Volumen III

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3. Exposición de motivos presentada por Panamá.

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No 10 Acta de la 10ª reunión. 19 de noviembre de 1953.
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ANEXOS: 1. Memorándum de la Delegación panameña sobre el Documento "E".
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No 15 Acta de la 15ª reunión. 2 de febrero de 1954.

ANEXOS: 1. Declaración que acompaña la Presentación de los Documentos "D", "G", "O", "Q", "S" y "U".
2. Comentario de los Estados Unidos al Documento "D" de Panamá.
3. Comentario de los Estados Unidos al Documento "G" de Panamá.
4. Comentario de los Estados Unidos al Documento "O" de Panamá.
5. Comentario de los Estados Unidos al Documento "Q" de Panamá
6. Comentario de los Estados Unidos al Documento "S" de Panamá.
7. Comentario de los Estados Unidos al Documento "U" de Panamá.
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No 16 Acta de la 16ª reunión. 9 de febrero de 1954.

ANEXOS: 1. Comentario de los Estados Unidos al Documento "P" de Panamá
2. Comentario de los Estados Unidos al Documento "J" de Panamá.

Fin de Volumen III    Sigue Volumen IV    (Actas en inglés)
No 1  Acta de la I.a reunión.  10 de septiembre de 1953
FIRST MEETING OF REPRESENTATIVES
OF PANAMA AND THE UNITED STATES TO
REVIEW RELATIONSHIPS BETWEEN THE TWO COUNTRIES

PRESENT:

Dr. Octavio Pächega
Dr. Carlos Sucre C.
Mr. Roberto Hurtmatte
Dr. Miguel Amado A.
Mr. Guillermo Jurado Selles
Mr. Enrique de la Guardia
Mr. John J. Masio
Lt. Col. Maurice C. Holden
Mr. Paul H. Dussanrud
Mr. Charles B. Surrata
Mr. Raymond C. Lodde
Mr. William B. Gorsh
Mr. Eldred D. Kuyringer
Mr. Raymond A. Vahinere

Mr. Masio greeted the Panamanian Special Mission in the
absence of Mr. Cabot, Assistant Secretary of State for Inter-
American Affairs, who is chairman of the group representing
the United States Government.

Mr. Masio suggested that today's meeting be limited to
procedural matters since Secretary of State Dulles had previous
urgent commitments for today and would be unable to formally
welcome Foreign Minister Galssado and the Panamanian Special
Mission until 12:00 p.m. tomorrow, September 11.

Dr. Pachega suggested, and Mr. Masio agreed, since it
was understood in Panama that discussions would be initiated
on September 10, that today's meeting be considered the first
meeting, although the members of the Panamanian Special Mission
will not present their credentials to the Secretary of State
until September 11.

It was decided that the meetings would be informal with
the understanding that a verbatim report would be taken down
whenever desired and so requested by the spokesman of either
group. It was agreed that an official record of the proceed-
ings would be kept by Messrs. Jurado and Vahinere subject to
the approval by both delegations. This will be a summary
report, but will include verbatim text whenever such remarks
are desired to be included in the official record.

It was also agreed that regular meetings will be held
twice weekly on Tuesday and Thursday at 2:30 p.m. in the
International Conference room on the 11th floor of State
Annex No. 17 at 1776 Pennsylvania Avenue. This arrangement
does not preclude the calling of special meetings at other
times as desired.

Mr. Masio raised the question of the desirability of
having a spokesman designated by each group. He said that
Mr. Cabot has been charged with the conduct of these con-
versations on behalf of the United States assisted by

Mr. Masio,
Mr. Muccio, Lt. Col. Holden as representative of the Secretary of the Army, and Mr. Rummelstrand representing the Governor of the Canal Zone.

Mr. Heurtematte said that the Panamanian Delegation will consider this matter following today's meeting and their decision will be given at the next regular meeting on Tuesday, September 15.

The formal meeting at Blair House at 12:15 p.m. tomorrow was then discussed. It was stated that the Secretary and Foreign Minister will exchange remarks and the credentials of the Panamanian Special Mission will be presented. Following this brief meeting the group would move over to Blair House where Panama's Foreign Minister and Special Mission would be guests of honor at the Secretary of State's luncheon.

Respecting the press, Mr. Muccio said that reporters and photographers would be outside of Blair House after the luncheon. It was decided that if both the Secretary and Foreign Minister spokes from prepared remarks the latter could be combined into a joint release to the press. If the remarks are extemporaneous they will be taken down to be later jointly released.

It was agreed that joint releases approved by both delegations will be issued when appropriate, that separate press releases will be avoided, and that matters under consideration will not be discussed with the press or other outsiders.

Dr. Fábrega then expressed the pleasure of the Panamanian Special Mission on being in Washington and for the cordial initiation of these discussions. He felt confident that the high spirit of friendship between the United States and Panama would be evident throughout the conversations and at their close.

Mr. Muccio reciprocated these remarks and the meeting was adjourned at 4:00 p.m.
Acta de la 2a. reunión. 11 de septiembre de 1953

ANEXOS: 1. Palabras del Secretario de Estado Dulles
2. Palabras del Ministro de Relaciones Exteriores, Guizado.
3. Exposición de motivos presentada por Panamá.
SECOND MEETING OF REPRESENTATIVES
OF PANAMA AND THE UNITED STATES TO
REVIEW RELATIONSHIPS BETWEEN THE TWO COUNTRIES

PRESENT:

Mr. José Ramón Guizado
Dr. Octavio Pábrenga
Dr. Carlos Suárez C.
Mr. Roberto Beurutatne
Dr. Miguel Amedo B.
Dr. Ricardo J. Alfaro
Mr. Mario de Diego

Mr. John Foster Dulles
Mr. John Moors Cabot
Mr. John J. Mccloy
Lt. Col. Maurice C. Holden
Mr. Paul M. Bunstead
Mr. Robert F. Woodward
Mr. Charles R. Burrows
Mr. Raymond C. Liddy
Mr. William B. Seward
Mr. Raymond A. Valliere

At 12:15 today the Panamanian and United States Delegation, and others, met at Blair House where Secretary of State Dulles and Foreign Minister Guizado exchanged formal remarks respecting the initiation of conversations between the two countries (see Attachments #1 and #2).

The Foreign Minister presented to the Secretary of State a document entitled "Statement of Reasons" with an Annex enumerating the topics the Panamanian Government wishes to discuss (see Attachment #3).

Following this meeting Secretary Dulles gave a luncheon at Blair House in honor of Foreign Minister Guizado and the Panamanian Special Mission.

This meeting and luncheon concluded at 1:30 p.m.

Attachments:

1. Remarks by Secretary of State Dulles.
2. Remarks by Foreign Minister Guizado.
3. Panama's Statement of Reasons for requesting discussions.
I understand that this opens our discussions. I am happy to have them opened in this atmosphere of friendship which, I trust, will continue as the discussions continue.

The Republic of Panama is, in a way, our closest neighbor, for you are on both sides of us in the “atmosphere.” No other country occupies that relationship to us. Our relationship is unique in many other ways. Throughout the life of the Republic of Panama, which we recall is this year a life of 50 years, we have always had cordial relations. We well remember the record of effective action which was taken at the beginning of the Second World War, when your government so promptly and effectively sided itself on the side of the free world and disposed, almost in a matter of minutes, of the potential agents of the enemy in Panama.

