

## PANAMA - READY IN 1939?

If it were not for the Panama Canal, would Panama be anything other than another Central American state, with excellent coffee, bananas and pineapples, but otherwise of little significance. Yes, the route across the narrow isthmus, and the railway from one side to another, would have been of some use, but would have had nothing less the importance and usefulness of the Canal.

When it achieved independence from Colombia in 1903, with overt US assistance, almost the first thing it did was to give away part of its territory to the possession and control of another country, ceding what became the Canal Zone to the US Government, and with the entire Republic of Panama becoming a protectorate of the US (a situation not changed until the 1936 Treaty amended the situation with effect from 1939<sup>1</sup> – it was only in March 1939 that the US Legation in Panama was upgraded to the status of an Embassy, with a US Ambassador).

The Hay-Bunau-Varilla Treaty of 1903 (negotiated, it should be noted, by a Frenchman and not the Panamanians) granted to the US the use, occupancy and control of what became the Canal Zone, and in perpetuity<sup>2</sup>. This grant was for the land and land under water, for the construction, maintenance, operation, sanitation and protection of the Canal.

The Canal Zone consisted of a strip of land stretching 5 miles either side of the Canal, plus various adjustments, a total area of some 553 square miles (1,430 square kilometres). Its official status was that of an unincorporated territory of the US.

The Canal saw its first transit in August 1914, just as war was breaking out in Europe, this meaning that it was only officially opened to the free movement of civilian shipping in July 1920. During World War 1, Panama was an ally of the US, entering the war at the same time as the US in 1917,

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<sup>1</sup> In 1931-32, a nationalist movement allowed Harmodo Arias Madrid to become President, following a coup in 1931, and he visited Washington in 1933, meeting Roosevelt and coming away with a commitment to review the 1903 Treaty. After 110 meetings during 1934-36, the 1936 Hull-Alfaro Treaty was signed – although, as mentioned, it took until 1939 for the US Senate to finally ratify it. It had been ratified by the National Assembly of Panama, despite dissenting lawmakers maintaining that one could not trust the Americans to abide by the new commitments.

<sup>2</sup> <https://www.dipublico.org/100531/panama-usa-convention-for-the-construction-of-the-isthmian-ship-canal-1903/> The Hay-Bunau-Varilla treaty contained the same financial terms which had been previously offered to Colombia for use of the territory involved.

and seeing even less war-related activity than in World War 2 (the Imperial German Navy being by then bottled up in port).

The 1903 Treaty also extended to US control of the trans-isthmus railway (and its shipping line) and provided that –

“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”<sup>3</sup>.

It might be noted that the 1901 Hay-Paueforte<sup>4</sup> and the 1903 Hay-Bunau-Varilla Treaties implied, but did not specifically give, the right for the US to fortify the Canal Zone. Nevertheless, it was obviously important that it have defences, and Article 3 of the 1903 Treaty gave the US all powers, rights, and authority in the Canal Zone, and it took it that there was a right to fortify it. It certainly was to use this provision as a reason, or pretext, for the extensive defences it was to construct<sup>5</sup>.

As with its other US insular possessions<sup>6</sup>, following a period of military government, the US Congress passed an Act for the Canal Zone. This Panama Canal Act<sup>7</sup> provided that the Canal Zone government was to be an independent agency of the US, established by Congress and administered under the supervision of the President by a designated Governor. This Governor

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<sup>3</sup> <https://www.dipublico.org/100531/panama-usa-convention-for-the-construction-of-the-isthmian-ship-canal-1903/>

<sup>4</sup> This Treaty between the US and Great Britain was an essential legal preliminary to the US building the Canal, as there was a need to override an 1850 agreement between the two countries which had committed them to a jointly-run canal with no fortifications.

<sup>5</sup> The US Government was to maintain its position that the 1903 Treaty had had the effect of ceding sovereignty over the Canal and Canal Zone to the US. For example, in 1975, it was emphasised in the Congress that “The Canal Zone is not a ‘leased’ area, as so often misstated in the press and in reference works, but a grant in perpetuity under our full sovereign rights, power and authority and, in fact, constitutionally acquired domain of the United States” (US 94<sup>th</sup> Congress, 1<sup>st</sup> Session, 121 CONG. REC. H10417 (1975))

<sup>6</sup> Insular possessions of the US are defined as American territories outside the customs territory of the US and they now include the US Virgin Islands, Guam, American Samoa, Wake Island, Midway Islands, and Johnston Atoll.

