



UNIVERSITÀ
DEGLI STUDI
DI PADOVA

Università degli Studi di Padova
Dipartimento di Scienze Storiche, Geografiche e dell'Antichità

Corso di Laurea Magistrale in Scienze Storiche

“Un país que no se vende”:

Negotiations and Signing of the
Torrijos-Carter Panama Canal Treaties

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ANNO ACCADEMICO 2023/2024

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ACKNOWLEDGMENTS

William J. Jorden titled his book *Panama Odyssey* and by using this expression he wanted to convey how demanding and tiring the negotiations of the Torrijos-Carter treaties had been. Yet, one might think that the real “odyssey” was actually his five-year undertaking in finishing the book. This latter interpretation fits well with my experience, in itself an odyssey that took me from Panama and Atlanta all the way to Padua and Perugia.

My very first thanks go to my grandfather Onofre (who recently passed away and to whom I dedicate this work), my grandmother Diana and my uncle Roberto without whom I would not have been able to leave for this long research trip which lasted almost a month. Fortunately, many people have helped me and have taken my research to heart during this long journey. Billy, Ceri, Keith, Leonora, Rachel and Youlanda of the Jimmy Carter Presidential Library were the most awesome archivists I could have ever asked for. You really made me feel at ease, as it was my very first search in a large archive. It was so nice having the opportunity to chat during breaks and tell you about my country. I thank Marquee and Cindy for making my stay in the Peach City less lonely and also, while I’m at it, thank you good ol’ Jimmy! You indirectly offered me a lunch at the library-museum canteen for your 99th birthday.

I want to extend my special thanks to Isaac and Orlando of the Roberto F. Chiari Library who not only gave me the opportunity to consult the unprocessed material Omar Jaén Suárez has donated, but also granted me a video interview for being the first to conduct research on those documents. Even during the writing process, Isaac continued to help me by sending me Panamanian newspaper articles from their archive collection. A special thanks goes to Professor Damaris, whose enthusiasm for my

research truly moved me and who helped me so much in “juggling” the libraries and archives of Panama.

Those who I do not want to thank are the neighbors in Atlanta with the bad habit of shooting (I hope blanks, but I am not sure) one night yes and one night no; the owners of the house who left my brother Marquee without a bed; the managers of the Panama water network who left us without water for two days; the electricity service managers who left us without electricity, the chef of the Mexican restaurant who gave me food poisoning and finally the Municipality of Panama that doesn't repair broken manholes which were looking ever more like sinkholes. Guess who almost lost a leg? However, I forgive the anti-mining protesters who made me stay at the airport for 11 hours just because I support their cause.

But the odyssey is far from over. The most difficult period began after returning home. Thanks to Sara for supporting me in one of the lowest moments of the writing process. You have no idea how important that phone call was for me. I owe that little increase in confidence above all to Dean, with whom I learned to write better, and who helped me convince myself that my English is not terrible after all but just “a little ugly.” I want to also thank Chiara – I wish I had met you sooner. Maybe I would have saved myself many bad moments. My deepest gratitude goes to my families – mum, dad, Patrizio, Viviana, Claudia and Greta, and to the three most precious people I have – Arianna, Cristiano and Virginia. Guys, I love you from the bottom of my heart.

I take this opportunity to spite my supervisor, who expressly asked me not to thank him, as “he is just doing his job.” Wrong! No professor corrects seven pages a day! In the end, his mix of English and Tuscan humor and his fussiness, though the main cause of my anxieties, made this thesis worthy of its ambition and, above all, it made me become a better student – stronger and more prepared.

ABBREVIATIONS

ABA	American Bar Association
AMREP	Arcevo del Ministerio de Relaciones Exteriores de Panamá
BPRC	Biblioteca Presidente Roberto F. Chiari)
CIA	Central Intelligence Agency
CPN	Coalición Patriótica Nacional
CPTAAC	Comisión Panameña de Tierras, Aguas y Administración del Canal
CREST	CIA Records Search Tool
CUSLAR	United States-Latin American Relations
FQM	First Quantum Minerals
JCPL	Jimmy Carter Presidential Library
NSA	National Security Advisor
OAS	Organization of American States
OPIC	Overseas Private Investment Corporation
PMR	Presidential Memorandum Review
PPJC	Public Papers of the Presidents of the United States: Jimmy Carter
SOFA	Status of Forces Agreement
UNSC	United Nations Security Council

PREFACE

It seemed that last year's October 21 had started as any morning in the previous six days. I was in David in the province of Chiriquí, Panama at that time, at my grandparents' house, with nothing better to do than reorganize and catalog the hundreds of photographs and documents I had managed to find during my long research trip for my thesis. I was working on the PC in the dining room, creating folders and metadata for my archival loot, when I heard a distinct and familiar *¡ay Dios mío!* coming from the kitchen. It was my Italian-born but Panamanian-naturalized grandmother, who had evidently seen something she disliked on television. I could not yet foresee that what she watched would negatively affect the rest of my stay in the country, but it would also inspire the preface of this work.

The previous day, the Panamanian Congress had passed in record time a new contract between the state and the Canadian mining company First Quantum Minerals (FQM) for the concession and exploitation of the Cobre copper mine, the most important in the country and, more generally, among the largest in Central America. It was not the first time that the Canadian company had operated in the area: the first contract was awarded in 1997, but the Environmental Advocacy Center challenged the agreement on the ground of its constitutionality. But it was only in 2017 that the Suprema Corte de Justicia declared the agreement unconstitutional, a ruling published in the Official Gazette, however, only four years later. Since then, Panama and FQM have begun new negotiations for a new contract that could be legal and ended with a positive outcome in mid-October. The new agreement provided for the concession of the mine for 20 years with possible renewal for another 20 years and the payment of \$375 million annually by the private company to be able to operate in the area. A decent

result considering that in the previous contract there was no provision for any tax or duty to be paid.

Most Panamanians, however, did not think so: demonstrations against the mine were called, starting from March of the same year, when, in short, negotiations for the new contract began. What amazed me, however, was the nature and scope of the riots throughout the country. Beginning on October 21, a multitude of Panamanians took to the streets in all the cities of the country, blocking the main communication routes. Panama is not a densely populated country, nor does it have efficient road connections: if even a few nerve centers are compromised, the entire state comes to a standstill. The riots, sometimes quite violent, continued for over a week, despite the tropical storms that flooded numerous provinces every day. Many demonstrators remained impassive despite the rain, continuing to block bridges, roads and even airports, asking President Laurentino Cortizo to (but it was unclear how) revoke the contract.

But why were the people of Panama so on fire? To think of such a reaction in a similar case in Europe would be far-fetched. There must have been some deeper reason that led such a large slice of the population to demonstrate so decisively and unitedly, to the point of blocking the economy of an entire country. Because it must be said that in those two weeks of protests, not even ambulances could avoid getting bogged down in traffic. Not to mention the various fresh or refrigerated food trucks, schools, universities, offices and shops. Certainly, the environmental issue was a factor that brought a part of “green” public opinion to the streets. The mine is in fact unfortunately located in a problematic area of the country: the Mesoamerican Biological Corridor, a narrow tropical forest route in northern Panama that allows thousands of medium to large animal species to move from North America to South America and vice versa. The 12,000-hectare mine is placed right in the middle of this green corridor, a protected

area. But this is not the motivation that probably filled the squares the most. The environmental signs and slogans were undeniably present, of course, but other elements overshadowed them: Panamanian flags and *¡Panamá no se vende!* posters. In Italy, when there are protests against the climate crisis, deforestation and pollution, you do not usually see national flags around. For this reason, I do not think it is plausible that Panamanian environmentalists are the only ones in the world who are also nationalists.

How did this happen? Panama, like most Latin American countries, is tormented by the ghosts of imperialism: the people are terrified by the balance of power that is created between the state and any major foreign player, be it a country or a private company. When the stakes are high, in this case a mine that alone contributes more than 4% of the country's GDP, the words "concession" and "20-year renewable agreement" are not simply red flags but are already national defeats. This explains the multitudes of national flags (which ironically was designed by the wife of the French Philippe-Jean Bunau-Varilla, a signatory to the first Panama Canal Treaty between the United States and Panama). The History of Panama is also the history of one of the largest territorial concessions in contemporary history. It is as if New York did not have sovereignty over Wall Street, or London over the City. The loss of direct control over a huge economic resource rekindles Panamanian nationalism and the memory of what was once the infamous Panama Canal Zone, the U.S. exclave that for almost a hundred years was the cause of the general dissatisfaction of the small Caribbean country.

After weeks of protests, Cortizo proposed a referendum at the end of October. By a strange twist of fate, October was also the month in which the 1977 plebiscite on the Panama Canal Treaties took place. Eventually, the Tribunal Electoral rejected the possibility of a referendum but only a few days the Asamblea Nacional approved a bill

that suspended new mining concessions in Panama, and on November 28, the Suprema Corte unanimously ruled the contract as unconstitutional.

INTRODUCTION

Pobre del país - Donde lo malo controla donde el civil se enamora de la corrupción,
Pobre del país - Alienado por la droga porque una mente que afloja pierde la razón,
Pobre del país - Que con la violencia crea que puede matar la idea de su liberación,
Pobre del país - Que ve la justicia hecha añicos por la voluntad del rico o por orden militar.
Cada nación depende del corazón de su gente y a un país que no se vende nadie lo podrá comprar.
¡No te olvides!¹

During the first semester of the master's degree course in Padua I attended the lectures of "Global History," a class held by Professor Carlo Fumian. The course was very peculiar because it did not deal chronologically with specific events, as is often done in history classes. Instead, the professor sought to reconstruct recurring dynamics within the world-system that consolidated the interrelationships between people, capital, and services. A sort of thematic history of globalization with a major focus on the one that followed the Industrial Revolution of the mid-nineteenth century. I remember one of the professor's sentences that struck me the most at the time, it was something like "it cost less to ship a cargo from Liverpool to Buenos Aires than to transport the same cargo from the Argentine capital to the hinterland. And that didn't change much even after the massive construction and introduction of railways in much of the world."

More than two hundred years have passed since the Industrial Revolution, but the long-distance economic advantage of trade by sea compared to road, rail and air remains undeniable.² And that is not all. It is true that in ancient, classical, medieval and modern times, most of the richest towns were port cities, but after the invention of the

¹ Rubén Blades, "Prohibido Olvidar," track 7 on *Caminando*, Sony Music Enter. and Sony Inter., 1991.

² For more information, see Kevin H. O'Rourke and Jeffrey G. Williamson, *Globalizzazione e storia: L'evoluzione nell'economia atlantica dell'Ottocento*, (Bologna: il Mulino, 2005).

steamship, the commercial possibilities grew even more for these large ports. The reduction of transport costs and therefore the cost of trade was a crucial moment in the history of the world, a point of no return. The opening of new markets and new possibilities for enrichment and hegemony consequently favored the emergence of new strategies to be able to capitalize as much as possible on the resources of the new system. One of the pioneers and leading theorists of the importance of maritime power was undoubtedly the U.S. Admiral Alfred Thayer Mahan, who offered a new strategic vision of sea routes and colonial-imperial possessions, in part in opposition to the mercantilist philosophy of the previous century. Mahan, as a U.S. strategist, was among the firsts to see the need for expansion into foreign markets to address the challenge of overproduction and underemployment. Above all, the Admiral re-evaluated the importance of the colonies as strategic bases for the commercial fleet and navy, no longer to be considered a mere docking point where ships full of commodities departed. In other words, Mahan contributed to the geostrategic rationalization of his country, influencing many presidents to come, especially Theodore Roosevelt.³

The evolution of a geostrategic imperialism that replaced colonial expansionism, in some ways for its own sake, inaugurated a new season in the history of the balance of power between the great European empires, and also the United States. The opening of the Suez Canal in 1869, Western strategies for the control of Chinese ports and the massive investment of Europeans in some Atlantic cities in Latin America, were just some of the great consequences of this paradigm shift. In particular, although the Suez Canal ended up costing the Egyptians and French much more than expected, it had a considerable effect on the expansion of international trade, thanks in part to the

³ Walter LaFeber, "A Note on the 'Mercantilistic Imperialism' of Alfred Thayer Mahan," *The Mississippi Valley Historical Review* 48, no. 4 (March 1962): 674-85; Peter Karsten, "The Nature of 'Influence': Roosevelt, Mahan and the Concept of Sea Power," *American Quarterly* 23, no. 4 (March 1971): 585-600.

increasingly massive implementation of the aforementioned steamships.⁴ The new route allowed large ships to reduce travel times (and of course costs) by almost three times compared to the old Magellan route, and it was not long before some entrepreneurs and engineers turned their gaze to the west, seized by a sense of omnipotence. If circumnavigating Africa was only a waste of time and money, circumnavigating America was a matter of life and death: passing from the north, through the Canadian islands was impossible due to the polar ice, while passing from the south under the Tierra de Fuego meant encountering very strong storms that seriously risked endangering crew and cargo.⁵ An “American Suez” became an increasingly essential work for the development of global trade, and the Isthmus of Panama would become that very place for this waterway.

The history of the Panama Canal is a long process characterized by failures, deceptions and tensions. This odyssey took place in a Central American country whose history in the last century would not have been so dissimilar to those of other small neighboring states, if only it had not been for this economic resource disproportionate to Panama's wealth that is the interoceanic canal. Today, the net profit directly linked to the canal is about 2 billion dollars, about 3% of the country's GDP. Added to this are a whole series of economic and financial services inextricably linked to the existence of the canal, which constitute the most profitable sector of the State.⁶ Yet this was not

⁴ Caroline Piquet, “The Suez Company’s Concession in Egypt, 1854-1956: Modern Infrastructure and Local Economic Development,” *Enterprise & Society* 5, no. 1 (March 2004): 107-110.

⁵ James R. Fleming, *Meteorology in America, 1800-1870* (Baltimore: John Hopkins University Press, 1990), 4-5.

⁶ International Monetary Foundation Western Hemisphere Department, “Panama Growth Story,” *IMF Staff Country Reports* 129, A002, March 2023, (all websites were last accessed on February 1, 2024), <https://web.archive.org/web/20231026173312/https://www.elibrary.imf.org/view/journals/002/2023/129/article-A002-en.xml>.

always the case. The Panamanian Government has had complete sovereignty over the canal and the entity that manages it for less than a quarter century, a very short time compared to the more than one hundred years of existence of the infrastructure. Reconstructing the history of the Panama Canal in detail, from the failure of the French project to the Panamanian attainment of sovereignty, passing through the creation and management of the Panama Canal Zone by the United States, is an enormous undertaking. For this reason, we decided here to dwell on a single crucial moment in the history of the canal and relations between the United States and Panama: the January to September 1977 negotiations on the complete transfer of the ownership of the canal. This last effort between the diplomatic teams of the Torrijos and Carter Governments was the last act in a series of largely unsuccessful attempts that lasted at least thirteen years to find a new agreement on the U.S. management of the canal. In fact, the United States owned the waterway along with a portion of 1,432 square kilometers of isthmus land to the right and left of the infrastructure. This intense diplomatic process was an almost unique moment in recent history, in which two countries, one 133 times larger and 2000 times richer than the other, found themselves negotiating almost equally on an issue of utmost importance for both.

Technically, there is only one in-depth study of the Panama Canal negotiations: *Las Negociaciones de los Tratados Torrijos-Carter 1970-1979* by the Panamanian historian and geographer Omar Jaén Suárez, who was also a member of the Comisión Panameña de Tierras, Aguas y Administración del Canal, responsible for the technical and less “flashy” aspects of the outcome of the agreements.⁷ Suárez's work is indeed very peculiar, as he had the fortune to be both a protagonist of the negotiation and a scholar

⁷ Omar Jaén Suárez, *Las negociaciones de los tratados Torrijos-Carter 1970-1979*, vol. 2 (Panama City, Panama: Panama Canal Authority, 2005).

capable of pursuing research with methodological rigor. Many of the internal dynamics of the Panamanian negotiating teams had never been studied before, as in general, much of the Panamanian documentation was not easily available at the time and unfortunately a large part of it is still missing. Suárez himself complains that the Torrijos regime did not pay much attention to archival practices. In fact, many of the records from those years have been lost.⁸ Suárez's misfortune, however, is that he published his brilliant study only in Spanish and as late as 2005, when the academic interest in the subject had already drastically decreased. In fact, most of the publications and the volumes that deal directly or indirectly with the canal issues were published in the twenty years following the signing of the treaties. Furthermore, Suárez's second volume on the Torrijos-Carter treaties negotiations heavily relies on information from Panamanian newspapers. Due to the lack of archival documentation, these biased sources have occasionally influenced several passages. For instance, while Suárez admirably reconstructs the dynamics of the technical negotiating table, he faced limitations in accessing many U.S. official documents that were released only a few years later.

Besides *Las Negociaciones de los Tratados Torrijos-Carter*, almost all the bibliography on relations between the two states in the 1970s came out in the years immediately following the signing of the Torrijos-Carter treaties and is for this reason not very meticulous due to the lack of many archival sources that were not accessible at the time. In addition, these publications turned out to have three other major flaws. The authors are almost exclusively U.S. scholars who draw on U.S. sources only. These works are often political-strategic analyses complaining about the U.S. loss of the canal or short paragraphs in broader volumes on the Carter Administration or the relations

⁸ Omar Jaén Suárez, *Las negociaciones de los tratados Torrijos-Carter 1970-1979*, vol. 1 (Panama City, Panama: Panama Canal Authority, 2005), 30-31.

between the United States and Latin America.⁹ The few studies published after 1984 rely almost exclusively on one primary source, i.e. *Panama Odyssey*, a hybrid memoir/history volume by William J. Jordan, the U.S. Ambassador to Panama from 1974 to 1978.¹⁰

Panama Odyssey was the first exhaustive work not only on the 1977 negotiations, but also on the various failed attempts to reach a definitive agreement since 1964. It mixes anecdotal stories and verifiable events in a narrative structure that resembles a “historically accurate” personal diary. In fact, the author spent the six years following the end of his mandate as Ambassador almost exclusively collecting the documentation to complete his book, which however does not have the structure and rigor that a historian would put into his own research. Although Jordan’s work is a valuable source that we will use extensively ourselves, one cannot help but notice a shortcoming in studies that have drawn almost entirely on a source of this type. In fact, Suárez criticizes Jordan’s “impresionista” approach, being a book full of anecdotes that the various protagonists of the events told Jordan only a few years later and lacking in many

⁹ To mention a few studies that present similar flaws and result outdated: Richard A. Falk, “Panama Treaty Trap,” *Foreign Policy*, no. 30 (Spring 1978): 68-82; John P. Augelli, “The Panama Canal Treaties of 1977: Impact and Challenges,” *Yearbook (Conference of Latin Americanist Geographers)* 11 (1985): 75-79; Ambler H. Moss, “The Panama Treaties: How an Era Ended,” *Latin American Research Review* 21, no. 3 (1986): 171-178.

¹⁰ William J. Jordan, *Panama Odyssey*, 2nd ed. (Austin: University of Texas Press, 2014). The first edition was published in 1984. To mention a few volumes on Carter Presidency that based their section about Panama on Jordan’s work: Erwin C. Hargrove, *Jimmy Carter as President: Leadership and the Politics of the Public Good* (Baton Rouge: Louisiana State University Press, 1988), 123-124; Betty Glad, *An Outsider in the White House: Jimmy Carter, his Advisors, and the Making of American Foreign Policy* (Ithaca, NY: Cornell University Press, 2009), 88-126; Stuart E. Eizenstat, *President Carter: The White House Years* (New York: St. Martin’s Press, 2018), 555-578.

archival sources, especially on the Panamanian side.¹¹ At times, Jordan depicts exaggerated versions of the internal dynamics within the Torrijos Government, although he generally has a positive opinion of both Administrations and the way in which the negotiations ended.¹² For this reason, a predominantly documentary history – and not a work that is mostly based on interviews and personal conversations between the author and the various protagonists – is preferable, especially if one is trying to reconstruct a very complex diplomatic event. Moreover, given that we are studying an issue involving two countries, it is essential to seek sources produced by both, to avoid the bias of much of the U.S. historiography on the Panama Canal Treaties. The most updated studies on the subject, although they utilize Panamanian (and more generically Latin American) sources, do not focus on the dynamics of the negotiation.

The Italian historiography on the matter is very recent, yet quite scarce. *Ordine mondiale e buon vicinato* by Massimiliano Guderzo that offers an in-depth analysis of the Carter Administration's policies in Latin America and a rich bibliography very useful for any scholar wanting to do research on the topic. However, no chapter is exclusively about Panama.¹³ Similar thoughts can be expressed about *Stati Uniti e America Latina dal 1945 a oggi* by Raffaele Nocera, in which he dedicates only eight lines to the negotiation of the treaties in the paragraph on the Carter Presidency, and

¹¹ Suárez, *Las negociaciones de los tratados Torrijos-Carter 1970-1979*, 28-29 (quote 28). However, many of Suárez's corrections to Jordan are not supported by facts or documentation but by his personal experience as a negotiator.

¹² Jordan, *Panama Odyssey*, xi-xvi.

¹³ Massimiliano Guderzo, *Ordine mondiale e buon vicinato: Gli Stati Uniti e l'America latina negli anni di Carter, 1977-1981* (Florence: Polistampa, 2012), 26-27, 34-35, 40, 54, 65-66, 74, 82-84, 93, 97, 99.

regarding the essay “Carter’s Presidency and Latin America,” by Matteo Antonio Napolitano.¹⁴

As for the U.S. historiography, that is certainly richer, the situation is not very different. *Drawing the Line at the Big Ditch* by Adam Clymer, uses the case of the canal to investigate the evolution of currents within the Republican Party in those years and *Latin America Confronts the United States* by Tom Long dedicates only one chapter to Panama, as it is not the main subject of the volume. The latter is also very similar to Guderzo’s work as it stresses the asymmetrical relations between the United States and Latin America countries.¹⁵ Long’s volume, through case studies drawn from Latin American archives and interviews with leaders and diplomats, illustrates how capable Latin American leaders effectively defended their interests and influenced U.S. domestic politics. He argues that smaller states can leverage their size by rallying others under banners of sovereignty and justice, and emphasizes the effectiveness of persistent diplomacy and cooperative solutions over aggressive confrontation or negative autonomy in achieving diplomatic goals. In particular, *Latin America Confronts the United States* was a key volume for the creation of our thesis: in one passage, Long recounts an event from a meeting where Jorden and Suárez provided

¹⁴ Raffaele Nocera, *Stati Uniti e America Latina dal 1945 a oggi* (Rome: Carocci, 2005), 84; Matteo Antonio Napolitano, “Carter’s Presidency and Latin America,” in *The Presidency of James Earl Carter Junior: Between Reformism, Pacifism and Human Rights*, ed. Silvio Berardi (Rome: Nuova Cultura, 2016) 135-152.

¹⁵ Adam Clymer, *Drawing the Line at the Big Ditch: The Panama Canal Treaties and the Rise of the Right* (Lawrence: University of Kansas Press, 2008); Tom Long, *Latin America Confronts the United States: Asymmetry and Influence* (Cambridge: Cambridge University Press, 2015), 74-128. Only the last twenty pages examine the negotiation under the Carter Administration. Similar perspectives can be expressed regarding Peter H. Smith, *Talons of the Eagle: Latin America, the United States, and the World*, 3rd ed. (New York: Oxford University Press, 2008).

contradictory descriptions.¹⁶ Long primarily relies on secondary sources and does not delve into determining the reliability of either version. Consequently, he raises these discrepancies without offering further analysis.

Our aim, instead, was to verify some of Suárez's and Jorden's assumptions and to update the historiography specifically on the negotiation and to deal in detail with some steps that not even Suárez had addressed, although he had been able to consult sources that had not been open to researchers, yet. Some good examples are the discussion of the diplomatic engagements between the Carter Administration and numerous influential figures during the first half of 1977, and the "day by day" reconstruction of the political negotiations of mid-March, known as "secret round" and of May, known as "May round." Our work intended to bring, first of all, an original contribution to the Italian historiography on Panama and to supplement the richness of historiography on the U.S. ratification process of the treaties, an issue that many scholars have instead described in detail. To cite the most exhaustive works, *The Limits of Victory: The Ratification of the Panama Canal Treaties* by George D. Moffett III and *The Dynamics of Foreign Policymaking: The President, the Congress, and the Panama Canal Treaties*, by William L. Furlong and Margaret E. Scranton that also investigates the political and public discussions before the Carter Presidency.¹⁷ Drawing inspiration from these two reconstructions of the U.S. congressional debates, our thesis endeavors to offer a similarly detailed study focusing on the immediately preceding phase thanks to both Panamanian and U.S. Governments declassification of numerous sources.

¹⁶ Long, *Latin America Confronts the United States*, 118.

¹⁷ George D. Moffett III, *The Limits of Victory: The Ratification of the Panama Canal Treaties* (Ithaca, NY: Cornell University Press, 1985); William L. Furlong and Margaret E. Scranton, *The Dynamics of Foreign Policymaking: The President, the Congress, and the Panama Canal Treaties*, 2nd ed. (London and New York: Routledge, 2019). First edition was published in 1984.

To obtain most of the archival documentation for this work, I went to four different repositories. The first archive I visited was the Jimmy Carter Presidential Library in Atlanta, which proved to be very useful in obtaining many correspondences between the Office of the Chief of State and the negotiators, as well as numerous memoranda and files from 1977 that were written *ad hoc* for the study of the Panamanian question. There, I was fortunate enough to have access to a rich collection of declassified CIA (Central Intelligence Agency) documents from the CIA Records Search Tool (CREST). In Panama City, the most useful repository is the Acervo Histórico Diplomático de la República de Panamá, which has the largest collection of Spanish-language documents related to the canal, including valuable transcripts of several meetings of the Torrijos-Carter treaty negotiators. Unfortunately, not every single transcript was available, and the organization of the materials turned out to be quite confusing. For example, many documents (even very different from each other) were grouped together, and the language of the titles and the content sometimes did not correspond. The entire collection of documents has recently been scanned and is available on the website of the Panamanian Ministerio de Relaciones Exteriores.¹⁸ Another key repository was the Biblioteca Presidente Roberto F. Chiari, where I could consult the documents and research material for *Las Negociaciones de los Tratados Torrijos-Carter* that Suárez donated to the library, although they have not been catalogued, yet. Finally, at the *hemiroteca* of the Biblioteca Nacional de Panamá Ernesto J. Castellero R. I was able to peruse the main local newspapers on which the last part of the thesis largely draws.

The first chapter of this work deals with the history of the construction of the canal since the first French engineering project up to the 1976 U.S. presidential elections,

¹⁸ Biblioteca Roberto F. Chiari - Acervo Histórico Diplomático de la República de Panamá, <https://web.archive.org/web/20230407093136/https://sigob.mire.gob.pa/acervo/consulta/#/>.

paying greater attention to the evolution of the talks between the two countries since 1964, i.e., from the Panamanian flag incident on Ancon Hill. We presume that the reader, not being Panamanian, needs some context for a better understanding of the last eight intense months of diplomatic rounds that the subsequent chapters analyze. The first chapter, therefore, summarizes more than 100 years of history drawing on secondary sources and some reports by the U.S. intelligence and Government. These were also the same documents that the negotiating team had studied to undertake its job in 1977. The second chapter addresses the Carter Presidency and its initial positions on the Panama question. Then, after a paragraph dedicated to the biographies of the protagonists of the negotiations, it reconstructs the inaugural meeting between the teams up to the resignation of the Panamanian Foreign Minister Aquilino Boyd. The third chapter covers the facts and discussions between the two parties up to April, paying attention to the evolution of the positions and strategies of the two Administrations. The fourth chapter focuses on the so-called “May round,” a crucial moment when diplomats met almost every day to reach an agreement without further delay. The fifth chapter examines the second phase of the negotiations when Panama raised the issue of an economic compensation, demanded for over fifty years of U.S. exploitation of the canal. The sixth and final chapter concludes the chronological reconstruction of the events related to the negotiations that culminated with the signing of the two treaties in Washington D.C. on September 7, 1977.

THE ISSUES AT STAKE

1.1 – Early Attempts

Washington's interest in controlling the Central American transit across the isthmus of Panama dates to the 1840s, following the U.S. expansion to the Pacific coast. In the 1846 treaty with New Granada – the state resulting from the Bolivarian failure to keep the Great Colombia united – the United States obtained the right to construct a way through Panama in exchange for ensuring Colombian sovereignty over the province.¹ So, in 1847 the New York-financed Panama Railroad Company was founded and began operating in 1855. However, although the Clayton-Bulwer Treaty of April 19, 1850, with the United Kingdom had stipulated equal participation in any future canal project, the more concrete plan for a transcontinental railroad diminished the urgency for a North American canal.² In fact, during those years, the possibility of a fast-lane link across the continents was indeed more attractive than a canal.

Before the United States acquired California at the end of the war against Mexico (1846-1848), many travelers to the region preferred using the isthmus crossing over the long and hazardous wagon route through vast plains and rugged mountains. The discovery of gold in 1848 led to a significant increase in traffic. The gold rush, even before the railroad's completion, revitalized Panama's economy. Between 1848 and 1869, around 375,000 people crossed the isthmus moving from the Atlantic to the Pacific coast, and 225,000 traveled in the opposite direction. The gold rush and the

¹ John Mayor, "The Panama Canal Zone, 1904-79," in *The Cambridge History of Latin America*, ed. Leslie Bethell (New York: Cambridge University Press, 1990), vol. 7, 643.

² "The California Gold Rush and the Railroad," in *Panama: A Country Study*. Washington: GPO for the Library of Congress, eds. Sandra W. Meditz and Dennis M. Hanratty, (Library of Congress, 1987). <https://web.archive.org/web/20230401231332/https://countrystudies.us/panama/5.htm>.

railroad brought a “Wild West” atmosphere to the isthmus, but, in 1869, the first transcontinental railroad was completed in the United States, scaled down traffic across the isthmus, affected the shipment of gold and silver and put an end to the frenzy.³

Ultimately, while the United States was taking care of land infrastructures, the French initiated work on a Panama Canal project in the 1880s under Ferdinand de Lesseps, the architect of the Suez Canal. The entrepreneur founded the Société Civile Internationale du Canal Interocéanique par l’Isthme du Darien and obtained a concession from Colombia to build a canal across the Isthmus of Panama. The French company also pledged that the canal would be kept free from political influence, but many U.S. politicians, including Secretary of State William M. Evarts, protested. In particular, Evarts emphasized that while the railroad facilitated rapid defense preparations for the United States in the event of a regional conflict, the existence of an international canal could offer a crucial advantage to a hostile fleet and that “all the treaties of neutrality in the world might fail to be a safeguard in a time of great conflict.”⁴

The tug of war between western powers for the indirect hegemony over the zone did not last long. After just a few years, it was quite clear that the French would never be able to finish the ambitious project. The Panama region posed significant engineering challenges, including an insidious tropical climate, high rainfall, dense jungles and a high incidence of diseases like malaria and yellow fever. Speaking of illnesses and

³ “The Meaning of the New Panama Canal Treaties,” The Department of State Selected Documents, 6C, [Arcevo del Ministerio de Relaciones Exteriores de Panamá (hereafter AMREP), *Tratados, Acuerdos, Convenios de Panamá \ Negociaciones \ Negociaciones del Tratado del Canal Torrijos - Carter* (1977), January 1978], 60-62. 591-005-14-6-6.8-6.8.06000196.

⁴ William M. Evarts, “Transcription of a meeting between Mr. Evarts, Sec. of State and Mr. Dichman, Min. to Colombia,” in *A Digest of International Law*, vol. 3, ed. John B. Moore (Washington, DC: Washington Government Printing Office, 1906), 15-16.

harsh working conditions, during the French attempt to build the Panama Canal, it is estimated that approximately 20,000 to 22,000 workers died due to these factors in added to in-site accidents and landslides. The mortality rate among the workforce was exceptionally high, primarily due to the lack of knowledge about mosquito-borne diseases at the time and the challenging environmental conditions in the region. The vast majority of the unskilled labor force came from Asia, especially China, and from the Caribbean Islands, mostly native inhabitants and black slaves. These workers were indeed the most exposed to the high-risk jobs and were the ones who, eventually, died the most.⁵

However, the greatest challenge de Lesseps' team had to face was the need to cut through the solid terrain of the continental divide in Panama, which required massive excavations and the removal of millions of tons of earth and rock. In fact, forming a sort of "spine" throughout all the northern part of Panama, there a mountain range that made it impossible to easily connect the two oceans: the Cordillera Central, that at its lowest, in central part of the isthmus, is still many tens of meters high above sea level. This natural barrier also created a height difference up to 30 meters between the two seas. For this reason, it was necessary to excavate the Culebra hills to complete a sea-level canal and workers had to continually widen the main cut through the ridge and reduce the angles of the slopes to minimize landslides into the worksite, because of the intense storms. Still, this was not enough to enlarge the width. This happened because of the rudimentary steam shovels used in the construction of the Suez Canal, whose riverbed

⁵ Ralph E. Avery, *America's Triumph in Panama*, (Chicago: The L.W. Walter Company, 1913), 13-21.

was way softer and the inability to use other mechanical and electrical equipment due to the rust that likely formed in a humid environment.⁶

As work progressed despite all the tragic human losses, engineers realized that a sea-level canal was impractical, leading to a shift towards a lock canal project. However, de Lesseps, who was not an engineer, was initially unconvinced and only embraced the change after six years. Actual labor on a lock canal did not commence until late 1888, amid serious financial difficulties, with around 19,000 workers employed at the peak of operations. De Lesseps faced challenges including financial obstacles due to strikes, work suspensions, rumors of failure and stock dumping, as well as corrupt French politicians and bureaucrats demanding bribes to approve securities.⁷ He also risked imprisonment along with his son after they were found guilty of misappropriation of funds.⁸ The United States thwarted his efforts to secure a French government guarantee for his bonds, since a direct involvement of a European government would have triggered a cooling of relations with Washington as a “violation” of the Monroe Doctrine. In January 1889, a receiver was appointed to liquidate the company, leading to the cessation of all work. Despite the financial disaster, about two-fifths of the necessary excavation for the canal was completed by the French company. Many

⁶ “Culebra Cut”, in *A History of the Panama Canal: French and American Construction Efforts*, Autoridad del Canal de Panamá, <https://web.archive.org/web/20210808085250/https://www.pancanal.com/eng/history/history/index.html>.

⁷ “The Uncompleted French Canal,” in *Panama: A Country Study*. <https://web.archive.org/web/20230402001914/https://countrystudies.us/panama/6.htm>.

⁸ Avery, *America’s Triumph in Panama*, 17-19.

buildings, including headquarters and hospitals, were finished, and some machinery left on-site was usable later.⁹

1.2 – Seizing the Opportunity... Nationally

While the French company was operating facing the Panama's harsh conditions, the U.S. enterprises were still considering the need of a canal in the foreseeable future, but the all the eyes were pointing Nicaragua as the most ideal site. Aniceto Garcia Menocal, a civil engineer in the U.S. Navy, played a crucial role in the survey and planning of a potential canal route through Nicaragua. In 1885, Menocal conducted a comprehensive examination of the entire canal route and submitted an extensive report to the U.S. Government, serving as the basis for subsequent proposals. Nicaragua's advantage for the canal project was the absence of significant obstacles in its territory such as high elevations, summit levels, or uncontrollable torrential streams found in other potential canal locations and even after 1889, the possibility to continue a project halfway done in Panama did not seem to be more attractive than a whole new project in Nicaragua.¹⁰

In any case, the French failure marked the end of the attempts by private companies to overcome such burdensome challenges, leaving room to Government initiatives. This approach, however, risked breaching in part the Clayton-Bulwer Treaty, which prohibited the development of a canal under a government control.¹¹ In 1897, the recently established U.S. Nicaraguan Canal Commission suggested building the canal

⁹ "The French Canal Construction," in *A History of the Panama Canal: French and American Construction Efforts*, Autoridad del Canal de Panamá, <https://web.archive.org/web/20210808085250/https://www.pancanal.com/eng/history/history/index.html>.

¹⁰ Archibald R. Colquhoun, *The Key of the Pacific: The Nicaragua Canal*, (Westminster: Archibald Constable and Company, 1895), 16-19.

¹¹ Charles W. Hayes, "Physiography and Geology of Region Adjacent to the Nicaragua Canal Route," *Bulletin of the Geological Society of America*, 10 (May 5, 1899): 285-348.

but the estimated cost, \$138 million (equivalent to \$5 billion in today's currency), was an extremely large sum. Commencing in 1899, the Panamanian alternative slowly gained momentum again with the establishment of an Isthmian Canal Commission.¹² However, only in 1902 Philippe Bunau-Varilla – a former French chief engineer who had worked for de Lesseps – was able to persuade U.S. officials that the Panamanian route was a more cost-effective, faster, and safer choice than the Nicaraguan route.¹³ To this purpose, for example, he distributed to all Congressmen a stamp issued by the Nicaraguan Post Office portraying the smoking Momotombo volcano. His stunt implied that Nicaragua was an unsafe seismic region and intended to dissuade Congress from supporting the construction of the canal there.¹⁴

But the economic aspect was not the only one considered. The war against Spain encouraged the violation of the Clayton-Bulwer Treaty. When the battleship *Oregon* had to travel all around Cape Horn from Seattle to Cuba, many U.S. strategists – including Mahan – realized how indispensable a canal through the Americas was. Panama, despite its mountains, would provide a faster-built infrastructure. Strong support also came from the fast-growing western states who needed a quicker way to trade with the Atlantic ports.¹⁵ Strangely enough, the U.K. Government was open to the United States and did not condemn the attempt to find a new agreement. London was probably seeking U.S. “good will” while it was waging the Boer War. So, in 1900, the

¹² “The Clayton-Bulwer Treaty,” OAS Peace Fund, <https://web.archive.org/web/20230506170549/https://www.oas.org/sap/peacefund/belizeandguatemala/timelinedocuments/TheClayton-BulwerTreaty-English.pdf>.

¹³ Lars Schoultz, *Beneath the United States*, (Cambridge, MA: Harvard University Press, 1998), 161.

¹⁴ Matthew Willis, “How a Postage Stamp May Have Helped Create the Panama Canal,” JSTOR Daily, December 14, 2017, <https://web.archive.org/web/20230402014338/https://daily.jstor.org/how-a-postage-stamp-may-have-helped-create-the-panama-canal>.

¹⁵ “The Meaning of the New Panama Canal Treaties,” 62. 591-005-14-6-6.8-6.8.06000196.

British ambassador in Washington, Julian Pauncefote, signed a treaty, which provided that the United States could construct, own, and neutralize a canal across the isthmus, but could not fortify it. The following year Theodore Roosevelt became President and after the Senate refused to ratify the treaty, the United States managed to sign a new agreement, the 1901 Hay-Pauncefote Treaty, which was very similar to the old one except for the lack of the clause on the fortification.¹⁶

The Roosevelt administration then continued to make its moves to achieve the task. After the U.K. permission, Congress passed the Spooner Act in June 1902, that allowed the United States to acquire the canal from the French company for only \$40 million (equivalent to \$1,400 million) respect to the initial \$109 million proposal. The low price resulted from the U.S. strategy to underscore to the French that they retained the option to construct a canal in Nicaragua.¹⁷ After that, in January 1903 the Roosevelt administration signed the Hay-Herrán treaty with Colombia, which granted the United States the extensive rights to build and operate the canal through Panama for 100 years. Yet, but the Columbian Senate rejected it on the ground of the extremely advantageous conditions for Washington.¹⁸

Against this unexpected backdrop, Roosevelt knew how to exploit the domestic troubles in Panama. Since the late 19th century, the political conflicts between Colombia's Liberal and Conservative parties had created constant turmoil in the region. Between 1863 and 1886, Panama witnessed a series of events, marked by coups, rebellions, and violence, involving government troops, local citizens, and opposition

¹⁶ "Panama Canal Treaties Information," Case Study for the United States Senate, [Jimmy Carter Presidential Library (hereafter JCPL), Chief of Staff Betty Rainwater O/A Files, box 258, Miscellaneous Documents on the Panama Canal Treaty [1], November 1977], 5.

¹⁷ "The Meaning of the New Panama Canal Treaties," 62. 591-005-14-6-6.8-6.8.06000196.

¹⁸ Mayor, "The Panama Canal Zone," 644.

factions. The new 1886 constitution then established Colombia as a unitary state, with Panama directly under the central government's authority. The U.S. consul general reported that three-quarters of the Panamanians wanted independence from Colombia and would revolt if they could get arms and be sure that the United States did not intervene in Bogotá's aid.¹⁹

When the news that the Senate had failed to ratify the treaty reached Panama, many people stigmatized what seemed another instance of Colombia's asymmetric and unjust policies toward them. In their views, the construction of the canal would contribute to the economic development of the region, ultimately fostering the growth of the province, but Bogotá had killed this opportunity. This sort of conspiracy against the interests of the region strengthened an already existent Panamanian separatist movement. The latter also enjoyed Washington's backing. Indeed, the United States supported the secession of Panama from Colombia by sending some vessels to the terminal ports of Panama City and Colon (respectively, along the Pacific and the Atlantic coast of Panama) in order to prevent the Colombian ships from docking and disembarking soldiers to quell the insurgence against Bogotá. The following day, November 3, 1903, a small group of Panamanian nationalists declared independence: no army in fact was able to cross the Darien Forest to repress the revolt and the only way for Colombia to send troops to Panama was via sea.²⁰ President Roosevelt immediately recognized the new Panamanian provisional government *junta* as the *de facto* government three days after the coup.

After the establishment of the Republic of Panama, the successful outcome of the canal negotiations became certain. The *junta* appointed Philippe Bunau-Varilla as its

¹⁹ "The Spillover from Colombia's Civil Strife," in *Panama: A Country Study*. <https://web.archive.org/web/20230402001914/https://countrystudies.us/panama/7.htm>.

