that a clear inference is drawn from the document submitted by the United States Government regarding charges for the use of the pier for the export of cement that the charges that are levied at present will be maintained because the Panama Canal Company considers that they are just. He said that he wished to refer to what had already been mentioned when this matter was discussed before, namely that in the experience of exporters in Panama the charges for use of the docks amount to 14 cents per bag. Although the delegation of Panama had not carried out an exhaustive study of similar costs in other ports, to the best of their knowledge these are the highest charges for the use of any port facilities for the shipment or importation of cement. He said that the charges are so high that in many instances they have impeded the Panamanian cement industry from obtaining contracts abroad; therefore the decision to maintain these charges is a source of concern to Panama. He said that the delegation of Panama feels that these charges are higher than the prevalent charges in the port of New York where, to all practical purposes, charges can and should be higher. If there is a determination to maintain these charges, Panama considers that it will result in great harm to its industry at a level that would not exist in the modern practice of competition for the use of the aforesaid facilities.

Mr. Murdock said that he wished to support the statement of the delegation of Panama relative to the excellent cooperation with regard to shipping provided by Panama during the war. He stated that he considered it a splendid example of the close working relationships between both governments. He felt that the exchange of opinions that had taken place during the meeting that afternoon had been very helpful. He wished to say that the reference to cargo in general and the discussion of the memorandum submitted by the delegation of the United States confirm that the prices or any other charge for the use of facilities apply equally to all shipments, whether they are Government, Commissary or Panamanian shipments. He added that at least one important clarification had been made—that the prices are uniform.
Dr. Fábrega stated that they might apparently be uniform but they are still high; in reality the Panamanians are the ones who have to bear them.

Mr. Muccio interrupted to say that the Army pays its fair share of the cost of maintaining those piers.

Mr. Hurnematte asked whether it pays $2.20 per ton or a fair share of the maintenance costs.

Mr. Runnestrand answered that it pays $2.20 per ton.

Dr. Sucre stated that if the situation were reversed Panama would not object; it would not object to these charges if its Government were in the position of the Government of the United States.

As there were no further comments on the matter, Mr. Muccio submitted to the Delegation of Panama the comments of the United States delegation on Document 5 of Panama (see Annex).

Dr. Fábrega stated that the Delegation of Panama appreciated the spirit which seemed to animate the document. He said that he admitted having come to the meeting prepared to explain why Panama considers that there was discrimination among workers and other grievances of Panamanian workers which make this problem one of the most delicate in the relations between both countries and one which has had international repercussions. He said that he had come ready to explain why the problem should be solved radically, not only in behalf of the economic and social interests of Panama and good relations between both countries, but also in behalf of the interests of the general cause for which all the free world is fighting. He stated that the Delegation of Panama was ready to explain how the various discriminatory practices that are carried out in the Zone are contrary to the provisions of the Treaty of 1936. However, he felt that to do so now that the United States has declared that it is willing to replace those practices with a policy of real equality and non-discrimination might be not only unnecessary but also self-defeating, inasmuch as it would give rise to heated arguments at a time when it appears that the possibility of correcting that situation is being considered.
He said that the best, most prudent and most appropriate procedure would be to concentrate on seeking the formula to be adopted in order to arrive at an adequate solution of the problem, instead of concentrating on a detailed relation of grievances.

He stated that the delegation of Panama welcome the statement that the abolition of the local rate and the United States rate is contemplated, with the object of merging them into a single wage scale. This is considered to be a great step forward in the negotiations and contributes toward counteracting the rest number of negative replies which the delegation of Panama has received and that still weigh heavily on the minds and hearts of its members. He said that he wished to comment on the new formula that had been suggested, not in a critical spirit, but in a constructive one. The delegation of Panama welcomes the merger of rates and the adoption of a single wage-scale, but in view of past experiences it feels that it should be on guard against the possibility that the old problem and the old injustice should again arise under a different guise.

He said that, in other words, Panama hopes that the new and single rate will be real in all respects and that a situation will not be permitted to arise wherein, under the guise of classification, discrimination will still be practiced.

By way of illustration, Dr. Fábrega explained that in the case of teachers in the canal zone, those of a school situated considered as "local rate" are paid much less—sometimes three times less—than those of a "United States rate" school, despite the fact that they do the same work and have the same capability. He said that the delegation of Panama was confident that this was not what was in the mind of the United States with regard to the establishment of a single wage scale, i.e., that the teacher who is now under the "United States rate" should be classified as "rate A" while the "local rate" teacher is classified as "rate B," and that the "rate A" teacher should receive a higher salary. Panama desires that the single rate be real and that it should in no wise serve as a means for discrimination,
because then the same problem would arise with all the terrible implications and complications with which we are all familiar.

Dr. Fábrega explained that Panama does not object to the payment of the so-called "differential" to United States employees. If objections have been raised it has been in certain cases where the differential is not applied justly; for example, in the case of a man who is the son of a person residing in Panama and who has become a United States citizen after having lived all his life in Panama, who works in the Zone and lives in Panama, and who immediately becomes entitled to the "differential." But, generally speaking, Panama has not criticized the differential because it feels that it is based on justice and equity. However, he observed that it is intended that the differential be broadened to include an additional sum in order to allow for taxes which United States citizens will have to pay. Panama feels that, as it is contemplated in the plan, non-U.S. employees residing in Panama will be taxed by Panama—and Panama has requested that this be extended to those residing in the Canal Zone—, when wages are established it should be taken into account that this large group of non-U.S. citizens, who do not pay taxes to the United States, will pay them to Panama.

With regard to the problem of labor in the Canal Zone, it has been stated that the United States is contemplating the transfer of non-U.S. citizens to the Republic of Panama in ever-increasing numbers. Naturally, all the aspects and implications of that plan will have to be discussed in greater detail with the Government of Panama, but it should be borne in mind that if they go to Panama and lose the privilege of making purchases in the commissaries, those workers will be entering a jurisdiction in which the cost of living will be higher, where they will have to pay higher rents, etc., precisely because of the privileges that have existed in that Zone. Therefore, Panama feels that that fact should be taken into account when the wages of such persons are established.
On the other hand, the delegation of Panama hopes—and this is one of the most important aspects of the problem—that there will be a levelling of prices as a result of the integration of the economy of Panama with that of the Canal Zone when Panama is given the benefit of the market of the Canal Zone. Then that is achieved perhaps one will no longer be able to say that the cost of living in Panama is higher than that of the Canal Zone, except, perhaps, with regard to rent. But, at any rate, that employee's cost of living will be higher than it is at present. That is why Panama feels that that is one of the points which the delegation of the United States should take into account in determining what the basic salaries should be.

With regard to vacations, said Mr. Fierro, it has been said that United States citizens will have longer vacations than local residents because they have to travel to the United States and in view of the need for recuperation, particularly for persons working in the tropics, where, as everyone knows, life is more strenuous and the physical wear and tear greater than in a northern climate. The delegation of Panama feels that that position is very reasonable except that—and again in a constructive spirit—there should not be such disparity with regard to vacations that in practice something other than travel time and the recuperative phase would be included; the vacations themselves should be the same for those employees who are today referred to as "United States rate" and for those referred to as "local rate". He said that he desired to go on record as hoping that this would be the last time that it would be necessary to use the expressions "local rate" and "United States rate".

The question of retirement has also been one of the delicate aspects of the entire program. Everyone knows that the retirement system operates today in a very unjust manner for Panamanians and other non-G... citizens employees in Panama. There is a monthly allowance which, because of its meanness, cannot be considered a pension. However, United States citizens are covered by a law which is just and equitable. Panama hopes to arrive
to arrive at a situation where there will be no discrimination in the
matter of retirement and that equal retirement benefits will be provided
for employees of both jurisdictions. Besides being just, this would be
in harmony with the policy which the Government of the United States
wishes to pursue in its own territory. He added that at present there is
a commission in Washington, appointed by President Roosevelt, to see that
there is no discrimination in contract work for the Government within the
continental United States. Therefore these things would not only be help-
ful to Panama but would also strengthen the moral position of the United
States in Latin America and throughout the world.

