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THE PANAMA CANAL TREATIES AND UNITED STATES INTERESTS BEYOND THE YEAR 2000

BY

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United States Navy

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THE PANAMA CANAL TREATIES AND UNITED STATES
INTERESTS BEYOND THE YEAR 2000

An Individual Study Project

by

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U.S. Army War College
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ABSTRACT

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CHAPTER I

INTRODUCTION

"There is no Panama Canal . . . There is an American Canal in Panama."¹ - Unknown, 1977

At twelve noon 31 December 1999, the Panama Canal and associated lands will be turned over in total to the Republic of Panama. The struggle of the Panamanian people to achieve their rightful ownership of lands completely with the boundaries of their country will have taken nearly one hundred years.

Since the first treaty was signed in 1903 giving the United States all "rights, power, and authority . . . in perpetuity"² over the Canal Zone and the rights to build the isthmus waterway, the Panamanian people have felt their sovereignty violated. The original treaty negotiated and signed by Phillippe Bunau-Varilla as a representative of provisional government of Panama was so strongly pro-American as to be an insult to Panama. By the 1950's, the canal and the Hay-Bunau-Varilla treaty had become "a humiliating relic of the colonial era"³ and a "major irritant in U.S. relations

with Latin America."⁴ In 1977, chief Panamanian treaty negotiator Romulo Escobar Bethancourt described the sentiments "Getting control of the Canal Zone and the canal is one of Panama's oldest national desires. To generation after generation of Panamanians, the Canal has symbolized the country's national patrimony - in the hand of foreigners. We developed a kind of national religion over the canal."⁵ Despite the promises of President Theodore Roosevelt not to make the Canal Zone an American colony, it in fact became a de facto colony during the administrations of Wilson, Harding, Coolidge, and Hoover.⁶

Although some of the aspirations of the Panamanian people were realized by treaty revisions in 1936 and 1955, the culmination of the efforts for reclamation of rightful territory began in earnest in January 1964 and were finally realized in September 1977. The attainment of the new treaties had been a painful process often fraught with violence and achieved only after long debate and consternation on both sides. The end results were the Panama Canal Treaty and the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal approved by the United States Senate in March 1978 and April 1978, respectively.

Since the signing of the treaties, Panama has seen dramatic changes in its government and political ideology. The mysterious death of General Omar Torrijos, the floundering of successor governments, and the emergence of General Manuel Antonio Noreiga as dictator have not brought about the pro democracy attitude and stability that the United States has sought for the region. The politicized defense force and volatile instability associated with suspected narcotics smuggling and corruption within the government presented a clear challenge to American strategic and economic interests in the area. Even with the successful conclusion of Operation Just Cause and the removal of Noreiga, the rebuilding of Panama's economic and political structure remain a formidable struggle.

How best to protect American interests in Panama and maintain the canal open for "all the ships of the world" is the unanswered question facing the U.S. in the 1990's. If the new government of Panama under the leadership of President Endara evolves as a democratically aligned pro U.S. ally, then the interests of the United States will be best served by meeting all the conditions of the treaties as ratified. Conversely, if Panama becomes economically or politically

unstable, controlled by corruption or a new dictatorship of the left or right, American interests will be in jeopardy and as the year 2000 approaches, the clamor will become louder to "protect" American interests.

Within the framework of the treaties, there are articles that allow for mutual defense and protection of the canal. However, all U.S. military forces are required to leave Panama before the Panama Canal Treaty expires 31 December 1999. Without a stable government in power, many Americans will view such a withdrawal as forfeiture of the guarantee of protection for the canal and increase vulnerability for vital American interests. The alternative of unilateral abrogation of the treaties by the United States will become a more acceptable "solution" to many Americans. Such a unilateral move will surely result in bloodshed.

Is abrogation the answer? Is it a necessary action in such a scenario? Will the United States again reinforce its imperialistic image in Latin America and not see serious repercussions? Will the "gringo" of the north invade again? Such questions have no simple answers but each presents alternatives that require an understanding of both history and the Panama Canal treaties.

ENDNOTES

1. "Ceding the Canal - Slowly," TIME,
22 August 1977, p. 18.
2. William J. Jorden, Panama Odyssey, p. 24.
3. TIME, p. 8.
4. Ibid.
5. Ibid.
6. Jorden, pp. 24-26.

CHAPTER II

THE PANAMA CANAL - SYNOPTIC OVERVIEW AND HISTORICAL BACKGROUND

The quest to build a canal across the Isthmus of Panama dates back to 1529 and the discoveries of Hernando Cortez. "We have not found as yet a passage from Iberia to Cathay," he wrote to the King of Spain, "but we must cut it. At no matter what cost, we must build a canal at Panama."¹ Although the strategies and economic aspects of such a canal were obvious for centuries, it wasn't until the 1880's that a private French company attempted to dig the canal through the jungles of the Colombian Province of Panama.

The French company was led by Ferdinand de Lesseps who had completed the Suez Canal in 1869. Although American engineers favored a Nicaragua location for the canal, the French believed (incorrectly) that a much shorter canal could be built at sea level across the Isthmus of Panama. The French company eventually went bankrupt due to the enormous obstacles it faced in having to fight malaria and yellow fever (20,000 died) and the magnitude of trying to dig through the mountain passes.

