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THE
PANAMA
CANAL
NEGOTIATIONS

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Preface

sion of the school and the institute, these cases are being developed

to the

in these negotiations, for their willingness to help review the initial draft of these cases; to our colleagues at SAIS who, under the leadership of Dean George Packard, have shown such interest in this program as to agree to prepare these cases; and to our students, whose able participation is helping make this program successful.

Simon Serfaty
Executive Director

Introduction

This is one in a series of case studies of negotiation prepared as teaching materials by The Johns Hopkins Foreign Policy Institute (FPI) of the School of Advanced International Studies on a grant from The J. Howard Pew Freedom Trust. The project is designed to improve understanding—and the transmission of that understanding—of the diplomatic negotiation process. The cases are prepared for classroom use as an assist to teaching analytical negotiating skills, through presentation and discussion, and as comprehensive portrayals and analyses of specific instances of international negotiation.

As a teaching aid, the case studies are generally interrupted at turning points in the negotiation; the narrative stops and students are asked, “What would you do now?” The rest of the page is left blank, so that students and professors can discuss appropriate responses as participants in the situation. When positions and their implications are fully explored, the page can be turned to see what happened in reality, and the narrative continues. Reality has authority, but not exclusively so. It is important to understand why experienced negotiators acted as they did, and it is also important to examine alternative responses to find their implications and their impediments. An interrupted narrative facilitates such understanding by combining the advantages of historical analysis and participant simulation.

Discussions at the break points can be conducted in one of two ways. As in the usual case method of teaching, they can simply be open discussions, with the teacher acting as Socratic questioner and moderator. Discussants should focus on exploring courses of action that are both innovative and realistic and on examining their implications. The emphasis should be on personal, operational responses. An alternative is to assign roles and proceed to simulation on the basis of the case narrative. The advantage lies in the allocation and division of responsibilities. In many cases the key to the outcome lies as much in the composition of each side and its intra-party negotiations as in the negotiations between the established parties. Roles should be assigned to represent

component interests and agencies, and a spokesman should be appointed for the collective party.

The cases are structured on a simple, but useful, common framework for analyzing the negotiation process. Each begins with a brief background summary and then focuses on the parties and their sources of power and interests. The second section identifies changes in these elements during negotiation, including issues concerning the status of participants.

The following section deals with issue or regime change; negotiations are necessary when there is a need to change an international regime or an understood set of practices and norms governing a particular relationship. As previous arrangements break down and new relations are required, the issue to be resolved becomes increasingly clear and forms the agenda for the negotiations. This section indicates the previous regime, the reason for its breakdown, and the way in which salient issues developed and brought themselves to the attention of the negotiating parties as well as the parties' attempts to restore the old regime or to search for new ones, short of negotiations. Following the section on regime change is section four, usually shorter, on the particular precipitants that brought about negotiations and the conditions that made the moment particularly ripe for negotiations.

In the next three sections the narrative focuses on process, beginning with prenegotiations. While this aspect is usually neglected in studies of face-to-face negotiations, it forms a necessary part of the process, as participants diagnose the problem and issues and develop an understanding of the other party's position. This stage culminates in a decision on whether to negotiate, based on a perception of the problem's susceptibility to solution by negotiation, but diagnosis also continues as the negotiation proceeds (and sometimes only takes place once formal negotiations have begun).

The second stage in the process is the search for a formula, that is, a common understanding of the problem or agreed terms of trade for its solution. While the search for a formula is not always explicit, it is usually present. The case study identifies the proposed formulas and indicates the strategies by which a common formula for solution was achieved, including the decision to leave out any insoluble problems. Included in this discussion is an identification of turning points, or crises, when the parties broke off negotiations before returning to resolve the issue.

The process continues as parties implement their formula by working out the details of the agreement while proceeding to closure rather than continuing to discuss. Without indicating every detail and all of

the tactics involved in reaching an agreement, this section shows the general areas of detail, the way in which parties implemented the formula, and the tactics and decisions involved in ending negotiations at a mutually satisfactory point.

Finally, in a section on leverage the narrative not only focuses on the elements of power identified with the parties, as discussed earlier, but evaluates specific moments of pressure or influence exercised by either side and evaluates the types of pressures that were effective, separating them from those that were counterproductive.

The study ends by drawing lessons for negotiation behavior and notes when intervening variables would make the recommended behavior most effective. A guide to teaching the study appears before any appendices. In some cases the study treats an ongoing negotiation and is therefore current as of the date of publication (updates may subsequently be made available).

We expect that this framework will provide the basis for an understanding of the negotiation process as well as a way of stimulating greater creativity by negotiators. The framework is not a procrustean exercise but is to serve, as are the cases, to improve both the understanding and the performance of negotiations.

I. William Zartman
Program Director

Background

The negotiations between the United States and the Republic of Panama over the status of the Panama Canal provide a classic example of asymmetrical negotiation. The United States is a giant compared with Panama, and there has been a long history of unilateral U.S. actions in Panama and the rest of Central America. The very founding of the Republic of Panama was in large measure the result of unilateral U.S. actions against Colombia, of which Panama was a part until 1903. The original Panama Canal Treaty of 1903, although formally signed by a representative of the Panamanian government, was in fact a nonnegotiated document drawn up to meet virtually all the demands of the U.S. government. In sum, before 1964, there was very little historical precedent for the United States to negotiate an important political agreement with a Central American state; unilateralism was the norm. Yet all this ended abruptly when the United States was obliged to negotiate a return of the Canal Zone to Panama. How did this come about?

Panama had expressed strong dissatisfaction with the 1903 treaty regime as early as 1904. Particularly galling was the fact that the treaty accorded to the United States unilateral rights to protect, administer, and defend the canal. It also gave the United States rights to act "as if it were sovereign" in the ten-mile strip of territory known as the Canal Zone. Finally, because the 1903 treaty had no termination date, the United States would enjoy these rights in perpetuity. Over time the United States had responded to Panama's complaints by offering some minor concessions, but the Panamanians had rejected these offers because the packages entailed additional obligations on their part without basically changing the old regime. In 1935, under president Roosevelt's Good Neighbor policy, the United States agreed to the Hull-Alfaro Treaty, which limited the U.S. right to intervene in Panamanian domestic affairs (another right guaranteed by the 1903 treaty) and raised the annual U.S. payment to Panama for use of the Canal Zone. In 1955 another agreement once again raised U.S. payments. The Hull-Alfaro

Treaty was motivated by a broader U.S. strategic objective of ensuring Latin American friendship in the event of war with Nazi Germany; the 1955 agreement was an attempt to appease Panama during the early, tense years of the cold war.

But neither of these agreements was the result of the give and take of true negotiations. Moreover, these agreements failed to address the long-standing Panamanian desire to abrogate the 1903 treaty completely. Even while making cosmetic concessions, the United States for years had refused to consider renegotiating the 1903 treaty. It was not until late 1964, following the riots with which that year began, that the United States and Panama truly began to negotiate.

Thirteen years later the two nations signed a new treaty that effectively changed the regime created by the 1903 treaty by shifting sovereignty over the canal from the United States to Panama and providing new defense and operations arrangements for a fixed duration. This case study concerns those thirteen years of often difficult negotiations.

This analysis will end with the treaties signed in Washington on September 7, 1977. It will not deal with U.S.-Panamanian relations between that date and June 16, 1978, when formal instruments of ratification were signed in Panama City, despite the fact that several major political confrontations occurred during that period. Because these confrontations related primarily to the negotiations between the executive and legislative branches in the United States over Senate ratification of the treaty, they are not considered here in the bilateral international negotiation.

Participants, Power, and Interests

From the beginning two participants in the Panama Canal negotiations, the United States and Panama, were represented in negotiations by the appropriate executive branch of government, but each contained some pluralistic elements that would provide fireworks and dynamics to the process. For Panama, opposition groups and opinions flanked the government on the "hard" side. Behind both stood "the people," a volatile referent group that occasionally developed a power to act of its own and therefore possessed an important threat value. For the United States, the governmental system of checks and balances made both the Congress and the largely Republican rightwing opposition important actors with both real and threat value. Moreover, much more so than was the case with Panama, the U.S. government itself was a coalition of competing bureaucratic agencies whose "position interests"—the need to respect the agency's role in the process—were often more important than their specific "policy interests"—the particular outcome favored by the agency. In addition, a separate group of importance was the Zonians, inhabitants of the Panama Canal Zone who were well plugged into the U.S. political process. Outside these two conglomerate parties were circles of potential but lesser allies. The most influential were the Latin American countries, and beyond them the Third World UN majority in the Non-Aligned Movement. These countries were only potential allies for Panama, which could be neutralized but never actually mobilized by the United States; other countries had no standing in the case, although their UN votes counted.

In aggregate power the United States far outweighed Panama, but in "issue power"—the ability to bring to bear power that was relevant to the conflict—the balance was more nearly equal, and it gradually and unevenly shifted during the negotiations. Indeed, negotiations began when the U.S. power superiority was suddenly called into question by the riots in 1964 and the future threat they implied. The ensuing thirteen years were spent in testing that power shift until it was accepted by both sides (but particularly the United States) and then translated

into a new treaty regime. For discussion, power can be divided into three analytical components: alternatives, commitment, and control (the unilateral ability to achieve preferred outcomes).

At the beginning of 1964 the United States possessed an extreme perceived power advantage over Panama through its ability (based on its tremendous technical and financial resources) to construct a new canal elsewhere in Central America. Whether this was truly a viable *alternative* remained to be proved, and in fact it eventually was determined not to be so. But until it was disproved, the potential ability provided the United States with an alternative to its relationship with Panama. Once that ability, although real, was shown to be too expensive, the only U.S. alternative to a renegotiated relationship was to stick to the evermore threatened prior relationship and face its eventual destruction.

Panama, in contrast, had no alternative ways of achieving its desired outcome (sovereignty over the canal) in a relationship outside that with the United States. There was only one canal in Panama and this canal was under U.S. control. Furthermore, Panama's economic well-being was largely dependent on the U.S. presence in the country, U.S. payments for use of the Canal Zone (meager though they were), and U.S. economic interests in the country. Thousands of Panamanians worked in the Canal Zone, and thousands more sold their produce and manufactures through the Canal Zone. The United States was Panama's primary trading partner and chief source of capital, although Panama was but one relatively insignificant trading partner of the United States.

The U.S. *commitment* to keeping the Panama Canal open and available was considerable, and, prior to 1964, direct U.S. protection and operation were seen as the only way. The canal was considered to be a significant strategic asset, particularly in the period before the U.S. Navy had become a two-ocean fleet. After the advent of the two-ocean fleet the U.S. military need for the canal as a strategic asset diminished, although its commercial usefulness remained high. Moreover, the development of intercontinental ballistic missiles in the late 1950s rendered the canal vulnerable to instantaneous destruction, thus significantly devaluing it as a strategic asset. Nevertheless, many elements in the U.S. military establishment continued to feel that a U.S. military presence in the Canal Zone was needed. This presence included ground, air, and naval forces as well as support and training facilities. The Canal Zone also was headquarters for the U.S. Southern Command (SOUTHCOM).

The U.S. commitment to maintaining control of the canal was bolstered by the thousands of Americans and their families who lived in the Canal Zone and constituted a well-organized and influential bloc

with a number of powerful allies in Congress. In addition, the majority of the U.S. public genuinely believed the Canal Zone to be a part of the United States. The miraculous feat of constructing the canal was part of American folklore. This led to a strong commitment to maintaining sovereignty over what was regarded as perhaps the preeminent symbol of American ingenuity.