We have, of course, constant occasion to talk together, to review our relations and the operation of our treaties. We want to have the relationship continue to be one which is mutually advantageous, which involves mutual respect and regard, both for treaty obligations and for fair interpretation and application of those obligations.

So we are glad to initiate with you these discussions, which grew out of the talks which you, Mr. Minister, and I had some months ago. We have confidence that out of these discussions will come a better relationship for the future, even though the past has been good. We always are willing to try to make the future even better.

Having recalled that this is your nation’s 50th anniversary, may I say that we look forward eagerly to participating in your celebration in Panama of that anniversary. We trust that the second half of the first century of your national life will mark progress, development, and ever-increasing friendship between our two countries.
ANNEX #2

RFMARKS BY THE PANAMERICAN FOREIGN MINISTER JOSE RAMON GUIZADO AT THE FORMAL OPENING OF CONVERSATIONS BETWEEN THE UNITED STATES AND PANAMA, WASHINGTON, D.C., SEPTEMBER 11, 1953.

Your Excellency:

I am deeply moved by the words you have just spoken and by the fact that they are those of the distinguished Secretary of State of the United States uttered on the occasion of the initiation of these talks which will be of such transcendental importance for the future relations between our two countries, both nations of the American Continent.

In ancient times it was rightly said that all roads led to Rome, the Rome that gave the world a millennium of peace and progress. With the passing of time, we find that today all roads lead to Washington, the capital of this great nation, that so aptly and proudly bears the name of the great general and brilliant statesman who was first in war, first in peace and first in the hearts of his countrymen.

Today, as yesterday, I have come, together with our Negotiating Commission, to the most important capital in the world, via the broad highway travelled by free peoples, in order to communicate to you the feelings and aspirations of a people who desire a review of the whole field of our contractual relations relative to the construction, maintenance and operation of the great Panama Canal which divides our land in order to unite a world.

I have been singularly honored in being designated to head our Mission on the occasion of the initiation of negotiations between our two countries, at a time when the destinies of the United States are in the hands of another great general and eminent statesman, His Excellency, President Dwight D. Eisenhower, while you, Mr. Secretary, are serving as his closest collaborator in the task of building his foreign policy.
Both these circumstances augur well for the successful conclusion of our great task of strengthening even more the bonds that unite our two countries for their mutual benefit, and in behalf of greater continental solidarity.

I venture to predict that, when this noble task has been completed, not only will you be gratefully remembered by your fellow citizens, as General Washington is, but that, below the Rio Grande, your name will forever be cherished in the hearts of all Panamanians.

Mister Secretary, I have the honor to place in your hands these documents which embody the aspirations of our people.
STATEMENT OF REASONS

The Panamanian Negotiation Mission desires to make this Statement of Reasons with respect to the negotiations that are beginning in Washington today, September 10, 1953. It is not sought in this statement to raise at this time a comprehensive discussion of the negotiations. Such an intent would have no practical purpose. An examination of the questions pending between Panama and the United States has already been agreed upon and the logical thing to do is to proceed to a gradual and ordered consideration of the various points that constitute the agenda of the negotiators. This Statement of Reasons has been drawn up only because it is felt that it can help bring out the fundamental reasons that have impelled the Government of Panama to request this revision of its relations with the United States. The generic statement of these reasons will no doubt contribute to a better appreciation of the different points listed in detail in the accompanying Panamanian agenda.

ORIGIN OF THE PRESENT NEGOTIATIONS

On March 15, 1953 Colonel José Antonio Remón Cantera, President of the Republic of Panama, announced his Government's decision to request of the Government of the United States a revision of the relations between the two countries.

The decision of President Remón received, on being made public, the solid endorsement of all sectors of opinion of Panama. The National Assembly of Panama had already previously adopted unanimously the Resolution of November 17, 1952, which expressed aspirations and sentiments that were in harmony with that move.
that move. It was approved by the Panamanian workers, both of Panama and of the Canal Zone, and by the merchants, manufacturers, professional men, teachers, and professors, students, and women's organizations. Through the press and radio there could be noted the keen desire of the Panamanian people for carrying forward as soon as possible this fundamental revision of the contractual relations between Panama and the United States with a view to seeking just and equitable treatment for the people of Panama. This endorsement by public opinion had obvious reasons. The aspiration for revision has been latent in the Panamanian people since the dawn of the Republic. The lack of an equitable and adequate adjustment of those relations indissolubly linked with the operation of the Panama Canal has been noted repeatedly in the mind of the Panamanian people, causing regrettable resentment between the two peoples, who should be the best friends and the most exemplary neighbors in the world.

THE ATTITUDE OF THE UNITED STATES VIS-A-VIS
THE REVISION

Fortunately this keen expression of the sentiments of the Government and people of Panama has been received in an understanding and receptive manner by the Government of the United States. When José Ramón Guizado, Foreign Minister and Vice President of the Republic of Panama, stated to the Secretary of State of the United States in a note verbale of April 7, 1953 the desire of the Government of Panama "to effect a revision of the entire field of relations created between the Republic of Panama and the United States by reason of the construction and operation of the Panama Canal," His Excellency the Secretary of State replied that he was pleased to receive,
on behalf of the Government of the United States of America, the expression of the desire of President Remón for a discussion of these matters of great importance to the two Governments, and to assure His Excellency the Minister of Foreign Relations of Panama of his complete cooperation in order that these matters might be promptly settled in a manner satisfactory to both Governments, as befitted the historic friendship and unique association between the two countries.

This frank and cordial understanding in regard to the revision has been received with great pleasure by the Government and people of Panama. It has made it clear that the fundamental readjustment of relations with the United States will be effected on a firm basis of friendship and understanding between the two countries and that there is reason to hope that on such a basis it will be possible to erect and preserve the juridical, equitable, and practical structures that will further and maintain continual harmony and cordiality between the two countries, having as they do such special ties.

HISTORICAL ANTECEDENTS

In order better to appreciate the bonds that exist between the United States and Panama, it should be borne in mind that it is a question of an association of more than a hundred years' duration between the two peoples. About 1849 were organized the first United States shipping lines to connect, in the Atlantic, New York and New Orleans with the now non-existent isthmian port of Chagres and, in the Pacific, California and Oregon with the old port of Panama.

The shipping lines had as their basic aim the linking, across the Isthmus of Panama, of the two great coasts of the United States, but they laid the first foundations of the intimate association of our peoples. A year later, United
States interests began in Panama the construction of the first trans-isthmus railroad, completed January 27, 1855. The first coast-to-coast railroad in the United States was inaugurated fourteen years later. Hence, through the Isthmus of Panama was established the first direct communication between the great coasts of the United States.

The Panama Isthmus route as an indispensable means of communication between the Atlantic and Pacific coast of the United States led in 1846 to the conclusion of the Malarino-Bidlack Treaty between Colombia (then called Nueva Granada) and the United States. In article 35 of that Treaty the latter power was guaranteed right of way or safe, free, and continuous transit across the Isthmus of Panama for its citizens and products.

When the need began to be felt for the construction of an inter-ocean canal as a means of assuring and improving communication between the two great oceans and the Panama route was chosen as the most suitable for that purpose, the United States concluded the Herrán-Hay Treaty with Colombia on January 22, 1903. As is well known, this Treaty never went into effect because the Congress of Colombia refused to ratify it.

