

PANAMA'S GRIEVANCES CONCERNING THE PANAMA CANAL LEADING UP TO  
THE PANAMA CANAL TREATIES OF 1977

A Senior Thesis  
Submitted to the Faculty  
of Saint Meinrad College of Liberal Arts  
in Partial Fulfillment of the Requirements  
for the Degree of Bachelor of Arts

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May 1, 1985

## INTRODUCTION

The Panama Canal is a fifty-one mile-long waterway that connects the Atlantic and Pacific Oceans, within a country whose citizens think of it as "the Bridge of the World."<sup>1</sup> Situated in an area of the Republic of Panama called the Canal Zone, the Zone extends five miles on either side and covers approximately 648 square miles. Up until 1977, the Canal was wholly owned and operated by the United States of America under a seventy-five year-old treaty with the Republic of Panama. This treaty (the Hay/Bunau-Varilla Treaty), negotiated and signed by an American and a Frenchman on November 18, 1903, helped to insure Panama's independence from Columbia, which had dominated Panama since the advent of the conquistadors during the 1500s. Before 1903, Panama had been a hotbed of revolution, and there had been at least fifty rebellions against Columbian rule between 1840 and 1903. The United States recognized the newly formed Panamanian government on November 6, 1903, just three days after a revolutionary junta proclaimed independence from Columbia. The junta appointed the former chief engineer of the French Panama Canal Company, Philippe Bunau-Varilla, as its Envoy Extraordinary and Minister Plenipotentiary of the Republic of Panama to the United States of America. He received the following instructions from the Panamanian junta concerning the treaty negotiations: Panama's sovereignty was not to be changed in any way by the treaty; the United States would

guarantee Panama's independence and protect her from Columbia; and no treaty was to be drafted for the proposed canal until two members of the junta had arrived in Washington. Bunau-Varilla then disregarded the instructions he received from Panama concerning a canal treaty with the United States, and proceeded to rewrite a treaty draft that would easily be approved in the United States Senate. When the junta members arrived in Washington, Bunau-Varilla presented them with a fait accompli and gave them the signed copy of the 1903 convention. Panama protested against Bunau-Varilla's giving of broad powers to the U.S., but to no avail. The United States could have easily taken over the land involved without paying for it, and not guaranteed the infant republic's independence. Or, the United States could have built the canal in Nicaragua, allowing Columbia to invade and reannex Panama by force. Clearly then, Panama had no choice in the matter but to accept the Treaty as it stood.<sup>2</sup> It has been said by the Latin American Bureau that ". . . Panama obtained the most dependent independence in Latin American history . . ." <sup>3</sup> Since 1903 then, the relationship between Panama and the United States has been, at times, both tenuous and strong.

There are two sides in the debate over the 1977 Panama Canal Treaties. One side supports the decision to return control of the Canal to the Panamanian government, the other side opposes the return, arguing that sovereignty resides with the United States and not with the Republic of Panama. Those

against believe that the Panama Canal was bought and paid for ". . . in fee simple," as held by Senator Strom Thurmond (R-S. Carolina)<sup>4</sup>. Another member of the anti-treaty group, the then (1976) presidential candidate Ronald Reagan, stated that the Panama Canal had been bought legally and was a part of the United States; just like Alaska (obtained from Russia), the area of the Southwest (obtained from the Gadsen Purchase), and as the states which had been created from the Louisiana Purchase had been in their respective times.<sup>5</sup>

On September 7, 1977, in Washington, D.C., President Jimmy Carter of the United States and General Omar Torrijos Herrera, Panamanian Head of Government, signed two treaties that dealt with the Panama Canal. These treaties changed the status of the Panama Canal and the Canal Zone, a change that Panama had been clamoring and rioting for since the signing of the 1903 Isthmian Canal Convention. This change, and these new treaties, have been the cause of many arguments, which will be examined in this paper.

The 1903 convention had been in effect for nearly seventy-five years before it was replaced by the 1977 Panama Canal Treaties. It is the intent of this thesis to analyze Panama's grievances with the 1903 Hay/Bunau-Varilla Convention, and the events leading to the final negotiation and ratification of the 1977 Panama Canal Treaties. The 1903 convention itself will be used as the foundation upon which this analysis is based. Furthermore, the Hay/Bunau-Varilla

Convention will be compared with what was eventually agreed upon in the Treaties of 1977. To accomplish this task, the following issues will be considered: sovereignty, American interventions in Panama, the Panamanian economy, Panamanian nationalism, revisions of the 1903 treaty before 1977, and the final evolution of the two current Panama Canal Treaties that are now in force.

With the signing of the Hay/Bunau-Varilla Convention in 1903, the Canal Zone, in the eyes of many in the American government, became a little part of the United States situated in Central America; and thus, was the Canal Zone treated by the United States government, over the objections of the Republic of Panama for almost seventy-five years. The concept of sovereignty is the most important issue that can be discussed when one considers the history of U.S.-Panamanian relations. According to the Random House Dictionary of the English Language, sovereignty is the "supreme and independent power or authority in government as possessed or **claimed** [emphasis added] by a state or community."<sup>6</sup> The United States claimed full governance in all things pertaining to the Canal through an interpretation of Article III of the 1903 convention which states that:

. . . the Republic of Panama grants to the United States all the rights, power and authority within the zone . . . which the United States would possess and exercise [as] if it were the sovereign of the territory . . . to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority.<sup>7</sup>

Along with this article, Article II is also used to validate the American "claim" to full sovereignty. It states that:

. . . the Republic of Panama grants to the

United States **in perpetuity** the use, occupation and control of a zone of land and land under water for the construction, maintenance, operation, sanitation, and protection of said Canal . . . . The Republic of Panama further grants to the United States **in perpetuity** the use, occupation and control of any other lands and waters outside of the zone above described which may be necessary for the construction, maintenance, operation, sanitation and protection of the said Canal . . . [emphasis added]<sup>8</sup>

The various interpretations of these two articles is the major cause of most of the friction which has occurred between Panama and the United States.

The issue of sovereignty over the Canal and Canal Zone has always been a point of contention in any negotiation that has taken place between the United States and Panama. No other issue concerning the Panama Canal can be discussed completely without the issue of sovereignty being discussed first. To do so, one must first note that there is a distinction between "title" and "sovereignty." A person may have a valid title to a piece of property but still not have sovereignty. Only the government of that territory has sovereignty. This also extends to governments which buy land in foreign countries. Unless sovereignty, or dominion, is ceded to another country, the sovereignty over the land that the visiting country owns **does not** reside in the that country, but rather in the host

country.<sup>9</sup>

As it applies to the Panama Canal and Canal Zone, the United States was able to ". . . act [as] if it were sovereign . . . to the entire exclusion of Panama."<sup>10</sup> Judicial power over the area was given by Bunau-Varilla to the United States. The Canal Zone is situated in the middle of Panama and cuts the country in half, and any country with a sense of nationalism would eventually refuse to tolerate another country operating in an area of its own country with perpetual sovereignty. Panama is one such country that finally refused to allow the United States to continue exercising sovereign rights in the Canal Zone.<sup>11</sup> Having been geologically gutted by allowing the United States to use and govern the use of her resources, Panama has seen the growth of an autonomous "state" within its own borders.<sup>12</sup> There has been an admission by Panama that the two articles in contention were "vague and obscure," but the Panamanian government has also stated that American sovereignty ONLY extended to the ". . . construction, maintenance, operation, and defense . . ."<sup>13</sup> of the Canal and no further. Between 1903 and 1953, the United States conceded that its "ownership" of the Panama Canal was not similar to its "ownership" of any one of the fifty states. In 1946, the United States Supreme Court ruled, ". . . that while Congress controlled the Zone, the United States **did not** possess 'sovereignty' [emphasis added]."<sup>14</sup> One of the authors of the 1903 convention, Philippe Bunau-Varilla, made known his

intention, concerning American sovereignty in the proposed Canal Zone, by saying:

The United States without becoming sovereign received the exclusive use of the rights of sovereignty [over the Canal] while respecting the sovereignty of the Panama Republic.<sup>15</sup>

One might wonder at the validity of Bunau-Varilla's conclusion. Bunau-Varilla, in negotiating the 1903 convention, tried to stifle any and all opposition to it by giving the United States as much of an advantageous position as possible. He had two important reasons for doing this. First of all, as chief engineer of the French New Panama Canal Company (which had been unable to complete a Panama Canal and that was going to lose \$40 million if its lease ran out before a treaty with the United States was signed), he needed be able to persuade the United States to pay \$40 million for the French rights to build an isthmian canal. And secondly, to assure swift passage through the United States Senate, he needed to make the Treaty's terms as amenable as possible. He rewrote the Treaty for these reasons, fully knowing that it was counter to all the instructions that he had received from the Panamanian government.

Along with the usually defined notion of sovereignty, an explanation of "titular sovereignty" needs to be made. This phrase was first coined in 1903 by Secretary of State John Hay,

and was meant to apply to the relationship between the United States and Panama in the Canal Zone. In 1905, the Secretary of War, William Howard Taft, used this phrase in an explanatory letter to President Theodore Roosevelt, and he applied its use strictly to the American situation in Panama. He said that ". . . the treaty **seems to preserve titular sovereignty** over the Canal Zone in the Republic of Panama . . . [emphasis added],"<sup>16</sup> meaning that Panama was sovereign and had the title but had none of the associated duties or responsibilities that go with it.<sup>17</sup> That explanation, in and of itself should not present a problem or cause insult. In reality however, the term quickly became used condescendingly in reference to Panama.<sup>18</sup> It has even been interpreted to the point of saying that Panama was only a "figurehead" sovereign in the Canal Zone and had no real power there. This interpretation will be looked at more fully in the examination of the revisions of the 1903 convention. The fact remained that the United States had total effective control over the Canal Zone, and exercised this control as though the Canal Zone was part of America, no matter anyone said about titular sovereignty.

An example of a problem that grew directly from the question of the interpretation of sovereignty in the Canal Zone is as follows. When the United States opened the Canal for transit in 1914, the American government set up the Canal Zone just like an American city would have been. There were homes and businesses, churches, hospitals and schools, and, important

to this discussion, post offices and customs houses. The post office charged two cents for letters going to the United States, while the Panamanian postal service charged five cents for a letter going to the same place. Panamanians, therefore, were going into the Canal Zone to mail letters to America, resulting in a loss of revenue for Panama.<sup>19</sup> Furthermore, customs houses were set up at the ports of Ancón and Cristóbal in order to collect the current U.S. customs tax on all goods "imported" from the world, except from the United States, into the Canal Zone. Panama happened to supply certain materials that were being heavily taxed because of the Republican Dingley tariff, a highly pro-American protective tariff. Protesting about unfair competition, Panamanian pressure forced President Roosevelt to send Secretary Taft to Panama to smooth things over. The Taft Agreement of November 1904 helped to blunt Panama's grievances, but did not really attempt to solve them. Panama reduced her ad valorem duties (a duty levied on imports according to their invoice value) on goods from the United States and the United States revoked the Dingley tariff in Panama's case.<sup>20</sup>

After the issue of sovereignty, the next most pressing issue between the two countries concerned the numerous American interventions into Panamanian internal affairs, which Panama called interference. According to Article Twenty-three of the 1903 convention, the United States was allowed to militarily intervene in Panama ". . . for the safety or protection of the

Canal . . . [and] the United States shall have the right, at all times and in its discretion, to use its police and land and naval forces."<sup>21</sup> In return, the United States guaranteed Panama's independence. Both clauses were eventually revoked in the 1936 revision of the 1903 convention. The guarantee was mainly to make sure that Columbia would not try to forcibly reannex Panama into a future "New Granadian Republic." Subsequently, the United States militarily intervened in Panama three specific times. The interventions occurred in the following areas at the following times: the Chiriquí Province from 1918 until 1921, then the 1925 rent riots in Panama City, and finally the explosive "flag riots" in Panama City on January of 1964.

