

UNITED STATES - PANAMA BILATERAL DISCUSSIONS

Tuesday, August 17, 1954

DELEGATION OF PANAMA:

Dr. Octavio Fábrega

Dr. Carlos Suero C.

Mr. Roberto Heurtematte

Mr. Juan Manuel Mendes Mérida

Mr. Guillermo Jurado Selles

Mr. Enrique de la Guardia

DELEGATION OF THE UNITED STATES:

Mr. Henry P. Holland

Mr. John J. Muccio

Lt. Col. Maurice Kolden

Mr. Eldred D. Kuppinger

Mr. Paul M. Ramestrand

Spanish Interpreter:

Mr. Alvaro F. Galvan

Reported by:

Goodwin Shapiro

(The meeting was convened at 2:30 p.m.)

MR. HOLLAND (Trans.): This meeting is on the record. We are most grateful to the Ambassador of Panama for the box of shrimp he gave me. I'm delighted. I hope all our friends enjoyed them.

Well, what will be the first formal topic of our meeting:

At our prior meeting we had already completed the review of various points and I told you that I was going to consult with the Secretary, which I have done with John Muccio and the other members of the U.S. Delegation. Together we have reviewed the whole project of our talks or the text of our talks in order to see whether there might be points where we might change the position of the U.S. Delegation already set forth in documents which were delivered to you. We considered that the point of the greatest importance, as you said, for Panama is the question of the annuity. Am I right?

MR. PANDEA (Trans.): We consider it of capital importance.

MR. HOLLAND (Trans.): And you also attribute primordial importance to the question of the treatment of workers and also much importance to the question of commercial opportunities and access of commerce to the opportunities which might be offered by our activities in the Zone.

We have agreed within our delegation on some changes in the position of the United States. We have submitted those ideas to Secretary Dulles and he has accepted them and he has authorized us to offer to you some amendments to the United States position in the hope that you will interpret them and the Government of Panama will interpret them as constructive amendments and that with them you will be able to accept the position of the United States as one which is constructive and acceptable.

Judging it from all four angles, in the first place we have the problem of the Buy American Act. We have sought carefully to find some means of making an exception which would affect Panamanian products but which would not be extended to the products of the other nations of the world. I understand that that was one of the points on which you were very much interested. The Legal department up to now has not indicated to us how, administratively, we can carry out that exception or exemption. The Legal department, as well as we, are studying the possibilities of our making an exception or an exemption which would exclusively affect Panamanian products. Pending completion of that investigation, we will continue with the plan of exempting all our agencies in the Zone from the Buy American Act on the understanding that, if possible, we shall find an administrative procedure in the sense of exempting exclusively Panamanian products.

of problem.

happily we have found that we can adopt and we can offer that all the agencies of the United States Government should accept the plan or system of employment the adoption of which is proposed by the Company-Government of the Canal Zone, thus including the Armed Forces within that system, which was a point upon which you had greatly insisted.

With regard to the retirement system, the Executive Branch of the government will request legislation which will include within the Civil Service Retirement Act all employees of the government within the zone. You understood that in order to achieve that goal it will be necessary for us to have appropriate legislation. We are willing to seek to obtain such necessary legislation. (Referring to document) This is an amendment to the other document which will put it in harmony with what I have just stated with regard to those two points:

MEMORANDUM CONCERNING UNITED STATES CONSENT ON PANAMA CANAL DOCUMENT B

The United States Consent on Panamanian Document B, which was handed to the Panamanian Delegation on April 25, 1954, is amended by inserting the following paragraph after the

third paragraph of the paper:

"All agencies of the United States Government in the Canal Zone will conform their existing wage practices in the Zone to the principles set forth above."

With reference to the matter of retirement, the Panama Delegation is informed that the Executive Branch of the Government of the United States will seek legislation, at the earliest opportunity, designed to make uniform among all employees of the United States in the Canal Zone the provisions of the Civil Service Retirement Act.