He said that he wished to repeat that, with regard to the question
of wages, the fundamentally important thing is that as a result of the
establishment of a single wage scale the basic salaries should be really
equal.

He stated that he also wished to refer to the statement of the
elegation of the United States to the effect that Panamanians will be
eligible for all jobs on the same basis as United States citizens except
in work which, in the opinion of the United States, is of such a special
nature that it should be limited to United States citizens. Again, Panama
noted that in practice this policy will be applied justly and that it will
not turn out that this aspect of security will be exaggerated to such a
degree as to constitute discrimination against Panamanians beyond the real
scope of security. The figures on the proportion between Panamanians and
United States citizens in the Civil Service are astounding; despite the
fact that Panamanians have passed the examinations and are qualified they
are not given employment on a par with United States citizens. The number
of Panamanians who have been permitted to fill Civil Service positions is
ridiculously small. There have even been instances of a vacancy occurring
in the Civil Service which could be filled by a qualified and available
Panamanian and yet the authorities of the zone invoke an executive order
issued by President Roosevelt during the last war as an emergency measure
permitting
permitting the employment in the Civil Service of persons who are not under that service, and thus they have preferred to give the position to a non-qualified United States citizen rather than to a qualified Panamanian. He said that that was one of the past grievances which he did not wish to repeat because the delegation of Panama had been assured that such practices would be eliminated. However, Panama considers that with regard to the question of eligibility of Panamanians for positions subject to security restrictions, realism, justice, frankness and confidence in Panama should be the rule. He said that everyone is aware of the fact that in accordance with the letter and the spirit of the Treaty of 1936, Panama and the United States have a joint interest in the Panama Canal. Therefore, it should be considered that both countries must have a joint interest in its defense. The question of security is raised several times in the Treaty of 1936 and the spirit of that Treaty is that whenever the problem arises the two governments will consult with one another. The same spirit should prevail now. He stated that he was therefore of the opinion that if the question of security is to be settled unilaterally by the United States, in practice the result will be the creation of a source of resentment in Panama and such a procedure would be contrary to the spirit of consultation and cooperation that should prevail with regard to security. Therefore, Panama desires that the statement to the effect that the exclusion for security reasons should be made exclusively on the basis of the judgment of the Government of the United States be modified and substituted, to the degree that is practical and reasonable, by the same principle of consultation which prevails in the Treaty of 1936 and which should prevail generally in the relations between both countries with regard to the Canal. Dr. Fábrega said that he did not think that the United States could be dissatisfied regarding the good faith of the Panamanians with respect to cooperation in the defense of the Canal. During the last war Panamanian cooperation, as Mr. Muccio so kindly stated, was exemplary. He said that he would mention one case which would seem to show that Panama has gone to extremes.
extremes in that regard. About the middle of last year there was a
certain amount of discontent among the United States workers in the
Canal Zone and they tried to call a strike. The Panamanian workers
refused to join the strike, stating that they considered the Canal to
be a vital installation, that it was a security matter and that they did
not wish to engage in any action that might affect security. For all
these reasons and because of the fact that the Canal is an enterprise in
which both countries are jointly interested, Panama considers that it
should be given an opportunity to set forth its viewpoints and to be
consulted. He said that he believed that this would be beneficial not
only to Panama but also to the United States. These security questions
are not confined to the Canal Zone; they also concern the Government of
Panama.

Mr. Nuncio said that the provision relative to security was not
formulated because of lack of confidence in Panamanian citizens on the
part of the United States. Everyone knows the magnificent part they
played during the first and second World Wars; it is a matter of record
and too well-known to need repeating. However, as the Delegation of
Panama knows, the use of certain equipment and certain installations is
regulated by the security laws of the United States which contain spe-
cific measures. As the Delegation of Panama knows well, the question of
security is one of the most sensitive topics of debate in the United States.

Mr. Fábrega said that that was why reasonable and feasible under-
standings should be reached. Panama does not maintain that if there is a
hydrogen bomb in a room Panamanians should have access to the place on the
same basis as a trusted officer of the United States. His delegation is
aware of the fact that under certain security provisions many United States
citizens are themselves barred from certain places. But if certain
activities are permitted to United States citizens while excluding
Panamanian citizens therefrom for security reasons, without further
explanation, the Panamanians will think that they have been excluded
because
because of their citizenship. After all, in the case of a really
sensitive security installation, the Government of the United States is
not going to consider that all United States citizens should have access
to that place. In the case of a real risk the United States would exclude
even some of its own citizens as a logical precautionary measure. Thus,
when the reason for the exclusion is the true sensitivity of the installa-
tion, that is all well and good. However, such is not the case when it is
a matter of a rule exclusively based on citizenship as grounds for exclu-
sion. The Delegation of Panama agrees that in the case of truly sensitive
installations strict measures must be taken.

Dr. Fábrega said that he wished to refer to the document, not because
of its contents but because of what it omits, without any purpose of
criticism. The question is a very complex one and it is to be expected
that certain aspects should have been omitted. In the Panamanian document
an effort was made to adhere to and broaden the commitment of 1936 with
regard to equal opportunities for Panamanian and United States citizens.
Panama requested that this matter should not be limited to equal oppor-
tunities between Panamanian and United States citizens. It wishes to
protect itself against the possibility, which might appear to be theoretical
now, of the United States saying in the future that there will be
equality of opportunities for Panamanians because—for example—two thousand
Americans and two thousand Panamanians will be employed, and yet many
thousands of workers from a third country may be brought in because they
are cheaper labor. The United States might say that Panamanians and
Americans receive equal treatment. But such equality would not exist with
regard to the workers from the third country. The United States will readily
understand that this policy would have the same effects which were suffered
in 1914 when cheap labor was brought to the Zone, an action that has had all
kinds of repercussion on the development of Panama. In its document, Panama
maintains that if work is available in the Canal Zone, preference should be
given to workers who are citizens of Panama or of the United States, on an
equal basis. If there is still a demand for labor, it can be imported in such a manner as to not conflict with Panama's immigration laws and policy. The latter point is covered in the agreement of 1922, but Panama feels that the provisions should be more specific.

Dr. Fábrega said that the Panamanian document also includes a request that is not mentioned in the memorandum of the United States, relative to employees of private companies in the Canal Zone. Of course, Panama does not want private companies in the Canal Zone. In 1936 a commitment was undertaken to that effect. Abuses have been committed with regard to permitting private companies in the Canal Zone. However, it is to be expected that there be a minimum number of private companies in the Canal Zone with a right to remain there. Those companies pursue discriminatory employment policies. Panama requests that adequate measures be taken and that an agreement be reached to the effect that the non-discriminatory and parity policies which the United States agrees to follow should also be adopted by the private companies. Naturally, it could be inferred that if the Government of the United States has agreed that there will be no discrimination, then it is up to the United States, as an internal matter, to see to it that no one practices it in the Canal Zone, not even in the private companies. But this matter is so important that, in order to clarify it and not leave it to inference, Panama has requested it specifically in its document.

Mr. Muccio stated that the contractors are in the Zone temporarily and that the companies that operate there in accordance with the Treaty of 1936 are mainly shipping companies. There are British, German, Norwegian and Dutch companies and the text would have to be very carefully drafted.