The Panamanians had an even greater commitment. No other single issue aroused Panamanians as did the canal. Ever since the first official Panamanian complaint about the treaty a year after its signature, the canal question loomed as the most important issue in Panamanian elections and among intellectuals, students, and the press. An unwavering commitment to the goal of achieving sovereignty over the canal was a prerequisite for any Panamanian wishing to advance politically. The issue transcended all levels of society and in many ways served as a unifying cause for the entire nation.

Until 1964 the United States clearly possessed the advantage of control. In the years since the construction of the canal was completed in 1914, the United States had established a number of military bases in the Canal Zone, and up to 12,000 U.S. military personnel were stationed in the Canal Zone to guarantee U.S. control of the waterway. A number of U.S. military interventions in Central America in the early 1900s—Nicaragua in 1910 and 1912, Cuba in 1912, Haiti in 1916, and Panama itself during periods of domestic instability—provided clear evidence that the United States was indeed willing to use force and that force could secure its interests.

In contrast, the Panamanians were in a greatly inferior position. Panama had no armed forces beyond its small, 4,000-strong National Guard, whose function was that of a national police force. Until 1936 the United States enjoyed the legal right to intervene in Panamanian domestic politics. Even after president Roosevelt agreed to surrender this right, there was little doubt that the United States would still exercise it if deemed necessary to protect the canal.

Between 1914 and 1964 there were several incidents of public Panamanian protests against U.S. control of the canal. The most serious of these were the 1959 riots, which led the Eisenhower administration to agree to fly both the U.S. and Panamanian flags at one location in the Canal Zone, near the entrance to Panama City. Although these riots did not seriously endanger U.S. control, they were evidence of long-term Panamanian commitment to the goal of winning sovereignty over the canal. But in 1964 the riots were massive enough to raise the cost of U.S. control beyond the acceptable level. The ensuing negotiations operationalized that shift.

Panama's interests were fivefold, three absolute and two graduated. First, and most important, was the continuing operation of the canal. To continue to lay its golden eggs, the goose had to remain alive and well. Second, and equally important, was the question of sovereignty. The Panamanians felt that the canal and the Canal Zone should be recognized as inalienable parts of the Republic of Panama, with all the rights that sovereignty confers.

Panama's third objective was to eliminate the perpetuity clause of the 1903 treaty. Any engagements that Panama and the United States would undertake would have a fixed termination date, with a fail-safe position of total Panamanian sovereignty, and the United States would commit itself to eventual withdrawal from the Canal Zone.

Fourth, the Panamanians wanted to play a bigger role in the operation, administration, and defense of the canal. For the first sixty years of the canal's operation, all senior administrative responsibilities had been in the hands of Americans. Although the Panamanians acknowledged that transition to Panamanian management could not occur overnight, they nevertheless wanted a new treaty with the United States to lead to a greater Panamanian role.

Finally, the Panamanians wished to receive greater economic benefits from canal operations. They felt that the small annual payments made by the United States since 1903 in no way reflected the true value of the canal, which was Panama's only natural resource.

The principal U.S. interest was in assuring continued safe and efficient operation of the canal, a point to which both sides adhered in the abstract. But the Americans believed that the only way to do this was for them to remain in charge of the canal's operations and security. The Americans were justifiably proud of the success they had had in operating the canal over the past sixty years and were not sure that the Panamanians would be able to take on the task. Related to this objective was the U.S. desire to continue playing a role in the canal's defense. The Americans believed that, more than operations, security was far beyond the Panamanians' capability, with their paramilitary police force. Beyond technical capabilities, however, lay further U.S. uncertainty about the reliability of Panama's willingness to allow as well as assure use of the canal by the United States ahead of all other nations. Behind all this, other segments of the U.S. "side" saw interests more starkly: an interest in not flinching on U.S. possession of the Canal Zone, an interest in holding firm before corrupt demagogic Latin American military governments, and an interest in maintaining the privileges ("rights") of the American Zonian population.

Although the interests of Panama and the United States clashed on a number of points, the two sides also shared a basic common interest. As a senior Panamanian negotiator put it:

I think we must begin from one basic premise: that the United States and Panama are not enemies. It is not that the United States wishes to maintain efficient operation of the canal and Panama wishes to obstruct it. . . . Both have the same interest in mind—that the canal should function as it has to date, or even that the efficiency of its functioning will be improved in the future. (Jordan, 327)

It was largely because of this common interest that a negotiated solution was possible.

[If this case study is to be used for simulation rather than for general discussion, the following roles should be assigned:

For the United States:

1. President (the person playing this role should be particularly conscious of the political ramifications of the canal negotiations).
2. Team chairman or chief negotiator.
3. State Department.
4. Defense Department (this person should be conscious of the military's special interest in the Canal Zone).
5. U.S. ambassador to Panama.

For Panama:

1. President or military leader.
2. Team chairman or chief negotiator.
3. Foreign minister.
4. Panamanian ambassador to the United States.

Note: At least one of these persons should represent the leftist or nationalist element in Panamanian politics.

Issue or Regime Change

The 1903 treaty established a regime of unilateral, as-if-sovereign rights in perpetuity for the United States in the Canal Zone. This regime had become increasingly distasteful in all its characteristics to the Panamanian government and people, who proceeded to show its inadequacy in modern, postcolonial times. Maintenance of the regime would provoke anarchy through a popular guerrilla war against the canal, including sabotage and the danger of supportive foreign intervention, thereby rendering the relationship incapable of accomplishing the very purposes of secure and uninterrupted canal operations that it was designed to assure. To the extent that this logic held, a new regime was needed. The breakdown of the old regime was thus not technical but political, riding on the anticolonial wave of history of the 1960s and the 1970s. The new regime, in its turn, would have to assure the same conditions as the old—secure and uninterrupted canal operations—plus the new political values of sovereign state equality and national control over internal natural resources, while still incorporating some role for the United States as justified by its special geo-political and historic interest in the canal and its special technical and financial abilities to contribute to the operation and defense of the canal.

Precipitants and Conditions

In June 1962 Panamanian president Roberto Chiari visited president Kennedy in Washington to discuss overall relations between the two countries. Much of the discussion was devoted to questions of U.S. economic aid and the threat that Cuba's Fidel Castro posed to Central America. But Chiari also brought up the canal issue. In the several preceding years there had been growing signs of unrest among Panamanian students. Although this unrest was caused primarily by economic frustrations, such as unemployment, it had begun to take on an anti-American theme. Chiari hoped his talks with Kennedy would result in at least some symbolic U.S. actions to help defuse Panama's domestic tensions.

Kennedy obliged by agreeing to establish a joint commission to study outstanding issues between the two countries. The commission's mandate was vague; it was by no means charged with discussing the status of the canal. Yet one of its cosmetic concessions to Panama was the decision to allow the Panamanian flag to fly alongside the U.S. flag at a select number of civilian institutions in the Canal Zone.

The U.S. citizens who lived in the Canal Zone were infuriated by this concession. They had long regarded the Canal Zone as U.S. territory, although the 1903 treaty did not consider it to be. In early January 1964 a group of "radical" Zonians decided that only the U.S. flag would fly at the Canal Zone's Balboa High School, one of the institutions designated by the commission for the flying of both flags. On January 9 several hundred Panamanian students, aware of the Zonians' views, marched into the Canal Zone to raise their flag at the school. Several hundred American students were at the flagpole to greet them. The few dozen Canal Zone policemen could do nothing to prevent the inevitable confrontation. Thus began the riots of 1964.

Within hours tens of thousands of protesters were in the streets of Panama City, marching toward the Canal Zone and looting stores and shops along the way. By evening it was clear that U.S. troops would be needed to protect the entrances to the Canal Zone. Over the next

several days more than twenty people, including three American soldiers, were killed and several hundred were injured.

Underlying the confrontation at the Balboa High School flagpole and enabling the protest to spread so rapidly and so completely throughout Panama was the long-festering frustration Panamanians had felt over their lack of control over the canal. Aware of the historical roots of the crisis, president Chiari was quick to use it to draw U.S. attention to the inadequacy of the current regime governing the canal and to bring about negotiations for a new canal treaty. The first step in this tactic was Chiari's refusal to call out the Panamanian National Guard to put down the riots. In past anti-American demonstrations in Panama the National Guard had generally helped to ensure that the protesters did not get out of hand—another component of the expected obligations and relations of the regime. But Chiari chose to allow the rioters to control events—and headlines—in order to convey the full expression of the Panamanians' anger and rejection of the 1903 treaty relationship.

Chiari's second step was to break diplomatic relations, the most minimal and forward expression of relations with the United States. He telephoned president Johnson to say that the riots were caused by the frustrations of the Panamanian people over the U.S. presence, that there had to be a "complete revision" in the 1903 treaties, and that Panama would not resume formal ties until the United States agreed to renegotiate the canal treaty.

The third of Chiari's crisis exploitation tactics was to internationalize the canal issue. Panama called an emergency meeting of the Organization of American States (OAS) on January 9, in which—for the first time in the history of that organization—the United States was accused of aggression. Chiari also called for an emergency meeting of the UN Security Council.

Allowing the riots to run their violent course communicated two things: First, it demonstrated the extent of Panama's commitment to a new treaty. After the riots the United States could no longer continue to think that only a small, radical minority of Panamanians desired a revision in the 1903 agreement and that minor reforms of the same regime would pacify Panama. Second, the January riots raised serious questions about operations and control: Could the United States continue to maintain the security of the canal against an aroused Panamanian public?

**How should the U.S. respond?
What should Panama do?**

Pre negotiations

Diagnosing the Problem

Part 1

Although the 1964 riots succeeded in communicating Panamanian frustrations, president Johnson, shocked by this important crisis so early in his presidency, refused to agree to Chiari's terms. He responded that the United States was willing to discuss any grievances but only "within the context of the [1903] treaties." There would be no negotiations under pressure; only after relations between the two countries were normalized would Johnson agree to discuss grievances.

A two-month-long stalemate followed, despite attempts at mediation by the OAS. Panama quickly began to feel the effects of its decision to break relations with the United States. Private U.S. investment in Panama nearly ground to a halt. Other foreign business interests also grew wary of the situation in the country. By the end of the month, Chiari was under pressure from the Panamanian business community to end the stalemate. The prospect of a long-term chill in U.S.-Panamanian relations had terrifying implications for an economy so dependent upon its giant neighbor. Not willing to give in so quickly, Chiari tried to find alternative sources of financial support. With the country's foreign reserves dwindling, he dispatched a group of leading Panamanian business and political figures to several world capitals in search of economic support. They met with success only in Madrid, where the Franco government agreed to provide an interest-free loan of \$5 million. This loan gave Chiari a little breathing room to sustain his standoff with the United States.

But the situation worsened throughout February. The OAS abandoned its unsuccessful efforts at mediation. There was no change in Johnson's refusal to negotiate prior to reestablishment of normal relations, and in Panama economic confidence continued to deteriorate despite the Spanish loan. It appeared that Chiari's tactic of transforming the January 4 riots into new treaty negotiations was failing.