<sup>7</sup> The Panama Canal Act of 24 August 1912 (incorporated into the Canal Zone Code with effect from 19 June 1934).

would have formal control and jurisdiction over the Canal Zone and operate it as a civil state (although, in fact, at least until World War 2, the Governor would always be a US Army officer – and that, in the event of war, he ceded most control to the Commanding General in the of the Panama Canal Department, as the US Army command in the Canal Zone was known). Congress further enacted a statutory Bill of Rights for the Canal Zone, as it also did in its other insular possessions<sup>8</sup>.

In 1933, President Roosevelt set out his Good Neighbor Policy with Latin America and, in the same year, at the Seventh Inter-American Conference in Montevideo, the US expressed a qualified acceptance of the principle of non-intervention in other states' affairs; and in 1936 it was to adopt this principle without reservation.<sup>9</sup> Following a period of negotiation, the new Hull-Alfaro Treaty between the US and Panama in 1936 addressed many of the latter's concerns over the terms and use of the 1903 Treaty. There was also in 1936 a joint statement from President Roosevelt and Panamanian President Harmodio Arias Madrid, stating that US rights in the Canal Zone applied only for the purposes of "maintenance, operation, sanitation, and protection" of the Canal. The clarification, along with a clear recognition of Panama as a sovereign nation, rather than a US protectorate, was seen as being significant.<sup>10</sup>

Of importance for what was to happen in the lead up to, and during, World War 2 was that the new Treaty was to formally abrogate the 1903 Treaty provisions relating to the US guarantee of the Republic's independence and the US right of intervention<sup>11</sup>. Instead, it substituted a process of negotiation and the purchase of land outside the Canal Zone in place of the former right of expropriation.

As the Treaty revisions radically altered the special rights enjoyed by the US in Panama, the US Senate (and the US military) was reluctant to accept the changes. Only after an exchange of

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<sup>8</sup> <https://www.fedbar.org/wp-content/uploads/2016/06/Panama-Canal-Zone-pdf-1.pdf>

<sup>9</sup> <http://countrystudies.us/panama/11.htm>

<sup>10</sup> <https://apps.dtic.mil/dtic/tr/fulltext/u2/a210486.pdf>

<sup>11</sup> The US military intervened in Panama twice during the period between the World Wars. In 1921, naval squadrons demonstrated in April on both sides of the Isthmus to prevent war between Panama and Costa Rica over a boundary dispute (the Coto War of 21 February to 5 March). In October 1925, strikes and rent riots led to the landing of about 600 US troops to keep order and protect US interests: [https://www.marines.mil/Portals/1/Publications/Panama%20Study\\_2.pdf](https://www.marines.mil/Portals/1/Publications/Panama%20Study_2.pdf)

interpretative diplomatic notes had permitted the Chairman of the Foreign Relations Committee to advise his colleagues that Panama was willing to permit the US to act unilaterally for the defence of the Canal, did the US Senate finally give its consent on 25 July 1939.<sup>12</sup>

From the opening of the Canal to 1 July 1939, the eve of the outbreak of World War 2 in Europe, some 104,417 oceangoing vessels of over 300 net tons (and 8,199 of less than 300 tons) had passed through the Canal, carrying 499,077,200 cargo-tons of freight; and the total tolls amounted to \$453,046,857.91, on a net capital investment of \$509,008,594.38 (which included \$128,991,063 compound interest on construction funds from 1904-20).<sup>13</sup>

In the late 1930s, additional construction had been either completed or planned, including extra water storage and additional locks. In 1935, the Madden Dam was created to prevent the flooding of the Chagres River, which flows into Gatun Lake – a major part of the Canal, and a man-made lake of 166 square miles (430 square km), formed by damming of the Chagres River and other smaller rivers. The original idea for a third set of locks was also a part of the plans in hand or recommended in 1939.<sup>14</sup>

With the outbreak of World War 2 in Europe, the initial reaction was to proclaim and maintain the neutrality of the Canal – as had been the case in 1914. However, there were fears of its safety from sabotage or assault, and the potential dangers it faced appeared much greater than in the first war. Panama and the US therefore swiftly concluded an Executive Agreement reaffirming the Lansing-Morales Protocol of 1914, concerned with restricting access by belligerent nations' vessels etc to the Canal Zone or the waters of the Republic.<sup>15</sup>

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<sup>12</sup> In the Exchange of Notes between the US Secretary of State and the Panamanian Minister in Washington of 1 February 1939 it was recognised that "the holding of manoeuvres or exercises by the armed forces of the United States in territory adjacent to the Canal is an essential measure of preparedness for the protection of the neutrality of the Canal". (*Neutrality, Belligerency, and the Panama Canal* by Norman J Padelford, The American Journal of International Law, Vol. 35, No. 1, January 1941).

