Careful consideration has been accorded the proposal embodied in Document "2" which requests the United States to agree to the establishment of two land corridors across the Canal Zone, to include tunnels or bridges to cross the Canal transversely and the bridges or tunnels be under the exclusive jurisdiction of the Republic of Panama with the costs of construction and maintenance to be borne by the United States.

The United States points out that Article VI of the 1903 Treaty specifically recognises and provides for the rights of way over public roads in the Zone for Panamanians. In addition to an inability to perceive the necessity for such facilities, the United States considers that acceptance of this proposal would prevent the United States from exercising the security measures essential for the protection of the Canal.

The United States wishes to announce, however, at this time that the necessary preliminary steps are being taken with a view to seeking the necessary authorisation and appropriations from the Congress to make possible the implementation of the undertaking assumed by the United States in the 1942 General Relations Agreement with regard to the construction of a bridge or tunnel at Balboa.
These comments are directed to the latter part of paragraph (1) of Document A in which it is proposed that sales in commissaries and other sales stores shall be made only to those persons who, possessing the right to reside in the Canal Zone in accordance with existing treaties between the Republic of Panama and the United States of America, actually reside within the said Zone.

The interest of the Panamanian Government in this matter is appreciated and the United States is prepared to take appropriate administrative measures, as circumstances permit, with a view to meeting the desires of the Panamanian Government concerning this matter insofar as practicable.

The United States is prepared, pursuant to the Panamanian request, effective December 31, 1956 to exclude from the privilege of making purchases in commissaries and other sales stores in the Canal Zone all non-United States nationals who, although included in the categories of persons authorized to reside in the Canal Zone, actually do not reside in said Zone, except that all personnel of United States agencies, subject to suitable controls, will be permitted to purchase small items near the sites of their jobs such as candy, chewing gum, tobacco and other sundries, i.e., items which are normally available in conveniently located shops or stands.

It would seem logically to follow from the Panamanian request with respect to curtailment of the privilege of purchasing goods that it is desired also to effect a curtailment of the use of services in the Zone on the part of non-resident employees of United States agencies. If this is the case, the United States is prepared to withdraw from non-resident, non-United States national-employees of Zone agencies the privilege of availing themselves of services within the Zone which are not essential to health or necessary to permit them to perform their duties. Such services as those extended by
laundries, cleaning, and grocery establishments as motion-picture
houses obviously would be among those to be curtailed under such an
arrangement. Access to hospitals and dispensaries, on the part of
the employees as distinguished from their dependents should continue,
together with access to restaurants or lunchrooms to enable such
employees to have proper meals at times when it would be inconvenient
for them to return to the Republic.

In general connection with the matter of the importation of
items of merchandise for resale in the sales stores in the Canal
Zone, it will continue to be the practice of the agencies concerned
to acquire such items either from United States sources or Panamanian
sources unless, in certain instances, it is impracticable to do so.
At the meeting held on January 7, 1954, Dr. Fabrega referred to a recent case involving the stoppage in transit in the Canal Zone of goods destined for Panama, which goods were thereafter returned to New York.

Presumably, the case under reference is that concerning certain merchandise which arrived at Cristobal from New York in May of 1953 consigned to Mr. Chaim Baigelman of Colon.

The following explanatory comments concerning this case have been furnished by the Canal Zone authorities:

1. In order to receive delivery of local cargo at Cristobal destined for the Republic of Panama, the consignee, or his representative authorized in writing to receive the shipment, must present the original bill of lading bearing an approval for release executed by Canal Zone Customs. As a prerequisite to executing such approval for release, the Canal Zone Customs require presentation of a formal release from the Fort Captain of Colon. The above procedure has been applied uniformly and without exception for many years.

2. In the instant case, the Foreign Office advised the Canal Zone Government that it was suspected that the cases in question contained contraband, inasmuch as charges of smuggling and fraud involving other shipments had been filed against the consignee, and that it was therefore highly important that the cases be inspected. As a result of that advice, and as a matter of cooperation, the cases were inspected and inventoried by Canal Zone Customs officials. This inspection was conducted in the presence of Panamanian officials, and a copy of the inventory was delivered to the Fort Captain of Colon.

3. Thereafter
3. Thereafter the Foreign Office requested that the cases in question be placed at the disposal of the Panamanian Government on the asserted basis that, under existing Treaty provisions, merchandise arriving at Canal Zone ports consigned to the Republic is subject to the customs laws of the Republic. In support of the above assertion, the Foreign Office cited Section 4 of Article III of the 1936 Treaty, wherein the United States pledged continued cooperation in all proper ways with the Government of Panama to prevent violations of the latter's immigration and customs laws, including the smuggling of goods into the Republic.

4. In the meantime, both the New York consignor of these cases and the consignee had directed that the cases be returned to New York and be not delivered to the consignee.

5. The entry into the Republic of merchandise arriving at Canal Zone ports destined to the Republic is, of course, subject to the customs and other laws of the Republic. However, such merchandise, while still in the Canal Zone, is governed by the laws of the Canal Zone; and, when the owners of the shipment exercised their right to stop the shipment in transit in the Canal Zone and direct its return to point of origin, the Canal Zone Government had no legal alternative but to authorize the return of the shipment pursuant to such direction.

6. Incidents of this kind are rare in the extreme. The overall objective of preventing the introduction of contraband into the Republic was achieved, as was likewise the subsidiary objective of obtaining the evidence bearing on a case of intended, if not attempted, smuggling or fraud. As we see it, the sole detriment to
the Government of Panama in this incident was that of failing to obtain
the merchandise for confiscation. Against that detriment must be
balanced the facts that the consignor and consignee possessed and
exercised a right of stoppage in transit prior to the entry of the
merchandise into the Republic; a right which the Canal Zone Govern-
ment had no alternative but to recognize.
In this proposal, Panama requests the agreement of the United States to the establishment of two land corridors across the Canal Zone, to include tunnels or bridges to cross the Canal transversely and the corridors and bridges or tunnels be under the exclusive jurisdiction of the Republic of Panama, and that, the cost of construction and maintenance of these corridors and tunnels or bridges be paid by the United States.