This refusal produced a profound reaction among the people of Panama; Panama, which had secured its independence from Spain in 1821 through its own efforts and had then united with Gran Colombia voluntarily, interpreted this act as hostile to the interests and aspirations of the Panamanian people. The separatist wishes of the Panamanians were revived, and culminated on November 3, 1903, in the secession of Panama. Fifteen days later, on the 18th of November, 1903, the Hay-bunau Varilla Treaty was signed in Washington, which initiated contractual
contractual relations between Panama and the United States and made it possible for the United States to build the Panama Canal.

It is not my purpose to delve deeply here into the recriminations of the past. But the irrefutable fact must be pointed out that the 1903 Treaty was signed under pressing circumstances which bore very heavily on the newborn Republic of Panama.

Neither can it be denied, since it is an historical fact, that the difficult situation in which the new-born Republic found itself turned out to be advantageous for the Government of the United States. It suffices to compare, even superficially, the two treaties: the Herrán-Hay Treaty, approved a short time before by the Congress of the United States, and the Hay-Bunau Varilla Treaty, signed with Panama months later.

There should be added to this the well-known and public fact that Mr. Bunau Varilla, who signed as the representative of Panama the treaty that bears his name, was an alien without ties of affection with the new republic, as he showed by being more concerned with the interests of the United States than with those that had been entrusted to him. Bunau Varilla signed the treaty in spite of having received instructions from the Government of Panama to await the arrival of a special delegation sent to Washington by the Government of Panama with important instructions on the matter. Those delegates reached Washington during the evening of November 18, 1903, and Mr. Bunau Varilla had hastened to sign the treaty a few moments before, that same evening. He himself tells this without mincing words. He says that when he left the home of John Hay, the Secretary of State, and went to his hotel, immediately after the signing of the treaty, he was given the telegram which the Panamanian Delegation had sent to him from New York, announcing its arrival in Washington that same evening. And Mr. Bunau Varilla says: "Now
says: "Now they might come. Everything was already concluded." And the Secretary of State, John Hay, says in a letter to Senator Spooner: "As things are now, as soon as the Senate votes we shall have a treaty that is very satisfactory in the main, widely advantageous for the United States, and we must confess, if we have the boldness to do so, not so advantageous for Panama. If we modify the treaty and return it there next month, the period of enthusiastic unanimity which, as Cullom says, occurs only once in the life of a revolution, will have passed, and then they will have entered into the new field of politics and polemics. You and I well know how many points there are in the treaty to which any patriotic Panamanian would object".

Panama has never refused to live up to the Treaty of 1903, notwithstanding the extremely peculiar circumstances that surrounded its conclusion. But that pact has always been alien to the real will and the sentiments of the Panamanian people, which have seen in it only a virtually unilateral affair in so far as the sharing of benefits is concerned. That pact, because of the peculiar features of its conclusion, because of its content, and also because of the development of the two countries subsequent to its conclusion, is not an adequate instrument to govern satisfactorily and fairly the relations between the two countries and therefore requires substantial alterations.

**PARTIALITY OF THE 1903 TREATY**

The lack of equity of the 1903 Treaty is evident. In exchange for the enormous advantages granted to the United States,

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States, which advantages then contributed to a very important extent to its greatness and its growth as a world power, Panama received very slight compensation.

The grant in perpetuity for the construction and operation of the Canal was obtained from Panama, and that concession was given, furthermore, in the form of a monopoly.

Panama is not a large and rich country. Quite the contrary. It may be said that its geographic position as the center of communication between the oceans is the greatest resource that it possesses. And that resource, through the 1903 pact, came into the hands of the United States, in perpetuity and in the form of a monopoly.

The annual payment that was agreed upon in favor of Panama was very small—practically nil. As a matter of fact, through the Treaty of 1903 the United States obtained two concessions; that of the canal and that of the Panama railway. Nevertheless, the sum of $250,000, which was the annual amount payable by the railway company and which had been paid by the latter since 1867, continued to be the annuity for both concessions. That is to say, the United States did not agree to pay any annual sum for the highly important canal concession.

The cash payments in which these negotiations resulted would seem to reflect the power of the one who was to receive them; The French Canal Company, $40,000,000; Colombia, $25,000,000; Panama, $10,000,000. In the case of Panama, it is to be noted that the waiver alone, in favor of the United States, of the return on the railway and other assets of the railroad company represented a sum larger than the ten million which the United States agreed to pay Panama. And the leasing alone of lots of land by the railroad company in the cities of Panama and Colon was producing for the United States, up to a few years'
few years ago, an income practically equal to the annual sum of $250,000 which it was paying.

The Hay-Bunau Varilla Treaty, as has been said, imposed on Panama more severe terms than those asked of Colombia in the Herrán-Hay Treaty, which had been approved by the Congress of the United States a few months before. The territorial area of the Canal Zone was increased. The degree of jurisdiction which would be exercised in the Zone changed considerably. In the Herrán-Hay Treaty the Colombians, as territorial sovereigns within the Zone, retained their national status and remained subject to special tribunals.

There arose out of the Hay-Bunau Varilla Treaty certain obligations affecting the sovereignty of the Republic of Panama even outside the Canal Zone. It is not fitting to discuss them further here, since they were, for the most part, removed by the Treaty of 1936.

The Convention of 1903 made no mention of the advantages to which Panama was entitled by reason of the operation of the canal. If the United States was to have the perpetual and monopolistic privilege of an inter-oceanic route, the other advantages of Panama's geographic situation should have been recognized; exclusive supplying of vessels traversing the canal; the privilege of supplying consumers in the Canal Zone; the cooperation of the United States so that Panama might become a re-export and distribution center. It would even have been just to consider a guaranty, on the part of the American Government, of special treatment for Panamanian goods in the United States, as occurred in the case of Cuba in 1902, when preferential treatment was given Cuban sugar imported into the United States.
If the concession given to the United States with respect to the Panama Canal is compared to the concession given by Egypt with respect to the other similar inter-ocean seaway, the Suez Canal, the unequal treatment given to Panama is also obvious. The period of the Suez concession is limited; it will expire in 1968. The concession was not given to a foreign government but to a private enterprise. The Ottoman Empire, which was the sovereign power, was allotted a large number of shares to purchase, which the Viceroy of Egypt, Said, acquired until he had 44% of the total capital.

The clause limiting the period of the concession is so important that the National Assembly of Egypt even unanimously rejected in 1910 a proposal to extend the concession for forty years, even though it included advantages never offered to Panama.

On the contrary, Panama, which has already had a century of association with the United States with regard to inter-oceanic communication, has received very limited benefits, most outstanding of which is the drainage limited to the cities of Panama and Colon, which was indispensable to the Canal itself. Although the power of the United States has increased and it has been victorious in two great world wars, due partly to this trans-isthmian association with Panama, Panama has been unable to develop even to the degree of other comparable Latin American countries. Colombian cities, for example, from 1903 to the present time have grown more than our two important urban centers, which have remained without ports and with the development of their foreign trade depending upon the burdens imposed on them, through high freight and unreasonable wharfage fees, by the very government to which Panama granted the trans-isthmian monopoly. The Canal Zone, far from being a Panamamanian market
market, has been converted into a privileged center of duty-free imports in which Panama has to face ruinous competition maintained by the richest, most powerful nation on the earth.

Very soon after entry into force of the Convention of November 18, 1903, the nonconformity of the Panamanian government and people became evident when the United States sought to apply the clauses of this Convention in an extreme form and open the Canal Zone to foreign trade. Panama then realized the danger to its economic life and its sovereignty not only in the severity of the clauses of the said Convention but also in the interpretation which the Government of the United States gave it.