In 1901, the French company's Acting Director - General Phillippe Bunau-Varilla began to lobby for the United States to purchase the French rights to the Panama Canal project. After convincing U.S. politicians that the Nicaraguan plan was impractical due to volcanic activity, he was able to get Senate approval for a Panama project in 1902. President Roosevelt and Secretary of State John Hay began negotiations with Colombia for a treaty to build the canal and give the U.S. rights to enforce regulations in the Canal Zone but giving Colombia sovereignty over the Canal Zone, \$10 million in gold, and \$250,000 annual rent. The U.S. Senate ratified the Hay-Herren treaty however the Colombians rejected it in March 1903 as "economically inadequate and as a threat to Colombian sovereignty over Panama." ²

With U.S. military backing, the province of Panama seceded from Colombia in September 1903 and chose as its first President Dr. Manuel Amador Guerrero. Bunau-Varilla offered to gain U.S. support for the new government and advised Amador to appoint him envoy to Washington to draft the Canal treaty. In seven days, Secretary of State Hay and Bunau-Varilla reached agreement and signed the Hay-Bunau-Varrilla treaty of 1903. Ratified by the Senate in 1904, the treaty was more

favorable to the United States than the preceding Hay-Herran treaty. As the new Republic of Panama desperately needed U.S. military support to survive, the provisional government had little choice but to ratify the treaty under the terms negotiated by Bunau-Varilla.

By virtue of this treaty, the United States "was given exclusive jurisdictional rights in perpetuity"³ over the ten mile wide Canal Zone. In return, Panama received \$10 million flat sum plus an annuity of \$250,000. Bunau-Varilla had severely compromised the interests of the Panamanians and as he stated, "I had safeguarded the work of French genius . . . I had served France."⁴ For his work, the French company received \$40 million.

Panamanians realized "they were victims of a pact negotiated and signed . . . by an American who knew little of their interests and needs, and by a Frenchman who probably cared less."⁵ The practical import of the Hay-Bunau-Varilla Treaty for the Panamanians was the necessity of tolerating foreign control over 550 square miles of Panama's best real

estate, including the nation's prime deep-water port locations and potentially profitable commercial opportunities in the Zone, from which Panamanian citizens were excluded.⁶

The independence of Panama and the birth of the republic were the direct result of U.S. political and military intervention and resulted in a break with Colombia.⁷ Panama owed the United States a substantial debt for their assistance, but the terms of the canal treaty went well beyond fairness. For the next seventy-five years, Panama was never allowed to forget the price of independence as the United States built and governed a colony in the heartland of their country.

With the exception of minor revisions to the treaties in 1936 and 1955, the Hay-Bunau-Varrilla treaty remained unchanged. More than any other single factor, what shaped the Panamanian attitudes in the twentieth century was the central feature of the Hay-Bunau-Varilla agreement: turning over to the control of the United States that which Panamanians always regarded as their principal natural asset, their unique

geographic position.⁸ That control and the fact that it was forever, was a bone in the throat of the Panamanians ever after.³

The process to renegotiate a new and more favorable treaty for Panama began on a wave of nationalism in January 1964. In the fall of 1963, the governor of the Canal Zone compiled a list of sites within the Canal Zone where the two countries ensigns would be flown together. An American living in the zone filed suit to prevent the Panamanian flag from being flown over American soil. The reaction in Panama was strongly negative and the National Assembly passed a resolution declaring that flying the Panamanian flag in the Canal Zone was "an inalienable right of the Republic of Panama."¹⁰ Negotiations ensued but no Panamanian flags were raised while the suit was pending. The case was eventually dismissed and the Governor ordered both flags flown together as previously stipulated.

Nevertheless, the issue came to a head on January 9, 1964 at Balboa High School, an American high school in the Canal Zone. While new flagpoles were being procured and installed to fly the Panamanian flag alongside, the U.S. ensign was not allowed to be flown alone at the high school.

Students at the high school, in defiance of the governor's orders, raised the American flag in symbolic patriotic outrage. As tensions mounted and crowds grew, riots broke out in Panama City and later in Colon. The flag incident sparked a wave of nationalistic fervor in the hearts of Panamanian university students. The Panamanian police and National Guard were slow to react and the violence intensified into the night. President Chiari, in the midst of an election campaign, gave tacit blessing to these "anti-Yankeeism"¹¹ riots and events moved toward disaster. As the rioting and looting grew in intensity, the National Guard and troops of SOUTHCOM came under fire from snipers and rioters throwing molotov cocktails. When order was finally restored, twenty-one Panamanians and four Americans lay dead. The Panamanian dead became heroes to their countrymen and January 9th is remembered as the "Day of Martyrs."

The end result was the beginning of a new era in U.S.-Panama relations. President Chiari exacted a promise from President Johnson to "review all issues between the two countries (including those related to the Panama Canal) and . . . seek a fair and just resolution to those issues."¹²

Thus began the thirteen year road of negotiations, debate, and confrontation that led to the 1977 Panama Canal Treaty and The Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (Neutrality Treaty). Panama's government never let the importance of the need for a new treaty wane in the minds of their people or their negotiators. The people's champion, General Omar Torrijos, came to power in a bloodless coup in August 1968, and for ten years pushed the negotiations by threats, political maneuvering, and seeking Latin American support for his quest to throw out the Yankee imperialists. In the United States, the negotiations transversed the administrations of three presidents (Johnson, Nixon, Ford) before finally being concluded by Jimmy Carter.