If the problem involved is the question of Panama's nationals transiting the Canal Zone, then it is pointed out that Article VI of the 1903 Treaty specifically recognizes and provides for the rights of way over public roads in the Zone for Panamanians. In recognition of Panama's requirement for its nationals to transit the Canal Zone, all roads in the Zone are available for transit by Panamanians except certain roads in vital areas which are closed for military security reasons even to residents of the Canal Zone.

The United States considers that acceptance of this Panamanian proposal would prevent the United States from exercising the security measures essential for the protection of the Panama Canal.

The United States must, therefore, decline to accept the proposal contained in Panamanian Document N.
N° 23 Acta de la 23ª reunión. 6 de abril de 1954.
April 6, 1954

MEETING OF THE REPRESENTATIVES
OF PANAMA AND THE UNITED STATES
ON RELATIONS BETWEEN THE TWO COUNTRIES

Mr. Octavio Fabrega
Mr. Carlos Suarez
Mr. Roberto Herrmann
Mr. Juan Manuel Perez Urdinola
Mr. Guillermo Pires Salico

Mr. John J. Haccio
Mr. Henry F. Holland
Lt. Col. Maurice C. Holden
Mr. Paul M. Hammarskild
Mr. William R. Sowash
Mr. Alfred Kupring

Mr. Haccio reported that the Delegation of the United States hoped to complete the presentation of its comments in order to permit the Panamanian Delegation an opportunity to consider the United States' position in its entirety. However, owing to the absence of the Secretary of State and of Mr. Holland, it was impossible to do so.

He said that, since in the course of the discussions reference had been made to the economic policy of the United States and its effect on some of the Panamanian proposals, he ventured to submit a summary of the message sent by the President of the United States to the Congress on March 30, as it might be of interest to the Delegation of Panama.

Dr. Fabrega stated that he found the message of the President very interesting because it was of general interest to Latin America, but particularly so with regard to the problems of Panama. He said that the Panamanian Delegation was very interested in that part of the message which refers to the increase of wages, because it has a bearing on the Panamanian proposal relative to employment problems in the Canal Zone. He observed that some persons feel that to raise the wages of Panamanian employees in the Canal Zone, making them equal with those of United States employees, would be harmful to Panama, because such a measure would tend to increase the wages that are paid in Panama. However, others maintain that, ultimately, it would
would redound to the benefit of Panama's economy because it would increase the amount of money in circulation, employment and so forth, a thesis which seems to be supported by the President of the United States in his message.

He said that the Delegation of Panama had also read the Capehart report, which contains much interesting information about Panama.

He explained that in the aforesaid report it is stated specifically that the Free Zone of Colón cannot compete with direct shipments owing to the freight rates and the cargo handling charges; the latter are paid when the products enter the Free Zone and again when they leave it. This is harming the aforementioned Zone and is impeding its development. He added that in the aforesaid report it is recommended that this problem be solved.

Mr. Puccio inquired whether the Free Zone's development since 1952 had not been spectacular.

Dr. Fabrèga answered that it was spectacular at first, but that because of various reasons—among them the cargo handling charges levied on the Zone's docks—development had been retarded. He said that the Delegation of Panama had requested a review of the entire problem of cargo handling charges but, aside from that, he believed that special attention should be devoted to the handling of cargo for the Free Zone.

Dr. Sucre said that the Free Zone was a typical example of how Panama's development would also favor United States investors. He explained that nearly all the investments in the Free Zone had been made with United States capital, and that any encouragement which the United States gives to the development of the aforementioned Zone would redound not only to the benefit of Panama but also to that of the United States.

Mr. Neustatter said that he wished to avail himself of the opportunity to again refer to the matter of cargo handling charges to which he had referred two meetings ago. He observed that he had asked a question regarding the charges that are levied in the Canal Zone.
Mr. Rumnestrand reported that he had referred the matter to the Canal Zone authorities and that the latter had requested a more specific reference. He asked Mr. Hoetematte whether he knew on what page the appropriate provision appeared.

Mr. Hoetematte said that at the end of the tariff it was stated that the Panama Canal Company would not accept payment for the Isthmian transfer charge on goods that have been consigned to it.

Mr. Rumnestrand stated that, in the tariff which he had he had found a paragraph relative to that matter, but not in the sense indicated by Mr. Hoetematte.

Mr. Hoetematte promised to send the pertinent provision to Mr. Rumnestrand.

Dr. Fábrega said that he wished to again refer to the desirability of considering the charges levied for Free Zone cargo, as an additional aspect of the general problem of cargo handling charges. He explained that the present charges were harmful to the Free Zone which has to pay them twice: when it receives goods and when it re-exports them. He said that, of course, Panama had already explained its position regarding cargo handling charges.

At this point, Mr. Henry F. Halland, Assistant Secretary of State, entered the room.

Dr. Fábrega expressed the pleasure that the Delegation of Panama felt at the presence of Mr. Halland at the meeting.

Mr. Halland thanked Dr. Fábrega for his words and suggested that the discussions continue.

Mr. Muscio stated that this session was turning out to be negative because the United States Delegation was awaiting decisions of the Government of the United States regarding two or three important matters. He said that he was confident that the Delegation of the United States would be in a position to complete its answers to the Panamanian proposals during the next ten days and
it would then suggest that the Panamanian Delegation study them in their entirety before renewing discussion of the aforesaid proposals.

Mr. Holland expressed his desire to participate in the talks and added that he hoped that the United States Delegation will soon be in a position to inform him regarding the course of the discussions.

Mr. Maceio stated that the talks were being carried out with complete frankness and in a spirit of true cordiality. With regard to many aspects, substantial progress had been achieved. Regarding other aspects, the reaction of the Delegation of Panama had been to the effect that the position of the United States was very negative, but that he believed that this could be clarified as the discussions progress.

Mr. Holland said that when both sides approach a problem with real good faith and a desire to arrive at an agreement much progress can be made.

Dr. Fábrega stated that that had been the attitude of both sides; viewpoints had been expressed with complete frankness.

Mr. Holland said that he knew that such was the case.