During the time of the Chiriquí intervention, the United States was also militarily involved in other nations in the Caribbean. President Wilson and his Secretary of State, Robert Lansing, firmly agreed with the Monroe Doctrine and the Roosevelt Corollary, and furthermore, they were of the opinion that the Caribbean was an American lake. They had no qualms about intervening where they felt that it was necessary. Defense of the Canal was not the primary reason for the Panamanian interventions, but was one of many reasons for their occurrence. The first actual intervention occurred in 1918, after a fixed election caused a riot in the Chiriquí Province. The Panamanian police were unable to quell it. Their rifles had been taken from them earlier in response to a demand from the

United States, and subsequently one North American was killed. The Chiriquí Province is unique in that it is the wealthiest province in Panama, both in money and in agricultural production. The United Fruit Company, an American-based corporation, had extensive holdings of banana fields there, which made that area a "vested interest" of the United States. Prior to 1904, the United States demanded that the 250-man Panamanian Army be disbanded because it was ". . . a menace to the peace of the Republic . . . ," after an attempted coup de état by the Liberal Party and General Estaban Huertas, the Panamanian army chief. The coup was put down by the United States, and the army was forced to disband. The United States then took over the job of policing Panama.<sup>22</sup> American Marines were landed to quell the 1918 riot, and subsequently, occupied the province until 1921. All this was done without any American consultation with Panama, and without Panamanian permission being given for any American action. America rejected Panama's claim that only with Panamanian permission, and only in Panama City and Colón, could the United States militarily intervene.<sup>23</sup>

There were also interventions by the United States that were not military in nature, and they occurred between the time of the Chiriquí intervention and the rent riots in Panama City. The United States supervised several elections in Panama between 1912 and 1932. The United States supervised these elections so as to foster the spread of democracy in Panama. The American government would not allow a legitimately elected

Panamanian government to be overthrown, and it was inclined to favor the party that was currently in power. Some of these supervisions were at Panama's invitation and others were not. In 1905, Panamanian President Manuel Guerrero Amador invited the United States to supervise the upcoming elections; his invitation was declined.<sup>24</sup> The first actual supervision took place during the 1908 presidential election. The opposition lost and placed the blame directly on the United States, accusing the American supervisors of looking the other way and allowing abuses, which had crept into the system, to remain. Despite this, the Liberal Party appealed to the United States for its supervision in the 1912 elections. After this election, the United States again was reviled and charged with favoritism, fraud, and partiality. Even though numerous violations of the election laws were discovered by the American supervisors, they were nonetheless held in contempt by the Panamanians. In 1916 the United States agreed to supervise the presidential election, having been invited by a request of the opposition party, but President Belisario Porras refused to allow it because of Panama's experiences from past elections.<sup>25</sup>

The last American intervention in a Panamanian election occurred during a transitional crisis in the Panamanian government. According to the Panamanian constitution, there is one president and three designados (vice presidents). Succession is from the president to the first designado, then to the second designado, and finally to the third designado. An

election must be held as soon as possible if one of these four offices becomes vacant for any reason. The United States had earlier, specifically in 1905, refused to allow any revolutionary overthrow of the "legitimately" elected Panamanian government. But the United States also always had been inclined to favor the party in power over all others.<sup>26</sup>

An emergency election was to have been called in 1918 to replace a vacancy in the position of Third Designado (the presidential office was vacant and each of the other officials had advanced). The government of Designado Urriola, who was to become the next president, refused to call for elections. In June of 1918, American troops marched into Panama City and Colón, and assumed control despite the protestations of Panama. The Panamanian government was then forced to reverse its decision. President Urriola protested to President Wilson, saying that the intervention ". . . violates the sovereignty of Panama without any justification . . ." <sup>27</sup> The United States supervised the new elections and set up a commission to judge the accuracy of the results. They decided that the party in power had won the election fairly, and American troops were moved back into the Zone. Traditionally, elections in Panama were like farcical dramas, and the political party that was in power at the time was generally able to control the ballot box, and thus the election. In 1932, none of the major parties asked for American supervision, for such was their "confidence" in the Panamanian political process. Uninvited and unwelcome U.S.

interventions, such as in elections, or by the military, were a point of contention in U.S.-Panamanian relations that remained until 1936. In 1936, much to the relief of the Panamanian government, the United States renounced the right to intervene in Panamanian politics.<sup>28</sup>

Of the final two U.S. military interventions only one came at the request of Panama. This occurred in 1925, when American troops entered Panama City and Colón with fixed bayonets at the request of the Panamanian government and occupied those two cities from October 12 until October 31. The request for American troops came so that riots, which had erupted as a result of protests against the high Panamanian rent that was being charged, could be quelled.<sup>29</sup>

By far, the most important intervention occurred in January of 1964. The relationship between the United States and Panama had begun to undergo change with the rise of Panamanian nationalism, which was fast becoming an important factor in U.S.-Panamanian relations. In 1959, Panama began demanding that the United States show Panamanian sovereignty in, and over, the Canal Zone by allowing the Panamanian flag to be flown in the Canal Zone. This was an important point of contention with Panamanian nationalists, since only the American flag had ever flown in the Canal Zone. President Eisenhower agreed, and in December of 1959, he publicly stated that "I do . . . believe we should have evidence that Panama does have titular sovereignty [in the Canal Zone]."<sup>30</sup> In September of 1960, he

announced that both flags would fly in one place in the Canal Zone.

It was not until John F. Kennedy's entrance into the White House in 1961 that the agreement was carried out. His executive order, released on January 10, 1963, stated that everywhere an American flag was flying in the Zone, a Panamanian flag also had to fly along side it. Moreover, it was decided that the measure would be fully implemented by January 1, 1964. Additionally, it was decided that neither American nor Panamanian flags were to be flown in front of Zone schools.<sup>31</sup>

"Zonians," Americans working in the Canal Zone, did not like this new turn of events. Their feeling was that the Zone was American territory and any concessions to Panama were the equivalent of surrendering United States sovereignty.<sup>32</sup> So on January 8th and 9th of 1964, American students at Balboa High School flew the American flag **alone** in front of their school. These students had the approval of their parents, who believed that the students were being patriotic Americans. Panamanian students crossed into the Canal Zone on the evening of January 9 and demanded to be allowed to raise their country's flag as well. After a violent struggle, the Panamanian students were forced out of the Zone by the American students and their parents. This triggered a riot which lasted for three days, killing 20 Panamanians, and causing \$2 million worth of damages, both in and outside the Zone.<sup>33</sup> Panama then severed diplomatic relations with the United States on January 10th and

invoked the Rio Treaty (which was a North and South American mutual defense pact). Both the United Nations and the OAS (Organization of American States) attempted to help defuse the rapidly deteriorating situation. Panama and the United States agreed to reopen diplomatic relations on April 3, and they began to negotiate a new treaty. This protest against "American imperialism" differed from any of the other protests in Panamanian history in the fact that it was so violently nationalistic and anti-American. Never before had any demonstration erupted with the force that this one had, and not for another decade would Panama see such violent anti-American demonstrations again. Ultimately, the 1964 flag riots caused the United States to realize that its relationship with Panama was drastically changing and that both countries needed to start new, serious negotiations concerning the Panama Canal.<sup>34</sup>

As has been stated earlier, the United States had intervened in the internal affairs of Panama with both the military and election supervisors. The United States also "intervened," in a sense, with the Panamanian economy through its control of the Panama Canal, for Panama's economy is closely linked to the Canal. As of 1970, revenues from the Canal Zone generated as much as 15% of the total Panamanian Gross National Product, which was \$1 billion.<sup>35</sup>

The Panamanian economy depended not only upon the business that it received from the Canal Zone employees, but it also depended heavily upon the \$10 million annuity that the United

States Government paid each year. Moreover, this \$10 million a year annuity was guaranteed in Article Twenty-four of the 1903 Convention the which stated:

. . . [T]he Government of the United States agrees to pay the Republic of Panama the sum of ten million dollars (\$10,000,000) in gold coin of the United States on the exchange of the ratification of this convention and also an annual payment during the life of this convention of two hundred and fifty thousand dollars (\$250,000) in like gold coin, beginning nine years after the date aforesaid.

The provisions of this Article shall be in addition to all other benefits assured to the Republic of Panama under this convention.<sup>36</sup>

The Treaty guaranteed that Panama would receive a fixed annuity paid by the United States, that it would come from Canal revenues. Economically, there was no problem with the annuity until 1934, when President Franklin D. Roosevelt ordered the American dollar devalued and its gold content reduced to 59.6% of its former value; Panama then refused to accept the newly reduced annuity (which had been reduced by almost half).<sup>37</sup> The Hull-Alfaro Treaty (1936) rectified this problem, by raising the annuity to \$430,000. It was not a real raise, but rather a readjustment of the old annuity to make it equivalent in new dollars. This new annuity was also retroactive to the 1934 cut

in the value of the American dollar.<sup>38</sup> A protocol was also signed that made Panamanian currency equivalent to American currency. The B/1 (one balboa) was equivalent to one American dollar. As a result of this treaty, many Panamanian economic concerns and complaints were redressed.<sup>39</sup>

The Panamanian complaint about the annuity, along with their need for ready money, caused it to be raised up to \$1,930,000 in 1955, an increase of \$1.5 million.<sup>40</sup> Under the 1977 Panama Canal Treaty, the United States pays Panama a yearly annuity that is fixed at the sum of \$10 million. The Panama Canal Commission, a United States governmental agency that replaced the Canal Zone Government and the Panama Canal Company, also pays \$10 million to Panama in return for public services like police, fire protection, and garbage collection. Panama also receives \$0.30 per Panama Canal net ton for each vessel that uses the Panama Canal. Each year, above and beyond these payments, the Panama Canal Commission pays, from Canal revenues, to Panama the sum of \$10 million. This amount is only paid when revenues exceed expenditures. If this payment cannot be made the deficit is to be repaid out of the Canal's surplus revenue during later years.<sup>41</sup>

Tolls for the use of the Canal have always been set by the United States, and the United States has never run the Canal as a high profit-making enterprise. Moreover, tolls were **never** set to recover all Canal costs but, in reality, international maritime commerce was subsidized.<sup>42</sup> Tolls have only been raised

three times since the Panama Canal opened, and they are less now, adjusted for inflation, than they were in 1918. The tolls for the Canal, by United States law, were set in order to:

. . . recover operation and maintenance costs of the waterway . . . , interest and depreciation charges on [it], and the cost of civil government not paid for by the sale of stamps and other public revenues.<sup>43</sup>

This brings up the question of the amortization of the Canal debt. Up until 1977, the Panama Canal Company paid the United States Treasury a certain amount of money each year in order to repay the interest on the American Government's original investment. Moreover, the United States emphatically states that the Canal has never been amortized and that tolls are only set to recover operating costs. In fact, the United States would rather not raise Canal tolls. The general American feeling is that a raise in tolls could drive Canal users to employ other means of transportation. Panamanians, on the other hand, say that the Canal's debt has been amortized four or five times over and that tolls are set too low. The Panamanians use these reasons to justify their demands for a new economic agreement concerning the Canal. If their contention held true, it then would add credence to the allegation that the Panama Canal's revenues were high enough to allow a larger share of that revenue to go to Panama. It is, though, altogether

impossible to prove or disprove either claim.<sup>44</sup>

There is an underlying factor involved when the effects of the Panama Canal upon the Panamanian economy are discussed, and this factor is the Panamanian economy itself. The Panamanian economy has not always been healthy. In 1964, it was in a shambles, and Panamanian governmental officials were hoping to receive money from Canal revenues to help it along. Panamanian governmental officials have always had concerns, that bordered on the obsessive, about the effects that the Canal would have on the local economy. Some officials have seen the revenues from the Canal as being the "savior" of the Panamanian economy. They viewed it as type of "rainy day" money fund that would solve all the Panamanian economic problems, and that it would also never run dry. In 1916 Panama was required by the United States to hire an American financial advisor. In time, the Panamanian government was also required to cooperate with lending requirements made by foreign banks, which were usually American. The State Department had always kept an eagle eye on Panamanian financial affairs. The reason for this was that there had always been heavy North American investment in Panama, and Panama went deeply into debt in order to finance internal improvements. In addition, North Americans controlled the vast majority of the functioning industries in Panama, which meant that investment money that could have been injected into the sagging Panamanian economy was instead going out of the country as foreign profits. It should be noted here that in

1929 the ties between the economies of the two countries were strong enough that Panama quickly followed America into the Depression.<sup>45</sup>

During the first years of the Canal Zone the struggling Panamanian economy was at the mercy of Zone businessmen. Americans were able to buy and sell products from the United States cheaper than the Panamanians. For a time, any Panamanian was able to purchase goods from the American commissaries that the Panama Canal Company was operating in the Canal Zone. The Panama Canal Company was also in the business of hotels, bakeries, dairies, and other related industries. Though by treaty, only essential goods were to be sold in commissaries and only to those on the Gold Roll employee list of the Canal Zone (mainly American whites). This had serious implications for the Panamanian economy, because the Canal Zone was a serious competitor and could have crippled the economy of Panama. In such a serious point of contention between the United States and Panama as this, the American government was generally inclined to be conciliatory on certain economic matters.<sup>46</sup>

President Harmodio Arias was one of the first Panamanian presidents to look towards the Canal for generating more money, through Canal profits, that would be earmarked and used to help the peasants (the majority of the population), in the countryside, who were hardest hit by the Depression. The Panamanian economy has always been linked to that of the Canal,

and it suffered when transits through the Canal slumped, and Panamanian control of the Canal, therefore, would allow the injection of new life into Panamanian industry. The Treaty of 1936 gave a partial injection to the economy with the altering of the annuity and the economic concessions given to Panamanian businesses.<sup>47</sup>

From 1946 through 1970, Panama received \$266 million in economic and military assistance from America. Even after the 1968 military coup de état, the amount of aid from America continued to climb.<sup>48</sup> Between 1903 and 1970 Panama received approximately \$55 million in direct benefits from the Canal. During the same time period, the United States received approximately \$1,221.2 million in direct benefits from the Canal. Even though the Canal is Panama's greatest resource, the United States has received, overall, the most benefits from it.<sup>49</sup>

There are three economic groups in Panama. There is an oligarchy that comprises a small minority of the total population, and it controls the majority of wealth in Panama. The peasants, comprising a majority of the populace in Panama, are quite poor, making subsistence wages, and they make up the second economic group. The third group is made up of Panamanian and American Canal Zone employees. Canal Zone employees are paid quite well, compared to their counterparts in their respective countries (Panama and the United States). In fact, Americans Canal Zone workers are paid a wage differential for

working in the Zone that, in real dollars, is 25% higher than the wage that is paid to an American doing the same job in the continental United States. In addition, there used to be two different rolls, or lists, of employees for the Canal Zone, one called Gold and the other called Silver. White Americans were paid in gold and were called Gold Roll employees, while black Americans and all non-Americans were paid in silver and put on the Silver Roll. This discrimination was keenly felt by the Panamanians, who thought that they should be paid in gold just as the white Americans were. This method of payment was changed in 1959.<sup>50</sup>