Dr. Fábrega inquired as to the reason for Mr. Muccio's statement. He asked why those companies which have come to Panama should be permitted to discriminate. The law should not allow them to do so. The bilateral agreements should not allow them to do so, and the minimum consideration that they should show toward the Republic of Panama is that of not discriminating against its citizens.
Mr. Muccio said that, as had been indicated, this matter had been discussed extensively prior to the Agreement of 1902 and that he felt that there is a good understanding regarding the best procedures to be followed. He recalled that at that time the United States recruited all available labor in the Republic of Panama, and that it was not until all available local labor had been exhausted that the United States turned to Colombia, Costa Rica and Nicaragua. Then, at Panama’s specific request, the United States limited immigration to persons who were admissible under Panamanian law. Therefore, there should be no difficulty in that regard.

Dr. Fábrega expressed his satisfaction with Mr. Muccio’s statement, and said that, for the moment, he had no further comments to make.

Mr. Heurtelomatte said that he had a brief comment to make, but that he first wished to congratulate the Executive Branch of the United States Government for the decision which he considered very far-sighted, that is embodied in the document submitted at this meeting. He felt that the document tended toward seeking a solution to a most sensitive and painful problem which Panama has faced for many years. Therefore, he was grateful and was sure that it inspired hope among the members of his delegation. He considered the measure to be a far-reaching one which would also be adopted by the Legislative Branch at the proper time and that it would constitute a real forward step with regard to the Isthmus. He noted that the contents of the first paragraph do not indicate that it would—in reality—produce any great disorder or tragedy. Panama feels that this measure should have been taken a long time ago. However, the important thing is that it has been taken now and the United States will find that it is a real application of the joint and vital interest of both countries in the isthmus. He had but one question to ask, since he did not quite understand the last sentence which refers to the establishment of a uniform system. With what system would it be uniform?

Mr. Muccio explained that the United States Government has hundreds of thousands of employees throughout the world and that, at present, a
Congressional committee is studying the matter, although he did not know what its final decision would be. However, in submitting the recommendation of the executive branch there will be an opportunity to make certain recommendations. Whatever is adopted will be applicable to all non-United States citizens.

Mr. Heurtematte said that the reason for Panama's interest in the matter is the same that was indicated by Dr. Fábrega with regard to the retirement of the so-called "local rate" employees. He did not wish to discuss the matter now, but it is known that, when their active years are over and they can no longer work, many of them have had to go to the Republic of Panama, where they have become a public burden. Therefore, his delegation hoped that in the development of the new uniform wage scale for employees of the Canal retirement and old age benefits will also be considered in a uniform manner. For the very reason that Panama has no interest in the question of the differential, which it considers to be very just—and as far as Panama is concerned, the higher the wages of American workers the better—the delegation of Panama understands that, with regard to some of the benefits, such as vacations, it is very logical that longer vacations be granted to the American employees than to the local ones, but it is hoped that, basically, uniform provisions will be adopted so that an opportunity to obtain a decent retirement level will be possible, without discrimination because of nationality.

This was the only reason that he asked the question.

Mr. Bocchio said that there is a special act of Congress establishing that committee.

Dr. Fábrega said that he was glad that Mr. Heurtematte had mentioned that point because he considered that it was a simple one and that perhaps he had not expressed himself with sufficient clarity when he referred to it in his statement. He did not wish to throw any cold water on the favorable reaction generally expressed with regard to the document and its spirit, but he felt that all should express themselves with absolute frankness in the discussions because that was the only manner in which it was possible to be really constructive. In order to avoid a misunderstanding with regard to Panama's
to Panama's position, he believed that it should be said now that the
statement to the effect that there would be a uniform retirement system
for non-U.S. citizens throughout the world might not be the solution of
the problem.

Mr. Muccio said that the system would be uniform in the Canal Zone;
the executive branch will recommend the establishment of a uniform system
for employees in the Canal Zone who are not United States citizens.

Dr. Fábrega said that that was all very well, but it was not equiva-
 lent to parity. It would guarantee that the retirement system would be
equal among non-U.S. citizens, but it would not mean, or in practice might
not mean, that there will be the same system for a Panamanian that would
govern for a U.S. citizen. He inquired whether he had made his position
clear.

Mr. Muccio said that he understood Dr. Fábrega's position.

Dr. Fábrega said that, of course, Panama's position was that the
commitment of 1936, to the effect that there would be no discrimination
between Panamanians and Americans regarding conditions of employment, which
is reiterated in a very noble manner in the joint statement of President
Eisenhower and President Ramón, carries with it as an integral part that
there should be no discrimination with regard to retirement, which is one
of the aspects of labor-management relations. He said that at present
there is discrimination; United States citizens are covered by a broad
system; in reality, Panamanians do not receive retirement benefits, but
so-called cash relief, which is inadequate and meager. His delegation
feels that in order to have a really non-discriminatory relationship there
should be parity and equality in retirement benefits. The delegation of
Panama is aware that this can give rise to a practical problem for a number
of employees who are in what might be termed a transition period. In other
words, United States workers in the zone have been contributing for years
to a benefit or retirement fund. Employers have also been contributing.
If the same system is put into effect with regard to Panamanians working
in the Zone, the latter would contribute to the fund and their employers would also contribute, but there would be a group of Panamanians who are too old to be able to contribute enough to that fund to receive the retirement benefits, and some practical formula should be found so that that group would not suffer an injustice. At all times the Panamanian position has been that the system should be equal for both. He said that he had been told, although he was unable to verify the information sufficiently to repeat it as a fact, that in 1948 the Army established a system for parity in retirement for Panamanian and American employees; a law was passed to that effect, and the Treasury of the United States at that time agreed to contribute the total amount necessary to cover the fund for Panamanians entering the system as of that date who had not paid quotas in the past, in order to avoid impeding their right to retirement. He had been unable to verify from official sources this statement which was made to the delegation of Panama and he did not know whether it was correct or not. Of course, he was not suggesting that once an equal system is adopted that only one of the parties should bear the cost of the total amount of contributions that had not been made in the past. What he meant was that an adequate formula should be found in order to solve the problem. What he desired to clarify above all with regard to the latter statement is that Panama's position is that parity and non-discrimination should be extended to retirement, which is one of the conditions—or, rather—one of the consequences of employment. The delegation of Panama was confident that its position would be accepted specifically by the Delegation of the United States, in a favorable form.

Mr. Heurttematte observed that he understood that once the Congressional committee completes its findings, the Executive Branch will recommend the establishment of a uniform retirement system in the Canal Zone, which does not contemplate discrimination on grounds of nationality, except in the instances already mentioned, such as that of longer vacations which would permit American employees to return to the United States. He asked whether he was right.
Mr. Nuccio said that what the Delegation of the United States wished to convey to the Delegation of Panama was that recommendations would be made to the committee, but that it is up to Congress to legislate.

Mr. Hartemotte inquired whether the recommendation of the Executive Branch would be in line with the Panamanian position in this matter.

Mr. Nuccio said that the Executive Branch would recommend uniformity.

Then he submitted a memorandum on the fiscal position of the Panama Canal and said that it referred to certain comments made by the Delegation of Panama at the meeting of February 21, 1953 (see above).