Dr. Fábrega explained that the Panamanian Delegation had expressed its reaction, both when it was one of gratification as well as when it was one of disappointment, and that his distinguished friends on the other side had been equally frank. He said that that frankness, which was sometimes extreme, had never affected the cordial character of the discussions.

Mr. Holland said that he was pleased to hear that.

Dr. Sucre stated that Mr. Holland would find in the meetings the circumstance that the Delegation of Panama consisted of Panamanians who were simultaneously friends of the United States.

Mr. Holland said that that was what Mr. Maceio had told him; that is, that he had been dealing with fine persons and that the course of the talks has been a source of sincere gratification to him.

Dr. Sucre
Dr. Suarez said that the Panamanian delegation felt that a good understanding between Panama and the United States was necessary and beneficial to both countries. He explained that it was not a question of one side or the other winning, but that a spirit of good understanding and justice should prevail, which would undoubtedly redound to the benefit of both countries.

Mr. Holland said that for him it would be a source of interest and gratification to learn of the course of the deliberations. He added that he regretted the fact that his absence had rendered difficult his obtaining complete information regarding the course of the deliberations, but that he would try to make up for lost time. He then excused himself and left the meeting.

Dr. Fábrega stated that, regardless of the final decision on the question of cargo handling charges on the docks of the Canal Zone, he wished to suggest that thought be given to the desirability of granting special treatment to the Free Zone with regard to the aforesaid charges because this would be of considerable assistance to the aforementioned Zone and it was reasonable that the same charge should not be paid twice for goods entering and leaving the aforesaid Zone within a reasonable time.

He said that the Panamanian Delegation had great hopes for that Zone, which was a transportation center with convenient maritime transportation. Foreign merchants would find that there they would not encounter currency difficulties such as they meet in other countries. Taxes are reasonable from the viewpoint of both Panama and the United States. He said that all the factors necessary for its progress were present and that it would be regrettable if it did not progress as it should because of freight rates and cargo handling charges. He said that nearly all the firms established in the Free Zone are United States firms and that it would be advantageous for large United States firms to have a warehouse in the aforesaid Zone for supplying other
other Latin American countries, because they would have goods at a maritime center whence they could easily be shipped to consumer markets. Furthermore, they would receive the benefits of the United States' Western Hemisphere Corporation Act, just as several firms already have. He said that they would also derive advantages regarding Panamanian taxes, because Panama has given special consideration to this matter. However, he added that it is impossible to compete with direct shipments because today there does not exist sufficient difference between freight rates for direct shipments, for example, from New York to Guayaquil and the freight rates for shipments from the Free Zone to Quito. But when the Free Zone is in a position to compete regarding freight rates and when the cargo handling charges are reduced, the aforesaid Zone will receive great encouragement.

Mr. Neurtematte stated that one could say that the Free Zone is today the only enterprise which provides employment in Colón, where the problem of unemployment and the general economic problem are very acute. He said that, therefore, hopes for solving that area's problems are based on the operation of the Free Zone.

Dr. Fábrega said that Colón was one of the places which had suffered most in the economic field, and that it seems like a dead city.

In view of the fact that there were no other topics to discuss, it was agreed to adjourn.

The meeting adjourned at 3:10 p.m.

ANEXOS: 1. Comentario de los Estados Unidos al Memorándum de Panamá complementario del Documento "B".

Mr. Muccio opened the meeting by presenting to the Panamanian Delegation the United States Comment on Panama's memorandum supplemental to Document E (see annex).

After perusing this document, Dr. Fábrega stated that it would be transmitted to his Government and that in due time the Panamanian Delegation will make whatever comment it is instructed to make. With regard to the section on the extension of jurisdictional waters for the port of Colon, Dr. Fábrega expressed the view that there is great need for the immediate construction of a pier at Colon for reasons advanced previously. He therefore hoped that in view of this present need the United States reply on this point might be reconsidered and that at the same time the United States will be disposed to assist Panama's economy by building this pier and assuming its cost.

Mr. Muccio pointed out that a substantial area of water at Colon already is under Panamanian jurisdiction and that the need for additional waters would depend on the scale of the plans for the pier and harbor.

Dr. Fábrega agreed and said that a technical study had shown that a small additional amount of water may be necessary.
Mr. Saure pointed out that the small extension required was indicated on one of the maps submitted by the Panamanian Delegation (this map was not available at this meeting). Noting the United States position that the triangle of land requested by Panama adjacent to the railroad tracks and the Lesseps Yard is needed principally for a bus terminal, Dr. Fábrega stated that Panama also has great need for this area to relieve a traffic bottleneck. It is necessary, therefore, he said, to put our minds to this problem in a spirit of good will to see which consideration outweighs the other.

Mr. Muccio expressed the opinion that the traffic problem in this area should be greatly relieved through the removal of the railroad station and tracks.

Dr. Fábrega agreed that this would help lateral traffic but that the triangular dent within Panama under United States jurisdiction will remain to complicate this traffic problem with regard to traffic moving lengthwise through the bottleneck. He added that the Panamanian Delegation will revert to this subject at a later date.

Mr. Muccio then gave the Panamanian Delegation the United States comment on Panama's Document A, Paragraph 8 (Alcoholic Beverage Imports) (see annex).

After reading this document, Dr. Fábrega expressed surprise since, as he said, Panama had requested formalization of the existing Executive Order on this subject and had received in reply an announcement that the United States may revoke the Order. He said that the Panamanian Delegation is criticized for raising juridical questions having to do with the status of the Canal Zone and that it has been intimated that greater progress
progress might be made toward the solution of some of these problems by seeking a practical formula rather than a discussion of juridical points. But every time the Panamanian Delegation has gone into this question, he said, it has been because the American Delegation has raised the point initially and has made intensely controversial statements regarding United States rights in the Canal Zone. He said that at previous meetings the Panamanian Delegation has expounded Panama's traditional thesis regarding sovereign rights in the Canal Zone at some length and it expects at a later date to present a document setting forth that position in a detailed manner.