Even though there was an improvement in this one area of Canal Zone labor, there still was a problem concerning the distribution of high-paying jobs. Americans predominate in the higher-paying jobs and Panamanian upward mobility was severely limited until 1977. There were, and still are, Panamanians in highly paid positions, but the United States was reluctant to promote more Panamanians to higher paying jobs. The reason given by Zonians when asked why there were only a few highly paid Panamanians working on the Canal was that

. . . Panama does not possess the skilled managerial and operating personnel required to handle the Canal. With its mercurial politics, it lacks a stable government necessary to discharge Canal responsibility.<sup>51</sup>

In 1960, of the 14,100 jobs in the Canal Zone, 9,300 were unskilled or semi-skilled belonging to blacks or Panamanians. There were 4,800 professional, or skilled jobs, 1,400 of which belong to Panamanians. The rate of American promotions at that time amounted to about thirty per month.<sup>52</sup> Even as far back as in 1939 there was a bias against Panamanians in the upper echelon jobs on the Canal, and the United States Senate passed a bill that Roosevelt signed allowing high paying jobs to go **only** to Americans.<sup>53</sup>

"Control" is a key word in the Panamanian vocabulary. That control was needed in Panama, was a quickly grasped ideal. Control over its national destiny, control over its national economy, and control over the United States-run Canal and Canal Zone was the ultimate goal of the Republic of Panama. Panama has been fighting for control over the Canal ever since the signing of the 1903 convention. The first Panamanian political party to be set up in 1926, had as its **main** purpose the notion of agitating against the United States for more Panamanian control over both its destiny and the Canal, and was called the Acción Communal. It was a middle-class organization that included teachers, and it soon spread to Panama's universities. With the lapse of negotiations between Panama and the United States, the Acción Communal quickly moved to the political radical Left and, as a result, rapidly lost its political influence. Nonetheless, the Acción Communal was still the **first** showing of nationalism in the country that was specifically

aimed at the United States, the Panama Canal, and the Panama Canal Zone. Even though the Acción Communal died as a party, its ideals lived on in the minds of individual Panamanians. The culmination of its beliefs and hopes occurred during the 1964 "flag riots," which caused the United States to wake up and re-evaluate its relationship with Panama. The dream of Panamanian nationalists finally came true with the signing of the 1977 Canal Treaties.<sup>54</sup>

Traditionally, students at Panamanian universities fill a vacuum in Panamanian politics, and they serve as the spokesmen for lower class interests and frustrations. Most of them had been taught by teachers who had, in some way, been involved with the Acción Communal, and they inherited their teachers' anti-American nationalism in class. Moreover, the different student groups have, oftentimes, found themselves pitted against the Panamanian National Guard (the country's army and police force), which has itself become the final arbiter of political controversies in Panama. The Panamanian National Guard has come to fill this role because the tradition of democracy in Panama is not strong, and the Guard is able to bring political stability to the country when it is needed.<sup>55</sup>

Panamanian nationalism manifests itself mainly in form of an **extreme** sensitivity towards any U.S. activity or policy that appears to compromise the Panamanian belief in her sovereign independence. Historically, Panamanians believe that the United States has interfered with the achievement of their country's

destiny.<sup>56</sup> America and the Canal Zone are resented as being colonial "governors," and Panamanians hate the idea of their nation having to follow the dictates of the United States in regards to its own domestic and foreign policies. It was not until 1969, with the ascendancy of General Omar Torrijos Herrera to the presidency of Panama, that the Panamanian government was able to effectively harness the "power" of the nationalistic Panamanian mobs who were calling for the return of control of the Panama Canal and the Canal Zone, and use it to Panama's advantage.<sup>57</sup>

In the first two years of General Torrijos' term of office, which started in 1968, nationalism was not allowed to play any significant role in the political process. Originally, Torrijos was looking to create better relations between Panama and the United States. In 1970, Torrijos, in a reversal of policy, took up the role of the perfect Panamanian nationalist, and he took up their cause by publicly rejecting the treaties which had been in the process of negotiation since 1968. Torrijos was able to gain control the anti-American mobs, and he effectively used them to put pressure on the United States. His dream for a totally new treaty, one that would significantly change the status of the Canal and Canal Zone, became a reality on September 6, 1977.<sup>58</sup>

During the past 81 years, there have been two major revisions of, and two major agreements concerning, the 1903 convention. Even before the Canal first opened, a myriad of

problems began to arise. Certain Panamanian complaints were threatening relations to the point that, in October of 1904, President Roosevelt sent his Secretary of War, William Taft, to work out Panamanian grievances. His visit was successful, and the Taft Agreement was signed in November of that year.

In the Taft Agreement, revisions were made concerning tariffs, mail rates, and the control of ports. The United States agreed to revoke the Dingley Tariff, raise mail rates to the continental United States, and to allow ships entering Panama City and Colón to use the ports of Ancón and Cristóbal freely.<sup>59</sup> In return America received the following concessions: canal builders were allowed to quarry stone or sand in Panama without the permission of the Panamanian government, and Panamanian ad valorem duties on American imports were significantly reduced. The problem seemed to be solved but had only been blunted. The subject of Panamanian economics and the Canal would be brought up, by Panama, during the negotiations for new Panama Canal treaties, because it was a point of great concern for Panama.<sup>60</sup>

There were two negotiated treaties that never entered into force, because Panama felt that the only beneficiary of the treaties would be the United States. The first was the proposed Kellogg-Alfaro Treaty of 1926 which so aroused the opposition of nationalists that the Panamanian National Assembly rejected it. The nationalists were angry because the United States had gained several military concessions from Panama, which included

American control of military operations in Panama and the fact that Panama agreed to automatically join the United States in any war in which the United States became involved. This treaty was to replace the Taft Agreement.<sup>61</sup>

Despite the problems that Panama had with the Treaty of 1926, the General Treaty of Friendship and Cooperation (or Hull-Alfaro Treaty) was signed in 1936. Sections of this treaty superseded the 1903 convention in two specific places. First of all, the United States renounced the right of intervention in Panama (both militarily and through the supervision of elections), and thus ended Panama's "protectorate" status. Secondly, the treaty abrogated the article that stated that the United States would guarantee Panama's independence. The United States also agreed to join with Panama in a joint defense of the canal.<sup>62</sup> But, Panama was also linked closer to the United States with this treaty. Panamanian currency, the balboa, was linked to the American dollar (one balboa [B/1] was equal to one American dollar), and the \$250,000 annuity was raised to \$430,000 in order to compensate for the forty percent cut in the value of the American dollar that occurred in 1934. Panama also allowed the United States the right to hold military maneuvers in the Republic, and both countries agreed to consult each other in case of threats to the security of either nation. Many problems in the area of commerce were also solved. American commissaries were tightly restricted, private enterprise not pertaining to the Canal forbidden, and Panama

established its own customs houses for goods making their way into the Republic from the Zone. Additionally, for the first time, Panamanian businesses were also allowed duty-free access to the Zone.<sup>63</sup>

With the entrance of the United States into World War II, military agreements were signed with Panama that were to last the duration of the war, and any bases or concessions granted to the United States at that time were abrogated in 1946. It is significant to note here that only the countries of Panama and Paraguay **did not** receive lend-lease aid from the United States during the war. Lend-lease was refused to Paraguay because the U.S. government considered that country to be pro-Nazi and Nazi-controlled. Panama received no aid because of fears, in the United States, of a Panamanian takeover of the Canal using any weapons procured through the lend-lease program.<sup>64</sup>

President José A. Remón's visit to Washington in 1953 opened the door to negotiations for the Treaty of Mutual Understandings and Cooperation, signed in 1955. In this instance, Panama came to the negotiating table under different circumstances than those in earlier times. Usually Panama's main demands were for more money and economic aid from the United States, but in this instance, Remon was working specifically to ameliorate the economic conditions of the poor in his country.<sup>65</sup> This new treaty included a \$1.5 million raise in the annuity. This may seem like a vast amount of money, but in actuality and accounting for inflation, the real dollar

amount was less than the original annuity set up in the 1903 treaty. And, as was mentioned earlier, the Gold and Silver Rolls (methods of payment) were abolished, and everyone was paid from the same basic wage scale. Panama also allowed the United States to use, for fifteen years without charge, twenty thousand acres of land near the American Rio Hato airbase for military maneuvers, but the Panamanian request for a change in the perpetuity clause (to a ninety-nine year renewable lease) was rejected out of hand. This rejection added to the resentment that was building in Panama and that would boil over in the flag riots almost ten years later. America also refused to allow joint U.S.-Panamanian tribunals to replace American courts in the Zone. In Colón and Panama City, extensive amounts of property were transferred from American control into Panamanian control.<sup>66</sup>

By 1958, Panama was once again demanding concessions from the United States, specifically, concerning the area of Panamanian sovereignty in the Canal Zone. As was stated earlier, President Eisenhower began working on an arrangement that would allow the Panamanian flag to be flown side by side with the American flag at one central point in the Zone. This was part of a nine point plan of American concessions to Panama and, according to Panamanians, it was not enough; the question of sovereignty was at issue here. Zonians wanted a greater showing of American strength and sovereignty, and Panamanians wanted a more concrete symbol of Panamanian sovereignty in the

Canal Zone.<sup>67</sup>

President Kennedy enlarged Eisenhower's plan so that by 1964, the Panamanian flag was to be flown wherever the American flag was flying. Zonian disagreement with this directive, fully instituted under President Johnson, led directly to the flag riots in January of 1964. In 1965, Presidents Johnson and Marcos A. Robles released a joint communique that set the guidelines for a new treaty. It specifically called for a new treaty that would expire after a specified number of years. The most important provision of this communique was that the Canal and the Canal Zone would gradually be returned to Panamanian control.<sup>68</sup>

The years from 1903 until 1964, set the stage for the next thirteen years of U.S.-Panamanian relations. These were the years that eventually brought forth the 1977 Panama Canal Treaties. It was a precarious time for both nations, for in Panama, nationalism was starting to force the hand of the Panamanian government, and in the United States, relationships with other nations were not as cordial as they had been, and the Vietnam War was beginning to take up more of many Americans' time. In light of this inner turmoil taking place in America, the Panamanian complaints were shelved to be taken up at a later, more peaceful date. The aftermath of 1964 riots, however, brought matters to a head, and they forced the United States to examine the situation in Panama in a different light. After his re-election in 1964, President Johnson announced that

he would seek a new treaty with Panama concerning the Canal. Along with the thirteen years of negotiations came a few surprises. Surprisingly, the United States publicly renounced all its old major positions concerning the Canal. Treaties altogether different were eventually negotiated, and they had entered into force by the first of May in 1978. The rights of sovereignty, the right of unilateral Canal operation, and the perpetual length of duration for the treaty, were all "given up" by the United States. There was no "trading" done between the two countries (the giving up of certain advantages for the granting of others), Panama had nothing to give, and therefore the United States ending up giving, with Panama taking. This is precisely where some people have perceived the notion that the United States "gave away" the Panama Canal.<sup>69</sup>

Drafts were released to both governments in 1967 for three separate treaties. In them, ". . . the United States **explicitly** recognized Panama's right to exercise sovereignty over the Canal [emphasis added]."<sup>70</sup> The Panamanian National Assembly overwhelmingly rejected the treaties and the United States refused to make any more concessions.

The 1967 drafts gathered dust during 1968 so that both countries could deal with more pressing problems. While Washington was busy dealing with the war in Vietnam and the internal conflicts that arose, Panama was dealing with a coup de état. Colonel Omar Torrijos Herrera, commander-in-chief of the Panamanian National Guard, and other members of the

Panamanian National Guard staged a bloodless coup that set up a military junta to govern Panama and ousted Arnulfo Arias ten days after he had taken office. Arias' rhetoric and initial policies were quite nationalistic and anti-American, and he started to call for complete Panamanian control over the Panama Canal. The main reason for the coup was that Arias also wanted to vastly curtail the political power that the National Guard had, and the National Guard refused to allow its power to be curtailed in any way. It was not until March of 1969 that Torrijos emerged as Panama's strongman after ousting the two Generals who headed the junta, promoting himself to the rank of general, and proclaiming himself as "Maximum Chief" and leader of the revolution. This served to solidify his power, and also foiled an attempt, by others in the junta, to shuffle him out of the real seat of power.<sup>71</sup>

Torrijos quickly worked to repair the diplomatic break with the United States (diplomatic relations had been severed in March of 1968), and succeeded in the summer of 1969. He hoped to reassure the United States of his good intentions by adamantly refusing to allow **any** anti-American rallies to be held in the country, and it also was his hope that negotiations would proceed in spite of the internal economic turmoil going on at that time in Panama. Also during this time, some American monetary aid was coming into Panama, but new concessions on the Canal question were not being offered with it.<sup>72</sup>

Once Torrijos found himself fully in control of the

government and, with his repressive actions giving way to establishing a popular sentiment for his regime, Torrijos made a 180 degree change in his policies concerning the United States, because he had found that Panama, in 1969, was still dependent upon the Canal just like Panama had been, in 1953, under President José A. Remón. His popularity drastically increased when he took up the cause of Panamanian nationalism, and he soon personified Panamanian nationalist sentiment as he united the country behind him in the struggle to achieve a new treaty with the United States.<sup>73</sup> In 1970, Torrijos publicly rejected the three treaties that he had released in 1968, and he called for totally new treaties to replace the existing ones. Torrijos branded these treaties as being ". . . detrimental to the sovereignty and territorial integrity of Panama."<sup>74</sup> The campaign for a new treaty was stepped up when Juan Antonio Tack, the Panamanian foreign minister, stated during negotiations at Washington, D.C., in June of 1971, that ". . . Panama will not negotiate a revision of existing treaties; it will negotiate for a new treaty to replace the abhorrent 1903 treaty, with its opprobrious and illegal perpetuity clause."<sup>75</sup>