MR. HOLLAND (Trans.): You, Sir, had touched on certain points relative to systems or procedures for employment within the Zone. Those points we have under study and I believe we can proceed because in our opinion they are the most important ones.

Now, with regard to the immunity, for us, as you know, it was a very thorny problem. We studied the possibility of a substitution of treaties and you set forth the bases or the reasons why you are convinced that that would not be practical and the possibility was suggested of an amendment to the present treaty in which both parties would recognize the fact that neither of the treaties is susceptible to what we could call re-opening, but that

would be increased. As I told you, we have carefully studied that possibility and we find that it is acceptable and we would propose that we should adopt a new treaty, of which we have in outline two articles in draft form, which would be the two articles which would provide recognition by both signatories of the fact that the treaties are not susceptible of re-opening, but that despite that, the parties accept and agree to an increase of the annuity. Subject to acceptance by you of that, or rather acceptance by Panama of that draft article or articles, we would propose an increase by a million dollars of the annuity. At present it is \$430,000, if I'm not mistaken. It would be increased to \$1,430,000, which would be tantamount to more than tripling the amount of the annuity.

In our informal discussions, I set forth for you that in our opinion the desire to make a contribution to the economic development of Panama was not by way of substitution of an increase of the annuity--I am not expressing myself too well, but I said that we had not offered economic cooperation for the economic development of Panama as a substitute to an increase of the annuity which you had recommended, and faithful to that declaration in addition to the increase of the annuity which I have just proposed, we offer the sum of \$1,000,00 per year for a period of ten

years, and we would be glad to go ahead on that if Panama accepts that offer. Emphasis would be given to a program of building housing because we, like you, consider that a program of that type would be of great importance for Panama.

TREATY OF MUTUAL UNDERSTANDING AND COOPERATION
BETWEEN THE UNITED STATES OF AMERICA AND THE
REPUBLIC OF PANAMA

The President of the United States of America and the President of the Republic of Panama, desirous of concluding a treaty further to demonstrate the mutual understanding and cooperation of their two countries and to strengthen the bonds of mutual understanding and friendship between their respective peoples, have appointed for that purpose as their respective Plenipotentiaries:

The President of the United States of America:

.....

The President of the Republic of Panama:

.....

who, having communicated to one another their respective full powers, found in good and due form, have agreed upon the following articles:

Article I

The High Contracting Parties expressly recognize the non-existence of any right on the part of either Party to reopen any of the provisions of the Convention for the Construction of a Ship Canal, signed November 18, 1903, or of the General Treaty of Friendship and Cooperation, signed March 2, 1936, or of other agreements between the two countries with respect to the Panama Canal or the Canal Zone. Accordingly, the provisions contained in the following Articles constitute voluntary action of the part of the High Contracting Parties which is in no way based upon obligations of any sort.

Article II

Notwithstanding the non-existence of any right to reopen the provisions of Article XIV of the Convention of November 18, 1903, or of Article XII of the General Treaty of March 2, 1936, beginning with the first annuity payable after the exchange of ratifications of the present Treaty, the payments under Article XIV of the Convention of November 18, 1903, between the United States of America and the Republic of Panama, shall be _____ Balboas B/_____ as defined by the agreement embodied in the exchange of notes of March 2, 1936, between the Secretary of State of

the United States of America and the Members of the Panamanian Treaty Commission. The United States of America may discharge its obligation with respect to any such payment in any coin or currency, provided the amount so paid is the equivalent of _____ Balboas (B/_____) as so defined.

On the date of the first payment under the present Treaty, the provisions of this Article shall supersede the provisions of Article VII of the General Treaty of Friendship and Cooperation, signed March 2, 1936.