Throughout this period president Johnson tried to find a compromise that would not appear to be giving in to Chiari's tactics. In late January,

Johnson announced that the United States would enter into negotiations with Panama "without preconditions." This seemed to leave the door open to discussing the status of the canal. Several days later the United States agreed to specific mentioning of the canal as one of the issues to be reviewed in talks between the two countries. In early March, Johnson said that "adjustments" might be required in the canal treaty, but he reiterated that there could be no talks until relations were normalized. This concessionary language by the United States was designed to give Chiari an excuse to resume ties and commence talks. The United States was well aware of the stalemate's economic burden to Panama and was attempting to lure Chiari to the negotiating table. But the United States also was making it clear that, despite the concessions, there would be no agreement beforehand to renegotiate the 1903 treaties.

In late March the United States made its last concession. At an impromptu White House press conference Johnson said he would be willing to "view every issue that now divides us, and every problem which the Panamanian Government wishes to raise." The fact that this statement was essentially a rewording of the two earlier ones indicated that Johnson would go no further. With the Panamanian economy deteriorating and alternatives in the hands of the United States, time was on the U.S. side.

Another factor was on the U.S. side as well. In February the Department of Defense had sent a report to president Johnson urging him to consider building a new canal across Central America. A new canal would be built at sea level, thus obviating the need for locks, making sabotage more difficult, and reducing the need for foreign personnel. It would also be larger than the Panama Canal, open to ships for which the existing waterway was too small.

When news of this report reached Panama, it sent chills through the country's leadership, for the canal was Panama's sole important economic asset. The sobering thought that the alternative might be a canal outside Panama's control and that the United States might be pushed into abandoning the canal for a new one in a neighboring country was the final blow to Chiari's efforts. The United States was employing the threat to pursue alternatives—alternatives disastrous to Panama—as a means of breaking Panamanian commitment. This threat was effectively combined with Johnson's concessionary statements, putting domestic pressure on Chiari to end the stalemate.

On April 3, Panama and the United States agreed to a joint communiqué calling for resumption of diplomatic relations and "the prompt elimination of the causes of conflict between the two countries." This

was a far cry from Panama's initial demand that the United States agree to renegotiate the 1903 treaties. But the United States had privately assured Panama that all Panamanian concerns would be treated in good faith. Moreover, in another concession to Panama, the final point of the joint declaration stated that the objective of the upcoming consultations would be "a just and fair agreement which would be subject to *the constitutional process of each country*" (*The New York Times*, Apr. 1964). This language seemed to suggest a possible new treaty.

At the end of the 1964 riots and during the ensuing stalemate the power balance of commitments, controls, and alternatives had been slightly altered in Panama's favor. President Johnson later admitted that the riots, by bringing out Panama's commitment and showing the vulnerability of U.S. control, had convinced him that "it was indeed time to take a fresh look at our treaties" (Johnson, 183). He thus became the first U.S. president to express a commitment to negotiating a new canal regime. This is not to say that Panama demonstrated an ability to achieve unilaterally its preferred outcome, control of the canal, but it had demonstrated an ability to disrupt, and thus to challenge and make more costly, the current regime. Although unable to achieve its objectives, Panama was able to prevent the opponent from achieving its objectives and thus created a stalemate. The United States was forced to reassess "the probability that the status quo in Panama could be maintained without unacceptable costs" (Scranton, 224).

Panama was not successful, however, in its search for alternatives to its relationship with the United States. The economic crisis caused by the break in relations with the United States was disastrous to Panama's small economy. Its inability to find alternative sources of financial support, other than the small loan from Spain, only underscored Panama's lack of alternatives to the United States.

As for the United States, the crisis revealed a continued, if now weakened, predominance in the control component of negotiation power. At least for the time being, Panama was not capable of taking the Canal Zone by force. But more important, the United States demonstrated its tremendous advantage in alternatives. The leaked threat to build a new canal was the ultimate U.S. card. It reminded Panama that the United States was able and willing to consider a new regime that excluded Panama.

By April 1964 the two sides had learned a great deal about each other's capabilities and desires. Although the Panamanians' tactic of fueling and exploiting the crisis had backfired, leading as it did to near economic collapse, the tactic had shocked the United States into acknowledging that negotiations between the two countries were

unavoidable. The United States, by threatening to build a new canal outside Panama, had successfully demonstrated that the balance of power would have to be altered substantially before Panama could hope to achieve its most desired outcome. But by the same token the U.S. threat also indicated that a new regime was likely to be necessary, possibly involving two canals.

What should each side do in upcoming negotiations?

Process

The Search for a Formula

Part 1

The bilateral talks called for in the April 3, 1964, agreement opened in July. At the first session, the two sides began the search for a formula by restating their desired outcomes. Panama said that the agenda of the talks should emphasize recognition of Panamanian sovereignty over the canal; increased economic benefits for Panama; Panamanian participation in canal administration; and, most important, a fixed termination date for the 1903 treaty. The United States insisted that the talks emphasize a continued U.S. role in running the canal, means of assuring defense of the canal, and continued legal jurisdiction of the United States over its citizens in the Canal Zone. Neither side accepted the other's proposed agenda, but each side appeared willing to continue the search for a formula for a new regime.

The primary U.S. tactic over the next several months focused on alternatives. Just two weeks after the April 3 agreement the United States and Colombia announced an accord to begin a feasibility study of a sea-level canal through Colombia. Washington also announced that the possibility of building a new canal through Nicaragua or southern Mexico would be explored. Johnson administration sources told *The New York Times* that Panama was not being considered for a new canal "because of the recent diplomatic and political difficulties" (*The New York Times*, Apr. 17, 1964). This should have rid the Panamanians of any doubts about U.S. intentions to exploit fully the power advantage.

At the opening session of the talks the United States reiterated this option. After each side had presented its proposed agenda, the U.S. negotiators briefed their Panamanian counterparts on the need for a new canal and on the U.S. ability to build one. Ambassador William Jordan recalls,

The briefing was a not so subtle reminder to the Panamanians that the United States was seriously thinking of replacing the old canal. . . . A chill settled over the Panamanian delegation when they considered that the canal. . . might within a few years become no more than a tourist attraction. (Jordan, 95)

The U.S. tactic of emphasizing its alternatives slowed the negotiation process. While continuing to insist that Panama's objective remained a new canal treaty and control of the Canal Zone, the Panamanians believed that it would be difficult to proceed more rapidly until the United States made a decision on a new canal.

How should the two sides proceed?

After several months of stalemate the Johnson administration altered its tactic. Robert Anderson, the chief U.S. negotiator, became convinced that the Panamanians were not going to back down from their demand for a new treaty. He suggested that Johnson offer a new proposal in which the United States would agree to a fixed termination date for the old treaty and gain the right to dig a new canal in Panama. However, the United States would retain the right to defend both the old and the new canal, even after termination of the 1903 treaty.

President Johnson agreed to this proposal. On December 18, 1964, he announced that the United States would negotiate a new treaty with Panama and would simultaneously proceed with plans to build a new canal. He did not, however, say where the new canal would be located, naming northern Colombia and the Costa Rican-Nicaraguan border, as well as Panama, as possible sites. Moreover, it would take four years to complete the study to determine the best location for a new canal.

Initially, the Panamanians reacted favorably to the new U.S. proposal. Nearly a year after the turbulent riots the United States finally had acknowledged that a new treaty regime must be negotiated to replace the inequitable 1903 treaty. The Panamanians perceived this announcement as a "turning point of seriousness," a stated willingness by the United States to compromise for the sake of a solution. But on closer analysis it was evident that the new U.S. proposal was double-edged. For although it acknowledged the need for a new treaty, it maintained the U.S. alternative of constructing a new canal somewhere in Central America. As a result the Panamanians would be negotiating in the dark, because they had no assurance the new canal would be built in Panama. By thus flaunting its potential alternatives, the United States greatly increased its power. One Panamanian official remarked, "The United States is playing a giant's game of power. The stakes are so big nobody can afford to make a mistake" (*The New York Times*, Dec. 27, 1964).

A mistake, for Panama, would have been doing anything that might encourage or promote the sort of anti-American sentiment that led to the 1964 riots. Not only would such a tactic risk more economic chaos in Panama, it could push the United States into building a new canal elsewhere. Thus, the Panamanian government had to moderate its tone when discussing its demands, greatly weakening what had been Panama's most effective tactic—the tacit threat of disruption or violence.

But the need to moderate did not mean the Panamanians had to give in to the U.S. position. They knew that constructing a new canal, although certainly a possibility given U.S. technology, would be a massive undertaking requiring years of study and planning. It was not

a card the United States could throw on the table on short notice. Moreover, many experts in both Panama and the United States believed that the best site for a new canal was in Panama. Thus, the Panamanians might actually be strengthened by the prospect of a new canal.

Another factor that prevented Panama from giving in to the U.S. tactic was the fact that the new Panamanian president, Marcos Robles, was under intense domestic pressure to reach an agreement for a new canal regime. The January riots had aroused the Panamanian people, and Robles now found himself locked into a position of having to repeat former president Chiari's hard-line demands. When the next round of talks began in January 1965, the Panamanians proposed an agenda virtually identical to the one they had put forward in the spring of 1964: an end to the hated perpetuity clause of the 1903 treaty and a fixed date for the termination of that treaty, a dramatic reduction in the U.S. presence in the Canal Zone, joint U.S.-Panamanian administration of the Zone until the expiration of the new treaty, and greater financial remuneration for Panama.

The two sides appeared to be making progress in September 1965, when they agreed on four key points: First, the United States pledged, for the first time, to abrogate the 1903 treaty; second, a new treaty was to be drafted in which sovereignty over the Canal Zone was to be recognized; third, Panama was to become a partner with the United States in the administration and operation of the canal; and finally, the United States would retain the right to defend the old canal and any new canal constructed in Panama. These points of agreement would guide the negotiations over the next two years.

But over the next two years the Panamanian government became increasingly weaker internally. The Robles administration, based on a loose coalition among a number of factions, had never been particularly strong. Panamanians on both the left and the right began to pressure the government to reach an agreement on a new formula to replace the old regime. The opposition press accused the Panamanian negotiating team of incompetence. Robles was becoming desperate for an agreement. He had reduced his major demands to two: effective Panamanian sovereignty over the canal and increased Panamanian share in revenues from the canal tolls.

What could both sides do in negotiation?

Robles's uncomfortable position was reflected in the formula elaborated in June 1967. This formula was in the form of three draft treaties based on the points agreed to in September 1965. The first treaty was designed to meet Panama's major demands. It provided for abrogation of the 1903 treaty, joint administration of the canal by a board of directors composed of five Americans and four Panamanians, and an increase in toll revenue for Panama. The new treaty was to expire on December 31, 1999, unless a new sea-level canal was completed earlier, in which case it would expire one year after the opening of the new canal. The final provision ended the perpetuity clause. The second draft treaty provided for joint U.S.-Panamanian defense of the canal until the year 2004. If the United States built a new canal, the defense treaty would apply to both canals and would be extended to the year 2067. The final treaty gave the United States the right to build a new canal in Panama within the next twenty years, and to operate that canal for sixty years.

These draft treaties reflected the U.S. power advantage. Although granting Panama sovereignty over the canal and ending the perpetuity clause, the treaties nevertheless contained many advantages for the United States. The joint administration provision was only paid lip service, because the United States would have voting control on the board of directors. The defense treaty, one of the major U.S. objectives in a new agreement, was designed to extend for up to 100 years.

Robles came under fire almost immediately from domestic critics, who charged him with conceding too much. The minority position on the board of directors was particularly rankling to the Panamanians, and it struck many as an example of U.S. perfidy, because it essentially would maintain the status quo. Panama's negotiators admitted that the draft treaties were far from perfect but argued that at least the country had "approached" its maximum goals. Moreover, they pointed out that as long as the United States maintained the option of building a new canal elsewhere, Panama had no choice but to minimize its demands.