It was also during this time that Richard Nixon was president of the United States. He at first appeared cool to the idea of negotiation, but the issues that were being raised by Panama in 1970 caused a furor in the American Congress. Nixon refused to be pressured by the Congress into negotiating

a new Panama Canal Treaty, and negotiations between the two countries stalled, and Torrijos, to end the stalemate, then took Panama's case before the eyes of the world, concluding that international pressure was the only way to force America's hand. The leverage that he needed came when the United States needed to veto a United Nations Security Council resolution stressing Panamanian sovereignty over the Canal Zone, and furthermore urging both countries to conclude a new treaty. Great Britain abstained, and thirteen members voted for the resolution. Extra world attention was also given to this meeting since Torrijos was able to move it to Panama City, a place nearer to the Canal Zone.<sup>76</sup> Nixon soon realized the need for serious and constructive negotiations, and so he sent orders to the State Department to work towards a settlement. Another reason for the stepping-up of negotiations was that the United States was then finding itself in the midst of a Latin American anti-American bloc. Ellsworth Bunker, an accomplished diplomat, was appointed to head the negotiating team by the American Secretary of State, Henry Kissinger. With the leeway that he was allowed, Bunker was able to work out the Kissinger-Tack Statement of Principles that was signed in 1974. The new treaty was to use the eight points that were outlined in the statement, which was much like the Johnson-Robles communique of 1965. Beyond the 1965 note, the statement provided for joint operation of the Canal, an increase in the economic benefits for Panama, the joint defense of Canal, and

provisions for construction projects that would enlarge its capacity.<sup>77</sup>

Negotiations were always carried on in secret because of the unstable political atmosphere in Panama. After the Kissinger-Tack Agreement was signed, talks once again came to a standstill, and neither side was willing to compromise any more than they already had. This became a problem that caused Minister Tack to get angry and he intentionally leaked the three conceptual accords, signed in 1975, to the international press. This was embarrassing for the United States because Kissinger had publicly repudiated the idea that the United States was going to give up sovereignty in the Canal Zone, and the accords showed that the United States had reneged on one of the eight points of the Kissinger-Tack Agreement. The leak by Tack put Panama in a good position during the negotiations.<sup>78</sup>

The rhetoric of the 1976 presidential campaign directly contradicted the stance that the American negotiating team was taking in the negotiation of a new Canal treaty. The cause of the problem started with the Republican primary race. President Ford had a comfortable lead over his challenger, former California Governor Ronald Reagan. Reagan, so that he would improve his chance at nomination, charged that the United States was negotiating with Panama in order to give away the Panama Canal and the Panama Canal Zone. Ford handled his rebuttle wrong and started a furor. Consequently, the Republican platform contained an anti-Canal treaty plank.<sup>79</sup> It

was at the time that the famous public arguments about sovereignty were aired. The Canal question became a symbol, like Vietnam, that people could flock to and support. Above all, the Ford Administration held a position that was totally unacceptable to Panama. Jimmy Carter, the Democratic candidate was able to publicly agree with Ronald's Reagan's position, during the campaign, without later hurting his chances in Panama for a new treaty.<sup>80</sup>

Working out an agreement with Panama was one of Carter's top priorities when he entered the Oval Office in January of 1977. His cabinet officials considered it to be one of the keys to a successful term of office for Carter. He appointed Sol Linowitz and Ellsworth Bunker as temporary co-chiefs of the negotiating team. Moreover, the Carter Administration's policy concerning the negotiations was less restrained than that of Ford, and the American team was instructed to work towards a fairly speedy conclusion.<sup>81</sup> Carter's goal was to have an acceptable treaty by June of 1977, and the two treaties were concluded on August 11, 1977, in Washington, D.C., where the final negotiations had been taking place. On September 7, 1977, at a lavish ceremony in Washington, D.C., President Carter and General Torrijos signed the Panama Canal Treaty and the Panama Canal Neutrality Treaty. The member nations of the OAS were invited to witness the new friendship with Panama that the United States was beginning. Additionally, this was also an attempt to show both Latin America, and the world at large,

that the United States wanted to form new relationships with the rest of the nations of Latin America.<sup>82</sup>

The Canal Treaty itself was revolutionary in the fact that it was a totally new treaty that superceded all the other treaties. It was the first time in the history of the relationship between the two nations that in both this treaty and the Panama Canal Neutrality Treaty that the United States, in word and deed, fully acknowledged the supremacy and sovereignty of Panama over the Canal and Canal Zone. The treaty terminates in 1999 and it **clearly** showed the new relationship between the two signatories. In it, Panama "granted" rights and priveleges to the United States, which would expire within a certain period of time. It also provided for the education of Panamanians so that, one day, they would operate the Canal alone. The transfer of control from the United States to Panama was not to be abrupt but was to allow for the gradual phasing in of Panamanian workers to take the place of American workers. Any Americans that stayed in Panama to work on the Canal were fully governed under the laws of the Republic of Panama and were considered as equals with Panamanians under that law. The United States operated the Canal with Panama through a joint commission that would become Panamanian-controlled on December 31, 1999. At that time Panama will have complete control over the Canal. The Neutrality Treaty allowed for the permanent right of the United States to defend the neutrality of the Canal. This guarantees that the United States is allowed full

access, for its merchant marine and navy, to the Canal. It also guaranteed that the United States could militarily intervene in the Canal area so as to guarantee unlimited access to the Canal for the merchant marine and navy. The Panama Canal Neutrality Treaty was written so that this quite sensitive issue, for the Panamanian government, was resolved.<sup>83</sup>

The United States Senate would have immediately rejected both the Canal Treaty and the Neutrality Treaty if they had been presented immediately after their signing, since many influential people in the government were privately against them, along with almost one-half the members of the Senate. Even with the good cooperation between the White House and the Democratic leadership in the Senate there were problems during the ratification debates in the Senate. The Senate passed a resolution that expressed its reservations, in the form of the DeConcini Amendment, about the Panama Canal Treaties. In this resolution, the Senate refused to use United States Treasury monies to effect the transfer of power and authority in the Canal Zone. Moreover, the resolution stated that the two treaties did not obligate the United States to send economic assistance of any kind to the Republic of Panama. By American law, President Carter had to present this reservation to Panama upon the American ratification of the treaties. It was accepted.<sup>84</sup>

Torrijos was required by Panamanian constitutional law to bring the treaties to a national plebescite for their

ratification to be valid in Panama. He did this quickly so that they would be accepted. There had been widespread Panamanian opposition to the treaties, and Torrijos had been accused by Panamanian nationalists of backing down from his earlier treaty proposals. The plebecite overwhelmingly approved the treaties, since Torrijos only allowed pro-treaty arguments to be used in public forums. The treaties were submitted to the plebecite before the DeConcini amendment was added to it. Even though there were calls in Panama for submitting the amended treaties to another plebecite, Torrijos skillfully refused to call another plebecite arguing that the Panamanian people had already accepted the treaties and therefore, the treaties need not be submitted a second time.<sup>85</sup>

The Senate prepared itself for a fierce battle and, during the proceedings, the House of Representatives tried to force the Senate to allow both houses of Congress to accept the treaties and approve the transfer of the Canal Zone before the transfer and ratification would have been valid. Additionally, the public debate, in the United States, over the Panama Canal Treaties was quite heated. Senators, who personally supported the treaties but could not express their support because of their constituents' anti-treaty sentiments, persuaded President Carter to speak with their constituents in order to convince them to support the Senate ratification of the Panama Canal Treaties. Despite all the propaganda being published by both the pro and anti-treaty forces, the Senate Majority Leader,

Democrat Robert Byrd, and Minority Leader, Republican Howard Baker, were able to convince 67 Senators to go along with the Administration's position. The Panama Canal Treaty was ratified on April 18, 1978, and the Panama Canal Neutrality Treaty was ratified on March 16, 1978. The final outcome of both votes was 67 votes for and 30 votes against, both treaties, and they were ratified with only ~~one~~ more vote than was needed.<sup>86</sup>

## ENDNOTES

<sup>1</sup>Thomas E. Weil, et al., Area Handbook for Panama (Washington: The Center for Strategic Studies, 1967), 1.

<sup>2</sup>LaFeber, Walter, The Panama Canal: The Crisis in Historical Perspective (Oxford: Oxford University Press, 1978), 38.

<sup>3</sup>Latin American Bureau, Panama and the Canal Treaty (London: Latin American Bureau, 1978), 4.

<sup>4</sup>LaFeber, 186.

<sup>5</sup>Ibid., 190.

<sup>6</sup>Jess Stein, ed., The Random House Dictionary of the English Language (New York: Random House, 1967), 1362.

<sup>7</sup>Charles I. Bevans, LL.B., comp., "Isthmian Canal Convention" in Treaties and Other International Agreements of United States of America, 1776-1949, Vol. X (Washington: Department of State, 1972), 664. All other references to the 1903 Hay/Bunau-Varilla Convention will be to this edition that is also reprinted in Appendix One on page 52.

<sup>8</sup>Ibid., 664.

<sup>9</sup>Denison Kitchell, The Truth about the Panama Canal (New Rochelle: Arlington House Publishers, 1970), 72.

<sup>10</sup>LaFeber, 38.

<sup>11</sup>Kitchell, 73.

<sup>12</sup>Ben G. Burnett and Kenneth F. Johnson, eds., Political Forces in Latin America: Dimensions of the Quest for Stability

(Belmont: Wadsworth Publishing Co., Inc., 1968), 116.

<sup>13</sup>Weil et al., 220.

<sup>14</sup>LaFeber, 218.

<sup>15</sup>Kitchell, 72.

<sup>16</sup>Ibid., 72.

<sup>17</sup>Stein, 1489.

<sup>18</sup>LaFeber, 43.

<sup>19</sup>Ibid., 47.

<sup>20</sup>Donald Barr Chidsey, The Panama Canal: An Informal History (New York: Crown, 1970), 159.

<sup>21</sup>Bevans, 671.

<sup>22</sup>LaFeber, 48.

<sup>23</sup>Ibid., 73.

<sup>24</sup>William D. McCain, Ph.D., The United States and the Republic of Panama (New York: Russel and Russel, 1965), 65.

<sup>25</sup>Ibid., 71-73.

<sup>26</sup>Ibid., 74.

<sup>27</sup>LaFeber, 69.

<sup>28</sup>McCain, 89.

<sup>29</sup>LaFeber, 128.

<sup>30</sup>Chidsey, 163.

<sup>31</sup>Richard R. Baxter and Doris Carroll, The Panama Canal: Background Papers and Proceedings of the Sixth Hammarskjold Forum, Lyman Tondel, Jr., ed. (Dobbs Ferry: Oceana, for the Association of the Bar of the City of New York, 1965), 30.

<sup>32</sup>Weil et al., 232-233.

<sup>33</sup>Joseph S. Farland, chairman et al., Panama: Canal Issues and Treaty Talks (Washington: The Center for Strategic Studies, 1967), 20.

<sup>34</sup>Weil et al., viii.

<sup>35</sup>Bevans, 668.

<sup>36</sup>Weil et al., 224.

<sup>37</sup>LaFeber, 87.

<sup>38</sup>Weil et al., 225.

<sup>39</sup>Chidsey, 165.

<sup>40</sup>United States Government, "Panama Canal Treaty of 1977," in Treaties and Other International Acts Series 10030 (Washington: Department of State, 1982), 40. All other references to the 1977 Panama Canal Treaty will be to this edition that is also reprinted in Appendix Two on page 61.

<sup>41</sup>LaFeber, 221.

<sup>42</sup>Farland, 45.

<sup>43</sup>Ibid., 44.

<sup>44</sup>Ibid., 33.

<sup>45</sup>LaFeber, 76-77.

<sup>46</sup>Weil et al., 234.

<sup>47</sup>Ibid., 37.

<sup>48</sup>LaFeber, 162.

<sup>49</sup>Latin American Bureau, 6.

<sup>50</sup>Farland, 31.

<sup>51</sup>Ibid., 76.

<sup>52</sup>Ibid., 32.

<sup>53</sup>LaFeber, 88.

<sup>54</sup>Ibid., 80.

<sup>55</sup>Weil et al., 193.

<sup>56</sup>Ibid., 199.

<sup>57</sup>Philip M. Crane, Surrender in Panama: the case against the treaty (Ottawa, Ill.: Green Hill Publishers, 1978), 58.

<sup>58</sup>LaFeber, 178.

<sup>59</sup>Chidsey, 159.

<sup>60</sup>Weil et al., 220.

<sup>61</sup>Ibid., 220.

<sup>62</sup>Ibid., 37.

<sup>63</sup>Ibid., 224-225.

<sup>64</sup>Donald M. Dozer, Are We Not Good Neighbors? Three Decades of Inter-American Relations, 1930-1960 (Gainesville: University of Florida Press, 1959), 80.

<sup>65</sup>LaFeber, 116.

<sup>66</sup>Weil et al., 225.

<sup>67</sup>Ibid., 231.

<sup>68</sup>Farland, 22-23.

<sup>69</sup>Crane, 160-168.

<sup>70</sup>LaFeber, 147-148.

<sup>71</sup>Crane, 59.