²⁰ "The Meaning of the New Panama Canal Treaties," 63. 591-005-14-6-6.8-6.8.06000196.

plenipotentiary in the resumption of negotiations with Washington. He had not lived in Panama for seventeen years. Actually, he left the region after the failure of de Lesseps' attempt and never returned. He moved to New York City, where he wrote Panama's declaration of independence and Constitution. Bunau-Varilla rushed to sign an agreement with U.S. Secretary of State John Hay before the arrival of two additional Panamanian ministers authorized to participate in the talks. The exclusion of any Panamanian-born diplomat resulted in the eventual inequality of the new canal treaty, which was the price for Washington's help in the secession from Colombia. In any case, since there was no alternative, the Panamanians ratified the treaty on December 2, a few months before the approval by the U.S. Senate on February 23, 1904.²¹

The terms of the Hay-Bunau-Varilla treaty fulfilled all the Roosevelt Administration's desires. In exchange for the guarantee and the maintenance of the independence of the Republic of Panama, the United States obtained:

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 [with the possibility to use, occupy and control] in perpetuity [...] 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.²²

²¹ "The 1903 Treaty and Qualified Independence," in *Panama: A Country Study*. <https://web.archive.org/web/20230401231332/https://countrystudies.us/panama/8.htm>.

²² "Convention for the Construction of a Ship Canal (Hay-Bunau-Varilla Treaty), November 18, 1903," Yale Law School, https://web.archive.org/web/20230406061104/https://avalon.law.yale.edu/20th_century/pan001.asp.

That was much more with respect to the Hay-Herrán treaty with Colombia, which could have provided “just” a 100-year lease of a 10-kilometer-wide (not 10 miles-wide) zone through the Isthmus of Panama in exchange for a lump-sum payment of \$10 million and \$250,000 per year for the term of the lease.²³

Another major difference between the two treaties was the jurisdictional rights. The Hay-Herrán Treaty provided for three kinds of courts for the Canal Zone: Colombian, United States and mixed. Conversely, the Bunau-Varilla stated that “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.” But the sovereignty of the United States did not stop at the new Panama Canal Zone. Washington could legally intervene in Panama territories “for the maintenance of public order in the cities of Panama and Colon and the territories and harbors adjacent thereto in case the Republic of Panama should not be, in the judgment of the United States, able to maintain such order.” The one-off compensation and the annual payment sum remained the same of the old treaty, but Panama was cut off from the right to a percentage of the canal’s gross revenue and surrendered title to as the Panama-Colon Railroad as well.²⁴

1.3 – The Panama Canal Zone

The establishment of the U.S. exclave in Panama gave rise to tensions in its initial months. Local businesspersons and entrepreneurs protested against potential

²³ Andreas Lowenfeld, “Panama Canal Treaty,” Institute for International Law and Justice, n.d., <https://web.archive.org/web/20190711210817/https://iilj.org/wp-content/uploads/2016/08/Panama-Canal-Treaty-of-1903.pdf>.

²⁴ “Convention for the Construction of a Ship Canal,” https://web.archive.org/web/20230406061104/https://avalon.law.yale.edu/20th_century/pan001.asp.

competition from rival commercial ventures following President Roosevelt's executive order to institute U.S. custom houses in the Canal Zone. In response to these concerns, Roosevelt entrusted Secretary of War William Howard Taft to Panama to address the issue. A temporary resolution was achieved, the Taft Agreement, but valid for a just two decades: the Panama Canal Zone would be authorized to import only those materials deemed essential for canal construction.²⁵ Despite the strained circumstances, the United States offered stability and protection to the initial conservative government led by Manuel Amador Guerrero, extending assistance in the event of any Colombian efforts to reclaim the Isthmus.²⁶

The commencement of the new phase of construction in May 1904 marked a pivotal moment in the Panama Canal project. Initially overseen by Roosevelt and remitted to a civilian commission, the undertaking faced significant challenges that led to the transfer of responsibility to the U.S. Army Corps of Engineers. The commission's inability to tackle problems reminiscent of the French tragedy prompted this change. Colonel William Crawford Gorgas led a crucial intervention in this phase, focusing on sanitation to combat mosquito-borne diseases like malaria and yellow fever. Leveraging recent discoveries, Gorgas and his teams implemented measures such as drainage, fumigation, and the provision of clean water supplies, potentially saving thousands of lives. The formidable tasks in canal construction included cutting through the Culebra Mountain ridge and building the Gatún Dam to create an artificial lake, along with the

²⁵ George F. Mott, "The Panama Canal. Today's Decision – Tomorrow's Security," (AMREP \ Tratados, Acuerdos, Convenios de Panamá \ Negociaciones \ Negociaciones del Tratado del Canal Torrijos - Carter (1977), 9. 591 -005-14-6-6.8-6.8.06000081.

²⁶ "Panama (1903-Present)," University of Central Arkansas, <https://web.archive.org/web/20230712125838/https://uca.edu/politicalscience/home/research-projects/dadm-project/western-hemisphere-region/panama-1903-present>.

development of locks to facilitate the necessary elevation changes for ships. Importantly, the U.S. engineers never entertained the notion of a sea-level canal.²⁷

While the new U.S. worksite was deemed successful in terms of efficiency, akin to the adage that “every rose has its thorn,” the endeavor harbored a hidden drawback. The workforce faced substantial discrimination based on origin and race, and these disparities persisted in the broader structure of the country for decades. The U.S. Canal Zone administrators implemented a “Gold and Silver Roll” system based on racial segregation similar to the “Jim Crow” laws in the South of the United States and influenced society and the economy in the area. The “Gold People” were composed mostly of white Americans, enjoyed higher pay and privileges, including better housing, schools, healthcare, and entertainment. Instead, the Silver People – who accounted for roughly 80 percent of the total workforce – included primarily Indigenous people and Black American citizens, faced segregation and inferior living conditions. Nevertheless, the concept of a stratified system was not new, as French and U.S. companies instituted comparable structures during the first canal attempt and the construction of the railroad.²⁸ Discriminatory policies intensified with Roosevelt’s executive order in 1908, leading to the exclusion of the already few Black workers from skilled positions, causing mass demotions and severe discontent.²⁹ Staged mass suicides of “Silver People” also occurred during the ten-year U.S. canal construction.³⁰

²⁷ “Building the Panama Canal,” in *Panama: A Country Study*. <https://web.archive.org/web/20230401231332/https://countrystudies.us/panama/10.htm>.

²⁸ Julie Greene, “Spaniards on the Silver Roll: Labor Troubles and Liminality in the Panama Canal Zone, 1904-1914,” *International Labor and Working-Class History*, no. 66 (Fall 2004): 78-98.

²⁹ Noel Mauer and Carlos Yu, *The Big Ditch: How America Took, Built, Ran, and Ultimately Gave Away the Panama Canal* (Princeton, NJ: Princeton University Press, 2010), 111-112.

³⁰ Lucy M. Cohen, “The Chinese of the Panama Railroad: Preliminary Notes on the Migrants of 1854 Who ‘Failed,’” *Ethnohistory* 17, no. 4 (Fall 1971): 309-320.

A frequently overlooked concern pertained to the fate of the indigenous population residing within the Canal Zone, particularly those inhabiting cities and villages near the canal and on the land preceding the construction of the Gatún artificial lake. Contrary to the perception of the Zone’s jungle landscape as a pristine and untouched environment, it emerged as a product of the dismantling of centuries-old local urban and agricultural history. In the 19th century the Zone was a densely populated area with towns resembling smaller versions of Panama City and Colón. More than 10 percent of the entire population of the country lived there. This event was an enormous transformation of the landscape but there are still more shadows to the story. In some cases, the U.S authorities did not force any ejection: when the Panamanian river town of Gatún was relocated in 1908 to create space for the Gatún locks, its inhabitants were not expelled from the Zone but instead relocated nearby. However, the same fate did not befall other cities that could have stayed within the Zone’s boundaries. In 1912, President Taft gave the order to depopulate the Panama Canal Zone, which resulted in the expulsion of about 40,000 people. but some populations were expelled only in 1915, one year after the canal’s inauguration.³¹

The history of the depopulation of the Zone combined both technical and political decisions since both citizenship law restriction and native “diasporization” may be interpreted as an attempt to colonize and fully “americanize” the Zone. In fact, the treaty with Panama did not specify the nationality status of Zone inhabitants and so they became non-citizen U.S. nationals – as the international law stated – unless they chose to keep their previous nationality. The citizenship acquired at birth depended then on

³¹ Marixa Lasso, *Erased: The Untold Story of the Panama Canal* (Cambridge, MA: Harvard University Press, 2019), 2-6.

parents' citizenship and residence.³² However, the Zone regime was equally strange, if not semi-statist, for U.S. residents since even they were not allowed to vote or own real propriety there.³³

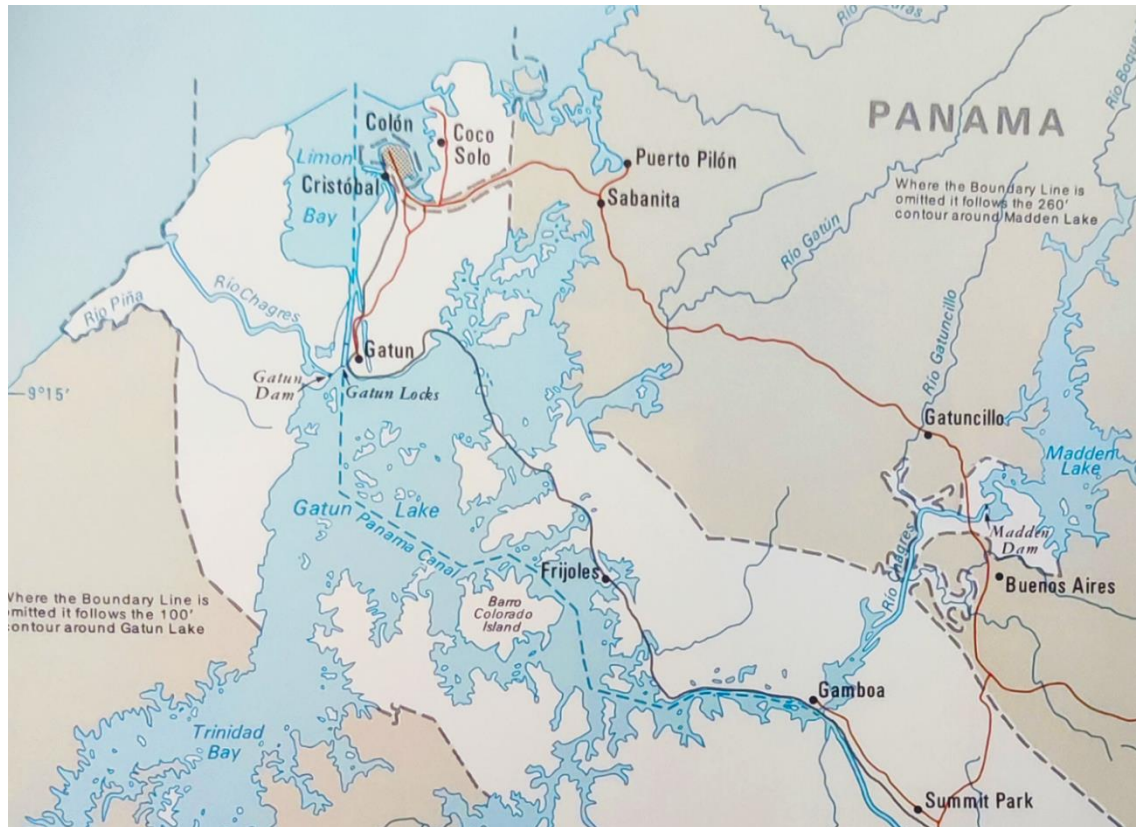


Figure 1. Map of the northern part of the Panama Canal Zone in white (JCPL, Chief of Staff Betty Rainwater O/A Files, box 258, Miscellaneous Documents on the Panama Canal Treaty [2]). In the Limon Bay it is possible to distinguish Colón (Panama) from Cristóbal and the Colón Free Trade Zone (Panama Canal Zone).

³² “Special Citizenship Provisions Regarding Panama,” U.S. Department of State, FAM, <https://web.archive.org/web/20231021032722/https://fam.state.gov/FAM/08FAM/08FAM030204.html>.

³³ Mayor, “The Panama Canal Zone,” 645.

By the time the first ship successfully transited the canal on August 15, 1914, the Panama Canal Zone became a rich exclave and a fiscal haven. Imports from the United States were exempt from duties, and capital taxes were maintained at a remarkably low level. Subsequently, following the Second World War, a free port was established near the Colón border. The city of Colón was in fact a Panamanian “enclave within an enclave” (fig.1) and had been private of its most profitable asset.³⁴

1.4 – A Succession of Ups and Downs

The sixty years that followed the establishment of the Canal Zone witnessed a number of disputes about the Hay-Bunau-Varilla Treaty as well as attempts to renegotiate it. The arguments concerned, on the one hand, issues relating to sovereignty and intervention and, on the other, the emergence of the awareness that the canal was not bringing appreciable benefits to the Panamanian population. Panama suffered numerous instances of uncompromising and overbearing U.S. policies: by 1920 the United States had already intervened four times in the country’s domestic political affairs and each time the prevention of “threats to the Canal Zone” was the justification.³⁵ After the expiration of the Taft Agreement on imports of goods, Panama increased the pressure for a new agreement. The United States endeavored to reach a first compromise in 1926 through the Kellogg-Alfaro Treaty, by which the two countries concurred to restrictions on private commercial operations in the Canal Zone, but at the same time, the United States gained several concessions involving security.

³⁴ Mayor, “The Panama Canal Zone,” 646.

³⁵ “Panama (1903-Present),” <https://web.archive.org/web/20230712125838/https://uca.edu/politicalscience/home/research-projects/dadm-project/western-hemisphere-region/panama-1903-present/>; Mott, “The Panama Canal. Today’s Decision – Tomorrow’s Security,” 9. 591 -005-14-6-6.8-6.8.06000081.

This triggered the protests of the country's emerging leftist factions and the Panama Parliament later declined to ratify the treaty.³⁶

However, from this moment Washington gradually made concessions to Panama's demands and decided not to intervene in some internal affairs of the country, even very important ones.³⁷ In 1930 Joshua Reuben Clark – undersecretary of State in the Hoover Administration – wrote a memorandum which implied a major U.S. policy change in Panama and Latin America. The United States basically renounced (or limited) direct intervention in Latin American affairs. But Washington's new policy was immediately put to the test. In fact, after only one year, a nationalist and *antiestadounidense* movement, Acción Comunal, staged a successful coup that deposed President Florencio Harmodio Arosemena. Not only did the Hoover Administration immediately recognize the new regime, but the United States did not also interfere with the 1932 Panamanian Presidential Election – that eventually ended with the victory of Harmodio Arias Madrid, the 1931 coup planner's brother – as well.³⁸ Arias had played a significant role in blocking the Kellogg-Alfaro Treaty in 1926 and was adamant about negotiating a new treaty without making any compromises. His not-diplomatic attitude was the primary factor contributing to the delay in reaching a new agreement with the United States.³⁹

President Franklin Delano Roosevelt pursued a relatively “mild” policy towards Latin America, concurrently enhancing the scope of the Clark Memorandum. This

³⁶ Mayor, “The Panama Canal Zone,” 646-647; Michael L. Conniff, “Panama since 1903,” in *The Cambridge History of Latin America*, ed. Leslie Bethell (New York: Cambridge University Press, 1990), vol. 7., 618-619.

³⁷ Conniff, “Panama since 1903,” 617-620.

³⁸ Mott, “The Panama Canal. Today's Decision – Tomorrow's Security,” 10-11. 591 -005-14-6-6.8-6.8.06000081.

³⁹ Conniff, “Panama since 1903,” 618-619.

approach, better known as “Good Neighbor Policy”, highlighted U.S. commitment not to interfere in Latin American countries domestic affairs and to promote mutually beneficial agreements with those nations through cooperation and trade rather than military force.⁴⁰ In fact, in the previous twenty years, the continuous deployment of U.S. troops to numerous states such as Mexico, Haiti, Cuba and especially Nicaragua – that the United States had occupied since 1909 – caused the birth of numerous hostile political movements that could stage coups and revolutions.⁴¹

But relations with Panama improved dramatically and Arias’ uncompromising position against the United States softened. In October 1933, a joint statement by Roosevelt and Arias declared that the 1903 treaty “applies only for the purpose of maintenance, operation, sanitation and protection of the Canal.” Moreover, at the 7th International Conference of the American States, U.S. Secretary of State Cordell Hull hinted at renunciation of “intervention” in a future treaty with Panama and the following year Roosevelt visited the country. Eventually, a major revision of the 1903 treaty took place in 1936, when the United States and Panama signed the Hull-Alfaro Treaty that revised the terms concerning the U.S. control over the canal.⁴² Among other provisions, the 1936 treaty increased the annuity to \$430,000 (equivalent to \$9.5

⁴⁰ Samuel G. Inman, “The Rise and Fall of the Good Neighbor Policy,” *Current History* 32, no. 188 (April 1957): 193-199; “Good Neighbor Policy, 1933,” Office of the Historian, <https://web.archive.org/web/20231113160505/https://history.state.gov/milestones/1921-1936/good-neighbor>.

⁴¹ Despite the implementation of the "Good Neighbor Policy," there were instances of limited success, Nicaragua exemplified. Even after U.S. troops withdrew in 1934, a U.S.-backed anti-socialist military faction, the Guardia Nacional, continued to operate in the country under the leadership of Anastasio Somoza García. Shirley Christian, “Nicaragua and the United States,” *World Affairs* 149, no. 4 (Spring 1987): 177-182.

⁴² Mott, “The Panama Canal. Today’s Decision – Tomorrow’s Security,” 12-14. 591 -005-14-6-6.8-6.8.06000081.

million) and changed the U.S. guarantee of Panamanian independence into an agreement to consult for mutual defense. Panama quickly ratified the treaty while the U.S. Democrats struggled to find the majority needed in the Senate. For this reason, some Panamanians protested, fearing a change of heart by Washington but eventually, the United States ratified the Hull-Alfaro Treaty three years later.⁴³

During World War II, Panama granted the United States the right to lease military bases throughout the country until the conflict's conclusion.⁴⁴ Washington, despite some hesitations in respecting the commitment made, withdrew from the bases by the end of 1947. However, Truman's Administration declined to evacuate a specific facility in Rio Hato. This decision would soon prove to be a mistake.⁴⁵ From 1945 to 1956 Panama witnessed a period of political instability and regimes supported by "strong men behind the scenes" – usually military men or ex police officers – who practically held the executive power without being President. José Antonio Remón Cantera was the first of these men. He was able to win the support of a large part of the population thanks to his populist policies and his determination to drive the U.S. army out of Rio Hato. In particular, he was good at "juggling" *antiestadounidense* rhetoric in Panama and a more measured approach while dealing directly with Washington. After two years of Presidency, he still had to demonstrate that he could use his political power to deal on equal terms with the United States to ask for a new canal treaty and for the return of

⁴³ "The Meaning of the New Panama Canal Treaties," 64. 591-005-14-6-6.8-6.8.06000196.

⁴⁴ Celestino Andrés Araúz and Patricia Pizzurno, "Arnulfo Arias Madrid," *Critica.com.pa*, Editora Panamá América, <https://web.archive.org/web/20220616064430/https://portal.critica.com.pa/archivo/historia/f10-37.html>.

⁴⁵ "United States-Panama Relations 1903-1907," Press Attache de la Misión de Panamá en Naciones Unidas (AMREP \ Hemeroteca - Colección de Publicaciones Periódicas). 591 -005-14-591-005-14-B01000027).

a military base in Rio Hato.⁴⁶ Remón obviously was aware that that he could not aspire to a complete transfer of the canal to Panama, but he still managed to reach an agreement with the United States. By the terms of the 1955 Ramón-Eisenhower Treaty, the canal annuity was increased to \$1,930,000 (equivalent to \$22 million), Panamanians were accorded job and commercial equality with U.S. workers in the Canal Zone, some boundary adjustments were made, and the United States relinquished its monopoly over a transisthmian railroad.⁴⁷ However, Panamanian dissatisfaction with the canal agreement continued, mostly due to the failed attempt to regain control of the Rio Hato base.⁴⁸

The advent of the Cold War in the American continent following the Operation PBSuccess in Guatemala and the Cuban Revolution put the “Good Neighbor Policy” in crisis.⁴⁹ The United States grew apprehensive that previously tolerated populist and leftist governments in its regional sphere of influence might align themselves with Cuba, which was emerging as an intriguing new model for numerous Latin American leaders. Furthermore, during this period, the economic conditions of the Panamanian populace had showed limited improvement, in contrast to the economic prosperity experienced by the United States, which entered a boom phase from the late 1950s. The visible differences between Zone’s and Panama’s buildings and infrastructure made this gap more evident for the people of Panama City and Colón, who lived close to the border. Moreover, the nationalization of the Suez Canal by Egypt to the detriment of the

⁴⁶ Conniff, “Panama since 1903,” 627-629.

⁴⁷ The original annuity had already been increased from \$250,000 to \$430,000. Still, on real terms, \$430,000 in 1955 were way less than \$250,000 in 1903. The new sum of \$1,930,000 was as much as twice the sum agreed on in 1903, after inflation adjustment.

⁴⁸ “The Meaning of the New Panama Canal Treaties,” 64. 591-005-14-6-6.8-6.8.06000196.

⁴⁹ Mott, “The Panama Canal. Today’s Decision – Tomorrow’s Security,” 18. 591 -005-14-6-6.8-6.8.06000081.

European colonial powers in 1956 diminished the significance of the recently obtained concessions from the United States in the eyes of the Panamanians. Actually, against the backdrop of what had happened in Egypt, a complete reversal of the canal sovereignty was no longer a utopia. Once again, charismatic political figures, such as the Arias brothers, incited public dissatisfaction and gained more power within the political structure of the country. The majority party, Coalición Patriótica Nacional (CPN), began to crumble under the hostility of its more extremist components and Remón was assassinated under uncertain circumstances.⁵⁰

A new era for the Panama-United States relation began when Roberto F. Chiari assumed the presidency in 1960, marking a notable departure from authoritarian rule as the first non-military *junta*-backed leader in a decade, when the CPN broke up before the election. The following year, the United States initiated a new aid program for all Latin America except for Cuba: The Alliance for Progress. President John F. Kennedy envisioned this program as a long-term effort to elevate living standards and foster social and economic development. Chiari was able to seize the opportunity. During a visit to Washington in June 12 and 13 1962, he and Kennedy agreed to appoint high-level representatives to settle disputes concerning the Canal Zone. The outcomes of these talks were detailed in a joint communique issued on July 23, 1963. The agreement included the establishment of the Bi-National Labor Advisory Committee to address disputes involving Panamanian employees and Canal Zone authorities. Additionally, pending congressional approval, Panamanian employees would enjoy the same health and life insurance benefits available to U.S. citizens in the Zone.⁵¹ Yet, several contentious issues remained unresolved. While the United States agreed to raise the

⁵⁰ Conniff, "Panama since 1903," 629-631.

⁵¹ Conniff, "Panama since 1903," 632.

wages of Panamanian employees in the Canal Zone, it fell short of the Panamanian government's requested amount. No agreement was reached regarding the Panamanian requests for jurisdiction over a corridor through the zone connecting the two halves of the country. The pressure for major treaty revisions and resentment toward U.S. recalcitrance persisted.⁵²

1.5 – The Last Straw

In 1964, a symbolic dispute over the display of the Panamanian flag in the Canal Zone triggered a significant episode of rioting in Panama. Disagreements between the U.S. Departments of Defense and State had previously complicated this issue. The military opposed accepting a Panamanian flag, emphasizing the importance of maintaining only the U.S. one as a sign of clear and visible control, and the potential precedent for future relations. In contrast, the Department of State supported the flag proposal to appease Panamanian demands and avoid international embarrassment. After protracted negotiations, they reached an agreement to the effect that both flags would fly side by side at specific locations in the Canal Zone, but the issue persisted as the Panamanian flag appeared in limited locations because some U.S. citizens in the Canal Zone refused to comply with the arrangement.⁵³ An apparently secondary episode that involved some U.S. students at Balboa High School in the Canal Zone hoisting only the Stars and Stripes flag was the last straw. In response to this action, on January 9, approximately 150 to 200 students from Panama's top public high school, Instituto Nacional, organized a demonstration and then marched into the Canal Zone, carrying

⁵² "The Politics of Frustrated Nationalism," in *Panama: A Country Study*. <https://web.archive.org/web/20220626105111/http://countrystudies.us/panama/14.htm>.

⁵³ "The 1964 Riots," in *Panama: A Country Study*. <https://web.archive.org/web/20220626105117/http://countrystudies.us/panama/15.htm>.

their school's Panamanian flag and a sign asserting their country's sovereignty over the U.S. Canal Zone. The students intended to raise the Panamanian flag alongside the U.S. one on Balboa High School's pole.⁵⁴

Upon reaching Balboa High, they encountered the Canal Zone police, together with some Zonian students and adults. Negotiations occurred, allowing a small group of Panamanian students to approach the flagpole while the officers held back the main group. However, tensions escalated when Zonian civilians and the police surrounded the flagpole and the Panama's flag was torn down.⁵⁵ After the incident, violent riots erupted all over the country, especially Panama City, and lasted for three days. The results were at least twenty-five deaths – twenty-one Panamanians and four U.S. soldiers – and hundreds of wounded, mostly among Panamanians civilians.⁵⁶ A similar event occurred before in 1958 and 1959 but caused way less casualties.⁵⁷ Immediately after the events, President Chiari broke the relations with the United States and charged Washington with aggression.⁵⁸ Only after an investigation by the Organization of American States (OAS) and diplomatic posturing, Panama and the United States restored relations.⁵⁹

Immediately after the events, President Lyndon B. Johnson stated that the United States would accept a revision of the 1903 treaties. but “that the U.S. will not now agree

⁵⁴ Alan McPherson, “Courts of World Opinion: Trying the Panama Flag Riots of 1964,” *Diplomatic History* 28, no. 1 (January 2004): 83-86.

⁵⁵ Conniff, “Panama since 1903,” 632-633.

⁵⁶ McPherson, “Courts of World Opinion,” 83; “The 1964 Riots.” <https://web.archive.org/web/20220626105117/http://countrystudies.us/panama/15.htm>.

⁵⁷ Alan McPherson, “From ‘Punks’ to Geopoliticians: U. S. and Panamanian Teenagers and the 1964 Canal Zone Riots Flag Riots,” *The Americas* 58, no. 3 (January 2002): 400-402.

⁵⁸ Long, *Latin America Confronts the United States: Asymmetry and Influence*, 79.

⁵⁹ “The 1964 Riots.” <https://web.archive.org/web/20220626105117/http://countrystudies.us/panama/15.htm>.

to negotiations to bring about any structural changes” and that “we cannot agree to formal negotiation in which revision of fundamental relationships and responsibilities would be a pre-arranged and accepted objective” as if this would happen, “it [would] seem to me that we’re kind of giving in there.”⁶⁰ However, Johnson’s opinion changed in the following months. One major reason was the CIA’s discovery that the People’s Party together with Arias’ CPN were plotting to overthrow Chiari on January 13. U.S. Secretary of Defense Robert S. McNamara called the office of the Panamanian Presidency to inform of the imminent (and then foiled) conspiracy.⁶¹ Another reason that Johnson had already suggested in a discussion with Democratic Senator Richard Russell Jr. of Georgia after the flagpole incident, was the opportunity to build a new sea level waterway in the region that “does not close the door for all time for discussion since it is possible that current studies on feasibility of sea level canal may eventually lead to a change in attitude.”⁶²

On April 3, Johnson finally approved a new statement that renewed diplomatic relations and promised open-ended talks as he realized that Chiari was the only possible Panamanian President he could support without fearing approaches towards Cuba or violent regimes.⁶³ On December 18, Johnson finally expressed his commitment not to revise but to replace the treaty with an entirely new agreement that “should recognize

⁶⁰ Lyndon B. Johnson, “LBJ and Dick Russell Discuss on Panama (transcript),” January 11, 1964, UVA Miller Center, <https://web.archive.org/web/20230205051552/https://millercenter.org/the-presidency/educational-resources/lbj-and-dick-russell-discuss-panama-january-11-1964text>.

⁶¹ Alan McPherson, “50 Years Ago: Lyndon Johnson’s First Foreign Crisis,” *Globalist*, January 9, 2014, <https://web.archive.org/web/20230602143108/https://www.theglobalist.com/panama-50-years-ago-lyndon-johnsons-first-foreign-crisis>.

⁶² Johnson, “LBJ and Dick Russell Discuss on Panama (transcript),” <https://web.archive.org/web/20230205051552/https://millercenter.org/the-presidency/educational-resources/lbj-and-dick-russell-discuss-panama-january-11-1964text>.

⁶³ McPherson, “50 Years Ago.”

the sovereignty of Panama.”⁶⁴ In the same year, Marco Robles – with Chiari’s endorsement – ran for President and won. His main goals were predictably the negotiation of every aspect of the canal with the United States. This event marked the beginning of the *primera etapa* of a new series of negotiations that eventually led to the Torrijos-Carter Treaties. In the aftermath of Chiari’s conclusion of the mandate and a change in the Ministry of Foreign Affairs, the newly appointed Minister Fernando Eleta Almarán took charge of the negotiation process and assembled a new negotiating team that included former President Ricardo Manuel Arias, lawyer and future ambassador to the United States Roberto Alemán Zubieta, and economist Guillermo Chapman. Simultaneously, Eleta altered the negotiating strategy, pushing for the abrogation of the Hay-Bunau-Varilla Treaty and concrete recognition of Panama’s sovereignty in the Canal Zone.⁶⁵

The subsequent negotiation phase, lasting nearly three years with ninety-four formal meetings in Washington, involved Panamanian representatives led by Eleta facing counterparts such as former U.S. Secretary of the Treasury Robert B. Anderson and later John N. Irwin from the U.S. State Department. Despite challenges, the negotiations ended on June 22, 1967, with the signing of three draft international pacts.⁶⁶ The first draft – the Lock Canal Treaty – nullified past agreements “as are all other agreements or treaties [...] inconsistent with the Lock Canal Treaty”. It would establish a United States-Panama binational entity, called the Joint Administration of the Panama Canal to operate the Panama Canal and administer the “Canal Area” (a new name that replaced

⁶⁴ “United States Decision to Plan a New Sea-Level Canal and To Negotiate a New Treaty on the Existing Panama Canal: Statement Made by the President (Johnson), December 18, 1964,” in U.S. Department of State, *American Foreign Policy: Current Documents, 1964* (Washington, DC: U.S. Government Printing Office, 1967), 372.

⁶⁵ Omar Jaén Suárez, “Historia de las Negociaciones Torrijos-Carter,” *Lotería* nos. 473-474 (2007): 12.

⁶⁶ Suárez, “Historia de las Negociaciones Torrijos-Carter,” 12-14.

“Panama Canal Zone”). The treaty, furthermore, granted a portion of the Canal tolls to Panama, thereby ensuring fair and just compensation “in the light of their contributions to the creation and maintenance of the Canal and in the interest of world commerce” as the Canal should stay neutral and open to “vessels of commerce and of war of all nations.” The Treaty would remain in force until December 31, 1999; however, it would be superseded by the Sea Level Canal Treaty if the United States constructed a sea level canal.⁶⁷

The second draft – the Sea Level Canal Treaty – in fact, provided that the United States had the option to construct and co-administer a Sea Level Canal for sixty years on the site of the present Lock Canal or in the Darien region of Panama.⁶⁸ However, the right to build it would expire in twenty years.⁶⁹ The last agreement was the Defense Treaty that required Panama and the United States to provide for mutual defense, security, neutrality, and continuity of operation of the Canal. Under the Defense Treaty, the United States retained free military bases and defense rights as they could act unilaterally in the Defense Areas or in the Canal Area and would be able to use the Defense Areas for “related security purposes.”⁷⁰

⁶⁷ “Information Memorandum from the Acting Assistant Secretary of State for Inter-American Affairs (Sayre) to Secretary of State Rusk,” in U.S. Department of State, *Foreign Relations of the United States* (hereafter *FRUS*), 1964–1968, Volume XXXI, *South and Central America; Mexico*, Document 439, June 27, 1967, <https://web.archive.org/web/20220924200456/https://history.state.gov/historicaldocuments/frus1964-68v31/d439>.

⁶⁸ “Information Memorandum from the Acting Assistant Secretary of State for Inter-American Affairs (Sayre) to Secretary of State Rusk;” Suárez, “Historia de las Negociaciones Torrijos-Carter,” 13.

⁶⁹ Long, *Latin America Confronts the United States*, 80.

⁷⁰ “Information Memorandum from the Acting Assistant Secretary of State for Inter-American Affairs (Sayre) to Secretary of State Rusk.”

However, approaching presidential elections in both countries delayed the ratification.⁷¹ The Robles Government, facing political instability and internal conflicts, succumbed to criticism of the treaty projects from partisan and ultra-nationalist factions, leading to their shelving. Robles's successor, Arnulfo Arias – who had campaigned against the treaties in 1968 – then deferred the decision. Ultimately, Arias' third Precedency came to an end just ten days after the oath when the Guardia Nacional de Panamá staged a successful coup against him.⁷² In the United States, Johnson was unable to secure the two-thirds Senate majority needed for ratification, given opposition from conservative quarters and a significant portion of the domestic public opinion due to concessions made to Panama. Vice President Hubert Humphrey ultimately lost the election to Richard M. Nixon.⁷³

1.6 – Towards the Eight Principles

Political upheavals – such as students' demonstrations, riots in impoverished urban areas, and sporadic clashes between peasants and guardsmen – followed Arias' overthrow. The provisional *junta*, with José María Pinilla Fábrega as its President, swiftly consolidated power and arrested or exiled numerous opponents, disbanded the National Assembly and political parties, and closed the University of Panama. However, despite the initial promise of free elections, in January 1969, Omar Torrijos Herrera and Boris Martínez – commander and chief of staff of the Guardia Nacional – exerted the actual power. In March, Martínez announced that the Guardia Nacional would not seek to prevent nationalist demonstrations. This statement was a clear

⁷¹ Conniff, "Panama since 1903," 633-635.

⁷² Long, *Latin America Confronts the United States*, 80.

⁷³ Conniff, "Panama since 1903," 633-635.

attempt to antagonize Canal Zone Officials that certainly remembered when, in 1964, the Guardia had stood aside while the Panamanians were rioted.⁷⁴ This – in combination with Martínez’s radical promises of a “lefty” agrarian reform – triggered a coup within the coup.⁷⁵ Torrijos – who did not want to challenge the United States and feared losing the support of landlords – assumed complete control, leading to the exile of Martínez and three of his supporters. But the power struggle was far from over. While Torrijos was in Mexico, three colonels declared him deposed. Torrijos then rushed back to Panama, gathered allies in David (one of them was Manuel Noriega), and marched into the capital to re-establish his leadership. Eventually, Torrijos blamed the United States for the attempted coup and had the plotters exiled.⁷⁶ After the failed coup, Torrijos replaced the *junta* (Colonel Pinilla and Colonel Urrutia) with civilians Demetrio Basilio Lakas, an engineer well-regarded among businessmen, and Arturo Sucre, a lawyer and former lottery director. Lakas became the “provisional president,” and Sucre was appointed his deputy. Lakas ended up being the Torrijos’ “puppet-President” until October 1978.⁷⁷

General Torrijos adopted a distinctive approach to his relations with the United States, emphasizing the pursuit of domestic and canal-related objectives without permitting democracy, considered by him an obstacle to achieve these goals. Foreign Minister Juan Antonio Tack outlined three options for Torrijos regarding the 1967 treaties: submitting them for ratification, negotiating revisions based on the treaties, or

⁷⁴ Steve C. Ropp, “Military Reformism in Panama: New Directions or Old Inclinations,” *Caribbean Studies* 12, no. 3 (October 1972): 58-59.

⁷⁵ “The Government of Torrijos,” in *Panama: A Country Study*. <https://web.archive.org/web/20220626105123/http://countrystudies.us/panama/17.htm>.

⁷⁶ Long, *Latin America Confronts the United States*, 80-81.

⁷⁷ “The Government of Torrijos.” <https://web.archive.org/web/20220626105123/http://countrystudies.us/panama/17.htm>.

rejecting them for entirely new negotiations under a “torrijista foreign policy.” Torrijos ultimately chose the third option but the Nixon Administration, in contrast to its predecessor, was reluctant to make big concessions. In fact, Washington did not like Torrijos’ “Peronist” attitude.⁷⁸

The following diplomatic and political discussions – culminating in the meeting between Presidents Lakas and Nixon on October 25, 1971 – marked the beginning of the *segunda etapa* of the bilateral negotiations. A pivotal factor in the U.S. decision to engage in negotiations was the recommendation of the Atlantic-Pacific Interoceanic Canal Study Commission, urging the construction of a sea-level canal in Panama. Although the U.S. delegation presented a draft treaty after several meetings on November 8, 1971, the negotiations encountered obstacles due to the hardening positions of the U.S. diplomats and the lack of decisive intent within the Panamanian Government. Internal divisions, particularly between relatively pro-U.S. President Lakas and the more nationalistic Foreign Ministry led by Tack, further complicated the agreements. The Panamanian negotiators faced criticism for their perceived weakness and contradictory actions, leading to the resignations of two members in October 1972. The Panamanian government, on the urging of figures like Permanent Representative to the United Nations Aquilino E. Boyd, also sought to internationalize the canal issue by pressuring the United States through diplomatic channels, including United Nations meetings. Even though the negotiations during this stage ultimately faltered, Boyd’s idea to use the United Nations as a “whip” resulted crucial for the talks that followed.⁷⁹

In fact, in January 1972, the U.N. Security Council (UNSC) met in Addis Ababa to discuss several issues relating to peace, decolonization and security in Africa. It was the

⁷⁸ Long, *Latin America Confronts the United States*, 81-82.

⁷⁹ Suárez, “Historia de las Negociaciones Torrijos-Carter,” 14-16.

first time that the Council did not meet in a Western Country. Boyd quickly grasped the opportunity by sharing Panama issues with the other countries as a case of U.S. colonialism:

Hace ocho años, los gobiernos de Panamá y los Estados Unidos de América, después de unos violentos episodios que alteraron la paz de la región, suscribieron una declaración que se refiere a la eliminación de las causas de conflicto surgidos por razón del presente canal que dice “Vamos a procurar la pronta eliminación de las causas de conflicto entre los dos países sin limitaciones ni precondiciones de ninguna clase.” La justificada aspiración de nuestro pueblo, que – con disgusto y disimulo ha vivido por muchos años la afrenta de tener dentro de casa un régimen neocolonialista – hace que el panameño busque, cada día con más vigor, a través de manifestaciones nacionalistas, la identidad de su patria como una nación, digna, independiente y soberana.⁸⁰

Then in March 1972, Boyd invited U.N. Secretary General Kurt Waldheim to visit Panama. During the following months, the U.S. Representatives at the United Nations attempted to dissuade their allies from accepting summits outside New York, since they were worried that Panamanians would push to hold a UNSC meeting in their country. Ultimately, Panama – which had managed to gain support of most Latin American leaders – proposed itself as the host country and the Council accepted the invitation in January 1973. Ultimately, the meeting was set for March. It had been, once again, a Boyd’s idea.⁸¹

⁸⁰ Aquilino Boyd, “Consejo de Seguridad de las Naciones Unidas no. 1631 Actas Oficiales,” 5-6 (United Nations Digital Library, UN/SA Collection, Resource Type, Documents and Publications, Meeting Records, UN Bodies, Security Council, Addis Ababa, January 31, 1972).

⁸¹ Tom Long, “Putting the Canal on the Map: Panamanian Agenda-Setting and the 1973 Security Council Meetings,” *Diplomatic History* 38, no. 2 (April 2014): 441-442.

The UNSC gathered in Panama City to study a situation considered dangerous for the “peace and security” of the area. Almost all the countries, members and non-members of the Security Council expressed support for a new treaty that would safeguard Panama’s right to sovereignty over the Canal Zone.⁸² Eventually, the U.S. Representative exercised a veto against a resolution seeking to annul the Hay-Bunau-Varilla Treaty, as it was a bilateral matter. Panama strategically positioned the United States in a situation where the U.N. Representatives perceived the veto as a diplomatically questionable move. While this approach could potentially hinder progress in attaining new agreements by causing diplomatic embarrassment to the United States, international pressure ultimately ensured the success of the gambit.

The U.S. National Security Advisor (NSA), Henry Kissinger, recommended to President Nixon to rethink his strategy in Latin America and suggested a more *détente*-oriented approach. In his “Fourth Annual Report to the Congress on Foreign Policy,” Nixon acknowledged the need “for both parties to take a fresh look at this [Panama] problem” and the imperative of reaching a mutually acceptable treaty for both parties.⁸³ Concurrently, notable changes occurred in the U.S. diplomatic team, influencing the talks with Panama: former Ambassador to the OAS Ellsworth F. Bunker replaced Robert B. Anderson as leader negotiator, and Kissinger assumed the role of Secretary of State on September 22.⁸⁴

On May 24, 1973, Panama’s Foreign Minister Tack delivered a letter to U.S. Secretary of State William P. Rogers. The two diplomats were in Argentina to attend

⁸² “The Panama Canal Problem and the Carter Administration,” (AMREP \ Tratados,Acuerdos,Convenios de Panamá \ Negociaciones \ Negociaciones del Tratado del Canal Torrijos - Carter (1977), 2. 591 -005-14-6-6.8-6.8.06000235.

⁸³ Long, *Latin America Confronts the United States*, 86-91.