The Panamanian public did not accept the government's arguments. Robles, increasingly beleaguered, said the draft treaties would have to be "improved and modified" (*The New York Times*, Sept. 14, 1967). But it was too late: In March 1968 the Panamanian National Assembly voted to oust Robles and replace him with the vice president. Robles, however, refused to step down, and for several months Panama had two presidents. The ensuing political and constitutional crisis culminated in a coup d'état by Omar Torrijos on October 11, 1968.

The 1967 draft treaties effectively died on the day they were announced. The problem was that the formula offered de jure recognition

of Panamanian sovereignty in exchange for de facto continued U.S. control, and thus did not satisfactorily deal with the key question of Panamanian sovereignty over the canal. Although the 1903 treaty was officially abrogated, the handling of defense and joint administration problems was so favorable to the United States as to make a mockery of Panamanian sovereignty.

Pre negotiations

Diagnosing the Problem

Part 2

At the beginning of the Torrijos era the negotiations had essentially returned to square one. Three years of bargaining had produced a formula that proved unacceptable to one of the sides. It was unacceptable because it was not a "resolving" formula—that is, it did not resolve the overriding problem of sovereignty. Even if two parties agree on a formula, that agreement does not necessarily make it a viable formula: "[An] agreement between parties is not enough. The formula must satisfy the demands of the conflict as well if it is to be a resolving formula" (Zartman, 210).

The next several years would see a return to a diagnostic phase, during which the memory of the 1964 crisis was to loom large in the calculations of both sides, thus keeping the pressure for renewed negotiations moderately strong. But it was not simply the memory of the 1964 crisis that preserved the urge for negotiations. The power balance in 1967 was radically different from what it had been three years earlier.

The problem with Chiari's threat tactics in 1964 was that they lacked credibility. Panama did not have the resources to allow it to sever relations with the United States for an extended period. Moreover, it is unlikely that Chiari was willing to allow further violent incidents to occur. The United States, after all, had responded forcefully to the January riots. Thus, uncertainty was raised about the threat of more violence in the Canal Zone. The United States, aware of Panama's limited resources, was convinced that Chiari could not pursue his tactic for very long and was willing to wait for him to give in.

But Panama did succeed in persuading the United States to change its perception of the situation. President Johnson agreed to begin negotiations over a new treaty because he was convinced that the old regime could no longer be maintained, but he was not convinced about the proper formula for a new regime. This attitude explains the seemingly contradictory outcome in which the United States refused publicly to meet Chiari's demands while simultaneously preparing to meet them

as soon as he backed away from his unilateral suspension of the basic element of the old regime, diplomatic relations.

The U.S. hard-line tactic of refusing to give in as long as Chiari refused to reestablish relations succeeded. It was a credible tactic—the United States would survive without a Panamanian ambassador in Washington—repeatedly communicated at the highest level and combined with a carrot: the promise that the canal issue would be discussed as soon as relations were reestablished.

Another key to the U.S. tactic's success is that it changed Panama's perception of the crisis. In the immediate aftermath of the January riots, Panama hoped that the United States could be quickly brought to the negotiation table. The severing of relations was not expected to continue for the long term. Exploiting the riots in this manner was intended only to prod the United States into action. When the United States proved resistant to this pressure, Panama was gradually persuaded to see that the situation was not so favorable as it had thought. The United States was not going to back down quickly.

The other U.S. tactic during this period—the threat to build another canal—also succeeded. This threat was communicated to Panama in a number of ways, subtly at first (the leaked Pentagon study), but more directly later. In September 1964, Congress formally established the Atlantic-Pacific Interoceanic Canal Study Commission, and in December, Johnson publicly proclaimed that a new canal would be one of the U.S. goals in the upcoming negotiations.

The threat to build a new canal elsewhere in Central America was not 100 percent credible; the cost was undetermined, and it was unclear where a new canal would be built. But the threat was sufficiently credible to affect Panama's behavior greatly. After all, the United States did possess immense economic and technological resources, and no one was willing to bet much that the United States could *not* build a new canal.

The threat of a new canal changed the perceptions of the Panamanians about what they could get out of the negotiations. Their preferred outcome was greatly limited by their perceived need to appease the United States. The Panamanians' objective changed from "How much can we get from the Americans?" to "How much can we get from the Americans without provoking them to build a new canal?" If anything, the U.S. tactic worked too well. It forced the Panamanians to agree to an untenable formula, and thus, in the end, only prolonged the conflict.

The Panamanians, by rejecting the 1967 draft treaties, had strongly communicated their commitment to real changes in the canal treaty. The fact that the Robles government fell largely because of popular

disapproval of the formula indicated that minor concessions alone from the United States would no longer be acceptable to Panama. That the Panamanians risked provoking the Americans into playing their powerful card (constructing a new canal elsewhere) further indicated the intensity of their commitment. This intensity, with the underlying threat of violence, was to be a major source of Panama's power over the next ten years.

Process

The Search for a Formula Part 2

At the beginning of 1969, after several months spent consolidating its position internally, the Torrijos government began sending signals to the United States that it was ready to resume the negotiations based on the three draft treaties of 1967. But the new Nixon administration responded coolly, saying it would not deal with a "military type, provisional" government (*The New York Times*, Sept. 2, 1969).

U.S. officials also stated that, even if negotiations were to resume, there would be two "nonnegotiable" U.S. demands: (1) The United States must maintain control over canal operations (this demand was reflected in the five-to-four U.S. advantage on the proposed board of governors), and (2) the United States must retain the right to defend the canal "unilaterally." These demands represented a hardening of the U.S. position, in that these demands were not coupled with a pledge to acknowledge even symbolic Panamanian sovereignty over the canal. The new U.S. position appeared to be, "The sovereignty question is negotiable, our demands are not." The Americans were hoping that the political uncertainties in Panama resulting from the Torrijos coup, combined with the continuing option of building a new canal, had weakened the Panamanian position sufficiently to make renegotiation of the 1967 formula untenable.

Moreover, the Nixon administration espoused a somewhat more hawkish foreign policy generally than had the earlier Democratic administrations. It had no desire to make Panama a more acceptable offer. Unlike president Johnson, president Nixon had not become convinced that a change in the canal's status was needed. But the United States underestimated both Panama's commitment and Torrijos's success at securing internal control. On September 1, 1970, the Torrijos government formally notified the United States that the 1967 draft treaties were no longer acceptable as a basis for resuming negotiations. Torrijos was particularly annoyed by the U.S. advantage on the proposed board of governors which, he said, would leave Panama with only "the right

to protest" (*The New York Times*, Sept. 3, 1970). The negotiating teams, however, continued to meet periodically.

In November 1970 the Atlantic-Pacific Interoceanic Canal Study Commission, which had been established six years earlier to determine the best site for a new sea-level canal, released its conclusions. The commission determined that Panama remained the best site for a Central American canal. More important, it was estimated that the cost of constructing a new sea-level canal would be between \$3 billion and \$4 billion, thus making that option considerably more expensive than originally thought. This conclusion altered the power balance: It destroyed the powerful U.S. card by revealing that the United States in fact had no alternatives other than Panama for achieving its objective of an interoceanic canal. Said one analyst, "The leverage thus passed to Panama" (LaFerber, 184).

The U.S. attempted to compensate for the lost leverage by making stronger demands. In a message sent directly to General Torrijos (circumventing the negotiation teams) in mid-1971, president Nixon said that the United States would not accept a treaty with a termination date, a critical component of the 1967 draft treaties, and that the United States wanted unilateral control over the canal and responsibility for its defense.

The Panamanians were stunned. The most important Panamanian objective was removal of the hated perpetuity clause of the 1903 treaty; its superficial attainment had been the cause for the collapse of the proposed 1967 regime. The formula Nixon was proposing amounted to simply a renewal—with slightly better financial terms—of the 1903 treaty. It thus represented a regression from the progress made during the Johnson years: "By attempting to negotiate a canal treaty which had more in common with the existing treaty relationship than [with] the 1967 treaty package, the Nixon administration appeared to be launching an attempt to prevent changes in canal policy" (Scranton, 321). The major issue in the Panama Canal negotiations was sovereignty, and Nixon's formula certainly did not take care of it. His proposal thus was completely unacceptable to Torrijos, who communicated his reaction to Nixon in no uncertain terms. He told Robert Anderson, the American negotiator who had presented Nixon's offer, "What you have said changes almost nothing in the traditional position of the United States. . . . Your words nullify our aspirations" (Jordan, 156). Moreover, he said that if the U.S. position was made public, "it would be the detonator that could launch the Panamanian masses into trying to recover [the canal] by force." He also warned that the negotiations would be broken off if the U.S. position did not change.

In October 1971, Torrijos told a cheering rally in Panama City that Panamanians were "reaching the limits of our patience" and that the time might soon come when "one generation [must] offer its lives" to secure sovereignty over the canal (*The New York Times*, Oct. 12, 1972). The threat to the United States first posed by the 1964 riots, the memory of which had remained on both sides' minds for the past six-and-one-half years, was now openly and forcefully stated by Torrijos, more credibly than it had ever been posed by Chiari.

Although Nixon's proposed formula played a large role in encouraging this new threat by Panama, there were other factors at work as well. For one, the United States was at this time in the throes of a painful and seemingly endless war in Vietnam. The U.S. dollar was under attack in world financial markets, and the U.S. economy in general was less robust and less dominant than it had been just five years earlier. This situation helped to create the impression that the power of the United States was waning and that its commitment to its interests abroad was weakening. Faced with domestic protests over the war in Vietnam, it seemed unlikely that the U.S. government could quickly commit itself to military involvement in another foreign arena. This situation, even if based only on perception, served to lessen both the apparent U.S. commitment to maintaining control of the canal and the danger that the United States would respond to Panamanian threats with military force. Panama's commitment and control increased commensurably.

Another factor encouraging Panama's tactic derived from domestic sources. The Torrijos government was suffering through a period of internal attacks: Wealthy landowners were furious over land expropriations; business interests were frustrated by a stagnant economy; and the powerful Catholic church was upset over the kidnapping of a progressive young priest, a deed rumored to have been carried out by the Torrijos-led National Guard. Torrijos was therefore eager to promote a unifying issue around which he could rally support. Nothing in Panamanian politics played this role better than the canal issue.

By making thinly veiled threats of violence, Torrijos was placing himself in the potentially dangerous position of having to carry them out to save face. Indeed, purposefully painting oneself into a corner is a potent means of demonstrating commitment. Torrijos was aware of this danger. He was trying to signal to the United States that if necessary he was willing to place himself in a politically risky position to achieve his preferred outcome.

**How should the U.S. respond?
What should Panama do?**

The United States responded to Torrijos's threats by effectively rescinding the Nixon formula. This action amounted to acknowledgment that the United States was unwilling to confront a violent Panamanian attempt to secure its objectives. Thus, Torrijos's threat tactic was successful—something the general would not soon forget—whereas Nixon's hard-line tactic backfired miserably, diminishing the U.S. commitment. This course of events had a profound effect on the balance of power.