<sup>72</sup>LaFeber, 163.

<sup>73</sup>Latin American Bureau, 5.

<sup>74</sup>Weil et al., 209-210.

<sup>75</sup>Ibid., 234.

<sup>76</sup>Martin, 148-149.

<sup>77</sup>Kitchell, 101.

<sup>78</sup>Ibid., 103.

<sup>79</sup>Martin, 151.

<sup>80</sup>LaFeber, 192.

<sup>81</sup>Kitchell, 95.

<sup>82</sup>Ibid., 96.

<sup>83</sup>LaFeber, 204-205.

<sup>84</sup>Ibid., 283-284.

<sup>85</sup>Ibid., 207-208.

<sup>86</sup>Ibid., 285-286.

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APPENDIX ONE

1903 ISTHMIAN CANAL CONVENTION

The United States of America and the Republic of Panama being desirous to insure the construction of a ship canal across the Isthmus of Panama to connect the Atlantic and Pacific oceans, and the Congress of the United States of America having passed an act approved June 28, 1902, in furtherance of that object, by which the President of the United States is authorized to acquire within a reasonable time the control of the necessary territory of the Republic of Columbia, and the sovereignty of such territory being actually vested in the Republic of Panama, the high contracting parties have resolved as their plenipotentiaries, --

The President of the United States of America, JOHN HAY, Secretary of State, and

The Government of the Republic of Panama, PHILIPPE BUNAU-VARILLA, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Panama, thereunto specially empowered by said government, who after communicating with each other their respective full powers, found to be in good and due form, have agreed upon and concluded the following articles:

ARTICLE I

The United States guarantees and will maintain the independence of the Republic of Panama.

ARTICLE II

The Republic of Panama grants to the United States in perpetuity the use, occupation and control of a zone of land and land under water for the construction, maintenance, operation, sanitation and protection of said Canal of the width of ten miles extending to the distance of five miles on each side of the center line of the route of the Canal to be constructed; the said zone beginning in the Caribbean Sea three marine miles from mean low water mark and extending to and across the Isthmus of Panama into the Pacific ocean to a distance of three marine miles from mean low water mark with the proviso that the cities of Panama and Colón and the harbors adjacent to said cities, which are included within the boundaries of the zone above described, shall not be included within this grant. The Republic of Panama further grants to the United States in perpetuity the use, occupation and control of any other lands and waters outside of the zone above described which may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal or of any auxiliary canals or other works necessary and

convenient for the construction, maintenance, operation, sanitation and protection of the said enterprise.

The Republic of Panama further grants in like manner to the United States in perpetuity all islands within the limits of the zone above described and in addition thereto the group of small islands in the Bay of Panama, named Pericos, Naos, Culebra and Flamenco.

#### ARTICLE III

The Republic of Panama grants to the United States all rights, power and authority within the zone mentioned and described in Article II of this agreement and within the limits of all auxiliary lands and waters mentioned and described in said Article II which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority.

#### ARTICLE IV

As rights subsidiary to the above grants the Republic of Panama grants in perpetuity to the United States the right to use the rivers, streams, lakes and other bodies of water within its limits for navigation, the supply of water or water-power or other purposes, so far as the use of said rivers, streams, lakes and bodies of water and the waters thereof may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal.

#### ARTICLE V

The Republic of Panama grants to the United States in perpetuity a monopoly for the construction, maintenance and operation of any system of communication by means of canal or railroad across its territory between the Caribbean Sea and the Pacific Ocean.

#### ARTICLE VI

The grants herein contained shall in no manner invalidate the titles or rights of private land holders or owners of private property in the said zone or in or to any of the lands or waters granted to the United States by the provisions of any Article of this treaty, nor shall they interfere with the rights of way over the public roads passing through the said zone or over any of the said lands or waters unless said rights of way or private rights shall conflict with the rights herein granted to the United States in which case the rights of the United States shall be superior. All damages caused to the owners of private lands or private property of any kind by

reason of the grants contained in this treaty or by reason of the construction, maintenance, operation, sanitation and protection of the said Canal or of the works of sanitation and protection herein provided for, shall be appraised and settled by a joint Commission appointed by the Governments of the United States and the Republic of Panama, whose decisions as to such damages shall be final and whose awards as to such damages shall be paid solely by the United States. No part of the work on said Canal or the Panama railroad or on any auxiliary works relating thereto and authorized by the terms of this treaty shall be prevented, delayed or impeded by or pending such proceedings to ascertain such damages. The appraisal of said private lands and the private property and the assessment of damages to them shall be based upon their value before the date of this convention.

#### ARTICLE VII

The Republic of Panama grants to the United States within the limits of the cities of Panama and Colón and their adjacent harbors and within the territory adjacent thereto the right to acquire by purchase or by the exercise of th right of eminent domain, any lands, buildings, water rights or other properties necessary and convenient for the construction, maintenance, operation and protection of the Canal and of any works of sanitatin, such as the collection and disposition of sewage and the distribution of water in the said cities of Panama and Colón, which, in the discretion of the United States may be necessary and convenient for th construction, maintenance, operation, sanitation and protection of the said Canal and railroad. All such works of sanitation, collection and disposition of sewage and distribution of water in the cities of Panama and Colón shall be made at the expense of the United States, and the Government of the United States, its agents or nominees shall be authorized to impose and collect water rates and sewerage rates which shall be sufficient to provide for the payment of interest and the amortization of the principal of the cost of said works within a period of fifty years and upon the expiration of said term of fifty years the system of sewers and water works shall revert to and become the properties of the cities of Panama and Colón respectively, and the use of the water shall be free to the inhabitants of Panama and Colón, except to the extent thta water rates may be necessary for the operation and maintenance of said system of sewers and water.

The Republic of Panama agrees that the cities of Panama and Colón shall comply in perpetuity with the sanitary ordinances whether of a preventive or curative character prescribed by the United States and in case the Government of Panama is unable or fails in its duty to enforce this compliance by the cities of Panama and Colón with the sanitary ordinances of the United States the Republic of Panama grants to the United States the right and authority to enforce the

same.

The same right and authority are granted to the United States for the maintenance of public order in the cities of Panama and Colón and the territories and harbors adjacent thereto in case the Republic of Panama should not be, in the judgement of the United States, able to maintain such order.

#### ARTICLE VIII

The Republic of Panama grants to the United States all rights which it now has or hereafter acquire to the property of the New Panama Canal Company and the Panama Railroad Company as a result of the transfer of sovereignty from the Republic of Columbia to the Republic of Panama over the Isthmus of Panama and authorizes the New Panama Canal Company to sell and transfer to the United States its rights, privileges, properties and concessions as well as the Panama Railroad and all the shares or part of the shares of that company; but the public lands situated outside of the zone described in Article II of this treaty now included in the concessions to both said enterprises and not required in the construction or operation of the Canal shall revert to the Republic of Panama except any property now owned by or in the possession of said companies within Panama or Colon or the ports or terminals thereof.

#### ARTICLE IX

The United States agrees that the ports at either entrance of the Canal and the waters thereof, and the Republic of Panama agrees that the towns of Panama and Colón shall be free for all time so that there shall not be imposed or collected custom house tolls, tonnage, anchorage, lighthouse, wharf, pilot, or quarantine dues or any other charges or taxes of any kind upon any vessel using or passing through the Canal or belonging to or employed by the United States, directly or indirectly, in connection with the construction, maintenance, operation, sanitation and protection of the main Canal, or auxiliary works, or upon the cargo, officers, crew, or passengers of any such vessels, except such tolls and charges as may be imposed by the United States for the use of the Canal and other works, and except tolls and charges imposed by the Republic of Panama upon merchandise destined to be introduced for the consumption of the rest of the Republic of Panama, and upon vessels touching at the ports of Colón and Panama and which do not cross the Canal.

The Government of the Republic of Panama shall have the right to establish in such ports and in the towns of Panama and Colón such houses and guards as it may deem necessary to collect duties on importations destined to other portions of Panama and to prevent contraband trade. The United States shall have the right to make use of the towns and harbors of Panama and Colón as places of anchorage, and for making repairs, for

loading, unloading, depositing, or transshipping cargoes either in transit or destined for the service of the Canal and for other works pertaining to the Canal.

#### ARTICLE X

The Republic of Panama agrees that there shall not be imposed any taxes, national, municipal, departmental, or of any other class, upon the Canal, the railways and auxiliary works, tugs and other vessels employed in the service of the Canal, store houses, work shops, offices, quarters for laborers, factories of all kinds, warehouses, wharves, machinery and other works, property, and effects appertaining to the Canal or railroad and auxiliary works, or their officers or employees, situated within the cities of Panama and Colon, and that there shall not be imposed contributions or charges of a personal character of any kind upon officers, employees, laborers, and other individuals in the service of the Canal and railroad and auxiliary works.

#### ARTICLE XI

The United States agrees that the official dispatches of the Government of the Republic of Panama shall be transmitted over any telegraph and telephone lines established for canal purposes and used for public and private business at rates not higher than those required from officials in the service of the United States.

#### ARTICLE XII

The Government of the Republic of Panama shall permit the immigration and free access to the lands and workshops of the Canal and its auxiliary works of all employees and workmen of whatever nationality under contract to work upon or seeking employment upon or in any wise connected with the said Canal and its auxiliary works, with their respective families, and all such persons shall be free and exempt from the military service of the Republic of Panama.

#### ARTICLE XIII

The United States may import at any time into the said zone and auxiliary lands, free of custom duties, imposts, taxes, or other charges, and without any restriction, any and all vessels, dredges, engines, cars, machinery, tools, explosives, materials, supplies, and other articles necessary and convenient in the construction, maintenance, operation, sanitation and protection of the Canal and auxiliary works, and all provision, medicines, clothing, supplies and other things necessary and convenient for the officers, employees, workmen and laborers in the service and employ of the United

States and for their families. If any such articles are disposed of for use outside of the zone and auxiliary lands granted to the United States and within the territory of the Republic, they shall be subject to the same import or other duties as like articles imported under the laws of the Republic of Panama.

#### ARTICLE XIV

As the price or compensation for the rights, powers and privileges granted in this convention by the Republic of Panama to the United States, the Government of the United States agrees to pay to the Republic of Panama the sum of ten million dollars (\$10,000,000) in gold coin of the United States on the exchange of the ratification of this convention and also an annual payment during the life of this convention of two hundred and fifty thousand dollars (\$250,000) in like gold coin, beginning nine years after the date aforesaid.

The provisions of this Article shall be in addition to all other benefits assured to the Republic of Panama under this convention.

But no delay or difference of opinion under this Article or any other provisions of this treaty shall affect or interrupt the full operation and effect of this convention in all other respects.

#### ARTICLE XV

The joint commission referred to in Article VI shall be established as follows:

The President of the United States shall nominate two persons and the President of the Republic of Panama shall nominate two persons and they shall proceed to a decision; but in case of disagreement of the commission (by reason of their being equally divided in conclusion) an umpire shall be appointed by the two Governments who shall render the decision. In the event of the death, absence, or incapacity of a Commissioner or Umpire, or of his omitting, declining or ceasing to act, his place shall be filled by the appointment of another person in the manner above indicated. All decisions by a majority of the Commission or by the umpire shall be final.

#### ARTICLE XVI

The two Governments shall make adequate provision by future agreement for the pursuit, capture, imprisonment, detention and delivery within said zone and auxiliary lands to the authorities of the Republic of Panama of persons charged with the commission of crimes, felonies or misdemeanors without said zone and for the pursuit, capture, imprisonment, detention and delivery without said zone to the authorities of the United States of persons charged with the commission of crimes,

felonies and misdemeanors within said zone and auxiliary land.

#### ARTICLE XVII

The Republic of Panama grants to the United States the use of all the ports of the Republic open to commerce as places of refuge for any vessels employed in the Canal enterprise, and for all vessels passing or bound to pass through the Canal which may be in distress and be driven to seek refuge in said ports. Such vessels shall be exempt from anchorage and tonnage dues on the part of the Republic of Panama.

#### ARTICLE XVIII

The Canal, when constructed, and the entrances thereto shall be neutral in perpetuity, and shall be opened upon the terms provided for by Section I of Article three of, and in conformity with all the stipulations of, the treaty entered into by the Governments of the United States and Great Britain on November 18, 1901.

#### ARTICLE XIX

The Government of the Republic of Panama shall have the right to transport over the Canal its vessels and its troops and munitions of war in such vessels at all times without paying charges of any kind. The exemption is to be extended to the auxiliary railway for the transportation of persons in the service of the Republic of Panama, or of the police force charged with the preservation of public order outside of said zone, as well as to their baggage, munitions of war and supplies.

#### ARTICLE XX

If by virtue of any existing treaty in relation to the territory of the Isthmus of Panama, whereof the obligations shall descend or be assumed by the Republic of Panama, there may be any privilege or concession in favor of the Government or the citizens and subjects of a third power relative to an interoceanic means of communication which in any of its terms may be incompatible with the terms of the present convention, the Republic of Panama agrees to cancel or modify such treaty in due form, for which purpose it shall give to the said third power the requisite notification within the term of four months from the date of the present convention, and in case the existing treaty contains no clause permitting its modifications or annulment, the Republic of Panama agrees to procure its modification or annulment in such form that there shall not exist any conflict with the stipulations of the present convention.

## ARTICLE XXI

The rights and privileges granted by the Republic of Panama to the United States in the preceding Articles are understood to be free of all anterior debts, liens, trusts, or liabilities, or concessions or privileges to other Governments, corporations, syndicates or individuals, and consequently, if there should arise any claims on account of the present concessions and privileges or otherwise, the claimants shall resort to the Government of the Republic of Panama and not to the United States for any indemnity or compromise which may be required.