⁸⁴ Suárez, “Historia de las Negociaciones Torrijos-Carter,” 17-18.

the inauguration of recently elected President Héctor Campora. In his letter, Tack stated the eight principles he thought should serve as a basis for a new canal treaty between his country and the United States. They were:

1. The 1903 treaty must be abrogated. The two countries are willing to conclude an entirely new interoceanic canal treaty.
2. The concept of perpetuity is rejected. The new treaty concerning the lock canal shall have a fixed termination date.
3. The exercise of any type of jurisdiction by the United States in Panamanian territory shall quickly cease at the end of the transition period agreed upon.
4. The so-called Canal Zone shall be returned to full Panamanian jurisdiction. The Republic of Panama, as territorial sovereign, is willing to grant the Government of the United States, for the duration of the new treaty on the interoceanic canal, the right to use the lands and waters proved to be essential for the operation and maintenance of the canal, the transit of ships, and the protection of vital installations.
5. The Republic of Panama shall have a just and equitable share in the benefits in proportion to the total benefits that the United States and world trade derive from Panama's geographic location.
6. The activity of the United States Government shall be limited to the administration of transit through the interoceanic waterway. The activities of the United States Government shall be those which have a direct relation to the operation, maintenance, and protection of the Canal, as shall be specified in the treaty.
7. The United States of America shall exercise, in the facilities for protection, such activities as may be expressly stipulated in the treaty, for the duration of the treaty.
8. The Republic of Panama is willing to include in that same treaty provisions authorizing the Government of the United States to construct a sea-level canal along what has been designated Route 14, on the following conditions:

- (a) The United States will notify Panama of its decision to construct a sea-level canal along Route 14 within a reasonable period to be negotiated following the entry into force of the new treaty, and if it should fail to do so, its right in that respect would lapse;
- (b) Panama would retain full jurisdiction in the area that would be occupied by the sea-level canal; and
- (c) with respect to the sea-level canal, the life of the treaty shall have a limited duration with a specified duration date.⁸⁵

Simultaneously, Panama intensified its efforts to exert pressure on the United States and garner international support. On September 10, 1973, the Group of Non-Aligned Countries, convened in Algiers, expressed solidarity with Panama, a sentiment echoed by the group of Latin American States during the OAS General Assembly in Bogotá on the following November 16. General Torrijos seized the momentum of these events and embarked on diplomatic visits to Europe, meeting with Francisco Franco in Spain, Marshal Tito in Yugoslavia, and visiting the Holy See to meet with Pope Paul VI.⁸⁶

Ultimately, on February 7, 1974, Tack and Kissinger came to an agreement on the 1973 principles. More specifically, two remarks were made in point 6 and 7. Kissinger specified in the sixth principle that the “Republic of Panama shall grant to the United States the rights necessary to regulate [...] and defend the canal.” This clause was not new, in fact it was similar to the 1967 Defense Treaty draft. In principle 7 was remarked the Panamanian participation “in the protection and defense of the canal.” Principle 8 was rewritten. Instead of Tack’s detailed proposal, the two negotiators agreed on a vaguer agreement:

⁸⁵ Cit. in Jorden, *Panama Odyssey*, 695-696.

⁸⁶ Suárez, “Historia de las Negociaciones Torrijos-Carter,” 17-19.

The United States of America and Republic of Panama, recognizing the important services rendered by the interoceanic Panama Canal to international maritime traffic, and bearing in mind the possibility that the present canal could become inadequate for said traffic, shall agree bilaterally on provisions for new projects which will enlarge canal capacity.⁸⁷

These principles marked the beginning of the last phase of the Canal Treaty negotiations. However, even the *tercera etapa* had a rough start. Nixon resigned in the wake of the Watergate scandal and his successor, Gerald R. Ford, was in a rather weak position as an unelected President who had moved to the White House from his previous role of an appointed Vice President. Furthermore, the agreement with Panama received instant opposition from a powerful group of traditional right-wing Senators and Representatives, and Zonian pressure groups that did not want to give up the benefits of living under U.S. Administration. The future of the Panama Canal was actually a divisive issue among Republicans. In particular, California's Governor Ronald W. Reagan played on the controversy and turned his opposition to any concession to Panama into a major theme as he challenged – though eventually in vain – incumbent President Ford for the GOP nomination for the White House. Reagan emphasized that position to revitalize his campaign after his defeats in New Hampshire, Illinois and Florida almost ended his bid prematurely. The Panama Canal was Reagan's trump card especially in North Carolina. Here the American Conservative Union – a lobbying group endorsing the Governor's candidacy – placed 33 newspaper ads and broadcasted 882 radio spots about Reagan's stance as opposed to Ford's policy. On this occasion Reagan coined his trademark-line that resulted crucial in his victory in that state: "The Panama Canal Zone is sovereign United States territory just as much as

⁸⁷ Cit. in Jorden, *Panama Odyssey*, 696-697.

Alaska is, as well as the states carved from the Louisiana Purchase. We bought it. We paid for it, and General Torrijos should be told we are going to keep it.” He focused on the validity of the treaty, acknowledging that there was no controversy about Bunau-Varilla being the signatory on Panama’s behalf in 1903. A Ford advisor noted after the election that what swayed the vote in North Carolina in favor of Reagan was “Sally Jones [i.e. the average voter] sitting at home, watching Ronald Reagan on television, and deciding that she didn’t want to give away the Panama Canal.”⁸⁸

Regardless of his defeat, Reagan stroke a sensitive chord among conservatives, especially in southern and western states.⁸⁹ The ultra-rightist John Birch Society, for instance, circulated bumper stickers that read: “Don’t give Panama our canal. Give them Kissinger, instead!”⁹⁰ In any case, Reagan’s antagonism to the treaties was rooted in his belief that the United States should maintain control over that strategic waterway. He argued that giving up control of the canal could compromise U.S. interests and national security.⁹¹ Despite being unable to secure the nomination over his challenger, the discourse on the Panama Canal had effectively resonated. In fact, a significant portion of public opinion (as well as Congressmen) continued opposing the transfer of the Canal to Panama and the withdrawal of U.S. troops from the ports of Balboa and Colon throughout the following years.⁹²

⁸⁸ Clymer, *Drawing the Line at the Big Ditch*, 24-38 (quotes 29, 30).

⁸⁹ Dinesh D’Souza, *Ronald Reagan: How and Ordinary Man Became an Extraordinary Leader* (New York: Simon & Schuster, 1997), 79.

⁹⁰ Cit. in Rick Perlstein, *The Fall of Nixon and the Rise of Reagan* (New York: Simon & Schuster, 2014), 633.

⁹¹ Lou Cannon, *Governor Reagan: His Rise to Power* (New York: PublicAffairs, 2009), 361-378.

⁹² “Support for Canal Treaties Depends upon Knowledge of Security Provisions” (JCPL, Chief of Staff Betty Rainwater O/A Files, box 262, Printed Material from Private Committee of Americans for Canal

In a parallel action, in the House of Representatives Congressman Marion E. (“Gene”) Snyder (R-KY) introduced an amendment to a procurement bill that denied any funds to the State Department for negotiation of a new treaty with Panama. The House passed the bill with the amendment, causing embarrassment to the Ford Administration. Yet, the Senate ultimately rejected Snyder’s proposal.⁹³ Without the support of their Party, Ford and Kissinger were unable to continue working effectively on the Canal Treaty for almost two years. The repeated delays in the negotiations caused dissatisfaction with both Torrijos and most Panamanians. Torrijos, facing economic challenges in Panama and having led the country for over eight years without securing a Panama Canal Treaty, harbored concerns about potential social unrest, riots, or even a coup against his leadership. The failure to achieve a treaty was particularly significant for Torrijos, given that many of his objectives and populist rhetoric revolved around the imperative of reclaiming control over the canal.⁹⁴

treaties, November 11, 1977). Curiously, Reagan played a minor role in opposing the treaties in 1977 and 1978.

⁹³ “The Panama Canal Problem and the Carter Administration,” 2-3. 591 -005-14-6-6.8-6.8.06000235.

⁹⁴ Long, *Latin America Confronts the United States*, 102-108.

SCRAMBLING FOR OPTIONS

2.1 – Enter Carter

The failure of the Tack-Kissinger agreement – substantially due to Senators from Ford’s same party – demonstrated once again the unpopularity of the Panamanian question. Indeed, Panama’s requests were so foreign to U.S. public opinion that not even the Democrats initially wanted to take them into consideration. In the first half of 1976, during the Democratic primary elections, Jimmy Carter had a vague position on the canal issue despite his foreign policy strategy focusing on the protection and promotion of human rights.¹ The first time Carter spoke publicly, albeit unclearly about this issue was in an interview with *Newsweek* on May 10, 1976, when he stated that, although he was not “in favor of relinquishing actual control of the Panama Canal or its use to any other nation,” he “would certainly be willing to renegotiate payment terms and be willing to remove the word ‘perpetuity’ from the present agreement.”² Aside from this interview, even after his victory in the primaries, the words “Panama” and “canal” did not appear even once in the transcripts of all the “Presidential Election Campaign Briefings and Statements.”³

On October 6, in the second presidential debate, which focused on foreign policy, when Hank Trehwitt asked him whether “as President, [would you] be prepared to sign a treaty which at a fixed date yielded administrative and economic control of the Canal Zone and shared defense,” Carter replied, echoing his *Newsweek* interview:

¹ Long, *Latin America Confronts the United States*, 108.

² Cit. in Clymer, *Drawing the Line at the Big Ditch*, 42.

³ “Carter’s Briefings and Statements,” (JCPL, Records of the 1976 Campaign Committee to Elect Jimmy Carter, Noel Sterrett Subject File, Carter’s Briefings and Statements, Container 69).

I would never give up complete control or practical control of the Panama Canal Zone, but I would continue to negotiate with the Panamanians. When the original treaty was signed back in the early 1900's, when Theodore Roosevelt was President, Panama retained sovereignty over the Panama Canal Zone. We retained control as though we had sovereignty.

Now, I would be willing to go ahead with negotiations. I believe that we could share more fully responsibilities for the Panama Canal Zone with Panama. I would be willing to continue to raise the payment for shipment of goods through the Panama Canal Zone. I might even be willing to reduce to some degree our military emplacements in the Panama Canal Zone, but I would not relinquish practical control of the Panama Canal Zone any time in the foreseeable future.⁴

Carter's initial stance was, surprisingly, more aligned with Reagan's position than with Ford's and Kissinger's stand.⁵ Torrijos argued that the way the two candidates handled the Panama Canal matter was "superficial." He added that it was "a great irresponsibility to the American people," as he called the issue "the most explosive topic in the relations of the United States with Latin America."⁶

Considering Carter's and Torrijos' statements, it was difficult to imagine what would happen only a few days after the new Government took office. However, there are grounds to have confidence in the sincerity of Carter's significant shift in stance

⁴ Jimmy Carter, "Debate with President Gerald Ford (Foreign and Defense Issues) (transcript)," October 6, 1976, UVA Miller Center, <https://web.archive.org/web/20221128035514/https://millercenter.org/the-presidency/presidential-speeches/october-6-1976-debate-president-gerald-ford-foreign-and#dp-expandable-text>.

⁵ "The Panama Canal Problem and the Carter Administration," 3. 591 -005-14-6-6.8-6.8.06000235.

⁶ Cit. in "PC Issue Raised in Ford-Carter Debate," *Star & Herald*, October 7, 1976, 1. We assume that, at least on this occasion, Torrijos meant "U.S. people" by the expression "American people." Nonetheless, we know that the *jefe* considered the canal issue a problem that involved the entire continent, or at least this was the rhetoric that he and Boyd had been using for five years to put pressure on the United States.

regarding Panama. This culminated in the public exposé of the signing of the Hay-Bunau-Varilla Treaty and the acknowledgment of the U.S. responsibility for the 1964 riots following the flagpole incident.⁷ Although Carter did not intend to delegate foreign policy to any member of his staff, he lacked experience in international affairs, at least until 1976.⁸ After all, as a politician he had been member of the Georgia Senate (1963-1967) and Governor of Georgia (1971-1975, two positions that had little to do with foreign policy. For this reason, Carter, aware of this limitation, relied on the advice of Zbigniew Brzezinski and Cyrus Vance – whom Carter would appointed NSA and Secretary of State – as if they were tutors or teachers.⁹ The documents that Carter used to “study” to learn the most important international issues were memoranda by Brzezinski Vance.¹⁰ Particularly relevant for his knowledge of the Panama Canal affair was Vance’s memo of October 24, 1976:

Panama is a very critical issue in terms of future relations with Latin American nations. What we do or do not do with respect to the negotiation of a new treaty will be watched very carefully throughout Latin America. From the standpoint of both security and continued smooth operation of the Canal, I believe it is necessary to work out a new treaty which is acceptable to the Panamanians. [...] I fully recognize that the issue is charged with

⁷ Jimmy Carter, *Keeping Faith: Memoirs of a President* (New York: Bantam Books, 1982), 152-154. Although the President admitted his ignorance on the issue of the Panama Canal before running for office in the Democratic primaries, he suggested that, from the moment he became aware of the problem, his intention was immediately to “include a phasing out of our absolute control of the canal as well as the acknowledgment of Panamanian sovereignty.” Part of this statement was in contrast with what he said during the debate with Ford in 1976.

⁸ Carter had never been to the Canal Zone, although he had served in the Navy in the Atlantic and Pacific fleets. Julian E. Zelizer, *Jimmy Carter* (New York: Times Books, 2010), 11-13.

⁹ Hargrove, *Jimmy Carter as President*, 119; Carter, *Keeping Faith*, 502-54.

¹⁰ Zbigniew Brzezinski, *Power and Principle: Memoirs of the National Security Adviser 1977-1981* (New York: Farrar, Straus, Giroux, 1983), 50-51; Cyrus Vance, *Hard Choices: Critical Years in America’s Foreign Policy* (New York: Simon and Schuster, 1983), 36.

emotion and that the political situation in the US Congress is very difficult. I do believe, however, that we must make the effort to negotiate such a treaty if we are to develop proper relations with Latin America. In addition, it must be noted that the US is largely committed as a result of the negotiations to date. To move backward would be viewed by many as reneging on our commitments and would run the risk of conflict. Accordingly, I believe that the new Administration should not interfere in the negotiations which will be going on between now and the change of administration, but should keep itself closely informed.¹¹

Due to probable timing issues, this document was not ready for the foreign policy debate eighteen days earlier. Since then, Carter had begun to take this issue seriously, so much so that it became his forte in the first half of his Presidency. If a new agreement were reached, it would be a demonstration that the United States had truly abandoned outmoded colonialism and a possible accomplishment that would generate considerable goodwill, facilitating the resolution of other issues in Latin America.¹² In fact, he saw in Panama a special opportunity to apply a philosophy of repentance and reform, acknowledging past mistakes (he had previously condemned the United States involvement in the Vietnam War).¹³ This approach aimed to make the region a showcase for human-rights policies, prevent the proliferation of technology that could facilitate the production of nuclear weapons, and decrease the level of conventional arms transfers.¹⁴

However, Carter's growing commitment in its initial stage was not public. For this reason, the discontent in Panama remained the same as the previous two years. In

¹¹ Vance, *Hard Choices*, 441-442.

¹² Gaddis Smith, *Morality, Reason, and Power: American Diplomacy in the Carter Years* (New York: Hill and Wang, 1986), 109-110.

¹³ Robert Scheer, "Playboy Interview: Jimmy Carter," *Playboy* 23, no. 11 (November 1976): 70-72.

¹⁴ Smith, *Morality, Reason, and Power*, 110.

October, many cases of terrorism occurred in the Canal Zone and near the borders, causing damage to some infrastructure and property of anti-treaty Zonians. Kissinger – who remained Secretary of State until January 20, 1977 – blamed Torrijos and the Guardia Nacional for these events, but they immediately rejected the accusations. Ultimately, by the end of 1976 those acts had diminished drastically.¹⁵

On December 20, the commission on United States-Latin American Relations (CUSLAR) released a long report that, among many other issues, insisted on the urgency of finding an agreement with Panama for the canal claiming that “the United States does not need perpetual control of the canal nor exclusive jurisdiction over the Canal Zone to protect its legitimate interests.” The commission was not reluctant to call the Zone a “colonial enclave” either, namely it resorted to an expression that U.S. politicians did not usually use.¹⁶ Carter and Vance received copies of this report. After a few days, Carter told the press that the Panama problem “[was] to be resolved quite rapidly.”¹⁷ Simultaneously, Panama persuaded more than half a dozen presidents of other Latin American countries to sign a letter to Carter emphasizing the need for a new Panama Canal Treaty to improve inter-American relations.¹⁸

On January 21, 1977, the day after his inauguration, Carter gave instructions to Brzezinski on how to define the Panama strategy. The first formal session of the NSC elaborated the first “Presidential Memorandum Review” (PMR1), in which the Policy Review Committee should “review key issues with respect to Panama Canal Treaty

¹⁵ Long, *Latin America Confronts the United States*, 108-109; Eizenstat, *President Carter*, 556.

¹⁶ “The United States and Latin America: Next Steps,” Commission on United States-Latin America Relations (JCPL, Chief of Staff Betty Rainwater O/A Files, box 258, Documents and Articles on the Panama Canal Treaty, December 20, 1976).

¹⁷ Jorden, *Panama Odyssey*, 341.

¹⁸ Eizenstat, *President Carter*, 557.

negotiations [and] [...] review and analyze our present interests and objectives” but also “[assess] the present internal situation in Panama [...] our policy toward the Torrijos regime and [...] the impact [the] negotiations on U.S.-Latin American relations.”¹⁹ The State Department got to work the same day and prepared a detailed document that illustrated several options to tackle the issue and various possible outcomes. The paper ended stating that “successful conclusion of a new treaty that would protect our basic national interests in the Canal would do more than remove a source of tension and potential bloodshed: it would strengthen the reputation of the United States as a force for creative world leadership.”²⁰

2.2 – *Two New Teams*

In order to pursue the Panama Canal treaty task, Carter put together a “bipartisan” team of negotiators, on the advice of the December 20 report. According to the CUSLAR, this was in fact the only way to guarantee the support of part of the Republican Party (and therefore of the Senate).²¹ For this reason, Carter was careful to choose figures with extensive expertise in the domain, who had previously occupied roles in the Nixon and Ford Administrations. The first name that came to Vance’s and Carter’s mind was attorney Sol M. Linowitz. From 1950 to 1966, Linowitz served as General Counsel, Chairperson of the Executive Committee, and eventually Chairperson of the Board of Xerox Corporation. In 1964, he founded the International Executive

¹⁹ NSC, “Presidential Review Memorandum/NSC 1,” Presidential Review Memoranda (JCPL, January 21, 1977), 1-2. https://web.archive.org/web/20231115123720/https://www.jimmycarterlibrary.gov/sites/default/files/pdf_documents/assets/documents/memorandums/prm01.pdf.

²⁰ “Policy Review Memorandum: Panama,” January 21, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama* (Washington, DC: U.S. Government Printing Office, 2016), 6.

²¹ “The United States and Latin America: Next Steps.”

Service Corps with David Rockefeller, which sent mostly retired businesspeople on six-month tours of duty to help local companies in developing countries. Johnson appointed Linowitz U.S. Ambassador to the Organization of American States, a post in which he served from 1966 to 1968. At the same time, he was the U.S. Representative to the Inter-American Committee of the Alliance for Progress before serving as Chairperson of the CUSLAR.²² He accepted the offer of a full-time albeit short-term leading role as chief negotiator with Panama since he did not want to renounce to his main occupation at Xerox. Vance and Linowitz later agreed on a six-month job. Carter's commitment to form a bipartisan squad was already faltering when Vance told Linowitz that he would replace Ellsworth Bunker, chief negotiator during Ford's Presidency. Linowitz – who had deep respect for his colleague's diplomatic skills – accepted the job only if he was guaranteed that Bunker would continue to serve as co-negotiator with him on the new team. The request was approved.²³

Bunker had in fact a great diplomatic experience and had worked as a director or trustee for corporations in many Latin American countries, such as Cuba and Mexico, and in Puerto Rico. In 1951, Truman appointed him U.S. Ambassador to Argentina. This was Bunker's first public diplomatic assignment. He subsequently became Ambassador to Italy in 1952, and India from 1957 to 1961, with concurrent accreditation to Nepal from 1957 to 1959. Bunker then served as U.S. Chairperson of the OAS Council in November 1964 for two years in which he played a major role in

²² “Biographic Data, White House Briefing Material on the Panama Canal Treaties” (JCPL, Chief of Staff Betty Rainwater O/A Files, box 261, Panama Canal Treaty Documents, October 1976); Joe Holley, “Sol Linowitz Dies,” *Washington Post*, March 19, 2005, <https://web.archive.org/web/20231218173853/https://www.washingtonpost.com/archive/local/2005/03/19/sol-linowitz-dies/050439d9-6e9e-4e8f-8015-4440f0355027>; Sol M. Linowitz, *The Making of a Public Man: A Memoir* (Boston: Little, Brown, 1985).

²³ Jorden, *Panama Odyssey*, 342-343.

resolving the dispute between Panama and the United States. In 1967, Johnson appointed him Ambassador to the Republic of South Vietnam where he served until 1973, following which Nixon appointed him Ambassador at Large and U.S. Chief Negotiator for a new Panama Canal treaty.²⁴ Together with the two negotiators, U.S. Ambassador to Panama William J. Jordan played a major role, as he attended some of the talks and later helped to summarize and write them down. He was already a member of the Policy Planning Council in the State Department from 1961 to 1965 and Senior Staff Member of the NSC from 1966 to 1968 and 1972 to 1974.²⁵ Bunker's sustained presence was a valuable indication that the Democrats did not plan to disavow the progress already made. Rather, they aimed to resume the efforts the Republicans had initiated before the election campaign. The preservation of other seasoned members of the negotiation team further reinforced this continuity. Despite divergent negotiating styles – such as Linowitz's inclination towards a more business-oriented approach in contrast to Bunker's more diplomatic and experienced style – the two Ambassadors established an effective and well-coordinated partnership from the beginning of their collaboration.²⁶

The political aspects were, obviously, not the only topics of discussion between the parties. Even if less “compelling,” the modalities of reversion of the structures and possessions from United States to Panama in the Zone were a big part of the whole

²⁴ “Ellsworth Bunker (1894–1984),” Office of the Historian, <https://web.archive.org/web/20230528112725/https://history.state.gov/departmenthistory/people/bunker-ellsworth>; “Biographic Data, White House Briefing Material on the Panama Canal Treaties.” Bunker was appointed Ambassador to India and Nepal in 1956 but did not present his credentials until the following year.

²⁵ “Jordan, William J. (William John), 1923-,” DiscoverLBJ, <https://web.archive.org/web/20231122122109/https://www.discoverljbj.org/item/jordenw>.

²⁶ Howard B. Schaffer, *Ellsworth Bunker: Global Troubleshooter, Vietnam Hawk* (Chapel Hill: University of North Carolina Press, 2003), 289.

negotiation process. General Welborn G. Dolvin was responsible for the technical aspects of the treaty, such as land and waters concessions, organization of facilities and economic activities in the Canal Zone. He was one of the most decorated veterans and had served – in the last years of his almost forty-years career – as Commanding General of XXIV Corps in Vietnam from June 1971 to March 1972, and then as Commanding General of IX Corps in Japan from May 1972 until his retirement from the Army on March 1, 1975. Since then, Dolvin had been the Department of Defense Representative to the Panama Canal Treaty Negotiations.²⁷

Another key figure of the new established negotiation team was Robert Pastor, the CUSLAR staff director.²⁸ Brzezinski hired him as the NSC director of Latin American and Caribbean affairs. Since then, Pastor had become a trusted adviser to presidents, a respected figure in foreign affairs and a prolific academic. His main role was to monitor human rights in Panama throughout the negotiation process, an issue that Carter wanted to take into serious consideration.²⁹ In contrast to Pastor’s “fresh presence,” former U.S. Air Force General George S. Brown was not a new entry. He served as Chief of Staff of the Air Force in 1973 and then was promoted to Chairperson of the Joint Chiefs of Staff the following year. When Ford became President, Brown continued advising the NSC

²⁷ “Welborn G. Dolvin, Sr.,” *Veteran Tributes*, <https://web.archive.org/web/20220521223618/http://veterantributes.org/TributeDetail.php?recordID=937>.

²⁸ Hargrove, *Jimmy Carter as President*, 557.

²⁹ Emily Langer, “Robert A. Pastor, Latin America specialist in diplomacy and academia, dies at 66,” *Washington Post*, January 9, 2014, https://web.archive.org/web/20221008055700/https://www.washingtonpost.com/national/robert-a-pastor-latin-america-specialist-in-diplomacy-and-academia-dies-at-66/2014/01/09/32c500b4-7945-11e3-af7f-13bf0e9965f6_story.html; Douglas Martin, “Robert Pastor, 66, Dies; Guided Panama Treaty for Carter,” *New York Times*, January 14, 2014, <https://web.archive.org/web/20231006213358/https://www.nytimes.com/2014/01/14/us/politics/robert-pastor-66-dies-guided-panama-treaty.html>.

on defense issues concerning the Canal and the Zone. For this reason, Carter retained him, as he was one of the most experienced men in this position and an important “bridge” between the past pro-treaty Republican Government and the new Administration.³⁰ Despite that, Brown did not always align himself with Carter’s directions concerning Panama. For example, even before the 1976 elections, Brown stated that “the principal objective of the Government of the United States in the negotiations currently underway [is] to insure [sic!] that the Panama Canal continues to be operational, secure, efficient, and open on a nondiscriminatory basis to world shipping.” That argument was in fact similar to Carter’s old view of the canal problem, as “the Panama Canal remains an important defense asset.” But Brown was still committed to finding a joint solution for this issue. In fact, even before Carter took office, he stated that “[defending the canal is done] more efficiently and effectively in partnership with Panama.”³¹

Another important person – especially for the first weeks of the negotiations and for the 1977/1978 ratification campaign – was Henry Kissinger. He briefed Carter on a vast range of Latin America issues that Vance and Brzezinski had overlooked. The most important one was the concern that Cuba, as a Soviet Puppet state, would finance revolutionary leftist groups in Latin America and extend its influence in the continent. Torrijos himself, despite his efforts to reconcile with the United States, maintained and progressively increased a diplomatic engagement with Castro and other pro-communist

³⁰ Edgar F. Puryear, Jr., *George S. Brown, General, U.S. Air Force: Destined for Stars* (Novato, CA: Presidio Press, 1983); “General George Scratchley Brown,” The official web site of the U.S. Air Force, n.d., <https://web.archive.org/web/20230322000826/https://www.af.mil/About-Us/Biographies/Display/Article/107590/general-george-scratchley-brown/>.

³¹ George S. Brown “Letter to Council of Americas President, Henry R. Geyelin,” The Joint Chief of Staff Documents (JCPL, Chief of Staff Betty Rainwater O/A Files, box 263, Update-Panama, June 2, 1976).

figures in Latin America.³² To make the situation even more difficult and complex, the *jefe* had to continue using *antiestadounidense* rhetoric to uphold credibility among his fellow citizens. Despite Kissinger's commitment to help the President, the Ford Administration decided to remove virtually all the documents concerning Torrijos' family and collaborators' involvements in illicit activities from the custody of the CIA.³³

From the Panamanian side, Torrijos had already established a team that had operated for almost a decade. But if, on the one hand, the Panamanian team had no turnover problems linked to electoral changes, on the other, Torrijos tended to replace key negotiators. One of the protagonists of the *tercera etapa* of negotiations who fell into "disgrace" was *Canciller* Juan Antonio Tack who – even if he had the merit of having formulated the eight principles for a new treaty with Kissinger – had always proven rather hostile towards the United States. For this reason, Torrijos decided to dismiss him from his position in favor of Aquilino Boyd, the mind behind the attempt to internationalize the canal problem in the UNSC. Boyd was supposed to continue the negotiations along the course that Tack had set. Yet, he did not get the chance to fulfill his task, as the negotiation remained virtually at a standstill throughout 1976.³⁴ Boyd's

³² Eizenstat, *President Carter*, 557-558.

³³ David Aaron, "Memorandum for Philp Jordan: Request by Senate Select Committee on Intelligence for NSC Documents" (NLC-SAFE 16 C-40-19-4-6). Aaron stated that "the only documents relating to these cases" were "transcribed meetings with Panamanian officials regarding the Ambassador's alleged involvement in drug trafficking" in a CIA memorandum of September 24, 1971, and some other officials of the Executive Branch concerning drug trafficking in Panama.

³⁴ Suárez, *Las negociaciones de los tratados Torrijos-Carter*, vol. 2, 563-564, 755-756. Suárez also stated that, even though U.S. historians (and especially Jordan) tend to frequently depict the hostile and intransigent attitude of numerous Panamanian negotiators, overlooking the instances in which Torrijos actively sought to replace members of his delegation with diplomats who might garner better feedback from the U.S. team.

curriculum was remarkable: he had worked in the Embassy of Panama in Cuba and then Washington before serving as Minister of Foreign Affairs during De la Guardia's Presidency for 1956 to 1958. In 1962 Boyd became Permanent Representative of Panama to the United Nations where he served for fourteen years until Torrijos chose him as *Canciller* for the second time and also appointed him *negociador jefe*.³⁵

Together with Boyd, Rómulo Escobar Bethancourt, one of the Panama's top *verbo fácil*-politicians, was the main negotiator. He began his public career as a legal advisor to the Ministry of Labor and continued it in the Treasury of the Municipality of Panama, in the Social Security Fund and at the Ministry of Commerce and Industries. Escobar was originally from the communist left (from which he was expelled in his youth) and later became a member of the National Patriotic Coalition in the 1950s and 1960s. During the military regime, he became close to Torrijos and found his place as an influential politician, holding prominent positions in public office such as Magistrate, Minister of Labor and Rector of the University of Panama. Escobar would become *negociador jefe* and Advisor to the Head of Government after Boyd's resignation.³⁶

Of particular importance was the Comisión Panameña de Tierras, Aguas y Administración del Canal (CPTAAC) which was responsible for studying the related technical and logistic aspects. The Panamanians had always insisted that all land and water areas were not essential for the operation, maintenance, and defense of the canal, even before the opportunity to discuss a new treaty that could give Panama full sovereignty over it. For this reason, the Torrijos Government was mainly interested in reducing U.S.-controlled land and waters to the smallest possible ark, at least until

³⁵ "Curriculum Vitae de Aquilino Boyd," [Biblioteca Presidente Roberto F. Chiari (hereafter BPRC), Panama City, Panama, Omar Jaén Suárez Papers, unprocessed collection, caja 1].

³⁶ Suárez, *Las negociaciones de los tratados Torrijos-Carter*, 756-757.

February 1977.³⁷ Architect Edwin Fábrega had been serving as coordinator of the CPTAAC since 1974. He was very close to the Panamanian *jefe* who had appointed him Rector of the University of Panama from 1969 to 1971, Minister of Public Works from 1971 to 1974, and then General Director of the Institute of Hydraulic Resources and Electrification. Fábrega main collaborators in CPTAAC were Augusto Zambrano, Flavio Velásquez, Arnoldo Cano and Omar Jaén Suárez.³⁸ While CPTAAC remained stable even after the signing of the treaties, major changes occurred within the main Panamanian negotiating team, especially during the first months of the 1977. To avoid confusion, we decided to introduce those figures when they were called to serve or replace other diplomats.

2.3 – Just Before the Beginning of the Talks

Even before the Carter Administration took office, Aquilino Boyd was already working on the new phase of the negotiations. He had maintained relations with Kissinger, who had assured him that Carter and Vance were planning to give high priority to the canal issue and to form a bipartisan commission for this purpose.³⁹ Boyd, still unaware that Washington intended to begin talks as soon as possible, gave a highly rhetorical public speech on the thirteenth anniversary of the “flagpole incident” on January 9. His clear aim was to garner significant media coverage to expedite the negotiation process. For this reason, Boyd reiterated the strategy used in 1972 right from the title of the speech: “La solidaridad internacional es el factor determinante para

³⁷ CIA, “Intelligence Report: The Panama Canal Negotiations. A Methodological Approach,” (BPRC, Panama City, Panama, Suárez Papers, caja 1, August 21, 1974), 15-17.

³⁸ Suárez, *Las negociaciones de los tratados Torrijos-Carter*, 759-762.

³⁹ Suárez, *Las negociaciones de los tratados Torrijos-Carter*, 569.

el triunfo de la causa panameña.” In his address, the *Canciller* first remembered the “mártires que cayeron en esas gloriosas jornadas, [...] jóvenes estudiantes, [...] representantes del pueblo panameño [que se sacrificaron para] defender la soberanía” and then moved the focus of the discussion towards the “objetivo, nacional de máxima prioridad para nosotros los panameños: [la] erradicación del enclave colonial existente en el corazón mismo de nuestro territorio soberano.” In the end, Boyd referred directly to Carter hoping that his Administration would use the case of Panama to demonstrate its good will towards Latin America as a whole. Boyd was confident that the U.S. would later read the transcript of this speech. For this reason, he publicly established this fundamental point for the discussions that would officially begin two weeks later, such as the need to transfer the canal zone sovereignty to Panama not after the “razonable [fecha] del año 2000.”⁴⁰

The first meeting between the two negotiating teams was scheduled in Washington for January 31.⁴¹ The U.S. Administration had previously agreed to reaffirm Kissinger’s eight principles and decided to inform the U.S. public opinion on the Panama issue to win domestic support but this decision ultimately resulted in a “double-edged sword” choice.⁴² Prior to any formal meeting with the Panamanians, Carter and Vance were already receiving mixed feedback from the press, advisors, and other influential figures. The liberal and national press, albeit with some reservations, commented positively on Carter’s commitment. A front-page article of the *Washington Post* wished that the U.S. government would be “mature enough now to base our relations with other [smaller]

⁴⁰ Aquilino Boyd, “Discurso pronunciado por el Ministro de Relaciones Exteriores en la ceremonia conmemorativa de la epopeya de Enero de 1964.” (AMREP \ Protocolo - Discursos \ Cancilleres \ Cancilleres de Panamá, January 9, 1977). 591-005-14-3-3.3-3.3.01-000052.

⁴¹ Omar Jaén Suárez, “Las negociaciones de los tratados Torrijos-Carter draft and notes” (BPRC, Panama City, Panama, Suárez Papers, caja 1), 308-309.

⁴² Jorden, *Panama Odyssey*, 343-344.

countries,” criticizing anti-treaters for being nostalgic “for the period of our adolescent muscle-flexing.”⁴³ However, although in favor of the treaty, the *New York Times* pointed out that those politicians who had traveled to Panama and seen the canal were concerned on how easily guerrilla force could threaten the Zone.⁴⁴ In fact, in a 1975 report, the CUSLAR had highlighted that even a simple breach of a dam could drain Gatún Lake disabling the canal for up to two years.⁴⁵

The fiercest supporter of the *status quo* was Reagan. A few days following the first Boyd-Vance meeting he stated that “we are negotiating with a dictatorship that comes within the portion of that map colored black for no freedom. No civil rights. One-man rule. No free press.” In particular, he criticized Carter on the ground that the new President had failed to keep his promise to “never relinquish actual control” of the Canal Zone.⁴⁶ Conversely, Kissinger supported Carter’s decision and, in one of their foreign policy briefings, informed the President that Mexico was talking about sending troops to Panama’s defense if a conflict broke out. Ford even put the Panama Canal

⁴³ Stephen S. Rosenfeld, “The Panama Canal: State-of-Mind Diplomacy,” *Washington Post*, December 3, 1976, 1.

⁴⁴ “Priority for Panama,” *New York Times*, December 10, 1976, 26. Vance later wrote, “the most serious threat to the canal was not foreign aggression [...] but sabotage and terrorist actions. Eliminating the Canal Zone as the focus of Panamanian nationalism would reduce the risks to the continued operation of the Canal and ease the task of defending it” (*Hard Choices*, 148). A detailed list of newspaper headlines and articles on the Panama Canal can be found in “Newspaper Clippings on the Panama Canal Treaties” (JCPL, Chief of Staff Betty Rainwater O/A Files, box 259); and “Panama Canal Treaty 10,11,12/77” (JCPL, Chief of Staff Jordan, box 36). However, Carter’s Chief of Staff, Hamilton Jordan, only began collecting this material in March.

⁴⁵ Robert S. Cox, “Choices for Partnership or Bloodshed in Panama,” in Center for Inter-American Relations, *The Americas in a Changing World: A Report of the Commission on US-Latin American Relations* (New York: Quadrangle/New York Times Book Company, 1975), 132-55.

⁴⁶ Ronald Reagan, “The ‘New Republican Party,’” speech to the Conservative Political Action Committee (CPAC), February 6, 1977, 10, Ronald Reagan Institute, <https://web.archive.org/web/20231002205447/https://www.reaganfoundation.org/media/358057/reagan-cpac-speech.pdf>.

negotiation ahead of even the Middle East and Soviet Union in his post-election meeting with Carter.⁴⁷

On January 25, Alfred J. Schweppe – former chairperson of the American Bar Association’s (ABA) Committee on Peace and Law – wrote a letter to Phillip Harman – director of the Canal Zone Non-Profit Public Information Corporation and collaborator of important anti-treaty Zonian organizations – to forward to Vance. He raised four concerns about the potential signing of a new canal treaty that basically summarized the most frequent anti-treaty critics. First, he stated that the “illegal and pro-Cuban military dictatorship in Panama would utilize the treaty to secure additional financial loans, enabling them to remain in power indefinitely.” Then, he wrote that the President was not obligated to negotiate a new canal treaty because he could assert that 76% of polled U.S. people were opposed surrendering the Panama Canal. Schweppe stated that the Panamanian people understood that the anti-U.S. military regime in their country could not survive if treaty talks were discontinued. This scenario could eventually provide an opportunity to restore their legal and pro-U.S. government of 1968. He also added that, if a treaty was eventually signed and ratified, Carter should consider that the “dictatorship” in Panama might not wait until the treaty’s termination to take possession of the Canal, akin to Nasser’s actions with the Suez Canal Zone. In conclusion, Panama’s nationalization of the canal could have a negative impact on Carter’s

⁴⁷ Eizenstat, *President Carter*, 557. Suárez, who well described the relations between Panama and Mexico during this period of time, never mentioned the possibility of a defense agreement between the two countries. It could be that Kissinger arbitrarily put pressure on Carter, making up some issues.

reputation and his 1980 re-election bid because the U.S. electorate and Senate would be likely to hold the president responsible for that premature outcome.⁴⁸

The following day, General George Brown and Secretary of Defense Harold Brown met and discussed the post-treaty defense issue after acknowledging that the treaty “would terminate on December 31, 1999.” Secretary Brown leaned toward incorporating language that guaranteed the neutrality and protection of the Canal “beyond the termination of U.S. operations and each country commits itself to guaranteeing the neutrality of the Canal after the termination of U.S. operations.” The General expressed support for this position, as he believed that it provided the necessary assurance for the Canal’s availability and allowed U.S. intervention in its defense.⁴⁹ Then, on January 27, the NSC met and examined the major areas of disagreement with Panama – previously pointed out in the PRM1 – such as neutrality and post treaty defense arrangements. The Council stressed the desirability of a joint U.S.-Panama guarantee of neutrality and the problematic consequences if Panama refused to accept the concept of U.S. forces defending the Canal “in perpetuity.”⁵⁰ The NSC first supported a “strong residual defense/neutrality guarantee” option but ultimately decided to go – in view of the meeting with the Panamanian team – with the formulation that Harold Brown had suggested the day before. With Brown’s wording, each country could interpret the provision “to guaranteeing the neutrality of the Canal after the

⁴⁸ Alfred J. Schweppe, “Letter to Phillip Harman on the Panama Canal Treaty forwarded to Cyrus Vance,” Canal Zone Non-Profit Public Information Corporation (AMREP \ Relaciones de Panamá con los Estados Unidos de América \ Correspondencia, January 24, 1977). 591 -005-14-10-10.3002051.

⁴⁹ “Memorandum from the Chairman of the Joint Chiefs of Staff (Brown) to the Members of the Joint Chiefs of Staff,” January 26, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 35.

⁵⁰ “Responses to Presidential Review Memoranda,” (CREST, January 27, 1977) CIA-RDP91M00696R000200060058-6.

<https://web.archive.org/web/20231121204405/https://www.cia.gov/readingroom/print/1027821>.

termination of U.S. operations” its own way. While admittedly being an ambiguous statement, it would not risk Boyd’s embarrass and diplomatic complications from the beginning.⁵¹ Commander in Chief of U.S. Southern Command Dennis P. McAuliffe – a veteran close to General Brown – also expressed support, endorsing the idea of a residual U.S. force in Panama after the treaty expired, preferably through a bilateral mutual defense agreement.⁵² Brzezinski quickly informed Carter of the outcome of the meeting and suggested the reaffirmation the Tack-Kissinger principles as the starting point of the negotiations.⁵³

On the other hand, the Panamanians met on January 19 to discuss the latest updates on the “Tierra y Agua y Administración” issue. Contrary to the “main” negotiation team, the CPTAAC was in fact operating without major interruptions since 1974. Suárez informed the Ambassadors that the United States had refused Panama’s proposal of the reversion to full use of 75% of the current Canal Zone, narrowing down to 60%. Suárez complained that the U.S. technical team had gotten “cada vez más al límite de lo posible” and that was necessary to organize systematic and continuous work at a technical level from that point.⁵⁴ After the reunion, Boyd continued his preparation ahead of the meeting in Washington. On January 25, he addressed the Diplomatic Body accredited before the Government of Panama and remarked on the “garantías de

⁵¹ “Minutes of a Policy Review Committee Meeting,” January 27, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 41-49; Welborn G. Dolvin, “Memorandum for Robert A. Pastor,” NSC Staff (JCPL, National Security Affairs, Brzezinski Material, Country File, box 60, Panama 1-10/77, January 31, 1977).

⁵² “Letter from the Commander in Chief of United States Southern Command (McAuliffe) to the Chairman of the Joint Chiefs of Staff (Brown),” February 2, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 57-58.

⁵³ “Memorandum from Secretary of State Vance to President Carter,” January 27, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 49-50.

⁵⁴ “Reunión del grupo político de la negociación” (BPRC, Panama City, Panama, Suárez Papers, caja 2, January 19, 1977).

neutralidad para que después del año 2000 cuando el canal esté bajo nuestro control la vía interoceánica [sera] siempre abierta.”⁵⁵ The following day, Boyd gave another speech at the Indian Embassy in Panama City on the occasion of the anniversary of Indian independence. His commitment to the canal cause was so strong that he raised the issue with the Indian diplomats linking it to their colonial past under the British.⁵⁶ On January 27, four days before the meeting in Washington, Torrijos finally received Boyd and gave him some guidelines. Boyd should not talk about the kind of guarantees the United States is demanding for the neutrality of the canal, but rather should only discuss the duration of the treaty to the year 2000.⁵⁷

2.4 – The Canciller’s Last Effort

For his mission to Washington, Boyd was accompanied by the Ambassadors Nicolás González Revilla, Jorge Pitty, and the two negotiators Rómulo Escobar Bethancourt and Edwin Fábrega of the CPTAAC. They met the U.S. team composed of Vance, Bunker and Linowitz at the State Department. There were also the Deputy Secretary of State Warren Christopher, the Chief of Latin American Affairs Terence Todman and the Ambassador to Panama William Jorden. Vance immediately expressed pleasure at the resumption of the Panama Canal negotiations and opened the meeting outlining some key points. The most important issues were the importance of avoiding pressures on the

⁵⁵ Boyd, “Discurso pronunciado por Su Exclencia Licenciado Aquilino E. Boyd, Ministro de Relaciones Exteriores en la recepción ofrecida al Cuerpo Diplomático acreditado ante el Gobierno de Panamá.” (AMREP \ Protocolo - Discursos \ Cancilleres \ Cancilleres de Panamá, January 25, 1977). 591-005-14-3-3.3-3.3.01-000053.