Mr. Fábrega said that in view of the late hour he would attempt to be brief in his comments. He observed that there was an apparent misunderstanding regarding the motives of the Delegation of Panama in referring to the manner in which the Canal Company prepares its estimates. He said that his Delegation was not interested in the bookkeeping practices followed between the United States and the Panama Canal Company, except to the extent that such practices should adversely affect Panama’s interests. As long as his Delegation feels that the system does not harm Panama, it does not care whether it is changed every day. That is a purely internal matter for the United States. He explained that the object of the reference to the sum on which the Panama Canal Company pays interest to the United States for the Canal was to demonstrate that there was what the Canal cost the United States, because sometimes it is said that the Canal cost 600 or 900 million dollars and the position of Panama is that in estimating the annuity to be paid to Panama, in relation to the success of the Panama Canal as an enterprise, the real cost of the Canal should be considered, without adding to it items for expenditures which the United States has made for specific defense purposes related to the general defense program of the United States but not to the Canal as an enterprise. Incidentally, the figures do not refer to 1935, as is stated in the memorandum; the reference which he had is to the balance sheet of the Panama Canal, dated June 30, 1953. The official report of the Panama Canal Company reads as follows:
"Tentative book value used for statement purposes during fiscal year 1933 (see note 1) shows the interest bearing investment as $325,311,966. Applying to this the interest rate of 2.05% established by the Treasurer of the United States for fiscal year 1933, the tentative interest obligation for the year is $6,608,875, used in the accompanying statement."

He added that Panama's position was the following: in order to decide whether the Canal is paying its way, and whether it is now showing a profit, we should consider, via-de-via Panama, that the cost of the Canal to the United States is $325,311,966, a figure which, incidentally, is somewhat higher than that given by the Governor of the Canal zone in an official report that set the cost of the Canal to the United States at a figure under 300,000,000. Thus, Panama starts from the premise that the cost of the Canal to the United States is of approximately 300,000,000. Then, the delegation of Panama took a statement—i.e., Sir Fábrice regretted not having the official source of the statement, although it comes from an authorized source—which reads as follows:

"Up to June 30, 1939, total paying traffic in transit in the Canal (of 300 or more net tons) has aggregated 104,417 vessels of 624,968,619 gross registered tons, 469,241,290 Panama Canal net tons. Bills paid amounted to $453,046,857.91; total transit revenue to $458,574,500.46; the net Canal transit expenses to $205,766,555.41; and net revenue to $251,607,945.05."

He added that it should be concluded that if up to the year 1939 the Panama Canal Company had already received up to $251,607,945.05 in net revenue, and if the cost of the Panama Canal was estimated at 3.5%, it is reasonable to infer, considering the rate of traffic, that the net revenues received from 1939 to 1954 would have been at least the difference between 251,607,945.05 and 325,311,966. He pointed out that he was referring to a period of 15 years. Therefore, with regard to the cost of the Panama Canal to the Government of the United States, it should be considered that the Canal has paid its way. Therefore, if the Canal has paid its way and is now
is now showing a profit—in this document it is indicated that it showed a profit of $7,000,000 in 1953—and if one takes into account the original policy of the United States in building the Canal, to the effect that it was not building it with commercial criteria but as a strategic necessity and that therefore it would be justified even if there were economic losses and those were borne by the United States inasmuch as the Canal is primarily a defense installation, if all this is true, then that philosophy should lead no one to the conclusion that the Canal must necessarily operate on a commercial basis to the detriment of Panama. But not only has the Canal not been an economic loss, it has been an economic success and is even making money. Furthermore, if the principle that Panama and the United States have a joint interest in the Canal is taken into account, which was recently reiterated in the joint statement of both Presidents, which reads as follows: "We have agreed that these basic principles applicable to the relations between the two countries should have as a consequence the adoption of measures tending to make them more effective to the end that there should be an equitable benefitting of the two nations which made possible the construction of a canal as well as an enabling of the commerce and industry of Panama to take advantage of the market offered by the Canal zone and by the ships transiting the Canal", and if there are to be equitable benefits to the two countries which rendered possible the construction of the Canal and it is found that one of the direct sources of benefit should be the profits and yield of the Canal, the most obvious justice and equity demand that Panama be given a larger share in the profits and that it not be left the ridiculous sum of $430,000 per year, which is tantamount to no annuity at all. He said that Panama therefore considers that an annuity of $5,000,000, which was mentioned in the Panamanian document, would be a reasonable share.

He said that he wished to avail himself of the opportunity to mention why his delegation had stated that, in addition to a minimum of $5,000,000, it was requesting 20% of the gross revenue. In mentioning this percentage,
his delegation's purpose was not that that sum should necessarily depend on the revenue nor that it should constitute an inflexible 20% of the gross revenue. The Delegation of Panama was thinking mainly of the minimum sum of $5,000,000. However, it subsequently considered that as the agreements that are concluded for the future may be in effect for many years, it should guard against the possibility of today's dollar—which is equivalent to 55 cents of the 1936 dollar and much less than the 1903 dollar at the time of the negotiation of the original treaty—in turn depreciating in the future. Therefore, it is advisable to peg or, so to speak, tie the value of that dollar to an equitable standard, such as the yield from tolls. In that way, if there were any changes in prices or conditions which would depreciate the dollar, Panama would be protected. That is why the Delegation of Panama considers its position with regard to the annuity justified and sincerely hopes that before returning to Panama to report to the Government regarding the negotiations, it will not be necessary to say that they are returning empty-handed with regard to the annuity.

Before concluding, he added that he could not help reacting rather sharply whenever he encountered the so-called "Panama Canal Company mentality", which he considered one of the real obstacles to relations between both countries—the attitude of squeezing out the last cent vis-à-vis Panama. Then one notes in paragraph 8 that the Panama Canal Company is instructed to (a) "recover all costs of operation and maintenance of its facilities, including interest on the net direct investment of the Government in the Company at rates calculated to reimburse the Treasury for the interest cost of such funds; and (b) to reimburse the Treasury for the annuity payments to Panama and the net costs of operation of the Canal Zone Government", it is evident that the Panama Canal Company is instructed to earn as much money as it can, even at the expense of Panama's aspirations and claims. In the opinion of his delegation, that is a serious obstacle to a settlement of the matter. Then one considers this matter in the light...
the light of history and finds that the United States said, "he have
come to Panama only to construct, maintain and operate a Canal" and
all the proceedings in the Congress at that time show that it was a
military objective, and when one sees what he read the other day, namely
that even if there are losses the construction was justified because it
is primarily a defense installation and a necessary one, and when one
recalls that other historical declaration to the effect that "in all
other matters we want Panama to benefit and receive benefits from its
contribution to the work of the Canal", and then we find that when Panama
requests a share in the aforesaid benefits the attitude is reversed and a
purely commercial one of exploiting the Canal as much as possible and of
making money and not increasing Panama's annuity, is adopted, the delega-
tion of Panama is frankly surprised.

Mr. Nuccio said that there is a provision in the Act of Congress that
requires that tolls be set at a rate which would pay the operating costs
and have an interest return of 2.5%. He asked Mr. Fábrega whether he
considered that to be commercial exploitation and he observed that that
is what the law of 1931 calls for.

Mr. Fábrega said that he was not disputing the fact that the United
States places an interest on the investment; he referred to the figures in
order to show that the cost of the Canal was 320-old millions. He was of
the opinion that if the Panama Canal Company so desires, there was ample
room for adding the interests to the cost and, simultaneously, paying a
just and equitable annuity to Panama, for the reasons that he had set
forth. In other words, Panama's request for a decent and equitable annuity
should not depend on whether the United States charges interests to the
Panama Canal Company or not. It is based on other reasons. He only men-
tioned the figures in order to show that the Canal has already paid its
way, is making money, and is a profitable enterprise, and that Panama is
not receiving a decent annuity.

Dr. Suarez said that it is interesting to note that, without consider-
ing the necessary cost for constructing an additional fleet, the operating
costs
supply itself with foreign products only in an emergency or in the case of perishables.

Dr. Fábrega inquired regarding milk.

Lt. Col. Holden said that he understood that it was a perishable.