Two days after Torrijos's fiery speech in October the United States announced that it would agree to drop the perpetuity clause and work for a new treaty with a fixed termination date. The Nixon administration, however, insisted that whatever the outcome of the ongoing talks, the United States would maintain the right to operate and defend the waterway "for a very long time" and the right either to improve the existing canal or to build a new one. Other administration sources said that U.S. troops would be "permanently" stationed in the Canal Zone (*The New York Times*, Oct. 19, 1972). The only kind word from the Americans concerned increased economic benefits for Panama. But this offer of greater aid was not perceived as generosity by the Panamanians. In the words of a close observer, "It smelled strongly of a payoff" (Jordan, 155)—that is, the United States appeared willing to help end Panama's economic weakness in exchange for a less strident Panamanian position on the canal.

Despite the United States' own economic troubles, the costly war in Vietnam, and the failed formula, the Nixon administration was not prepared to give in easily to Panamanian threats. In fact, the acknowledged perception of their country's new weakness may have encouraged U.S. policymakers to maintain an essentially hard-line position in the negotiations with Panama. Although they had backed down on the question of a termination date for a new treaty, the U.S. policymakers continued to demand a formula providing administrative rights for a considerable length of time and military defense rights indefinitely. The negotiations were stalemated throughout much of 1972.

By the middle of 1972, Torrijos had become convinced that the United States was not going to be more forthcoming in negotiations. Although unsuccessful, Nixon's proposed formula in the summer of 1971 revealed where the U.S. administration's heart was. Congress's heart was equally cold to Panama's position. Of the thirty-six members of Congress who made statements during two days of hearings held in September 1971, only one, Senator Alan Cranston, endorsed negotiations. Torrijos's threats in late 1971 persuaded the Americans to accept once and for all a fixed termination date on any new treaty. But beyond

that concession (a concession that had in fact been confirmed in 1967 by president Johnson) the United States did not seem willing to move.

Despite the hard-line position of the United States, the balance of power had shifted noticeably toward Panama. The canal commission's report had revealed that the United States had no canal alternative outside Panama; the success of Torrijos's threats in confronting the U.S. proposal had indicated the greater commitment of the Panamanians over that of the Americans; and contextual events—the Vietnam War, the weakened U.S. economy—had raised questions about the U.S. ability and commitment to achieving its desired outcomes unilaterally. Yet the shift was not sufficient to allow for further progress in the negotiations. Throughout most of 1972 the United States showed that it could practically ignore the canal issue. To get the negotiations moving again, the Panamanians would have to develop a tactic to alter the balance of power even more in their favor, capturing U.S. attention and showing Washington that it had no alternative to productive negotiation.

One way to do this would have been to activate the ever-present Panamanian potential to challenge U.S. control of the canal—in other words, to carry out Torrijos's threats of violence. It would have been quite easy for the Panamanian government to prompt such violence, but it would have been a very risky tactic. Threatening violence is an effective tactic for encouraging the opponent to make concessions in negotiations; actually carrying out violence risks causing a break-off of negotiations, perhaps permanently, and raises the attractiveness of alternatives. Because Torrijos believed that the best chance for resolving the canal issue was through negotiation, he did not want to risk causing an end to the negotiation process.

There was another, less risky, tactic open to Panama. Throughout 1971 and 1972, Torrijos began to consult regularly with leaders of neighboring Latin American countries, particularly U.S. allies such as Colombia, Venezuela, and Costa Rica, but also with Peru and Cuba. The purpose of these consultations was to begin to develop the tactic of coalition building and internationalization of the canal issue. Until this point Panama had stood virtually alone in its negotiations with the United States; Torrijos now was developing allies.

When it finally became clear that the talks with the Nixon administration were not going to prove fruitful, Panama activated its tactic of internationalization of the canal issue. Torrijos now was prepared to move the issue onto the world stage. In November 1972, Panama's chief delegate to the United Nations formally requested that the UN Security Council meet in Panama so the world community could witness

firsthand "the inequities Panama has endured" (*The New York Times*, Nov. 12, 1972). The United States opposed such a meeting outside the UN headquarters in New York, arguing that the canal problem was a bilateral one and should not be the focus of a Security Council meeting. But with impressive support from Latin American and other Third World delegates—support he had been courting for some time—Torrijos succeeded. The UN agreed to convene a Security Council meeting in Panama in March 1973.

The meeting was a significant success for Torrijos. He adroitly walked a thin line: He ensured that there were no violent anti-American demonstrations in the streets, while simultaneously warning in a speech to the Security Council delegates that "violent changes" would occur if "the colony in the heart of my country" was not removed. He called the U.S. position "absurd" while pledging to continue working for a "just and fair treaty." In the end, Panama and Peru proposed a Security Council resolution urging the United States and Panama to conclude a new treaty "without delay" that would "fulfill Panama's legitimate aspiration and guarantee full respect for Panama's effective sovereignty over all its territory" (*The New York Times*, Mar. 15, 16, and 22, 1973). To its dismay, the U.S. delegation found itself alone in casting a negative vote (the United Kingdom abstained, and the other thirteen members of the council voted in favor of the resolution).

The Americans were stung. Only two years earlier they had felt their position was sufficiently secure to warrant proposing a hard-line formula. Now the Panamanians had successfully turned the world spotlight on the canal issue and demonstrated the degree to which they had rallied support for their position. This tactic had broadened the symbolic base of Panama's commitment by transforming the canal question into a North-South issue. It was no longer simply Panama versus the United States; it was now the "colonized" versus the "colonizer." The stark tally of the Security Council vote—thirteen to one against the United States—although only symbolic, presented a picture of a beleaguered United States facing the near-unanimous opposition of world opinion. Panama's commitment was greatly intensified by the supportive commitment of many other countries, including those within its own hemisphere. One commentator noted that the effect on the United States of the Security Council resolution was similar to the effect an outburst of violence in Eastern Europe would have on the Soviet Union (Jorden, 198).

Stephen S. Rosenfeld described the impact of the Security Council meeting on U.S. policy:

The propaganda and political beating administered in the United Nations helped transform the issue within the U.S. government from a modest regional matter, which could safely be left in a state of stagnation, into a major priority. (Rosenfeld, 4).

In congressional testimony in April 1973, Ambassador David H. Ward, the U.S. special representative for interoceanic canal negotiations, supported this view:

We are not going to pick up our marbles and go home because of the Security Council meeting, but I think it did have the effect of raising questions in the mind of people in this country, and in the mind of the President, and in the mind of Congress as to just exactly how can we work this problem out.

U.S. Ambassador to the UN John A. Scali, also in testimony before Congress, noted the success of the Security Council meeting in transforming the canal issue from a bilateral one into a regional one: "[The United States] may have vetoed the resolution, but Latin America has vetoed the United States." At the same hearings, Congressman Donald Fraser expressed his view of the implications of the Security Council vote:

The fact [is] we lost. We were the only one to stand up on our side. Even our closest ally [Britain], a conservative government, did not stand with us. It seems to me we ought to get this negotiation completed.

In sum, the Security Council meeting in Panama led to a critical change in the Nixon administration's perception of the issue. Before the meeting, "the Nixon administration would have preferred the canal negotiations to fail rather than accept unwanted compromises." After the meeting, "a compromise agreement was preferred to deadlock because continuation of the status quo was seen as threatening the efficient operation and security of the Canal" (Scranton, 391). Furthermore, within the U.S. government the problem was lifted out of the hands of a small group of canal experts working in isolation and brought to the attention of the highest authorities, including the Latin America Bureau of the State Department and national security adviser Henry Kissinger.

By the end of 1973 certain contextual events helped shift the balance even further in Panama's favor. The U.S. defeat in Vietnam was apparent to all; it was now clear that, with sufficient commitment to its cause, the weak could defeat the strong. The crisis caused by the Arab

states' oil embargo during the 1973 Arab-Israeli War greatly boosted Panama's optimism and created a sense of unity among all Third World nations. All this conveniently coincided with Panama's tactic of internationalizing the canal debate. It also provided the Panamanians with a persuasive analogy: Just as OPEC states were justified in reaping the benefits from the oil in their ground, so Panama was justified in reaping the benefits from its primary "natural resource," the canal. In his annual report to Congress on the state of the U.S. foreign policy in May 1973, only two months after the Security Council meeting, president Nixon wrote:

Another important unresolved problem concerns the Panama Canal and the surrounding Zone. U.S. operation of the Canal and our presence in Panama are governed by the terms of a treaty drafted in 1903. The world has changed radically during the 70 years this treaty has been in effect. Latin America has changed. Panama has changed. And the terms of our relationship should reflect those changes in a reasonable way.

For the past nine years, efforts to work out a new treaty acceptable to both parties have failed. That failure has put considerable strain on our relations with Panama. It is time for both parties to take a fresh look at this problem and to develop a new relationship between us—one that will guarantee continued effective operation of the Canal while meeting Panama's legitimate aspirations.

This statement represented a new "turning point of seriousness." It also revealed that Nixon's earlier commitment to a hard-line position had not been very strong. As in December 1964 the United States once again was acknowledging that it was prepared to make concessions in order to bring about a negotiated solution to the canal problem. The way was now prepared for a serious search for a new formula.

**How should the U.S. proceed?
What was Panama to do?**

Nixon's report to the Congress had an immediate impact on the Panamanian leadership. Torrijos, who correctly perceived this statement as a serious turning point in the stalled negotiations, directed his foreign minister, Juan Antonio Tack, to draft a response. Tack pondered Nixon's statement for several weeks and finally determined that the appropriate response was a Panamanian statement of principles—in other words, a formula proposal. William Jordan describes Tack's reasoning:

For nine years, the talks with the United States had dragged on, constantly getting bogged down in one detail after another. . . . "We're beginning the house without the roof," [Tack] thought. We should begin with principles, then fit the details into that framework. (Jordan, 204)

In a nine-page letter to U.S. secretary of state William P. Rogers, Tack presented the Panamanian view of an acceptable formula, which was embodied in eight points:

1. The 1903 treaty must be abrogated.
2. A new treaty must have a fixed termination date.
3. U.S. jurisdiction in any part of Panama should end.
4. The United States could use land and water areas necessary to operate and maintain the canal and to protect vital installations.
5. Panama must receive "a just and equitable share" in canal benefits.
6. U.S. government activities should be limited to operating, maintaining and protecting the canal.
7. Military activities could be only those "expressly stipulated in the treaty."
8. The United States would have the right to build a sea-level canal if (a) the U.S. decision was made within "a reasonable period," (b) Panama retained full jurisdiction in the new canal area, and (c) a sea-level canal treaty also had a fixed termination date.

In the autumn, Tack's letter was passed on to Henry Kissinger, who had succeeded Rogers at the State Department. Although normally more concerned with the "high politics" of East-West relations, Kissinger took a special interest in the canal negotiations. He had been rudely awakened to the problem by the Security Council meeting in Panama, particularly by the fact that the United States had stood alone in vetoing the Panamanian resolution. His determination to solve the problem quickly was evidenced in his choice of veteran diplomat

Ellsworth Bunker to be the new chief U.S. negotiator. After consulting with officials in the State Department and Pentagon, Bunker developed his own set of principles, which closely resembled Tack's but differed in the way U.S. defense rights were described. Bunker was dispatched to Panama in November 1973 to begin negotiating the new formula on the basis of Tack's letter and his draft response.