The final treaties were signed in September 1977 by Jimmy Carter and Omar Torrijos in Panama City, Panama and in the presence of the heads of other Central American countries. The Panamanian people approved both treaties by an overwhelming vote in a national plebescite. The United States Senate gave final approval and ratification in March and April 1978. A new era in Panamanian-U.S. relations had begun.

ENDNOTES

1. William J. Jorden, Panama Odyssey, p. 23.
2. Michael J. Hogan, The Panama Canal in American Politics, p. 34.
3. George D. Moffett III, The Limits of Victory, p. 22.
4. David McCullough, Path Between the Seas, p. 387.
5. William D. McCain, The United States and the Republic of Panama, p. 225.
6. Moffett, p. 23.
7. Jorden, p. 27.
8. Ibid, p. 23.
9. Ibid, p. 24.
10. Ibid, p. 34.
11. Ibid, p. 44.
12. Ibid, p. 86.

CHAPTER III

THE NEW CANAL TREATY NEGOTIATIONS

1964 - 1977

On the afternoon of December 18, 1964, President Johnson made an announcement to the White House press corps in which he stated:

"This government . . . has completed an intensive review of policy toward the present and future of the Panama Canal. On the basis of this review . . . I have decided to propose to the Government of Panama the negotiation of an entirely new treaty on the existing Panama Canal."¹

Such news was received with jubilation and excitement in Panama and viewed as the long sought victory after more than 60 years of colonialism. Many in Panama did not realize that it was merely the beginning of a long, arduous process.

The early years of negotiations can be described as a period of posturing by both sides. The Panamanians were anxious and often frustrated by their view of the callous Americans unwilling to easily give back what was rightfully Panamanian.

The Americans, ever mindful of the political ramifications of the Canal issue, were staunchly protective of perceived vital American rights and interests. Very little common ground was found as each country allowed the issue to take a back seat to internal affairs - Vietnam for the Johnson administration and political survival for President Robles in Panama.

In 1967, an early agreement was reached between the two governments after two years of intense negotiations over many issues. The agreement did what President Johnson had directed:

1. The 1903 treaty will be abrogated.
2. The new treaty will effectively recognize Panama's sovereignty over the area of the present Canal Zone.
3. The new treaty will terminate after a specified number of years"²

While Panama's National Council on Foreign Relations and President Robles were reviewing the treaties in Panama City, President Johnson began soliciting Congressional support in Congress. Unfortunately, before the key members of Congress

could be brought on board, the Chicago Tribune published the entire text of leaked copies of the proposed treaties. In addition to the publicly announced terms of agreement listed above, the text of the treaties revealed several other key provisions: joint administration of the canal, disestablishment of the Canal Zone, increased revenues for Panama by an increase in shipping tolls, end of perpetuity - the canal became Panama's at the end of 1999. In all, there were 41 articles dealing with issues from neutrality to the digging of a new sea level canal.

While opposition mounted in Washington, opponents in Panama were stirring strong opposition to a treaty "that gave Panama too little" in the words of Presidential candidate Arnulfo Arias. As the Panamanian opposition mounted, Robles realized he had little chance of gaining approval in the National Assembly before the next elections were held. He decided not to submit them for debate and abandoned them to the next president. In Washington, hope for approval ended after Johnson announced he would not seek reelection. As he was the only political figure in Washington with the power to push the treaties through the Senate, the treaties were abandoned and soon forgotten.

The elections in Panama gave the presidency for the third time to Arnulfo Arias and he was sworn in on October 1, 1968. He lasted only eleven days. In a bloodless coup, Omar Herrera Torrijos took power and placed his own president at the head of the government. Torrijos would rule Panama for the next thirteen years and would ensure that Panama achieved new canal treaties.

Torrijos immediately rejected the 1967 Robles treaties and informed the United States they were so unacceptable that they could not even be a starting point for new talks.³ Over the next several years the U.S.-Panamanian treaty talks were a diplomatic roller coaster. Each time the Panamanians saw a glimmer of hope, a new obstacle appeared. Issues thought previously resolved would again become areas of disagreement and consternation. Resolution of the issue of perpetuity became the major obstacle again in 1971 when U.S. Special Ambassador Anderson wrote to Torrijos' negotiators, "The new treaty relationship should be without a fixed termination date but subject to periodic review and change by mutual agreement."⁴ With that statement, the work of the previous seven years and the aspirations of the Panamanian government fell to a new low.

Torrijos took a new tack. He decided to bring his cause to the United Nations and the Organization of American States in order to apply greater political pressure against the United States. First, he pleaded his case to the other countries of Central America to gain solidarity for his cause within the region. Next, he extended an invitation to have the United Nations Security Council meet in Panama and successfully got a resolution concerning canal issues on the agenda. Torrijos made an impassioned speech before the Security Council in which he claimed the United States had created "a colony in the heart of my country. Panama . . . will never be another star on the flag of the United States."⁵ A resolution was presented by Panama and Peru stating Panama's grievances and listed all the points Panama wanted included in a new treaty. No mention was made of any U.S. rights or responsibilities in the Canal. After heated debate, the resolution was put to a vote with thirteen countries voting yes. For only the third time in history the United States exercised its right of veto. Torrijos had successfully embarrassed the United States on the world stage.