## ARTICLE XXII

The Republic of Panama renounces and grants to the United States the participation to which it might be entitled in the future earnings of the Canal under Article XV of the concessionary contract with Lucien N. B. Wyse now owned by the New Panama Canal Company and any and all other rights or claims of a pecuniary nature arising under or relating to said concession, or arising under or relating to the concessions to the Panama Railroad Company or any extension or modification thereof; and it likewise renounces, confirms and grants to the United States, now and hereafter, all the rights and property reserved in the said concessions which otherwise would belong to Panama at or before the expiration of the terms of ninety-nine years of the concessions granted to or held by the above mentioned party and companies, and all right, title and interest which it now has or may hereafter have, in and to the lands, canal, works, property and rights held by the said companies under said concessions or otherwise, and acquired or to be acquired by the United States from or through the New Panama Canal Company, including any property and rights which might or may in the future either by lapse of time, forfeiture or otherwise, revert to the Republic of Panama under any contracts or concessions, with said Wyse, the Universal Panama Canal Company, the Panama Railroad Company and the New Panama Canal Company.

The aforesaid rights and property shall be and are free and released from any present or reversionary interest in or claims of Panama and the title of the United States thereto upon consummation of the contemplated purchase by the United States from the New Panama Canal Company, shall be absolute, so far as concerns the Republic of Panama, excepting always the rights of the Republic specifically secured under this treaty.

## ARTICLE XXIII

If it should become necessary at any time to employ armed forces for the safety or protection of the Canal, or of the ships that make use of the same, or the railways and auxiliary

works, the United States shall have the right, at all times and in its discretion, to use its police and its land and naval forces or to establish fortifications for these purposes.

#### ARTICLE XXIV

No change either in the Government or in the laws and treaties of the Republic of Panama shall, without the consent of the United States, affect any right of the United States under the present convention, or under any treaty stipulation between the two countries that now exists or may hereafter exist touching the subject matter of this convention.

If the Republic of Panama shall hereafter enter as a constituent into any other Government or into any union or confederation of states, so as to merge her sovereignty or independence in such Government, union or confederation, the rights of the United States under this convention shall not be in any respect lessened or impaired.

#### ARTICLE XXV

For the better performance of the engagements of this convention and to the end of the efficient protection of the Canal and the preservation of its neutrality, the Government of the Republic of Panama will sell or lease to the United States lands adequate and necessary for naval or coaling stations on the Pacific coast and on the western Caribbean coast of the Republic at certain points to be agreed upon with the President of the United States.

#### ARTICLE XXVI

This convention when signed by the Plenipotentiaries of the Contracting Parties shall be ratified by the respective Governments and the ratifications shall be exchanged at Washington at the earliest date possible.

In faith whereof the respective Plenipotentiaries have signed the present convention in duplicate and have hereunto affixed their respective seals.

Done at the City of Washington the 18th day of November in the year of our Lord nineteen hundred and three.

JOHN HAY [SEAL]  
P. BUNAU VARILLA [SEAL]

## APPENDIX TWO

### THE 1977 PANAMA CANAL TREATY

The United States of America and the Republic of Panama, Acting in the spirit of the Joint Declaration of April 3, 1964, by the Representatives of the Governments of the United States of America and the Republic of Panama, and of the Joint Statement of Principles of February 7, 1974, initialed by the Secretary of State of the United States of America and the Foreign Minister of the Republic of Panama, and

Acknowledging the Republic of Panama's sovereignty over its territory,

Have decided to terminate the prior Treaties pertaining to the Panama Canal and to conclude a new Treaty to serve as the basis for a new relationship between them and, accordingly, have agreed upon the following:

#### ARTICLE I

##### Abrogation of Prior Treaties and Establishment of a New Relationship

1. Upon its entry into force, this Treaty terminates and supersedes:

(a) The Isthmian Canal Convention between the United States of America and the Republic of Panama, signed at Washington, November 18, 1903;

(b) The Treaty of Friendship and Cooperation signed at Washington, March 2, 1936, and the Treaty of Mutual Understanding and Cooperation and the related Memorandum of Understandings Reached, signed at Panama, January 25, 1955, between the United States of America and the Republic of Panama;

(c) All other treaties, conventions, agreements and exchanges of notes between the United States of America and the Republic of Panama, concerning the Panama Canal which were in force prior to the entry into force of this Treaty; and

(d) Provisions concerning the Panama Canal which appear in other treaties, conventions, agreements and exchanges of notes between the United States of America and the Republic of Panama which were in force prior to the entry into force of this Treaty.

2. In accordance with the terms of this Treaty and related agreements, the Republic of Panama, as territorial sovereign, grants to the United States of America, for the duration of this Treaty, the rights necessary to regulate the transit of ships through the Panama Canal, and to manage, operate, maintain, improve, protect and defend the Canal. The Republic

of Panama guarantees to the United States of America the peaceful use of the land and water areas which it has been granted the rights to use for such purposes pursuant to this Treaty and related agreements.

3. The Republic of Panama shall participate increasingly in the management and protection and defense of the Canal, as provided in this Treaty.

4. In view of the special relationship established by this Treaty, the United States of America and the Republic of Panama shall cooperate to assure the uninterrupted and efficient operation of the Panama Canal.

## ARTICLE II

### Ratification, Entry into Force, and Termination

1. This Treaty shall be subject to ratification in accordance with the constitutional procedures of the two Parties. The instruments of ratification of this Treaty shall be exchanged at Panama at the same time as the instruments of ratification of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, is signed this date, are exchanged. This Treaty shall enter into force, simultaneously with the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, six calendar months from the date of the exchange of instruments of ratification.

2. This Treaty shall terminate at noon, Panama time, December 31, 1999.

## ARTICLE III

### Canal Operation and Management

1. The Republic of Panama, as territorial sovereign, grants to the United States of America the rights to manage, operate, and maintain the Panama Canal, its complementary works, installations and equipment and to provide for the orderly transit of vessels through the Panama Canal. The United States of America accepts the grant of such rights and undertakes to exercise them in accordance with this Treaty and related agreements.

2. In carrying out the foregoing responsibilities, the United States of America may:

(a) Use for the aforementioned purposes, without cost except as provided in this Treaty, the various installations and areas (including the Panama Canal) and waters, described in the Agreement in Implementation of this Article, signed this date, as well as such other areas and installations as are made available to the United States of America under this Treaty and related agreements, and take the measure necessary to ensure sanitation of such areas;

(b) Make such improvements and alterations to the

aforesaid installations and areas as it deems appropriate, consistent with the terms of this Treaty;

(c) Make and enforce all rules pertaining to the passage of vessels through the Canal and other rules with respect to navigation and maritime matters, in accordance with this Treaty and related agreements. The Republic of Panama will lend its cooperation, when necessary, in the enforcement of such rules;

(d) Establish, modify, collect and retain tolls for the use of the Panama Canal, and other charges, and establish and modify methods of their assessment;

(e) Regulate relations with employees of the United States Government;

(f) Provide supporting services to facilitate the performance of its responsibilities under this Article;

(g) Issue and enforce regulations for the effective exercise of the rights and responsibilities to the United States of America under this Treaty and related agreements. The Republic of Panama will lend its cooperation, when necessary, in the enforcement of such rules; and

(h) Exercise any other right granted under this Treaty, or otherwise agreed upon between the two Parties.

3. Pursuant to the foregoing grant of rights, the United States of America shall, in accordance with the terms of this Treaty and the provisions of United States law, carry out its responsibilities by means of a United States Government agency called the Panama Canal Commission, which shall be constituted by and in conformity with the laws of the United States of America.

(a) The Panama Canal Commission shall be supervised by a Board composed of nine members, five of whom shall be nationals of the United States of America, and four of whom shall be Panamanian nationals proposed by the Republic of Panama for appointment to such positions by the United States of America in a timely manner.

(b) Should the Republic of Panama request the United States of America to remove a Panamanian national from membership on the Board, the United States of America shall agree to such a request. In that event, the Republic of Panama shall propose another Panamanian national for appointment by the United States of America to such position in a timely manner. In case of removal of a Panamanian member of the Board at the initiative of the United States of America, both Parties will consult in advance in order to reach agreement concerning such removal, and the Republic of Panama shall propose another Panamanian national for appointment by the United States of America in his stead.

(c) The United States of America shall employ a national of the United States of America as Administrator of the Panama Canal Commission, and a Panamanian national as Deputy Administrator, through December 31, 1989. Beginning January 1, 1990, a Panamanian national shall be employed as the

Administrator and a national of the United States of America shall occupy the position of Deputy Administrator. Such Panamanian nationals shall be proposed to the United States of America by the Republic of Panama for appointment to such positions by the United States of America.

(d) Should the United States of America remove the Panamanian national from his position as Deputy Administrator, or Administrator, the Republic of Panama shall propose another Panamanian national for appointment to such position by the United States of America.

4. An illustrative description of the activities the Panama Canal Commission will perform in carrying out the responsibilities and rights of the United States of America under this article is set forth at the Annex. Also set forth in the Annex are procedures for the discontinuance or transfer of those activities performed prior to the entry into force of this Treaty by the Panama Canal Company or the Canal Zone Government which are not to be carried out by the Panama Canal Commission.

5. The Panama Canal Commission shall reimburse the Republic of Panama for the costs incurred by the Republic of Panama in providing the following public services in the Canal operating areas and in housing areas set forth in the Agreement in Implementation of Article III of this Treaty and occupied by both United States and Panamanian citizen employees of the Panama Canal Commission: police, fire protection, street maintenance, street lighting, street cleaning, traffic management, and garbage collection. The Panama Canal Commission shall pay the Republic of Panama the sum of ten million dollars (\$10,000,000) per annum for the foregoing services. It is agreed that every three years from this date that this Treaty enters into force, the costs involved in furnishing said services shall be reexamined to determine whether adjustment of the annual payment should be made because of inflation and other relevant factors affecting the cost of such service.

6. The Republic of Panama shall be responsible for providing, in all areas comprising the former Canal Zone, services of a general jurisdictional nature such as customs and immigration, postal service, courts and licensing, in accordance with this Treaty and related agreements.

7. The United States of America and the Republic of Panama shall establish a Panama Canal Consultative Committee, composed of an equal number of high-level representatives of the United States of America and the Republic of Panama, and which may appoint such subcommittees as it may deem appropriate. This Committee shall advise the United States of America and the Republic of Panama on matters of policy affecting the Canal's operation in the future, the Committee shall advise on matters such as general tolls policy, employment and training policies to increase the participation of Panamanian nationals in the operation of the Canal, and international policies on matters concerning the Canal. The Committee's recommendation

shall be transmitted to the two Governments, which shall give such recommendations full consideration in the formulation of such policy decisions.

8. In addition to the participation of Panamanian nationals at high management levels of the Panama Canal Commission, as provided for in paragraph 3 of this Article, there shall be growing participation of Panamanian nationals at all other levels and areas of employment in the aforesaid Commission, with the objective of preparing, in an orderly and efficient fashion, for the assumption by the Republic of Panama of full responsibility for the management, operation and maintenance of the Canal upon the termination of this Treaty.

9. The use of the areas, waters and installations with respect to which the United States of America is granted rights pursuant to this Article, and the rights and legal status of the United States Government agencies and employees operating in the Republic of Panama pursuant to this Article, shall be governed by the Agreement in Implementation of this Article, signed this date.

10. Upon entry into force of this Treaty, the United States Government agencies known as the Panama Canal Company and the Canal Zone Government shall cease to operate with the territory of the Republic of Panama that formerly constituted the Canal Zone.

#### ARTICLE IV

##### Protection and Defense

1. The United States of America and the Republic of Panama commit themselves to protect and defend the Panama Canal. Each Party shall act, in accordance with its constitutional processes, to meet the danger resulting from an armed attack or other actions which threaten the security of the Panama Canal or of ships transiting it.

2. For the duration of this Treaty, the United States of America shall have primary responsibility to protect and defend the Canal. The rights of the United States of America to station, train, and move military forces within the Republic of Panama are described in the Agreement in Implementation of this Article, signed this date. The use of areas and installations and the legal status of the armed forces of the United States of America in the Republic of Panama shall be governed by the aforesaid Agreement.

3. In order to facilitate the participation and cooperation of the armed forces of both Parties in the protection and defense of the Canal, the United States of America and the Republic of Panama shall establish a Combined Board comprised of an equal number of senior military representatives of each Party. These representatives shall be charged by their respective governments with consulting and cooperating on all matters pertaining to the protection and

defense of the Canal, and with planning for actions to be taken in concert for that purpose. Such combined protection and defense arrangements shall not inhibit the identity or lines of authority of the armed forces of the United States of America or the Republic of Panama. The Combined Board shall provide for coordination and cooperation concerning such matters as:

(a) The preparation of contingency plans for the protection and defense of the Canal based upon the cooperative efforts of the armed forces of both Parties;

(b) The planning and conduct of combined military exercises; and

(c) The conduct of United States and Panamanian military operations with respect to the protection and defense of the Canal.

4. The Combined Board shall, at five-year intervals throughout the duration of the Treaty, review the resources being made available by the two Parties for the protection and defense of the Canal. Also, the Combined Board shall make appropriate recommendations to the two Governments respecting projected requirements, the efficient utilization of available resources of the two Parties, and other matters of mutual interest with respect to the protection and defense of the Canal.