Dr. Fábrega said that the fact that the United States is willing to exempt its agencies in the Canal Zone from the "Buy American Act" is a source of gratification to the Delegation of Panama. He said that, as the Delegation of the United States knows, the effects of the aforesaid law in Panama had been a source of complaints by Panamanian merchants; the Government of Panama took the view that the aforesaid law is contrary to the Treaty of 1936 because, as applied to Panamanian products, in reality it constitutes a charge on Panamanian products going to the Canal Zone, despite the fact that the Treaty states that they may move from one jurisdiction to the other without any restrictions. He said that that is why he was certain that this matter will be well received in Panama and that he wished to express his gratitude. He added that he did not want the United States delegation to think that whenever his delegation expressed criticism regarding certain matters—sometimes emphatically—it does not appreciate the favorable replies received. He stated that, as he had said recently, the fact that they are very explicit, and very frank, is due to their desire to be constructive; the Delegation of Panama feels that the only way to get closer to a basic understanding is through putting the cards on the table and explaining their position without reservations. He added that in view of the fact that an effort is being made to adjust relations on a durable basis, it is desirable that the measure suggested should be embodied in an agreement lest future approval of a similar law create the same dissatisfaction. Of course, one of Panama's aspirations has been that of making sales to military personnel of the Canal Zone. He referred to meat, saying that there is very good meat available in Panama at prices lower than those prevalent in the United States and that the meat of the slaughter house in Panama is inspected by Army authorities. He said that he could
he could show the certificate which proves that it is of excellent quality. Panama believes that the meat which it could supply would be cheaper. If it could be assured of the one market for meat, including that for military personnel, its meat industry would be strengthened. This is one of those matters which would benefit Panama to which the joint statement of the two Presidents refers.

Dr. Fábrega went on to say that the delegation of the United States maintains that a United States law requires that meat be shipped from the continental United States. He did not know what the object or reason of the law was, that is, whether the purpose is to guarantee that products sent to the troops should meet certain standards of quality and purity, or to protect certain commercial interests in the United States, namely the producers of those items. If the purpose is the former, and if Panamanian products—in the opinion of the authorities—meet those standards, he felt that then Panama should not be deprived of the opportunity to supply them. If the purpose is to protect United States producers, his delegation reiterates what it said before, that any small benefit which American producers might derive is minimum compared to the benefits which Panama fails to receive owing to the loss of that market. This is one of those instances where the protection of an American product would mean practically nothing to a great and powerful economy like that of the United States but would be of great importance to Panama. Panama therefore proposes that, in attempting to implement the objective of the two Presidents of allowing Panama to receive the greatest possible benefit from the Canal Zone market, a stipulation be included in the understandings and agreements which would permit Panama to obtain the benefit of that market whenever its products meet the standards of safety and quality. With regard to this matter being regulated by United States laws, he reiterated what he had said on other occasions, namely that the relations between Panama and the United States should be regarded as special, and that as Panama had given special treatment to the United States, the latter should grant special treatment to Panama and grant an exemption to Panama in laws of this kind.

he added
He added that even military interests are themselves better protected, particularly in times of emergency, in direct proportion to the guarantees that the Canal Zone and the United States army have of a near-by supply of essential products. He stated that, without in any wise detracting from the gratitude which they felt for the attitude of the United States delegation regarding the "Buy American Act", his delegation suggests that the desirability of giving Panama the benefits of supplying troop issues be considered.

Mr. Heurtematte said that, first of all, he wished to express the gratitude of the delegation of Panama—as Mr. Fabrega has done—for the willingness of the Government of the United States to consider favorably the problems that arise from application of the "Buy American Act". He said that he saw that there was a possibility of placing on a permanent basis that which is at present left to the discretion of the local commanders. The Governor or the General or the head of whichever agency is involved in the purchase may apply the "Buy American Act" at his own discretion, and at times they have done so or have refrained from doing so. The delegation of Panama is very grateful that non-application will be placed on a more or less permanent basis. However, it had hoped that the solution of the problem would have been somewhat different from what is suggested in the document and that instead of exempting the Canal Zone from the application of the aforementioned law Panamanian products would be exempted from its application on the Isthmus. It is evident that Panamanian hopes in this regard were based on the philosophy of integrating the two economies. In the case of bids, non-application of the aforesaid law in the Zone area signifies, as a practical matter, that an opportunity is given to Panama to enter bids which would be exempt from application of the provisions of that law; furthermore, Indonesia, Britain, Germany, Czechoslovakia or any other country could do likewise. Therefore, the delegation of Panama had hoped that the problem would be solved not by exempting the Canal Zone from application of that law but by exempting Panamanian products going to the Zone.
Mr. Heurtematte referred to the case of bids for supplying cement. He said that with regard to installations that are going to be constructed in order to mount artillery the local commander decided that the aforementioned law should be applied, and that after some negotiations he was permitted to not apply it. Panama was especially interested because it hoped to obtain the contract. But under the solution that is suggested—which, in effect, is the one which has existed during all this time—the cement may be purchased in any part of the world, so that Panama has to compete with regard to bids against other countries that do not have dollar economies and, consequently, it will have to do so on an unfavorable basis. He wished to make this comment because the delegation of Panama hoped that the solution would be in keeping with the philosophy of integrating the two communities, and it felt that this could be achieved by exempting Panamanian products from application of the aforesaid law. He mentioned this in order that it might be considered, inter alia, as the Panamanian delegation and the people of Panama have felt for some time that such a solution would be just and in keeping with the basic philosophic concept of integrating the two economies.

Dr. Nâbrega explained that the delegation of Panama trusted that, even in the event of an abolition of the restrictions embodied in the aforementioned law, the Panamanian proposal to the effect that the Canal Zone should be supplied preferentially by Panama would be adopted. His understanding of the matter was not that the abolition of the aforesaid restrictions would signify that future policy would be to make purchases everywhere in the world, he requested that the point be clarified.

Mr. Naccio said that the intention was to give Panama the benefit.
Mr. Heurtematte said that the delegation of Panama hoped that the solution of the problem would be in accordance with the general position of Panama to the effect that Panama should be given special consideration in the Canal Zone. He said that the solution suggested might be the easiest from the legal standpoint. However, if the exemption applies to the area of the aforementioned Zone, all products would be covered by the aforementioned exemption, be they Panamanian, Japanese or South African.

Mr. Muccio inquired whether it would be sufficient to add the phrase "insofar as it applies to Panamanian products".

Mr. Heurtematte observed that what the document submitted by the delegation of the United States suggests is a procedure which can be applied within the present law, but that that had already been done in the past. The heads of agencies to which the law applies, be they the general or the governor, have exempted particular lines from the provisions of that law, in line with their authority to do so. That would have harmful effects for Panama with regard to certain products with regard to which it is competing as a supplier with non-dollar area countries such as Japan, for example.

Mr. Fábrega said that the delegation of Panama has adopted a position, in which it is generally in agreement with the United States, to the effect that Panama wishes to receive the benefit of the Canal Zone market. It is still trying to evolve a plan along those lines and does not wish that the abolition of the restrictions contained in the "Buy American Act" should limit the scope of its position.

Mr. Heurtematte said that this was a gesture of good will toward Panama, and was also a move toward the integration of the two economies. However, the concession that was being made to Panama is also made to every other country in the world.

Mr. Fábrega said that this was so, unless some other plan is adopted in order to benefit Panama in the supplying of the Canal Zone market.

Mr. Muccio
Mr. Nuccio said that a legal aspect was involved in the matter; the
present act gives the Executive Branch certain discretion; the delegation
of the United States had studied the matter and had reached the conclusion
that in the form in which it had been suggested it was practicable and the
Executive Branch had decided to make this gesture. With regard to the
Panamanian suggestion that only Panamanian products should be excepted
from application of the law, he said that his delegation would study the
matter and would consult with regard to its legal aspects. He added that
the Executive Branch had no discretionary powers with regard to the troop
issue, which is governed by provisions of law written in the annual appro-
priations and regarding which the Executive Branch cannot do anything.