Progress was rapid. By early December agreement had been reached on most of Tack's points. After a brief visit to Washington for consultations Bunker returned to Panama in early January, where he and Tack completed the job. In February, Kissinger—never one to shun the limelight—flew to Panama to formally sign the joint statement of principles Bunker and Tack had negotiated. The Kissinger-Tack formula consisted essentially of the eight points Tack had made in his letter. It exchanged U.S. agreement to eliminate the perpetuity clause of the 1903 treaty for vaguely worded assurances that the United States would continue to play a role in canal defense. This vagueness was intentional: The parties knew that the question of U.S. defense rights was the most potentially controversial issue, to be dealt with in detail only after other issues had been resolved and the negotiations had gained some momentum. The main features of the agreement were as follows:

1. The 1903 treaty would be replaced by an entirely new treaty.
2. The concept of perpetuity would be eliminated; the new treaty would have a fixed termination date.
3. U.S. jurisdiction over Panamanian territory would terminate promptly in accordance with the terms of a new treaty.
4. The Panamanian territory in which the canal is situated would return to Panamanian jurisdiction, although for the duration of the new treaty the United States would have certain land, water, and airspace rights necessary for operation, maintenance, and defense of the canal.
5. Panama would receive a "just and equitable" share of benefits derived from the canal.
6. Panama would participate in the administration of the canal until expiration of the new treaty and would assume sole responsibility for canal administration after this point.
7. Panama would participate with the United States in the protection and defense of the canal.
8. The United States and Panama would agree bilaterally on provisions for enlarging canal capacity.

In his public remarks at the signing ceremony in Panama City, Kissinger made an interesting observation: "Our purpose is to begin

replacing an old treaty and to move toward a new relationship," acknowledging that it was time to replace the old canal regime with a new one. He continued, "In the past our negotiations would have been determined by relative strength. Today we have come together in an act of reconciliation" (Jordan, 696). In fact, negotiations still would be determined by relative strength; only now, relative strength had shifted in Panama's favor.

A comparison of the 1974 Kissinger-Tack formula with the 1967 treaty formula reveals the degree to which the balance of power had shifted in Panama's favor during the intervening seven years. Gone from the 1974 formula were (1) U.S. predominance, via the five-to-four advantage on the board of governors, in administration of the canal; (2) the extensive U.S. defense rights of the 1967 draft treaties, which would have given the United States chief defense responsibilities until, potentially, the year 2067; and (3) the U.S. right to make the unilateral decision to build a new canal. Although the Kissinger-Tack formula was vague on many points (that is the nature of formulas), it was nevertheless one that Panama could live with, unlike the 1967 formula. For the first time since the 1964 crisis there was a mutually agreed upon basis to begin negotiating the details of an agreement.

The prospects for a negotiated solution received a further boost in June 1974, when the U.S. joint chiefs of staff approved a Defense Department study determining that although the canal was an *important* strategic asset, it no longer was a *vital* asset. The study concluded that any new treaty agreement that ensured uninterrupted use of the canal would be sufficient for protecting U.S. strategic interests. This marked an important turning point in the Defense Department's position and indicated that the U.S. military establishment was becoming committed to a negotiated solution.

Process Closure

Three principal issues were to dominate the next stage of the negotiations: (1) The duration of a new canal treaty (how long the United States would continue to have rights in the Canal Zone before complete sovereignty passed to Panama); (2) preservation of the canal's neutrality after control passed to Panama; and (3) U.S. defense rights in the Canal Zone during and after the life of the new treaty. A fourth issue—the amount of financial remuneration Panama would receive under the new treaty—briefly became the focus of attention during the final weeks of the negotiations. As in the earlier stage of the negotiations each side directed its tactics during this stage toward affecting the balance of power in such a way as to promote its favored outcome in each of the issue areas just cited.

Two critical contextual factors, however, also had an impact on the balance of power, both to the general detriment of Panama. The first was the politicization of the canal issue in the United States, notably during the 1976 presidential elections. The second was Panama's deteriorating economic condition and growing social unrest. The Torrijos government had to spend much of its time during this stage devising tactics to counter the detrimental impact of these two contextual factors.

Barely a month after the Kissinger-Tack formula had been signed, thirty-eight senators—four more than the number needed to block a treaty—voted in favor of Senator Strom Thurmond's resolution opposing Panamanian sovereignty over the canal. President Nixon, facing a possible impeachment trial, was reluctant to antagonize conservative members of the Congress, so he allowed negotiations to stall.

After Gerald Ford's succession to the White House in the summer of 1974, negotiations were renewed more vigorously. For a brief period in early 1975, Torrijos appeared optimistic, telling *The New York Times* that the United States finally had acceded that the canal issue was a problem that needed resolving. Before long, however, the question of treaty duration surfaced as an important source of conflict. The U.S. negotiators, under pressure from the Pentagon, were demanding a

fifty-year duration for the new treaty; Panama insisted the treaty must expire before the year 2000.

Meanwhile, more trouble was brewing on Capitol Hill. Congressman Gene Snyder proposed an amendment to a State Department appropriations bill to withhold funds for "negotiating the surrender" of U.S. rights in the Canal Zone. The amendment passed overwhelmingly, 246 to 164. The Senate later rejected the Snyder amendment, but the lesson was not lost on Ford and Kissinger. Ronald Reagan already was positioning himself to challenge Ford for the Republican nomination and had adopted the antinegotiation position as one of the themes of his vitriolic campaign. This political pressure, combined with the Pentagon's strong opposition to concessions, led to a hardening of the U.S. position. In September 1975, Kissinger declared in a speech to southern governors that "the United States must maintain the right, unilaterally, to defend the Panama Canal for an indefinite future."

In July 1975, Torrijos, already frustrated by the U.S. political situation, had said that if negotiations ended, violence would be inevitable: "Two courses of action would be open to me. To smash it [the uprising] or to lead it, and I am not going to smash it" (*The New York Times*, July 28, 1975). Kissinger's unfortunate remark, which reneged on one of the points of agreement reached with Tack, provided Torrijos the opportunity to demonstrate his seriousness. With Torrijos's permission, if not on his command, several hundred Panamanians besieged the U.S. embassy in Panama City while National Guardsmen looked on approvingly. The furor subsided after several days and after Kissinger recanted much of his remarks. Torrijos had thus demonstrated what a powerful tactic the threat of violence was.

But Torrijos's threat also revealed the degree to which he felt his power position deteriorating. The antinegotiation movement in the United States was weakening the U.S. commitment to reach an agreement. Moreover, the specter of a possible Reagan nomination and election to the presidency was increasing the possibility that the United States might soon return to a policy of achieving unilateral outcomes in Central America. The U.S.-Panamanian consensus, epitomized in the Kissinger-Tack formula, appeared to be unraveling as a result of U.S. politics. Torrijos resorted to his threat tactic in order to bolster Panama's position.

In early 1976 Torrijos renewed his earlier successful tactic of coalition building, this time by paying a state visit to Cuba. This trip not only enhanced Panama's standing among the nonaligned nations, it also served as a threat: If the United States was not forthcoming, there was another "bloc" to which Panama could turn. Torrijos also successfully

persuaded Argentina to defer its claim to a seat on the Security Council, passing it to Panama. This secured for Panama a prominent platform from which to voice its position.

Torrijos's tactics had a noticeable effect. In March 1976, Kissinger warned that if no agreement was reached, "the danger we see is that the countries of the hemisphere will unite in a policy of harassment" against the United States (*The New York Times*, Mar. 15, 1976). Within several weeks, however, Reagan had won a string of primaries and his challenge to president Ford had become a serious threat. Once again the antinegotiation forces seemed to be gaining the upper hand in U.S. politics. President Ford responded by hardening his own position on the canal issue but at the expense of undermining the Kissinger-Tack formula and making the job of his negotiators more difficult.

Torrijos was in a bind. Angered over the U.S. government's waffling, he was nevertheless frightened by the prospect of a Reagan victory. He had to find a way to keep the pressure on Ford without increasing Reagan's popularity. Torrijos's discomfort grew even more when Jimmy Carter, the candidate who clearly would win the Democratic nomination, tried to position himself somewhere between Ford and Reagan. In a speech before the New York Foreign Policy Association in June, Carter said, "I would never give up full control of the Panama Canal as long as it had any contribution to make to our own national security."

Torrijos's tactics during this period were evidence of his confusion over how to approach the negotiations. On the one hand, he called for his fellow Panamanians to be patient and not to do anything that might play into the hands of Reagan; yet he also resorted periodically to his earlier tactic of threat making and coalition building. In a speech before the Conference of Non-Aligned Nations in Sri Lanka he blasted the United States for maintaining a "colonial enclave" in his country, and he sought greater Third World endorsement of Panama's position.

The other contextual factor that weakened Panama's position was the rapidly deteriorating state of the country's economy, resulting in signs of social unrest. The Panamanian economy showed a zero growth rate in 1976. The inflation rate was high and exports were falling as foreign debt mounted. For several years Torrijos had used the canal issue as a shield against domestic opposition to his regime and its failing economic policies. Criticizing Torrijos over any issue had been regarded as tantamount to betraying Panama over the canal. But with the negotiations in recess pending the outcome of the U.S. elections, opposition groups began to voice their discontent more openly. Torrijos needed a canal agreement, and he needed it soon. When in April 1976

Torrijos warned that trouble would erupt if the treaty was not signed by 1977, he was in part threatening and in part pleading.

The Panamanians regarded the election of Jimmy Carter to the presidency warily because of the ambiguous position he had taken during the campaign. But their concern quickly turned to optimism: Several weeks before his inauguration, Carter said at a press conference that the Panama problem "ought to be resolved quite rapidly" (Jordan, 341). His secretary of state designate, Cyrus Vance, also publicly stressed the importance of a canal agreement.

Carter's commitment to resolving the canal problem was based largely on his fear that the Panamanians might soon activate their threats. In his memoirs, Carter writes, "The Canal was in serious danger from direct attack and sabotage unless a new and fair treaty arrangement could be forged." The commanding U.S. Army officer in the Canal Zone told him it would require "at least a hundred thousand armed men to mount a reasonable defense of the Canal within a hostile environment" (Carter, 155).

Carter was also concerned about the way in which the continuing stalemate in the canal negotiations would affect U.S. relations with the rest of the Third World: "This issue had become a litmus test throughout the world, indicating how the United States, as a superpower, would treat a small and relatively defenseless nation" (Carter, 156).

Panamanian optimism received a further boost when, in January 1977, Carter appointed Sol Linowitz to be conegotiator with Bunker. Linowitz had headed the privately funded Commission on United States-Latin American Relations, whose recent report had recommended early completion of a new canal treaty. Suddenly, the United States was recommitted to a quick and equitable solution.

In light of Torrijos's eroded position, it may at first seem odd that the United States was increasing its commitment to negotiations. After all, Panama's weakened position should have allowed the United States to harden its position, perhaps by formally abrogating parts of the Kissinger-Tack formula. But the reality was more complex. For one thing, Torrijos's domestic troubles had become an indirect source of Panamanian power. Many U.S. officials, particularly at the Department of State, felt that Torrijos was the one Panamanian leader most capable of negotiating a new accord. In their view, if Torrijos fell, the alternative probably would be a government even farther to the left, which might harden the Panamanian position or even encourage popular unrest. As Zbigniew Brzezinski later wrote, "A delay in negotiating a treaty invited violence and also endangered Torrijos's position; and Panama without Torrijos most likely would have been an impossible

negotiating partner" (Brzezinski, 136). The 1964 riots and the 1968 coup still cast an ominous shadow.