And if that nonconformity did not reach extremes it was due to the fact that the highest executive authorities of the Government of the United States, the President and the Secretary of War, formally promised and guaranteed to the Government and people of Panama that they would not assume an attitude prejudicial to the interests of our Republic. These promises are so clear and categorical that it is fitting to quote them. President Theodore Roosevelt said the following to Mr. William Taft, Secretary of War, in a letter which he sent on October 19, 1904:

"There is reason to believe that in the exercise of the rights granted by the treaty, the people of Panama have become unduly alarmed concerning the effect which the establishment of a government in the Canal Zone by the Commission might have. Apparently they fear that the resultant effect may be that of creating, in a part of its territory, a competitive and independent community which might
might have a damaging effect on its income and diminish its prestige as a nation.

"We do not have the slightest intention of establishing an independent colony in the middle of the State of Panama nor of exercising greater governmental powers than those which are necessary to permit us, in an appropriate and safe manner, the construction, maintenance, and operation of the canal according to the rights conferred on us by the treaty. Much less do we want to interfere with the business and prosperity of the people of Panama."

And in a speech which he delivered in the office of the President of the Republic of Panama on November 28, 1904, Secretary Taft said:

"I confirm, and the Government of the United States confirms, the understanding that all rights were granted to us only for the purpose of permitting us to construct, maintain, and operate the canal."

And the President of the United States himself, Theodore Roosevelt, on a visit which he made to Panama in 1906 in a speech in reply to the President of Panama, said:

"In the splendid speech of President Amador which I have just heard, the President stated correctly that the United States and Panama are partners in the great work which is being carried out at the present time on the Isthmus. We are joint trustees for the whole universe in this enterprise. And I hereby pledge, President Amador, in the name of my country, in your presence and before the people of Panama, the assurance of the most earnest support and of
and of treatment based on the most complete, full, and generous equality of the two republics ......
..... And I wish at this point, with all possible emphasis, to make Mr. Root's words my own and to reiterate what he has already told you, that the only desire of the United States, as regards the Republic of Panama, is to see it increase in wealth, in population, in importance until it becomes, as we all earnestly wish it to, one of the republics whose history will reflect honor on the whole western world.... And now, Mr. President, in closing, I only wish to say that not only do our people desire with all their hearts the well-being of the Republic of Panama, but also that we shall never act toward it in any way except to extend it our assistance in the realization of its future."

THE REVISION OF 1936

As is known, a partial revision was made of Panamanian-American contractual relations from 1934 to 1936, set forth in the treaty and accessory pacts signed in 1936. It is not our desire to detract from the value of that pact as an amending document in the relations of the two countries. Panama will always have a tender feeling of gratitude toward the memory of the illustrious American President, Franklin Delano Roosevelt, who, together with the then President of Panama, Dr. Harmodio Arias, made this pact possible.

But the Treaty of 1936, as we have said, was a partial revision of existing injustices. It pointed more to political amendment, that is, to what concerned the sovereignty of Panama over the territory outside the Canal Zone. It eliminated
intervention in Panama on the part of the United States. It gave a guarantee that the rest of the Republic would not have its territorial integrity violated. It eliminated the embarrassing "guarantee" of the independence of the Republic of Panama, provided for in 1903.

There was established the just principle that both Panama and the United States had a "joint and vital interest" in the operation of the canal. The principle was adopted that Panama would have the right to enjoy the advantages inherent in its geographic position. Provision was made for equality of treatment for Panamanian and American workers in the Canal Zone. Limitations were placed upon commercial activities in the Canal Zone. There was expressed a willingness to help suppress smuggling.

But, we repeat, a great number of the fundamental injustices and deficiencies of the pact of 1903 remained intact. Furthermore, many of the amendments, which were enunciated as principles, have not in practice crystallized into tangible reality.

The instrumentalities and agencies of the Government of the United States have organized in the Canal Zone activities that affect the production, industry, and commerce of Panama, giving rise to competition that is considered unjustified, since in the Zone are sold articles imported duty-free and without the charges that must be borne by Panamanian enterprises; in the Zone all manner of goods are sold freely, brought from various parts of the globe, even from countries which send goods there for dumping and bargain prices; in the Zone there are manufacturing and farming industries contrary to the interests of the Panamanian economy; Panama's imports and exports are subject to high taxes imposed by the transportation company which is an instrument of the United States Government, high
high surcharges on freight, and high wharfage and trans-
portation charges; there are private enterprises that carry
on trade in the Zone, which is contrary to what was agreed;
the Panamanian worker in the Canal Zone is subjected, vis-a-vis
the American, to a system of discrimination whereby the former
earns less than a third of what the latter receives for the
same work, and he suffers inequalities in regard to pensions
and other things; the United States has even imposed taxes on
private commercial activities in the Zone, as in the case of
insurance companies; the Canal Zone competes with Panamanian
trade and production in selling to vessels passing through the
Canal, again in a manner advantageous to the Zone and dis-
criminatory to Panama, and in violation of the agreements on
this subject; obstacles and disadvantages have been placed in
the way of the acceptance of Panamanian goods in the Zone without
regard to their quality, for example, the application of the
"Buy American Act" in the Zone. And all this intense pro-
duction and competition of the Canal Zone has caused to prosper,
owing to the marked disparity of prices, and almost uncontrollable
contraband trade that is undermining the interests of Panama's
industry and commerce.

Furthermore, the circumstances have changed radically
since 1936. The experiences of the last World War, the per-
festing of the military means of destruction and of the means
of propaganda and sabotage of which the international underminers
of the democratic regimes avail themselves, calls for a readjust-
ment in the means of prevention and mutual assistance. Let
it be noted, at the same time, that the degree of peril to which
the inhabitants of Panama have been exposed in the face of a
possible atomic attack on the Panama Canal may be said to have
been
been multiplied a hundredfold, if it is at all possible to attempt an arithmetical proportion to fit the case.

The need for a fundamental revision of the pact of 1903 continues apace and, in view of the daily recurrence of existing inequalities, it is impossible to postpone it.

**TIMELINESS OF THE PRESENT REVISION**

It was explained at the beginning how the Panamanian people have, since the earliest days of the Republic, supported the desire for a basic revision of their relations with the United States. The lack of equitable treatment for Panama in 1903 has been the cause of a deep and constant resentment on the part of the Panamanian people, and this resentment, together with other factors, has at various times been a cause of friction in the relations between the two countries.

It is true that from time to time various measures have been adopted which have tended to quiet matters temporarily. But these were transitory and failed to cure the ill permanently. For example, the Taft Agreement concluded in 1904 and unilaterally abrogated by the United States in 1924 succeeded in placing certain limits on the extreme unilateral interpretations which it was being sought to place on the Treaty of 1903, and it served as a *modus vivendi* during the period of construction and formal opening of the canal. But what is lacking is a stable instrument to serve as a solid basis for the relations between the two countries and effectively ensure the harmony and friendship that must exist between two nations that are so closely bound together that they should be, as has already been stated, the best friends and the most exemplary neighbors in the world.

The revision includes two basic phases: the adoption of measures which will grant Panama the equitable treatment that was denied
was denied it in 1903 and which would provide for a fair share of the benefits arising from the operation of the Canal and from the geographic position of the Republic of Panama; and the correction of those errors in the interpretation and application of what has already been formalized in agreements—errors that have served only to accentuate the disillusionments of the past.