The result was renewed interest in the Nixon administration and by Secretary of State Henry Kissinger to

"take a fresh look at this problem and to develop a new relationship between us - one that will guarantee continued effective operation of the canal while meeting Panama's legitimate aspirations."⁶ Nixon appointed Ellsworth Bunker Special Ambassador to stimulate negotiations and make the progress necessary to put the Panama issue to rest.

Bunker (later joined by Sol Linowitz in 1976) reopened the negotiations and quickly got the Panamanians to state their position clearly and concisely. After extensive negotiations, treaty principles were approved by both governments and became the foundation of the documents written over the next three years. Known as the Kissinger-Tack agreements, these principles stated:⁷

1. The treaty of 1903 would be abrogated by a new inter-oceanic canal treaty.
2. Perpetuity would be eliminated. The new treaty would have a fixed termination date.
3. Termination of U.S. jurisdiction over Panamanian territory will terminate in accordance with terms specified in the treaty.
4. The Canal Zone would be returned to Panama.

5. Panama would receive a just and equitable share of the benefits derived from the operation of the canal.
6. Panama would participate in the administration of the canal.
7. U.S. and Panama would share the mutual defense of the canal.
8. Projects to enlarge the capacity of the canal would be a bilateral effort.

The new few years were spent negotiating each of these principles into terms with which each country could agree. Agreeing on a fixed termination date was a major obstacle and required compromise by both sides. The United States originally wanted a 50 year treaty and Panama was initially willing to only allow the treaty to extend until 1990. Other principles that were major sticking points were the makeup of the Panama Canal Commission and methods of approving appointees, the definition of the rights accorded the United States in the phrase "mutual defense of the canal," and the prospects of the United States pursuing a new sea level canal and eventually putting the Panama Canal out of business. Each of these points and many others required intensive negotiations and compromise before definitions and terminology could be reached that was agreeable to both governments.

By the summer of 1977, the final details were being worked out. President Carter was pushing hard as was Omar Torrijos. All parties saw the process nearing fruition. On August 10, 1977 both countries announced that an agreement in principle on the Panama Canal treaties had been reached. President Carter and Omar Torrijos signed the treaties on September 7th in Panama City. The struggle of thirteen years had come to an end, but a new battle for ratification in the U.S. Senate was still to be fought.

ENDNOTES

1. William J. Jordan, Panama Odyssey, p. 102.
2. Ibid, p. 111.
3. Ibid, p. 149.
4. Ibid, p. 154.
5. Ibid, p. 191.
6. Ibid, p. 184.
7. Ibid, p. 696.

CHAPTER IV

THE TREATY CONCERNING THE PERMANENT NEUTRALITY AND OPERATION OF THE PANAMA CANAL AND THE PANAMA CANAL TREATY - ISSUES AND DEBATE

The signing of the treaties in September 1977 by the heads of both governments was only the first step in the process to turn the treaties into a binding agreement. In Panama, Torrijos was required to submit the treaties to the people for approval by a national plebescite. His efforts were challenged by both the left and right in Panama, but in the end he gained an overwhelming victory. The battle in the United States to gain the necessary two thirds vote of the U.S. Senate was to be much more difficult and determine the political futures of many of the key players. Jimmy Carter was later to state that his efforts on behalf of these treaties may have cost him and his party the 1980 election.

The battle in the Senate actually began in 1974 with Strom Thurmond's resolution aligning 34 senators against any treaty with Panama. The Senate resolution was in direct response to the Kissinger-Tack agreements and urged the government of the United States to "maintain and protect its

sovereign rights and jurisdiction over the Canal and Zone and should in no way cede, dilute, forfeit, negotiate or transfer any of these sovereign rights."¹ A year later, the Thurmond resolution was reintroduced and attracted thirty-even sponsors, three more than necessary to defeat any treaty.² In May 1975, the House of Representatives overwhelmingly (246-164) passed an amendment to the appropriations bill "prohibiting funding for negotiations that would lead to the relinquishment of U.S. rights in the Zone."³ The Ford administration had chosen not to counter the threat of the Thurmond resolution and the Carter administration alienated many in both houses of Congress by not first gaining political support before pursuing his policy in Panama.

Opposition to the treaties mounted during the 1976 Presidential elections. In New Hampshire and later in Tampa, Florida, Ronald Reagan made the treaty a national issue with his words "When it comes to the Canal, we built it, we paid for it, it's ours and we should tell Torrijos and company that we're going to keep it."⁴ Reagan defined the issue in terms that would divide both sides all the way through the ratification process. Reagan made the canal "the symbol and

substance of America's preeminent place in world affairs."⁵

Torrijos and Carter signed the treaties September 7, 1977 and within ten days Carter sent them to the Senate for advice and consent. Public opinion quickly polarized and the first polls showed Americans opposed by lopsided margins to any agreements that gave up American sovereignty over the canal. The White House quickly arrived at a strategy to gain ratification. First, they would mount a full court press to shape public opinion for the treaties and secondly, by reversing public opinion and flooding Senators with information favorable to ratification, they could neutralize opposition and align the needed votes. Treaty opponents adopted a strategy of mass-based opposition that drew on the extensive use of direct mail.⁶ The administration countered with a courtship of elitist groups around the country. Breakfast briefings at the White House with the President himself attending brought many of the nation's corporate, foreign policy, and institutional leaders including the CEO's of over twenty major corporations, former government officials, labor leaders, black leaders, educators, and prominent retired military officers over to the pro-treaty side of the debates.⁷