Turning to the problem at hand, Mr. Fábrrega declared the matter of importation into the Canal Zone is not governed by Article III of the 1903 Treaty but by Article XIII, which deals specifically with this subject. He added that the Panamanian position is that both the letter and the spirit of Article XIII confine importations into the Canal Zone to necessary articles. He said that the joint agreement elucidated this point and he referred to the statements of various high United States officials in the early days of the Canal to the effect that the United States wishes to foster and not to prejudice the economic interests of Panama, all of which, he said, has fixed firmly in the minds of Panamanians the notion that the right of free and unlimited importation into the Canal Zone does not exist on the part of the United States. He expressed the hope, however, that this matter would be considered not only on legalistic grounds but in the spirit of good neighborliness, since nothing will harm Panama more than to establish a policy in the Canal Zone of free importations of liquor.
Liquor, said Mr. Fábrega, is not an article of prime necessity, and, if there is one item of which it is reasonable that Panama should get the benefit of the Canal Zone market, it is liquor. The alleged resentment in the minds of personnel stationed in the Zone because of this Executive Order, Mr. Fábrega said, must be based upon the mistaken premise that the revocation of this order would enable such personnel to buy liquor free from duty in the Canal Zone. But, he maintained, if we start out with the notion that the Canal Zone should not be an independent economic colony to the detriment of Panama, such personnel should more correctly reason that they should be buying liquor either at the price in Panama or in the continental United States. On this basis it would be found that prices in Panama are not too high or do not compare unfavorably with prices in the continental United States. He pointed out that a military man stationed in the United States must buy his liquor at parity with the rest of the community, and he asked why that man when stationed in Panama should have the right to buy liquor free of import duty and thus have a privileged position at the expense of the Panamanian economy. To allow him to do so would be to establish an independent colony in the heart of the republic, and thus would violate one of the fundamental policies which since the days of Secretary Taft have guided our relations in commercial matters. Mr. Fábrega concluded that Panama's request that the present policy on liquor be continued and be formalized through a bilateral understanding is within the frame and spirit of this whole negotiation. He therefore asked that this matter be given further serious consideration.

Mr. Heurtematte
Mr. Heurttematte remarked that the Panamanian delegation has made a real effort to avoid doctrinal arguments and to attempt to settle by discussion a series of concrete problems on the Isthmus in the interests of eliminating resentment. If the present liquor arrangement leads to resentment, as is alleged, he said, it is precisely because of the unilateral character of the present Executive Order, which they realize it is within the power of their own government to retract at any time without consulting Panama. This is one of the principal reasons why Panama has proposed a bilateral agreement on the subject, he said.

Mr. Fábrega declared that Panama does not agree that, if the Executive Order is revoked, the United States immediately has the right to import liquor free of duty into the Zone since the matter of importation would still be governed by Article XIII and liquor is not an article of necessity. Just as Panama now objects to the sale of luxuries in the Zone, it would object to the sale of liquor, he said. He reiterated his hope that, aside from legal arguments, purely on the basis of cooperation and mutual assistance the intimated change of policy will not be made and that any change would be in the direction of making permanent the proposition that Panama will get the benefit of the Canal Zone market in this respect.

Mr. Luccio stated that he did not wish to debate as to whether alcoholic beverages are a necessity or a luxury and that it was agreed that this is not the place to devote all of the time to attempt to interpret the several contractual treaty relationships between Panama and the United States.

Noting that both sides of the table agreed that a considerable amount
amount of resentment exists on the subject of liquor, he stated that the United States Delegation had in mind from the beginning of these discussions that any action by the Government of the United States was not to be at the expense of the individual American citizens working in the Zone. He said that, under the present arrangement on liquor, Americans in the Zone feel that they are paying duty to the Republic of Panama and a very high duty at that. He said that prices for alcoholic beverages in the Zone in many instances are considerably higher than in the United States, but the main resentment is the feeling on the part of individual Americans that they are made to pay a tax to Panama.

Dr. Fábrega disagreed that the present arrangement on liquor is at the expense of the individual American in the Zone. He said that if you start with the premise that the two communities are to be integrated, a Canal Zone resident should not consider himself prejudiced if he buys merchandise which pays duty to the Republic of Panama since, if he lived and bought in the United States, his liquor would be taxed by the United States Government. Dr. Fábrega also questioned the statement that liquor prices are higher in Panama than in the United States. He said that it depends upon the brand; that some are cheaper here and others are cheaper in Panama. He pointed out that Panama is willing to be guided by price and quality standards of a typical American city because it is convinced that merchandise in general, including liquor, is not more expensive in Panama than in the United States. He added that the fact that the whole Panamanian community as well as the Canal Zone residents are buying in the same market affords adequate protection against arbitrary and unreasonable prices for liquor.

Dr. Sucre
Dr. Suorae stated that he could understand the desire of the United States Government that its citizens working in the zone should have a high standard of living comparable to that enjoyed by inhabitants of the United States. But the United States Comment on the liquor question and the allegations of the United States Delegation suggest to him that the United States wishes to give its citizens in the zone a much higher standard of living than that enjoyed by American citizens in the continental United States. It would appear logical, he said, that the United States should not wish that its employees in the zone should have to pay prices higher than those prevailing in the United States and Panama is happy to accept that principle. He inquired, however, whether it was desired to give these citizens in the zone rights that go much further. They can buy cigarettes more cheaply than in the United States, he said, and he asked whether it was desired to have them buy liquor at prices much lower than citizens in the continental United States. He declared that zone residents already can buy liquor in Panama at prices much lower than those prevailing in the United States. Liquor is a vice, he said, and therefore he could not understand the desire of the United States to encourage that vice among its citizens in the zone by providing them liquor at prices much lower than those in the United States.

The meeting was adjourned at 4:30 after agreeing to meet again at 2:30 the following Friday.
The United States Delegation offers the following comments on the points raised in Panama's memorandum supplemental to Document E:

I-A. COLON

(a) New Cristobal has already been covered in the United States paper on Document E along with the Colon Beach and de Lesseps areas.

(b) Fort de Lesseps, Strangers Club, Colon Dock, Railroad Station, Washington Hotel, and Stables.

The de Lesseps area has already been covered.