⁵⁶ Boyd, “Discurso del señor Ministro de Relaciones Exteriores Licenciado Aquilino Boyd en la celebración del Vigésimo Séptimo Aniversario del Día de la República de la India.” (AMREP \ Protocolo - Discursos \ Cancilleres \ Cancilleres de Panamá, January 26, 1977). 591-005-14-3-3.3-3.3.01-000054.

⁵⁷ Jorden, *Panama Odyssey*, 345.

United States in international forums or incidents impacting public opinion; and, the sustained and continuous effort to conclude a new treaty at an early date. Boyd requested that the final Joint Statement of the meeting commit the parties to settle the controversies by the end of 1977, while Vance vaguely suggested to finish “at an early date” without a specific time limit.⁵⁸ In the end, the resulting Joint Statement read that Vance and Boyd “affirmed their determination to continue the negotiations for a new Canal Treaty on the basis of the Joint Statement of Principles of February 7, 1974, known as the Tack-Kissinger Agreement.”⁵⁹

However, already from the first meeting the U.S. and Panamanian versions of the discussions did not coincide. Regrettably, the transcripts of the talks are not available. Therefore, we have to rely on the reconstruction of the protagonists. The U.S. depiction of the events seems to be the most likely. Vance claimed that he had told Boyd that reaching an understanding on the treaty’s deadline only depended on whether the Panamanian Government gave the United States the right to defend the canal after the expiration of the treaty.⁶⁰ Jorden stated something similar: Boyd would ask Vance if he endorsed the principles, obtaining a positive response. Then, he would agree to Vance’s request of an assurance that the waterway would remain secure and open. Jorden also claimed that Boyd himself suggested that “Panama might consider some kind of bilateral guarantee of the canal’s neutrality.”⁶¹ Escobar maintained the opposite of what the U.S. Secretary of State and the Ambassador reported. According to him, Vance

⁵⁸ “Memorandum of Conversation,” January 31, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 52-56; Cyrus Vance and Aquilino Boyd, “Declaración Conjunta entre la República de Panamá y los Estados Unidos sobre el estado de negociaciones del Canal de Panamá” (AMREP \ Tratados,Acuerdos,Convenios de Panamá \ Declaraciones, January 31, 1977). 591 -005-14-6-6.5000052.

⁵⁹ Vance and Boyd, “Declaración Conjunta.” 591 -005-14-6-6.5000052.

⁶⁰ Vance, *Hard Choices*, 145.

⁶¹ Jorden, *Panama Odyssey*, 346-347.

would allude to the fact that, until the end of the meeting, he did not feel bound by the Tack-Kissinger declaration, since it had been negotiated during the Nixon Administration. Yet, there are reasons to believe that, since Escobar arguably published the book to exalt Torrijos' figure and his country, he altered some details for this purpose.⁶²

In any case, all the versions converged on the fact that Vance and Boyd were committed to concluding the negotiations soon, even though the Spanish version of the text read “en la fecha más cercana que sea possible,” certainly a more powerful choice of words compared to the English version’s “at an early date.” In pursuit of this objective, they agreed that the U.S. and Panamanian teams would resume negotiating sessions in Panama on February 10, 1977.⁶³ In spirit of future partnership, Vance then stated in a telegram to Torrijos that he was “very pleased to be able to have such an early meeting with the Foreign Minister to discuss the Canal negotiations and thus underscore the importance we attach to an early settlement.”⁶⁴ While Vance emphasized cooperation between the two countries, the staff of the Senate Select Committee on Intelligence was trying to discredit Panama by collecting confidential information about Torrijos' alleged connection to Castro's regime in Cuba.⁶⁵

Boyd remained in Washington one week. Two days after the meeting, the *Canciller* had breakfast with Jorden and some Senators of the Foreign Relations Committee,

⁶² Rómulo Escobar Bethancourt, *¡Torrijos: Colonia Americana, No!* (Bogotá: Carlos Valencia Editores, 1981), 272.

⁶³ Vance and Boyd, “Declaración Conjunta.” 591 -005-14-6-6.5000052.

⁶⁴ “Telegram from the Department of State to the Embassy in Panama,” February 4, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 61-62.

⁶⁵ “Memorandum for the Record,” February 2, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 59-60. Unfortunately, some lines concerning an “incident occurring in Panama involving transfer of information from the Panamanians to the Cubans” have not been declassified, yet.

Democrats and Republicans. At this juncture, he found it fitting to discuss with U.S. legislators the various factors that had led to Panamanian dissatisfaction with the U.S. handling of Latin American policies at least in the previous five decades. This discontent reflected the complex history and dynamics between the two nations. The first thing that Boyd wanted to point out was the unfairness of the original 1903 Treaty. As it came out, some of the diners did not even know in what context Varilla had signed the Treaty.⁶⁶ Boyd was particularly delighted with the support of Hubert Humphrey, the deputy President pro tempore of the Senate, and Jorden who agreed to all his claims and arguments.⁶⁷

While most Latin American countries viewed the announcement of a second meeting as a positive development that fostered optimism for improved U.S.-Latin America relations, Torrijos exhibited a lack of appreciation for Boyd's efforts. The government-controlled press criticized the Joint Statement of Washington, suggesting that the previously established eight principles were insufficient for a fair treaty, and that the Statement implied that the negotiations would continue until the United States wanted to.⁶⁸ The motivations behind Torrijos' response remain uncertain, raising questions about whether it stemmed from jealousy, a desire for protagonism, diplomatic disapproval, or lingering resentments toward Boyd's perceived "independent" stance. Despite that, Boyd returned to Panama with an "optimismo invencible," looking forward to reporting to Torrijos about his discussions with Vance and positive reception

⁶⁶ Jorden, *Panama Odyssey*, 347-348.

⁶⁷ Escobar Bethancourt, *¡Torrijos: Colonia Americana, No!*, 271-273.

⁶⁸ Suárez, *Las negociaciones de los tratados Torrijos-Carter*, 574-575.

from Senators. However, when he attempted to contact Torrijos the following morning, he received no response.⁶⁹

The day after, Torrijos publicly denounced Boyd's negotiation approach on television, because the *Canciller* did not act as a representative of a team but rather as a maverick. He also hinted that there would be changes to the squad. Boyd realized the *jefe's* understatement. So, he decided to anticipate Torrijos by appearing on a local television station and stepping down on camera. Torrijos quickly accepted the resignation and replaced Boyd with the Panamanian Ambassador to United States Nicolás González-Revilla.⁷⁰ Escobar's 1981 biography omits Boyd's indirect dismissal. The volume also stated that Boyd, Torrijos and Escobar actually talked before the *jefe's* TV speech on the "necesidad de trabajar en equipo." According to Escobar, Torrijos would express only minor reservations about the *Canciller's* actions on that occasion.⁷¹ However, in an interview with Jorden some years later, Boyd confirmed that Escobar's version was not correct.⁷² Boyd also reported that he and Torrijos had an argument during their meeting on January 27 when he received instructions for the negotiation. The *Canciller* knew that the neutrality issue was not a sort of vague and pointless assurance to the United States but rather a question to be raised immediately to ensure an initial friendly approach. He obviously did not mean that the United States should have the right to keep the military bases in Panama forever, nevertheless Boyd later admitted to Jorden that Torrijos was not pleased with him disregarding the official instructions.⁷³

⁶⁹ Jorden, *Panama Odyssey*, 348.

⁷⁰ Jorden, *Panama Odyssey*, 348-349.

⁷¹ Escobar Bethancourt, *¡Torrijos: Colonia Americana, No!*, 273-276.

⁷² Suárez, *Las negociaciones de los tratados Torrijos-Carter*, 855.

⁷³ Jorden, *Panama Odyssey*, 345-346.

PANAMA CONFRONTS THE UNITED STATES

3.1 – *A Test of Diplomacy*

The ouster of Boyd from his position did not interrupt the negotiations nor did it weaken Panama's team. Revilla, apparently a better team worker, immediately proved to be more willing to obey Torrijos' orders. After all, this was what the *jefe*, beyond the hypocrisy, really wanted.¹ However, the new Panamanian Foreign Minister knew that could reap the benefits of Boyd's multi-year efforts to internationalize the canal issue. During the Inter-American Council for Education Science and Culture held in Montevideo on February 11, the OAS General Secretary Alejandro Orfila made a long speech where he complimented and praised Carter (who was not present) for his new political promise of a "world dominated by a new spirit [by which] more numerous and politically more alert peoples aspire and demand [...] basic human rights." Orfila – remarking the necessity of a U.S. contribution to support the development of Latin American countries – cited the Panama Canal issue as a "cuestione pendiente y concreta que a nivel político resultan de interés común y prioritario de América Latina, como el Canal de Panamá, donde está en juego la libertad de un pueblo hermano."²

In Washington, the President wielded significantly diminished authority over his ambassadors and negotiators, as Carter did not want to heavily interfere with their job. His first letter to Linowitz was in fact completely different from Torrijos' treatment to

¹ Suárez affirms many times that Torrijos consistently positioned himself as the chief negotiator, because he had a strong sense of pride and refused to recognize superior skills to professional diplomats on the ground of his humble background. Suárez, *Las negociaciones de los tratados Torrijos-Carter*, 577.

² Alejandro Orfila, "Discurso de la Organización de los Estados Americanos (OEA)," Secretaría General Washington, DC, Departamento de Información Pública (AMREP \ Protocolo - Discursos \ Organismos, February 11, 1977), 4-6. 591 -005-14-3-3.9000028.

Boyd. Carter appreciated the initiative of the team and wanted to assure the Ambassador that his work “will be given very careful consideration by [my] Administration.”³

The second meeting was postponed for 4 days, from the February 10 to February 14, probably because Revilla would officially become *Canciller* that same day. This delay gave the CPTAAC more time to prepare a very detailed report to present for the U.S. team. On February 7, the *Comisión* met and first decided that their intervention had to be divided into two moments: one oral presentation at the “political negotiating table” and then a more joint discussion with the *estadounitenses* at the “technical negotiating table.”⁴ In particular, Fábrega’s remarks had to be exhaustive and retrace the history of the “Tierra y Agua” negotiations since 1974.⁵ The Commission highlighted ten requests to be presented on February 14 or the following days, given that the negotiating talks would last a few days and it was not clear when the CPTAAC would intervene. Of particular importance were points 7 and 9: “the [new] treaty [shall] establish a procedure jointly administered by both countries that ensures the exercise of rights and activities required by the new entity in relation to the use of areas and the establishment of additional facilities” and “the Republic of Panama [shall] conserve the rights of passage and free access to the areas delimited for the operation, maintenance, protection and defense of the canal.”⁶

³ Jimmy Carter, “Letter to Sol Linowitz” (JCPL, White House Central Files, Subject File, Countries, box CO-48, CO-121 Executive 1/20/77-10/31/78, February 3, 1977).

⁴ “Preparación de las reuniones de Contadora de Febrero de 1977,” CPTAAC (BPRC, Panama City, Panama, Suárez Papers, caja 2, February 1977).

⁵ “Antecedentes considerados para la preparación del proyecto de Panamá de acuerdo sobre Tierras, Aguas y Administración del Canal,” CPTAAC (BPRC, Panama City, Panama, Suárez Papers, caja 2, February 7, 1977); “Proyecto de Panamá de acuerdo sobre Tierras Aguas y Administración del Canal,” CPTAAC (BPRC, Panama City, Panama, Suárez Papers, caja 2, February 1977).

⁶ “Posición de Panamá para un acuerdo conjunto,” CPTAAC (AMREP \ Tratados, Acuerdos, Convenios de Panamá \ Negociaciones \ Negociaciones del Tratado del Canal Torrijos – Carter, February 1977).

On February 11, Bunker and Linowitz met with Carter, Vance and Brzezinski to discuss the strategy for the upcoming gathering. The meeting covered various issues that could potentially challenge the negotiations, including defense and security, compensation, and predictable Zonian discontent. Carter was sure of the Senate's ratification and offered his assistance in case of an impasse. The President appeared confident and supportive, suggesting for the first time the idea of a U.S. citizens' committee to support the treaty.⁷

The second gathering took place in Contadora Island, around 80 km far from Panama City. Bunker, Linowitz and other diplomats met with Escobar, Revilla, Fábrega and the rest of the Panamanian team. Before the actual meeting started, the two teams gathered briefly in the morning. Escobar welcomed Bunker and Linowitz, congratulating them on the U.S. Administration's new approach and emphasizing the need for a treaty that would protect both Panama's interests and U.S. security concerns. The Panamanians immediately tried to shift the discussion, once again, to the treaty's duration, but the United States proposed addressing other issues first and leaving this question for later together with neutrality, and post-defense arrangements. The Panamanian delegation, however, stressed the importance of resolving the duration matter upfront, deeming it fundamental for advancing discussions on other problems. They also voiced apprehensions about the negotiations persisting without a resolution on this specific duration-related issue.⁸

The afternoon formal meeting began in a similar way, as the U.S. underlying goal was to determine if Panama would accept Washington's conditions on defense in

⁷ "Memorandum From the Panama Canal Treaty Co-Negotiator (Linowitz) for the Files," February 14, 1977, in *FRUS, 1977-1980*, vol. 29, *Panama*, 62-64.

⁸ "Memorandum of Conversation," February 15, 1977, in *FRUS, 1977-1980*, vol. 29, *Panama*, 65-75.

exchange for a treaty ending by the year 2000.⁹ The United States sought flexibility from Panama on various related matters, such as the canal's management entity, operating rights, and privileges for canal employees. Despite different expectations – U.S. representatives aimed to collect information for the President, while Panamanians anticipated swift decisions – the meeting ended with the Panamanian commitment to carefully review the U.S. position and provide a response the following day.¹⁰ In fact, the Panamanian negotiators had to go back to Panama City to inform Torrijos of the new U.S. proposal before taking any initiative and, since the location of the talks was an island, the process was relatively slow. Torrijos was infuriated by the outcome of the negotiation that only reaffirmed the commitment to bilateral neutrality. Furthermore, he was enraged by the proposed perpetual mutual agreement on defense that allowed an indefinite presence of U.S. troops, and by the rights and privileges for U.S. civilian employees comparable to those granted to military personnel.¹¹

The following day, the Panamanians came back to Contadora and resumed the negotiations with a completely different attitude. Torrijos sent lawyer Jaime Arias to join the team as his personal representative. According to Jorden, the first thing that the newcomer would say to Bunker and Linowitz was “it is our opinion that the document that was presented to us yesterday is lacking in good faith.” Torrijos’ plan would have been to break up the talks and find an excuse for the local press. In this case, the scapegoat would have been “the excessive U.S. requests.”¹² Escobar presented a different version. Torrijos would “only” test the new negotiator Linowitz through Arias

⁹ “Terms for Administration and Military Areas Coordination” (BPRC, Panama City, Panama, Suárez Papers, caja 2, February 14, 1977).

¹⁰ Jorden, *Panama Odyssey*, 349-351.

¹¹ Suárez, *Las negociaciones de los tratados Torrijos-Carter*, 582-583.

¹² Jorden, *Panama Odyssey*, 351-352.

to understand how he could extract as many concessions as possible.¹³ Yet, Suárez pointed out that Torrijos did not seem to want to break up any conversations and his bewilderment would be the result of his new diplomatic stars' useless recommendations. Torrijos would only need time to think of a smarter move. For this reason, he would go for two days to the Barranquilla carnival, bringing with him his chief negotiator as a guest.¹⁴

While the tension was high from a political standpoint, the technical table was working regularly. The U.S. team presented a response to the previous CPTAAC proposal from January 12 when Carter was not President, yet. It was basically a classification of land and water sites in the Canal Zone in six categories: areas that would revert to Panama upon the enforcement of the treaty; areas for the operation, maintenance and sanitation of the canal; areas of civil coordination administered by the canal entity, areas of defense sites; areas of military coordination; and areas subject to a separate bilateral agreement.¹⁵ Washington agreed with essentially all the Panamanian requests of January.¹⁶

As the news of the political complications at the main negotiating table arrived in Washington, many raised concerns on the overall strategy of the President and the Ambassadors. The Deputy Secretary of State feared that Boyd's resignation would lead to changes in the negotiating strategy, with rumors suggesting the Panamanians might

¹³ Bethancourt, *¡Torrijos: Colonia Americana, No!*, 158.

¹⁴ Suárez, *Las negociaciones de los tratados Torrijos-Carter*, 583-584.

¹⁵ "Derechos de uso de la tierra y el agua de los Estados Unidos para la operación, mantenimiento y saneamiento del canal" (AMREP \ Tratados,Acuerdos,Convenios de Panamá \ Negociaciones \ Negociaciones del Tratado del Canal Torrijos – Carter, February 15, 1977); Suárez, "Las negociaciones de los tratados Torrijos-Carter draft and notes", 313.

¹⁶ "Documento de Trabajo," CPTAAC (BPRC, Panama City, Panama, Suárez Papers, caja 2, January 12, 1977).

seek U.N. approval of any agreement reached.¹⁷ This concern became reality when Assistant Secretary for Inter-American Affairs Terrence A. Todman reported to the Secretary that the Panamanians were taking a tough stance in the negotiations, stating that the Panamanian response was “uncompromising”, and that they forced a delay in the next meeting. For this reason, Bunker suggested that Carter should send Torrijos a “conciliatory” letter.¹⁸

Before the formal beginning of the February 18 gathering, the U.S. negotiators presented a letter from Carter to Torrijos that eventually the Panamanians read, even though the message was personal. Carter hoped that the “negotiations will bear fruit and will result in a treaty which will be regarded by both of us as fair, reasonable and appropriate in every respect” and also reassured that his team intended to “proceed in a cooperative and flexible spirit, [hoping for] mutual cooperation.”¹⁹ But the way Carter was handling his correspondence with Torrijos was tainted by an underlying “amateurism.” The letter’s problem lay with the last paragraph. “If the treaty negotiations are successful, and as a sign of our friendship and determination to place our relations on a firm basis, it might be fitting for us to meet and sign the treaty jointly.” The State Department had already urged Brzezinski to convince the President to remove this section from the draft, because of three major reasons:

General Torrijos [...] will be unable to resist the temptation to make its contents – and particularly its last paragraph – public immediately. [...] while it may be appropriate at

¹⁷ “Memorandum From the Deputy Secretary of State (Christopher) to the Assistant Secretary for Congressional Relations (Bennet),” February 16, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 75-76.

¹⁸ “Briefing Memorandum from the Assistant Secretary for Inter-American Affairs (Todman) to the Deputy Secretary of State (Christopher),” February 17, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 76-77.

¹⁹ Jimmy Carter, “Letter to Torrijos” (JCPL, Donated Historical Material, Adam Clymer’s Personal Papers, Subject File, box 4, Foreign Policy Post Treaties, February 18, 1977).

some later point in the negotiations, it will convey to Torrijos that we are over-anxious for a treaty and willing to pay a high price to get one. [...] the publication of the offer contained in the last paragraph of the draft letter – even before we know whether we can negotiate a satisfactory treaty – could precipitate a strongly adverse reaction in the Congress.²⁰

Carter ultimately decided to ignore this recommendation, after a brief consultation with Brzezinski.²¹

The February 18 meeting almost ended in nothing. The primary committees confronted the pivotal aspects of neutrality and treaty expiration, issues that were of considerable magnitude for discussion at this juncture in the negotiations. They were committed to seek a solution as soon as possible but eventually did not find an agreement that day.²² It is conceivable that Carter's inclination to extensively publicize his commitment to expeditiously reach an agreement may have been a misstep. This stance, endorsed by Bunker and Linowitz as well, inadvertently provided Torrijos with a strategic advantage as he instructed Escobar to call for a recess whenever he wanted to stress a concession. This behavior became a potent leveraging tool in Torrijos' hands, further complicating the negotiation dynamics.

²⁰ C. Arthur Borg, "Memorandum for Dr. Zbigniew Brzezinski and President's Letter to Torrijos Draft" (JCPL, National Security Affairs, Brzezinski Material, President's Correspondence with Foreign Leaders File, box 15, Panama - General Omar Torrijos Herrera, 2/77-2/78, February 16, 1977).

²¹ Zbigniew Brzezinski, "Memorandum for the President and Carter's Letter to Torrijos Draft" (JCPL, National Security Affairs, Brzezinski Material, President's Correspondence with Foreign Leaders File, box 15, Panama - General Omar Torrijos Herrera, 2/77-2/78, February 18, 1977). Both Jorden and Suárez (who cited Jorden's work) reported that the letter was delivered on February 15, during the first day of the Contadora meeting. However, this cannot be possible since the version of the letter of February 16 was still a draft copy.

²² Jorden, *Panama Odyssey*, 353-354.

From the fifth day of the talks, few things really happened. Fábrega brilliantly presented the CPTAAC's ten points and reiterated his willingness to continue talking about the topic to clarify concepts and work together at the technical negotiation table.²³ Both technical teams later agreed that Panama would assume administrative control over the Canal Zone three years after the new treaty was ratified, but they disagreed regarding the duration of the treaty, and land and water rights in the Canal Zone.²⁴ On the political side, instead, the situation was stuck as the teams had not been able to find agreements concerning neutrality and defense. On February 23, the talks finally ceased but those fundamental problems remained unresolved. Panama wanted a new treaty to expire on year 2000, instead the United States pressed for a deadline in 2025. The United States could accept the year 2000 as the terminal date of the Canal treaty only if a defense treaty remained in force for longer.²⁵ Vance later told Carter that "Torrijos has concluded that the core of our position is the need for a bilateral guarantee of the canal's neutrality and defense. He believes that if Panama agrees to the principle of such a guarantee, it can oblige the United States to accept the Panamanian positions on most other outstanding issues."²⁶

Furthermore, the Panamanians gave the U.S. negotiators a response letter from Torrijos to Carter in which he told the President he believed that the United States did

²³ "Exposición del arquitecto Edwin Fábrega en la mesa de negociación política entre Panamá y Estados Unidos," CPTAAC (AMREP \ Tratados,Acuerdos,Convenios de Panamá \ Negociaciones \ Negociaciones del Tratado del Canal Torrijos – Carter, February 18, 1977).

²⁴ Suárez, *Las negociaciones de los tratados Torrijos-Carter*, 585.

²⁵ Alan Riding, "Panama's Canal Negotiator Says Talks Are in Substantive Stages," *New York Times*, March 6, 1977, newspaper clipping in JCPL, Chief of Staff Betty Rainwater O/A Files, box 263, Update-Panama; "Memorandum from Secretary of State Vance to President Carter" February 24, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 79.

²⁶ "Memorandum From Secretary of State Vance to President Carter" February 23, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 78.

not want an agreement, implicitly accusing Washington of not being “cooperative and flexible” despite what Carter had written in his letter of January 18.²⁷ That same day, Carter declared at a press conference that “we have two extremely good negotiators, and I hope that we will have success there. There is no way that I can say at this point what degree of progress we have made. It’s just beginning.”²⁸ From this moment on, the President adopted a more patient and thoughtful stance, contemplating his public communications strategy. His goal was to navigate the delicate task of crafting messages without explicitly indicating the finalization of a deal.

3.2 – *The “Secret Round”*

If the relations between the *estadounidenses* and the Panamanians did not seem to improve as expected from a U.S. point of view, dealing with the domestic public opinion was even worse. As the Panama issue was becoming more and more talked about, some Congressmen seized the opportunity to become charismatic anti-treaty hardliners such as Gene Snyder who accused Carter of finding a “swift completion of negotiations to give away the Panama Canal.” By February, more than a third of the Senators opposed the treaty and most of the remaining ones were skeptical about a full sovereignty reversal agreement.²⁹

²⁷ Jorden, *Panama Odyssey*, 355-356; Suárez, *Las negociaciones de los tratados Torrijos-Carter*, 586. “Briefing Memorandum from Ambassador at Large (Bunker) and Panama Canal Treaty Co-Negotiator (Linowitz) to Secretary of State Vance,” February 25, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 80-84.

²⁸ “The President’s News Conference,” February 23, 1977, in *Public Papers of the Presidents of the United States: Jimmy Carter* (hereafter *PPJC*), 1977, vol. 1 (Washington, DC: U.S. Government Printing Office, 1977), 225.

²⁹ “An unAmerican Imperialism in the Debate over Panama,” *Courier-Journal*, February 18, 1977, newspaper clipping in JCPL, Chief of Staff Betty Rainwater O/A Files, box 258, Documents and Articles

A bolt from the blue was a letter from Richard and Adelaide Eisenmann – two Democrat lobbyists who had worked to build support for the 1975 Panama Treaty negotiations and the 1976 Carter-Mondale ticket – in which they expressed their concerns about human rights in Panama. The couple attached a two-page list to the message that the Panamanian Committee for Human Rights had made regarding “dictator Torrijos’ National Guard usurpations” and other crimes involving the *jefe*, his family, and his close collaborators. In particular, the Committee pointed out the problematic growth in Panama-Cuba relations that the Senate Select Committee on Intelligence had previously discovered, and the more than 1,300 political exiles and more than 500 assassinations occurred in Panama since Torrijos had taken power. Richard and Adelaide Eisenmann urged Carter to speak out for Panamanian human rights before the opposition could and suggested he should raise the issue on the negotiation tables with the Panamanian Ambassadors. However, this task should be achieved without giving the Panamanians the idea that Washington was trying to insert paragraphs concerning human rights directly into the text of the treaty.³⁰

On March 1, Bunker and the negotiating team discussed recent developments in the Panama Canal talks with the Minister of Defense, especially concerning the land and waters issues. The Ambassador pointed out the key differences between the U.S. and Panamanian points of view such as the disputes over Port of Balboa and the Railroad.

on the Panama Canal Treaty. On January 13, Snyder had warned Carter against the “temptation” to give away the Canal, leveraging little-known historical topics and semi-fake news. He later had other correspondence with the Department of State. He began to harshly criticize Carter’s commitment in public since he did not receive any response, until March 22, when the Executive explained to him that the Canal Zone was in lease and not propriety of the United States. Jimmy Carter, “Response to Gene Snyder’s Letter” (JCPL, White House Central Files, Subject File, Countries, box CO-48, CO-121 Executive 1/20/77-10/31/78, March 22, 1977).

³⁰ Richard Eisenmann and Adelaide Eisenmann, “Letter to Brzezinski” (JCPL, White House Central Files, Subject File, Countries, box CO-48, CO-121 General 1/20/77-1/20/81, February 18, 1977).

General Brown expressed concern about Senatorial ratification and emphasized the importance of a security arrangement for the post-treaty period. The negotiators then considered potential next steps, including visits to other Latin American countries to explain the U.S. position.³¹ Bunker and Linowitz consulted with Carter the following day to address some of these concerns. They determined that the subsequent negotiating round with the Panamanians – which would be known as “secret round” – should be conducted confidentially to prevent the influence of publicity.³² Carter approved the idea of a meeting with Latin American leaders to report on the negotiations, and also encouraged the negotiators to call him directly if they reached a critical juncture. In the end, the President cautioned against engaging with opponents of the canal treaty to avoid potential misinterpretation of the team’s work. Carter knew that rhetoric-gifted politicians such as Reagan and Snyder could deliberately misreport the negotiating squad’s words.³³

Jorden was subsequently tasked with engaging in discussions with the Panamanians and persuading Torrijos to allow the United States another opportunity to demonstrate genuine and “flexible” intentions to reach an agreement. Recognizing that various stakeholders were eager for an expeditious treaty, U.S. diplomats acknowledged that Torrijos had strategically projected an appearance of indifference while, in reality, he was interested in a speedy conclusion, too. The proof of Torrijos’ earnest intent was the agreed-upon date for the third “secret” round. The meeting was in fact scheduled for

³¹ “Memorandum of Conversation,” March 1, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 87-97.

³² “Digest of Other White House Announcements,” March 2, 1977, in *PPJC, 1977*, vol. 1, 279; Zbigniew Brzezinski, “Memorandum for the President”, NSC Staff (JCPL, National Security Affairs, Brzezinski Material, Country File, box 60, Panama 1-10/77, March 1, 1977). In this occasion they also decided to deliver a second letter to Torrijos.

³³ “Memorandum of Conversation,” March 2, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 97-103.

March 12, less than three weeks following the conclusion of the Contadora talks.³⁴ Less “secret” however was the Panamanian approach, since Torrijos had sent Ambassador Carlos López-Guevara to the ABA Committee in Mexico City to give a political speech on the canal and the colonial exclave.³⁵

Before the beginning of the “secret round,” Jorden – who was in Panama City – received a telegram from Bunker and Linowitz containing Carter’s response to Torrijos’ letter from February, which was to be delivered to the *jefe*.³⁶ The letter had a different approach in respect to the first Carter’s message. The first part of the letter reaffirmed the U.S. commitment to an “early transfer of jurisdiction to Panama, increasing participation by Panama in the administration and defense of the canal” and to “establish a model for the type of relations that should exist between a large and small country.” It also pointed out that “although [the] important concessions [in the Tack-Kissinger Principles] have stirred considerable controversy in the United States, we acknowledge them as an important element of the treaty which we are seeking to conclude.” But the novelty was in the sixth paragraph:

However, if a new treaty is to be balanced and mutually acceptable, it must both meet Panama’s aspirations and protect United States interests. As I have said recently, my purpose lies in assuring that the Canal will remain permanently open and of use to the ships of all the world. The treaty should provide for an arrangement which allows the United States to meet its responsibility to operate the Canal during the treaty’s lifetime and which

³⁴ Jorden, *Panama Odyssey*, 357-358.

³⁵ Carlos Alfredo López-Guevara, “Remarks before the Panel Discussion of the American Bar Association Committee on World Order Under Law, held on Mexico City” (AMREP \ Protocolo - Discursos \ Personalidades, February 25, 1977). 591-005-14-3-3.7-000009.

³⁶ Ellsworth Bunker and Sol Linowitz, “Telegram to the Embassy of Panama” (JCPL, National Security Affairs, Brzezinski Material, President’s Correspondence with Foreign Leaders File, box 15, Panama - General Omar Torrijos Herrera, 2/77-2/78, March 11, 1977).

recognizes our security interest in the continuing neutrality of and access to the Canal after the termination date of the treaty.³⁷

The constant references to the urgency of finding an agreement as soon as possible in the first letter were replaced by a much more realistic approach that aimed to underline the importance of protecting “United States interests.” Perhaps the message had this different style and content because the Department of State staff had written the letter and the President – who had asked for a “polite but blunt” response – had merely signed it.³⁸ Torrijos did not reply in writing but asked Jorden to forward his reaction to Carter. He appreciated the President’s courtesy in answering so promptly. Given he and Carter were both from rural areas, he thought they were going to establish “a great and profound friendship.” With this statement, Torrijos wanted to remove from Carter the responsibility for any failures or delays in the agreements, to place them on the ambassadors instead.³⁹

The “secret round” was postponed by a day to March 13 in Washington. The negotiators were planning to conclude a conceptual agreement that spring and were determinate to submit a treaty to the President by July 1.⁴⁰ Together with Escobar and

³⁷ Jimmy Carter, “Letter to Omar Torrijos” (JCPL, White House Central Files, Subject File, Countries, box CO-48, CO-121 Executive 1/20/77-10/31/78, March 9, 1977).

³⁸ Cit. in Ellsworth Bunker and Sol Linowitz, “Memorandum for the Secretary” (JCPL, National Security Affairs, Brzezinski Material, President’s Correspondence with Foreign Leaders File, box 15, Panama - General Omar Torrijos Herrera, 2/77-2/78, March 3, 1977); C. Arthur Borg, “Memorandum for Dr. Zbigniew Brzezinski” (JCPL, National Security Affairs, Brzezinski Material, President’s Correspondence with Foreign Leaders File, box 15, Panama - General Omar Torrijos Herrera, 2/77-2/78, March 4, 1977).

³⁹ Jorden, *Panama Odyssey*, 357-359 (quote 359).

⁴⁰ “Letter from the Chairman of the Joint Chiefs of Staff (Brown) to the Commander in Chief of United States Southern Command (McAuliffe),” March 9, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 104-105.

Fábrega, there was a newcomer who would become the Panamanian President the following year: Arístides Royo Sánchez. At the time, he was only 37 but was already Professor of Law at Panama University and Minister of Education. He had held these positions after a brilliant “jump-start” career as attorney for Morgan and Morgan in 1968, and after had been part of the commission that rewrote Panama’s civil and criminal legal codes and the new constitution of 1972.⁴¹ Escobar opened the talks describing Panama’s political and technical positions with a long and detailed oral presentation. He reiterated Panama’s key demands, including Ancon Hill, the transisthmian railroad, and significant land areas at both ends of the Canal Zone, asserting their importance for psychological and economic reasons. The U.S. negotiators seemed not to pay particular attention to the Panamanian points since they focused on post-treaty defense as the key issue without spending much time in arguing Escobar’s claims. The discussions continued for seven hours without bringing the two teams any closer to an agreement as both sides talked past each other. In the end, Escobar proposed exploring simplified drafts for Panama and the United States to consider before the next round, outlining hypotheses for core concepts, such as canal neutrality, security, priority for Panamanian ports, reduction of U.S. military presence, and prompt return of lands and waters for Panama’s economic development.⁴²

Linowitz then proposed a framework for a neutrality agreement between the United States and Panama regarding the Panama Canal in three points. First, Panama, as a territorial sovereign, would declare the Panama Canal permanently neutral; second, after the termination of the canal treaty, only Panamanian troops would remain in Panama unless both Panama and the United States agreed otherwise; third, both Panama

⁴¹ “Curriculum Vitae de Arístides Royo Sánchez,” (BPRC, Panama City, Panama, Suárez Papers, caja 1); Jorden, *Panama Odyssey*, 358.

⁴² “Memorandum of Conversation,” March 13, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 107-123.

and the United States would commit to a regime of neutrality on the starting date of the new treaty, maintaining the canal's security, freedom, and openness to all vessels. Linowitz emphasized that the proposal aimed to agree on general principles, leaving the specifics for future discussions. He indicated flexibility by stating that the United States would not insist on a mutual assistance treaty if Panama accepted the proposed neutrality formula. Escobar, on the other hand, sought clarification on various aspects, including the operation of the neutrality pact with third countries, the role of U.S. troops in case of domestic turmoil in Panama, and the need for rules defining neutrality violations. He expressed the importance of understanding these details for the Panamanian Government's in-depth study.⁴³

Frustration on both sides was evident, as the Panamanians suggested a temporary halt to the treaty talks and expressed the need to consult with Torrijos before making any decisions. In fact, Escobar concluded the meeting saying that "if this was indicative of future discussions, it might be better to suspend the treaty talks temporarily."⁴⁴ Bunker later remarked that "I firmly believe that our most critical problem at home is not fundamental antipathy to our new relationship with Panama; it is ignorance of why the new relationship is needed to protect our interests."⁴⁵

⁴³ "Memorandum of Conversation," March 13, 1977, in *FRUS, 1977-1980*, vol. 29, *Panama*, 107-123.

⁴⁴ Carter, *Keeping Faith*, 157; Jorden, *Panama Odyssey*, 360-361 (quote 361).

⁴⁵ The Panamanian U.N. Ambassador – after citing Bunker's statement – attached some documents and material concerning his Country to this letter to the U.S. Chief of Staff. The reason was that Villareal did not "expect to eliminate honest differences of opinion, but [he wanted] to contribute to a clearer understanding of the issues involved from a Panamanian point of view." [Augusto Villareal, "Letter to the U.S. Department of State," Panama Mission to the United Nations (JCPL, Chief of Staff Betty Rainwater O/A Files, box 263, Update-Panama, March 19, 1977)].

3.3 – *No Pause for Reflection*

As the Panamanians returned home on March 15, the political discussions were once again stuck. Conversely, the work was proceeding differently for the CPTAAC that had scheduled a conference for the following week at the Pentagon. However, even in this short period of time, some important events occurred. On March 15, Brzezinski delegated Bob Pastor to respond to Eisenmann's letter concerning human rights in Panama. Pastor agreed that "we will not forbear to speak out on the human rights question just because doing so might annoy or anger governments with which we are negotiating, [without linking] our concerns over the importance of human rights to the solution of other important problems of mutual concern."⁴⁶ The same day, López-Guevara gave a lecture before thousands of educators and said that "Panamá quiere que no haya neutralidad garantizada por Estados Unidos solamente. [...] [Esta] garantía tiene que ser multilateral de mucho países."⁴⁷ However, only a few days later, Torrijos hinted to Jordan that he would renounce to a multilateral guarantee, as he quickly realized that, in case of a concrete menace to the canal, the United Nations would not have much power to do anything.⁴⁸

Starting from March 14, the United Nations held a conference in Mar del Plata, Argentina concerning water resources and navigation. This was, once again, a perfect opportunity for Panama to continue its multilateral strategy and implement López-Guevara's standpoint as much of the gathering was about the Canal issue. The Water Conference took this action by adopting without a vote a resolution sponsored by 17

⁴⁶ Robert A. Pastor, "Response to Richard and Adelaide Eisenmann's Letter" (JCPL, White House Central Files, Subject File, Countries, box CO-48, CO-121 General 1/20/77-1/20/78, March 15, 1977).

⁴⁷ Suárez, "Las negociaciones de los tratados Torrijos-Carter draft and notes", 317.

⁴⁸ "Telegram from the Embassy in Panama to the Department of State," March 19, 1977, in *FRUS, 1977-1980*, vol. 29, *Panama*, 123-125.

Latin American States plus Libya and the Democratic People's Republic of Korea. Acknowledging that the problem of the so-called Canal Zone of Panama constituted one of the principal impediments to the development of the cities of Panama and Colón, the resolution expressed:

earnest wishes that negotiations now under way between Panama and the United States will culminate at the earliest possible time in a just and equitable solution that will permit the Republic of Panama fully to exercise its sovereign rights in the part of its territory known as the Canal Zone and, consequently, to formulate a national policy for the full development of water resources.⁴⁹

U.S. Alternate Delegate to the United Nations Nancy V. Rawls reacted positively to the resolution even though Washington continued to believe that this issue should be dealt bilaterally. Rawls stated before the Assembly that “the negotiations are in accordance with a joint statement of principles of February 7, 1974 [...] Therefore, we can only assume that Panama intends the resolution to reflect [the Tack-Kissinger] principles, which we fully support.” She then reiterated that the United States had worked and would keep on working closely with Panama to promote the development of water resources around Panama City and Colón, and most importantly “[would] continue to co-operate in the future under a new treaty which would return the Canal Zone to Panama’s jurisdiction.”⁵⁰

⁴⁹ “Resolution on Panama Canal Question,” United Nation Water Conference (JCPL, Chief of Staff Betty Rainwater O/A Files, box 263, Update-Panama, March 23, 1977).

⁵⁰ Cit. in “Water Conference Approves Resolution on Panama Canal: General Debate Concludes after 115 Speakers,” Office of Public Information, Press Section, United Nation Press Release (JCPL, Chief of Staff Betty Rainwater O/A Files, box 263, Update-Panama, March 24, 1977).

On March 22, Fábrega's newly reconfirmed technical team met with the U.S. counterpart in the Pentagon.⁵¹ Lt. Colonel Klaus H. Ducker highlighted the main points that had been modified in respect to the initial U.S. position on lands and waters that was very similar to the Panamanian one. The main change concerned Balboa and Cristobal's Port. Although most of the port facilities would revert to Panama on the effective date of the new treaty, the Canal Entity should have the responsibility and authority for the movement of vessels in the canal. Furthermore, the waters adjacent to the docks were not included in the facilities that reverted to Panama.⁵² The second Pentagon meeting occurred only six days later, on March 28. General Dolvin stated that he did not feel prepared to work according to the method proposed by the delegation of Panama in January which was to divide areas and infrastructures merely on the issue of functions. Rather, he preferred a procedure that developed over time and consisted of the gradual separation of activities and functions from the set of those that existed in the Canal Zone.⁵³

The document that the U.S. team presented after the premise was quite misleading as it was more a main negotiating table political paper rather than a technical one. The document was composed of two sections: one regarding the nature and function of the new Panama Canal Administration, and the other containing the provisions, rights and

⁵¹ "Decreto no. 40", Panama, March 15, 1977; "Decreto no. 50", Panama, March 25, 1977 (BPRC, Panama City, Panama, Suárez Papers, caja 4).

⁵² "Reunión conjunta de los Grupos Técnicos de Panamá y los Estados Unidos de tireras, aguas y Administración" (AMREP \ Tratados,Acuerdos,Convenios de Panamá \ Negociaciones \ Negociaciones del Tratado del Canal Torrijos – Carter, March 22, 1977), 1-5. 591 -005-14-6-6.8-6.8.06000200.

⁵³ "Reunión conjunta de los Grupos Técnicos de Panamá y los Estados Unidos de tireras, aguas y Administración" (AMREP \ Tratados,Acuerdos,Convenios de Panamá \ Negociaciones \ Negociaciones del Tratado del Canal Torrijos – Carter, March 28, 1977), 1-3. 591 -005-14-6-6.8-6.8.06000200.

duties that the two countries should comply with.⁵⁴ The following day, Fábrega responded to the U.S. delegation saying that the document distorted the purpose that motivated the Panamanian team in the meeting, which was to define what the functions of the new entity were. He pointed out that “el documento está per turbado por elementos que forman parte de discusiones políticas sobre las cuales no ha habido aun ningún acuerdo y que no tienen nada que ver con los aspectos técnicos de la operación del Canal.” In fact, a consistent part of the paper concerned the status of U.S. citizens and their dependents who would work for the new entity. Fábrega then accused the *estadounidenses* of “crear dos clases de empleados: los ciudadanos de los Estados Unidos y los demás, como es el caso actualmente.”⁵⁵ Suárez thinks that the Zonians clearly pushed hard and lobbied for the “dos clases de empleados clause,” that emerged from the U.S. document.⁵⁶ After his claim, Fábrega concluded:

Por otra parte, en la adjudicación de funciones y responsabilidades de lo que es hoy la Zona del Canal y que desaparecerá con el tratado sólo imaginamos tres casos: la Nueva Entidad, la Organización de la Defensa Conjunta y la República de Panamá. No compartimos la opinión que la empresa privada como una entidad aparte y reconocida por el tratado pueda responsabilizarse por funciones que realizan actualmente la Compañía o el Gobierno de la Zona del Canal. Creemos que la empresa privada sujeta a la ley panameña, e incorporamos

⁵⁴ “Distribution under the New Treaty Relationship of Functions currently Performed by the Panama Canal Company/Canal Zone Government” (AMREP \ Tratados,Acuerdos,Convenios de Panamá \ Negociaciones \ Negociaciones del Tratado del Canal Torrijos – Carter, March 28, 1977), 1-7. 591 -005-14-6-6.8-6.8.06000200.