The first treaty brought to the Senate floor for debate was the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (Neutrality Treaty). As Torrijos summarized "the neutrality treaty . . . places us under the protective umbrella of the Pentagon."⁸

Synoptically the treaty provided for:

1. The Panama Canal to be permanently neutral.
2. The right of peaceful transit by vessels of all nations without discrimination.
3. Rules for security, efficiency, and proper maintenance of the Canal.
4. U.S. and Panama would guarantee the permanent neutrality.
5. After termination of the Panama Canal Treaty, only Panama would maintain military forces, defense sites and military installations within its national territory.
6. Expeditious transit of United States vessels of war.
7. The Organization of American States to act as a depositary of the treaties.⁹

The two most strongly debated issues in the Senate were Article IV in which the parties agreed "to maintain the regime of neutrality established in this defense treaty" and Article VI which guaranteed the right of expeditious transit for American warships in time of emergency.¹⁰ The opposition in the Senate saw the key issue in Article IV as how far would the U.S. go to maintain the "regime of neutrality" after the treaty had expired in 2000 and U.S. forces had been pulled out of Panama. The administration avoided the use of the words "intervene" or "intervention" because of the strong negative connotations to the Panamanians, but eventually conceded to Congressional members that the right of intervention "was understood." Panamanian reaction to this interpretation was predictably strong. One Panamanian official remarked "there are some things no Panamanian government could accept"¹¹ and the right of intervention was never agreed to in any of the negotiations. As the debates continued it became clearer that differences in the meaning and interpretations would have to be resolved before the treaties had any real chance of ratification.

The solution was presented by two "leadership" amendments eventually added to the treaties in February 1978. Based on agreements reached by a delegation from the Senate Foreign

Relations Committee and the White House, the Senate sought to clarify the misunderstandings by amendment and remove non-legally binding understandings from the process.

In an effort to defuse the situation, Carter and Torrijos reached an understanding in principle that defined the U.S. rights as the right to ". . . defend the Canal against any threat to the regime of neutrality . . . This does not mean, nor shall it be interpreted as, a right of intervention of the United States in the internal affairs of Panama."¹² The agreement pacified many of the Senators in opposition, but some viewed it as an inadequate guarantee of U.S. rights because it was not part of the treaty and had doubtful validity in international law. As a compromise, the Senate leadership proposed amendments to the treaty which paraphrased the Carter-Torrijos understanding. The amendments were viewed as strengthening the neutrality treaty and won over many of the opposition. By a vote of 81 to 5 they were formally incorporated into the Neutrality Treaty.

By the end of February 1977, it appeared there was sufficient moderate support in the Senate to ratify the Neutrality Treaty. Public opinion was shifting toward acceptance of the treaties and fewer Senators felt politically threatened by a vote for ratification. For eight weeks the

administration survived repeated attempts to defeat the treaty by the addition of "killer amendments."¹³ The death blow nearly came from Senator Dennis DeConcini of Arizona.

DeConcini again raised the issue of U.S. intervention rights in Panama which had supposedly already been resolved by the leadership amendments. DeConcini sought to strengthen intervention rights and introduced a proposal that would ". . . establish the American right . . . to take military action if the case so warrants . . . it further makes it clear that the United States can take military action on Panamanian soil without the consent of the Panamanian Government."¹⁴ Only two Senators spoke against the DeConcini proposal - Metzenbaum of Ohio and Edward Kennedy of Massachusetts. Both voiced the opinion the proposal went too far and in Kennedy's words "it stirs up what is already an emotional issue in Panama, without adding to rights of the United States already recognized by the treaty."¹⁵ Without additional opposition the proposal passed 75 to 23.

That same afternoon, and with DeConcini's proposal passed, the Neutrality Treaty came to a vote. Earlier administration concessions to DeConcini and his proposal had paid for his vote and a few others that sided strongly with him. These political concessions proved to be the margin of victory as the Neutrality Treaty passed the Senate by a vote of 68 to 32 - one vote more than the required two thirds.

Not many in the Carter administration saw reason to rejoice in the victory. The effects of the DeConcini proposal and the reaction in Panama had to be neutralized. Carter immediately made a public statement specifically aimed at reassuring the people of Panama. "While the right of the United States and Panama to act against any threat to the regime of neutrality is assured by this treaty," he stated, "it does not mean that there is a right of intervention, nor do we want a right of intervention, by the United States in the internal affairs of Panama."¹⁶

In Panama, the DeConcini amendment was seen as giving the United States authorization to continue the interventionist attitude of the past. Despite President Carter's statement, Panamanians felt the proposal gave an

explicit understanding of U.S. rights of intervention to "protect law and order" or to "ensure honest elections."¹⁷ Torrijos was inflamed that Carter had agreed to DeConcini's proposal without consultation with him. In the end, cooler heads prevailed in both governments and a strategy was formulated to negate the DeConcini proposal in the second treaty debate.

