenues permit. All these payments are exclusively from canal revenues.

To promote Panama's economic development, the U.S. contribution will be stepped up through a program of loans, loan guarantees, and credits totaling approximately \$295 million over the next five years. These financial arrangements will involve no grants and no gifts from the United States; they will all be repaid by Panama with interest. Because of "Buy American" provisions, this economic cooperation package will bring substantial benefits to U.S. business and labor. In addition, to assist Panama to develop a capability for canal defense, the United States will make available military credits totaling \$50 million over a 10-year period. While the package developed out of the treaty negotiations, it lies outside the treaties and imposes no treaty obligations on the United States.

Neutrality Treaty

The second treaty is entitled "Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal." Under this regime of neutrality the canal is to remain open to merchant and naval vessels of all nations indefinitely, without discrimination as to conditions or tolls. It is in Panama's own financial

interest—and in the interest of its close democratic South American friends who rely on the canal most heavily—that the canal remain open to all, with competitively low tolls so as to encourage maximum use and income.

The neutrality treaty does not give the United States the right to intervene in the internal affairs of

As the Joint Chiefs of Staff have repeatedly emphasized, U.S. military interests in the canal are in its use, not its ownership. The same is true of our commercial interests.

Panama, an independent sovereign state. It does, however, give the United States and Panama responsibility to insure that the canal remains open and secure to ships of all nations at all times. Each of the two countries shall have the discretion to take whatever action it deems necessary, in accordance with its constitutional processes, to defend the canal against any threat to the permanent regime of neutrality. They each, therefore, shall have the right to act against any aggression or threat directed against the canal or against the peaceful transit of vessels through it.

The neutrality treaty further provides that U.S. and Panamanian warships and auxiliary vessels shall be entitled to transit the canal expeditiously. This has been interpreted by both governments to mean as quickly as possible and without any impediment, going to the head of the line if necessary.

WHAT THE TREATIES ACCOMPLISH

The new Panama Canal treaties are now the subject of considerable discussion in the United States. The discussion is often confusing, complicated by legal arguments over the meaning of sovereignty, the interpretations of treaty language, and the propriety of negotiating with the Torrijos regime. It is true, for example, that certain human rights violations in Panama have come to our attention. We have discussed these with Panamanian leaders, and will continue to speak out if other violations occur. It is interesting to note, however, that when Panama's overall record on human rights was recently challenged, Panama was quick to invite scrutiny by the Inter-American Human Rights Commission. In a related area, interested Americans have questioned the degree of Communist influence in Panama. The facts are that the Panamanian Communist Party is permitted to exist but has no legal status; it has only about 500 members, none in important positions. Panama maintains normal diplomatic relations with Cuba, but Cuban influence is likewise very limited, and Panama has no diplomatic relations with the Soviet Union. In contrast, under the Rio Treaty, Panama is a military ally of the United States.

These treaties, like all treaties, must be judged by one principal criterion: do they serve the best interest of the United States? The answer is that they do—and not only because in being fair to Panama, they are also true to our national values. Beyond fairness, we

have very real, material interests in the canal. We must be clear about what those interests are and how the treaties safeguard them.

As the Joint Chiefs of Staff have repeatedly emphasized, the U.S. military interests in the canal are in its use, not its ownership. The same is true of our commercial interests. We want to be sure that

The treaties reflect a statesmanlike resolve to move forward from an outmoded and inequitable status quo, and to achieve a solution consistent both with our vital national interests and with our national values.

whenever we need to move a ship through, we will always be able to do so.

This requires an arrangement that guarantees, as much as is humanly possible, against any future obstruction to our free passage. It means making sure that:

- The canal system is not physically put out of use by sabotage or by inexpert operation.
- Ships passing through are safe from attack.
- Ships are not barred from entering by arbitrary or discriminatory policies, or by involvement of the canal in international disputes.
- Ships are not effectively barred by excessive tolls.

These treaties accomplish all of these objectives.

The usefulness of the canal to the United States is in the time and money it saves our armed forces and our commercial enterprises when they move vessels and cargoes between the Atlantic and Pacific. That is why we built it, and that is why we continue to care about its future.

Beyond this, our new relationship with Panama will remove a major obstacle standing in the way of our other policy objectives throughout Latin America and the world. It will silence accusations of colonialism and disarm the propaganda of our foreign adversaries, enabling us to pursue with enhanced respect and credibility our broad national goals in trade, defense, human rights, and world leadership.



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