⁵⁵ “Reunión conjunta de los Grupos Técnicos de Panamá y los Estados Unidos de tireras, aguas y Administración” (AMREP \ Tratados,Acuerdos,Convenios de Panamá \ Negociaciones \ Negociaciones del Tratado del Canal Torrijos – Carter, March 29, 1977), 2. 591 -005-14-6-6.8-6.8.06000200.

⁵⁶ Suárez, *Las negociaciones de los tratados Torrijos-Carter*, 588-589.

aquí el concepto de jurisdicción, podrá dedicarse a la venta de bienes y servicios en el área conocida hoy como Zona del Canal.⁵⁷

Despite Fábrega's harsh statement, Dolvin somehow reacted positively and accepted the three proposed categories that would determine the distribution of functions – under the new treaty – that Washington had previously exercised in the Canal Zone.⁵⁸

On March 30 and 31, the CPTAAC and the U.S. team reconvened, but due to the significant lag in the main political table discussions and the absence of agreements on neutrality, they were unable to continue the round. Consequently, they opted to postpone further meetings.⁵⁹

3.4 – *Another Chance*

While the Panamanian technical commission was working hard at the Pentagon, the two leaders were facing different issues. Torrijos was mainly interested in political propaganda to appear as the strong man surrounded by opponents whose only purpose was to deceive him. When the *jefe* could, he made sure to blame the U.S. negotiators for not being able to “bring to Panama precise orders to conclude the problem” and accuse them of “present[ing] such positions that even denied things that were accepted in

⁵⁷ “Reunión conjunta de los Grupos Técnicos,” 2-3. 591 -005-14-6-6.8-6.8.06000200.

⁵⁸ “Reunión conjunta de los Grupos Técnicos,” 5-6. 591 -005-14-6-6.8-6.8.06000200; Suárez, *Las negociaciones de los tratados Torrijos-Carter*, 589.

⁵⁹ “Reunión conjunta de los Grupos Técnicos de Panamá y los Estados Unidos de tireras, aguas y Administración” (AMREP \ Tratados,Acuerdos,Convenios de Panamá \ Negociaciones \ Negociaciones del Tratado del Canal Torrijos – Carter, March 30, 1977), 1-4. 591 -005-14-6-6.8-6.8.06000200; “Reunión conjunta de los Grupos Técnicos de Panamá y los Estados Unidos de tireras, aguas y Administración” (AMREP \ Tratados,Acuerdos,Convenios de Panamá \ Negociaciones \ Negociaciones del Tratado del Canal Torrijos – Carter, March 31, 1977), 1-5. 591 -005-14-6-6.8-6.8.06000200.

1964.”⁶⁰ On the other hand, Carter needed to begin a campaign to gain support of at least 67 Senators for the eventual ratification even before the treaty existed. By March, he still had to find another 27 Senators who supported the idea of a treaty.⁶¹ On March 30, Congressman Stephen J. Solarz informed Brzezinski that he had recently returned from a trip to Panama with seven members of the House. There they had had intense discussions with Zonians and Panamanian officials. On this occasion, Solarz had conducted a private poll on his colleagues and had found out that most of them were against a type of treaty that would completely revert the sovereignty in 2000. Solarz stressed “the need for a much more effective effort to educate the American people about the reality of the situation and how our national interest will best be served by an adjustment to our relationship with Panama.”⁶²

When the two technical teams met again on April 4, the political equilibrium was the same as the month before. Panama had apparently even taken a step backwards as Torrijos and Revilla affirmed that their position on canal’s neutrality after the year 2000 had not changed and they would not accept the United States as sole guarantor of the canal’s neutrality.⁶³ However, Fábrega and Dolvin finally managed to find common

⁶⁰ Omar Torrijos Herrera, “Interview for ACAN-EFE and Channel 4-TV – Comunicado de prensa” (AMREP \ Tratados,Acuerdos,Convenios de Panamá \ Negociaciones \ Negociaciones del Tratado del Canal Torrijos – Carter, March 22, 1977). 591 -005-14-6-6.8-6.8.06000059.

⁶¹ “Remarks of the President during Briefing on Panama Canal,” Office of the White House Press Secretary (JCPL, Chief of Staff Betty Rainwater O/A Files, box 262, Presidential Statements, Transcripts, and Memos, March 31, 1977).

⁶² Stephen J. Solarz, “Letter to Zbigniew Brzezinski” (JCPL, Chief of Staff Jordan, box 36, Confidential File - Panama Canal Treaty 6-7 77, March 30, 1977).

⁶³ Suárez, “Las negociaciones de los tratados Torrijos-Carter draft and notes”, 320.

ground as the Colonel accepted all the CPTAAC's ten points in the document drafted in January.⁶⁴

Aside from the technical round, the entire month of April was relatively subdued. On April 8, Torrijos unexpectedly flew to Libya for five days to meet Muammar Gaddafi. Jorden thought that the *jefe*'s purpose "was to keep the Panamanian issue in the limelight and to remind Washington that he had alternatives [being that Gaddafi very close to Moscow] if they decided a fair settlement was impossible."⁶⁵ But this risky strategy paid off (or at least it did not compromise the relations between the two leaders).⁶⁶ On April 14, Carter stressed at the Permanent Commission of the OAS his Administration's "high regard for the individuality and the sovereignty of each Latin American countries, [...] our respect for human rights, [...] and our desire to press forward on the great issues which affect the relations between the developed and the developing nations." As for the Canal issue he also stated that he was "firmly committed to negotiating in as timely a fashion as possible a new treaty which will take into account Panama's legitimate needs as a sovereign nation and our own interests and yours in the efficient operation of a neutral canal, open on a nondiscriminatory basis to all users."⁶⁷ Carter,

⁶⁴ "Reunión conjunta de los Grupos Técnicos de Panamá y los Estados Unidos de tireras, aguas y Administración" (AMREP \ Tratados,Acuerdos,Convenios de Panamá \ Negociaciones \ Negociaciones del Tratado del Canal Torrijos – Carter, April 4, 1977), 1-7. 591 -005-14-6-6.8-6.8.06000200. The two teams met another two times in the same month, respectably on April 12 and 26.

⁶⁵ Jorden, *Panama Odyssey*, 364-365. The United States knew of Torrijos' intention to attempt a new meeting at least since March 26. "Memorandum from the President's Assistant for National Security Affairs (Brzezinski) to the Deputy Secretary of State (Christopher)," March 26, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 126.

⁶⁶ Suárez, *Las negociaciones de los tratados Torrijos-Carter*, 592-593. According to Suárez, however, Carter's speech was not influenced by Torrijos' move.

⁶⁷ "Organization of American States: Address Before the Permanent Council," April 14, 1977, in *PPJC, 1977*, vol. 1, 611-614; Zbigniew Brzezinski, "Memorandum for the President," NSC Staff (JCPL, National Security Affairs, Brzezinski Material, Country File, box 60, Panama 1-10/77, March 1, 1977).

taking advantage of an international audience and overcoming the “bilateral taboo,” had decided to play like the Panamanians.

On April 21, the Bureau of Intelligence and Defense provided a memorandum to Vance that granted insights into Torrijos’s current perceptions based on clandestine reporting, foreign service relations, and press coverage. The analysis concluded that Torrijos, who had previously endeavored to rush to reach a treaty, now seemed less pressured. In fact, only one week before, the Presidents of Venezuela and Colombia had told Vance that Torrijos needed a treaty “if he was to survive politically.”⁶⁸ This change in Torrijos’ stance possibly occurred due to internal stability, so his confidence in leaving decisions to the United States had grown. However, the Director of the Bureau also stated that Latin American support for Panama had decreased over the years due to concerns about the practical consequences of Panamanian control of the Canal. Conservative Governments feared Cuban influence as Torrijos had an ambiguous relationship with the Castro regime, while west coast and landlocked countries worried about efficient Canal management and tolls.⁶⁹

The following day – after Jorden’s successful attempt to persuade Torrijos to allow a new round of talks in the short term – the State Department told the press that the next negotiating session would begin on May 9, once again in Washington.⁷⁰ The same day, Brzezinski replied to Solarz saying that “I have been seriously thinking about your idea

According to Suárez, however, Torrijos’ move did not influence Carter’s speech. (*Las negociaciones de los tratados Torrijos-Carter*, 592-593).

⁶⁸ “Memorandum from Secretary of State Vance to President Carter,” April 12, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 133.

⁶⁹ “Briefing Memorandum from the Director of the Bureau of Intelligence and Research (Saunders) to Secretary of State Vance,” April 21, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 134-137.

⁷⁰ “Telegram from the Department of State to the Embassy in Panama,” April 14, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 133-134; Jorden, *Panama Odyssey*, 364-365.

of setting up a prestigious National Committee to begin building public support for a new treaty.”⁷¹ As the date of the new round was approaching, Richard and Adelaide Eisenmann’s concerns became evident. In fact, the U.S. and international press had recently begun to investigate human rights condition in Panama, the not-so-clear banking business and Government corruption.⁷² This turn of events probably worried Torrijos. Caught in this embarrassing situation, he rapidly instructed Panama’s Ambassador to the United Nations Jorge Fisher to write a letter to all the members of the General Assembly to respond to the accusations. Fisher immediately made clear that “Panama is a democracy which functions under a Constitution with elected representatives” even though the overall form of this republic:

is different from the democratic political system of the United States [and] some here seem to feel that a “different” democracy is no democracy at all, and tend to underestimate the widespread popular support enjoyed by Panama’s present government. However, [...] many *campesinos* who regard General Torrijos as the best thing that has happened to Panama, and to themselves.⁷³

⁷¹ Zbigniew Brzezinski “Letter to Stephen J. Solarz” (JCPL, Chief of Staff Jordan, box 36, Confidential File - Panama Canal Treaty 6-7 77, April 22, 1977).

⁷² Richard Gott, “Canal Zone School Builds Brotherhood of Latin Generals,” *Washington Post*, April 16, 1977; Sidney Wise, “Panama,” *Times of London*, April 25, 1977, newspaper clippings in JCPL, Chief of Staff Betty Rainwater O/A Files, box 258, Update - Panama; Robert Keatley, “The Big Flap Over the Canal,” *Wall Street Journal*, April 29, 1977, newspaper clipping in JCPL, Chief of Staff Betty Rainwater O/A Files, box 258, Documents and Articles on the Panama Canal Treaty. The constitutional court forced Revilla to resign since he was a close relative of Torrijos. Nonetheless, only one day after the verdict, Revilla resumed his duties “para dar continuidad a la negociación.” Suárez, “Las negociaciones de los tratados Torrijos-Carter draft and notes”, 322-323.

⁷³ Jorge Fisher “Panama Mission to the United Nation - Letter to the UNGA,” (JCPL, Chief of Staff Betty Rainwater O/A Files, box 263, Update-Panama, April 29, 1977).

This statement could not deny the charges of authoritarianism and corruption. Instead, it was a clumsy move to gather support from countries with similar “semi-democratic” political structures.

On May 4, Jorden flew to Washington to consult Bunker and Linowitz for the upcoming talks with the Panamanians and to meet the new Panamanian Ambassador to the United States Gabriel Lewis Galindo, an old friend of his. They had become friends in Panama when Lewis was *Embajador Extraordinario y Plenipotenciario* and Jorden had just been appointed as Ambassador in 1974.⁷⁴ Their relationship played a hidden, yet important role during the next phases of the negotiations as they acted as intermediaries and prevented numerous possible bad escalations and rough interruptions of the talks.⁷⁵

The following morning, Jorden had an extensive session with the negotiating team at the State Department where he briefed them on the current situation in Panama and outlined the Panamanians’ expectations for the upcoming talks. The main strategy was to be more generous on territorial concessions – specifically related to the transfer of facilities – because this was the only way that could lead the Panamanians to accept a mutual guarantee for the canal’s security.⁷⁶ Everything was set for what came to be called the “May Round.”

⁷⁴ “Curriculum Vitae de Gabriel Lewis Galindo,” (BPRC, Panama City, Panama, Suárez Papers, caja 1).

⁷⁵ Jorden, *Panama Odyssey*, 367.

⁷⁶ Jorden, *Panama Odyssey*, 365-366.

THE MAY ROUND

4.1 – Two Issues, Two Treaties

Within the Carter staff, the tension at the dawn of the May Round was extremely high. At the end of the month, the team would know if they could really reach an agreement before the end of the year, as Carter had confidently believed in January. Hence, the most recent poll showing that only 35 percent of the members of the House and 39 percent of the Senators supported the treaty was not encouraging.¹ Together with this piece of information, Carter received a letter from Senator Mike Gravel (D-AK) who believed that “the possibility of ratifying a Panama Canal treaty in the Senate either this year or next is very remote.” He also attached a report that stressed the importance of the canal from an “energy perspective.” In fact, the waterway allowed the United States to move the Alaskan oil from one coast to the other by ships.² Despite this emerging problem – that Carter would address only two months later – the U.S. team was determined to start the talks again.

On May 9, the U.S. political team together with Dolvin as a representative of the technical group met with Escobar, Royo and Fábrega at the Panamanian Embassy. Escobar immediately asked the U.S. negotiators to take a stand on the land and waters concessions, the issue he had raised in his long statement on March 13. According to Jorden, Bunker replied that “what you asked for concerning some of these land and waters questions will require the approval of our highest authority.” For this reason, he

¹ “Confidential: RE: Congress and the New Canal Treaty” (AMREP \ Tratados,Acuerdos,Convenios de Panamá \ Negociaciones \ Negociaciones del Tratado del Canal Torrijos – Carter, May 2, 1977). 591 - 005-14-6-6.8-6.8.06000294. Half of the Senators opposing the treaty were Democrats.

² Mike Gravel, “Letter to the President” (JCPL, White House Central Files, Subject File, Countries, box CO-48, CO-121 Executive 1/20/77-10/31/78, May 5, 1977).

and his colleagues were not prepared to give a yes or no answer to any of Panama's territorial requests.³ This was unusual since Bunker, Linowitz and Jorden had planned to "make concessions to their priority goal" only five days before.⁴ However, the U.S. team took two huge steps forward towards the Panamanians. They promised a treaty in which canal operations and defense would expire on December 31, 1999, and also assured that there would be no post-treaty security pact or any U.S. military presence after the termination of the treaty. The "only" provision Panama had to agree with was an arrangement for the canal's permanent neutrality that eventually the OAS countries – rather than the larger and more complex group of U.N. members – would endorse.⁵

For the first time, the eventual neutrality was presented as the contents of a distinct pact rather than a clause in an all-in-one Panama Canal Treaty.⁶ From this moment on, the teams would continue to negotiate the two matters separately. Carter writes in his memories that "our negotiators proposed two treaties [as soon as March 13, i.e. the first session of the "secret round"]. One would set forth new arrangements for the joint operation of the Canal for the rest of this century [...]. The other would guarantee the permanent neutrality of the Canal, and the right of the United States to defend it." Despite that, we have found no evidence that the date cited in this statement is reliable.⁷

This apparently "out of the blue" proposal pleased the Panamanians. However, Escobar – who was certainly not the kind of man who got excited easily – immediately raised significant reservations regarding the interpretation of the words "permanent

³ Jorden, *Panama Odyssey*, 367-368.

⁴ Jorden, *Panama Odyssey*, 365.

⁵ "Memorandum from the Panama Canal Treaty Co-Negotiator (Linowitz) to Ambassador at Large (Bunker)," May 9, 1977, in *FRUS, 1977-1980*, vol. 29, *Panama*, 138-140.

⁶ Jorden, *Panama Odyssey*, 368.

⁷ Carter, *Keeping Faith*, 157.

neutrality.” He emphasized that no internal event within Panama should be deemed a violation of neutrality, asserting that dealing with any threat to the canal’s functioning arising from a domestic incident would be the exclusive responsibility of Panamanian authorities and the National Guard. Escobar vehemently opposed the introduction of U.S. military forces into Panama under the pretext of protecting the canal, even if Washington had promised to withdraw all its bases. The focus of the meeting then shifted towards the matter of *Tierra y Aguas* as the Panamanians urged the U.S. delegation to provide a concrete proposal, emphasizing its vital importance and requesting clarity comparable to the U.S. statement on neutrality. This marked a strategic move in the negotiations, with Escobar implying an exchange of concessions: Panama would consider granting more on neutrality if the United States reciprocated with favorable terms on lands and facilities.⁸

Escobar then posed specific questions concerning the transfer of ports, the railroad, Ancon Hill, and other details, hoping for a quick response from the U.S. side that eventually did not come as Bunker had previously anticipated. The first meeting ended with a question by Linowitz about U.S. employees’ rights with Escobar expressly rejecting the extension of Status of Forces Agreement (SOFA) rights to all canal workers as they were civilians and not, of course, military personnel. The Panamanians were concerned that if the canal-operating agency fell under the Defense Department, and if the SOFA rights were expanded, it could lead to the designation of all military bases and canal operating areas as “Defense Sites.” This would resemble a new, albeit smaller, Canal Zone.⁹

⁸ Jorden, *Panama Odyssey*, 367-369.

⁹ “Memorandum from the Panama Canal Treaty Co-Negotiator (Linowitz) to Ambassador at Large (Bunker);” Jorden, *Panama Odyssey*, 369-370.

The following day, Royo and Escobar expected a response on the land and waters issue but reasonably the U.S. team did not have the time to discuss the matter with Carter. Yet, Bunker had a plan to ease the Panamanian disappointment. He decided to agree to the request of the Balboa-Colón railroad and the top of Ancon Hill in exchange for some benefits.¹⁰ Since the railroad was an essential link in the operation and defense of the canal, its transfer would be subject to certain conditions, so that the United States would have priority use for supplies, equipment, and personnel whenever necessary. Escobar acknowledged the reasonable limitations on the canal's operational areas, but he still expressed frustration at the way Bunker had presented the partnership obligations. The Ambassador then asserted that once the railroad was under Panama's control, regulations prioritizing the transport of equipment and workers for the canal's operation would be implemented in any case. As for Ancon Hill, the Panamanians refused to obtain "only the top," on the ground that the hillock – being the most visible Canal Zone possession from Panama City – had become the symbol of the *ocupación norteamericana* over the years and had a strong political and patriotic value. The gathering ended with the teams agreeing on a few substantial issues but with profound disagreements on the weight to give to the two main problems. Once again, the Panamanians wanted to discuss land and waters as soon as possible while the U.S. diplomats aimed to conclude the Neutrality Treaty first.¹¹ At the end of the day, Lewis called Jorden to inform him that Torrijos was not happy with the results of the first two days of the talks and was planning to have the team return to Panama the following day.

¹⁰ Escobar Bethancourt, *¡Torrijos: Colonia Americana, No!*, 277.

¹¹ Jorden, *Panama Odyssey*, 371-374.

Jorden then decided to persuade his fellow Ambassadors to edit the list of compromises and concessions for the following day in order to avoid a diplomatic failure.¹²

On March 11, Royo called Revilla to inform how the negotiations were going. By the end of the morning, the U.S. team had updated the concessions that appeared to be more generous and detailed.¹³ The railway, as agreed the previous afternoon, would be reverted to Panama upon the entry of the treaty into force. Surprisingly, Washington gave in on Ancon Hill as the entire cone of the *cerro* would immediately return to Panama, except for some existing facilities, such as schools and hospitals. Other major concessions were the Albrook Field military base, the urban area of Coco Solo, and the two ports of Balboa and Cristobal. The United States would also have, with the participation of Panama, “the authority to establish the reversion criteria that, in periods of five years, will allow the transfer to Panama of all housing areas. There will be [finally] a heterogeneous mix of Americans and Panamanians in these areas.”¹⁴

The first session of the round ended on May 13. Fábrega phoned the rest of the members of the CPTAAC to inform them of the current situation (as Royo had done with Revilla two days earlier). The differences between Fábrega’s and Royo’s updates laid in the architect’s meticulousness. In fact, Fábrega provided a comprehensive account of all the discussed or omitted sites, regardless of their size. He also emphasized the substantial remaining carpentry work needed. Fábrega’s team still had to define areas to revert to Panama accurately, and had to outline all the specific rights that the United States wanted to maintain in the territory that would replace the Canal

¹² Jorden, *Panama Odyssey*, 375-381.

¹³ Suárez, *Las negociaciones de los tratados Torrijos-Carter*, 598-599.

¹⁴ “Tierras, Aguas y Administración - Reunión de Negociadores,” (AMREP \ Tratados,Acuerdos,Convenios de Panamá \ Negociaciones \ Negociaciones del Tratado del Canal Torrijos – Carter, May 11, 1977). 591 -005-14-6-6.8-6.8.06000209.

Zone. There was still a lot of work to do.¹⁵ The same day, Fábrega met with the political team, Torrijos and Revilla. The Panamanian negotiators left this meeting with specific – albeit not new – instructions from Torrijos:

El 31 de diciembre de 1999 se completará el proceso de descolonización progresiva que se iniciará al día siguiente de la aprobación del convenio; para esa fecha deberán estar en manos de Panamá, de manera física y concreta, todo el territorio y las instalaciones de la Zona del Canal, incluido el propio canal; segundo, el concepto de neutralidad del Gobierno de Panamá debe entenderse en el sentido de que el territorio de Panamá tiene que dejar de ser blanco estratégico potencial en caso de conflictos bélicos de cualquier naturaleza y en cualquier escala. Se precisa que para el 31 de diciembre de 1999 en el territorio panameño denominado Zona del Canal no debe quedar un solo soldado extranjero. Y solo tropas panameñas defenderán el canal.¹⁶

A hint of arrogance is clearly visible here as it seemed that Torrijos was treating the negotiation process as a path ultimately leading to his position without any compromises.

In the meantime, the mood in the White House was particularly positive. The Deputy Secretary of State told Carter that “the Panamanian negotiators [have returned] to Panama for consultations with General Torrijos, not because negotiations are going badly but because they are going well. [...] The negotiations appear to be moving in the right direction.”¹⁷ A second letter from Solarz had informed Brzezinski that the Congressman was thinking about the most appropriate figure to lead the drive for the

¹⁵ “Conservación sostenida con el arquitecto Edwin Fabrega,” (AMREP \ Tratados,Acuerdos,Convenios de Panamá \ Negociaciones \ Negociaciones del Tratado del Canal Torrijos – Carter, May 13, 1977). 591 -005-14-6-6.8-6.8.06000201.

¹⁶ *Las negociaciones de los tratados Torrijos-Carter*, 599.

¹⁷ “Memorandum from the Panama Canal Treaty Co-Negotiator (Linowitz) to Ambassador at Large (Bunker),” May 12, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 141.

ratification of the treaty. Solarz had suggested “someone with impeccable national security credentials” to dispel innuendos that Washington’s waiver of U.S. “‘sovereignty’ over the canal” would undermine “our most vital national interests.”¹⁸

On May 16, Lewis met the President and Brzezinski for the first time since the beginning of the May Round.¹⁹ Carter, once again, expressed a strong desire for a new treaty and provided a written statement to Lewis, outlining the importance of granting necessary rights for operating, maintaining, and defending the Canal. The President also stressed the political need for a neutrality treaty that the Senate could ratify and expressed readiness to expedite the process, warning against unnecessary delays that would hinder success in Congress. Lewis pledged to convey Carter’s message to Torrijos.²⁰ Two days later, the Panamanian Ambassador talked with Brzezinski privately and let him know that the *jefe* was “fully aware of the importance of the declaration of neutrality of the canal” and that “we are confident that such neutrality will be useful in peace and in war [...] and that Panama will never be converted into a target of attacks or reprisals in case of military conflicts with other countries.”²¹ That was the first time that Torrijos – at least in writing – had acknowledged the need for a neutrality pact. The same day the *jefe* reiterated this argument to the press. He even went further, as he stated that “Panamá puede aceptar derechos de Estados Unidos para intervenir contra un tercer país que conteste la neutralidad del canal. Después de todo es lo más descarnada realidad. Era la que vecinos latinoamericanos y aliados solicitan. En

¹⁸ Stephen J. Solarz, “Letter to Zbigniew Brzezinski” (JCPL, Chief of Staff Jordan, box 36, Confidential File - Panama Canal Treaty 6-7 77, May 13, 1977).

¹⁹ “Digest of Other White House Announcements,” May 16, 1977, in *PPJC, 1977*, vol. 1, 942.

²⁰ Jordan, *Panama Odyssey*, 381-385; Suárez, *Las negociaciones de los tratados Torrijos-Carter*, 598-602; “Las negociaciones de los tratados Torrijos-Carter draft and notes”, 317.

²¹ “Memorandum of Conversation,” May 18, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 142-143.

gran medida sus economías dependen del libre tránsito.”²² It is possible that Torrijos made these important concessions to Washington because he was aware of polls showing that only a minority of U.S. Senators were in favor of a new treaty. In any case, without these two statements from the *jefe*, there would hardly have been a deal.

4.2 – *An Encouraging Resumption*

The negotiations resumed on May 18 with a perfect lucky timing. In fact, an incident that could have damaged relations between the two countries involving a Canal Zone Police Officer and a group of young Panamanian people had occurred the day before. The policeman had observed what seemed to be a gathering of students, who were protesting and diverting traffic near Balboa. So, he had intervened trying to stop them when the youngsters attacked him and stabbed him in a knee.²³ However, the news that the negotiations were progressing successfully, and the fact that the Government mouthpiece had not reported the infamous fact, prevented the protests from continuing for days.²⁴ In Washington, the Panamanians agreed on the issue of neutrality under the understanding that their right to defense applied only to external threats and that only

²² “Canal Talks Continue,” *Facts on File World News Digest*, May 21, 1977 (BPRC, Panama City, Panama, Suárez Papers, caja 1).

²³ “Resumen de los Incidente acontecidos en la Zona del Canal el 17 y 18 de mayo” (AMREP \ Tratados,Acuerdos,Convenios de Panamá \ Negociaciones \ Negociaciones del Tratado del Canal Torrijos – Carter, May 18, 1977). 591 -005-14-6-6.8-6.8.06000063.

²⁴ The May 18 and 19 issues of both *Star & Herald* (the English-language version of the most popular newspaper at the time: *La Estrella de Panamá*) and *Matutino* did not publish any article about the incident. If the clash had occurred a few weeks earlier, the Panamanians would certainly have tried to exploit it to put pressure on the United States – a strategy they had already used in the past. Therefore, it is very plausible that Torrijos, at this point in the negotiations, had decided to prevent the news of the incident from spreading. Instead, some “news that the negotiations were progressing successfully” appeared on the front page of *Star & Herald* (“Negotiators Off Again with Precise Orders,” *Star & Herald*, May 19, 1977, 1, 7).

the Panamanian forces were allowed to protect the Canal against domestic dangers. The United States intended for Panama to keep “el canal neutral permanentemente y abierto por siempre,” but the Panamanians could not accept that clause because they wanted the power to potentially close the waterway if natural causes occurred or if it was not profitable anymore. So, Escobar pushed for an agreement that could eliminate the adverb “permanentemente.”²⁵

The other main issue of the meeting was the decision about who would be the guarantor (or guarantors) of neutrality. The U.S. position had not changed as well as the Panamanian one: Washington wanted the neutrality pact to be exclusively between both nations, while Panama wished the United Nations and possibly other countries to join the pact. They found a provisional compromise as they agreed that the accession protocol would be deposited at the OAS and that all the American countries except from Cuba could join the neutrality treaty.²⁶

The following morning, the meeting began in the best way possible. Escobar opened the session by saying: “creemos sinceramente que si durante la sesión de hoy podemos alcanzar un acuerdo definitivo sobre este Tratado, nuestros dos países [...] llegarán a la conclusión muy positiva de que en verdad estamos dando pasos en firme hacia el logro de una solución rápida y efectiva.”²⁷ Royo then spoke about the inclusion of a new form

²⁵ Suárez, *Las negociaciones de los tratados Torrijos-Carter*, 600-601 (quote 600). Unfortunately, we were not able to find the complete transcripts of the first meeting of this second session of May.

²⁶ Suárez, *Las negociaciones de los tratados Torrijos-Carter*, 601-602. It is unclear when all the aspects of neutrality were fully established. Carter reports the date of May 18, stating that “After much argument the Panamanians agreed on the neutrality issue, with the understanding that our right of defense applied to external threat only, and that Panama would protect the canal against danger from within.” Carter, *Keeping Faith*, 157. Instead, Jordan claims that some discussions on the matter even took place at the end of the month.

²⁷ “Negociaciones del Tratado del Canal de Panamá del 19 de mayo y detalla los participantes en representación del Gobierno de los Estados Unidos de América y en representación de la República de

of U.S. preferential transit right through the canal “in time of war or during a serious situation” “in recognition of the important contribution of [...] the United States of America to the construction and defense of the Canal.”²⁸ Other matters were the sanitization and maintenance of the canal. Linowitz and Dolvin wanted these issues to be very detailed, while the Panamanians did not care so much. Bunker even felt embarrassed because Washington’s fussy requests seemed just an indirect way to say that the Panamanians were not up to such a demanding task as managing the canal.²⁹ As for the U.S. military on national soil, the Panamanians wanted to delete the clause “a menos que Panamá y los Estados Unidos acuerdan de otra manera.” They thought that this *cláusula de escape* would ruin the entire article of the treaty that granted no U.S. military bases. Linowitz agreed.³⁰

Towards the last hours of the meeting, there was a misunderstanding and potential disagreement between the Panamanians and the United States regarding the concept of neutrality for a hypothetical new waterway in addition to the existing Panama Canal. The concern arose from a phrase of a draft reading “el canal existente (presente o actual),” that the Panamanians perceived as problematic. The negotiators were worried that this wording could be interpreted as distinguishing between an “actual” canal and an “already existing” canal, leading to ambiguity and potential complications in the future. For example, the fact that the neutrality clause could presumably remain in force

Panamá” (AMREP \ Tratados,Acuerdos,Convenios de Panamá \ Negociaciones \ Negociaciones del Tratado del Canal Torrijos – Carter, May 19, 1977), 2. 591 -005-14-6-6.8-6.8.06000064

²⁸ “Negociaciones del Tratado del Canal de Panamá del 19 de mayo,” 7. 591 -005-14-6-6.8-6.8.06000064. The quote is in English since this formula was suggested by Linowitz during previous meetings.

²⁹ “Negociaciones del Tratado del Canal de Panamá del 19 de mayo,” 11-13. 591 -005-14-6-6.8-6.8.06000064.

³⁰ “Negociaciones del Tratado del Canal de Panamá del 19 de mayo,” 15-19. 591 -005-14-6-6.8-6.8.06000064.

even if a new canal was built without any contribution by the United States. Royo emphasized that Panama's decisions regarding a hypothetical new canal on the border with Colombia were not the business of the United States, indicating a desire for autonomy in such matters. To address this concern, the Panamanians proposed to use the term "canal actual" (the Panama Canal) without additional adjectives but the U.S. team rejected this draft. Ultimately, they found an agreement on the meaning of "canal." The definition would be as "se define como canal el canal actual y cualquier otro canal en Panamá en que los Estados Unidos haya participado en la construcción o financiamiento."³¹ While this appeared a minor problem, it reflected the ongoing sensitivity of the Panamanians to any perceived attempts by the United States to exert influence or control over their affairs. Overall, the negotiation process seemed to be still influenced by historical factors and a lingering sense of mistrust, with the Panamanians meticulously analyzing the English wording and potential bad translations in Spanish.

The gathering of May 20 was even more challenging than previous one. It was all about the new entity that would replace the Panama Canal Company. The sixth article of the treaty draft stated that Panama would grant the United States the necessary rights to regulate the transit of ships through the canal, to maintain, operate, protect and defend the canal and to carry out any other specific activity related to those purposes. The United States would have primary responsibility for the operation of the canal and transit of ships. The Panamanian had interpreted this provision as the entity that would control the operation would be an agency of the United States, therefore something like the Panama Canal Company. Royo pointed out that one of the major criticisms to the Robles-Johnson Treaties was the absence of a mixed commission to run the canal

³¹ "Negociaciones del Tratado del Canal de Panamá del 19 de mayo," 22-43 (quotes 22, 43). 591 -005-14-6-6.8-6.8.06000064.

activities and Panama was committed to negotiate this aspect.³² This was a problem because the Panama Canal Company had run the waterway efficiently for sixty-three years and the United States did not want to risk failure by immediately giving up half of the administration. Linowitz accepted the request that the *Director de la Junta de Consulta* would be Panamanian but that was still too little. The Panamanians wanted a canal authority under which everything would be decided jointly: hiring and firing, ship handling, toll policy, purchasing, training – basically the gamut of activities involved in running a major waterway.³³

For Bunker, regardless of the trust in the Panamanian Administration, the problem concerned above all whether the Senate would consent to such a large participation by Panama in the management of the canal. Once again, *los norteamericanos* reiterated that the treaties, besides pleasing the Panamanians, had to satisfy at least two thirds of the U.S. Senators.³⁴ The U.S. Ambassadors proposed another concession such as an advisory board composed of an equal number of *estadounitenses* and Panamanians, but Royo argued that there was a clear distinction between an advisory group and the administrative body. He articulated his awareness that their role would be limited to providing advice and counsel without the authority to issue directives: they did want to be more than advisors. Linowitz proved open to the requests of the Panamanians and

³² “Negociaciones del Tratado del Canal del 20 de mayo de 1977 y a los participantes por parte del Gobierno de los Estados Unidos de América y por parte del Gobierno de la República de Panamá” (AMREP \ Tratados,Acuerdos,Convenios de Panamá \ Negociaciones \ Negociaciones del Tratado del Canal Torrijos – Carter, May 20, 1977), 6-9. 591 -005-14-6-6.8-6.8.06000065.

³³ “Negociaciones del Tratado del Canal del 20 de mayo,” 7. 591 -005-14-6-6.8-6.8.06000065; *Jorden, Panama Odyssey*, 388-389.

³⁴ “Negociaciones del Tratado del Canal del 20 de mayo,” 14-15. 591 -005-14-6-6.8-6.8.06000065.

said that his team would try to find a better solution.³⁵ Escobar then remarked the necessity to stretch Panamanian competences even further than what was written by Tack and Kissinger. In fact, according to the principles of 1974, the United States would hold primary responsibility for both the operation and defense of the canal. But the Panamanian negotiator argued:

¿Que significa esto? Significa que existen responsabilidades secundarias. En otras palabras la responsabilidad primaria nos es exclusiva ni es única. Si ese es el caso la declaración Tack-Kissinger hubiera dicho que los Estados Unidos tiene la responsabilidad de la administración del canal y [...] de la defensa del canal.

Pero si la Declaración Tack-Kissinger estableció que Los Estados Unidos tendrá la reponsabilidad primaria [...], eso significa que existe una responsabilidad secundaria, y que dicha responsabilidad secundaria recae sobre Panamá.³⁶

The negotiation continued with Royo proposing a “better solution” before Linowitz could. The treaty would establish a Board Direction composed by four members from United States and three from Panama and would allow a Panamanian to be the director of the entity starting from the last 10 years of the duration of the treaty. He also accepted the U.S. proposal of the mixed advisory board.³⁷ Towards the end of the discussion, Royo and Escobar highlighted what was to be discussed the next Monday. “[La nueva entidad] es el hecho de ser una agencia del Departamento de Defensa

³⁵ “Negociaciones del Tratado del Canal del 20 de mayo,” 9-13. 591 -005-14-6-6.8-6.8.06000065; Jorden, *Panama Odyssey*, 389-390.

³⁶ “Negociaciones del Tratado del Canal del 20 de mayo,” 18-19. 591 -005-14-6-6.8-6.8.06000065.

³⁷ “Reunión de Negociaciones del Tratado de Canal de Panamá, mayo 1977” (AMREP \ Tratados,Acuerdos,Convenios de Panamá \ Negociaciones \ Negociaciones del Tratado del Canal Torrijos – Carter, May 20, 1977), 10-12. 591 -005-14-6-6.8-6.8.06000070. The second part of the meeting of May 20 has been archived in a different document together with the meeting of May 23.

[estadounidense] no significa que es un sitio de defensa.” Therefore, defense sites should be covered by another agreement and the employees working for the State Department or for the entity should not be considered for those purposes, as employees protected by SOFA.³⁸

The meeting on May 23 was relatively short. The teams agreed to appoint a Panamanian Sub-Director who would later replace the U.S. Director in 1990, as they were considering the Treaty to expire on December 31, 2000.³⁹ Then, when they discussed the distribution of the key positions between the two nationalities in the new entity, Fábrega made sure that the meaning of “director” was the same in English as well as in Spanish.

Si la palabra ‘dirección’ puede estar en una posición, la dirección desde la posición más alta hasta la del más bajo nivel. [...] Todos estos son jefes; y estos pueden ser individuos de alto o bajo nivel. [...] En otras palabras, cuando se habla de un número limitado de posiciones de alto nivel, lo que llamaríamos nosotros dirección esto nos presenta un problemas, porque para nosotros dirección puede significar cualquier cosa.⁴⁰

³⁸ “Reunión de Negociaciones del Tratado de Canal de Panamá,” 25-26. 591 -005-14-6-6.8-6.8.06000070. In the end, these issues were not discussed on Monday, at least on the political table. Unfortunately, we do not have the transcript of the technical meeting that was held the same day. However, we know that Fábrega delivered a report to the U.S. team focusing the rights of non-U.S. employers in the Zone. “Propuesta panameña en relación con empleados civiles no norteamericano,” (AMREP \ Tratados,Acuerdos,Convenios de Panamá \ Negociaciones \ Negociaciones del Tratado del Canal Torrijos – Carter, May 24, 1977). 591 -005-14-6-6.8-6.8.06000198. We also have a report of the May 20’s technical table plus some other transcripts difficult to date due to the lack of time references that can be found here: “Proyecto de Convenio sobre un esquema para la reversión a Panamá,” (AMREP \ Tratados,Acuerdos,Convenios de Panamá \ Negociaciones \ Negociaciones del Tratado del Canal Torrijos - Carter (1977). 591 -005-14-6-6.8-6.8.06000189.

³⁹ “Reunión de Negociaciones del Tratado de Canal de Panamá, mayo 1977” (AMREP \ Tratados,Acuerdos,Convenios de Panamá \ Negociaciones \ Negociaciones del Tratado del Canal Torrijos – Carter, May 23, 1977), 32-33. 591 -005-14-6-6.8-6.8.06000070.

⁴⁰ “Reunión de Negociaciones del Tratado de Canal de Panamá,” 41-42. 591 -005-14-6-6.8-6.8.06000070.

They ultimately agreed on the expression “posición de alto nivel.”⁴¹ The language issue was the main reason for the Panamanians’ skepticism and fear of being deceived. This was something that would continue to torment the Panamanians (remember the *presente o actual canal* problem) for the following months, even after the signing of the treaties.

The commercial activities in the Zone before the treaty expired were the last issue of the day. Royo was worried about the detailed list that the U.S. negotiators proposed because it did not contemplate the possibility that some businesses could close or open. Hence, the Panamanians sought a highly generic provision that would not prevent them from undertaking new commercial activities.⁴² However, the U.S. team was not in the mood for another concession. The new provisional Panama Canal Zone – way less extended than the existing one – was not supposed to be a commercial area. Linowitz said that “no estamos en el negocio de ser comerciales, pero no debemos salirnos de todo lo comercial a menos que el gobierno de Panama por si mismo o no va a encargarse de ello o no va a autorizarlo.” So, he proposed the formula “la entidad también estara excluida de encargarse de actividades comerciales excepto aquellas que no desempeñará o autorizará el gobierno de Panamá” that the Panamanians ultimately accepted.⁴³

At the meeting on May 24, Royo raised the issue of payment of the Panamanian public services for the new managing entity of the Canal. “The [new] entity will pay the Republic of Panama for the public services or utilities and governmental functions which the latter – Panama – renders in the area whose use is entitled for purposes of the

⁴¹ “Reunión de Negociaciones del Tratado de Canal de Panamá,” 43-44. 591 -005-14-6-6.8-6.8.06000070.

⁴² “Reunión de Negociaciones del Tratado de Canal de Panamá,” 58-59. 591 -005-14-6-6.8-6.8.06000070.

⁴³ “Reunión de Negociaciones del Tratado de Canal de Panamá,” 63-65 (quotes 64). 591 -005-14-6-6.8-6.8.06000070.

operation and maintenance of the canal.” That meant that Panama would have the “police there, the security, firemen, courts, and a series of services of governmental nature.” The Panama Canal Company had theretofore paid for such services, but Royo insisted that “now Panama will have to provide those services as the Republic of Panama.”⁴⁴ The straightforward statement triggered a protracted and intricate exchange, involving questions on the nature of services, the definition of “governmental functions,” and the debate on whether to address it separately or as part of “economic arrangements.” The Panamanians aimed to establish the principle that “the entity” would cover expenses such as electric power, sewer service, and police protection.⁴⁵ However – according to Jordan – they confronted the harsh reality that, after decades of asserting these responsibilities as theirs, they now had to bear the financial burden. This sudden shift required them to finance public services without the support of local taxes from the U.S. employers working on the canal, leading to their urgency in solidifying the payment principle for services provided.⁴⁶ Then, they agreed on an “economic annex” to the treaty “which would spell out specifically how the two countries would agree on how the various services would be paid and for what the cost would be.”⁴⁷

The second half of the meeting was about *tierra y aguas*, where Fábrega was the best prepared man as always. He pointed out that, on a technical level, Panama and the United States had virtually agreed on everything during the previous negotiations. However, he remarked that “since this subject has not been agreed on or endorsed at a

⁴⁴ “Panama Canal Treaty Negotiations,” (AMREP \ Tratados,Acuerdos,Convenios de Panamá \ Negociaciones \ Negociaciones del Tratado del Canal Torrijos – Carter, May 24, 1977), 70-73 (quotes 70-71, 73). 591 -005-14-6-6.8-6.8.06000075. The transcript of this meeting is in English.