Even before the final vote was cast for ratification of the Neutrality Treaty, the opposition was launching a new offensive to defeat the second treaty. Led by Governor Reagan who promised "the fight has just begun,"¹⁸ treaty opponents began formulating new amendments to kill the Panama Canal Treaty. Additionally, the opposition released copies of a letter sent by Torrijos to the Secretary General of the United Nations denouncing the DeConcini amendment. The opposition showed the letter as a Panamanian rejection of the Neutrality Treaty as ratified. A furor arose in the Senate over such a "rejection" and many were threatening to call off the debate on the Panama Canal treaty in view of Panama's rejection. Panama issued a statement denying it had rejected the Neutrality Treaty and stating it would withhold approval or rejection until both treaties had been ratified. The administration realized that immediate action was required by

the Senate to neutralize the DeConcini doctrine of intervention or risk losing the treaties completely. In defusing DeConcini's amendment, the administration also had to be diplomatic so as not to lose his vote on the second treaty. The fate of the Panama Canal Treaty would be determined by the skill of Senate leaders in attenuating the DeConcini condition without alienating votes.¹⁹

Realizing the DeConcini doctrine could not be expunged from the Neutrality Treaty, the strategy of the administration was to add a Senate reservation to the Panama Canal Treaty that negated the meaning and intention of the DeConcini reservation. After much political maneuvering, the State Department and leadership of the Senate agreed upon wording for a leadership reservation that neutralized DeConcini and was satisfactory for all parties.

" . . . any action taken by the United States of America . . . shall be only for the purpose of assuring that the Canal shall remain open, neutral, secure, and accessible, and shall not have as its purpose or be interpreted as a right of intervention in the internal affairs of the Republic of Panama or interference with its political independence of sovereign integrity."²⁰

With all parties satisfied the major hurdle for ratification of the Panama Canal Treaty had been overcome. Proponents and opponents all realized that unless the treaty was acceptable to Panama there would be no treaties. Passing the treaties and then having Panama turn them down equated to the United States forcing its pre-conditions on Panama and would adversely impact world opinion and especially American stature in Latin America. The second leadership amendment was voted and passed 73 to 27.

At 6:00 p.m. April 18, 1978 the Senate voted on ratification of the Panama Canal Treaty. The vote was 68 for to 32 against - identical to the vote a month before on the Neutrality Treaty. The Panama Canal treaties were now law and the Carter administration had achieved its first major foreign policy victory.

ENDNOTES

1. George D. Moffett III, The Limits of Victory, p. 42.
2. Ibid.
3. Ibid.
4. Ibid., p. 45.
5. Ibid., p. 46.
6. Ibid., p. 87.
7. Ibid., p. 84.
8. William J. Jorden, Panama Odyssey, p. 470.
9. Ibid., p. 701-704.
10. Moffett, p. 88.
11. Ibid., p. 89.
12. Ibid., p. 90.
13. Ibid., p. 96.
14. Jorden, p. 549.
15. Ibid., p. 551.
16. Ibid., p. 555.
17. Ibid., p. 558.
18. Ibid., p. 559.
19. Ibid., p. 582.
20. Ibid., p. 604.

CHAPTER V

THE ECONOMIC, STRATEGIC, AND MILITARY VALUE OF THE PANAMA CANAL IN THE 1990'S

As the United States enters the 1990's, does the Panama Canal remain a vital interest? Is the Panama Canal of sufficient economic, strategic, and military value to necessitate a re-evaluation and renegotiation of any or all of the articles of the Neutrality Treaty or the Panama Canal Treaty?

The trends of the 1980's indicate a significant decline has occurred in the economic value of the canal. For the last two decades, less than one percent of the total gross national product (GNP) of the United States moved through the canal and only ten percent of the total U.S. seaborne foreign trade.¹ The size of the canal prohibits use by the modern super tankers that carry the most vital American import - Southwest Asian oil. Today, canal traffic is mostly smaller bulk carriers of U.S. exported raw materials and imported finished products from Far Eastern industrialized nations such as Japan, Korea, New Zealand, Australia and Taiwan. The canal represents a much larger economic value to these countries as they save significant transportation costs to reach the East

Coast markets of the United States. Closure of the canal for any extended period of time would in all probability result in a moderate increase in U.S. consumer prices on some imported products but overall the effect would be so minimal as to be negligible after 3-5 years. The country most affected by the closure of the canal is Panama. In 1989, the canal brought in over \$300 million to the local economy and employed nearly 7000 Panamanians.² Closing the canal would cause a short term "panic in [the] world sea trade . . . but . . . within six months most cargo would find alternative routes or alternative markets."³

Strategically, the canal and the Canal Zone are important base of operations for the projection of American influence in the area. The presence of U.S. military forces serve to stabilize the Central American area and provide a point of debarkation for American operations in South America. The Isthmus of Panama literally bridges the Americas and offers the United States access to both the Pacific and Atlantic oceans. As a crossroads for illegal narcotics traffic moving from South America to the United States and Canada, Panama occupies a key geographic position in the war on drugs. The bases in Panama represent the most southern American military

installations in the Western hemisphere - any military actions that would be necessary in South America would heavily rely on the Panama link for sustainment and logistic support.