<sup>13</sup> <https://www.usni.org/magazines/proceedings/1940/october/discussions-comments-and-notes>

<sup>14</sup> <https://www.latimes.com/world/mexico-americas/la-fg-panama-canal-timeline-20160622-snap-htmlstory.html>

<sup>15</sup> *Neutrality, Belligerency, and the Panama Canal* by Norman J Padelford (The American Journal of International Law, Vol. 35, No. 1, January 1941)

The Proclamation of Neutrality by President Roosevelt in 1939 was followed by another prescribing regulations concerning the neutral status of the Canal Zone<sup>16</sup>, with other orders and proclamations following, so that the situation was soon almost as tightly controlled as during World War 1 in 1917-18 – although initially the regulations only specified Germany, France, Poland, UK, India, Australia and New Zealand<sup>17</sup> as belligerents.<sup>18</sup>

During the late 1930s, in heightened international tensions, the US took steps to improve the security and defences of the Canal. Sabotage was a major concern.

Until the mid-1930s, except during World War 1, the locks had been guarded by the Canal Zone Police, not to prevent sabotage, but as part of its normal law and order function. 1934 manoeuvres saw the use of the Army in the role, when a company of the 14<sup>th</sup> Infantry Regiment was employed. This exercise proved the inadequacy of existing safeguards against sabotage and the Governor asked the Commanding General of the Panama Canal Department to place military guards at each set of locks, spillways and powerhouses.

The Military Lock Guard was therefore established under a directive issued on 28 July 1934, with one company from each of the 33<sup>rd</sup> and 14<sup>th</sup> Infantry Regiments (with around 100 men from each). The specific sites named in the directive were the Miraflores Locks and its diesel-electric plant, the Pedro Miguel Locks, the Gatun Locks, and the Madden Dam and hydro-electric plant.

The military shared protection of the facilities with the Canal Zone Police. The latter was responsible for checking civilians entering, while the military controlling access of military personnel. The police did not operate between 2300 and 0600, when the locks were not in operation (regular 24-hour operations did not start until the 1960s). In 1936, the local civilian watchmen used on the Canal were placed under the administration of the Canal Zone Police and Fire Division, and in 1941 they were formally transferred to that Division. During the war, of course, Army guards were used (supplemented by the Canal Zone Police), but the end of the war

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<sup>16</sup> A Proclamation Prescribing Regulations Concerning Neutrality in the Canal Zone, 5 September 1939.

<sup>17</sup> A later Proclamations of Neutrality by the US made reference to vessels of South Africa, Canada, Norway, Belgium, Netherlands and Italy.

<sup>18</sup> *Neutrality, Belligerency, and the Panama Canal* by Norman J Padelford (The American Journal of International Law, Vol. 35, No. 1, January 1941)

in 1945 saw civilian watchmen being reinstated, with a new force having responsibility for lock security, and backed up by the Canal Zone Police<sup>19</sup>.

The guard on the locks was supplemented by the Utility Guard. The number and type of facility included under its protection expanded from 1939, to include such things as filtration plants and, in 1940, transformer substations, the Panama Canal's Mechanical Division yards at Balboa and Cristobal, the Mount Hope and Balboa (fuel) Tank Farms and even the length of the Panama Railroad. The Saddle Dams at Madden Lake were also guarded<sup>20</sup>. The guard on the locks was supplemented by the Utility Guard. The number and type of facility included under its protection expanded from 1939, to include such things as filtration plants and, in 1940, transformer substations, the Mechanical Division yards at Balboa and Cristobal, the Mount Hope and Balboa Tank Farms and even the length of the Panama Railroad. The Saddle Dams at Madden Lake were also guarded<sup>21</sup>.

From 16 February 1941, the Panama Canal Department's Mobile Force would be given the role of protecting the locks and other facilities.<sup>22</sup>

A report from the commanding general of the Pacific Sector of the Canal Zone in early 1939 once again commented on the inadequacy of security. The guard was seen as inadequate, in terms of numbers and equipment (e.g. a shortage of automatic weapons). The military at the time considered that raids mounted from Panamanian territory were a strong possibility. It should be remembered that, at the time, Panama was far less developed than it is now, with a much smaller population<sup>23</sup>, and far more of the country covered by jungle and forest.

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<sup>19</sup> The military was to return to the security role in 1950-52, during hostilities in Korea.