⁴⁵ “Panama Canal Treaty Negotiations,” 75-82. 591 -005-14-6-6.8-6.8.06000075.

⁴⁶ Jordan, *Panama Odyssey*, 391.

⁴⁷ “Panama Canal Treaty Negotiations,” 86. 591 -005-14-6-6.8-6.8.06000075.

political level, it is our hope that at this round of meetings, we should have an agreement in principle on this subject [...] and also in regard to some special functions which will revert to Panama.”⁴⁸ Fábrega then proceeded to illustrate to Bunker and Linowitz the “ten points” that his team had drawn up in February and that Dolvin, albeit superficially, had agreed on. He proudly said that his squad “has succeeded in differentiating various types of areas, among them the areas that revert to Panama for its full use upon the entry into force of the treaty.” The key aspects that he highlighted were:

Ancon Hill, the ports of Balboa and Cristobal, Coco Solo. Then we have the areas for the new Canal Administrative Entity and the Technical Team has basically already reached an agreement defining the lands and waters on which the Entity will have use rights. [...] It has been agreed that there will be civilian coordination areas administered by the new Canal Administrative Entity. These are areas that will revert to Panama by an orderly process following the entry into force of the treaty. This includes basically the areas where civilian populations reside. It was also agreed basically on what the location of the various defense sites would be. This includes the Howard Cobbe Base Complex, the Rodman Base, the Clayton Base as revised and adjusted, Fort Davis and Port Sherman on the Atlantic side. [...] Also, we have agreed that there will be areas subject to bilateral agreement, separate bilateral agreement, and these areas subject to bilateral agreement really in some cases are structures more than actual areas, such as buildings occupied by the Federal Aviation office. [...] Also, there is an agreement consistent with political agreement that there are areas and installation that will revert in the third year of the life of the treaty, which are all those related to governmental activities, such as the civilian government, the courts, the Post Office, police, the penitentiary, the fire departments, and like installations and facilities. [...] [but] there is one point on which there has not yet been a great deal of study or agreement and that is the point of housing. Yesterday afternoon we submitted a

⁴⁸ “Panama Canal Treaty Negotiations,” 88. 591 -005-14-6-6.8-6.8.06000075.

document, which today we will be submitting here, which is being considered by the technical group. [...] This is the housing matter.⁴⁹

The leader of the CPTAAC was so anxious to receive the political approval from the U.S. Ambassadors that Linowitz asked him why this document was so crucial for him. Fábrega replied that even though some of the points were only principles and not proper specific requests, they were “the principles that have prompted us and inspired us in this work that we have done on the technical level with General Dolvin’s team” and were also “a frame of reference, a list of guidelines.”⁵⁰ Bunker and Linowitz remained skeptical, as they did not understand why these ten points had to be discussed on the political table since the document itself had not any legal status. Even if they agreed on every point, the paper would not be an organic part of the treaty. Royo then came to Fábrega’s aid, stating that the Tack-Kissinger principles also had no legal status either and yet both teams had recognized their importance and value. The Minister continued remarking the existence of “a series of installations areas and installations which are not strictly necessary for the operation of the canal” and that they were committed “to set out the exact definitions and the exact details of which specific acts and which specific areas, which specific warehouses, and everything else.”⁵¹ If, in the previous months, Panama tended to overlook the importance of the neutrality issue for the United States, the latter still did not understand why Panama was in such a hurry to regain possession of things like the railroad as soon as possible.

⁴⁹ “Panama Canal Treaty Negotiations,” 120-124. 591 -005-14-6-6.8-6.8.06000075.

⁵⁰ “Panama Canal Treaty Negotiations,” 96-97. 591 -005-14-6-6.8-6.8.06000075.

⁵¹ “Panama Canal Treaty Negotiations,” 108. 591 -005-14-6-6.8-6.8.06000075.

4.3 – For a Handful of Dollars

On May 27, Torrijos sent his teams to Washington with very detailed instructions for what could be possibly the last week of negotiations. First of all, the Panamanian delegation should stress that the decolonization of the Canal Zone had to begin the day after the treaty was signed and be completed by December 31, 1999, when the facilities would return to Panama. Then, Torrijos wanted to make sure that the word “neutrality” also had the implicit meaning that “Panama must stop being a strategic target in an international conflict.” The last issues were, in reality, questions that the two countries had already agreed on – namely the fact that there should not be a single U.S. soldier in the Canal Zone starting from December 31, 1999, and that only Panamanian forces would defend the canal in peacetime. To reinforce this position, the National Guard organized an exercise to demonstrate that Panama alone could defend the canal effectively.⁵²

The same day, Bunker and Linowitz briefed Senator Henry F. Byrd (D-VA), and Senate Whip Alan M. Cranston (D-CA). The negotiators indicated that agreements on major points of the treaty could well be reached within two to three weeks, and felt it was important to begin briefing Senators on the key issues of the treaty, especially neutrality, that was the topic that worried Byrd the most. The Senators then asked questions about the defense of the Canal after the year 2000, as well as the involvement of the Department of Defense in the negotiating process. Byrd advised the negotiators indicating that the Senate would never pass a treaty that did not include a “strong” neutrality agreement, but Linowitz replied to him that the Department was in perfect agreement, assuring that also Brown did not want or need troops in the Canal Zone after the expiration of the treaty. In the end, Byrd – who had been against the treaties for at

⁵² “Latin America Newsletter,” sección LAPR XI, 20, 153.

least three years – seemed generally pleased with the description of the negotiators’ neutrality position.⁵³

The following day, the Panamanian team – that was still in the United States – gathered informally to address the unresolved economic arrangements. The participants raised concerns about the economic losses suffered by their country over the years and emphasized the negligible benefits received in return. They even went back to 1903 and the Hay-Bunau-Varilla Treaty to calculate the loss. The discussion touched on the disparity between the deliberately low tolls in the canal, serving as a subsidy to U.S. shippers, and Panama’s lack of shared economic advantages. They made references to U.S. military bases leased in Spain, Turkey, and the Philippines, highlighting the substantial benefits those countries received as opposed to Panama’s minimal gains. The Panamanians were divided between what some thought was fair, and others thought was possible in terms of compensations. The “fair” amount was several billion dollars, while the “possible” amount was around \$500 million (equivalent to \$2,5 million in today’s currency). The debate ended with a compromise, settling on a lump-sum payment demand of \$1 billion (equivalent to \$5 billion).⁵⁴ Jorden asserts that the meeting was unplanned, and that the participants’ consumption of numerous alcoholic drinks influenced the outcome of the debate, hence the reaching of such a high compensation sum. Suárez, on the other hand, highlights the professionalism of the

⁵³ “Memorandum for the Files,” May 27, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 145-146.

⁵⁴ Jorden, *Panama Odyssey*, 392-393. According to the author, Escobar also hinted at an additional sum of \$20 million dollars as a “pension fund” for him and the rest of the commission. Suárez later confirmed this proposal in a 2004 interview with Nicolás Ardito Barletta. Suárez, *Las negociaciones de los tratados Torrijos-Carter*, 862-863.

discussion since together with Escobar and Royo, there was also Nicolás Ardito Barletta – man of excellent economic skills and future Panamanian President.⁵⁵

On May 29, Escobar opted to have a meeting with Linowitz in Washington, choosing this strategy as the most secure way to gradually address economic issues before officially presenting them in a negotiating talk. According to Jorden and Linowitz, the Panamanian Chief Negotiator first acted almost like a victim, setting out a series of premises to expose all the “bad things” happened in the Panama Canal Zone in the previous decades. He then talked about the small sums that Washington had paid to his country during all those years of canal operations and for the military bases leased, compared to what other U.S. allies had gained. The intent behind all this rhetoric was, of course, to mitigate the impact before introducing the onerous economic requests.⁵⁶ Escobar pointed out that he could have demanded a payment of \$6 billion of compensation for almost eighty years during which the United States had occupied the territory of the Canal Zone, but – in the spirit of being conciliatory to reach a treaty soon and not upset Carter – he had immediately reduced his demands to “only” \$1,020 million as initial compensation and \$300 million annuities.⁵⁷

Linowitz was shocked as he could not imagine that the Panamanian could raise a matter of this magnitude out of the blue, and immediately told his guest that he could not consent to a figure this high. In fact, until then the two countries had only spoken of annual payments and not such a one-time sum. In the end, the two negotiators decided to postpone the discussion on this issue to the next round of talks.⁵⁸

⁵⁵ Long, *Latin America Confronts the United States*, 118.

⁵⁶ Jorden, *Panama Odyssey*, 394; Linowitz, *The Making of a Public Man*, 165.

⁵⁷ Suárez, *Las negociaciones de los tratados Torrijos-Carter*, 603.

⁵⁸ Jorden, *Panama Odyssey*, 394-395. Carter reports that “on May 30, the Panamanians dealt the negotiations an almost fatal blow. They demanded enormous payoffs from the United States-more than

The day following the private meeting, the negotiating teams had the final session of the May Round in which they adjusted and refined all the issues they had previously agreed on. The topics discussed were the ceasing of the Canal Zone at the beginning of the new treaty, the U.S. rights to operate and defend the canal, the guarantee of the permanent neutrality of the canal (or any other canal to be constructed in Panama in which the United States would be a participant), the composition and modality of the Agency to Run the Canal, and the land and waters issues.⁵⁹ In the end, the Panamanians announced that they were going home for consultations and agreed to hold the next round in Panama starting from June 13.⁶⁰

\$1 billion in a lump sum and \$300 million annually until the year 2000. This was a ridiculous request, which we never seriously considered, but it was great news to the treaty's opponents." The date Carter reports is in contradiction with Escobar's and Linowitz's decision not to address the issue in May. Since we do not have the transcript of the May 30 talks, we can assume that Carter received the news of the outcome of this informal meeting only the day following the event. Carter, *Keeping Faith*, 158.

⁵⁹ "Memorandum From Secretary of State Vance to President Carter," May 28, 1977, in *FRUS, 1977-1980*, vol. 29, *Panama*, 146-149.

⁶⁰ "Memorandum From Acting Secretary of State Christopher to President Carter," June 1, 1977, in *FRUS, 1977-1980*, vol. 29, *Panama*, 151.

AN APPROPRIATE COMPENSATION

5.1 – Halfway Through

Despite the compensation issue, the negotiations proceeded “quite quickly”. Brzezinski was confident that “we will have [soon] a Canal Treaty worthy of an educational effort.”¹ He and Hamilton Jordan were still working on the Canal Committee, following Solarz’s suggestion to find an appropriate figure to be the chairperson of such an entity. They decided to consult Vance and Harold Brown, after Pastor had indicated the names of Admiral Zumwalt, Melvin Laird and Donald Rumsfeld for possible appointment.²

The Panamanian team decided to return to Washington early and to meet Bunker and Linowitz on June 8. The U.S. team had no new material to present since they were working on semi-definitive drafts of the two treaties to deliver to Panama the following week. However, Bunker and Linowitz were delighted to continue the job ahead of time. But they certainly did not expect what would happen. The Panamanians sought to eliminate provisions such as the “preferential treatment” for U.S. warships during emergencies, and to add a clause on the “permanent open and operation” issue, allowing the closure of the canal if it incurred losses. Other Panamanian requests were the postponement of the decision on a sea-level canal option, and the appointment of

¹ Zbigniew Brzezinski, “Letter to Solarz” (JCPL, National Security Affairs, Brzezinski Material, Country File, box 60, Panama, 1-10/77, June 1, 1977).

² Rick Inderfurth, “Memorandum for Hamilton Jordan” (JCPL, Chief of Staff Jordan, box 36, Confidential File - Panama Canal Treaty 6-7 77, June 2, 1977); Thomas P. Thornton, “Memorandum for Rick Inderfurth” (JCPL, National Security Affairs, Brzezinski Material, Country File, box 60, Panama, 1-10/77, June 6, 1977); “Memorandum From Robert Pastor of the National Security Council Staff to the President’s Assistant for National Security Affairs (Brzezinski),” May 31, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 149.

Panamanians to high positions in the canal entity with the power to approve their removal. Bunker and Linowitz were shocked as they thought that the main features of the Neutrality Treaty were finally set. The meeting ended in nothing. Linowitz warned the Panamanians about the potential dangers of their claims but, since Torrijos had instructed Escobar's team to behave that way, they were probably seeking this precise reaction.³

The two U.S. Ambassadors – upset by the unexpected demands from the Panamanians – decided to cancel the meeting for the following day and scheduled a restricted session with the chief negotiators only. Escobar and Royo met with them at the State Department only two days later but with poor results. Bunker expressed concern about the Panamanians' submitted papers, finding them disturbing and inconsistent with the previously agreed-upon principles, while Linowitz emphasized that the changes that the Panamanians had made would jeopardize the negotiations. According to Jorden, both teams were acting in the worst way possible. On the one hand, the Panamanians had raised their issues in an arrogant and irritating way, as if they were no longer the same group of people that had worked so professionally only a week earlier. On the other hand, the U.S. team had “overreacted” to the presentation and had refused to discuss even the most comprehensible Panamanian concerns, such as the possibility of closing the canal in case of bankruptcy or even just losses.⁴

Despite the events of the first days of the month, the meeting was held on June 13 as scheduled. The U.S. Ambassadors had prepared the draft of the Neutrality Treaty regardless of the clause on losses that the Panamanians had required five days earlier. Article I incorporated the definition of “canal” agreed previously as “the existing

³ Jorden, *Panama Odyssey*, 393-398.

⁴ Jorden, *Panama Odyssey*, 397-401.

Panama Canal, the entrances thereto, and the territorial seas adjacent thereto, and any other inter-oceanic waterway in which the United States is a participant [...] that may be operated wholly or partially within the territory of the Republic of Panama.”⁵ Hence, “the same regime of neutrality shall apply to any other international waterway that may be built either partially or wholly in Panamanian territory.”⁶ Article II – concerning the “transit by the vessels of all nations on terms of entire equality” – did not mention any specific “preferential treatment” that the United States wanted but Panama did not.⁷

A discussion occurred when Linowitz presented Article III reading that “the Canal shall remain open except in cases of *force majeure*, acts of God, or major repairs requiring temporary closure.” The Panamanians wanted to insert “unprofitability” as an additional cause for closing the waterway. So, Linowitz proposed two alternatives in the attempt to please his interlocutors. The first option was to add, in case the Canal activities would become “an economic burden to the nations responsible for Canal operations,” that “the parties shall promptly enter into consultations among themselves [...] in order to develop appropriate arrangements with respect to the future of the Canal.” The second alternative – that ultimately, they agreed on – was to simply remove the whole paragraph.⁸

Another major issue that the teams discussed was point one of Article VI reading:

⁵ “Agreed Minute Concerning the Meaning of the Terms” (JCPL, National Security Affairs, Brzezinski Material, Country File, box 60, Panama: Canal Treaty of 1977 Drafts, 6-7/77, June 14, 1977), 1.

⁶ “Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal” (JCPL, National Security Affairs, Brzezinski Material, Country File, box 60, Panama: Canal Treaty of 1977 Drafts, 6-7/77, June 14, 1977), 1.

⁷ “Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal,” 2-3.

⁸ Jorden, *Panama Odyssey*, 401-402. “Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal,” 2-4.

In recognition of the important contributions of the United States of America and of the Republic of Panama to the construction, operation, maintenance, and protection and defense of the waterway, vessels of war and auxiliary vessels of those nations shall, notwithstanding any other provisions of this treaty, be entitled to transit the waterway irrespective of their internal operation, means of propulsion, origin, destination, armament, or cargo carried. Such vessels of war and auxiliary vessels will be entitled to transit the canal expeditiously.⁹

The Panamanians focused on the crucial combination of “vessels of war irrespective of their propulsion and armaments” as the United States firmly wanted to exclude any ban on the transit of nuclear-powered or weapon-carrying ships. Panama approved but opposed the overall privilege that U.S. warships would have “in recognition of [Washington’s] important contributions [...] to transit the canal expeditiously.” Linowitz reassured the negotiators that there was a precedent that would apply universally, when warships of multiple countries (and so not only of the United States) had passed through the canal during World War II, the Korean war and the Vietnam war.¹⁰

On June 14 and 15, the political negotiators met again and finally agreed on the whole body of this draft that eventually became the definitive version of the treaty that Torrijos and Carter signed in September.¹¹ Furthermore, they prepared a specific

⁹ “Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal,” 5.

¹⁰ Jorden, *Panama Odyssey*, 402-403.

¹¹ The draft and the Treaty were identical for the first seven articles. However, the final treaty included an eighth article on when it would become operative. “This Treaty shall enter into force, simultaneously with the Panama Canal Treaty, six calendar months from the date of the exchange of the instruments of ratification.” “Tratado Concerniente a la Neutralidad Permanente del Canal y el Funcionamiento del Canal de Panamá” (AMREP \ Tratados,Acuerdos,Convenios de Panamá \ Tratados Bilaterales \ Tratado, September 7, 1977), 18. 591 -005-14-6-6.1-6.1.01000092.

protocol in regards to the Neutrality Treaty, whose Article IV stated that “the Republic of Panama grants to the United States of America the first option to participate in the construction of any new inter-oceanic Canal wholly or partially within the territory of the Republic of Panama, upon terms and condition to be agreed by the two contracting parties.”¹²

The technical table met instead at the Pentagon on June 14. They agreed to some minor cartographic fixes and adjustments in the Entity’s regimes, housing, and public services. The most notable aspect was that schools and hospitals would be transferred to the joint military coordination regime.¹³

5.2 – The Seed of Discord

On May 29, Escobar and Linowitz had decided to postpone the issue of the “appropriate compensation” to the beginning of June, but the Neutrality Treaty had then monopolized the entire negotiating process. A Panamanian committee headed by Nicolás Ardito Barletta was working on an economic paper to present to the U.S. Ambassadors for the next session of meetings. Simultaneously, Torrijos continued to raise the Canal matter at the United Nations, directing the Permanent Representative to emphasize the importance of the economic issues that were intricately linked to political stances.¹⁴

¹² “Protocol to the Treaty Concerning the Permanent Neutrality and Operation of The Panama Canal” (BPRC, Panama City, Panama, Suárez Papers, caja 4, June 14, 1977).

¹³ “Reunión sostenida en el Pentágono” (AMREP \ Tratados,Acuerdos,Convenios de Panamá \ Negociaciones \ Negociaciones del Tratado del Canal Torrijos – Carter, June 14, 1977). 591 -005-14-6-6.8-6.8.06000190.

¹⁴ Jorge E. Illeuca, “The economic Issues surrounding the Panama Canal are closely tied to political positions,” (AMREP \ Tratados,Acuerdos,Convenios de Panamá \ Negociaciones \ Negociaciones del Tratado del Canal Torrijos – Carter, June 7, 1977). 591 -005-14-6-6.8-6.8.06000302.

On the other hand, the Carter Administration had to deal with some inconveniences before focusing on the compensation problem. On June 8, a group of former Chiefs of Naval Operations, fleet commanders and naval advisers sent a letter to the President in which they argued that the Canal – despite reports on its declining value – remained key to transfer navy forces and commercial ships between oceans, particularly given the reduced size of the U.S. Atlantic and Pacific fleets. They acknowledged size limitations for some vessels but stressed the strategic advantages of the Canal for naval flexibility, rapid mobility, and psychological power potential during crises. Concerns about Panama’s ties to Cuba and the Soviet Union raised fears of a neutralized or lost canal contributing to hostile naval forces encircling the United States.¹⁵ The message was so relevant that four Senators, Democratic and Republican, wrote to Carter enclosing this letter in case he had not received it.¹⁶ The President replied to the Senators only one month later that he was aware of the strategic and commercial significance of the Canal – since he had frequently consulted with General Brown – but still wanted to continue his way.¹⁷ This was a potential bad situation anyway, since the Panama Canal Committee was still not ready to operate and possibly a large number of Senators had already read the letter.

On June 13, Brzezinski expressed some concerns to Carter whether the House should approve property transfers in a new treaty. The Executive Branch asserted that treaties, being the “supreme law of the land,” were a valid means “to transfer property without requiring legislation.” To avoid potential legal conflicts, Brzezinski confirmed that the

¹⁵ Robert B Carney, George Anderson, Arleigh A. Burke and Thomas H. Moore, “Letter to the President” (JCPL, Chief of Staff Jordan, box 36, Confidential File - Panama Canal Treaty 6-7 77, June 8, 1977).

¹⁶ Storm Thurmond, Jesse Helms, John L. McClellan and Harry F. Byrd, “Letter to the President” (JCPL, Chief of Staff Jordan, box 36, Confidential File - Panama Canal Treaty 6-7 77, June 15, 1977).

¹⁷ Jimmy Carter, “Letter to Senator Harry Byrd” (JCPL, Chief of Staff Jordan, box 36, Confidential File - Panama Canal Treaty 6-7 77, July 20, 1977).

entity would be a U.S. Government agency, allowing the Merchant Marine House Committee to retain jurisdiction over certain aspects of the Canal. The note also acknowledged negotiations regarding payments to Panama under a new treaty, with an understanding that such sum should not exceed profits generated by Canal operations. But those payments were the issue that Linowitz and Bunker had to address sooner or later.¹⁸

The negotiation process then faced further complications as two events, occurring on June 16, threatened to disrupt the entire situation. The first was a diplomatic embarrassment at the OAS General Assembly in Granada. The Panamanian Foreign Minister Revilla was unsatisfied with the U.S. request to select the three Panamanians who would be on the nine-member Board of Directors of the new canal company.¹⁹ Therefore, recognizing that “los mayores avances en la mesa de negociaciones han ocurrido con el presidente Carter,” he refused to sign a joint statement with Vance without the presence of Carter.²⁰

The second threat was an article in the *Washington Post* alleging a “secret deal” between Torrijos and Gaddafi to conspire against Jews. The April meeting between the two leaders reinforced this narrative. The information, originating from antitreaty sources, aimed to discredit Torrijos and undermine the treaty. The following day, two Jewish members of Congress sought clarification from the State Department. Torrijos, angered by the allegations, confronted Lewis and expressed concerns about the media reaction on his alleged participation in an anti-Semitic campaign. He, therefore,

¹⁸ Zbigniew Brzezinski, “Memorandum for the President” (JCPL, National Security Affairs, Brzezinski Material, Country File, box 60, Panama, 1-10/77, June 13, 1977).

¹⁹ “Memorandum of Conversation,” June 15, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 160-165.

²⁰ “Las negociaciones de los tratados Torrijos-Carter draft and notes,” 332.

instructed the negotiators to explain his viewpoint clearly and to return to Panama for consultations, without breaking off the negotiation.²¹

The U.S. Ambassadors were already stressed because of the poor results from a preceding meeting that had aimed to address key issues for Senate approval of a treaty. In fact, only a minority of the fourteen Senators present supported the pacts. So, the discussion quickly turned to the anti-treaty Senators who even wondered whether allowing the Panamanian flag to be flown in the Canal Zone in the early 1960 was a mistake.²² Nevertheless, according to Clymer, Linowitz also met with Howard H Baker Jr. (R-TN), the Senate minority leader, in June. Although he refrained from publicly expressing his stance on the treaties until the ratification process, he ultimately chose to endorse the cause after Linowitz updated him about the ongoing talks.²³

The Panamanians finally returned to Washington on June 18 and met with Bunker and Linowitz. Escobar expressed discontent with the perceived attitude of the U.S. negotiators. He emphasized Panama's historical struggle for national liberation and criticized what he saw as injurious proposals undermining his country's dignity. Escobar then proceeded to contest the U.S. right to appoint top canal officials, insisting that Panama should exclusively choose Panamanians for these positions. He remarked the complaints Torrijos had made before, i.e. an international campaign aimed at weakening Panama's negotiating stance, and vehemently denying allegations of discrimination against people of Jewish origin. He also hinted that Washington was playing a role in this smear tactic, accusing the U.S. team to be Janus-faced, negotiating with one hand while allegedly being behind the plan to discredit Torrijos with the other

²¹ Jorden, *Panama Odyssey*, 403-404.

²² "Memorandum of Conversation," June 16, 1977, in *FRUS, 1977-1980*, vol. 29, *Panama*, 165-167.

²³ Clymer, *Drawing the Line at the Big Ditch*, 48; James L. Annis, *Howard Baker: Conciliator in an Age of Crisis*, 2nd ed. (Knoxville, TN: Howard Baker Center, 2017), 123.

behind its back. Escobar went so far as to say they were planning the assassination of the *jefe*. In fact, a U.S. soldier, who had shot a Panamanian guard a few days earlier, had “apparently made a confession which became the cause for Torrijos’ concern that there was actually a plot under way to assassinate him.”²⁴ Escobar – after criticizing, once again, the U.S. concepts for an economic settlement – concluded by announcing their intention to return home unless there was a change in the discussed issues.²⁵

The day following this tumultuous episode, the meeting between Bunker, Linowitz, Jorden and Lewis resumed on a more constructive note. They focused on the lack of U.S. interest in considering the economic settlement crucial to Panama, and the method of selecting the Panamanians for the canal’s administrative hierarchy. Bunker reiterated that the Congress could not appropriate funds and that the annuity for Panama, should result from the canal’s revenue. Lewis proposed to form a high-level group of economic specialists from both countries to discuss financial matters. He did not mention (or was not aware) that the Panamanian economic team was already working alone on the matter from at least two weeks. Bunker then promised to discuss Lewis’s suggestion with the White House.²⁶

The following day, Linowitz articulated his position on compensation in a memo for the negotiating team. The eventual aid program would “involve the cooperation and guidance of the United States and the international agencies [...] in putting together an acceptable package of appropriate size and content which might meet requisite criteria of AID, the international institutions, and in due course the private sector.” He also suggested that Carter should contact Torrijos to convey the U.S.’s eagerness to meet

²⁴ “Memorandum for the Files,” June 20, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 168-174.

²⁵ Jorden, *Panama Odyssey*, 405.

²⁶ Jorden, *Panama Odyssey*, 406-408.

Panama's economic requirements. However, the President should remind him that "there are limitations on what can be properly made part of the treaty as a financial arrangement."²⁷

On June 20, Bunker and Linowitz agreed that Panama could name its own people to the Board of Directors, with consultation and replacement mechanisms in place. Distinctions were made between the board and key administrative positions. The U.S. agency running the canal would be allowed to dismiss individuals for incompetence but only the Panamanian Government would have the power to nominate any replacements. This agreement was crucial as it led to the return of the Panamanian negotiators to Washington at Torrijos' behest.²⁸

5.3 – Barletta's Requests

On June 21, Brzezinski informed the President that the schedule and maybe the whole negotiation process were, once again, at risk. He reported that the first Panamanian informal economic demands were \$150 million a year (equivalent of 755 million in today's dollars) during the validity of the new treaty and \$465 million (equivalent of 2,340 million) as an initial payment, that was even more than Escobar's first proposal and, obviously, way more than Congress would ever accept. The U.S. Ambassadors then countered a combination of payments and loans to Panama for a much smaller total sum. However, the first formal economic meeting would only be held on June 23.²⁹

²⁷ "Memorandum for the Files."

²⁸ Jorden, *Panama Odyssey*, 408-409.

²⁹ Zbigniew Brzezinski "Memorandum for the President" (JCPL, Chief of Staff Jordan, box 36, Confidential File - Panama Canal Treaty 6-7 77, June 21, 1977).

The following day, while the Panamanian negotiators were flying to Washington, López-Guevara delivered a speech at the Pan American Society of San Francisco claiming that “Panama endeavors to complete its process of Independence” raising the problem of compensation as crucial aspect.³⁰ He stated that there was a clear disparity in the U.S. assets as opposed to the nearly negligible Panamanian benefits.

Panama is paid only \$2,320,000 per annum in comparison with the political and strategic advantages that the control of the Canal Zone and of the Canal represents for the United States. Fourteen military bases have been established by the United States in Panama without any authorization in the treaty. [...] These bases, besides being unauthorized, are free. Panama does not receive a single penny for the use of its soil to establish those military compounds while in other countries the United States pays hundreds of millions of dollars.³¹

Also, Torrijos told the press that “la compensación económica será el punto principal de la nueva ronda de conversaciones que se iniciaría en Washington a partir del próximo jueves 23 de junio.” Escobar stated something similar, indicating that the compensation and the administration issues were “los dos únicos problemas que quedaban por resolver.”³²

The next meeting session began on June 23. Bunker informed the Panamanians about the formation of a group of economic specialists led by the Under Secretary of State Richard Cooper and postponed the discussion about the issue of compensation to the

³⁰ “Address delivered by special Ambassador of Panama, Dr. Carlos Alfredo López-Guevara, at the Pan American Society of San Francisco, The World Affairs Council of Northern California and the World Trade Association of San Francisco” (AMREP \ Protocolo - Discursos \ Personalidades, June 22, 1977), 3. 591-005-14-3-3.7-000010.

³¹ “Address delivered by special Ambassador of Panama.” 12. 591-005-14-3-3.7-000010.

³² Suárez, *Las negociaciones de los tratados Torrijos-Carter*, 608.

following day. Linowitz responded to the Panamanian proposals, discussing the selection of key administrative posts and the rights of U.S. canal employees. The teams reached a compromise on U.S. privileges, allowing a five-year transition period. Linowitz then proposed a plan for Panama's "increasing participation" in the canal operation – as it was one of the points of the Tack-Kissinger principles – involving a 20 percent reduction in the U.S. workforce over five years. By the end of the session, the essential features of an accord on the "Canal Entity" were agreed upon, with some technical issues delegated to a subcommittee.³³

The following day, Barletta joined the negotiators and presented Panama's position on economic arrangements. He highlighted three major points. He recognized that the treaty granted the United States an open and efficient canal protected for its lifetime. He argued that the distribution of benefits from the canal had been grossly unfair for sixty-five years. He finally stressed that modernization was Panama's primary goal, but it should also be important to the United States. Barletta concluded by acknowledging the risk that Panama took in accepting the right to protect the canal, both politically – since it was unpopular among citizens – and militarily, because it could drag Panama into potential hazards. He remarked the concept López-Guevara had expressed two days before on military advantages in exchange for too little money.³⁴

Barletta also introduced his country's proposal: \$1,000 million of initial payment, 54 cents for Panama per ton of weight of the ships that would use the Canal and a payment to Panama with interest of \$18 million that the U.S. Treasury received (equivalent of roughly today's \$5,000, \$2.80 and \$270).³⁵ Bunker and Linowitz found it politically

³³ Jorden, *Panama Odyssey*, 409-410.

³⁴ Jorden, *Panama Odyssey*, 411-412.

³⁵ Suárez, *Las negociaciones de los tratados Torrijos-Carter*, 603.

impossible to include the desired compensation in the Canal Treaty. Despite recognizing the importance of economic cooperation, the U.S. negotiators emphasized the limitations within the treaty and suggested to separate assistance discussions with a high-level U.S. economic team. Barletta accepted the proposal but insisted on parallel agreements, expressing concerns about public perception in Panama. While the United States cautioned that the simultaneous fulfillment of all Panamanian expectations might jeopardize the treaty's terms, the Panamanian team acknowledged the challenge of selling a treaty lacking clear economic benefits. Nevertheless, Panama continued to leverage this aspect to secure the best possible deal.³⁶ After that meeting, there would be no new political negotiation until July.

In the meantime, the CPTAAC had met with Lakas and Torrijos to update them. The CPTAAC then communicated to the United States that they would agree to a limitation of the “quantitative” areas received – as proposed in the latest exploratory report by the Dolvin team – on the condition of the assignment greater “qualitative” areas, particularly military facilities and housing. Priority points included the reversion timing of Fuerte Amador, Curundu Heights and Flats, and the Curundu antenna field. Lakas emphasized the prompt return of Balboa and Cristóbal facilities, including repair workshops and dry docks. Washington then raised concerns about the accelerated demolition of facilities on Cerro Ancón's eastern slope, expressing displeasure. Attendees proposed and gained consensus on the importance of immediate technical work in Panama, advocating joint verification and recognition sessions for facilities

³⁶ Jorden, *Panama Odyssey*, 413-414.

through collaboration between Panamanian and U.S. negotiation technicians on the ground.³⁷

On June 29, the Venezuelan President Carlos Andrés Pérez visited Washington for a “breakfast meeting” with the two U.S. Ambassadors. They informed Pérez that progress had been made in the negotiations between the United States and Panama, but also that the main outstanding issue remained the financial arrangements. Pérez told them that he had spoken with Torrijos and provided them some insights. The Venezuelan President was practically acting as mediator. For example, he reported that the Panamanian negotiators were facing challenges in justifying the treaty to their people due to economic concerns. Torrijos needed a solution “through a treaty [that] will also provide some improvement in their standard of living. [Still,] they are aware that they are confronting internal criticism regarding the way the Canal issue is being settled.” Pérez also said that “Torrijos has the intention of submitting the treaty to a plebiscite, a measure he feels will provide the treaty with greater strength.” He added that he had warned Torrijos and his advisors against portraying the new treaty as a canal sale, emphasizing the need to avoid damage to the image of both countries. However, Pérez claimed that the Panamanians found it impossible to accept an outcome without a settlement, as they referred to U.S. negotiations with the Philippines by way of comparison. They cited substantial compensation for U.S. military bases and expressed confusion about the disparity with Panama’s situation.³⁸

Pérez knew that Panamanians were holding up a treaty to get as much money as possible. However, while sympathetic to Panama, he thought it was a serious mistake

³⁷ “Comisión Panameña de Tierras, Aguas y Administración del Canal” (AMREP \ Tratados,Acuerdos,Convenios de Panamá \ Negociaciones \ Negociaciones del Tratado del Canal Torrijos – Carter, June 24, 1977). 591 -005-14-6-6.8-6.8.06000191.

³⁸ “Memorandum of Conversation,” June 29, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 174-185.

on Torrijos' part.³⁹ His advised Linowitz, to sign a treaty first and only after some time – preferably between signing and ratification – the United States would work on an economic development program for Panama that should be the real compensation. By adopting this strategy, they would have had an economically inexpensive treaty, “saving money” for a development program. Obviously, the two aspects could not be officially linked. Basically, the Venezuelan President had advised the Ambassadors to deceive the Senate. Linowitz was reluctant to call the strategy “deceiving,” but he had in mind a similar solution. The Ambassador then suggested a funding formula involving an initial amount of \$30 to 40 million as leverage for a larger loan, contingent on the treaty’s success and Pérez expressed commitment to assisting in finding an acceptable formula for funding, acknowledging the challenges but emphasizing the need for an imaginative effort.⁴⁰

In the afternoon, the two Ambassadors gathered with General Brown and Dolvin and briefed a few Senators, including Byrd, a signer of the June 15 letter to Carter. The Congressmen expressed concerns about domestic political challenges in securing the ratification of the treaty and highlighted security and defense as key issues, despite the “reassurance” provided in the President’s response of June 20. Brown explained that “the [actual] security risks [...] [was] maintaining the status quo [in the Canal]. He also said that “in wartime [...] all ships, including those of countries at war with the United States, would have the right of passage, but that the United States would rely, as in World War II, on its capacity to intercept enemy ships before they reached the Canal.” Timing was the last significant concern for some Senators, as they urged a prompt

³⁹ Jorden, *Panama Odyssey*, 415.

⁴⁰ “Memorandum of Conversation.”

submission of the treaty. For this reason, they all recommended to involve influential figures like former President Ford.⁴¹

The two teams met informally again on July 1. The Department of Defense had previously informed Bunker and Linowitz that the Governor of Balboa in the Canal Zone had expressed serious concerns about the immediate ownership transfer of U.S. real estate to Panama. In particular, he had emphasized “that the adequate protection of employees is very important not only to the employees, both U.S. citizens and others, but to Canal management as well, [...] I anticipate labor problems which could disrupt or shut down the Canal operations.”⁴² Despite this serious information, the U.S. did not raise these issues during the meeting.

Royo and Escobar were pleased with Carter’s latest statement on the Panama talks: “I hope that we’ll have a successful conclusion this summer. We’ve been encouraged so far.”⁴³ Escobar then informed the hosts that they had spoken with Pérez too, rejecting the “counter proposal” the Venezuelan President had made on behalf of the United States. Royo said frankly that:

Dr. Escobar and I have been selected because we will be the ones responsible for defending the treaty in Panama. The defense of the treaty in the United States will involve explaining it to Congress, presenting it to the press, and convincing a certain sector of American public opinion. For us the defense of the treaty involves something further. It means that we will have to meet in public plazas or squares, in the meeting halls of universities, in union halls and address workers and speak to students, as well as appear on TV panels and answer

⁴¹ “Memorandum from the Congressional Affairs Adviser to the State Department Panama Desk (Guthrie) to Multiple Recipients,” June 30, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 186-188.

⁴² “Telegram from the Panama Canal Zone to the Department of Defense,” June 30, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 189-191.

⁴³ “The President’s News Conference,” June 30, 1977, in *PPJC, 1977*, vol. 2, 1202.

questions from our enemies. These enemies will try to portray themselves as greater patriots than we.⁴⁴

This statement shocked Linowitz and Bunker. They did not expect that their guests would act so transparently. The Panamanians then posed a crucial question to the *estadounidenses* regarding cash compensation to solve the treaty problem, suggesting a joint corporation with a capital of \$360 million (equivalent to \$1,800 million) which would include the U.S. debt to the Panama Canal Company and Panama's natural resources. The U.S. team agreed to raise the question domestically and assured the Panamanians of their commitment to satisfy the need for a cash compensation in addition to tolls and financing.⁴⁵

On July 8, Vance told Carter that formal meetings would resume on July 11, and that the two Ambassadors were discussing with Panamanians economists to find a better formula on compensations.⁴⁶ The United States would not allow more than \$35 to 40 million per year.⁴⁷ Everything was set to end the negotiations of the Panama Canal Treaty besides the economic agreements.⁴⁸ On July 11, the Panamanian delegation

⁴⁴ "Memorandum of Conversation," July 1, 1977, in *FRUS, 1977-1980*, vol. 29, *Panama*, 192-203.

⁴⁵ "Memorandum of Conversation."

⁴⁶ "Memorandum from Secretary of State Vance to President Carter," July 8, 1977, in *FRUS, 1977-1980*, vol. 29, *Panama*, 203-204

⁴⁷ Jill Schuker, "Memorandum to Hodding Carter, III" (JCPL, Chief of Staff Jordan, box 36, Confidential File - Panama Canal Treaty 6-7 77, July 8, 1977).

⁴⁸ "Las negociaciones de los tratados Torrijos-Carter draft and notes", 337. Escobar said that "los acuerdos sobre compensaciones económicas y la administración del canal son los dos únicos problemas que aún quedan por resolver." The Carter Administration – certain of the imminent conclusion of the negotiations – had already prepared a statement that began with "This summer Ambassadors Bunker and Linowitz have been concluding our negotiation on the Panama Canal." "Draft Panama Statement" (JCPL, Chief of Staff Betty Rainwater O/A Files, box 262, Presidential Statements, Transcripts, and Memos, July 11, 1977).

introduced Lt. Col. Armando Contreras – a member of the General Staff of the National Guard – as a new participant. According to Jorden, Contreras was designated to focus on matters related to land and waters, as well as on issues concerning military coordination under the treaty. The first part of the talks was all about land and waters. The Panamanian Colonel and General Dolvin discussed complex issues such as the rights of employee, duty-free imports of household effects and visa protocols for entry and exit. They managed to find resolutions through a combination of compromise and pragmatic reasoning. The United States hoped that this agreement would ease the concerns of the Panama Canal Zone Governor.⁴⁹

The following day, the Panamanian delegation brought the economic issue to the table. Surprisingly, they halved their requests on the lump-sum (from \$1 billion to \$450 million) and on the annuity (from \$300 to \$150), to demonstrate flexibility and expedite the agreement. However, the reduced amounts still appeared excessive to the United States.⁵⁰ In fact, the U.S. team was adamantly sticking to their proposal of compensation by toll increases only. They initially offered 25 cents per canal ton and then increased it to 30. They said that this formula could probably generate about \$50 million in revenues to Panama and that raising tolls did not require Congressional approval, but Panama firmly refused.⁵¹

⁴⁹ “Presentación del Teniente Coronel Armando Contreras en la Mesa principal de Negociación” (AMREP \ Tratados,Acuerdos,Convenios de Panamá \ Negociaciones \ Negociaciones del Tratado del Canal Torrijos – Carter, July 11, 1977); Jorden, *Panama Odyssey*, 416-417.

⁵⁰ Jorden, *Panama Odyssey*, 417.

⁵¹ “Minutes of a Policy Review Committee Meeting,” July 22, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 211-216.

The two teams were not able to find an agreement in the following days.⁵² Vance stated that “Panama continued to insist on an unacceptable high level of economic payments from the United States (benefits substantially beyond the Canal’s revenue generating capacity) and reopened, in some significant areas, the question of lands and waters involving the military sector.”⁵³ Furthermore, a possible setback arose when an off-the-record breakfast involving Linowitz and reporters from the *Christian Science Monitor* was leaked, leading to a media frenzy that posed a threat to the treaty effort. In fact, the news reported the “old” one-billion-dollar Panamanian economic proposal that most of the newspapers mocked.⁵⁴ The Panamanians, furious about what they perceived as to discredit them, contemplated holding a press conference to expose what they deemed as lies and bad faith on the U.S. side. In response, Lewis arranged a meeting between Linowitz and the Panamanian negotiators in which the *estadounidense* clarified the situation, providing the counterpart with a copy of his notes from the breakfast he had had with the reporters, revealing the innocuous nature of his comments.⁵⁵

⁵² Jorden, *Panama Odyssey*, 419. According to Jorden, leaving out the economic agreements, the blame for the failure to reach an agreement on land and waters lay with Contreras, as he joined the discussions and ruined the overall understanding between Dolvin and Fábrega. Suárez, on the other hand, criticizes Jorden’s position as he did not understand that this soldier had no capacity to negotiate since his presence was purely symbolic. Fábrega later revealed to Jorden that he knew perfectly well that Contreras had no authority in general. (“Las negociaciones de los tratados Torrijos-Carter draft and notes,” 338).