MR. HOLLAND (Cont. Trans.): These are the aspects with regard to which we are willing to amend or change the position which we had taken before. We consider, and we sincerely hope that you too will consider, that the changes are basic and important and beneficial in extending to all the agencies of the Government the system of classification of positions, the increase of the annuity, the renewal of the offer of economic help for the development of your country, And I say that we hope that you will accept these as important contributions. We have referred these matters to the highest levels of our government. We believe that the Panamanian Delegation can accept the original offer as amended in the manner I have just indicated as a concrete

I do not know whether you have a similar phrase, a package proposal. If you agree to do so, we should proceed now to bring this phase of our talks to a conclusion in order that the Delegation of Panama may submit this offer to consideration by its Government; and in the event that you consider that that is the path which we should follow, well, we could agree upon the declaration to the press and the other formalities which I suppose we should always observe once we have passed that phase in conferences of this type.

John, did you tell me you had some sort of a supplemental paper on Document E?

MR. BRIGGS: In connection with the lands.

MR. HOLLAND: I believe, Sir, that with this I have covered all the points which I had noted down here.

The United States Delegation offers the following comments on the matter raised under paragraph II (a) of Panama's memorandum supplemental to Document "E". This memorandum supplements the memorandum presented to the Panamanian Delegation on April 20, 1954.

1. Paragraph II (a) of Panama's supplemental

memorandum requests the transfer to Panama of:

"(a) The lands and the waters on the coast of Colon which are defined on the attached map."

2. Point A, the beginning of the line on the drawing, is said to be "located on the axis of the Colon Corridor". The Corridor referred to is that defined in the Colon-Corridor Convention signed at Panama on May 24, 1950 (Senate Document, Executive 9, 81st Congress - 2d Session); however, that Convention has not been ratified (although on August 9, 1950, the United States Senate passed a resolution of ratification). The present request is contingent on the ratification of that Convention, and would remain so despite the modifications hereinafter proposed.

3. It is noted that neither the drawing nor the description closes or completes the boundary by defining any proposed line proceeding in a northwesterly direction from point A to the Colon-Canal Zone boundary. It is assumed that the intention was that such line proceed along the axis of the corridor to the boundary. If that is correct, the effect, as is evident from the drawing, would be to place in Colon a substantial area of land on the south shore of Folke River and in the immediate vicinity of (across the corridor from) the Canal Zone residential area of Rainbow City. It seems quite evident, from the statements

of the Panamanian Delegation respecting the need and justification for this change, that the acquisition of such land is not necessary to the achievement of Panama's purposes in making this request. In any event, the transfer of such land would be definitely objectionable. The land if transferred would doubtless be developed to serve as sites for business and other establishments, and, whether so developed or not, would create an undesirable situation so far as concerns public order and police protection. It is considered that Point A should be located at the point of intersection of the Colon Corridor with the line representing latitude $9^{\circ}21'$ N (shown in the margin of the drawing as $21'$), and should proceed along that line to the point of intersection with the line A-B on the drawing, and thence northeasterly along that line. Likewise, the new boundary should necessarily be closed or completed by a line proceeding northwesterly along the Colon Corridor to the Colon-Canal Zone boundary.

4. It is further considered that the line P-Q on the drawing could, and should, be greatly simplified and improved by the substitution of a straight line P'-Q; the point "P'" being the junction of the line E-F, extended, with the western boundary of the Restricted Seadrome Area.

5. Reference is made to the small pier, which, as shown on the drawing, is located in the northwesterly

area of Folks River. This concrete pier was constructed by the United States (Panama Railroad Company) in 1916, in pursuance of an undertaking contained in the second paragraph of Article VII of the 1914 Boundary Convention, which paragraph reads as follows:

"The United States also agrees that small vessels may land at the east wall which extends along the shore to the south of the foot of Ninth Street and recently constructed by the Panama Railroad Company in the harbor of Colon free of any wharfage or landing charges that might otherwise accrue to the said company under the terms of its concessions from the Government of Colombia; and the United States further agrees that it will construct and maintain a landing pier in a small cove on the southerly side of Mansanillo Island in the northwesterly portion of the arm of the sea known as Boca Chica (sometimes called Folks River), to be used as a shelter harbor for small coasting boats of the Republic of Panama, without any wharfage or other landing charges."