The Strangers Club and Colon Dock (meaning Colon Pier No. 3) are, of course, structures rather than lands and they are situated in the general area heretofore referred to as the Colon shore lands which lie between the Panama Railroad trackage area and Colon Harbor. These lands are owned by the Panama Canal Company. The Strangers Club building is owned by the Club, which leases the site and an adjacent parking area from the Company. Colon Pier No. 3 is owned and operated by the Company. There is another structure on these shore lands, namely, the old freight house which lies between the extensions of Fourth and Fifth Streets in Colon. This building is owned by the Company and is leased, in part, to the Panamanian Government. In its comments on Panamanian Document J, the United States stated its willingness, subject to the authorization and direction of Congress, to consider the possibility of transferring to Panama the Colon shore lands, described roughly as "extending from the southerly boundary of the de Lesseps
de Lesseps area (4th Street extended) to the Colon-Canal Zone boundary and bounded on the east by the east wall of the old freight house and, below that structure, by a line 25 feet west of the center line of the most westerly railroad track. While the foregoing statement makes no offer to consider the transfer of the structures (namely, the old freight house and Colon Pier No. 3) along with the lands, it is contemplated that those structures would be included in any transfer.

Any transfer of the shore lands would necessarily have to be subject to the Strangers Club's lease and could not, of course, affect any transfer of the club building as distinguished from its site.

The Washington Hotel site and structure have been embraced within the previous coverage of the de Lesseps, Colon Beach and New Cristobal areas and the improvements thereon.

The term "Stables" in this subparagraph presumably has reference to the old stable site in the Folks River area in Colon. This site, however, was, on June 14, 1950, sold and conveyed by the Panama Railroad Company to the Urbanisation and Rehabilitation Bank, an autonomous agency of the Panamanian Government.

(c) Remaining lots of the Railroad Company within the city of Colon that were not included in the return agreed upon by the exchange of notes of May 18, 1942. All lots or parcels of land situated in Colon and owned by the Panama Canal Company have heretofore been covered.

(d) The Portobello Quarry has previously been covered and is required for Canal purposes.
The request seeks the transfer to the Republic of the waters lying between the southerly boundary of Colon Harbor and the Cristobal Mole. So far as appears, it seeks no change in any portion of the land boundary. The drawing contemplates the use of such additional waters in part for the substantial widening of the mole, and in part for Colon pier and harbor purposes. The ultimate southerly boundary, if the development project were to be accomplished, would be a land boundary roughly bisecting the widened mole.

The United States is unable to perceive the real necessity for this change in boundary, at least at the present time. The concept of such extensive Colon port facilities is impracticable at a time when shipping, through or touching the Atlantic end of the Canal, comes nowhere near utilizing the smaller existing port facilities in an economical manner. The edge of Cristobal mole would be materially less desirable as a boundary than the present boundary. At such time as the port of Colon should require a mole and piers at the southerly end of Colon Harbor, however, the disadvantages of the boundary change would doubtless be outweighed by the need for the change in boundary and, at such time, the request could in all probability be given favorable consideration.

(c) The areas adjoining Gatun and Madden Lakes which exceed the lands occupied by the waters of said lakes plus a reasonable shore extension, provided that said areas be outside the original 10-mile zone.

Respecting Gatun Lake, the Canal Zone includes the areas covered by the waters of the lake and all that part of the shores of the lake up to an elevation of one hundred feet above
above mean sea level, the islands in the lake, and the
peninsulas bordering on the lake to which there is no
access except over lands of the Canal Zone or from the
waters of the lake. See Article II of the 1914 Boundary
Convention, which, in addition to defining the above
boundaries, provides for the convenient monumenting and
marking of the 100-foot contour line upon the ground.

Respecting Madden Lake, the boundary is not susceptible
to brief description (see Executive Order No. 5704 of
September 2, 1931); however, so far as is here pertinent,
the boundary follows the 260-foot contour around the lake.

Although the crest of the drum gates of Madden Dam
spillway are set at elevation 250.0, flood stages require
use of the reservoir up to elevation 260. Actual recorded
high water of Madden Lake has been elevation 257.16; however,
studies of Madden Lake Spillway design floods would indicate
a potential peak pool elevation of between 261.4 and 262.9.
It is essential that the boundary be maintained at elevation
260.

Similarly, in Gatun reservoir, although the normal high
water is approximately 87.0 feet, flood conditions have
resulted in an elevation of 88.25 feet at Gamboa, and
probably higher at other upper sections of the lake.
Incidentally, two or three schemes of improved lock canal
proposed by report of the Governor of the Panama Canal
pursuant to Public Law 280, 79th Congress-1st Session,
contemplated raising the normal high water of Gatun Lake
to 92.0.

Maintenance of the present boundaries around the perimeters
of these reservoirs is essential to prevent unauthorized
construction
construction and growth which would interfere with reservoir operations. Trees, water hyacinths, and other debris could be washed down into the locks and spillway structures.

From the above it is apparent that the present boundary of Madden Lake is actually inadequate for containing the reservoir at extreme flood stage and that the present boundary of Gatun Lake provides only a "reasonable shore extension", namely, the space between the 92.0-foot and 100.0-foot contours. The United States, therefore, is not in a position to relinquish any of these lands.

(d) **Jefers Island.** This matter has previously been covered.

(e) **Triangle adjacent to de Lesseps Park in Ancon, Canal Zone.**

The sketch enclosed with the Panamanian Delegation's memorandum contains certain inaccuracies, including the showing of the boundary immediately "above" de Lesseps Park (which does not in fact cross Rivoli Avenue), the showing of a non-existent traffic circle at the principal highway intersection, the misplacement of Frangipani Street, and others. In order to show the area sought more accurately in relation to existing streets and other facilities, there is attached a Panama Canal print whereon the area is outlined in red and the Canal Zone's Pacific Bus Terminal site and its access driveways from Shaler Road are outlined in pencil.

As shown on the enclosed marked print, the area includes the Panama Railroad right-of-way leading (across Central Avenue) to Panama Railroad Yard in Panama City, Shaler Road, and the adjacent lands extending westerly to Tivoli Avenue and southerly to de Lesseps Park.