Lt. Col. Holden said that the Congress had already considered the
matter and had refused to modify the appropriate provisions of the law;
the problem had come up in every country where the United States has troops
stationed.

Mr. Heurtematte said that the delegation of Panama hopes that the
Congress would give special consideration to the matter in view of the
very special conditions that exist in Panama.

Mr. Nuccio said that one of the difficulties which arises is that the
Army establishes administrative procedures throughout the world and that it
is difficult to establish a special one.

Mr. Heurtematte observed that the Army maintains permanent forces in
the penal law, which is not the case elsewhere. He said that perhaps it
could be justified and found to be proper—and he was sure that it was so—
that Army units stationed in Japan or elsewhere should be supplied with
beef, as this was in line with the convenience of American producers; the
situation was different in places where the Army maintains permanent
garrisons, garrisons in perpetuity, which can never be with rain, which
the people of Panama do not wish to see with rain, and which will remain
in the country that has made very special arrangements for those troops to
be there. He said that he was sure that in the light of those special
circumstances
circumstances it would be possible to work out adequate arrangements if the problem is properly considered and understood by the Congress, particularly as it coincides with the United States policy of contributing to the economic development of Panama. He observed that the appropriations act of the United States had created problems for Panama with regard to sales to the Zone of products such as beef, sugar and cement, and, generally, of all the products which Panama is urged to produce in order to depend in ever lesser degree on the type of economy that it has had up to now. He believed that if those questions are considered and made known and the persons who might influence the decisions of the Congress get to understand them, special provisions would be adopted which would permit the purchase from Panama of the aforesaid products, especially owing to the fact that it would be to the Army's advantage to be able to supply itself with them in times of emergency, at considerable saving. He said that he believed that the trouble was that Congress is not familiar with the special conditions that prevail on the Isthmus. He observed that the problem was not understood; for years Panama had been trying to make the Congress understand the difficulties caused by the 15\% tax on transportation, and that a solution of that problem would soon be achieved owing to the fact that Panamanian officials had undertaken the task of explaining it.

Mr. Harshe reiterated that the delegation of the United States would study the pertinent legal provisions in order to determine whether it was possible to solve the problem raised by application of the "any American act" in the form suggested by Mr. Leutemann; with regard to the question of the troop issue, the only thing that the United States delegation could say for the present was that the Department of the Army would submit the matter at the next hearing on Army appropriations.

Lt. Col. Holden said that the Army had presented the matter at recent sessions of the Congress, from the economic standpoint, and that it had again been told, in no uncertain terms . . . .

Mr. Harshe
Mr. Ruccio interrupted Lt. Col. Holden to say that he was sure that the Department of State would support the position of the Army with regard to the position of the Department of State vis-a-vis the problems on the Isthmus.

Mr. Heurtelatte inquired whether the Army had raised the matter on a world-wide basis.


Mr. Heurtelatte said that he hoped that the matter would be considered, if it is raised, on the basis of a special condition, and he expressed his adherence to the expressions of appreciation communicated by Dr. Fabregas.

Dr. Sucro said that the ideal situation for a military zone is to have its supply bases right at hand. He said that it would be in the interest of the armed forces of the United States to promote the economic development of Panama so that they could have a readily available supply center. He observed that it would have been difficult to supply the troops in the Zone if the Germans had intensified their submarine activities between the United States and the Canal. Therefore, it seems that it is in the interest of the United States to encourage higher production in Panama, in order to have abundant supplies on hand in case of need.

The meeting was adjourned at 6:00 p.m.
The pier surface is cleared of cement dust.

Even if no active physical handling were performed by the Panama Canal Company, it would be unreasonable for shippers to expect the Company to provide facilities for them to deliver cargo without charge. Cost of handling properly includes maintenance, depreciation, and an interest return on the investment in the facilities used.

5. Referring to the remarks questioning our statement that the handling charge applies, without exception to all incoming and outgoing cargo, including that of the Panama Canal Company and of other United States Government agencies, there are noted the remarks that one of the reasons why exception has been taken to this charge in Panama is that it was felt that the charge was levied only against Panamanians, and that "it is true that when the last Panama Canal tariff was issued for services rendered was there not a footnote stating that the Panama Canal Company will not accept or will not be responsible for the Isthmian transfer charge on any goods that it imports via carriers that are not its own ships?"

6. Our statement, referred to in the preceding paragraph, is correct. Bills of lading covering shipments to the Panama Canal Company carry this charge whether the shipments move by the Panama Line or by the United Fruit Company or other line. We have been unable to find any footnote such as that referred to in the remarks. We doubt that the remarks are based on a garbled version of paragraph 320.17 of our tariff for the reasons (a) that such paragraph contains no reference to the Company's own ships, and (b) that we do not use the term "Isthmian transfer charge" in our tariff in referring to the handling charge. Paragraph 320.17 of the Tariff means simply that the Panama Canal Company/Canal Zone Government, when purchasing goods delivered on the dock at Cristobal or Balboa, expects the handling charges to be paid by the shipper to the carrier and included in the cost of landed goods, and that the said agencies will not assume the handling charge in addition to such cost. Our statement is correct that "This charge applies, without exception, to all incoming and outgoing cargo including that of the Panama Canal Company and of other United States Government agencies".

7. A further assertion in the remarks of the Panamanian delegation which merits comment is the assertion related to the one last discussed, that (in any event) a charge by the Company, such as the handling charge, is, when made on Panama Canal Company or United States Government cargo, merely a bookkeeping charge or merely the transfer of funds by our Government from one pocket to another. The assertion is unsound. The handling charge, when made on Panama Canal Company or other United States Government cargo, is a real charge in the sense that it becomes a bona fide expense of the agency concerned and is ultimately borne by the user of the goods on which it is assessed or by the United States taxpayer. In the case of shipments consigned to the Commissary division, for example, the charge is recovered from employees and others who buy merchandise from the commissaries. In the case of shipments consigned to United States Government agencies other than the Panama Canal Company/Canal Zone Government, there is an actual exchange of funds involved. If the handling charge were not assessed on United States Government cargo, it would be necessary for other users of the pier facilities to bear the expense involved, which would increase the rate of handling charges to other users.

8. The Panamanian position (loc. cit. 2); Transcript, pp. 67 is that charges relative to the piers should represent only services actually (physically) performed, and should not be levied "for the mere use of the port facilities." This position is clearly exemplified in the remarks relative
Two wage scales have long been maintained by the Panama Canal Company and Canal Zone Government, one covering unskilled and semi-skilled positions compensated at local area wage rates and the other covering skilled, administrative, technical and supervisory positions compensated at United States rates of pay. Panamanians are eligible for any position for which they are qualified except sensitive positions in which for considerations of security United States citizens only can be employed. In neither United States-rate nor local-rate positions is there any discrimination in pay based on citizenship or nationality. Citizens of the United States and of Panama are paid at the same rate in positions on either the United States-rate or local-rate rolls, except for the payment of an overseas differential to United States citizens in United States-rate positions.

However, in recognition of the importance of the subject in the minds of the Panamanians, and the disadvantageous connotations that have been built up around the term "local-rate", the Panama Canal Company and Canal Zone Government are prepared to substitute a new wage system for that now in use.

Under the new system present wage scales would be merged and the basic wage for any given grade level would be the same for any employee eligible for appointment to the position without regard to whether he is a citizen of the United States or of the Republic of Panama. In the case of an employee whose residence is in the United States, however, there would be added to the base pay an increment representing an overseas differential plus an allowance for taxes and other similar elements which operate to reduce the disposable income of such an employee as distinguished from an employee who is a resident of the area. The employee whose residence is in the United States would also be eligible for greater annual leave benefits and travel allowances because of the necessity for periodic vacations in the United States for recuperation purposes and to maintain contact with the employee's home environment.
The consolidation of wage schedules outlined above will require legislative action to modify certain existing laws, including for example, action to exclude the Canal Zone government from the Classification Act. In addition, the program involves collateral problems of increased costs of operation resulting from increased labor costs.