The United States (Panama Canal Company) still owns this pier and is under the continuing obligation to maintain the same; except that the site of the pier above mean low water line was included in the conveyance of Colon lands by the Panama Railroad Company to the Republic in 1943. The pier now extends from the Colon shore into Canal Zone waters; however, if the instant request were granted, even with the modification hereinbefore suggested, the entire area involved would be under both Panamanian ownership and Panamanian jurisdiction. For this reason, and for other evident reasons, the pier should be transferred to the Republic.

in the first clause of the subject paragraph, the United States agreed that small vessels might land at the east wall which extends along the shore to the south of the foot of Ninth Street, in the harbor of Colon, free of any Panama Railroad wharfage or landing charges. There is still a wall which extends to the south of the foot of Ninth Street but the water there is so shallow that it is impractical to tie up craft of any kind. This clause may, therefore, be regarded as obsolete.

Upon effecting the transfer of the pier referred to above, pursuant to Congressional authorization, the United States will be prepared to regard the second paragraph of Article VII of the 1914 Boundary Convention as having become obsolete and of no further effect.

6. In its reply to that portion of Document "E" having reference to certain lands situated within the city of Colon, the United States indicated the disposition to retain the Battery Mergan site which is a part of the Canal Zone. The granting of the present request, however, would completely isolate this site from the rest of the Canal Zone and, such being the case, there would be no sufficient reason for retaining this site.

7. Any actual transfer of the areas here under discussion to the jurisdiction of Panama would be contingent upon withdrawal by the United States from the New Cristobal

and Colon Beach areas of Colon, and would be deferred until the completion of that withdrawal.

8. Subject to the modifications and conditions herein expressed, the Executive Branch of the Government of the United States perceives no objection to the granting of this request and is prepared to seek the necessary Congressional authorization to effect the transfer.

MR. HOLLAND (CONF.) (TRANSLATION): Our correspondent John Muccio, has prepared a draft press release, but I warn you that my English is as bad as my Spanish.

(The draft press release was handed to the Panamanian Delegation).

MR. FARRERA (TRANS.): Mr. Secretary, in behalf of the Delegation of Panama, I wish to state that, in the first place, we wish to offer our thanks to you for having delivered this reply which constitutes amendments to positions taken before by the U.S. Delegation. We, in accordance with the instructions which we received from our government, now that these replies have been received, will communicate them to the Panamanian Government. The Government of Panama will make, as we said before, a complete appreciation or study of the whole negotiations and will take into account

the points with regard to which the United States Delegation has assumed a position favorable to Panamanian interests, such as these points, and then we will take into account the points where Panama's proposals were not accepted. The Government will take into account the various considerations involved and will then assume a position which will be communicated to us and which we at the proper time will communicate to the United States Government through your worthy hands. Naturally, it is not possible for us now at this moment to arrive at an opinion because we have just received these replies, and owing to the great importance which we attribute to all of these negotiations, we consider that the problem is of itself so delicate that we cannot even advance comments with regard to this now. You may rest assured that we will carefully study this matter and that our government will examine it very carefully and that we at the proper time will have the pleasure of communicating our Government's reply.

This, Mr. Secretary, as you have said very properly, concludes the first phase of these negotiations, so much so that we consider that this occasion is an important date in our negotiations, and we should like to avail ourselves of this opportunity to reiterate what has already been stated here several times in the course of these negotiations, namely, that the Republic of Panama

is inspired by a sincere, profound, and loyal friendship toward the United States. That sincere friendship and its close bonds which unite Panama to the United States we have demonstrated in the past in a loyal and eloquent manner. And the last two wars were perhaps the most eloquent occasions for demonstrating that. The Republic of Panama feels especially bound to the United States and to the work of the Canal inasmuch as it has within its territory a work which is vital for the defense of the Americas and for the defense of the democratic interests which are threatened throughout the world, and Panama desires that there should always exist between it and the United States a type of relationship as noble and cordial as is possible. And precisely because Panama is inspired by that desire, we have sought a revision, on the 50th anniversary of our Republic's life, of our relations with the United States in order that those relations may be based on the best possible basis of equity and justice and cooperation between the two countries. Precisely owing to our sincere friendship and our very special bonds with the United States, we believe that precisely the best, if not the only way to guarantee that intense friendship and cooperation in order to render more effective the common

.....
only means to give all possible strength to it would be to adjust our relations on an exemplary basis of equity and justice, which would not only produce the best possible harmony between the two countries, but would serve as an example to other countries of Latin America, which will surely take the relations between the United States and Panama as a reflection of what relations between countries of this continent should be, countries which are united by common ideals and a solidarity which we would like to see made stronger each day.