⁵³ “Memorandum from Secretary of State Vance to President Carter,” July 15, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 206.

⁵⁴ Suárez, *Las negociaciones de los tratados Torrijos-Carter*, 614-615.

⁵⁵ Jorden, *Panama Odyssey*, 418-419.

END OF HEARTACHE

6.1 – Another Milestone

As the Panamanian team flew back to their country, the U.S. delegation decided to involve Carter directly in the negotiation process to approve the ultimate decision for the economic compensation. On July 21, Brzezinski suggested that the President contact Torrijos and to call “a meeting of the National Security Council to consider final negotiating instructions and strategies.”¹ However, Carter made two naive diplomatic mistakes that slowed down the negotiations. In a Q&A session of July 21 in Yazoo City, MS, Carter addressed the shipment of oil from Alaska through the Panama Canal. In fact, the existing canal could not accommodate large vessels, so a workaround involved transporting the oil to the Panama area, where it was transferred to smaller vessels for further distribution. “So, in the future, I would say that we will need a new sea level Panama Canal that can handle our large warships and the large tankers and freighters that are part of international commerce now.”² He reaffirmed his views in another Q&A session in New Orleans the following day.³

The Panamanians felt like they were being deceived and that the United States were already planning to exploit the Isthmus, taking advantage of the new treaty. Jordan reported that many of his contacts close to the Panamanian Government thought that this had been the U.S. plan since the beginning, as they questioned the need for a treaty

¹ “Memorandum from the President’s Assistant for National Security Affairs (Brzezinski) to President Carter,” July 21, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 208-209.

² “Remarks and Question-and-Answer Session at a Public Meeting,” July 21, 1977, in *PPJC, 1977*, vol. 2, 1326-1327.

³ “Question-and-Answer Session with Reporters,” July 22, 1977, in *PPJC, 1977*, vol. 2, 1338.

on the existing canal if a new one was to be built. This diplomatic incident led to a period of explanation to alleviate the initially hostile reaction. Carter's staff tried to reach Lewis and the Panamanian negotiators to reassure them that a new canal would demand substantial financial investment, face uncertain congressional approval, and a lengthy construction period, so that that the President's statement was speculative rather than a concrete plan.⁴

On June 22, Carter called a meeting in the White House with the two Ambassadors and most of the Cabinet members. Under Secretary of State Richard N. Cooper reported a new economic proposal that Carter had already anticipated the previous day. It consisted of \$18 million of interest payments (which would serve as security for a loan of \$200 million); an Export-Import Bank pre-commitment to loan approximately \$100 million; an Overseas Private Investment Corporation (OPIC) loan guarantee of \$20 million; an aid package of \$80 million over five years; and increased taxes on U.S. employees. Although Bunker and Linowitz had spoken to the Panamanians of a similar plan in June, they had never proposed it to them formally.⁵ On July 26, Brzezinski suggested that Carter should express to the *jefe* a clear commitment to an early agreement. To Linowitz, direct communication with Torrijos was "crucial to preventing a breakdown in negotiations" and a way to end once and for all the controversy on the sea-level canal. Vance and the negotiators even urged Carter to meet with the Panamanian negotiating team.⁶ Ultimately, the President set a gathering for July 29.

⁴ Jorden, *Panama Odyssey*, 423.

⁵ "Minutes of a Policy Review Committee Meeting," July 22, 1977, in *FRUS, 1977-1980*, vol. 29, *Panama*, 211-216; "Memorandum from the President's Assistant for National Security Affairs (Brzezinski) to President Carter."

⁶ "Memorandum from the President's Assistant for National Security Affairs (Brzezinski) to President Carter," July 26, 1977, in *FRUS, 1977-1980*, vol. 29, *Panama*, 222-223.

The two days that preceded the new round were particularly intense for the U.S. Administration as the team still had to decide the final economic proposal. On July 28, Vance delivered a detailed memorandum to the President regarding the Policy Review Committee arrangement that might be offered to Panama in the context of the treaty negotiations, which consisted of:

1. A treaty provision for a variable annuity payment of 30 cents per Panama Canal ton transiting the Canal. [...] This offer anticipates an initial toll increase of 30 to 35 percent over existing levels. [...]
2. A best-effort commitment to a \$295 million economic cooperation program which would be implemented by separate economic arrangements including: a. An Eximbank pre-commitment of up to \$200 million for a five-year period. [...] b. AID housing investment guarantees totaling \$75 million over a five-year period. [...] c. An OPIC guarantee of \$20 million for borrowing in United States capital markets by Panama's public development bank. [...]
3. A supplement to either the annuity payment or the economic cooperation program by use of money now received as interest on U.S. net direct investment in the Canal.⁷

Vance added that the United States and Panama could engage in co-financing the revenue-producing capital development projects in the Canal area that would borrow up to \$200 million from the Federal Financing Bank. Alternatively, Washington could offer Panama an additional fixed annual payment. In this case, the latter would come from the amount that the United States received annually from the Canal Administration. "Panama might attribute part of this payment as military base 'rental.'" Vance then suggested two compensation options for an annual sum to Panama under a

⁷ Cyrus Vance, "Memorandum for the President" (JCPL, Chief of Staff Jordan, box 36, Confidential File - Panama Canal Treaty 6-7 77, July 28, 1977).

treaty: \$10 million per year (totaling \$220 million over the treaty's lifespan); or \$20 million per year, contingent on Canal revenues, with a maximum of \$440 million. Both options faced challenges due to uncertain Canal revenues, with early years projecting moderate losses.⁸

The same day, Brzezinski tried to help Carter choose the best formula. He narrowed down the issues to "How big should the package be?" and "What items should be in it?" and sketched briefly "two alternative scenarios which might follow from these decisions:"

Scenario I – If you decide on a small package or, for that matter any package which is not satisfactory to the Panamanians, then it is quite probable that negotiations will indeed breakdown. With equally high probability, there will be rioting in Panama, which will spill over into the Zone. The Canal would be jeopardized and relations with Panama and all of Latin America and the developing world would be seriously, perhaps irreparably, harmed.

Scenario II – If you decide on the full package, and the Panamanians accept it, then it is quite possible that the Senate would not ratify the treaty. All agencies agree that the fight in Congress will be much tougher if such a package exists. A defeat in the Congress on this issue will not only jeopardize the Canal and our relations with Panama and Latin America; because you will have to invest so much of your political capital in this effort, a defeat might strike a significant blow at your overall effectiveness.⁹

Brzezinski and the negotiators believed that the package Vance had proposed was the ideal compromise as it could justify the U.S. position internationally. In fact, the other Latin America countries would "readily acknowledge it as a positive and reasonable

⁸ Vance, "Memorandum for the President."

⁹ Zbigniew Brzezinski, "Memorandum for the President" (JCPL, Chief of Staff Jordan, box 36, Confidential File - Panama Canal Treaty 6-7 77, July 28, 1977).

offer, and as a result, that Torrijos will be forced to accept it.”¹⁰ In an August 3 memorandum to Vance, Brzezinski wrote “the President approved in general the approach outlined in your memorandum of July 28, 1977, subject to further reports.”¹¹

Fifteen minutes before the meeting of July 29, Carter quickly gathered with the Ambassadors. He appeared to have a change of heart as he told them that “he could not in good conscience go to the American people and explain to them that we are going to pay to give up the Canal. He said that he could justify the sharing of interest payments, the increase in tolls, and the loan guarantee package, but it was impossible to go any further.” Ultimately, Linowitz was able to reassure Carter and suggesting – during the actual meeting – to “stress his personal commitment to concluding negotiations and perhaps also mention that we will want to continue our partnership after the treaty is signed and to help Panama.” Carter thanked his negotiator and said that “he would not get into the details of the package in his discussions with the Panamanians.”¹²

The “actual” meeting was short. Carter expressed his deep appreciation for all the work that all the negotiators had done (as Linowitz had suggested) and said that he wanted to extend his personal good wishes to Torrijos. He aimed to sign a good and acceptable treaty to both the U.S. and Panamanian people. Escobar thanked the President and acknowledged that “greater progress was made in the last six months than in the previous 13 years.” Then, the Panamanian Ambassador informed Carter that Torrijos would be meeting in Bogotá with the Presidents of Mexico, Colombia, Costa Rica, Venezuela, and the Governor General of Jamaica to brief them about the negotiations. He was also planning to organize a signing ceremony of the treaties with

¹⁰ Brzezinski, “Memorandum for the President.”

¹¹ “Memorandum from Secretary of State Vance to President Carter,” July 28, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 227, footnote 4.

¹² “Memorandum of Conversation,” July 29, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 231-234.

all Latin American Presidents in Panama. Carter said that he would like to participate in the event.¹³

After the meeting, Carter signed the letter he had prepared for Torrijos. The President would point out in his memories that he “personally wrote” the message “stating in effect that we were making our last offer, and that it was ‘generous, fair, and appropriate.’”¹⁴

It may be that these proposals will be less than you had expected or wished, but I hope that you will understand that they represent the most that we could undertake to do, based on our consultations with the Congress. In my best judgment, the proposals will be generous, fair, and appropriate. [...] There will be many chances to cooperate effectively as we operate, maintain, and protect the Canal together. We fully intend to seize those opportunities.¹⁵

Carter managed to convince Torrijos to lower his economic demands by promising future cooperation and support, such as the “improvement of Panama’s economic health and development.” This proposal was not spelled out in the letter, but it is plausible that Carter was already anticipating to Torrijos that part of the compensations would come indirectly outside the treaty. Nevertheless, Carter asserted that “two most important issues remain to be resolved [...] lands and waters, and economic arrangements. The United States has made a number of major concessions [...] during the past several

¹³ “Memorandum of Conversation;” Jorden, *Panama Odyssey*, 423-424. In the end, the signing ceremony would be held in Washington.

¹⁴ Carter, *Keeping Faith*, 158.

¹⁵ “Letter From President Carter to General Torrijos,” July 29, 1977, in *FRUS, 1977-1980*, vol. 29, *Panama*, 234-235.

months.”¹⁶ In fact “for my country to make any significant further adjustments would handicap us unacceptably in operating and defending the Canal.”¹⁷

The letter had a significant impact on Torrijos and Barletta, who was not present at the meeting, as Panama’s position on compensation changed drastically. In fact, Bunker and Linowitz would outline the economic package to Barletta on August 2, emphasizing that they considered this “to be as far as [they] could go.” Notably, the Panamanians were “no longer talking about a \$460 million lump sum payment and a \$150 million annuity.”¹⁸ The two countries would find an agreement a few days after Torrijos read the letter, so that Panama would benefit from almost everything that Vance had proposed in his memorandum of July 28. But even though they had finally settled their main issue of discord, old and new problems were about to be raised during the last weeks of the negotiations.

6.2 – The Light at the End of the Tunnel?

Despite the uncertainty surrounding certain aspects of the Panama Canal Treaty in the first half of August, the U.S. team had been planning a future propaganda campaign and the formation of a Panama Committee since July. The State Department was collecting statements a few outstanding Republican personalities, such as for example

¹⁶ The two technical teams met on July 29 and August 1 but with scarce results. “Informe del Grupo Técnico de la Comisión Panameña de Tierras, Aguas y Administración del Canal” (AMREP \ Tratados,Acuerdos,Convenios de Panamá \ Negociaciones \ Negociaciones del Tratado del Canal Torrijos – Carter, July 29). 591 -005-14-6-6.8-6.8.06000248; “Requisitos de la guardia nacional para la defensa combinada del Canal de Panamá” (AMREP \ Tratados,Acuerdos,Convenios de Panamá \ Negociaciones \ Negociaciones del Tratado del Canal Torrijos – Carter, August 1). 591 -005-14-6-6.8-6.8.06000194.

¹⁷ “Letter From President Carter to General Torrijos.”

¹⁸ “Memorandum From Acting Secretary of State Christopher to President Carter,” August 2, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 236.

Ford and Kissinger, had made about the treaties. It intended to suggest that President Carter enjoyed partisan support on Panama.¹⁹ The Assistant Secretary of State for Public Affairs Hodding Carter III and his staff were working on a document entitled “Why We Are Negotiating a New Panama Canal Treaty” whose purpose was to be a road map for the ratification campaign.²⁰ Since the goal of the outreach strategy for Panama was a smooth ratification by the Senate, Carter III’s team stressed that congressional and public engagement had to be consistent. For this reason, they highlighted the need to get “responsible information to the public in a timely fashion” emphasizing the role that the U.S. negotiators may play “get[ting] out and speak.” Subsequently, the focus shifted to establishing a prominent “spontaneous” citizens committee, featuring notable conservative/moderate figures. The idea was to instruct the public on the policy toward the Canal, and to have the citizens feel actively involved in the policy process. That was of course an oxymoron, as the group was to be externally directed and form.²¹

But U.S. optimism soon turned out to be excessive. Torrijos knew that Carter had few achievements to boast about in foreign affairs and was short of time for the usually long ratification process in view of the 1978 midterm elections.²² Furthermore, if Carter’s letter to Torrijos accelerated the settlement of the economic issues, the President eventually paid the price for his remarks on the Alaskan oil and a sea-level canal only in August. In fact, when the *jefe* met with other Latin American leaders in

¹⁹ “Various Comments on the Panama Canal” (JCPL, Chief of Staff Betty Rainwater O/A Files, box 258, Comments on the Panama Canal Treaty, July 15, 1977).

²⁰ Jill A. Schuker, “Memorandum to Hodding Carter III” (JCPL, Chief of Staff Jordan, box 36, Confidential File - Panama Canal Treaty 6-7 77, July 15, 1977).

²¹ Jill A. Schuker, “Memorandum to Joseph Aragon” (JCPL, Chief of Staff Jordan, box 36, Confidential File - Panama Canal Treaty 6-7 77, July 17, 1977), 1-4.

²² Jorden, *Panama Odyssey*, 424.

Bogotá on August 5, he discussed and took seriously the provision on the sea-level canal. He stressed that Senator Gravel announced the construction of the Chiriquí-Bocas del Toro trans-isthmus pipeline to distribute oil, but that he would find the building of a new canal an easier solution.²³ The following day, the NSC informed the President that Torrijos had drafted a provision on the sea-level canal that included the option of excluding the United States and invited other countries to join with Panama in building the canal. Bunker and Linowitz rushed to persuade the Panamanians to grant the United States the authority to veto any interoceanic canal construction by third countries in Panama during the lifetime of the treaty. The Panamanians accepted the U.S. proposal with the guarantee that Washington would not build “any interoceanic canal through any other route in the territory of the Western Hemisphere.”²⁴

On the same day the most delicate issue of the last two months was resolved. Ironically, after a long series of formal and informal meetings on the matter, the two countries reached an agreement on economic compensations by cable. In the end, Panama accepted the U.S. proposal of an annuity of 30 cents per Panama Canal ton (to be adjusted to reflect inflation over the years, based upon a U.S. index); use of the U.S. interest payment (\$20 million per annum) as an additional payment to Panama of \$10 million per year fixed; and another additional \$10 million only if Canal revenues permitted.²⁵

The following day, August 7, the two teams resumed the negotiations. Referring to this meeting, Carter stated that “Ambassadors Bunker and Linowitz returned to Panama

²³ Suárez, *Las negociaciones de los tratados Torrijos-Carter*, 619.

²⁴ “Memorandum from the Assistant to the President (Jordan) and William Hyland of the National Security Council Staff to President Carter,” August 6, 1977, in *FRUS, 1977–1980*, vol. 29, 239-241.

²⁵ “Memorandum from Ambassador at Large (Bunker) and Panama Canal Treaty Co-Negotiator (Linowitz) to President Carter,” August 5, 1977; “Paper Prepared in the Department of State,” August 6, 1977, both in *FRUS, 1977–1980*, vol. 29, *Panama*, 238-239, 241-242.

and it appears that negotiations for a new treaty may be concluded very soon. [...] I expect to be able to announce conceptual agreement shortly, and pledge my best effort to show the public that the treaty will advance our legitimate national security interests.”²⁶ Once again, the President took a step too far. In fact, the following day Royo presented inadvertently a new treaty draft to the U.S. negotiators. The Panamanians had changed ideas on many things they had previously agreed on. That caused the negotiation to be delayed for three or four days. In the meantime, Carter began working intensively to secure support for the treaties. Specifically, he personally contacted all the members of the Senate and urged them to take a stand until they had reviewed the text. Despite opposition from long-time anti-treaty Senators such as Thurmond and Helms, the majority complied with Carter’s request. The President was able to secure active support from Ford and Kissinger (Ford would also be part of the Citizen Committee), and even managed to change Byrd’s mind about the treaties.²⁷

On August 11, Linowitz’s six-month contract as an ambassador expired, leaving Bunker the only chief negotiator of the U.S. delegation.²⁸ Escobar would later confess that his delegation had tried to introduce certain distinctive proposals with the expectation that, amidst an accelerated negotiation pace and prevailing uncertainty, their U.S. counterparts would respond affirmatively. There was a belief among the Panamanians that, in the final moments of deliberation, the *estadounidenses* might not engage in a meticulous examination of all presented elements, “and we thought: maybe they’ll say yes to some things because they’re as anxious and as nervous as we are. But

²⁶ “Telegram from the Department of State to Secretary of State Vance’s Delegation in Israel,” August 9, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 244-245.

²⁷ Clymer, *Drawing the Line at the Big Ditch*, 49-50.

²⁸ “Memorandum from the Assistant to the President (Jordan) and William Hyland of the National Security Council Staff to President Carter,” August 9, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 246; Jorden, *Panama Odyssey*, 428-434.

they said no.”²⁹ Actually, the political climate in Panama had worsened again, as the delay caused new turmoil. Torrijos had made the last drafts of the treaty public, using the press to engender support among citizens. However, many far left student movements protested against Escobar and Torrijos’ negotiating strategy, and especially opposed the right of the United States to have military bases in Panama for at least another twenty years.³⁰

Despite the Panamanian “low blow,” the two teams finally reached an “agreement in principle on new treaty” in the afternoon of Linowitz’s last day. After the intense meeting, Bunker and Linowitz joined with Escobar in a brief joint press conference. They announced the successful conclusion of the negotiations, even though the U.S. Ambassadors pointed out that their legal specialists would continue wording on the details as the job was not over, yet.³¹ Both teams later met with Torrijos who expressed satisfaction and pleasure at the work they had accomplished. Then Bunker and Linowitz returned to Washington to meet the President.³²

The following day, Carter introduced the negotiators to the White House Press Secretary crediting them with fostering unity among Latin American countries in their shared belief that a new treaty should effectively address Panamanian aspirations.³³ A long QnA session followed. Bunker explained that the Neutrality Treaty would “be

²⁹ Jorden, *Panama Odyssey*, 431.

³⁰ “Latin America Newsletter,” sección LAPR XI, 20, 242.

³¹ Suárez, *Las negociaciones de los tratados Torrijos-Carter*, 622; “Statement by Ambassadors Bunker and Linowitz” (JCPL, Chief of Staff Jordan, box 36, Confidential File - Panama Canal Treaty 8 77, August 11, 1977).

³² “Telegram from the Embassy in Panama to the Department of State and the White House,” August 11, 1977; “Telegram from the Department of State to Secretary of State Vance’s Delegation in England,” August 12, 1977, both in *FRUS, 1977–1980*, vol. 29, *Panama*, 249-250, 251.

³³ “Remarks of the President on the Panama Canal Treaty” (JCPL, Chief of Staff Jordan, box 36, Confidential File - Panama Canal Treaty 8 77, August 12, 1977).

presented to the OAS for accession by all the countries of the world” and every nation worldwide would be invited to express its endorsement of this neutrality arrangement. Asked how the United States would be able to defend the canal after December 31, 1999, Bunker was vague and simply stated – recognizing the overall difficulty in securing the canal in case of attack – that “[the troops and ships] would come probably from the mainland of the United States there are bases here. [...] [It would not] take very long.”³⁴ The same day, Carter notified Congress of the “reached agreement in principle,” ensuring that the Joint Chiefs of State guaranteed its form and content.³⁵

On August 18, Harold Brown brought the sea-level canal issue back into vogue. He wrote to Brzezinski that “we have nothing to lose in terms of narrowing our options, [instead, we have] something to gain - by a provision limiting us and the Panamanians to each other on a sea-level canal.”³⁶ The NSA told Carter that Torrijos was essentially indifferent to the two formulations of the sea-level provision of the new treaty. Then, he provided the President with two options, suggesting him to choose the second one:

³⁴ “Briefing by Ambassador Ellsworth Bunker and Ambassador Sol Linowitz on the Panama Canal Agreement in Principle” (JCPL, Chief of Staff Jordan, box 36, Confidential File - Panama Canal Treaty 8 77, August 12, 1977), 6, 10-12. Two days later, in another QnA session Linowitz would state “after the year 2000 [...] we will retain the right to do whatever might be necessary to assure that the neutrality of the canal is permanently maintained. There are no limits on what that might be appalled out in the treaty, so, therefore, we are not without recourse if that eventuality should come to pass.” “U.S. Panama Canal Negotiations” (AMREP \ Panamá \ Ministerio de relaciones exteriores de la República de Panamá \ Biblioteca Roberto F. Chiari - Acervo Histórico Diplomático de la República de Panamá \ Hemeroteca - Colección de Publicaciones Periódicas, August 14, 1977), 11. 591 -005-14-591-005-14-B01000047. This quote was clearly underlined in red. This may indicate that Panamanians who had access to this document were not particularly enthusiastic Linowitz’s statement.

³⁵ “Remarks of the President during Briefing on Panama Canal,” (JCPL, Chief of Staff Betty Rainwater O/A Files, box 262, Presidential Statements, Transcripts, and Memos, August 12, 1977).

³⁶ Harold Brown, “Memorandum for the Brzezinski” (JCPL, National Security Affairs, Brzezinski Material, Country File, box 60, Panama 1-10/77, August 18, 1977).

Option No. 1: The Republic of Panama and the United States of America, foreseeing the possibility that in the future a sea-level canal in Panama may have importance for international navigation, commit themselves, after the Panama Canal treaty enters into force and during its lifetime to study jointly the feasibility of a new interoceanic waterway on Panamanian territory. Therefore, if the parties agree that such waterway is necessary in the interest of the Republic of Panama, the USA and world commerce, both countries will undertake to negotiate mutually agreeable terms pertaining to the construction of the new waterway.

Option No. 2: Includes Option No. 1, plus: No new interoceanic canal will be constructed on the territory of the Republic of Panama during the lifetime of this Treaty except as herein provided or as the two governments may otherwise agree. During the lifetime of the canal-treaty the United States will not negotiate with third countries any interoceanic canal through any other route in the territory of the Western Hemisphere.³⁷

Carter ultimately followed Brzezinski's advice.³⁸ He would justify his decision to the press saying that "if it becomes necessary in the future for a sea-level canal to be constructed, we want to be sure that we have an opportunity to be involved directly in the construction and not have some possible hostile nation supplant us with our influence in the canal area."³⁹

Three days later, Escobar replied to the criticism about neutrality in a speech to the Assembly of Corregimiento Representatives. It was a remarkable example of *realpolitik*. He commented negatively on the treaty opponents who asserted that the

³⁷ "Memorandum from the President's Assistant for National Security Affairs (Brzezinski) to President Carter," August 18, 1977, in *FRUS, 1977-1980*, vol. 29, *Panama*, 255-257.

³⁸ Christine Dodson, "Memorandum for Peter Tarnoff, Executive Secretary, Department of State" (JCPL, National Security Affairs, Brzezinski Material, Country File, box 60, Panama: Canal Treaty of 1977, 8/77, August 18, 1977).

³⁹ "The President's News Conference," August 23, 1977, in *PPJC, 1977*, vol. 2, 1487.

Government was conferring upon the United States the authority to intervene in Panama beyond the year 2000. Yet, Escobar pointed out that major powers assert their right to intervene autonomously without any formal authorization, especially a country like the United States that might land its troops in small country like Panama “whenever it pleases after the year 2000, with or without a neutrality pact.” Escobar finally stated that “with the neutrality pact we are not giving the United States the right to intervene. What we are giving them is an assurance that the canal will remain permanently neutral that we are not going to close the canal to their ships or those of any other country.”⁴⁰

The Panama Canal Treaty was slowly taking shape and, for the first time since January, both countries could boast about an “agreement in principle” that, although did not cover all the technical cases, bound them on numerous aspects of the pact. This last month of negotiations, compared to the previous ones, also demonstrated a greater maturity by the two countries in tackling the various issues and misunderstandings (if we do not consider Escobar’s last-minute fixes). It is possible that tiredness from the almost one-year-long mission had softened the sharpest positions of the two teams, better predisposing them to compromise. In any case, preparations for the signing ceremony were about to begin even before the *estadounidenses* and the Panamanians could agree on an exhaustive draft of the Panama Canal Treaty.

⁴⁰ “Daily Report (Latin America) 6, no. 162” (AMREP \ Tratados,Acuerdos,Convenios de Panamá \ Negociaciones \ Negociaciones del Tratado del Canal Torrijos – Carter, August 22, 1977), 15-16. 591 - 005-14-6-6.8-6.8.06000066.

6.3 – September 7, 1977

On August 24, the drafts were almost in their final shape, and it was publicly announced that the signing ceremony would be held on September 7 in Washington.⁴¹ Brzezinski informed the President that Torrijos had proposed limiting the attendance at the signing ceremony to those Heads of State who had gathered in the Bogotá Summit. For the first time, the *jefe* seemed explicitly concerned about the problem of ratification by the Senate and was willing to help in any way he could.⁴² A few hours later, Carter called Torrijos to thank him for his support and convince him to extend the invitation to all the leaders of Latin America (except Castro). Torrijos said that “if the OAS were to issue the invitations, fewer Presidents would be likely to attend the signing ceremony than if it were the White House that would extend the invitations.” So, Carter proposed to “jointly extend an invitation and follow it up with personal messages to the Heads of State” and to involve the OAS, too. In the end, they included Canada as well because it would have been the only American country excluded besides Cuba.⁴³ For this reason, the Department of State agreed with OAS Secretary General Orfila to invite all Chiefs of State.⁴⁴

⁴¹ Suárez, *Las negociaciones de los tratados Torrijos-Carter*, 632.

⁴² Zbigniew Brzezinski, “Memorandum for the President” (JCPL, National Security Affairs, Brzezinski Material, Country File, box 60, Panama: Canal Treaty of 1977, 8/77, August 24, 1977).

⁴³ “Memorandum of Conversation,” August 24, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 257-260.

⁴⁴ “Memorandum from Acting Secretary of State Christopher to President Carter,” August 24, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 261; Dennis Chapman, “Memorandum for Rick Inderfurth” (JCPL, National Security Affairs, Brzezinski Material, Country File, box 61, Panama: Canal Treaty of 1977, 9/6-7/77, September 6, 1977). It is not clear if Surinam and Barbados participated. According to the Spanish version of the ceremony schedule, they would finally participate. “Ceremonia de firma del Tratado del Canal de 1977” (AMREP \ Protocolo y Ceremonial del Estado \ Protocolo/Notas, September 7, 1977). 591 -005-14-12-12.3000175. The ceremony became an opportunity for many Latin American countries to raise important issues to the United States Government through vice President Walter F. Mondale. Dennis

On August 29, the English and Spanish texts of the major Panama Canal agreements were complete, and Fábrega together with Dolvin were about to put the final touches to the treaty annexes and maps.⁴⁵ According to Jorden, the issues that the teams discussed on this occasion were minor questions.⁴⁶ On the other hand, Suárez claims that the matter referred to many facilities and was of primary significance for the Panamanians such as the clauses regarding the execution of Article III of the Panama Canal Treaty. In fact, these clauses ended up being longer than the treaty itself. Suárez also informed Lewis that the United States, influenced by resistant Zonians, reversed its prior agreement on the transfer of functions (firefighters, police, post office, commercial activities) to Panama. This abrupt decision aimed at allocating these facilities to the new Canal administration, but was inconsistent with the spirit of the treaty, imposed additional costs on Panama and strained its jurisdictional responsibilities. In response, Lewis threatened to resign from the Panamanian Embassy unless the U.S. overcame the matter. The issue was promptly resolved on August 29, when the United States agreed to transfer all relevant infrastructures to Panama.⁴⁷

Chapman, “Memorandum for Zbigniew Brzezinski” (JCPL, National Security Affairs, Brzezinski Material, Country File, box 61, Panama: Canal Treaty of 1977, 9/1-5/77, September 4, 1977).

⁴⁵ “Memorandum from Secretary of State Vance to President Carter,” August 29, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 270. Some detailed maps of the Land and Waters agreements, including dates when the various areas would return to Panamanian control and administration, can be found in: “Logros del Tratado Torrijos-Carter” (AMREP \ Relaciones de Panamá con los Estados Unidos de América \ Correspondencia, 1977). 591 -005-14-10-10.3001281.

⁴⁶ Jorden, *Panama Odyssey*, 446-447.

⁴⁷ Suárez, *Las negociaciones de los tratados Torrijos-Carter*, 630. The Spanish version of the Execution of Article III can be found in: “Copia del Tratado del Canal de Panamá con Memorando remitido de 8 de noviembre de 1977 y el Acuerdo para la Ejecución del Artículo III” (AMREP \ Tratados, Acuerdos, Convenios de Panamá \ Tratados Bilaterales \ Tratado), 38-119. 591 -005-14-6-6.1-6.1.01000095.

However, there was still another obstacle resulting from another misunderstanding. On September 3, López-Guevara called Lewis because he had something urgent to discuss with the U.S. team. According to Jorden, the lawyer explained that Torrijos objected to the second sentence in Article IX, the clause reading that the Panamanian law would not be applicable to events occurring in the Canal Zone before the implementation of the new treaty. Torrijos found the wording to be problematic even though he recognized the necessity of such a provision. However, Washington had already dispatched the text to the printers, rendering any alteration a substantial challenge. Still, the U.S. team decided to revise the article to stipulate that Panamanian law would apply to prior events in the Zone but “only to the extent specifically provided in prior treaties and agreements.” This formulation – albeit meaningless as Washington had never signed a treaty that gave any real jurisdiction to Panama in the Zone – revealed a more positive connotation, aligning with the Panamanians’ preferences. This event marked the final change to the text of the Panama Canal Treaty.⁴⁸

The day before the ceremony, the highest political authorities from both countries met in the White House. Together with Torrijos there were Revilla, Barletta, Lewis, and the two colonels Noriega and Bellido, who were not politicians but were still more prominent figures than the absent President Lakas. Representing the United States, there were Carter, Mondale, Vance, Brzezinski, Jorden, Pastor and Todman. The President – who believed that the presence of Latin American leaders would significantly contribute to emphasizing the importance of the issue in the Panamanian eyes – expressed a hope for live TV coverage of the signing ceremony in Panama. Torrijos reassured him that there would be. The conversations then shifted toward strategies for securing approval of the treaty in Panama, as Torrijos confirmed that he wanted to ratify the pacts via

⁴⁸ Jorden, *Panama Odyssey*, 448.

plebiscite. The *jefe* outlined plans for a substantial demonstration of support upon his return to Panama and disclosed that he had scheduled the plebiscite for October 23. The date was chosen on purpose during the school term and the rainy season to undermine students' opposition. Carter was not pleased with this decision, but he could not do much to change Torrijos's mind.⁴⁹

However, Carter inquired about the actions the United States could take to persuade the Panamanians of the treaty's benefit, since a few days earlier Torrijos had shown himself willing to help the President in dealing with the Senate. The *jefe* expressed the desire to carry back a letter from Carter to deliver the message in person to the Panamanian people.⁵⁰ Torrijos then admitted that he "never thought we would get to a final treaty. Always in the past, we had talked around it [but] we never got down to the real issues." But now, he acknowledged that Carter had introduced a new philosophy and attitude, crediting the President's actions with "an act of valor" for having gone against the grain of public opinion in his own country for months.⁵¹ In the final part of the meeting, Torrijos informed Carter that he had discussed Latin American issues with several leaders, emphasizing that the adoption of a human rights policy by the President

⁴⁹ "Memorandum of Conversation," September 6, 1977, in *FRUS, 1977-1980*, vol. 29, *Panama*, 276-277.

⁵⁰ The letter – that was meant to be shared with the Panamanian public opinion – stated that "the treaties [will] open the way for a new relationship between our peoples—a relationship of friendship and cooperation, of mutual responsibility and mutual advantage. [...] [for this reason,] I would appreciate it if you (Torrijos) would convey to the people of Panama my warmest good wishes and those of the American people. Tell them how proud I am to have been able to sign with you these historic documents. [...] The Panamanian people have been patient and understanding throughout this long process. They should know that we realize this and appreciate what it has meant. Please convey to them my great respect and tell them that we Americans look forward to the years ahead when we are working together in understanding and friendship. "Letter From President Carter to General Torrijos," September 9, 1977, in *FRUS, 1977-1980*, vol. 29, *Panama*, 282-283.

⁵¹ Jorden, *Panama Odyssey*, 451-452; "Memorandum of Conversation," 278. Torrijos said that "it was almost like jumping from an airplane without a parachute to take on this battle."

had positively influenced their attitudes. He noted that some of them had instructed their investigative agencies to change their methods.⁵²

The signing ceremony ultimately took place at the headquarters of the Organization of American States in the House of the Americas before the Representatives of twenty-seven nations of the continent. The event opened with a short speech by Orfila who stated:

los acuerdos a los que llegan los gobiernos de Panamá y Estados Unidos significan el comienzo de una nueva era en las relaciones interamericanas. Una era verdadera de interdependencia donde sea realidad sin excepción la igualdad jurídica de los Estados donde el único predominio sea el del derecho y donde ninguna circunstancia justifique el menoscabo de respecto a la persona humana.⁵³

After Orfila's statement, Carter took to the floor and briefly highlighted the importance of the event and the United States' commitment to inaugurate a new era for the relations with Latin American countries and, in general, smaller states. Torrijos's speech was more outspoken as he initially remarked the U.S. "colonial" deeds towards Panama. However, his intention was not to smear the United States, but rather highlight how Carter had been different compared to his predecessors. In fact, at the end of his speech, he complimented Carter calling him a statesman, and cited Lincoln's famous quote (which, in reality, it is now attributed to James Freeman Clarke) "a statesman is one who thinks of future generations; a politician is one who thinks of the next election."⁵⁴ Torrijos and Carter finally signed the treaties that would take their names at 7:50 p.m.

⁵² "Memorandum of Conversation," 279-280.

⁵³ Cit. in Suárez, *Las negociaciones de los tratados Torrijos-Carter*, 635.

⁵⁴ Cit. in Jorden, *Panama Odyssey*, 455; Suárez, *Las negociaciones de los tratados Torrijos-Carter*, 635-646.

Ten minutes later the television broadcast ended and the two leaders together with their delegates and the Representatives of the American States headed to the dining room.⁵⁵

Eventually, there were some protests outside the White House, mostly treaty critics and citizens concerned about dictators on the continent. In Panama, the situation was very different, as there were significantly stronger protests even before the treaties were signed. In Panama City, around fifteen hundred university and high school students rallied against the signed treaties, denouncing the U.S. right to maintain military bases until 2000. They attempted to move towards the Foreign Ministry but the National Guardsmen dispersed them swiftly with rubber truncheons and tear gas. Conversely, in the Canal Zone, approximately five hundred Zonians organized a symbolic “funeral procession” and marched carrying candles and a black box labeled “democracy.”⁵⁶

However, the majority of the citizens in Panama City, David and Colón celebrated the signing ceremony by watching it live on television. Sirens sounded from various public buildings and people rejoiced, with parties extending late into the night. Some Panamanian newspapers printed their issues with color pages for the occasion. The headlines read rhetoric-laden sentences such as “Fin al enclave colonialista,” “Lea el nuevo tratado que rompe las estacas de colonialismo,” “Sepultando quedó el tratado que ningún panameño firmó” and “Cese de injusticias que impiden igualdad.”⁵⁷ The floor debate on the ratification process in the United States started only in February.

⁵⁵ “Ceremonia de firma del Tratado del Canal de 1977.” 591 -005-14-12-12.3000175.

⁵⁶ Jorden, *Panama Odyssey*, 455-456; “La reacción opuesta al tratado,” *Matutino*, September 8, 1977, 5A. The Panamanian newspaper blamed the Ku Klux Klan for the anti-treaty procession. However, it was not the first time that the Zonians opposed Carter’s work. “Carter’s Name Booed at Canal Zone Rally,” *New York Times*, August 21, 1977, 17.

⁵⁷ Headlines from *Matutino*, September 7, 1977, 1A; *Critica*, September 7, 1977, 1; *Critica*, September 8, 1977, 1; *Matutino*, September 8, 1977, 1A.

Conversely, Torrijos' mass propaganda began almost immediately, to aid the plebiscite. As Jorden wrote: "If a new era had not yet been born, it had been conceived."⁵⁸

Nonetheless, one last misunderstanding occurred in October, once again on the neutrality issue. This time it was not the Panamanians who raised the problem. It was the U.S. Senate Foreign Relations Committee that claimed that there were significant differences of interpretation between the two countries concerning issues such as the U.S. right to act to preserve the neutrality of the Canal, the right of expeditious passage for U.S. warships, Panama's obligation to keep the Canal open in the event it became unprofitable, and U.S. rights to construct a sea-level canal.⁵⁹ The main problem was the meaning of "intervention." According to Senator Orrin G. Hatch (R-UT), this word in English is not very strong. "I am intervening right now in the colloquy between two senators. The senators are intervening with my being in a committee meeting. It is not a bad word." But in Spanish – especially in Latin Spanish – *intervención* is a word that means "if I were going to intervene in your life, I would do it with power, with police, with guns: I can break up your unions; I can break up any association you belong to."⁶⁰

Hopefully, the two delegations were able to find an agreement before the Panamanian plebiscite of October 23.⁶¹ On October 14, Carter and Torrijos signed a declaration of understanding that read, regarding the problem with the word "intervention:"

⁵⁸ Jorden, *Panama Odyssey*, 456.

⁵⁹ "Canal Treaty Hearing" (JCPL, Chief of Staff Jordan, box 36, Panama: Canal Treaty, 1977, 8/77, n.d., 1977).

⁶⁰ Cit. in Rafael A. Cárdenas, "Discusiones sobre la traducción al español de los tratados Torrijos-Carter en el Comité Judicial del Senado de los Estados Unidos luego del canje de notas," *Cátedra: Revista Especializada en Estudios Culturales y Humanísticos*, no. 6 (2022): 24-25.

⁶¹ "Talking Points for Meeting with Senators on Proposed Joint Statement of Interpretation with Panama" (JCPL, National Security Affairs, Brzezinski Material, Country File, box 61, Panama: Canal Treaty of 1977, 10/1-30-77, October 11, 1977).

The correct interpretation [...] [is] that each of the two countries shall, in accordance with their respective constitutional processes, defend the Canal against any threat to the regime of neutrality, and consequently shall have the right to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal.

This does not mean, nor shall it be interpreted as a right of intervention of the United States in the internal affairs of Panama. Any United States action will be directed at insuring that the Canal will remain open, secure and accessible, and it shall never be directed against the territorial integrity or political independence of Panama.⁶²

This declaration eventually became an integral part of the treaty (as a “clarification” of Articles IV and VI) during the Senate deliberations with the full concurrence of the Panamanians.⁶³

⁶² “Aclaración divulgada por el Presidente Carter” (AMREP \ Protocolo - Discursos \ Declaraciones \ Declaración de Presidentes, October 14, 1977).

⁶³ Jorden, *Panama Odyssey*, 480.

CONCLUSION

The Panamanian Plebiscite and the U.S. Senatorial Vote

The ratification processes in the two countries diverged significantly, in terms of both timing and modality. In fact, the Panamanian plebiscite was an instrument of ratification completely different when compared to the U.S. Senatorial vote. Moreover, in the United States, the floor debate began only in February while in Panama, Torrijos initiated the *si al plebiscito* campaign well before the signing of the treaties. Throughout September and October, major Panamanian newspapers consistently featured supportive headlines and front-page articles.¹ *La Estrella de Panamá*, for instance, stressed the forthcoming plebiscite, framing it as a democratic procedure akin to a referendum, a familiar institution in the Western world.² In fact, one of the main arguments of the opponent of the treaties, both in the United States and in the rest of the world, was the demagogic way by which Torrijos bypassed the Parliament. To promote the treaties, he established an office *ad hoc* that produced and disseminated thousands of copies of the Torrijos-Carter Treaties for the upcoming referendum, and organized speeches to exalt the agreement and to undermine criticism.³ Suárez claims that despite the media's clear endorsement of the treaties, there was also left space for those who were against them.⁴

¹ We have taken into consideration for this paragraph *La Estrella de Panamá*, *Matutino* and *Critica*.

² Ricardo Jaén Jr., "El plebiscito y el referéndum," *La Estrella de Panamá*, September 1, 1977, 4.

³ Long, *Latin America Confronts the United States*, 124.

⁴ Suárez, *Las negociaciones de los tratados Torrijos-Carter*, 660.

However, despite some critical, yet mild articles on Torrijos, no major newspaper covered opposing or even uncommitted stands on the treaty issue.⁵

Starting from September 8, plebiscite advertisements appeared massively in the press. In *Matutino* a full-page colored ad from the Panamanian Tribunal Electoral read “la patria es primero. Acude libremente al plebiscite: si o no.” The institution could not explicitly be part of the propaganda for obvious reasons. However, the choice of a big picture of the female personification of Panama with the Phrygian cap of the French revolution carrying a huge flag of Panama clearly was more than a subliminal message for the reader.⁶ As the date of the plebiscite approached, the propaganda became even more explicit. In one splash page of *La Estrella de Panama*, a big octopus representing U.S. imperialism wrapped the isthmus of Panama in its coils. Panamanians were then asked if they prefer this outcome or rather cutting off the monster’s tentacles with a machete inscribed with “Si al tratado.”⁷ *Critica* went a step further, dedicating an entire page only printing the word “si.”⁸

The plebiscite ended up being a success. An editorial of *Matutino* read “el pueblo dijo si”, as soon as only a quarter of the ballots had been counted, “y al decidirse por el SI, el pueblo panameño ha enrubado a la nación panameña hacia un mayor, más amplio,

⁵ Emilio Sinclair, “Torrijos, Cristo, Quijote,” *La Estrella de Panamá*, September 4, 1977, 2; 16. The article criticized Torrijos for wanting to act like Jesus Christ and therefore please everyone, while the columnist compared him more to a Don Quixote. Nonetheless, Sinclair did not question the goodness and importance of the treaty nor the jefe’s effort in the negotiating process.