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

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

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

The Panamanian delegation has also made representations for the application to Panamanians of the same retirement system that applies to United States citizen employees. The problem of what, if any, retirement system should be provided for non-citizen employees outside the United States is presently receiving close scrutiny in Congress and by a special committee set up pursuant to an Act of Congress. The executive branch of the United States Government will recommend that a uniform system be established for non-United States citizen employees in the Canal Zone.
MEMORANDUM ON FISCAL POSITION OF PANAMA CANAL

1. At the meeting of February 23, 1954, in the course of a discussion of the annuity question, considerable stress was given by the Panamanian delegation that the Panama Canal is a great commercial success which has not only paid for itself but is making a profit for the United States in which Panama should share.

2. While it is not and cannot be conceded that the fiscal objectives assigned by the United States to the Canal enterprise, or the fiscal operating results of that enterprise, have any bearing on the amount of annuity payable to Panama, the position under discussion cannot properly be allowed to remain unchallenged.

3. While many of the figures used by Dr. Fábrega at the meeting could not be identified, it is apparent that the basic difference of view arises from the treatment of interest on the Government's investment, which Dr. Fábrega considers to be a profit rather than a cost.

4. In view of the huge public debt of the United States Government, which is now approaching $275 billion, there can be no question but that every dollar that the Government has invested in public works carries an interest cost. No return of capital can be considered to have been made in the use of such facilities until the interest cost as well as other costs have been recovered. The Congress clearly recognized this in enacting the Panama Canal Company Act in 1902 (effective July 1, 1914) when the Congress required the Company to pay interest to the Treasury on the net direct investment of the Government in the Company at a rate or rates determined by the Secretary of the Treasury as required to reimburse the Treasury for all costs, and then provided that all excess funds paid into the Treasury should be treated as liquidating dividends, i.e., should operate to reduce the interest-bearing investment of the Government in the Company.

5. On the basis of the accounting policies used by the Panama Canal up to June 30, 1951, the operating did not even recover full interest cost. A study has been made of what the result would have been if the accounting policies established for the enterprise effective July 1, 1951 had been made retroactive to 1914. As nearly as can be determined without extensive analysis, it would appear that, on the basis of the new accounting policies, the enterprise would just about have recovered interest charges during the 37 years from its opening in 1914 to July 1, 1951.

6. Since July 1, 1951, the enterprise has admittedly recovered more than the interest cost. This is attributable to the abnormally high volume of traffic passing through the Canal, which has already fallen off to some extent and is expected to fall substantially further to the point where a loss will be incurred. In any event these short-range results of operation must be considered in the light of the fiscal objectives assigned to the Company by the Government and which are hereinafter summarized.

7. Incidentally, the current figure of the Government's investment in the Canal used by Dr. Fábrega, amounting to $325,311,966, appears in the President's budget for 1955 as the present interest-bearing investment. However, contrary to Dr. Fábrega's assumption, that figure does not include interest during construction, an amount which is currently stated at $50,892,311. The fact that the budget figure was approximately $50 million more than the figure previously quoted by Dr. Fábrega is purely coincidental.

8. The fiscal obligations and objectives assigned by the Congress to the Canal enterprise effective July 1, 1951, are here summarized. The Canal enterprise as a whole, as administered by the Panama Canal Company and the Canal Zone Government, is expected to be self-sustaining. The Panama Canal Company is obligated—
(a) to recover all costs of operation and maintenance of its facilities, including interest on the net direct investment of the Government in the Company at rates calculated to reimburse the Treasury for the interest cost of such funds; and

(b) to reimburse the Treasury for (1) the annuity payments to Panama, and (2) the net costs of operation of the Canal Zone Government.

As hereinbefore stated, the capital investment in the Company for interest purposes does not include interest during the construction of the Canal; the figure hereinbefore stated at $30,892,311.

9. Tolls for the use of the Canal are required by law to be prescribed at rates calculated to cover, as nearly as practicable, all costs of maintaining and operating the waterway, and its related facilities and appurtenances, including interest and depreciation, and an appropriate share of the net costs of operation of the Canal Zone Government. The present method of establishing tolls was adopted by the Congress because it would lend itself readily to adjustment of rates, either up or down, to reflect increases or decreases in cost or changes in traffic conditions. However, toll rates were not intended to be changed on a year-to-year basis but instead to be adjusted periodically, on the basis of long-range trends as changes take place in the factors which determine the charges. As hereinbefore stated, the abnormally high volume of traffic since July 1, 1951, which resulted in a recovery of more than the costs of operation, including interest, has already fallen off to some extent and is expected to fall substantially further to the point where a loss will be incurred.

10. The computed amounts of tolls on United States military vessels using the Canal are by law required to be treated as revenues of the Panama Canal Company. This is not a mere bookkeeping transaction, but for such provision, the amounts in question would have to be recovered from the other vessels using the Canal. The United States Government is in fact paying for the use of the Canal by its military vessels, and the arrangement was expressly established in recognition of the military value of the Canal and as a means of compensating, for that value on a "user" basis.

11. There is no foundation whatever for any suggestion that the United States is engaged in a commercial exploitation of the Panama Canal.
Paragraph 4 of Document A refers to the "Buy American Act" or "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.

There are presently in force only two provisions of domestic law of the United States which would come within the scope of the above description. One is the so-called "Buy American Act" and the other is a restriction appearing in the annual appropriation acts for the defense establishment which limits the purchase abroad of certain products for troop issue.

The United States is prepared administratively to exempt United States agencies in the Canal Zone from the scope of the "Buy American Act", as a gesture of good will toward Panama and as further evidence of the desire of the United States to assist in all appropriate and practicable ways in the development of the Panamanian economy.

It should be noted, however, that the Armed Forces in connection with the acquisition of products for troop issue are restricted as regards local purchases of certain items by provisions of law written into the annual appropriation acts for the defense establishment. It is believed that these restrictions are frequently confused with the provisions of the "Buy American Act". The restrictions referred to in this paragraph require that certain products for troop issue be purchased from United States sources and convey no discretionary authority in the matter.
ANO 26 Acta de la 26ª reunión. 4 de mayo de 1954.

ANEXOS: 1. Comentario preliminar de la Delegación panameña a las respuestas dadas por la Delegación de los Estados Unidos.
2. Memorándum relacionado con la Exención administrativa de las Agencias de los Estados Unidos en la Zona del Canal de la aplicación del "Buy American Act", presentado por la Delegación de Panamá.
May 4, 1954
2:30 P.M.

TWENTY-SIXTH MEETING OF REPRESENTATIVES
OF PANAMA AND THE UNITED STATES TO
REVIEW RELATIONSHIPS BETWEEN THE TWO COUNTRIES

PRESENT:
Dr. Odacnio Fabrega
Dr. Carlos Secre C.
Mr. Roberto Beutetatte
Mr. Jesus Manuel Mendez Merida
Mr. Guillermo Jurado Salas
Mr. Enrique de la Guardia

Mr. John J. Musale
Lt. Col. Maurice Holden
Mr. Merrill Bittman
Mr. Eldred D. Keppinger
Mr. William B. Swann

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Dr. Fabrega stated that he thought it would be helpful to the common purpose in these negotiations to convey to the American Delegation, before the Panamanian Government takes a decision on the replies to Panama's petitions, the reaction of the Panamanian Delegation to these replies and to point out those points in Panama's petitions which have not been replied to or to which the reply given appears to be incomplete. If this were not done, the Panamanian Delegation would be presenting an incomplete picture of the situation to its Government, he said. To this end, Dr. Fabrega continued, the Panamanian Delegation has prepared a preliminary statement regarding the American replies. The definite impression of the Panamanian Delegation, he said, is that there is quite an area of negative replies which gives to the negotiations a rather dim outlook from Panama's viewpoint. He referred specifically to the United States replies on matters of economic cooperation, which he termed practically an uninterrupted series of negative replies. This has occasioned surprise, Dr. Fabrega said, because they had been under the impression from various comments made here that the United States was interested in cooperating with Panama in certain measures of economic help. He expressed the hope that the United States replies in this field would be reconsidered.

