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THE PANAMA CANAL ZONE

SCOPE: This fact sheet deals with the issues involved in the present controversy over U.S. sovereignty over the Zone. It outlines the circumstances for U.S. acquisition of the Zone and discusses the economic and military importance of the Zone to the entire free world. It also discusses the Kissinger-Tack principles and the basic disputes concerning them.

Early Background

In possibly no other dispute does the role of the history of the issue play a more important part than in Panama; thus events surrounding the creation of the Canal Zone must be analyzed in some detail.

Prior to the 1903 revolution that created Panama, the United States seriously considered building the canal through Nicaragua.

In January, 1902, the House of Representatives voted 308-2 to build the canal through Nicaragua. However, in May, 1902, a volcano erupted in Nicaragua and discouraged the Congress from granting final approval.

Therefore, by June 28, 1902, the President was authorized to secure the right-of-way through the Panamanian isthmus in negotiations with Colombia.

Provisions were also included specifying that if negotiations with Colombia were not successful "within a reasonable time and upon reasonable terms," the President was to negotiate again with Nicaragua.

The Hay-Herran Treaty with Colombia was approved by the Senate on March 17, 1903. It provided the following essential terms: (a) rights to a six-mile wide canal zone; (b) cash payment of $10 million for this zone; (c) annual payment of $250,000 beginning in 1912; and (d) leasehold renewable in perpetuity.

However, the Colombian Senate rejected the measure both because they felt it sacrificed their sovereignty and they desired more money. They hoped to wait for the rights of a French owned company to expire in October, 1904, and then sell these assets to the U.S. for $40 million.

The United States began again to consider the Nicaraguan route when people of the Panamanian isthmus moved towards secession. Revolts in this area had occurred frequently before and on seven different occasions the United States had sent in troops to protect "free transit" on the railroad/water route. Colombia had approved these ventures.

Creation of Panama

Another revolt occurred on November 3, 1903. The United States did not directly intervene in this uprising. However, the Panama Railroad, adhering to a neutral position, refused to transport Colombian troops attempting to surpress the rebellion. The United States extended *de facto* recognition to the Panamanian government on November 6, 1903.

A new Hay-Bunau-Varilla treaty was then approved by the Senate on February 23, 1904, by a 66-14 margin. The treaty incorporated the Hay-Herran provisions but also widened the zone to ten miles and even more clearly stipulated American sovereighty over the zone.

Later Wilson negotiated a separate treaty with Colombia that provided for payment of $25 million. This was finally approved by the U.S. Senate in April, 1921. This Thomson-Urrutia treaty of April 6, 1914, provided for Colombian recognition that title to both the Canal Zone and Railroad was vested "entirely and absolutely" in the United States.

Essential points in the early history are the following:

1. The people on the Panamanian isthmus got independence and the United States got the canal. Thus both benefitted from the actions.

2. Even other countries in Latin America did not condemn the actions at that time because they fully realized the commercial value of the construction of the canal.

3. American sovereighty over the zone appeared clearly in both the initial Colombian treaty and later Panamanian treaty.

4. Since the United States could have built the canal in Nicaragua, the Panamanians realized that both to get the canal and independence from Colombia that sovereighty over the ten mile zone would have to be granted to the United States.

5. The unique national asset of the canal in Panama was literally created by the United States for them.

6. If the United States desired to give up the canal zone due to feelings of guilt over how it was obtained then the territory more reasonably should revert to Colombia rather than Panama.

The interum years: 1914 to 1964

From the opening of the canal in 1914 to 1964, few major developments occurred pertaining to the canal. In 1935 a new agreement on the $250,000 annuity allowed it to rise to $430,000. This is a continuing fulfillment of a contractual obligation which compensates for the loss of the annual franchise payment to the Panama Railroad as a result of American acquisition of sovereighty. It is not annual "rent" as noted in many accounts. In 1955 the State Department arranged a treaty with Panama which would further compensate their government with an additional $1.5 million per year grant.

In 1960 President Eisenhower allowed some Panamanian students attending school in the Zone area to fly the Panamanian flag beside the American flag and in this manner encouraged the Panamanians to believe that they did have some sovereignty within the zone. This act clearly violated the 1903 treaty. Moreover, the House reflected this view by passing by a 382-12 vote a resolution opposing display of the Panamanian flag on U.S. Canal Zone territory. This unwarranted and arbitrary indication that the United States did not have complete sovereignty over the Zone encouraged further demands by the Panamanians for some control over the Zone.