⁶ Tribunal Electoral de Panamá, “La patria es primero,” *Matutino*, September 8, 1977, 4A.

⁷ Comité Político de ERSA, “Panameño, que prefieres...,” *Matutino*, October 22, 1977, 13A.

⁸ Asamblea Nacional de Representantes de Corregimientos, “Si,” *Critica*, October 21, 1977, 23.

más próspero y más dinámico destino.”⁹ However, taking into account the scarcity of Panamanian documentation on anti-treaty protests, “only” two out of three Panamanians, in the end, voted “yes” out of an estimated 90 percent turnout.¹⁰ Torrijos expected a majority of 80 percent to ratify the treaties but under an authoritarian regime, many opponents would comprehensively want to hide their position.¹¹ Most dissenting votes originated from a few indigenous groups, such as the Ngäbe, in the former Bocas del Toro Province, or the Guna, in San Blas. Notably, San Blas was the only province that rejected the treaties, as the Guna community was practically the only inhabitants of the area. The tribe, in fact, considered the United States the only check against the Panamanian central Government, because of Torrijos’ strong policies aimed at granting as little autonomy as possible to indigenous populations to homogenize the country. However, the province accounted for as few as 5,000 votes in total.¹²

Students’ opposition to the treaty, mainly led by left-leaning organizations, stemmed from entirely different reasons, a point emphasized several times in previous chapters.

⁹ “El pueblo dijo si,” *Matutino*, September 8, 1977, 1A, 10A. In the days following the plebiscite, some advertisements that mocked the “no al tratado” stances circulated such as “La oposición al tratado opina,” *Critica*, October 24, 1977, 8.

¹⁰ “Memorandum from Secretary of State Vance to President Carter,” October 24, 1977, in *FRUS, 1977–1980*, vol. 29, *Panama*, 332-333. Almost 800,000 Panamanians went to the polls on October 23. “Tratado del Canal de Panamá” in *Gaceta Oficial*, November 1, 1977, (no. 18,451), 241. https://web.archive.org/web/20131029194748/http://www.asamblea.gob.pa/APPS/LEGISPAN/PDF_GA_CETAS/1970/1977/18451_1977.PDF. The population of the country was roughly 1.8 million, half of which were minors according to the estimated demographic composition of poor countries with a high growth rate.

¹¹ “Memorandum from Secretary of State Vance to President Carter.” It was not the first time the *jefe* had overestimated the enthusiasm of the Panamanians. Torrijos had anticipated an audience exceeding 100,000 for the official presentation of the signed treaty. Alongside this announcement, he also disclosed plans for the plebiscite. Ultimately, approximately 70,000 individuals attended, still a significant turnout by Panamanian standards. “National Intelligence Daily Cable,” September 12, 1978, <https://www.cia.gov/readingroom/docs/CIA-RDP79T00975A030300010054-5.pdf>.

¹² Long, *Latin America Confronts the United States*, 124; “Table,” *Critica*, October 25, 1977, 1.

However, their propaganda was systematically suppressed, and some activists paid the ultimate price, such as Rita Irene Wald Jaramillo. As a student leader opposing the military dictatorship and the treaties, she was last seen on March 27, 1977, disappearing the day before she was set to begin her senior year of high school. Wald, known for co-hosting the civic-religious program “Antorcha Olivarista” on Radio Chiriquí, gained credibility and esteem among the young masses, and only in 2002 the Comisión de la Verdad de Panamá acknowledged that her death was a politically motivated assassination.¹³ Finally in 2017, the Republic of Panama formally apologized with Wald’s family who had fought for justice for decades. Along with Wald, four other Panamanians known for their opposition to the treaties – namely, Bernardo Castillo, Jorge Camacho, Demóstenes Rodríguez, and Román Rivera – suffered forced disappearances or extrajudicial executions allegedly perpetrated by agents of the Panamanian state.¹⁴

Many scholars have exhaustively studied the ratification process in the United States.¹⁵ Contrarily to the Panamanian plebiscite, the U.S. case dragged on for months and saw harsh confrontations between Senators, especially in hearings before the Foreign Relations and the Armed Services Committees. The Committee of Americans

¹³ Pablo Castillo Miranda, “Rita Wald era vigilada por el G-2 y la FEP,” *El Siglo*, July 17, 2018, <https://web.archive.org/web/20180620124532/http://elsiglo.com.pa/cronica-roja/rita-wald-vigilada-2/24068511>; Rita Irene Wald Jaramillo et al. v. Panama, Case 875-03, Report No. 34/06, Inter-Am. C.H.R., OEA/Ser.L/V/II.127 Doc. 4 rev. 1 (2007). The Comisión de la Verdad de Panamá was established in 2001 to investigate human rights violations during Torrijos’ and Noriega’s regimes. In the four years in which it operated, the Commission documented 148 cases of human rights abuses. “Truth Commission: Panama,” United States Institute of Peace, n.d., <https://web.archive.org/web/20231204025538/https://www.usip.org/publications/2001/01/truth-commission-panama>.

¹⁴ “La ruta por la soberanía 1964 – 1999,” Panel in Museo del Canal Interoceánico de Panamá, 2023.

¹⁵ The most exhaustive works are George D. Moffett III, *The Limits of Victory: The Ratification of the Panama Canal Treaties* (Ithaca, NY: Cornell University Press, 1985) and Jorden, *Panama Odyssey*.

for the Canal Treaties was announced on the day the treaties were signed and included such prominent names as former President Ford and David Rockefeller the CEO of Chase Manhattan Bank as well a leading figure of Trilateral Commission and Council of Foreign Relation think tanks. The committee struggled to secure the necessary resources to make a substantial impact. For this reason, it started working only in November.¹⁶ Conversely, many conservative groups merged and established two organizations aimed at coordinating opposition to the treaties: the Committee to Save the Panama Canal and the Emergency Coalition to Save the Canal. Their objective was to persuade the undecided Senators – mostly moderate Republicans and Southern Democrats – to vote against the ratification, rather than inform the public opinion like the Committee of Americans for the Canal Treaties did. These two organizations were the heirs to the 1966’s American Emergency Committee on the Panama Canal, created to lobby against Johnson’s decision to renegotiate the Hay–Bunau-Varilla Treaty.¹⁷

Even though Vance had only a minor role in the ratification process, he made the opening move on September 26. He cautioned the Senate Foreign Relations Committee that the rejection of the treaties would jeopardize U.S.-Panama relations, severely damage the U.S. standing in Latin America, and pose a threat to the security of the Canal. Furthermore, General Brown and Secretary Brown undertook a series of public speeches starting from this date.¹⁸ At the same time – in order to gain support from some undecided Senators who were concerned about the violation of human rights in

¹⁶ Clymer, *Drawing the Line at the Big Ditch*, 49.

¹⁷ Natasha Zaretsky, “Restraint or Retreat? The Debate over the Panama Canal Treaties and U.S. Nationalism after Vietnam,” *Diplomatic History* 25, no. 3 (June 2021): 548-49.

¹⁸ Hargrove, *Jimmy Carter as President*, 98; Vance, *Hard Choices*, 147; “Statement of the Honorable Harold Brown Secretary of Defense Before the House International Relations Committee on the Panama Canal Treaties” (JCPL, Chief of Staff Betty Rainwater O/A Files, box 258, Comments on the Panama Canal Treaty, September 26, 1977).

Panama – the Carter Administration implemented a dual strategy. On the one hand, it urged Torrijos to demonstrate to the Western world that Panama was a “fully representative democracy,” since “this perception is not shared as widely as we would hope.” Washington politely suggested that Torrijos’ Government needed to undertake a process of “democratization” by itself since Carter had no intention to interfere directly in Panama’s domestic affairs.¹⁹ On the other hand, expecting the full collaboration of Panama on the matter, the Carter Administration took a more ambiguous attitude on Panamanian human rights during numerous interviews in the months following the signing of the treaties. The strategy was to emphasize how Torrijos’ authoritarian stances had diminished over the years (in terms of alleged political exiles and murders), that the *jefe*’s extraordinary powers would expire in 1978, and that “the Panama Government record on human rights, while less than perfect, is better than that of many other regions in the Western Hemisphere.”²⁰ During this period, fifty-one (later increasing to sixty) members of the House of Representatives initiated legal action, seeking court intervention to mandate the House’s involvement in the disposal of U.S. property in Panama and the Canal Zone. Subsequently, a group of Congressmen, attorneys, private citizens and Senators such as Helms and Thurmond filed a similar lawsuit, contending that Article IV, Section 3 of the Constitution mandated the House’s participation in any disposal of U.S. property. However, these actions did not have any results.²¹

¹⁹ Robert Pastor, “Memorandum for Brzezinski” (JCPL, National Security Affairs, Brzezinski Material, President’s Correspondence with Foreign Leaders File, box 15, Panama - General Omar Torrijos Herrera, 2/77-2/78, October 27, 1977).

²⁰ “Commonly Raised Question” (JCPL, Chief of Staff Betty Rainwater O/A Files, box 258, Department of State – Panama Canal Treaty Information, October 15, 1977).

²¹ Furlong and Scranton, *The Dynamics of Foreign Policymaking*, chapter 5. Earlier in May, June, and September 1977, the Supreme Court had dismissed similar lawsuits.

After the plebiscite of October 23, numerous Senators visited Panama. Byrd led a delegation on November 9, and in mid-January 1978, while members of the Senate Foreign Relations Committee traveled to Contadora Island. However, the U.S. embassy in Panama, under Jorden, experienced fatigue and conflicts with some members of the Torrijos regime over the management of the Senators' journeys. In December, Hamilton Jordan came to aid and went to Panama to persuade Torrijos to cooperate with visiting delegations. While Jordan's travel was largely successful, he accidentally complicated the already tense relationship with the Zonians, as he chose Torrijos as a tour guide in the Canal Zone.²²

In late January 1978, the Senate Foreign Relations Committee initiated its markup sessions on the treaties. During this period, Byrd pledged public support for the treaties, with the condition that the Carter-Torrijos interpretation of the U.S. right to intervene be added as a separate article.²³ This concern arose when a poll in the *New York Times* showed that the overall support of the treaty would more than double if people "felt that the treaties provided the United States could always send in troops to keep the Canal open to ships of all Nations."²⁴ But Byrd had underestimated the reaction of Panama, as he failed to foresee an angry Torrijos vehemently rejecting the deal. In fact, a new article would have changed the body of the treaty, therefore it would have required a second plebiscite. Ultimately, Byrd and Baker revised the provision to include it as an "explanation" or "clarification" of Articles IV and VI. They essentially used and refined the statement of understanding between Carter and Torrijos of October 14. This move

²² Hargrove, *Jimmy Carter as President*, 98; Jorden, *Panama Odyssey*, 499.

²³ Hargrove, *Jimmy Carter as President*, 98-99.

²⁴ *New York Times* as quoted in "Support for the Canal Treaties Depends upon Knowledge of Security Provisions" (JCPL, Chief of Staff Betty Rainwater O/A Files, box 262, Printed Material from Private Committee of Americans for Canal Treaties (COACT), November 2, 1977).

ensured support from some Senators who, without such clarifications, would not vote in favor.²⁵ Moreover, Baker had to deal with thousands of Tennessean Republicans who were urging him to vote against the ratification.²⁶ He was in a position where the majority of his constituents were against his position, and he needed to stress the privileges that the United States would maintain in the Canal also in view of the Senate elections of November. The perception of a national retreat induced many citizens to passionately advocate for the U.S. retention of control over the Zone. As a result, Representative Philip Crane (R-IL), who headed the American Conservative Union, characterized the situation as “the cowardly retreat of a tired, toothless paper tiger.”²⁷

Nevertheless, the Carter Administration was convinced that the public opinion regarding the Panama Canal Treaties had shifted by early 1978 with polls that seemed to show increasing support. This boosted its confidence and helped garner the Senate’s approval. However, this was probably a misperception (or even a bad faith mistake), especially considering polls with questions referring to ownership and control of the Canal. In fact, throughout the ratification period and beyond, public sentiment regarding the Panama Canal Treaty remained virtually unchanged, while there was only a small overall increase in approval on matters of residual defense, territorial, or operational rights from September to April.²⁸ But even these results could be biased. Ted J. Smith

²⁵ Jorden, *Panama Odyssey*, 505-509. From a formal point of view, these two “clarifications” were however amendments to the treaty. Moreover, an understanding to the first amendment read “The agreement to maintain the regime of neutrality [...] in Article IV of the Treaty means that either of the two Parties to the Treaty may, in accordance with its constitutional processes, take unilateral action to defend the Panama Canal against any threat, as determined by the Party taking such action.” Cit. in Robert J. Sanders, “Permanent Neutrality and the Panama Canal After 1999: An Individual Study Project,” *U.S. Army War College Military Studies Program Paper* (March 31, 1989): 25.

²⁶ Zaretsky, “Restraint or Retreat?,” 535.

²⁷ Cit. in Zaretsky, “Restraint or Retreat?,” 549.

²⁸ Moffett, *The Limits of Victory*, 113-116, 209-214.

III and J. Michael Hogan demonstrate the lack of consistency in polling methods over this period of time, as the public opinion was extremely sensitive to slight variations in question wording, leading to inadvertently biased responses. They also suggest that “the key issue [to be of paramount importance to the U.S. popular sentiment] seems to have been residual U.S. rights to defend, transit, and operate the Canal,” criticizing previous studies that only highlighted the issue of control of the canal. They observed a net 45-point shift in positive responses between polls that did not specify the U.S. right to intervene in the Zone, and polls that did.²⁹

The political battle intensified in February, just one day after the floor debate began, when Senator Dennis W. DeConcini (D-AZ) introduced a little-noticed amendment regarding canal security threats in the *Congressional Record*. He expressed concerns about internal Panamanian activities posing a potential threat to the waterway.³⁰ DeConcini proposed an amendment reading that “if the Canal [was] closed, or its operations [were] interfered with,” the United States would have the right to take necessary steps “to reopen or restore operations of the Canal,” “including the use of military force in the Republic of Panama, [...] as the case may be.”³¹ The U.S. Department of State did not initially share this possible addition with Panama, anticipating Torrijos’ possible reaction, but the revised amendment emerged two weeks later and started to gain more importance within the Senate. The debate on the Panama treaties quickly became a discourse of hate and arrogance, with some Senators deliberately choosing to provoke Panamanian sensitivity, potentially leading to an

²⁹ Ted J. Smith and J. Michael Hogan, “Public Opinion and the Panama Canal Treaties of 1977,” *Public Opinion Quarterly* 51, no. 1 (Spring 1987): 5-30 (quote 16).

³⁰ Jorden, *Panama Odyssey*, 520.

³¹ Cit. in Sanders, “Permanent Neutrality and the Panama Canal After 1999,” 25.

exaggerated response, such as an insulting speech or violence, to scupper the treaties.³² One example was the attack of Robert Dole and Jesse Helms, who falsely accused Torrijos and his family of drug trafficking, and claimed that U.S. officials had received bribes to increase the annual payments to Panama.³³

On the other hand, leading advocates for the treaties in the Carter Administration expressed confidence that concerns regarding traffic projections and toll increases had been addressed. However, some of the documents they used to take this stance revealed limitations in the economic analysis, particularly on long-term projections beyond 1983. The reports lacked guaranties for the years 1983-2000 and beyond, leading to doubts about the financial viability of the Panama Canal Commission. Even the Administration's own consultants were hesitant to provide long-term assurances to the Armed Services Committee, citing uncertainties after ten years from the entry of the agreements into force.³⁴ Moffett thinks that, regarding the economic profitability, the treaties were saved from potential failure due to the inability of opponents, both within and outside Congress, to exploit the Administration's vulnerabilities and advocate for maritime interests to influence the outcome of the debate in their favor.³⁵

Even if Carter was determined to reject any "reservation" or "understanding" for the treaties, he could not prevent the Senate from approving DeConcini reservation by a vote of 75 to 23.³⁶ On March 16, the Senate passed the amended Neutrality Treaty by a

³² Jorden, *Panama Odyssey*, 520-521.

³³ Carter, *Keeping Faith*, 167.

³⁴ Moffett, *The Limits of Victory*, 190-191, 198.

³⁵ Moffett, *The Limits of Victory*, 202. His comments also take into account the implementation of legislation on financial costs in June 1979. The bill managed to pass despite evidence of Torrijos supplying arms to Daniel Ortega's Sandinistas in Nicaragua. Eizenstat, *President Carter*, 573.

³⁶ Hamilton Jordan, "Memorandum to President Carter" (JCPL, Chief of Staff Jordan, box 36, Confidential File - Panama Canal Treaty, 10, 11, 12/77 [1], n.d., 1977); Jorden, *Panama Odyssey*, 551.

vote of 68 to 32, and the Panamanians were already giving hints that they would not recognize the provision.³⁷ However, the Senators who supported the original treaty managed to find a way to “neutralize” the DeConcini reservation by amending an appendix to the Panama Canal Treaty. Frank F. Church (D-ID) introduced the following provision as a solution:

Pursuant to its adherence to the principle of nonintervention, any action taken by the United States of America in the exercise of its rights to assure that the Panama Canal shall remain open, neutral, secure, and accessible, pursuant to the provisions of this Treaty and the Neutrality Treaty and the resolutions of advice and consent thereto, [...] shall not have as its purpose or be interpreted as a right of intervention in the internal affairs of the Republic of Panama or interference with its political independence or sovereign integrity.³⁸

The second treaty passed with this clarification on April 18, by the same vote of the Neutrality Treaty.³⁹ The battle over ratification in the United States was finally over.

³⁷ Hargrove, *Jimmy Carter as President*, 101; Giovanna Ortiz, “Una neutralidad condicionada?,” *Panamá América*, May 23, 1999, <https://web.archive.org/web/20240204180313/https://www.panamaamerica.com.pa/nacion/191una-neutralidad-condicionada-62746>.

³⁸ Cit. in Jorden, *Panama Odyssey*, 625.

³⁹ Jorden, *Panama Odyssey*, 625-626.

Epilogue: Un país que no se vende

Símbolo, que identifica la tierra – Lo que comenzó mi vida y que al partir me cubrirá
[...]
Símbolo de nuestra fe y de su historia – Conservando la memoria de lo que hubo y lo que habrá
De mi tierra lo mas bueno representas – Toda el alma de la gente, de un país su identidad
Símbolo de la fe que hay en mi tierra
Símbolo, mi Canal de Panamá.⁴⁰

The 2000 New Year's Eve was the beginning of a new era in Panama. Emerging from the shadow of another military dictatorship between 1983 and 1989, followed by a significant U.S. intervention aimed at restoring democracy that, however, many perceived as a repudiation of the treaty terms, the Panamanians could finally shout out loud “¡el canal es nuestro!”⁴¹ Over a million Panamanians poured into the main streets and squares of the country between December 31 and January 1 to celebrate the definitive transfer of ownership. In particular, ecstatic crowds surrounded the Canal Administration building in celebration and all the U.S. flags were finally removed from every other administrative site in the now former Panama Canal Zone. A procession raised the flag of Panama in the very place where, 36 years earlier, the students of Instituto Nacional unwittingly got this long process started.⁴² To date, the canal remains a linchpin of global infrastructure, a testament to Panamanian stewardship fostered through the gradual transition of ownership from 1979 to 2000. This transition enabled

⁴⁰ Rubén Blades, “Símbolo (Versión Panamá),” track 11 on *Cantares del Subdesarrollo*, Rubén Blades Productions, 2009.

⁴¹ Associated Press, “To Cheers, Panama Takes Over the Canal,” *New York Times*, January 1, 2000, 15.

⁴² “Un solo territorio,” *La Estrella de Panamá*, January 1, 2000, A1; “El Canal es panameño,” *La Estrella de Panamá*, January 1, 2000, A2. As for Ancon Hill, the star and stripes flag was lowered a few months after the treaty came into force in 1979.

Panamanians to glean invaluable insights from former U.S. administrators, ensuring proficient management of the waterway. But an increase in demand and international trade, and evolving ship sizes necessitated larger channels and docks. Thus, a comprehensive expansion plan was proposed and endorsed via a 2006 referendum. Construction spanned from 2007 to 2016, once again overseen solely by Panamanian hands, reaffirming their capability to navigate the complexities of this vital conduit.⁴³

The signing of the Panama Canal Treaties represented a turning point in the history of both countries and, more generally, in the history of international relations between unequal powers. However, this process was not free from contradictions and errors on the part of the two contractors. Carter's neo-Wilsonism and human rights policy clashed with the stark reality: a country, Panama, very far from being a complete democracy. What was to be done? To protect the human rights of Panamanians indirectly, by "giving away" the canal into the hands of a possible dictator, or to use military superiority and sovereignty over the canal to impose a change of regime in the country? The Carter Administration knew that it could not take an excessively paternalistic attitude towards Torrijos, which is why the issue of human rights was always presented to the *jefe* as something to be discussed outside the treaties and not as a *condicio sine qua non*. In this work we presented the case of Bob Pastor's response to the Richard and Adelaide Eisenmann's letter in which he wrote that the Administration would not refrain from addressing the human rights question because it may provoke the Panamanians. Instead, it would emphasize the significance of these rights and their connection to the solution of other pressing issues of mutual interest. But the desire to

⁴³ Walt Bogdanich, Jacqueline Williams and Ana Graciela Méndez, "The New Panama Canal: A Risky Bet," *New York Times*, June 22, 2016, <https://web.archive.org/web/20240217215051/https://www.nytimes.com/interactive/2016/06/22/world/americas/panama-canal.html>.

distance himself from the political ways that had characterized the United States for much of the Cold War prevented Carter from envisaging any decisive military action if these rights were violated. This was evident in the propaganda carried out in the last months of 1977 aimed at minimizing Torrijos' authoritarian stances, a decision that put at risk the core of his foreign policy revolution.⁴⁴

Despite this, Torrijos actually implemented a process of democratization starting in 1978. The National Assembly of Corregimiento Representatives began deliberating on constitutional changes to accommodate the evolving political landscape. This involved in the first instance amending the Constitution to legalize political parties, which had been banned since 1969, in preparation for the presidential elections scheduled for 1984. However, skepticism persisted regarding the ability of previously discredited political leaders to enact meaningful change. The Assembly, deemed the most democratic institution in the country, would temporarily elect the President and Vice President, with Torrijos declining the offer to run and Aristides Royo assuming the presidency on October 11, 1978. Royo inherited a nation experiencing relative peace and economic recovery after a decade of coup d'état, with signs of economic growth emerging in 1977 despite previous years of recession.⁴⁵

Inspired by Moffett's meticulous reconstruction of the 1978 U.S. congressional debates, our thesis aims to provide a study with the same level of detail that, however,

⁴⁴ These considerations delve into the themes explored in Hargrove, *Jimmy Carter as President*, 111-124; Nocera, *Stati Uniti e America Latina dal 1945 a oggi*, 83-89; Long, *Latin America Confronts the United States*, 230-232; Smith, *Talons of the Eagle*, 198-199; Mario Del Pero, *Libertà e impero: Gli Stati Uniti e il mondo 1776-2016* (Rome-Bari: Laterza, 2017), 367-376; Glad, *An Outsider in the White House*, 88-94; David F. Schmitz and Vanessa Walker, "Jimmy Carter and the Foreign Policy of Human Rights: The Development of a Post-Cold War Foreign Policy," *Diplomatic History* 28, no. 1 (2004): 113-143.

⁴⁵ Fernando Manfredo, Jr., *La transición del canal a Panamá: 1979-1990*, (Panama City, Panama: Autoridad del Canal de Panamá, 2014), 123-124.

covers the immediately preceding phase. In this work, we have tried to update the historiography on relations between the United States and Panama in 1977 and to describe in detail the deeds that all the negotiating teams involved carried out. In fact, over the last twenty years, the Governments of both countries have declassified and made available for research numerous documents that are fundamental to better understanding this process. In particular, the volume about Panama in the *Foreign Relations of the United States, 1977–1980* was released as late as October 2016 and neither Tom Long (who published *Latin America Confronts the United States* the year before), nor Omar Jaén Suárez were able to consult it.

Besides filling a few gaps in the previous reconstructions of the negotiations, this thesis has overcome the main limits and weaknesses of the previous historiography. Long's volume, while being the most recent study on the subject, does not focus exclusively on Panama, nor does it trace in detail the diplomacy between the two countries. *Las negociaciones de los tratados Torrijos-Carter* volume 2, published in 2005, relays on much information found in Panamanian newspapers such as *La Estrella de Panama*, that was considered the mouthpiece of the Torrijos regime. In the absence of archival documentation, the use of these biased sources has sometimes influenced many passages. For example, while Suárez has made an incredible job in reconstructing the dynamics of the technical negotiating table (also thanks to his membership in the CPTAAC), he could not investigate many U.S. presidential memoranda or formal meetings that took place at the White House. For this reason, the discussion of the various steps that led Carter to approve the definitive economic compensation and the agreement on the hypothetical sea-level canal is practically absent. Our work could also rely on the analysis of a series of sources and aimed at reconstructing the relationships between the U.S. Government and Senators, groups of interest and public opinion in

parallel with the progress of the political negotiations. This is another aspect that Suárez, who focused more on Panama, deliberately overlooked. Furthermore, we decided to go into more details into the dynamics of some crucial moments of the negotiations, such as the “secret round” and the “May round,” to be more exhaustive and investigate the techniques the various negotiating teams implemented.

Although *Panama Odyssey* has been one of the most widely used work – especially regarding the informal relationships between the protagonists – it is not technically a study. The almost novelistic structure and the absence of notes made it difficult to cite this volume at face value without questioning it. We therefore did an intense job of verifying, when possible, all the events William Jordan has examined what the official documentation supported and what did not. In many cases, we could corroborate many of Suárez’s reservations about Jordan’s work, and other times we found inconsistencies in both volumes in light of the most recent documentation. Nonetheless, it was sometimes not possible to find evidence to support one or the other version of events when the views of the two authors diverged. This is the case of the origin of the first proposal for economic compensation that Rómulo Escobar Bethancourt and Nicolás Ardito Barletta came up with on May 28. When it was possible to convert Jordan’s testimonies into “facts,” we included in the footnotes both the references of *Panama Odyssey* and the related archival document as proof of its validity. Most of the time, Jordan has offered some additional insights into the interpersonal relationships between negotiators that enrich the understanding of the process. Sometimes, however, some of his content choices have influenced a good part of the U.S. historiography that for many years has used *Panama Odyssey* as the main source for studies and chapters of books about the Torrijos-Carter Treaties. One example is the almost total absence of references to the technical negotiations between the Dolvin’s and Fábrega’s teams.

Our meticulous work on the negotiation transcripts can also serve to make the 1977 process a case study for workers in the field of international diplomacy, thanks to the richness in public documentation. In fact, the detailed analysis of formal and informal meetings, memorandums, economic and political proposals, letters, newspaper articles and testimonies of the protagonists has offered a better understanding of the different nuances of this negotiation process. We observed how Carter provided his staff with plenty of flexibility to maneuver, and how the United States changed its positions every time “bad news” arrived that foreshadowed a rejection of the treaties in the Senate. Likewise, Torrijos – who however tended to have little trust in both his team and the U.S. one – behaved more or less aggressively and with bravado depending on the domestic political climate and the economic conditions of Panama. We observed how, at a certain point, the two countries seemed not to have understood the other’s essential requests: the guarantee of neutrality for the United States and the detailed (and immediate) reversion of numerous facilities and areas of the Canal Zone to Panama. The whole negotiating process resulted in a fluctuating diplomacy, characterized, depending on the moment, by mutual distrust or mutual excitement. However, in some passages – such as the “May round” or the meetings at the Pentagon between Dolvin’s team and the CTAAC – the two countries even seemed to have the same contractual power. But apart from the compromises that certainly had to be reached and the various detractors of the treaties in both countries, the involvement of the OAS, the United Nations and intermediaries such as President Pérez was crucial. The United States itself finally changed its mind after having attempted to block the strategy of Aquilino Boyd who since 1972 had tried to internationalize the problem of the Canal by making it a multilateral issue. In fact, the cession of the Canal Zone to Panama aligned perfectly

with the reconciliation policy that Carter hoped to carry forward with the Latin American countries.

Carter's diplomatic triumph in Panama was the Administration's first major foreign policy achievement and perhaps led the President to implement his human-rights agenda with a boosted optimism. But Carter still partially failed to convince the U.S. public opinion of the validity of his battle against this remnant of colonialism. What is now generally considered a success by most, coincided with the advent of a new right opposed to the apparent "retreat" of the United States from the world's main areas of interest to the benefit, in their opinion, of the Soviet Union. The support of the old right (therefore of the protagonists of the Nixon and Ford Administrations) for the canal cause and, subsequently, Carter's immobility in Nicaragua and Iran contributed to the rise of the Neoconservatives.⁴⁶

Nonetheless, the long-term effects of Carter's political choice regarding Panama are undeniably positive. To this day, the canal maintains a central role in driving economic activities and Government revenue in Panama as it comprises three-quarters of the total non-tax revenues. Moreover, direct plus indirect contributions to the GDP exceed 5%, and in the last 25 years, the GDP per capita in the country has almost quadrupled. Furthermore, Panama is one of the very few countries with no military expenditures.⁴⁷

⁴⁶ These considerations are based on Clymer, *Drawing the Line at the Big Ditch*; Hargrove, *Jimmy Carter as President*, 111-124; Nocera, *Stati Uniti e America Latina dal 1945 a oggi*, 83-89; Long, *Latin America Confronts the United States*, 125-128, 230-232; Glad, *An Outsider in the White House*, 88-94, 104-106. LeFeber even considers the treaties a U.S. "triumph," highlighting the limited advantages that Torrijos obtained. Walter LaFeber, *The Panama Canal: The Crisis in Historical Perspective. Updated Edition* (New York: Oxford University Press, 1989), 160-161 (quote 161).

⁴⁷ All the data were taken from International Monetary Foundation Western Hemisphere Department, "Panama Growth Story," *IMF Staff Country Reports* 129, A002, March 2023, <https://web.archive.org/web/20231026173312/https://www.elibrary.imf.org/view/journals/002/2023/129/article-A002-en.xml>; "Military expenditure (% of GDP) – Panama," The World Bank,

This would have been impossible without the Torrijos-Carter Treaties. The negotiation of 1977 marked a significant milestone in international diplomacy and demonstrated the ability of two very different countries to come together to resolve complex issues peacefully and with mutual respect. It stands as a testament to the ability of nations to overcome historical tensions and forge new partnerships based on shared interests and principles, and, despite many mistakes throughout the process, it also showed the capacity of leaders to transcend political differences and work towards common goals. Sadly, what could have been the “forefather” of a new era of international relations between big and small nations, it was in reality more of an exception. Our hope is present and future leaders of the world would study this case and be inspired by all the efforts both negotiating teams had put to solve what was maybe a secondary issue or a matter of national pride for the average *estadoundense*, but was of immeasurable importance for almost all the Panamanians.

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APPENDIX A

Hay–Bunau-Varilla Treaty

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 Colombia, and the sovereignty of such territory being actually vested in the Republic of Panama, the high contracting parties have resolved for that purpose to conclude a convention and have accordingly appointed 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 Colon 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, Perico, Naos, Culebra and Flamenco.

ARTICLE III

The Republic of Panama grants to the United States all the 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 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 operations of the United States, its agents or employees, 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 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 Colon and their adjacent harbors and within the territory adjacent thereto the right to acquire by purchase or by the exercise of the 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 sanitation, such as the collection and disposition of sewage and the distribution of water in the said cities of Panama and Colon, which in the discretion of the United States may be necessary and convenient for the 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 Colon 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 Colon respectively, and the use of the water shall be free to the inhabitants of Panama and Colon, except to the extent that 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 Colon 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 Colon 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 Colon and the territories and harbors adjacent thereto in case the Republic of Panama should not be, in the judgment 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 may acquire to be property of the New Panama Canal Company and the Panama Railroad Company as a result of the transfer of sovereignty from the Republic of Colombia 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; lot 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 Colon 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 Colon 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 Colon 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 Colon 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 restrictions, 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 provisions, 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 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 tire 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 commitment 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 commitment of crimes, felonies and misdemeanors within said zone and auxiliary lands.

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 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 modification 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.

APPENDIX B

Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal

The United States of America and the Republic of Panama have agreed upon the following:

ARTICLE I

The Republic of Panama declares that the Canal, as an international transit waterway, shall be permanently neutral in accordance with the regime established in this Treaty. The same regime of neutrality shall apply to any other international waterway that may be built either partially or wholly in the territory of the Republic of Panama.

ARTICLE II

The Republic of Panama declares the neutrality of the Canal in order that both in time of peace and in time of war it shall remain secure and open to peaceful transit by the vessels of all nations on terms of entire equality, so that there will be no discrimination against any nation, or its citizens or subjects, concerning the conditions or charges of transit, or for any other reason, and so that the Canal, and therefore the Isthmus of Panama, shall not be the target of reprisals in any armed conflict between other nations of the world. The foregoing shall be subject to the following requirements:

(a) Payment of tolls and other charges for transit and ancillary services, provided they have been fixed in conformity with the provisions of Article III(c);

(b) Compliance with applicable rules and regulations, provided such rules and regulations are applied in conformity with the provisions of Article III;

(c) The requirement that transiting vessels commit no acts of hostility while in the Canal; and

(d) Such other conditions and restrictions as are established by this Treaty.

ARTICLE III

1. For purposes of the security, efficiency and proper maintenance of the Canal the following rules shall apply:

(a) The Canal shall be operated efficiently in accordance with conditions of transit through the Canal, and rules and regulations that shall be just, equitable and reasonable, and limited to those necessary for safe navigation and efficient, sanitary operation of the Canal;

(b) Ancillary services necessary for transit through the Canal shall be provided;

(c) Tolls and other charges for transit and ancillary services shall be just, reasonable, equitable and consistent with the principles of international law;

(d) As a pre-condition of transit, vessels may be required to establish clearly the financial responsibility and guarantees for payment of reasonable and adequate indemnification, consistent with international practice and standards, for damages resulting from acts or omissions of such vessels when passing through the Canal. In the case of vessels owned or operated by a State or for which it has acknowledged responsibility, a certification by that State that it shall observe its obligations under international law to pay for damages resulting from the act or omission of such vessels when passing through the Canal shall be deemed sufficient to establish such financial responsibility;

(e) Vessels of war and auxiliary vessels of all nations shall at all time be entitled to transit the Canal, irrespective of their internal operation, means of propulsion, origin, destination or armament, without being subjected, as a condition of transit, to inspection, search or surveillance. However, such vessels may be required to certify that they have complied with an applicable health, sanitation and quarantine regulations. In addition, such vessels shall be entitled to refuse to disclose their internal operation, origin, armament, cargo or destination. However, auxiliary vessels may be required to present written assurances, certified by an official at a high level of the government of the State requesting the exemption, that they are owned or operated by that government and in this case are being used only on government non-commercial service.

2. For the purposes of this Treaty, the terms "Canal," "vessel of war," "auxiliary vessel," "internal operation," "armament" and "inspection" shall have the meanings assigned them in Annex A to this Treaty.

ARTICLE IV

The United State of America and the Republic of Panama agree to maintain the regime of neutrality established in this Treaty, which shall be maintained in order that the Canal shall remain permanently neutral, notwithstanding the termination of any other treaties entered into by the two Contracting Parties.

(AMENDMENT TO ARTICLE IV)

A correct and authoritative statement of certain rights and duties of the Parties under the foregoing is contained in the Statement of Understanding issued by the Government of the United States of America on October 14, 1977, and by the Government of the Republic of Panama on October 18, 1977, which is hereby incorporated as an integral part of this Treaty, as follows:

“Under the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (the Neutrality Treaty), Panama and the United States have the responsibility to assure that the Panama Canal will remain open and secure to ships of all nations. The correct interpretation of this principle is that each of the two countries shall, in accordance with their respective constitutional processes, defend the Canal against any threat to the regime of neutrality, and consequently shall have the right to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal.

This does not mean, nor shall it be interpreted as, a right of intervention of the United States in the internal affairs of Panama. Any United States action will be directed at insuring that the Canal will remain open, secure, and accessible, and it shall never be directed against the territorial integrity or political independence of Panama.”

UNDERSTANDING: The agreement to maintain the regime of neutrality established in this Treaty in Article IV of the Treaty means that either of the two Parties to the Treaty may, in accordance with its constitutional processes, take unilateral action to defend the Panama Canal against any threat, as determined by the Party taking such action.

ARTICLE V

After the termination of the Panama Canal Treaty, only the Republic of Panama shall operate the Canal and maintain military forces, defense sites and military installations within its national territory.

ARTICLE VI

1. In recognition of the important contributions of the United States of America and of the Republic of Panama to the construction, operation, maintenance, and protection and defense of the Canal, vessels of war and auxiliary vessels of those nations shall, notwithstanding any other provisions of this Treaty, be entitled to transit the Canal irrespective of their internal operation, means of propulsion, origin, destination, armament or cargo carried. Such vessels of war and auxiliary vessels will be entitled to transit- the Canal expeditiously.

2. The United States of America, so long as it has responsibility for the operation of the Canal, may continue to provide the Republic of Colombia toll-free transit through the Canal for its troops, vessels and materials of war. Thereafter, the Republic of Panama may provide the Republic of Colombia and the Republic of Costa, Rica with the right of toll-free transit.

(AMENDMENT TO THE FIRST PARAGRAPH OF ARTICLE VI)

In accordance with the Statement of Understanding mentioned in Article IV above: “The Neutrality Treaty provides that the vessels of war and auxiliary vessels of the United States and Panama will be entitled to transit the Canal expeditiously. This is intended, and it shall so be interpreted, to assure the transit of such vessels through the Canal as quickly as possible, without any impediment, with expedited treatment, and in case of need or emergency, to go to the head of the line of vessels in order to transit the Canal rapidly.”

ARTICLE VII

1. The United States of America and the Republic of Panama shall jointly sponsor a resolution in the Organization of American States opening to accession by all nations of the world the Protocol to this Treaty whereby all the signatories will adhere to the objectives of this Treaty, agreeing to respect the regime of neutrality set forth herein.

2. The Organization of American States shall act as the depositary for this Treaty and related instruments.

ARTICLE VIII

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 Panama Canal Treaty, signed this date, are exchanged. This Treaty shall enter into force, simultaneously with the Panama Canal Treaty, six calendar months from the date of the exchange of the instruments of ratification.

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

ANNEX A

1. "Canal" includes the existing Panama Canal, the entrances thereto and the territorial seas of the Republic of Panama adjacent thereto [...], and any other interoceanic waterway in which the United States of America is a participant or in which the United States of America has participated in connection with the construction or financing, that may be operated wholly or partially within the territory or the Republic of Panama, the entrances thereto and the territorial seas adjacent thereto.

2. "Vessel of war" means a ship belonging to the naval forces of a State, and bearing the external marks distinguishing warships of its nationality, under the command of an officer duly commissioned by the government and whose name appears in the Navy List, and manned by a crew which is under regular naval discipline.

3. "Auxiliary vessel" means any ship, not a vessel of war, that is owned or operated by a State and used, for the time being, exclusively on government non-commercial service.

4. "Internal operation" encompasses all machinery and propulsion systems, as well as the management and control of the vessel, including its crew. It does not include the measures necessary to transit vessels under the control of pilots while such vessels are in the Canal.

5. "Armament" means arms, ammunitions, implements of war and other equipment of a vessel which possesses characteristics appropriate for use for warlike purposes.

6. "Inspection" includes on-board examination of vessel structure, cargo, armament and international operation. It does not include those measures strictly necessary for

admeasurement, nor those measures strictly necessary to assure safe, sanitary transit and navigation, including examination of deck and visual navigation equipment, nor in the case of live cargoes, such as cattle or other livestock, that may carry communicable diseases, those measures necessary to assure that health and sanitation requirements are satisfied.

PROTOCOL TO THE TREATY CONCERNING THE PERMANENT NEUTRALITY AND OPERATION OF THE PANAMA CANAL

Whereas the maintenance of the neutrality of the Panama Canal is important not only to the commerce and security of the United States of America and the Republic of Panama, but to the peace and security of the Western Hemisphere and to the interests of world commerce as well;

Whereas the regime of neutrality which the United States of America and the Republic of Panama have agreed to maintain will ensure permanent access to the Canal by vessels of all nations on the basis of entire equality; and

Whereas the said regime of effective neutrality shall constitute the best protection for the Canal and shall ensure the absence of any hostile act against it;

The Contracting Parties to this Protocol have agreed upon the following:

ARTICLE I

The Contracting Parties hereby acknowledge the regime of permanent neutrality for the Canal established in the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal and associate themselves with its objectives.

ARTICLE II

The Contracting Parties agree to observe and respect the regime of permanent neutrality of the Canal in time of war as in time of peace, and to ensure that vessels of their registry strictly observe the applicable rules.

ARTICLE III

This Protocol shall be open to accession by all States of the world, and shall enter into force for each State at the time of deposit of its instrument of accession with the Secretary General of the Organization of American States.

APPENDIX C

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. The 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, 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 the 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 measures 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 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 exercise of the rights and responsibilities of 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 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 on 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 operation 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 United States dollars (US\$10,000,000) per annum for the foregoing services. It is agreed that every three years from the 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 services.

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 services, 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 view of both Parties' special interest in the continuity and efficiency of the Canal 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 recommendations 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 United States Government agencies and employees operating in the Republic of Panama pursuant to this Article, shall be governed by 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 within 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 this 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 times 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 Commission on the Environment shall be established with equal representation from the United States 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 Commission on the Environment complete information on any action taken in accordance with this Treaty which, in the judgment 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 the names of said officials and their dependents, identifying the positions 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 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 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 Forces and 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 of 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-transferable 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 remuneration, or the provision of other benefits, such as home leave benefits, to United States nationals employed prior to 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 purpose of this paragraph.

7. Persons employed by the Panama Canal Commission 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 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 assumed responsibility are not 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 immediate 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 of America 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 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

1. 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. In order to provide for an orderly transition to the full application of the jurisdictional arrangements 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 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 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 (US\$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 (US\$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 (US\$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 (US\$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 procedure 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.