If this state of mind is not substantially improved, it will be a fertile field for the growth of a sentiment incompatible with the maintenance of good relations between the two countries. In these times, such latent foci of unrest and discontent must be promptly wiped out through the adoption of just and equitable formulas, for countries and leaders that are truly democratic and love peace should not wait until the peoples give an intemperate outlet to their repressed passion for justice.

The bonds between Panama and the United States are so close that they should serve as an example to other countries. Indeed, they are the mirror into which Latin America looks in considering its relations with the great nation to the north. And, since it is a question of bonds linking the most powerful nation in the world, on the one hand, and one of the smallest on the other, the happy and equitable solution of their differences and the adoption of permanent formulas for living together in peace and justice would be an eloquent demonstration of the fact that, between democratic and peace-loving countries, respect for the equality of states, great or small, is a reality.

Furthermore, the Hay-Bunau Varilla Convention of 1903 was based on the philosophical principles which were predominant during the early years of this century, on the criteria which, in the political and juridical field, made possible all sorts of treaties and contracts. Each party sought the maximum benefits
benefits for itself, without taking into account the duty to consider the interests of the other party. The weak was at the mercy of the strong. This political and juridical philosophy has been replaced by the criterion of the interdependence of nations. It is fitting to acknowledge here the great contribution of the people of the United States to this progressive change of view which is bringing together all humanity in a common effort to attain justice, general well-being, and solidarity in the defense of all that is noble and good. In the long run the material sacrifice which this new line of conduct may impose on the strong will be converted into benefit for all, for today the strong must rely not only on material things but also on moral prestige.

In the case of Panama, the disappearance of the old political philosophy and the existence of the juridical principle of rebus sic stantibus call attention to the need for new formulas to govern, with a better basis of justice and equity, the relations between the two countries.

The United States of America, the undisputed leader of humanity in this confused period in history in which an attempt is being made to destroy the basis of permanent peace between peoples, would without any doubt whatever be taking a step toward that noble goal if, from the present revision of the contractual relations with Panama, there should arise formulas for equitable and just treatment that would correct the errors of the past, ensure permanent harmony and friendship between the two countries, and strengthen the moral prestige of the United States both inside and outside this hemisphere.

The Panamanian
The Panamanian Negotiation Mission is submitting with this statement a list of the topics which the Government of Panama is presenting for consideration during the present negotiations, and in due course it will submit, in connection with each of those topics, the specific formulas or proposals which, in the opinion of the Government of Panama, could provide an adequate solution.

Washington, September 10, 1953

The Panamanian Negotiation Mission:
Octavio Fábrega
Carlos Sucre C.
Roberto Heurtematte
QUESTIONS SUBMITTED BY THE PANAMANIAN NEGOTIATION
MISSION TO THE UNITED STATES NEGOTIATION MISSION
FOR CONSIDERATION

I. Questions referring to the Canal Zone:
   (a) Limitation of the commercial activities of the Canal Zone.
   (b) Measures for the utilization by Panama of the Canal Zone Market.
   (c) Measures for more participation by Panama in the matter of supplying vessels that pass through the Canal.
   (d) Equal opportunities and treatment for Panamanians and Americans in respect to work in the Canal Zone.
   (e) Termination of farming, industrial, and stock-raising activities in the Canal Zone.
   (f) Nonapplication of the "Buy American Act" to products sold by Panama.

II. That the Republic of Panama be accorded the right to apply its taxing system to:
   (a) All persons who live or engage in activities in territory under its full jurisdiction, even if they are employed in or engage in activities in the Canal Zone.
   (b) All persons of Panamanian nationality, even if they live or carry on activities in the Canal Zone; and
   (c) All enterprises or persons that carry on unofficial activities in the Canal Zone.

   It is understood that the said tax system will in no case be greater than that applicable to Panamanian citizens who reside and carry on their
their activities exclusively in territory under the full jurisdiction of the Panamanian authorities.

III. The activities of the Panama Railway Company will be limited to the Canal Zone.

IV. The granting of "quotas" to Panama by the United States, so that Panama may export to the United States certain articles, in certain quantities, which Panama can produce.

V. In the Canal Zone and on vessels arriving there, the flags of the United States and the Republic of Panama will both be raised.

VI. Measures to promote the moral rapprochment of the peoples of the Republic of Panama and the Canal Zone, for example:

(a) In the Canal Zone, English and Spanish will be the official languages.

(b) The Spanish language will be a required subject in the primary and secondary schools in the Canal Zone. The schools and colleges which the Government of Panama has in its towns of more than 25,000 inhabitants will also teach English as a required subject.

(c) Cooperation between the United States and Panama for the building, in territory under full Panamanian jurisdiction, of dwellings that may be sold on the installment plan to employees of the Canal Zone.

VII. Construction by the United States of a port and docks in Colon adequate for foreign trade and under full Panamanian jurisdiction.

VIII. Measures to develop Panama City as a distributing and tourist center. (Cooperation with the Free Zone, elimination of taxes
of taxes on tickets to Panama City, revision of freight rates, wharfage, etc.

IX. Facilities for the investment of American private capital in Panama, as a means of cooperation in the development of Panama's economy.

X. Deficiencies in the social legislation of the Canal Zone that affect Panama.

XI. Agreements for the civil defense of towns in the Isthmus of Panama.

XII. Corridors on the Pacific and Atlantic, through the Canal Zone and under full Panamanian jurisdiction, to connect the two sections into which the Republic of Panama has been divided by reason of the interocean route, including the construction of adequate bridges and tunnels.

XIII. Questions arising from the close proximity of the communities of Panama and the Canal Zone. (Necessity for mixed tribunals; water and drainage problem; health; full effect of the exequatur of Panama to consuls; sale of postage stamps; Panamanian customs; effectiveness of Panamanian jurisdiction in respect to vessels flying the Panamanian flag that arrive in the Canal Zone, and in respect to passengers and cargo proceeding to Panama; Panamanian oil pipelines through the Canal Zone).

XIV. Return to Panama of all lands located outside the Canal Zone which are under the present control, dominion, or administration of the Panama Railway Company or are in the possession of the Government of the United States or its official instrumentalities.

XV. That the monopoly granted to the United States be limited to the operation of the Canal, and that all restrictions on the construction
the construction by Panama, outside the Canal Zone, of inter-ocean railroads or highways be ended.

XVI. Clarification of Article III of the 1903 Treaty in order to bring it into harmony with the spirit and integral text of the Treaty.

XVII. Consideration of the duration of the concessions granted in connection with the work of the Canal.
No 3  Acta de la 3a. reunión.  15 de septiembre de 1953

ANEXOS: Documento "A" (Comercio con la Zona del Canal).
THIRD MEETING OF REPRESENTATIVES OF PANAMA AND THE UNITED STATES TO REVIEW RELATIONSHIPS BETWEEN THE TWO COUNTRIES

PRESENT:

Dr. Octavio Pábrega
Dr. Carlos Sucre C.
Mr. Roberto Hurttematte
Mr. Miguel Amado
Mr. Guillermo Jurado Selles
Mr. Enrique de la Guardia

Mr. John M. Cabot
Mr. John J. Muccio
Lt. Col. Maurice C. Holden
Mr. Paul M. Runnestrand
Mr. Raymond G. Ledy
Mr. William B. Sowash
Mr. Eldred D. Kuppingher
Mr. Raymond A. Valliere

After greeting the Panamanian Delegation, Mr. Cabot suggested that those present consider the desirability of determining certain matters of procedure in the negotiations. He explained that the United States Delegation had no special credentials but that he and Mr. Muccio had been appointed to represent the Government of the United States in these negotiations. The Panamanian Delegation answered that it was satisfied with this statement.