Dr. Fabrega
Dr. Fabrega expressed similar disappointment with respect to the United States reply to Panama's petition on the annuity question, which reply he also thought should be reconsidered on grounds of equity and effect on the whole hemisphere.

With respect to the matter of sovereignty in the Canal Zone, Dr. Fabrega reiterated the Panamanian thesis that sovereign rights other than those necessary for the construction, maintenance and defense of the Canal were reserved to Panama. He said that Panama, for the sake of the better conduct of these negotiations, had attempted to avoid basing its petitions on grounds of sovereignty, which in many cases would have seemed the juridical way to present them. Nevertheless, the United States reaction was aggressive on this point in restating the American interpretation of Article III. Dr. Fabrega said that in his opinion this has not been constructive and makes it obligatory for Panama to state its thesis juridically, despite its hope that a frank and direct exchange of views on this point may not prove to be a snag in these negotiations. Dr. Fabrega then handed the reference memorandum to the American Delegation.

Mr. Maccio stated that the memorandum would be studied with the greatest sympathy and consideration and in due course would be discussed. He commented that some of the United States replies were governed to a considerable extent by the position which was indicated at the beginning of these negotiations, namely, that the United States is not disposed to consider any move which would derogate from its treaty position on the isthmus. On the other hand, he continued, it had been understood that some of the other replies were offered as a basis for discussion and further consideration. Mr. Maccio reassured Dr. Fabrega of the desire of the United States Government to stimulate and help in the development of the Panamanian economy, although, he added, opinions may differ as to how best this may be done.

Dr. Fabrega thanked Mr. Maccio for this assurance and expressed the hope that a common ground might be reached. As to the treaty position of the United States, Dr. Fabrega said that the original misunderstanding as
to the scope of these negotiations had been cleared up and that it was generally understood that the main aim is to put relations on a more workable basis. The people of Panama, he said, are of the impression that the whole field of our relations is being revised to correct the inequities of the past and the task of the Panamanian Government will be extremely difficult if there is only a partial solution to these problems.

Mr. Muccio expressed confidence that one very substantial result of these talks will be a better awareness on the part of American officials and of Panamanian officials of the need for full understanding of the impact on one another of their decisions. He expressed the view that in the field generally referred to as "commercial competition" we are moving in the right direction and he was hopeful that substantial progress also would result in the field of labor relations. The proposal to return certain lands to Panama is a substantial reflection of the desire of the United States to give Panama just and full consideration, he said.

Mr. Muccio then gave the Panamanian Delegation a memorandum on the subject of the Hay American Act.

After reading the document, Mr. Fabrega declared that there will not be that increased awareness on the part of the Panamanian people and officials of which Mr. Muccio spoke unless and until they see that the special nature of their relations with the United States results in special treatment for them. The special and unparalleled rights granted by Panama to the United States require in equity that the United States treat Panama in a special manner and that any American law or statute which prevents this should be amended. Panama, said Dr. Fabrega, desires in the Canal Zone market more advantages than those which result solely from her proximity. Panama desires a preferential position in that market with certain reasonable safeguards, he declared.

Mr. Meurteraute declared that Panama never has wished to obtain the elimination of other suppliers from the Zone. She desires only a preferential market there for Panamanian products. Panama, he said, would like to be
to be exempted as a supplier from the provisions of the Buy American Act rather than have the Isthmus as a market be exempted, since the latter formula would merely place Panamanian suppliers on the same basis as suppliers from any other country.

Mr. Guccio stated that it was the intention that Panama should have under this proposal the advantage of its geographical position, because it then would be in a more competitive position vis-a-vis the United States by eliminating the 25 per cent differential. He acknowledged that goods from third countries would also have this advantage but said Panama would have the additional advantage in transportation costs.

Mr. Fabrega reiterated that Panama desires preferential treatment as to supplies for the Canal Zone market. Mr. Guccio declared that he thought the American proposal represents a substantial step forward, particularly with respect to products in the price of which transportation costs are an important factor.

After a period of discussion off the record, the meeting was adjourned at 4 p.m.
Preliminary Comments of the Panamanian Delegation

on the Replies given by the Delegation of the United States

At the meeting of April 23, 1934, the Delegation of the United States submitted to us its comments on Document "4" and the fourth paragraph of Document "4" of Panama. At the end of that meeting the Delegation of the United States stated that with the delivery of these documents all of our proposals had been answered.

As it has stated at various meetings, the Panamanian Delegation entertains the idea of advising the Government of Panama that the moment has arrived to adopt a decision on the over-all result of the negotiations, appraising them as a whole, as soon as the position of the Government of the United States with respect to each and every one of the Panamanian proposals is clarified. Beyond any doubt, the Panamanian Delegation will cooperate with the Government of Panama in the task of adopting this decision and it is probable that with that end in view it will move temporarily to Panama.

However, the Panamanian Delegation considers that the replies in its possession will not yet permit it to furnish full information to its Government on the attitude of the Government of the United States with respect to various Panamanian proposals, because without doubt it is desirable that some of those replies be clarified, amplified, or expressed in more precise terms. A decision adopted by the Government of Panama before this work is done would be difficult and premature, and would run the risk of leading to misunderstandings.

We consider that in order to proceed to that task we must first note the points of the Panamanian proposals which have not been answered at all. In the second place, we wish to indicate certain replies of the United States which to us seem incomplete and which it would be well to have clarified in order that they may duly be appraised. And finally, we wish to point out several questions which, although they have received replies, are being reconsidered, either because Panama so requested or
because re-examination is the logical consequence of the explanations and clarifications offered by the two delegations during the discussions.

In this document the Panamanian delegation seeks only to indicate its desire that several United States replies be made more precise, be amplified, or be clarified, because we shall later submit, in one or more documents, a reasoned and detailed comment on the position of the United States. In a preliminary and schematic manner we now set forth our opinion of the status of each Panamanian proposal in the light of the replies received.

**Document "A"**

The Panamanian delegation submitted this document, interpreting the letter and the spirit of the existing agreements and giving impetus to the proposal for cooperation and aid to Panama, with the objective that the Canal Zone should cease to be an "independent economic colony" and that Panama should be permitted to avail itself as far as possible of the market for products and services offered by the Canal Zone, as expressed in a recent statement by Presidents Eisenhower and Díaz.

In view of the fact that the United States delegation stated in one of its documents that it was not prepared to enter into any agreement in this matter, the delegation of Panama interpreted this attitude as a completely negative answer—certainly a very grave one—to this proposal of Panama, in as much as the purpose of these negotiations is precisely to reach agreements and arrangements that will establish better relations between the two countries. Fortunately, in the course of the discussions, the United States Delegation explained in essence that it had not rejected the idea of an agreement in the matter. In our opinion, then, the proper procedure now is to determine the bases of understanding and then to agree upon the most appropriate form for such an understanding.

We think that the measures of cooperation suggested by the Delegation of the United States in answer to our Document "A" should be put in concrete form and supplemented before it is practical to submit them to the Government.