5. To the extent possible consistent with its primary responsibility for the protection and defense of the Panama Canal, the United States of America will endeavor to maintain its armed forces in the Republic of Panama in normal time at a level not in excess of that of the armed forces of the United States of America in the territory of the former Canal Zone immediately prior to the entry into force of this Treaty.

## ARTICLE V

### Principle of Non-Intervention

Employees of the Panama Canal Commission, their dependents and designated contractors of the Panama Canal Commission, who are nationals of the United States of America, shall respect the laws of the Republic of Panama and shall abstain from any activity incompatible with the spirit of this Treaty. Accordingly, they shall abstain from any political activity in the Republic of Panama as well as from any intervention in the internal affairs of the Republic of Panama. The United States of America shall take all measures within its authority to ensure that the provisions of this Article are fulfilled.

## ARTICLE VI

### Protection of the Environment

1. The United States of America and the Republic of Panama commit themselves to implement this Treaty in a manner

consistent with the protection of the natural environment of the Republic of Panama. To this end, they shall consult and cooperate with each other in all appropriate ways to ensure that they shall give due regard to the protection and conservation of the environment.

2. A Joint Committee on the Environment shall be established with equal representation from the United States of America and the Republic of Panama, which shall periodically review the implementation of this Treaty and shall recommend as appropriate to the two Governments ways to avoid or, should this not be possible, to mitigate the adverse environmental impacts which might result from their respective actions pursuant to the Treaty.

3. The United States of America and the Republic of Panama shall furnish the Joint Committee on the Environment complete information on any action taken in accordance with this Treaty which, in the judgement of both, might have a significant effect on the environment. Such information shall be made available to the Commission as far in advance of the contemplated action as possible to facilitate the study by the Commission of any potential environmental problems and to allow for consideration of the recommendation of the Commission before the contemplated action is carried out.

#### ARTICLE VII

##### Flags

1. The entire territory of the Republic of Panama, including the areas the use of which the Republic of Panama makes available to the United States of America pursuant to this Treaty and related agreements, shall be under the flag of the Republic of Panama, and consequently such flag always shall occupy the position of honor.

2. The flag of the United States of America may be displayed, together with the flag of the Republic of Panama, at the headquarters of the Panama Canal Commission, at the site of the Combined Board, and as provided in the Agreement in Implementation of Article IV of this Treaty.

3. The flag of the United States of America also may be displayed at other places and on some occasions, as agreed by both Parties.

#### ARTICLE VIII

##### Privileges and Immunities

1. The installations owned or used by the agencies or instrumentalities of the United States of America operating in the Republic of Panama pursuant to this Treaty and related agreements, and their official archives and documents, shall be inviolable. The two Parties shall agree on procedures to be

followed in the conduct of any criminal investigation at such locations by the Republic of Panama.

2. Agencies and instrumentalities of the Government of the United States of America operating in the Republic of Panama pursuant to this Treaty and related agreements shall be immune from the jurisdiction of the Republic of Panama.

3. In addition to such other privileges and immunities as are afforded to employees of the United States Government and their dependents pursuant to this Treaty, the United States of America may designate up to twenty officials of the Panama Canal Commission who, along with their dependents, shall enjoy the privileges and immunities accorded to diplomatic agents and their dependents under international law and practice. The United States of America shall furnish to the Republic of Panama a list of said officials and their dependents, identifying the position they occupy in the Government of the United States of America, and shall keep such list current at all times.

#### ARTICLE IX

##### Applicable Laws and Law Enforcement

1. In accordance with the provisions of this Treaty and related agreements, the law of the Republic of Panama shall apply in the areas made available for the use of the United States of America pursuant to this Treaty. The law of the Republic of Panama shall be applied to matters or events which occurred in the former Canal Zone prior to the entry into force of this Treaty only to the extent specifically provided in prior treaties and agreements.

2. Natural or juridical persons who, on the date of entry into force of this Treaty, are engaged in business or non-profit activities at locations in the former Canal Zone may continue such business or activities at those locations under the same terms and conditions prevailing prior to the entry into force of this Treaty for a thirty-month transition period from its entry into force. The Republic of Panama shall maintain the same operating conditions as those applicable to the aforementioned enterprises prior to the entry into force of this Treaty in order that they may receive licenses to do what business in the Republic of Panama subject to their compliance with the requirements of its law. Thereafter, such persons shall receive the same treatment under the law of the Republic of Panama as similar enterprises already established in the rest of the territory of the Republic of Panama without discrimination.

3. The rights of ownership, as recognized by the United States of America, enjoyed by natural or juridical private persons in buildings and other improvements to real property located in the former Canal Zone shall be recognized by the Republic of Panama in conformity with its laws.

4. With respect to buildings and other improvements to real property located in the Canal operating areas, housing areas or other areas subject to the licensing procedure established in Article IV of the Agreement in Implementation of Article III of this Treaty, the owners shall be authorized to continue using the land upon which their property is located in accordance with the procedures established in that Article.

5. With respect to buildings and other improvements to real property located in areas of the former Canal Zone to which the aforesaid licensing procedure is not applicable, or may cease to be applicable during the lifetime or upon termination of this Treaty, the owners may continue to use the land upon which their property is located, subject to the payment of a reasonable charge to the Republic of Panama. Should the Republic of Panama decide to sell such land, the owners of the buildings or other improvements located thereon shall be offered a first option to purchase such land at a reasonable cost. In the case of non-profit enterprises, such as churches and fraternal organizations, the cost of purchase will be nominal in accordance with the prevailing practice in the rest of the territory of the Republic of Panama.

6. If any of the aforementioned persons are required by the Republic of Panama to discontinue their activities or vacate their property for public purposes, they shall be compensated at fair market value by the Republic of Panama.

7. The provisions of paragraphs 2-6 above shall apply to natural or juridical persons who have been engaged in business or non-profit activities at locations in the former Canal Zone for at least six months prior to the date of signature of this Treaty.

8. The Republic of Panama shall not issue, adopt or enforce any law, decree, regulation, or international agreement or take any other action which purports to regulate or would otherwise interfere with the exercise on the part of the United States of America of any right granted under this Treaty or related agreements.

9. Vessels transiting the Canal, and cargo, passengers and crews carried on such vessels shall be exempt from any taxes, fees, or other charges by the Republic of Panama. However, in the event such vessels call at a Panamanian port, they may be assessed charges incident thereto, such as charges for services provided to the vessel. The Republic of Panama may also require the passengers and crew disembarking from such vessels to pay such taxes, fees and charges as are established under Panamanian law for persons entering its territory. Such taxes, fees and charges shall be assessed on a nondiscriminatory basis.

10. The United States of America and the Republic of Panama will cooperate in taking such steps as may from time to time be necessary to guarantee the security of the Panama Canal Commission, its property, its employees and their dependents, and their property, the Forces of the United States of America

and the members thereof, the civilian component of the United States Forces, the dependents of members of the United States Forces and the civilian component, and their property, and the contractors of the Panama Canal Commission and of the United States Forces, their dependents, and their property. The Republic of Panama will seek from its Legislative Branch such legislation as may be needed to carry out the foregoing purposes and to punish any offenders.

11. The Parties shall conclude an agreement whereby nationals of either State, who are sentenced by the courts of the other State, and who are not domiciled therein, may elect to serve their sentences in their State or nationality.

#### ARTICLE X

##### Employment with the Panama Canal Commission

1. In exercising its rights and fulfilling its responsibilities as the employer, the United States of America shall establish employment and labor regulations which shall contain the terms, conditions and prerequisites for all categories of employees of the Panama Canal Commission. These regulations shall be provided to the Republic of Panama prior to their entry into force.

2. (a) The regulations shall establish a system of preference when hiring employees, for Panamanian applicants possessing the skills and qualifications required for employment by the Panama Canal Commission. The United States of America shall endeavor to ensure that the number of Panamanian nationals employed by the Panama Canal Commission in relation to the total number of its employees will conform to the proportion established for foreign enterprises under the law of the Republic of Panama.

(b) The terms and conditions of employment to be established will in general be no less favorable to persons already employed by the Panama Canal Company or Canal Zone Government prior to the entry into force of this Treaty, than those in effect immediately prior to that date.

3. (a) The United States of America shall establish an employment policy for the Panama Canal Commission that shall generally limit the recruitment of personnel outside the Republic of Panama to persons possessing requisite skills and qualifications which are not available in the Republic of Panama.

(b) The United States of America will establish training programs for Panamanian employees and apprentices in order to increase the number of Panamanian nationals qualified to assume positions with the Panama Canal Commission, as positions become available.

(c) Within five years from the entry into force of this Treaty, the number of United States nationals employed by the Panama Canal Commission who were previously employed by the

Panama Canal Company shall be at least twenty percent less than the total number of United States nationals working for the Panama Canal Company immediately prior to the entry into force of this Treaty.

(d) The United States of America shall periodically inform the Republic of Panama, through the Coordinating Committee, established pursuant to the Agreement in Implementation of Article III of this Treaty, of available positions within the Panama Canal Commission. The Republic of Panama shall similarly provide the United States of America any information it may have as to the availability of Panamanian nationals claiming to have skills and qualifications that might be required by the Panama Canal Commission, in order that the United States of America may take this information into account.

4. The United States of America will establish qualification standards for skills, training and experience required by the Panama Canal Commission. In establishing such standards, to the extent they include a requirement for a professional license, the United States of America, without prejudice to its right to require additional professional skills and qualifications, shall recognize the professional licenses issued by the Republic of Panama.

5. The United States of America shall establish a policy for the periodic rotation, at a maximum of every five years, of United States citizen employees and other non-Panamanian employees, hired after the entry into force of this Treaty. It is recognized that certain exceptions to the said policy of rotation may be made for sound administrative reasons, such as in the case of employees holding positions requiring certain non-transferrable or non-recruitable skills.

6. With regard to wages and fringe benefits, there shall be no discrimination on the basis of nationality, sex, or race. Payments by the Panama Canal Commission of additional benefits, such as home leave benefits, to United States nationals employed prior to the entry into force of this Treaty, or to persons of any nationality, including Panamanian nationals who are thereafter recruited outside of the Republic of Panama and who change their place of residence, shall not be considered to be discrimination for the purposes of this paragraph.

7. Persons employed by the Panama Canal Company or Canal Zone Government prior to the entry into force of this Treaty, who are displaced from their employment as a result of the discontinuance by the United States of America of certain activities pursuant to this Treaty, will be placed by the United States of America, to the maximum extent feasible, in other appropriate jobs with the Government of the United States in accordance with United States Civil Service regulations. For such persons who are not United States nationals, placement efforts will be confined to the United States Government activities located within the Republic of Panama. Likewise, persons previously employed in activities for which the

Republic of Panama assumes responsibility as a result of this Treaty will be continued in their employment to the maximum extent feasible by the Republic of Panama. The Republic of Panama shall, to the maximum extent feasible, ensure that the terms and conditions of employment applicable to personnel employed in the activities for which it assumes responsibility are no less favorable than those in effect immediately prior to the entry into force of this Treaty. Non-United States nationals employed by the Panama Canal Company or Canal Zone Government prior to the entry into force of this Treaty who are involuntarily separated from their positions because of the discontinuance of an activity by reason of this Treaty, who are not entitled to an immediately annuity under the United States Civil Service Retirement System, and for whom continued employment in the Republic of Panama by the Government of the United States is not practicable, will be provided special job placement assistance by the Republic of Panama for employment in positions for which they may be qualified by experience and training.

8. The Parties agree to establish a system whereby the Panama Canal Commission may, if deemed mutually convenient or desirable by the two Parties, assign certain employees of the Panama Canal Commission, for a limited period of time, to assist in the operation of activities transferred to the responsibility of the Republic of Panama as a result of this Treaty or related agreements. The salaries and other costs of employment of any such persons assigned to provide such assistance shall be reimbursed to the United States of America by the Republic of Panama.

9. (a) The right of employees to negotiate collective contracts with the Panama Canal Commission is recognized. Labor relations with the employees of the Panama Canal Commission shall be conducted in accordance with forms of collective bargaining established by the United States of America after consultation with employee unions.

(b) Employee unions shall have the right to affiliate with international labor organizations.

10. The United States of America will provide an appropriate early optional retirement program for all persons employed by the Panama Canal Company or Canal Zone Government immediately prior to the entry into force of this Treaty. In this regard, taking into account the unique circumstances created by the provisions of this Treaty, including its duration, and their effect upon such employees, the United States of America shall, with respect to them:

(a) determine that conditions exist which invoke applicable United States law permitting early retirement annuities and apply such law for a substantial period of the duration of the Treaty;

(b) seek special legislation to provide more liberal entitlement to, and calculation of, retirement annuities than is currently provided for by law.

## ARTICLE XI

Provisions for the Transition Period

The Republic of Panama shall reassume plenary jurisdiction over the former Canal Zone upon entry into force of this Treaty and in accordance with its terms.

1. In order to provide for an orderly transition to the full application of the jurisdictional arrangement established by this Treaty and related agreements, the provisions of this Article shall become applicable upon the date this Treaty enters into force, and shall remain in effect for thirty calendar months. The authority granted in this Article to the United States of America for this transition period shall supplement, and is not intended to limit, the full application and effect of the rights and authority granted to the United States of America elsewhere in this Treaty and in related agreements.