In January, 1964, extensive rioting took place in conjunction with a further dispute surrounding the flying of Panamanian flags in the Canal Zone. The Panamanians did little to restore order and before the rioting ended, four Americans and eighteen Panamanians were killed and $200 million in property damage took place. Limited American force was used to help restore order and Panama broke off diplomatic relations and charged agression against the United States before the Organization of American States. At the time President Johnson states that "...violence is never justified and is never a basis for talks." But in September he announced the United States would engage in negotiations with the Panamanian government to resolve their differences.

The 1967 Treaty and Turmoil in Panamanian Politics

In January, 1965, negotiations directed towards the completion of a new treaty began.

In September, 1965, Johnson announced in an interim progress report that areas of agreement had been reached on the following three points that would be incorporated into treaty form:

1. the 1903 treaty would be replaced completely

2. A new canal defense arrangement would be worked out

3. Provisions would be made for the construction of a new sea-level canal across Panama to accommodate larger ships.

The basic points raised then have continued to include the basic controversies involving the canal zone to the present.

On June 26, 1967, President Johnson and the new Panamanian President Robles announced they had reached a draft agreement on a three part treaty. But on July 15, 1967, the Chicago Tribune published a copy of this draft agreement that lead to vigorous dissent from the provisions in both the United States and Panama.

Panama's National Assembly rejected the agreement and even impeached Robles who was removed from office and went into exist. In the U.S. House of Representatives, 130 members cosponsored resolutions opposing any surrender of American sovereignty over the canal zone and urged that the draft treaties be rejected.

In 1968 Panaman overwhelmingly elected a candidate for President who was removed from the canal dispute but regarded as pro-American. But only eleven days after Arnulfo Arias took office in October 1968, the Panamanian National Guard overthrew his government and installed their commander, Brig. Gen. Omar Torrijos. When Torrijos visited Mexico City several months later two of his rivals seized power, but he successfully returned to Panama and threw them out. He has remained in office since then and has established a strong dictatorship. He has skillfully used the canal dispute with the United States to direct discontent in Panama at the United States.

The Kissinger Treaty

The new Panamanian government officially rejected the three draft treaties on August 5, 1970, and announced the following objectives in any further negotiations:

1. Demanding Panamanian sovereignty over the zone by ending the "in perpetuity" clause of the 1903 treaty

2. Ending American political and administrative jurisdiction over the canal zone

3. Closing most American military bases in the zone and eventually phasing all of them out

4. Reaping more economic benefits from the canal.

Once convinced that new "provisional" military regime of Torrijos would remain in power for some time, the United States considered entering negotiations again. Nixon Administration announced the resumption of negotiations on June 29, 1971, and the negotiators met until they came up with a new draft agreement on basic principles. The so-called Kissinger-Tack (Panamanian Foreign Minister Juan Tack) agreement emerged on February 7, 1974, and outlined the eight basic principles with the first three being most important:

1. The treaty of 1903 and its amendments will be abrogated by the conclusion of an entirely new interoceanic canal treaty.

2. The concept of perpetuity will be eliminated. The new treaty concerning the lock canal shall have a fixed termination date.

3. Termination of United States jurisdiction over Panamanian territory shall take place promptly in accordance with terms specified in the treaty.

Basic Disputes Concerning the Kissinger-Tack Principles

1. The issue of sovereignty:

From the flag incidents of the Eisenhower and Johnson administrations to the recent treaty, the basic concern in the United States has centered on the loss of American sovereignty in the zone. The 1903 treaty clearly gives the United States sovereignty over the territory there with the following provisions of the treaty:

> Art. II. The Republic of Panama grants to the United States in perpetuity the use, occupation and control of a zone of land...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;...

> Art. 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...which the United States would possess and exercise if it were the sovereign of the territory... to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority.

Under the treaty Panama only has "residual sovereignty." But all this means is that if the United States wants to give up its sovereignty the zone would go to Panama instead of Colombia which still has some historical claims to the territory. Professor Donald M. Dozer, one of the most respected scholars on the Canal Zone, has stated that "Our treaty rights to the Canal Zone are just as valid and strong as our rights to Louisiana, Kansas, Texas, California, Alaska, and Hawaii."