The tract
The tract provides the ideal location for the Pacific Bus Terminal because of its proximity to Central Avenue and consequent nearness to the center of passenger demand. The terminal accommodates the concession buses serving all Government agencies on the Pacific side as well as the public generally, and which do not operate in the Republic. The importance of the terminal as now located is now great, and it will increase proportionately as increased numbers of employees may be required to live in the Republic. The terminal is utilized as a route and dispatching point by about 500 concession-bus trips per day, plus whatever non-concession buses desire to use the facility. These buses lay over at this dispatching point between trips, and the area must accommodate large numbers of them and without obstructing traffic.

This entire tract is considered necessary to the Canal enterprise and, therefore, the United States is not disposed to relinquish it.

III. HYDROELECTRIC PLANT, WATER AND IRRIGATION SERVICE

This part of the memorandum requests the conclusion of an agreement which will establish that Panama may construct and operate a hydroelectric plant, aqueduct and irrigation service, using the waters of the Chagres River and tributaries providing that such utilization will not be prejudicial to the Madden Dam.

The primary purpose of Madden Dam is the storage of water for Canal lockage; power production being distinctly secondary. During the dry season the entire storage of Madden reservoir is necessary for lockage use and for our own hydroelectric development. There is, therefore, no surplus water available
on a regular basis for use as suggested by Panama. It would appear that the desirable course is for Panama to develop some other, and probably more accessible, watershed.

IV. CONSULATE SITE IN COLON

In connection with the proposed return by the Government of the United States of certain lands to the Republic of Panama as set forth in the United States reply to Panama's document E, the United States may wish to reserve, from the lands in the Colon area, an appropriate site for a consulate building. In the event this reservation is made, the United States would return to Panama the lot made available for this purpose by the Government of Panama in 1945.
The proposal is made in Paragraph 8 of Document A that the United States formally agree that neither the Government of the United States nor any agency or instrumentality thereof may import liquors, beer or charged water into the Canal Zone and that such articles shall be purchased from sources within the Republic of Panama. Under this proposal also, it would be provided that liquors and beer would not be sold by any establishment within the Canal Zone.

The United States does not consider that there is any question but that the rights, power and authority granted to the United States by Article III of the Convention of November 18, 1903 cover fully the matter of imports of any description into the Canal Zone and the present arrangement with respect to the importation of liquor has not derogated in any respect from these reserved rights conferred by treaty.

The importation of alcoholic beverages into the Canal Zone is currently regulated by the provisions of Executive Order 6297 of March 25, 1935. The effect of this Order has been that, as a matter of policy, the United States decided, unilaterally, not to exercise its rights or to permit organizations and individuals in the Canal Zone to import freely alcoholic beverages in the same manner as other items are imported. As the result of this policy all alcoholic beverages containing more than 5.2 per centum of alcohol by weight for use in the Zone has been purchased from Panamanian dealers. Panama now seeks to have this unilateral action on the part of the United States made permanent and binding by means
means of a bilateral agreement in which the United States would formally surrender its rights to import these items into the Zone and confer upon Panama a monopoly over the sale of such items as might be desired for use in the Zone.

The present arrangement which in effect penalizes United States personnel serving in the Canal Zone in respect of the acquisition of one category of products for personal use is considered by those persons to be an unjust imposition and creates an understandable resentment on their part. In view of this dissatisfaction and the obvious inequity of the present arrangement, the United States is not disposed to surrender its rights to import these items into the Canal Zone through formalization of the present arrangement, by bilateral agreement or otherwise, and is again reviewing the question of revocation of Executive Order 6997 in the light of the current discussions. It is recognized, however, that such action might have adverse repercussions on the Panamanian economy. This step, therefore, would be taken by the United States Government only reluctantly and if not otherwise avoidable. In this connection, the United States would be glad to consider any suggestions the Government of Panama might wish to make with a view to lessening the causes of the existing discontent and thus to assist the United States in avoiding the necessity of the immediate revocation of Executive Order 6997.
No 25 Acta de la 25ª reunión. 23 de abril de 1954.

ANEXOS: 1. Memorándum relacionados con los derechos por el uso de los muelles de la Compañía del Canal de Panamá. Expuesto por la Delegación de los Estados Unidos.
2. Comentarios de los Estados Unidos al Documento "B" de Panamá.
3. Memorándum presentado por la Delegación de los Estados Unidos sobre la situación fiscal del Canal de Panamá.
4. Comentario de los Estados Unidos al Documento "A" de Panamá, párrafo 4 - El "Buy American Act".
matter should be considered on a basis other than that which would be acceptable for two private firms.

He said that he understood how a private firm holding a concession on a pier or which had invested in a pier would levy charges on another firm for its use, although in some cases no service was rendered. But in the case of the Government of Panama and that of the United States considerations of another type are present which should lead to the conclusion that Panama should not be charged for the use of the pier when no actual service is rendered on it.

The right to use the piers of the zone is enjoyed by Panama by virtue of existent agreements and on a reciprocal basis, as it has been agreed that the United States has the right to use the port installations of Panama now and in the future. Dr. Fábrega then explained that, furthermore, there is a reason based on equity that should be considered. The Panamanian market is a sort of captive market because Panama necessarily must use the zone's ports owing to the fact that it has been deprived of direct access to the sea. At a prior meeting the Delegation of Panama had already explained this very strong argument that is based on morality and equity. When the Treaty of 1903 was signed it was stated—and this was Panama's understanding from the very outset—that the piers and ports of Colón and Balboa would continue under Panamanian jurisdiction and that with the exclusion of the cities of Panama and Colón with their "adjacent ports" from the 10 mile grant, the ports of Balboa and Cristóbal, which were ports of Panama in a real, physical sense, were also excluded from the aforesaid grant. He explained that Panama felt that this was the clear intention of the parties and that it was not prejudicial to the United States because the right to use those Panamanian ports was granted to it. He said that, as everyone knows, when ratification of the Treaty was being studied by the Congress of the United States, that question was raised and Lunau-Varilla sent a note to the Government of the United States with the object of facilitating ratification, stating that those ports were
were to be Canal Zone ports. Dr. Párraga said that he would not discuss
the propriety of Bunau-Varilla's action, but that he should point out
that consultation was carried out by Bunau-Varilla when the negotiations
leading to the treaty had already been concluded. Through signature of
the Treaty, and under the terrible pressure of the circumstances then
existent, with which everyone is familiar, Panama was deprived of its
ports. He went on to say that he was not raising the matter as a legal
question, but that, in a moral sense, it was not equitable to deprive
Panama of its ports. Thence Panama lost access to the sea and was
oblige'd, as it is now, to use the Canal Zone ports. He said that he be-
lieved that all the foregoing reasons are sufficiently power'd to warrant
a reductio of the charges levied on Panama in those cases and that he
hoped that the Delegation of the United States would take due note of
these considerations in re-examining these matters.