Moreover, Torrijos's unrelenting efforts at coalition building were paying off. Soon after his inauguration, president Carter received a letter from the leaders of Colombia, Costa Rica, Guatemala, Honduras, Mexico, Nicaragua, and Venezuela in which they pledged that a new canal treaty would be the "crucial test of the degree of sincerity of the inter-American policy of the United States." The letter struck a responsive chord in a president who wanted to focus U.S. foreign policy more toward the Third World. In this sense the U.S. commitment to a canal treaty had increased with the election of Carter, not so much because of any specific tactics on the part of Panama, but because of the ideological views of the new administration (which then made those tactics effective).

What would prove to be the final round of the talks began in February 1977. A number of details had to be resolved, including the status of U.S. military forces in the Canal Zone, the question of jurisdiction over lands and waters, and technical questions pertaining to joint administration and operation of the canal. But the two fundamental issues that remained to be worked out were the termination date of the new treaty and the matter of access to and defense of the canal after the new treaty was in force. U.S. negotiators were asking for a twenty- to fifty-year period before termination of the treaty; the Panamanians insisted that the treaty terminate, and control of the canal pass to Panama, by the year 2000.

The more critical question was what rights, if any, the United States would have to ensure access to and defense of the canal after expiration of the new treaty. Panama refused to grant the United States exclusive rights to intervene once the new treaty had expired. Torrijos proposed instead that guarantees of access and of canal neutrality be vested in the United Nations. The Americans, however, maintained the position that, in the words of president Carter, "we would have an assured capacity or capability" to guarantee access to the canal after the new treaty's expiration (*The New York Times*, Mar. 6, 1977).

The tough U.S. position on canal defense derived from two sources. Carter knew that opposition by many senators to a new canal treaty would be fierce. Without adequate guarantees that the United States would play a paramount role in canal defense for the indefinite future it was unlikely a new treaty would be ratified. Secretary of state Vance warned the Panamanians several times during the spring that the new treaty would have to be acceptable to at least sixty-seven senators.

The other source of the tough U.S. position was the intensifying domestic pressure on Torrijos, which, as has already been mentioned, was leading to a deterioration in Panama's position. Internal opposition to Torrijos was coming from all sides: unions were angered over recent wage freezes; student activists had lost faith in Torrijos's revolutionary fervor; and the business community, never a source of regime support, had lost confidence in the government's ability to restore growth to the stagnant economy. Torrijos's need for a new canal treaty was greater than ever, not only because a new treaty would end investors' fears of political unrest but also because a new treaty would increase Panama's canal revenues substantially above the current \$2.3 million. Torrijos's alternatives now were virtually nonexistent—like Robles before him, he needed a new treaty and he needed U.S. economic aid. The balance of power had unmistakably shifted in favor of the United States.

What should each side do in the stalemate?

In May 1977, Bunker suggested a compromise solution to the defense rights problem. He introduced an understanding between the two parties, splitting the issue and giving half to each party: Panama was to be given the task of defending the canal from internal threats, and the United States the task of defending against external threats. The Panamanians accepted this proposal, although it was merely a face-saving device, for in reality this was a major concession by Torrijos: It meant that the United States would effectively enjoy the permanent right to defend the canal. In return the United States agreed to Panama's preferred expiration date, December 31, 1999. Two touchy issues were linked in a solution.

By late July the sole remaining issue was that of financial compensation. Torrijos had saved this issue for last. Although financial compensation had played only a minor role in the early years of the negotiations, it increasingly had become a crucial issue to the Panamanians, all the more so in light of their large concession on the defense issue.

With an agreement in sight and president Carter eager to achieve an early foreign policy success, Torrijos believed that the time was ripe to push for a large financial reward. The U.S. offer was for a \$50 million lump sum; Torrijos demanded a \$1 billion lump sum plus a \$300 million annuity for the life of the new treaty. The great disparity in positions caused a last-minute crisis in the negotiations. Such extreme last-minute demands, after an agreement seems imminent, are typical of many negotiations.

The financial issue was not resolved until Carter, in a personal letter to Torrijos, warned that further concessions by the United States would seriously threaten chances for Senate ratification. The United States did, however, agree to a substantial increase—amounting to between \$40 million to \$50 million a year—in Panama's share of canal toll revenues. In addition Carter promised \$295 million in loans and guarantees over the next five years and \$50 million in military assistance over the next ten years.

The two countries reached agreement on a new canal treaty on August 11, 1977. Key points can be summarized as follows:

- The United States could continue to operate and defend the canal until midnight, December 31, 1999. Panama, however, was to assume territorial jurisdiction over the canal as soon as the treaty was ratified and legal jurisdiction during the ensuing three-year period.
 - U.S. citizens living and working in the Canal Zone would be able to keep their jobs as long as they wished. They would be replaced by Panamanians only when they quit or retired.
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- The United States would have primary responsibility to defend the canal from external threats until the year 2000 and the permanent right to guarantee the canal's neutrality. The United States would provide Panama with the financial compensation discussed earlier.
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Process Leverage

Panama had been dissatisfied with the 1903 treaty virtually from the beginning. Yet it took more than sixty years to initiate a negotiation process with the United States to establish a new canal regime. At the beginning of that process, in 1964, the United States enjoyed unilateral control over canal operations, administration, and defense, and effective, if not legal, sovereignty over the Canal Zone, under a treaty that was to be in force "in perpetuity." Thirteen years later, Panama had gained the promise of unilateral control over administration and operation by the year 2000, shared control over defense, recognition of Panamanian sovereignty in the Canal Zone, and a treaty with an expiration date.

What sources of leverage had the Panamanians developed between 1964 and 1977 that did not exist in the previous sixty years? How were they able to use this leverage so effectively against a greatly superior power?

Michael Kozak, a principal member of the U.S. negotiating team, argues that Panama "had very little to offer other than a lack of trouble" (quoted in Bendahmane and McDonald, 31). But the ability to cause, or threaten to cause, trouble proved to be an important source of leverage over the United States. The 1964 riots broke the sixty-year-old stalemate by demonstrating the degree to which Panama could disrupt the status quo of the 1903 treaty regime. The riots forced the United States to determine whether its most important objective was continued unilateral control over the canal or continued secure operation of the canal. The message of the 1964 riots was that the two objectives were mutually exclusive.

From then on, Panamanian warnings and threats possessed credibility, not only to the Americans but to the Panamanians themselves, who perhaps needed the 1964 riots to convince themselves that their leverage over the United States was greater than they had thought.

Over the next thirteen years, Panama's leaders, and especially Torrijos, periodically used warnings and threats to enhance their issue

power position. The warnings and threats were used at times when it appeared the United States was backtracking or losing interest in a negotiated solution. Torrijos's threatening rhetoric in the autumn of 1971 followed Nixon's earlier proposal of a formula that would have undone, in Panamanian eyes, much of the progress the countries had made. Similarly, during the U.S. presidential campaign in 1976, Torrijos again used threatening rhetoric to try to prevent the United States from hardening its position.

But Torrijos skillfully walked a thin line: His threats were subtle and seldom explicit; his warnings often were more akin to pleading. This was wise behavior, given the considerably greater overall power of the United States. An attempt to actualize a threat could have increased both the commitment and the willingness of the United States to exercise its potential ability to control outcomes unilaterally. The use of warnings and threats was indeed Panama's most effective source of leverage.

A number of U.S. officials later revealed how seriously they regarded the threat of violence. Secretary of defense Harold Brown, testifying before Congress in 1978, asked:

What do we want? Do we want a situation where we may have to use force over and over and over again in order to preserve the operability of the Canal or do we want a situation where the people of Panama see themselves as correctly having an important stake in keeping the Canal operating?

General D.P. McAuliffe, commander of U.S. forces in the Canal Zone, testified before Congress that defense of the canal against a guerrilla or terrorist threat supported by a hostile Panamanian populace and government would require an open-ended commitment of between 40,000 and 100,000 U.S. ground troops.

The other major source of Panamanian leverage was the international pressure resulting from Panama's efforts at coalition building. The Kissinger-Tack principles were signed within a year of the Security Council meeting in Panama City; the link between the two events is undeniable. In the ensuing years Torrijos used coalition building to bolster Panama's alternatives and commitment. His meetings with Castro and other left-wing leaders, in particular, opened new alternatives by demonstrating that Panama need not remain an ally of the United States. His meetings with other Latin American and Third World leaders bolstered Panama's commitment by joining to it the commitment of other sympathetic states.

Whereas Panama used warnings and threats in desperation to stop U.S. backtracking and revive waning U.S. attention, it used coalition

building when it needed to push the negotiations forward. Thus, Panama tended to alternate between the two forms of leverage, depending on its perception of the state of the negotiation process.

Panama's leverage was most effective in determining the nature of the formula (the Kissinger-Tack accord). Formulas deal with principles, notions of justice, and a general definition of what the outcome should look like. The formula sets the boundaries within which the details are to be negotiated. It is thus greatly affected by changes in the balance of power. Formulas reflect the balance of power—they reflect each side's perception of the balance of alternatives, commitment, and control.

Details are negotiated within the framework set out by the formula. Details deal with quantifiable factors: sums of money, numbers of bases, years of duration, and the like. In the canal negotiations U.S. leverage was evidenced in the details stage. The United States dangled offers of financial reward before the economically beleaguered Panamanians, warned that the number of pro-treaty votes in the Senate was dwindling, and firmly demanded increased defense rights while Torrijos twisted in the wind of impending economic collapse. In effect, during the details stage the United States was saying, "You've got your formula, which recognizes those principles and rights you have been fighting for, but now we want to ensure that, within the bounds of that formula, we retain as much as possible of what we had before." And this the United States did. It gave sovereignty but retained defense rights; it retained perpetuity while conceding the term; it promised financial remuneration, while ensuring that the bulk of this came from canal tolls, not from the U.S. Treasury.

The source of U.S. leverage was simply the vast resources available to the world's preeminent power. Not only did these resources allow the United States to take a hard-line position during the negotiations over details, but they also gave the United States the advantage of being able to withstand long periods of stalemate. The canal was so important to Panama—not only in economic terms, but also as a unifying political issue—that Panamanian leaders needed to keep the negotiation process moving. The United States, in contrast, could allow its attention to wane. It is not surprising, therefore, that it was Panama that consistently took the initiative, from the 1964 riots to Torrijos's eleventh-hour demand for large financial rewards.

Contextual Factors

The majority of Panamanians disliked the original canal treaty from the time it was signed in 1903, but only in 1964 did they begin actively to push for a new treaty. This fact underscores the critical role that contextual factors played as a source of leverage.

No event in international relations can be analyzed in isolation from its historical context. The 1964 riots occurred in an era of worldwide decolonization and the U.S. civil rights movement. Had the riots occurred in earlier decades, when U.S. military intervention in Latin America was the norm, they probably would have been quickly squelched. They certainly would not have launched a negotiation process.

The Kissinger-Tack formula was negotiated within the context of post-Vietnam U.S. foreign policy, the sudden and dramatic appearance of powerful Third World producer cartels, and an easing in East-West tensions. This milieu made Panama's leverage—particularly coalition building—all the more effective in weakening the U.S. commitment and bolstering Panama's. Torrijos clearly understood the significance of historical context and used it to Panama's advantage throughout the negotiations.

The details phase, in contrast, took place in the context of a nascent resurgence of a hard-line U.S. foreign policy. Although president Carter looked favorably upon a new treaty, many members of Congress were determined to block an agreement. A U.S. participant in the negotiations described how the context had begun to change by 1977: "The treaties slipped through a window of time when cold war views were coming back. . . . [The treaties] went in with just barely a moment to spare. You couldn't have done it a year later" (from an interview with author).