The Republic of Panama will study the important measures which are being taken now always with this goal, namely, to see now and finally that results will be achieved of a fundamental establishment of equity and justice between both countries. We, at a future date, shall present our Government's reply with regard to this matter, but we do wish to state as of now that in the personal field we feel pleasure in seeing the manner in which this body of the Panamanian and U.S. Delegations has been able to discuss its problems within a cordial atmosphere and a gentlemanly atmosphere and a healthy and lofty atmosphere. Regardless of the final results of these negotiations and regardless of the concrete results-- and, naturally, that will be the most important thing-- that is,

the concrete and final results-- we wish to express our appreciation at this very cordial manner and this very gentlemanly manner in which our deliberations have been conducted. We appreciate very much the kind attention of the U.S. Delegation, and to you personally, Mr. Holland, we feel a special appreciation because we see that you have made extraordinary efforts within your preoccupations in order to become familiar with the problem of Panama and the problem of relations between Panama and the United States and to bring to these relations a solution which will seek to make the relations between both countries more harmonious and closer.

We cannot predict now whether the negotiations will conclude in one sense or the other. Any opinion of mine now would be premature. But we do wish to communicate to you our appreciation and the high opinion merited by your interest and your dedication. We hope that that spirit will continue in what remains of our negotiations, and we are certain that it will continue, and thus, Sir, we will go to Panama and we hope that we will be able to bring to you the Panamanian Government's reply to the United States Government as soon as possible.

MR. HOLLAND (TRANS.): Sir, those words, which have not been deserved but are certainly very kind, which you have addressed to me and to my colleagues, I say with regard to

...this text very carefully and communicate with you with re-
...there, which is only natural, and we should like to study
...country. There is considerable anxiety among public opinion
...the Government of France already feels a need to inform the
...a press release is very desirable. It is indispensable that
...MR. KENNEDY (FRANCE.): I think that the ideal

release now?

Do you desire that we should agree upon a press

release?

...conferences in the atmosphere of cordiality which has been
...source of great pleasure to be able to participate in these
...know we have dealt. In reality, for us this has been a
...in the presence of the distinguished men of France with
...an ample and wide extension and of such good will as we see
...that of sending such charming people and statesmen of such
...is not needed, no better guarantee could be invented than
...two countries. If a guarantee were needed, and happily it
...which typifies our relations - the relations between our
...in which these conferences have been held and the cordiality
...and with regard to the cordiality of the atmosphere

...have been a source of real pleasure and of great interest.
...because we have told you at other times, these conferences
...relations which you have expressed. You know full well, be-
...that you have uttered them, and we can adhere to the con-
...whether or not they are deserved, but what interest us is
...them personally and on our behalf thank you, regardless of

concluded.

(Whereupon, at 2:15 p.m., the meeting was

and whether we can agree pretty soon.

MR. FARBER: Well, we will make an effort to

tomorrow because the press will know about the incident.

MR. NACCI: We may be under a little pressure

touch with you, too.

touch with him about the press release and will get in

MR. FARBER: Yes, sir, we will get in

with John Nacchi.

Then at the proper time you will get in touch

with

No shaking will be needed. Possibly perhaps, lobster or

will not forget. It will be a very pleasant interview.

You have an appointment tomorrow at one p.m. I hope you

want to take up before adjourning, we must remind you that

MR. HOLLAND (TRANS.): Is there any other point we

MR. FARBER: Yes.

be issued.

MR. NACCI: And we can agree on a time to see

hard to do we could agree upon it.