He said that the fact that, for example, the same charges are levied
for handling cement as for handling any other kind of cargo on the pier,
despite the fact that with regard to the latter greater services are
rendered than in the case of cement, has led the Delegation of Panama to
the conclusion that the aforesaid charges are levied without taking into
account either the nature or the importance of the services rendered.
Therefore, such charges assume the character of taxes and Panama has a
right to tax-free use of the Zone's piers.

In addition to these considerations, persons who are familiar with
this matter feel that the charge of $2.20 per ton is excessive and that
it constitutes a heavy burden on Panama's industry and economy. He ex-
plained that in the recent report of a Committee of the Congress of the
United States, that is, the Capper Report, reference is made to the
opinion of persons who are familiar with the problem in the sense that
the excessive charges thwart Panama's desire to avail itself of its geo-
graphic position in order to become a re-exportation center. The aforesaid
report states that those excessive charges make it difficult for Panama to
compete
compete against direct means of transportation as a re-exportation center. In other words, shippers do not have sufficient incentive to store goods in Panama and to later distribute them throughout other points of South America because, owing to the excessive charges, they find it more economical to send them directly to the consumer markets.

He added that the delegation of Panama favors that in developing what was agreed between both Presidents regarding the equitable benefits which both countries should receive from the Canal, and in furthering the desire to help Panama to benefit from its geographic position, both delegations should reduce charges to the minimum which circumstances will allow.

He said that he noted that it is remarked—as an answer to the statement made by the delegation of Panama—that Panama has no reason to complain because the same charges that are levied on Panaman are also levied on the Canal Zone. The delegation of Panama has already stated that it does not regard this explanation as satisfactory because as far as the United States is concerned it really constitutes a bookkeeping operation, that is, receiving the sum which it has to pay. He went on to say that the comments of the United States delegation state that Panama's allegations in this regard are not correct and that the United States considers that it is a question of a real payment which the consumer of products in the Zone eventually absorbs.

We again maintain that that position is somewhat artificial. Panama has always maintained the viewpoint that the right of the United States to import into the Zone is limited and that it was granted to the Government of the United States and its agencies. However, the practice has developed—and Panama considers that it is a violation of the Treaty—whereby individuals make direct imports from abroad into the Zone. If the matter is discussed on the basis that the right to import is a right of the United States, as a political entity, and of its agencies, which is only correct and juridical, then when the United States imports for itself, and one of its agencies
agencies levies a charge, it is the United States itself, through one of its agencies, which is carrying out the operation of levying a charge and paying it. Thus the delegation of Panama still feels that to say that the United States also pays high charges is not a valid argument.

He said that, for example, in the case where a given branch of the United States Army opens the purchase of certain woods to bids and Panamanian merchants and the commissioner makes a bid, the Panamanian merchant pays the high charges and this is necessarily reflected in his bid, while the commissioner is an agency of the Government of the United States and if it has to pay the same charges the amount involved goes to the Treasury of the United States, so that in this regard the Panamanian merchant is at a disadvantage.

In conclusion, Dr. Fábrega stated that, for the present, he would limit himself to the comments he had made, but that the delegation of Panama reserved its right to make other comments after it had studied in greater detail the document submitted by the United States.

Mr. Herrmann explained that in referring to paragraph 320.17 of the Tariffs of the Panama Canal Company at a prior meeting, he did so recalling that such a provision did exist but without trying to quote it verbatim, and that is why his reference did not include the complete text of the aforesaid provision, as the Memorandum of the United States delegation states. He expressed his regret at having given his garbled version, stating that he had not intended at that time to give a verbatim account of the text. He said that he noted that a reply had now been given to the effect that the charges for handling cargo shipped to the Panama Canal Company shall be collected either by the shipper or someone else. He stated that this further indicates that the payment of the aforementioned charges is not regarded with pleasure by the Panama Canal Company, and that provisions are therefore established for someone else to pay. Panama, too, would be pleased if it were possible to exert any pressure to the end that someone else should pay for the use of Panamanian facilities. However, he considered
He considered that the point had been covered in the memorandum which had been submitted by the delegation of the United States. He said that there had been some concern that the Panama Canal Company is not applying the charge equally; naturally, in estimating the cost of the service rendered or of the use of facilities it would be necessary to take into account all those who utilize the facilities. He said that he felt that the point had been met in the statement of the United States delegation to the effect that the charge is levied, without exceptions, to all incoming and outgoing cargo, including that of the Panama Canal Company and other agencies of the Government of the United States. Panama understands that this means that cargo destined for the United States Army, Navy and Air Force, in addition to cargo of the Panama Canal Company, as well as Panamanian cargo, must pay the same rates for the use of those facilities, which, in substance, answers the question raised by Panama. He stated that, of course, Panama's position had been properly expressed by Dr. Fábrega—that is, that Panama still considers that the charge is relatively excessive and that in some instances the provisions of paragraph 330.17 harm the Panamanian importer, as, for instance, in the case of bids for goods. He said that, for example, in bidding that is opened by the Army, the Commissary division competes in the bidding against private firms or individuals; in such cases, the payment of $2.30 per ton constitutes an advantage for the Commissary that might spell the difference between success and failure of the bid.