In relation to the other matters of procedure that were considered, the following was agreed upon:

1. That English and Spanish would be the official languages of the negotiations.

2. That it was not necessary to designate one of the members of the committees to preside over the meetings, with the reservation that this measure might later be considered advisable.

3. That although each delegation would have its spokesman—Mr. Cabot for the United States and Dr. Pábrega for Panama—each of the five representatives would have an equal right to speak during the discussions.

4. That the delegations would have the right to call upon their respective advisers to give an opinion with respect to any given matter.

5. That the discussions would be carried on in conformity with the agenda presented by the Panamanian Delegation, without prejudice to consideration of such matters as the Government of the United States might submit for discussion.

6. That the mere fact that a given matter was discussed would not imply acceptance of any conclusion, and it was understood that the delegations might consult with their governments about the various matters subject to discussion and, at the proper time, make any pertinent reservations.

Dr. Pábrega then stated that the Government of the Republic of Panama greatly appreciated the gesture of the Government of the United
the United States of America in agreeing to carry on these negotiations for the purpose of reviewing relations between the two countries. He stated that the Panamanian Delegation cherished the hope that as a result of these negotiations, a better and firmer understanding between the two nations might be evolved. He said that the aspirations of the Panamanian Government had been put forth in a general manner in the Statement of Reasons and the Agenda presented to the Government of the United States. He indicated that the negotiations had two aspects: one referring to the equitable distribution of the benefits that should be derived from the canal, and the other directed toward correcting the erroneous interpretations and applications that have been given to treaties now in force. He suggested that, in view of the broad spirit of these negotiations and in order to avoid discussions that could have no practical purpose and that at times might even be merely academic, it was preferable in the course of the debates not to step in each case to analyze whether a certain proposal involved a question of interpretation of existing agreements or whether it involved new material; that it seemed preferable to him to discuss the proposal itself, on the basis of its intrinsic merits, and not on the basis of its position in relation to existing agreements. He stated that he wanted to explain the feeling that animated the Panamanian Government and people with respect to the need for revising existing agreements; he said that there was among the Panamanian people a deep-rooted feeling that relations between Panama and the United States, which started with the Panama Canal Treaty of 1903, had begun in a way that was not equitable to the Republic of Panama. He said that it was not his desire to enter into historical recriminations, above all when the representatives of the two countries were meeting with a view to revising that situation and making it a happy one, but that it was evident that the entire set of circumstances that surrounded the signing of the Treaty of 1903 operated in such a way that the pact did not turn out to be just and fair to Panama; that it was not so at that time and was still less so when judged in the light of what is considered fair and just by present-day standards. He referred to the pressure under which Panama found itself at that time; to the haste with which the Treaty was signed; to the extreme haste in which the representative who signed the Treaty in the name of Panama acted, without even awaiting the arrival of the Delegates of the Panamanian Government, who were bringing special instructions of the Government on the matter. He added—as is also expressed in the Statement of Reasons—that the simplest means of establishing the fact that the Treaty of 1903 was not equitable with respect to Panama is to compare it with the Hay-Herran Treaty, which the United States had signed with Colombia some months before and which had been approved by the Congress of the United States. On making that comparison, a great difference could be noted in the magnitude of the concessions made under the one treaty and than under the other, and the great difference in the conditions imposed on the Republic of Panama and also in the benefits granted. He added that, as explained in the Statement of Reasons, Panama is not now maintaining that it does not consider itself bound by the Treaty of 1903, but it does desire to state that in view of the circumstances of pressure that accompanied the signing of the said Treaty, the pact is not an appropriate vehicle for governing relations between the two countries, and the Republic of Panama has had this feeling throughout all its history. He said that Panama would like the Treaty to be revised, in order to arrive at a greater and more equitable distribution of benefits between the two countries which made the Panama Canal possible, and that it was with great satisfaction that now—by virtue of a gesture of high-spirited cooperation by the Government of the United States—the delegation of Panama was meeting with the Delegation of the United States to revise that agreement. He observed that in 1936 an important
revision was made, but essentially it corrected errors with respect to the political rights of the Republic of Panama outside the Canal Zone which affected its sovereignty as a nation, without specifically settling the question of the equitable distribution of benefits between the two countries which made the Canal project possible.

Mr. Cabot stated that there was no divergence of opinion as to the fact that the Panama Canal is of vital interest to the two countries and that the benefits should be mutual; but that apparently the controversy between the two countries arose with respect to the mutual aspect of the benefits. He said that his Government was of the opinion that in general terms the profits are more or less proportionate at present. He recognized that there are doubtless points on which the Government of Panama has just complaints with regard to individual subjects, such as always arise in human and international relationships, which the United States wishes to correct where they arise. He added that the Government of the United States would eventually submit its points of view on the distribution of benefits.

Referring to the Statement of Reasons, which he considered to be drafted in an understanding tone, he stated that although he had not had time to study it in detail, he had the impression that it would be necessary to have a more complete and specific presentation of the points which the Government of Panama wished to have considered before the Government of the United States would be able to give a specific answer. He stated that he had the impression that the matters could be grouped in three categories: (1) matters that they were prepared to discuss and in relation to which they hoped to reach a satisfactory solution; (2) matters which they would discuss but in relation to which not much possibility of solution could be seen; and (3) matters which they were not authorized to discuss, in relation to which they considered that their Government must reserve its position, believing that they were decidedly matters of vital interest to them, with respect to which they could not make concessions. He stated, however, that he did not wish to indicate in which of those categories the various matters would fall because he considered that they would not be in a position to do so without a detailed study and a clear knowledge of Panama’s point of view. He added, then, that revision of treaties had been mentioned but that, to the best of their understanding, the specific matter of treaty revision had not been brought up in any of the official communications from the Panamanian Government and that they were not authorized to discuss revision. Consequently, at the present time, they would have to reserve their position with respect to that point.

He said that he heard with pleasure Dr. Fábrega’s statement that he would prepare concrete proposals, since it was very difficult to discuss general principles and these were practical matters for which they would try to find practical solutions. He described Dr. Fábrega’s suggestion that matters involving amendment or interpretation of treaties be considered on their merits, without entering into discussions of a legal nature, as a sensible one; and he indicated that at the proper time it could be determined whether the said matters involved amendment or interpretation of treaties, without the fact or their being discussed implying the maintenance or relinquishment on the part of either of the two Governments of any position they might have assumed on the matter. He called attention to the fact that consideration of matters connected with the Panama Canal was complicated because of the number of governmental agencies that have to reach an agreement before his Government can adopt a decision on the matter. He said that he made that remark because there might be delays in answering matters presented and he hoped that in such a case the Panamanian Delegation would be tolerant and understanding.
He stated that he hoped to come to a firm and cordial understanding with the neighbor Republic in relation to those matters that so intimately affect the two nations, in such manner that their traditional friendship might be made lasting and even stronger by these negotiations; that the United States Delegation was participating in the negotiations in that spirit; and that he was sure that the Panamanian Delegation was doing likewise.