The Administration has tacitly recognized American territorial sovereignty over the Zone by agreeing that any transfer of authority over the Canal Zone to Panama would have to be approved by the U.S. House of Representatives and not simply through Senatorial approval of a new treaty. Article IV, Section 3, clause 2 of the Constitution gives "Congress...power to dispose of...the territory or other property belonging to the United States."

Without sovereignty the United States would not have effective control of the canal and be able to defend it. If Panama has sovereignty to the territory as the Kissinger principle provides then Panama would have the right to close or arbitrarily restrict traffic just as Egypt can do with the Suez Canal.

2. Negotiation position of Administrations: 1960-1975

From the first flag dispute under the Eisenhower Administration to the most recent statements by Secretary Kissinger, the executive branch of the government has consistently taken negotiating positions in defiance of the clear intent of the Congress and the American people. Hopes and expectations have been raised for Panamanians so that they fully expect to have the Canal Zone given to them and all of their basic demands met. In his appearance before the House Subcommittee dealing with the Canal Zone negotiations, William D. Rogers, United States Assistant Secretary of State for Inter-American Affairs, asserted:

> "There is no real alternative to negotiation and ratification of a new treaty. A breakdown would lead to a confrontation with Panama and a real possibility that the Canal could be close in the process."

Although the administration has already agreed to the principle of giving up American sovereignty over the canal, Secretary Kissinger nonetheless states on July 19, that he will maintain "the closest possible consultation with the entire Congress as it examines any such treaty and related legislation."

3. Economic Importance of the Canal:

Some critics of American control of the canal have contended that it is of only marginal importance because only 9% of all American trade and 1% of world trade passes through the canal. This fails to take into account the following:

a. Nearly 70% of all traffic either orginates or terminates in the United States

b. 16% of goods moving between East and West Coasts of the United States passes through the canal

c. 11% of all Japanese trade flows through the canal

d. The Latin American countries are extremely dependent upon the canal for their trade. The following table illustrates the importance of the canal to them with the per cent of their trade going through the canal:

Country (1972)	Imports	Export	Total Trade
Ecuador	50.7%	52.2%	51.4%
Chile	27.7%	49.1%	34.3%
Peru	34.4%	87.7%	41.3%
Nicaragua	-	-	76.8%
El Salvador	-	-	66.4%

e. The Latin countries thus have a vital interest in the continued operation of the canal. So although they publicly have often sided with Panama in their demands for control of the Canal Zone, many of them have privately expressed fear of Panamanian control.

4. Tolls:

The United States has held tolls at the same level since 1914 and therefore provided very economical use of the canal to all concerned. The Panamanians have expressed the view that they would raise tolls substantially if they had total control of the canal. This would have a serious inflationary impact on all goods passing through the canal. The Panamanians may disrupt the flow of traffic through such a maneuver. Stephen Rosenfeld has stated in the October issue of Foreign Affairs that "raising tolls...would risk losing cargoes to other routes and carriers."

5. Military Importance:

American military bases in Panama form a part of a triangular set of bases in the Caribbean with other installations in Puerto Rico and Guantanamo Bay. The United States maintains 10,000 military personnel in the Zone as well as 29,000 civilian employees and dependents. Troop strengths in the Zone have been reduced in recent years by 60% so that only three under-strength battalions remain on station.

Gen. George R. Mather, former Commander in Chief of the U.S. Southern Command, related the importance of the Canal Zone in testimony before the House Subcommittee on Inter-American Affairs in July 1970:

The Panama Canal continues to be important to our national defense, even in this age of nuclear weapons, and our separate Atlantic and Pacific fleets. Large carriers cannot transit the canal, but nuclear submarines do. The canal thus provides a capability for prompt redeployment of this element of our strategic capability.

The Canal played a vital need during the Indochina War supplying the Allied Forces. The number of government ships passing through the canal increased from 284 in 1965 to 1,504 in 1968. If the canal was closed to American military supplies, it would critically curtail American ability to respond to renewed threats of aggression in the Pacific.

The Panamanian Economic and Political Situation

The economy of Panama has flourished from the existence of the canal and is dependent upon it. Panama has realized "the highest annual increase in gross domestic product in the decade of the 1960s of any economy in the Western Hemisphere" according to Professor Dozer. They now have a per capital GNP of $854 compared to neighboring Colombia's $360. In addition 30% of Panama's foreign exchange earnings come from the Canal Zone; Estimates of from 13% to 30% of the Panamanian GNP comes from the operation of the canal; Approximately 50% of all private capital invested in Panama comes from the United States. Nonetheless, Torrijos has squandered much of the wealth from the canal and now has his country seriously in debt. He has adopted basically Marxist economic policies patterned after Salvador Allende's policies in Chile which destroyed that country's economy.