Dr. Fábrega stated that the question of the charges for the use of the piers in the Zone was, from Panama's viewpoint, one of those matters which show the absence of the proper spirit for promoting better understanding between the two nations which have such an important common interest in the Canal. Panama understands that the United States constructed the Canal with three definite purposes in view: for defense, in order to make it possible for the fleets to go from one ocean to the other; to facilitate communications between the east and west coasts of the United States; and
to increase the political influence of the United States, inasmuch as
the nation that controls such an important waterway extends its political
influence. But the charges that are levied for the use of the piers are
not in conformity with the aforementioned purposes in certain aspects.
He said that Panama understands that the Canal should pay its own way and
that it should yield some profit, but when the United States fails to
adhere to these purposes and to cooperate to the end of contributing
toward Panama's achievement of economic progress, there is no benefit
for Panama. The fact that the Canal should pay its own way should be a
matter of secondary importance to the United States because it is contrary
and harmful to the economic development of the country in which it is
located. The Delegation of Panama understands, for example, that the
United States Delegation recognizes that in the case of cement, a rela-
tively new industry in Panama, the charges levied for use of the piers
impede exports of Panamanian cement because cement has a low economic
density and the charges that are levied for use of the piers are sufficient
to impede any exports of cement. He added that there was no proportion
between the benefits which the United States obtains through levying these
charges and the disadvantages suffered by Panama when the United States
impedes Panama's economic development. When it is considered that Panama,
from a geographical standpoint, may become a center for re-exportation, the
charges that are levied on the piers of the Canal Zone and which are still
being levied by the railroad for transportation from one ocean to another
are of themselves sufficient to impede the possibility of further develop-
ment of Panama as a re-exportation center. He reiterated that there is no
proportion between the income derived by the United States through these
charges and the losses suffered by Panama because of that system. The
Delegation of Panama is of the opinion that this situation is caused by
the fact that the Government of the United States insists on considering
the Canal as a commercial enterprise which should pay its own way, whereas
the fundamental purpose of the Canal, as stated previously, is to permit
the fleets
the fleets to go from one ocean to the other, to maintain communications between the east and west coasts of the United States, and—although not stated explicitly—to increase the political influence of the United States. Panama would be pleased if those three purposes of the Canal were fulfilled. He said that the delegation of Panama believes that the Canal should be the most important factor in the defense of the United States and that it should facilitate communications between its east and west coasts, but that Panama requests that the commercial purpose of the Canal, and especially in this particular case of charges for use of the piers, should not harm Panama's economic development, inasmuch as any loss suffered by Panama is greater than the benefits that the United States might obtain. He said that in 1936 it was agreed to grant preferential treatment to the Republic of Panama for its economic development; if charges in excess of Panama's economic possibilities are levied, that principle is violated. He stated that, on the other hand, Panama feels that the charges for services rendered on the piers and for the use of the railroad are a result of the competition between maritime and railroad transportation within the United States, and that in order to avoid such competition, about which the railroads had complained because they considered that maritime transportation would be cheaper than coast-to-coast overland transportation, the Government of the United States proposed the establishment of certain charges for the use of the piers and the Panama Railroad in order to maintain a balance between railroad and maritime transportation. However, with regard to the use of the railroad and the piers for Panama's internal service, the charges that are levied should not depend on continental transportation in the United States. He added that although the delegation of Panama had not studied the matter carefully and is not certain of the correctness of what was stated above, he at least was convinced that the increase in the charges for use of the piers was based on a competition which has nothing to do with Panama.

Mr. Fábrega
Dr. Fábrega said that the attitude which is reflected in the memorandum submitted by the United States is a good example of what the delegation of Panama had had occasion to state, namely, that the establishment of the Panama Canal Company and the philosophy that pervades its operations are strictly commercial, detrimental to the purposes for which the Canal Zone was created, and contrary to the stated policy of giving to Panama benefit to which it is equitably entitled because of its contribution to the construction of the Canal. He went on to say that one of the most important factors which militate against Panama receiving those benefits is the one to which he had often referred, namely, that the Panama Canal Company was established with instructions to manage the Canal on a strictly commercial basis, to earn as much money as possible in its various activities and to charge what the traffic will bear, and, if the result is that Panama is harmed, and its economic development is impeded, the United States need not worry. That is the philosophy which is causing enormous harm to relations on the Isthmus, and until such time as it is abandoned and replaced by the original philosophy, which prevailed at the time when negotiations were carried out for the construction of the Canal, and which was expressed by Secretary Taft when he stated that the United States was on the Isthmus solely in order to construct, operate, maintain and defend the Canal, and that it desired to see Panama prosper by taking advantage of its geographical position, and until such time as that original philosophy is again adopted and crystallized in effective policies, the United States will be impeding Panama's aspirations to obtain the advantages of its geographical position and to receive equitable benefits from its contribution to the construction of the Canal. He said that when he sees the statement that in effect seeks to justify the levying of charges for the mere use of the piers on the grounds that a private enterprise would do so, the mentality which animates the Panama Canal Company stands out. This is what should be eliminated in order to place relations between
between both countries on their proper bases. He added that those relations cannot be placed on a strictly commercial basis. He observed that relations between the United States and Panama are very complex and should be considered with a broad mind and spirit. He said that, for example, when Panama rented bases to the United States during the recent war, Panama charged rent for the use of bases situated on private property, but did not charge anything for those situated on property belonging to the Government. Panama did not charge anything for that use, and it has not charged anything in many other instances of cooperation. He stated that often, when a vessel wishes to register under the Panamanian flag, Panama consults the United States intelligence service and personnel of the United States Embassy on a private and confidential basis in order to determine whether the general purposes of security and protection of the Canal would be affected. However, it has never occurred to Panama to seek indemnity from the United States for the losses which it incurs through that policy.

Unless relations between both countries are guided in accordance with their true spirit, namely that the United States operates, maintains and defends the Canal and that with regard to everything else it cooperates to the end that Panama may take advantage of its geographical position, it is inevitable that we will revert to this strictly commercial idea that everything should be done for a price. If relations between both countries are placed on that basis the spirit of these relations will be placed at a very low level.

Mr. Herter stated that he wished to make a more concrete comment than that which he had previously made regarding the specific case of cement. He said that the delegation of Panama had commented especially regarding cement shipments because they are a good illustration of the manner in which the charges levied harm Panama. He added that he had wished to explain before — but inadvertently had failed to do so —