<sup>20</sup> In November 1941, an exercise involving the Mobile Force demonstrated that a raiding party could attack to Dam, but that it would take an estimated 6,000 lb (2,725 kg) of TNT to rupture the Saddle Dam, which breach would anyway take weeks to drain the Lake.

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<sup>22</sup> *Security and Defense of the Panama Canal 1903-2000* by Charles Morris, Panama Canal Commission: <https://original-ufdc.uflib.ufl.edu/AA00047733/00001/6j>

<sup>23</sup> Half a million or less, compared to well over 4 million today.

Armed guards were placed on ships in transit through the Canal from 1939<sup>24</sup>, after a review that year found that protection from potential sabotage attacks was still inadequate, and the Canal authorities at the time considering that the greater risk came from sabotage caused by or from a transiting vessel<sup>25</sup>. Initially, the Canal authorities exempted from the inspection and guard requirements all US flag vessels, foreign passenger liners on regular runs and carrying more than 25 passengers, and British or French cargo ships that were "known to the Canal" and on a regularly scheduled voyage<sup>26</sup>. However, the War Department immediately insisted on the regulations being applied without distinction, and without regard to the "nationality, size or character" of the vessel. Ships of war "of foreign powers with whom we are on diplomatically friendly relations" were the only exceptions the War Department recognised. The only discretion the War Department permitted the local commanders was in the size of the armed guard.<sup>27</sup> After 1940, the rules and procedures were revised, with additional personnel involved and tighter controls imposed and, from 1942, the US Navy took over responsibility for this "Transit Guard", using Marines<sup>28</sup>.

From 21 September 1939, a joint board consisting of an officer from the Panama Canal Department, the Department's Atlantic and Pacific Sectors and the Canal authorities would meet regularly to discuss security requirements during the expansion of facilities in and around the Canal.

It might be noted that there was no mention of the involvement of Panama's *Policia Nacional* or Panamanian armed forces in the foregoing. The US authorities jealously guarded their rights in and over the Canal Zone, and in any case the US Army had a very low opinion of the fighting ability of any Panamanian forces. Indeed, US defence plans made only marginal reference to the

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<sup>24</sup> Supplied by the Army, the guard also included 2 US Navy personnel who oversaw the helm and telegraph engine controls for the engine(s).

<sup>25</sup> Suggested threats were such a vessel ramming lock gates, sinking itself in the locks or main channel, or dropping explosives, perhaps timed to explode much later, overboard.

<sup>26</sup> In August and September 1939, about 68% of the ships passing through the Canal were vessels of US, British, French, or Dutch registry.

<sup>27</sup> Lower risk vessels would carry a guard consisting of just 2 soldiers.

<https://www.ibiblio.org/hyperwar/USA/USA-WH-Guard/USA-WH-Guard-12.html>

<sup>28</sup> According to the Commandant of the 15<sup>th</sup> Naval District (the US Navy command for the Canal Zone), in a letter to Washington in July 1941, the transit guards on the ships passing through the Canal were "wholly ineffective and futile" (despite the Army employing 20-30 officers and 500 men "working hard but to no effect"): *Security and Defense of the Panama Canal 1903-2000* by Charles Morris, Panama Canal Commission: <https://original-ufdc.uflib.ufl.edu/AA00047733/00001/6j>

Panamanians at all. Panama had possessed no army since 1904 and its police force was not taken seriously by the US as a fighting unit. In 1942, a US Army estimate judged that the men of the National Police had little confidence in their officers and that “if a battle were to turn against them, the majority would run...”. The US Army saw the National Police only as an internal security force, and there was no suggestion that they should be trained to participate in Canal defence alongside US troops<sup>29</sup>.

To summarise, in 1939, the Canal had improving, but still sorely inadequate, defences (particularly its air defences), security was being tightened amid fears of sabotage, and the US had yet to acquire the additional defence sites outside the Canal Zone that would be essential. The relationship between the US and Panamanian Governments, which had seen some improvement following the 1936 treaty revisions, had worsened, following the election of a President who had used anti-Americanism as part of his nationalist platform. The Panamanian people had seen some improvement since the dark days of the early and mid-1930s, when the Great Depression had hit them hard, as money flowed into the Canal Zone to finance the defence improvements and from an increase in military and naval personnel, with greater commercial and employment possibilities.

While, as in 1914, the US, and hence Panama, remained neutral as war broke out in Europe, the potential threats facing the Canal – from both Germany and Japan appeared far greater than those faced in World War 1.

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14 August 2022

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<sup>29</sup> *Wasting Asset: The U.S. Re-Assessment of the Panama Canal, 1945-1949* by John Major (Journal of Strategic Studies), 2008.