Panamanian politics has been characterized by instability and an absence of responsible democratic institutions since 1904. From 1903 to the present there have been 59 different Presidents of Panama. Since the end of World War II, thirteen changes of government have taken place and five of them through violence.

Costs of the Canal

1. 1903--purchase of Canal Zone from Panama: $10 million.

2. 1903--assumed the annual obligation of the Panama Railroad they had been paying to Colombia: $250,000.

3. In 1939 this annuity was raised to a $430,000 per year payment to Panama.

4. 1914 Treaty with Colombia which was ratified in 1922 resulted in a $25 million payment.

5. Purchase of titles to privately owned land and property within the zone: $161,938,571.

6. With the 1955 treaty the United States pays the government of Panama $1.5 million per year out of State Department funds.

7. Total investment, payments from 1904 to June 30, 1974, and money spent on defense of the canal have been estimated at $6,880,370,000.

8. The United States has therefore paid more money for the Panama Canal Zone than for all other territory purchases added together.

Attitudes of Americans toward the Panama Canal

In both the House and the Senate strong support for maintaining American rights in the Zone have been demonstrated on numerous occasions. A Thurmond-McClellan resolution has gained 37 Senators as sponsors. This resolution firmly backs America's continued control over the Canal Zone with three provisions, the first of which is as follows:

> The Government of the United States should maintain and protect its sovereign rights and jurisdiction over the canal and zone, and should in no way cede, dilute, forfeit, negotiate, or transfer any of these sovereign rights, power, authority, jurisdiction, territory, or property that are indispensably necessary for the protection and security of the United States and the entire Western Hemisphere.

This provision should effectively block any new treaty because two-thirds of the Senate would be needed for approval.

The House has similarly gone on record with an overwhelming vote reaffirming continued American sovereignty over the Canal Zone. On June 26, 1975, Gene Snyder offered an amendment to the State Department appropriation bill which banned the spending of any funds to "negotiate the surrender or the relinquishment of any United States rights in the Panama Canal Zone." This amendment passed by an enormous bi-partisan margin of 246-164. This provision that would effectively end negotiations was initially eliminated from the final bill emerging from the Senate-House Conference Committee. The full House defeated the conferees substitute 203-197 on September 24. The conferees then dropped the Snyder language in favor of substitute language by a close vote of 212-201. It was made clear on the floor however, that the passage of the substitute language is not an indication of Congressional approval for negotiating away U.S. sovereignty over the Zone.

The American people have reflected views similar to the Congress in various polls over the years. In the spring of 1973 the nationally televised program "The Advocates" held a debate on turning control of the Canal Zone over to the Panamanians. Of the 12,000 ballots sent in following the broadcast, 86% said the United States should not give up the Zone.

In a scientifically selected national sample of voters, the Opinion Research Corporation of Princeton polled American attitudes on the canal issue earlier this year. The results released on June 29 indicated the following:

Favor U.S. continuing ownership and control	66%
Favor turning over ownership and control to Panama	12%
No opinion	22%

A majority of the people also thought that turning the canal over to Panala would hurt both U.S. security and national economy.

Rioting in Panama on September 23, 1975

The Panamanian government released the report on the status of the canal negotiations without authorization and thus probably intended that a disturbance would follow. The crowd of 1,000 students who protested the "breakdown in negotiations" must have done so with government approval if not instigation because the Panamanian National Guard did nothing to stop the mob from stoning the U.S. Embassy. Thus the Panamanian government apparently intends to use force and the threat of force to cajole the United States into sacrificing American sovereignty in the Canal Zone. Panamanian foreign policy advisor, Julio Yao, has been quoted as saying: "If Panaman does not recover the Canal Zone no one can prevent the Panamanians from destroying, making in operative, or paralyzing the canal." If anything, the violent demonstrations should reveal the true character of both the government and political situation in Panama and further demonstrate why a valuable world asset such as the canal must remain in responsible American hands.

DM/jw
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This fact sheet was prepared at the request of a member of the Republican Study Committee. The views contained in it should not be construed as being the views of the Republican Study Committee, its officers or its members.

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Republican Study Committee
U.S. House of Representatives
134 House Office Building
Washington, DC 20515
202/225-0587