Dr. Fábrega expressed his thanks for Mr. Cabot's words and stated that the Panamanian Delegation earnestly desired to obtain satisfactory solutions of the problems between the two countries, and that it would proceed in the discussions in the same spirit as the United States Delegation hoped to do. He added that there were two points which he would like to have clarified, because he thought that a lack of clear understanding on the point might result in confusion. The first reference was to the possible classification of the matters to be dealt with under three general categories. In relation to this he said that if he had understood Mr. Cabot correctly, the items on the Panamanian Agenda would be classified as follows: (1) matters with respect to which there was a possibility of reaching a solution; (2) matters with respect to which the United States thought that there was little possibility of reaching a satisfactory solution; and (3) matters that would not be discussed.

Mr. Cabot explained that what he had meant to say was that from a study of the Statement of Reasons, the United States delegation had been under the impression that the matters to be discussed could be classified in three categories, but that this had been a first impression and that he had not the least desire to eliminate from the discussion any matter he was authorized to discuss.

Dr. Fábrega said that he was pleased with Mr. Cabot's clarification, because the Panamanian Delegation had always considered that all the matters would be discussed. He then added that the other point which he would like to have clarified referred to Mr. Cabot's statement to the effect that in none of the communications from the Panamanian Government had the revision of treaties been specifically brought up and that the United States Delegation was not authorized to discuss such revision. He then explained that the Government of Panama had always considered that the scope of the negotiations would be so wide that it would include revision of the treaties; that the exchange of notes between Mr. Gilsado, Minister of Foreign Affairs of Panama, and Secretary of State Dulles, which could be said to constitute the documentary basis for these negotiations, clearly established the position that the objective of the negotiations would be to revise the entire field of relations between the two countries, and that since the treaties are one of the principal elements in those relations, it was clear that revision of the treaties was included in the aforesaid revision. He added that to pursue the negotiations on the basis that the treaties were not to be revised would so greatly limit the scope of the negotiations that first, they would not reflect the understanding of the Panamanian Government on the matter, and second—and this was even more important—they would fail to meet the aspirations, the very strong aspirations, of the Panamanian people through all their history. He believed, therefore, that for the good of the negotiations, that point should be made most clear, for otherwise valuable time would be lost if they proceeded to discuss matters on which, even if agreement were reached, solution would be impossible because, if modification of the existing treaties were required, the United States would take the position that such a solution was excluded.

Mr. Cabot
Mr. Cabot then stated that the United States Delegation reserved its position on this point because it had no authorization to discuss the revision of treaties and that it would not be prudent to continue the discussion on this point today.

For purposes of clarification, Dr. Sucre said that in line with Dr. Fábrega's suggestion, it seemed much more desirable to him to discuss practical solutions of the matters which Panama would take pleasure in presenting, and if agreements were reached, the two delegations could then determine whether they constituted amendments to the treaties, or whether there was some other form of solution.

Mr. Cabot remarked that he considered that he had made the general position of the United States Government very clear and he asked whether the Panamanian Delegation wished to submit any concrete matter at this meeting.

Dr. Fábrega submitted a document marked "A" and explained that it offered a solution for Point I of the Agenda presented by Panama, paragraphs a, b, c, e, and f; and that with respect to paragraph d, the Panamanian Delegation would in due time submit another document. (See annex.)

Mr. Cabot accepted the document and stated that it would have to be studied by the various departments of his Government.

Dr. Fábrega stated that undoubtedly this document required a general explanation on the part of the Panamanian Delegation. He said that the draft contractual clause which he had just submitted contained, in as comprehensive a manner as the Panamanian Delegation could present at that time, the conditions which in Panama's opinion should be put into effect in the Canal Zone so that the status of the Canal might conform to the intention of the existing treaties. He explained that the proposal combined what had been the intention of the existing treaties and a revision of the situation with a view to achieving that equitable distribution of benefits of which he had spoken earlier. He added that Panama had always considered that the intention of the Canal negotiation had been to bring about such an equitable distribution of benefits and that in the Treaty of 1936 it had been so agreed, objectively and specifically. He said that if the position of the United States were analyzed in the light of history, in the light of statements made by President Theodore Roosevelt and by Secretary of War Taft when the great enterprise was begun, one would see that it was the clear intention of the United States, when it signed the Canal Treaty, to obtain sufficient rights to construct, operate, maintain, and defend the Canal, and that any other activity outside those functions, such as engaging in commercial activities in the Zone, formed no part of the aims of the United States, of its objective in obtaining the Panama Canal concession. He added that Panama, always with the thought of the equitable distribution of benefits that should be made between the two countries, held the opinion that business activities in the Canal Zone, or rather, the market offered by the Canal Zone with respect to both the purchasing power of residents of the Zone and Canal employees and the services required by the Zone and by vessels passing through the Canal, represent benefits which ought to accrue to the Republic of Panama.

Mr. Maccuri remarked that at first glance the proposal seemed to him to tend toward limiting commerce, whereas today the tendency is more toward broadening and stimulating trade, as may be seen in the General Agreements on Trade and Tariff and the Reciprocal Trade Treaties.

Dr. Fábrega
Dr. Fábrega replied that Panama did not object, as a general proposition, to the encouragement of trade, but that with respect to the Canal Zone, Panama's position had always been that the Canal Zone is not a commercial center and that the only activities there should be those connected with operation of the Canal.

Mr. Heurtematte observed that the restriction which it was desired to impose had the precise objective of counteracting restrictions that have existed, to the detriment of Panama's trade expansion, and that in this sense the aim pursued is identical to that announced by Mr. Muccio.

Dr. Sucre stated that the Panamanians are not opposed to the freedom of trade, but that in the concrete case of the Canal Zone, it is a matter of restricting commercial activities on the part of the Government of the United States or its agencies, which are prejudicial not only to Panamanian citizens but also to the Americans who might be able to contribute to the development of world trade from within Panama.

Mr. Muccio stated that he had only wished to make a very brief comment, that is, that a limitation that prevented the purchase of goods from other countries than Panama or the United States seemed detrimental.

Mr. Sucre commented that there is no objection to buying goods in other countries, but when these purchases are made by the Government of the United States, it is contrary to the democratic system that exists in the United States itself.

Mr. Heurtematte stated that he thought that Mr. Muccio's observation was related to the philosophy of the problem. He said that Panama had always believed, and holds the opinion now, that the market created in the Canal Zone by reason of construction of the Canal was nothing more than a continuation of the market that existed before; that Panama's geographic position offered a market in which Panama's products and Panamanian nationals should have an advantage over the citizens of other countries which do not form part of the Canal.

Dr. Fábrega stated that there was no question here as to whether or not it was desirable to limit trade; that if we go back to the situation when the Canal project was started, we find that the President of the United States stated that it was not the desire of the United States to establish an independent colony in the Republic of Panama, but only to construct and operate a Canal and to aid Panama's progress; that, as is known to everyone, during the period of construction of the Canal and for some twenty years afterward, a modus vivendi was in effect which limited imports into the Zone to articles of prime necessity. He said that always in speaking of trade in the Canal Zone, one had to keep in mind that goods arrive at the Canal Zone free of taxes, notwithstanding the fact that the Zone is part of the Isthmus of Panama, and therefore, if free and independent trade were carried on in the Zone, it would in the first place be contrary to the fundamental idea that an independent colony would not be established in Panama, and in the second place, a situation highly detrimental to Panama's interests would be created. That is why Panama believes that commodities which are needed in the Zone should be obtained first from Panama, if the country can supply them at reasonable prices. And if it cannot, then we are offering here a plan that guarantees that they can be obtained, but not under the privileged conditions of free importation, because that is what leads to the creation of a peculiar
a peculiar and independent colony with special status, and to a disparity of prices that is harmful to Panama and gives rise to smuggling and other evils.