If it is true that people make history, an important aspect of context is the personality factor. Until Torrijos came to power, Panama suffered from internal political uncertainties and a lack of consensus. Under Torrijos's essentially one-man rule Panama gained a new sense of assertiveness and unity of purpose. Moreover, Torrijos was a remarkably effective tactician.

At the same time, the United States experienced the trauma of military defeat, the resignation of a president, and a heated political campaign. It was not until Jimmy Carter's election brought a brief period of political tranquility that the United States could move forward in what had been stalemated negotiations. To Panama's advantage, Carter brought to this tranquility a more liberal foreign policy.

Lessons

The principal lessons of the Panama Canal negotiations are lessons of asymmetry—that is, how is negotiation behavior affected when there is a wide discrepancy in power between the two actors? These are important lessons, for as Oran Young writes:

It seems reasonable to assume on *a priori* grounds that perfectly symmetrical bargaining will seldom occur in the real world, if only because the resources and personal attributes of the players are unlikely to be identical. Situations that approximate perfectly asymmetrical bargaining . . . are probably more likely to occur in reality. (Young, 307)

The first lesson is that, despite the unfavorable power asymmetry, weak actors do have leverage. As was noted earlier, negotiation power derives in large part from the actors' alternatives, level of commitment, and degree of control over outcomes. An asymmetry in any one of these elements can compensate for an overall power asymmetry. For the weak actor the implication is don't give up or assume that you have no leverage. For the strong actor the implication is don't assume victory—and don't be surprised when the weak actor evidences leverage over your behavior. Jimmy Carter was accused of "giving away the Panama Canal." In fact, Carter's administration (and the two Republican administrations before his) was negotiating with a weak state that nevertheless had considerable leverage over U.S. policy.

One of the most important sources of this weak state's leverage is its commitment, which usually is greater than the strong state's. Greater commitment translates into greater attention, greater internal cohesion, and greater willingness to make sacrifices. Another lesson for the weak state, therefore, is that its leadership should maintain and strengthen its commitment. Tactics that rally the domestic constituency are particularly effective, and Torrijos was a master at this. Coalition-building tactics also bolster commitment, by combining with one's commitment the commitment of sympathetic allies. The clearest example of this in the canal negotiations was the Security Council meeting in Panama City.

The greater commitment of the weak state will allow it to pursue tactics that would lack credibility if they were based solely on overall power. For example, the weak state may wish to provoke periodic crises. Oran Young describes why causing crises is a useful tactic for weak states:

Because crises are relatively short, coercive, dangerous, and characterized by uncertainty, the importance of superior will and resolve tends to rise significantly in comparison with that of possessing superior capabilities in any physical sense. (Young, 175-76)

Crises are especially effective early in the negotiations, because they color the way the conflict is perceived and defined. The 1964 riots in Panama affected U.S. perceptions of the canal conflict for the next thirteen years. Crises may also prove useful later in the negotiation process as a means of keeping the strong state from backtracking, of resisting threats of coercion, and of ensuring that the issue does not drift too far off the strong state's agenda. In addition, crises can bring about a favorable change in the balance of power by giving the perception that the weak state's control has increased.

There is a caveat, however: Causing a crisis is not a risk-free tactic. A crisis may provoke the strong state into responding coercively, which could bring the negotiations to a quick end. Furthermore, negotiations arising from a crisis may tend to focus on terminating the immediate confrontation rather than on resolving underlying problems (Young, 285). This was the dilemma Panama faced in the immediate aftermath of the 1964 riots: The Johnson administration placed priority on normalizing U.S.-Panamanian relations and not on addressing the sovereignty issue. Thus, the tactic of causing crises should be used with caution. The weak state must know just how far it can push the strong state and must make sure that the ensuing negotiations focus on the real issues.

The weak state's likely advantage in commitment offers lessons for the strong state as well. Specifically, the strong state should not underestimate the power of the weak state's commitment. In 1967 the United States took advantage of a weak Panamanian government to push through a treaty that proved inherently unacceptable to the Panamanian people, who remained committed to the goal of attaining sovereignty over the canal. As a result the negotiations returned to square one after a political shake-up in Panama.

The strong state may even want to adopt tactics to weaken the opponent's commitment. For example, the strong state might concede early on issues of principle and justice.

Conceding on these issues will weaken the commitment of the weak state and hinder its ability to form coalitions (which often are based on

shared principles). It was easy for Torrijos to arouse the Panamanian people over the question of sovereignty. But once the United States acknowledged Panamanian sovereignty, it became harder for Torrijos to rally Panamanians around the more technical questions of defense rights and treaty duration. Moreover, these concessions often will be largely symbolic. Yet they are concessions nonetheless, and negotiation norms would call on the weak state to respond with concessions of its own.

If the strong state concedes on symbolic points, usually embodied in the formula, it is in a better position to make tough demands on the details. This is what the United States did in the canal negotiations: After granting Panama the sovereignty issue in the Kissinger-Tack formula, the United States fought for, and won, significant concessions from Panama on defense rights.

Getting tough on details makes sense for another reason as well. The strong state, by definition, has greater overall power resources. These resources allow for such tactics as side payments, rewards, and threats to withhold earlier concessions—all of which are more likely to be effective in the negotiations over details.

Finally, the Panama Canal negotiations offer important lessons of timing and context. We already have noted the important influence that systemic and contextual factors have over the negotiation process. Both participants should be aware of these factors and use them to their utmost advantage. Understanding the context will help negotiators determine the right moment for pursuing a particular tactic, whether it be causing a crisis, making a demand, or offering a concession. The context will also help them determine what their range of tactics is. For example, in the global context of the early and mid-1970s, coercion was not a tactic the United States could consider using against Panama.

Learning to exploit contextual and systemic factors is especially critical for the weak state, because such factors often serve as constraints on the strong state's behavior. Riding favorable historical waves bolsters the weak state's commitment, enhances its persuasive ability, and facilitates tactics such as coalition building. The tactical behavior of Panama's Torrijos, who had an uncanny ability to exploit contextual changes, should serve as a guide for all weak states.

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Teaching Guide

ABSTRACT

This case describes the negotiations between the United States and the Republic of Panama over the status of the Panama Canal. It begins with the January 1964 riots in the Canal Zone and ends with the signing of a new treaty in 1977. The case is essentially a study of how and why the 1903 treaty regime broke down and what issues the two parties confronted in negotiating a new treaty regime. It focuses on several critical points in the thirteen-year-long negotiation process: the impact of the 1964 riots on U.S. diagnosis of the problem; the failed treaties of 1967; the Torrijos regime's strategy to renew the negotiation process; the important turning point symbolized by the Kissinger-Tack accords of 1974; and the final round of negotiations over details. Throughout, the analytical emphasis is on the sources of each side's power and leverage over the opponent and the tactics each side pursues.

TEACHING OBJECTIVES

The case is particularly useful for courses on international negotiation and bargaining for several reasons. First, the negotiations had a clear beginning (president Johnson's agreement to commence talks in 1964) and a clear ending (the 1977 treaty). Many other cases are not so neat. Arms control negotiations, for example, are in reality a series of interim agreements, each of which reflects previous agreements and attempts to carry on where the last one left off. By contrast, students should find the canal negotiations a more manageable case to study.

Second, the canal negotiations closely follow and illustrate the diagnosis-formula-detail framework of the negotiation process developed by Zartman and Berman in *The Practical Negotiator*. It would thus be particularly useful in courses that use their text.

Third, the case directly addresses the role of power in negotiation. Many case studies, and even many theories of negotiation, ignore this most critical of political science concepts. The implicit assumption of this study is that negotiation outcomes are a function of relative power. Because of this emphasis, the case also may be usefully employed in courses on power in the contemporary international system. In this capacity, it would be best combined with the works of international theorists such as Stanley Hoffmann, Robert Keohane, and Joseph Nye.

Finally, this case describes negotiation between a strong state and a weak state (as defined by overall structural power). Although most international negotiations are between asymmetrical actors, there are few case studies devoted to the dynamics of asymmetry. This case therefore helps to fill a large void. Teachers should consider using this case study in combination with the few other studies of asymmetrical negotiation, such as Jeffrey Hart's, *The Anglo-Icelandic Cod War of 1972-1973* and I. William Zartman's *The Politics of Trade Negotiations Between Africa and the European Economic Community*.

CLASS PLAN

This case can easily be divided into five distinct time periods: (1) from the outbreak of the January 1964 riots to the Johnson administration's decision to negotiate for a new treaty; (2) the 1965-67 round of talks leading to the 1967 draft treaties; (3) the unsuccessful 1971-73 round and resulting stalemate; (4) from the UN Security Council meeting (early 1973) through the renewed stalemate caused by U.S. presidential politics; and (5) the Carter administration negotiations over details leading to the 1977 accord.

The focus of discussion within each of the five time periods should be the interplay of three elements: the *negotiation process*, the *power or leverage* each side possesses over the opponent, and the *tactics* each side uses to translate its leverage into desired outcomes. Students should particularly examine the relationship between these elements and negotiation stalemates, crises, and turning points. For example, in the Johnson round (period 2) it is important to bring out the difference between an agreed formula and a resolving formula. In the 1971-73 round of talks (period 3) emphasis should be placed on how the Nixon administration's flawed perception of U.S. leverage over Panama led to stalemate. Discussion of period 4 should center on the tactics Panama employed to break the stalemate, the changing U.S. perceptions of Panama's leverage, and the importance of the Kissinger-Tack agreement to the negotiation process.

Here are a few questions that may serve as the basis of discussion for each time period. Note that these, or any other questions, should be used to promote reflection and discussion; they do not necessarily have definitive answers:

Period 1

1. Why did the 1964 riots break the sixty-year-old stalemate? Why did they not backfire?
2. Would a similar outbreak ten, fifteen, or twenty years earlier have led to negotiations?
3. What is the nature of the leverage the riots gave Panama?

Period 2

1. Did the 1967 draft treaties reflect a new regime, or were Panamanian critics correct in branding them a mere update of the 1903 regime?
2. How does one determine whether a formula has established a new regime?
3. What changes might have made the 1967 draft treaties a successful formula?

Period 3

1. What caused the return to stalemate?
2. Why did U.S. diagnosis of the problem change between 1967 and 1971?
3. Why were Panama's tactics effective at ending the stalemate?
4. What does the success of these tactics reveal about the underlying balance of power?

Period 4

1. Why did the Security Council meeting in Panama have such a dramatic effect on U.S. diagnosis of the problem?
 2. Compare the Kissinger-Tack formula with the 1967 formula. Discuss how and why the balance of power had changed between 1967 and 1974.
 3. Discuss the influence of two intervening contextual factors: America's post-Vietnam global retreat and the 1976 presidential campaign.
-

Period 5

1. How did the implementation of details “fit” into the formula?
2. Did any of the solutions reached on details conflict with or contradict any of the principles in the formula? If so, why did the negotiations not break down?
3. Where was the “crest” in the canal negotiations: the Kissinger-Tack accords? President Carter’s public commitment to pursue negotiations? the agreement on defense rights worked out in the spring of 1977? Carter’s final communication with Torrijos over economic terms?

Finally, because the Panama Canal negotiations were a major political issue in the late 1970s and received extensive press attention, many students may have an opinion about the negotiation outcome prior to studying the case. It thus might be interesting to poll students before they read the case, asking: Who “won” the negotiations? Did Jimmy Carter give away the canal? Would Ronald Reagan have negotiated a new treaty? After they have read and discussed the case, ask them to reassess their answers.

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