2. During this transition period, the criminal and civil laws of the United States of America shall apply concurrently with those of the Republic of Panama in certain of the areas and installations made available for the use of the United States of America pursuant to this Treaty, in accordance with the following provisions:

(a) The Republic of Panama permits the authorities of the United States of America to have the primary right to exercise criminal jurisdiction over United States citizen employees of the Panama Canal Commission and their dependents, and members of the United States Forces and civilian component and their dependents, in the following cases:

(i) for any offense committed during the transition period within such areas and installations, and

(ii) for any offense committed prior to that period in the former Canal Zone.

The Republic of Panama shall have the primary right to exercise jurisdiction over all other offenses committed by such persons, except as otherwise provided in this Treaty and related agreements or as may be otherwise agreed.

(b) Either Party may waive its primary right to exercise jurisdiction in a specific case or category of cases.

3. The United States of America shall retain the right to exercise jurisdiction in criminal cases relating to offenses committed prior to the entry into force of this Treaty in violation of the laws applicable in the former Canal Zone.

4. For the transition period, the United States of America shall retain police authority and maintain a police force in the aforementioned areas and installations. In such areas, the police authorities of the United States of America may take into custody any person not subject to their primary jurisdiction if such person is believed to have committed or to be committing an offense against applicable laws or

regulations, and shall promptly transfer custody to the police authorities of the Republic of Panama. The United States of America and the Republic of Panama shall establish joint police patrols in agreed areas. Any arrests conducted by a joint patrol shall be the responsibility of the patrol member or members representing the Party having primary jurisdiction over the person or persons arrested.

5. The courts of the United States of America and related personnel, functioning in the former Canal Zone immediately prior to the entry into force of this Treaty, may continue to function during the transition period for the judicial enforcement of the jurisdiction to be exercised by the United States of America in accordance with this Article.

6. In civil cases, the civilian courts of the United States of America in the Republic of Panama shall have no jurisdiction over new cases of a private civil nature, but shall retain full jurisdiction during the transition period to dispose of any civil cases, including admiralty cases, already instituted and pending before the courts prior to the entry into force of this Treaty.

7. The laws, regulations, and administrative authority of the United States of America applicable in the former Canal Zone immediately prior to the entry into force of this Treaty shall, to the extent not inconsistent with this Treaty and related agreements, continue in force for the purpose of the exercise by the United States of America of law enforcement and judicial jurisdiction only during the transition period. The United States of America may amend, repeal or otherwise change such laws, regulations and administrative authority. The two Parties shall consult concerning procedural and substantive matters relative to the implementation of this Article, including the disposition of cases pending at the end of the transition period and, in this respect, may enter into appropriate agreements by an exchange of notes or other instrument.

8. During this transition period, the United States of America may continue to incarcerate individuals in the areas and installations made available for the use of the United States of America by the Republic of Panama pursuant to this Treaty and related agreements, or to transfer them to penal facilities in the United States of America to serve their sentences.

## ARTICLE XII

### A Sea-Level Canal or a Third Lane of Locks

1. The United States of America and the Republic of Panama recognize that a sea-level canal may be important for international navigation in the future. Consequently, during the duration of this Treaty, both Parties commit themselves to study jointly the feasibility of a sea-level canal in the

Republic of Panama, and in the event they determine that such a waterway is necessary, they shall negotiate terms, agreeable to both Parties, for its construction.

2. The United States of America and the Republic of Panama agree on the following:

(a) No new interoceanic canal shall be constructed in the territory of the Republic of Panama during the duration of this Treaty, except in accordance with the provisions of this Treaty, or as the two Parties may otherwise agree; and

(b) During the duration of this Treaty, the United States of America shall not negotiate with third States for the right to construct an interoceanic canal on any other route in the Western Hemisphere, except as the two Parties may otherwise agree.

3. The Republic of Panama grants to the United States of America the right to add a third lane of locks to the existing Panama Canal. This right may be exercised at any time during the duration of this Treaty, provided that the United States of America has delivered to the Republic of Panama copies of the plans for such construction.

4. In the event the United States of America exercises the right granted in paragraph 3 above, it may use for that purpose, in addition to the areas otherwise made available to the United States of America pursuant to this Treaty, such other areas as the two Parties may agree upon. The terms and conditions applicable to Canal operating areas made available by the Republic of Panama for the use of the United States of America pursuant to Article III of this Treaty shall apply in a similar manner to such additional areas.

5. In the construction of the aforesaid works, the United States of America shall not use nuclear excavation techniques without the previous consent of the Republic of Panama.

#### ARTICLE XIII

##### Property Transfer and Economic Participation by the Republic of Panama

1. Upon termination of this Treaty, the Republic of Panama shall assume total responsibility for the management, operation, and maintenance of the Panama Canal, which shall be turned over in operating condition and free of liens and debts, except as the two Parties may otherwise agree.

2. The United States of America transfers, without charge, to the Republic of Panama all right, title and interest the United States of America may have with respect to all real property, including non-removable improvements thereon, as set forth below:

(a) Upon the entry into force of this Treaty, the Panama Railroad and such property that was located in the former Canal Zone but that is not within the land and water areas the use of which is made available to the United States

of America pursuant to this Treaty. However, it is agreed that the transfer on such date shall not include buildings and other facilities, except housing, the use of which is retained by the United States of America pursuant to this Treaty and related agreements, outside such areas;

(b) Such property located in an area or a portion thereof at such time as the use by the United States of America of such area or portion thereof ceases pursuant to agreement between the two Parties.

(c) Housing units made available for occupancy by members of the Armed Forces of the Republic of Panama in accordance with paragraph 5(b) of Annex B to the Agreement in Implementation of Article IV of this Treaty at such time as such units are made available to the Republic of Panama.

(d) Upon termination of this Treaty, all real property, and non-removable improvements that were used by the United States of America for the purposes of this Treaty and related agreements, and equipment related to the management, operation and maintenance of the Canal remaining in the Republic of Panama.

3. The Republic of Panama agrees to hold the United States of America harmless with respect to any claims which may be made by third parties relating to rights, title and interest in such property.

4. The Republic of Panama shall receive, in addition, from the Panama Canal Commission a just and equitable return on the national resources which it has dedicated to the efficient management, operation, maintenance, protection and defense of the Panama Canal, in accordance with the following:

(a) An annual amount to be paid out of Canal operating revenues computed at a rate of thirty hundredths of a United States dollar (\$0.30) per Panama Canal net ton, or its equivalency, for each vessel transiting the Canal, after the entry into force of this Treaty, for which tolls are charged. The rate of thirty hundredths of a United States dollar (\$0.30) per Panama Canal net ton, or its equivalency, will be adjusted to reflect changes in the United States wholesale price index for total manufactured goods during biennial periods. The first adjustment shall take place five years after entry into force of this Treaty, taking into account the changes that occurred in such price index during the preceding two years. Thereafter successive adjustments shall take place at the end of each biennial period. If the United States of America should decide that another indexing method is preferable, such method shall be proposed to the Republic of Panama and applied if mutually agreed.

(b) A fixed annuity of ten million United States dollars (\$10,000,000) to be paid out of Canal operating revenues. This amount shall constitute a fixed expense of the Panama Canal Commission.

(c) An annual amount of up to ten million United States dollars (\$10,000,000) per year, to be paid out of Canal

operating revenues to the extent that such revenues exceed expenditures of the Panama Canal Commission including amounts paid pursuant to this Treaty. In the event Canal operating revenues in any year do not produce a surplus sufficient to cover this payment, the unpaid balance shall be paid from operating surpluses in future years in a manner to be mutually agreed.

#### ARTICLE XIV

##### Settlement of Disputes

In the event that any question should arise between the Parties concerning the interpretation of this Treaty or related agreements, they shall make every effort to resolve the matter through consultation in the appropriate committees established pursuant to this Treaty and related agreements, or, if appropriate, through diplomatic channels. In the event the Parties are unable to resolve a particular matter through such means, they may, in appropriate cases, agree to submit the matter to conciliation, mediation, arbitration, or such other procedures for the peaceful settlement of the dispute as they may mutually deem appropriate.

DONE at Washington, this 7th day of September, 1977, in duplicate, in the English and Spanish languages, both texts being equally authentic.

FOR THE UNITED STATES OF AMERICA:

JIMMY CARTER

President of the United States of America

FOR THE REPUBLIC OF PANAMA:

OMAR TORRIJOS HERRERA

Head of Government of the Republic of Panama

## ANNEX

Procedures for the Cessation or Transfer of Activities  
Carried out by the Panama Canal Company and the Canal Zone  
Government and Illustrative List of the Functions that may be  
Performed by the Panama Canal Commission

1. The laws of the Republic of Panama shall regulate the exercise of private economic activities within the areas made available by the Republic of Panama for the use of the United States of America pursuant to this Treaty. Natural or juridical persons who, at least six months prior to the date of the signature of this Treaty, were legally established and engaged in the exercise of economic activities in accordance with the provisions of paragraphs 2-7 of Article IX of this Treaty.

2. The Panama Canal Commission shall not perform governmental or commercial functions as stipulated in paragraph 4 of this Annex, provided, however, that this shall not be deemed to limit in any way the right of the United States of America to perform those functions that may be necessary for the efficient management, operation and maintenance of the Canal.

3. It is understood that the Panama Canal Commission, in the exercise of the rights of the United States of America with respect to the management, operation and maintenance of the Canal, may perform functions such as are set forth below by way of illustration:

- a. Management of the Canal enterprise.
- b. Aids to navigation in Canal waters and in proximity thereto.
- c. Control of vessel movement.
- d. Operation and maintenance of the locks.
- e. Tug service for the transit of vessels and dredging for the piers and docks of the Panama Canal Commission.
- f. Control of the water levels in Gatun, Alajuela (Madden) and Miraflores Lakes.
- g. Non-commercial transportation services.
- h. Meteorological and hydrographic services.
- i. Admeasurement.
- j. Non-commercial motor transport and maintenance.
- k. Industrial security through use of watchmen.
- l. Procurement and warehousing.
- m. Telecommunications.
- n. Protection of the environment by preventing and controlling the spillage of oil and substances harmful to human or animal life and of the ecological equilibrium in areas used in operation of the Canal and the anchorages.
- o. Non-commercial vessel repair.
- p. Air conditioning services in Canal installations.

q. Industrial sanitation and health services.  
 r. Engineering design, construction and maintenance of Panama Canal Commission installations.  
 s. Dredging of the Canal channel, terminal ports and adjacent waters.  
 t. Control of the banks and stabilizing of the slopes of the Canal.  
 u. Non-commercial handling of cargo on piers and docks of the Panama Canal Commission.  
 v. Maintenance of public areas of the Panama Canal Commission, such as parks and gardens.  
 w. Generation of electric power.  
 x. Purification and supply of water.  
 y. Marine salvage in Canal waters.  
 z. Such other functions as may be necessary or appropriate to carry out, in conformity with this Treaty and related agreements, the rights and responsibilities of the United States of America with respect to the management, operation and maintenance of the Panama Canal.

4. The following activities and operations carried out by the Panama Canal Company and the Canal Zone Government shall not be carried out by the Panama Canal Commission, effective upon the dates indicated herein:

a. Upon the date of entry into force of this Treaty:

- (i) Wholesale and retail sales, including those through commissaries, food stores, department stores, optical shops and pastry shops;
- (ii) The production of food and drink, including milk products and bakery products;
- (iii) The operation of public restaurants and cafeterias and the sale of articles through vending machines;
- (iv) The operation of movie theaters, bowling alleys, pool rooms and other recreational and amusement facilities for the use of which a charge is payable;
- (v) The operation of laundry and dry cleaning plants other than those operated for official use;
- (vi) The repair and service of privately owned automobiles or the sale of petroleum or lubricants, including the operation of gasoline stations, repair garages and tire repair and recapping facilities, and the repair and service of other privately owned property, including appliances, electronic devices, boats, motors, and furniture;
- (vii) The operation of cold storage and freezer plants other than those operated for official use;
- (viii) The operation of freight houses other than those operated for official use;
- (ix) Commercial services to and supply of privately owned and operated vessels, including the construction of vessels, the sale of petroleum and lubricants and the provision of water, tug services not related to the Canal or other United States Government operations, and repair of such vessels, except in situations where repairs may be necessary to remove

disabled vessels from the Canal;

(x) Printing services other than for official use;

(xi) Maritime transportation for the use of the general public;

(xii) Health and medical services provided to individuals, including hospitals, leprosariums, veterinary, mortuary and cemetery services;

(xiii) Educational services not for professional training, including schools and libraries;

(xiv) Postal services;

(xv) Immigration, customs and quarantine controls, except those measures necessary to ensure the sanitation of the Canal;

(xvi) Commercial pier and dock services, such as the handling of cargo and passengers; and

(xvii) Any other commercial activity of a similar nature, not related to the management, operation or maintenance of the Canal.

b. Within thirty calendar months from the date of entry into force of this Treaty, governmental services such as:

(i) Police;

(ii) Courts; and

(iii) Prison system.

5. (a) With respect to those activities or functions described in paragraph 4 above, or otherwise agreed upon by the two Parties, which are to be assumed by the Government of the Republic of Panama or by private persons subject to its authority, the two Parties shall consult prior to the discontinuance of such activities or functions by the Panama Canal Commission to develop appropriate arrangements for the orderly transfer and continued efficient operation or conduct thereof.

(b) In the event that appropriate arrangements cannot be arrived at to ensure the continued performance of a particular activity or function described in paragraph 4 above which is necessary for the efficient management, operation or maintenance of the Canal, the Panama Canal Commission may, to the extent consistent with the other provisions of this Treaty and related agreements, continue to perform such activity or function until such arrangements can be made.