Is a U.S. military presence necessary to defend the canal? As recently as 1971, General William Westmoreland, Army Chief of Staff, had convinced the Joint Chiefs of Staff that they could protect the canal without the extensive military superstructure of the Southern command.⁴ The treaties as ratified require all U.S. military to be out of Panama when the treaty expires. That the United States and Panama jointly could ensure the mutual defense of the Canal has never been in question, but such a scenario was predicated on defending the canal from outside influences with the support and aid of Panama. Does the argument hold true if the threat to the canal comes from within? Could the United States guarantee the neutrality and defense of the canal if the leadership of Panama beyond the year 2000 is a dictator the likes of Manuel Noriega? Could the United States or more significantly would the United States have launched a military intervention such as "Just Cause" in December 1989, if American soldiers and support elements were not already in position in country?

These arguments contain within them two issues. The first is the military value of the canal and the second is the military and strategic value of American troops in Panama and whose departure is specified by the Treaty of Neutrality.

The canal itself is of relatively little military value. Unlike during World War II, the United States no longer relies as heavily on the canal for commerce in support of the military, industrial and logistical process. In the event of all out global war, significant resupply could travel through the canal but would in all probability be offloaded on the West Coast for transcontinental air, rail, or truck transport which is 5-7 days faster than through the canal.⁵ The U.S. Navy has little concern over the use of the canal as its ships and fleets provide a true two ocean Navy and its modern aircraft carriers are too large to transit the canal. According to the Panama Canal Commission's chief economist, "the canal is very important, very useful to the United States, but critical or essential? Not by any stretch of the imagination."⁶ For example, "at the height of the Vietnam War, U.S. military ships included the canal in more than 1,000 voyages annually, but canal use has dwindled to the point where, in 1988, only 25 U.S. Navy ships transited the

waterway."⁷ The vulnerability of the canal to guerilla and terrorist actions would negate the use of the canal for submarine transit during wartime. The canal would thus serve as a "strategic choke point"⁸ - one which the Navy would defend to support commercial interests but would not rely on for fleet movements.

Thus, the military value derived from Panama and the canal is in effect that of the stationing of American troops in the most strategically valuable geographic position in the western hemisphere. These bases provide a strong stabilizing influence in the area and strengthen the role of the United States in Latin American affairs.

ENDNOTES

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3. Ibid.
4. William J. Jorden, Panama Odyssey, p. 152.
5. U.S. News and World Report, p. 32.
6. Ibid.
7. Ibid.
8. Robert Pear, "Noriega Might Stay, But The Canal Will Go On." New York Times, 22 October 1989, p. IV-2.

CHAPTER VI

SHOULD THE UNITED STATES ABROGATE THE PANAMA CANAL TREATIES? - LOOKING BEYOND 2000

With the success of Operation Just Cause in December 1989, the United States intervention in the affairs of Panama resulted in the removal of the dictator General Manuel Noreiga and restored a democratically elected pro U.S. government headed by President Guillermo Endara.¹ The ousting of suspected drug dealer and gun runner Noreiga and the swearing in of the Endara administration have significantly reduced U.S.-Panamanian tensions and renewed the resolve to honor the articles of the Panama Canal treaties. The Endara government provides the United States with an ideologically acceptable condition for proceeding with the final phases of termination of U.S. ownership in the canal and Canal Zone.

Recently, the Endara government has made overtures of revamping their military in replication of the force structure of Costa Rica. Endara proposes to change the Panamanian constitution and disband the Panamanian Defense Force (PDF) in favor of a national police force. Opponents of the Panama

Canal treaty are quick to point out that such a move casts severe doubt on Panama's ability to live up to its treaty responsibility to equally provide with the United States for the "mutual defense of the Canal." While such a police force in the 1990's is practical and acceptable while the United States has troops stationed in Panama, what becomes the means of defense after the pullout of all U.S. troops in 1999? Can Panama realistically defend the canal and guarantee its neutrality without direct U.S. troop presence and involvement past the year 2000?

Should the United States abrogate the treaties to protect the canal and vital U.S. interests? Critics and treaty opponents make several points on the issue. First, the Panamanian government has historically been unstable with coups, countercoups, and dictatorships. Since Torrijos rose to power in 1968 and up to the U.S. intervention in 1989, past presidents of Panama have been figure heads and puppets of the military establishment. Such despotism and dictatorships offer little stability for Panama and represent a threat to the maintenance and operation of the Canal.