Mr. Cabot stated that this explanation helped him understand Panama's position; that he did not yet want to give a reply, but would say that the matter would be studied most carefully and after the preliminary studies were concluded, he would like to put any questions that might be forthcoming from the various agencies, as well as those which they themselves might wish to ask.

Since there was no other matter to be discussed, the meeting adjourned at 3:56 p.m.
DEPARTMENT OF STATE
Division of Language Services
(Translation)
TC No. 1905
T-38/T-19/R-V
Spanish

DOCUMENT "A"

DRAFT CONTRACTUAL CLAUSE

WHICH THE PANAMANIAN NEGOTIATION MISSION
IS SUBMITTING IN CONNECTION WITH POINT I
OF THE AGENDA PROPOSED BY PANAMA (PARAGRAPHS a, b, c, e, f).

ARTICLE ...

The United States and the Republic of Panama reiterate the
desire expressed in the first clause of the General Treaty con-
cluded between the two countries on March 3, 1938, to cooperate
to the fullest possible extent for the purpose of ensuring the
full enjoyment of every kind of benefit which the Canal should
bring to the two nations that made its construction possible.
Therefore the United States of America recognizes that, with
the exception of the collection of toll charges from vessels pass-
ing through the Canal and the rendering of other services closely
connected with such transit, the commercial opportunities offered
by the Canal Zone constitute benefits which the Panama Canal under-
taking must make available to the Republic of Panama. Conse-
quently the United States of America agrees that activities within
the said Zone shall be subject to the following regulations:

(1) In commissaries, post exchanges, sales stores, clubs,
associations, or other establishments handling sales and supplies
located within the Canal Zone only food, cigarettes, clothing, and
other personal effects constituting articles of prime necessity
may be sold, and such sales shall be made only to those persons
who, possessing the right to reside in the Canal Zone in accord-
ance with existing treaties between the Republic of Panama and
the United States of America, actually reside within the said Zone.

(2) The items referred to in Section (1) of this Article
must be obtained from Panamanian production, trade, and industries,
provided they can be obtained therefrom in accordance with the
provisions of Section (3) of this Article.

(3) All articles of prime necessity which may be required
in accordance with Section (1) of this Article and any matériel
or article which may be necessary for works in the Canal Zone and
for the maintenance, functioning, and defense of the Panama Canal
(except war matériel), shall be purchased by the Government of
the United States of America from Panamanian production, commerce,
and industries, provided such articles are offered by producers,
merchants, or industrialists established in Panama at prices not
in excess of and having a quality not inferior to those which at
the time of the purchase prevail in the case of private individuals
for the same or similar articles on the market of a principal city
of the United States of America that may be considered as
representing average prices and quality among the principal
cities of the United States, the city of Chicago, Illinois,
United States of America, being hereinafter designated as
such.

(4) The articles which the Canal Zone shall purchase from
the production, industry or commerce of Panama shall not be
subject to any restriction or disadvantage in comparison with
the same articles of United States production, commerce, or
industry. Consequently, the United States of America agrees
that articles of Panamanian production, commerce, or industry
shall not be subject to the federal law generally known as the
"Buy American Act", nor to any other measure that may in any
way constitute discrimination against or a disadvantage to the
articles or goods which Panama may produce or offer for sale to
the Canal Zone.

(5) Commissaries or similar establishments selling to
civilian employees of the Canal Zone may not as a whole make
sales amounting annually to more than 25% of the total annual
wages paid to civilian employees of the Canal Zone who, possess-
ing the right to reside in the said Zone, actually do reside
therein. And post exchanges, sales stores, or similar estab-
lishments which sell to members of the armed forces of the Unit-
ated States of America in the Canal Zone may not, as a whole, make
sales amounting annually to more than 20% of the total annual
pay of members of the armed forces of the United States stationed
in the Canal Zone. The sales referred to in this section (5)
shall be made for cash but in such manner as to permit individ-
ual identification of the purchaser and to provide a sure means
of fixing the limit of his right to purchase.

(6) No comissary, post exchange, sales store, or other
similar establishment may be located at a distance less than
1,000 meters from the nearest point under the full jurisdiction
of the Panamanian authorities. In the case of those establish-
ments which on the date of the present treaty are located at a
distance less than that stipulated above, they must cease to
operate within the year following the date of entry into force
of this treaty.

(7) Imports which may enter the Canal Zone in accordance
with the present article may be made only by the Government of
the United States of America and official organs thereof. Em-
ployees or other authorised residents of the Canal Zone may not
import, but they may make purchases in territory under the full
jurisdiction of the Panamanian authorities under equal conditions
with Panamanian citizens.

(8) Neither the Government of the United States of America
nor any organ, agency, or instrumentality thereof may import
liquors, beer, or charged water into the Canal Zone, but they
may purchase or acquire these articles from trade established
in territory under the full jurisdiction of the Panamanian author-
ities, under equal conditions with Panamanian citizens. There
shall be no establishment within the Canal Zone where liquors or
beer may be sold.

(9) Sales of surplus materials in the Canal Zone shall be
made only to the Government of the Republic of Panama or to such
entity as the latter may designate to effect the purchase thereof.
(10) No manufacturing, industrial, agricultural, stock-raising, or similar activity shall be permitted in the Canal Zone.

(11) When the Government of the United States of America shall not be able to obtain a certain article or product of the territory under the full jurisdiction of the Panamanian authorities as provided in this Article, it may then import it, but only from among those things produced within the continental territory of the United States of America.

(12) With respect to repairs to ships and accessories thereof, dry-docking, and other services indispensable to the operation of the Canal, an opportunity to perform such services shall be given to shops, mechanics, technicians, and craftsmen residing in territory under the full jurisdiction of the Panamanian authorities, and, whenever they cannot perform them, agencies of the Government of the United States of America shall be given such services to perform.

(13) Sales to ships of all kinds arriving at the Canal Zone or passing through the Canal shall be made exclusively by the commerce, industry, and production established in territory under the full jurisdiction of the Panamanian authorities. An exception to this rule shall be made for the so-called "ship's stores" defined in the relevant exchange of notes which accompanied the General Treaty of March 2, 1936, concluded between the two countries, as follows: fuels, oils and greases; hardware (bolts, nuts, nails, tools, etc.); paints, disinfectants and insecticides; ropes, cables, and chains. But with respect to the aforesaid "ship's stores" the following rules shall be observed:

(a) Sale of the aforementioned stores, within the Canal Zone, shall not be by private persons or entities but by the Government of the United States of America and its official agencies;

(b) Paint shall not be considered as "ship's stores" and shall be subject to the rules set forth in the other sections of this Article.

(c) As for other "ship's stores", all measures shall be taken within the Canal Zone in order that the production, commerce, and industry in territory under the full jurisdiction of the Panamanian authorities may have free and easy access to ships and may freely compete with sellers or suppliers of the said stores within the Canal Zone;

(d) The sale prices of such stores, when supplied from the Canal Zone, shall not be lower than the sale prices of those stores for private citizens in a typical port of the United States of America, the port of New York being henceforth designated as such; and