Secondly, the Treaty of Neutrality specifies all U.S. troops will be out of Panama when the Panama Canal Treaty expires at twelve noon 1999. Opponents charge that the removal of American forces from Panama and the return of the Canal to Panamanian ownership and control are in fact two vastly different issues. The presence of American troops in Panama supports the strategies and military interests of the United States in the Latin American region (see Chapter V). The U.S. military presence is a strong stabilizing influence in the area and in Panama. Removal of the presence of U.S. troops needs to be separate from the continuing progress towards turning over the canal. While understanding the nationalistic movement of the 1970's to oust the Yankee imperialists, the situation is vastly different in 1990. Operation Just Cause was a doubtful "legal" intervention in the affairs of Panama, but it did restore democracy and a strongly pro-U.S. government albeit heavily dependent on U.S. military and economic support. The presence of American troops is vital to Panama to maintain civil order and restore stability. Additionally, U.S. presence at pre-invasion levels gives confidence to the fledgling Endara government while it strives to consolidate and build a power base.²

Lastly, treaty opponents point to the perceived inability of Panama to defend and guarantee the neutrality of the canal. Beyond the year 2000 and without U.S. troops based in Panama, an intervention operation by the U.S. to retake or defend the canal would in effect be an invasion. An external enemy threatening the canal and the sovereignty of Panama would make such an invasion palatable to the Panamanian people, but a perceived threat on the part of the U.S. from within Panama would be strongly opposed by Panama and all of Latin America. The size of such a military operation into Panama and the expected high casualty rate would probably make such an invasion prohibitively expensive - economically, politically, and militarily. The political impact to American stature in Latin America would also make an invasion unacceptable.³

Treaty proponents make several points also. The canal is steadily declining in economic importance to the United States and most major industrial countries in the world (see Chapter V). The United States gives up little if the Panamanian government proves it cannot effectively and efficiently manage and operate the canal. Additionally, those favoring the treaties point out that Panama is again a democracy and strongly pro-U.S. relying on the United States

for economic recovery.⁴ Thirdly, the United States does not rely on the strength of the Panamanian armed forces to defend the canal since the United States' overwhelming military strength is unchallenged in the Western Hemisphere.

Each argument for and against the treaties has merit. From both sides of the issue, the key to the Panama situation appears to be a long term and stable, democratically elected, pro-U.S. government capable of managing and defending its own affairs. With such a government in place, the regional interests of the United States can be met successfully and the treaties' implementation should continue as scheduled.

A compromise position for both opponents and proponents appears to be a realistic alternative in the 1990's and beyond the year 2000. President Bush has recently asked the Congress for an economic aid package for Panama totalling over one billion dollars.⁵ President Endara has publicly shown his gratitude but stated the amount is only one half of what is needed to return Panama to solid financial and economic recovery. The United States should take advantage of this dependence by Panama to pursue secret negotiations aimed at securing base rights for U.S. troops beyond the year 2000.

Specifically, the goal should be to modify or amend Article V of the Treaty of Neutrality to allow U.S. forces to remain in Panama in accordance with conditions negotiated in a renewable five year base rights leasing program. Such an agreement would be similar to Status Forces Agreements the United States has worldwide and subject to the approval and terms of the sovereign nation.

The benefits for the United States under such an agreement are obvious. The U.S. would maintain its presence and influence in the area, would be in a strong position to guarantee the neutrality and defend the canal, and would retain key military installations in the southern half of the hemisphere. Reciprocally, Panama would continue to receive direct U.S. economic aid and lease payments. Indirectly, American troops would spend millions of dollars annually in the Panamanian economy.⁶ The economic impact of a U.S. military withdrawal would be devastating and "would mean an \$200 million annual reduction in the gross national product"⁷ of Panama. Additionally, over 5,500 Panamanians work for the U.S. Armed Forces with an annual payroll of \$81 million. A loss of these jobs would severely impact an already high unemployment rate. Simultaneously, Panama could continue its

efforts to dissolve the PDF and install a police force since an American presence would provide defense in depth.

Does the United States have a legitimate requirement to maintain bases in Panama beyond the year 2000? Beyond maintaining a "presence" to forward project influence, the U.S. may require Panama's key geographic location to effectively interdict and deter the flow of cocaine from the Andean countries of South America. With a forward positioned drug command control center in Panama, the agencies of the United States drug war could effectively manage a grass roots human intelligence (HUMINT) network and support ground and air operations at reduced logistical cost. Having the drug war infrastructure literally in the backyard of the drug cartels reduces operational costs and brings much needed support (AWACS, ships, men) to the theatre for the quick availability of those countries requesting U.S. aid to fight the drug war. If by the year 2000 the drug war has ended, the single significant and compelling need for U.S. forces to remain would no longer exist. Should this compelling interest disappear, other interests involving regional stability and/or training of U.S. forces may make useful some force retention beyond the year 2000.

One cannot ignore the nationalistic feelings of the Panamanian people when negotiating such a change to the treaties. While the fervor was high in the 1970's, the expulsion of Noriega and the return to normalcy have generated a strongly pro-U.S. sentiment in Panama. A CBS news poll taken in December 1989, ten days after the U.S. intervention began, reported greater than 90 percent of the Panamanian people welcomed U.S. involvement and "72 percent want an American presence even after the canal goes to Panama in the year 2000."⁸

The United States must move now to maximize this opportunity in the history of Panama-U.S. relations and secure a new bases agreement immediately. Panama needs the United States as much as the United States needs Panama. The prospects for success may never be greater.

ENDNOTES

1. "Noriega Surrenders," NEWSWEEK, 15 January 1990, pp 14-21.
2. Sol M. Linowitz "Post-Panama Realities" WASHINGTON POST, 18 January 1990, p. A23.
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5. Robert Pear, "\$1 Billion in Aid for Panamanians," NEW YORK TIMES, 26 JANUARY 1990, P. 1.
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