

PANAMA AND THE TREATIES

In the light of recent developments¹ it seemed timely to me to review just how the various treaties and agreements involving the US and Panama had formed the backdrop to the current position, and how the Panama Canal and Canal Zone were established, operated and eventually handed back to Panama.

Even before Ferdinand De Lessups' failed canal project began in the 1890s, the project which the US was to eventually take up and complete, the US had increasing interests in the isthmus of Panama. In the 19th Century, with movements across the Continental US difficult and lengthy, impracticable, if not impossible, advantage had been taken of the "short cut" across the narrow isthmus. During the Californian Gold Rush (1848-55), relatively few of those travelling to join the rush travelled across the continent. Many more travelled from the US east coast by steamer to Panama, crossing the isthmus and catching another ship to California.

US investment was behind the railway which opened in 1855, costing \$8 million and the lives of 5,000 to 10,000 workers (an ominous foretaste of the experience during the subsequent French canal project). The new railway both strengthened US involvement and interests in the region, and also provided a reason or excuse to intervene to protect it and US citizens.

At the time, Panama remained a province of New Granada, as Colombia was then known (until 1886, when it was renamed the Republic of Colombia), albeit somewhat remote, isolated by the Darién region with its jungle and mountains, and only really accessible from the rest of the country by sea (something which made the US-supported secession rather easier when it came).

¹ Namely the claims of President Trump in his second term, starting from before his inauguration in January 2025, of Chinese influence over Panama and the Canal, and that the US should perhaps take back the Canal.

THE BIDLACK TREATY OF 1846 (US WITH NEW GRANADA/COLOMBIA)

In 1846, the US and New Granada signed the Bidlack Treaty.² Officially entitled *Tratado de Paz, Amistad, Navegación y Comercio* ("Treaty of Peace, Friendship, Commerce and Navigation"), and was meant to represent an agreement of mutual cooperation; granting the US rights of transit across the isthmus³, and giving it the right to intervene militarily to suppress unrest and any local independence struggles by the people of Panama (this latter fact is rather at odds with the US support for Panamanian separatists in 1903).

With the new treaty as justification, the US was to intervene on many occasions, using force against civilians, peasant guerillas and those involved in independence struggles against Colombian rule.

THE CLAYTON-BULWER TREATY OF 1850 (US WITH GREAT BRITAIN)

One has to remember that, at this time, and unlike in the 20th Century, the US did not have a particularly close relationship with Latin America, with the obvious exception of its neighbour Mexico. It had had no part in the independence gained from Spain by the various former colonies in the 1820s, even if it had issued the Monroe Doctrine in 1823⁴, warning against the establishment of new European colonies in Latin America. Its involvement in Panama from the mid-19th Century was one of necessity, and it was only in the final years of the century, and particularly following the Spanish-American War of 1898, that it became more assertive and willing and able to use its military, naval and commercial power.

In the 19th Century, Britain remained the major power in the world, and had considerable interests in various parts of Latin America, including in Central America. It

² Aka the Malarino-Bidlack Treaty, or the Treaty of New Granada.

³ In 1853, the US also concluded the Gadsden Treaty with Mexico. This guaranteed to the US freedom of transit across the Isthmus of Tehuantepec should any means of transit be constructed there.

⁴ See a potted history of the Monroe Doctrine in the Annex below.

had territory that became the colony of British Honduras (modern day Belize), as well as other territorial claims on the Mosquito Coast (part of modern-day Nicaragua and Honduras) and the Bay Islands (now part of Honduras). The US negotiated (unratified) treaties with both Nicaragua and Honduras, seeking to balance British influence, while Britain maintained the right to construct a canal across Nicaragua connecting the Atlantic and Pacific – something which the US had plans for (and would continue to be the favoured route until it began construction of the Panama Canal – and even after that, and in fact to this day, the idea of a canal across that country seemed preferable to many). Tensions over a possible canal, not helped by British diplomatic opposition to the continued westward expansion of the Continental US (which Britain would eventually drop in 1857), rose between the established and the growing power.

As the British at the time controlled the area where the Atlantic entrance to any Nicaraguan canal would be, and the US had negotiated its own treaty with Nicaragua, the scene was set for a confrontation.

However, in 1850, the Clayton-Bulwer Treaty was signed between the US and Great Britain, which greatly relieved the tensions. The main concern of the new treaty was any possible canal, and its three main provisions were that neither country would build such a canal without the consent and cooperation of the other; neither would fortify nor found new colonies in the region; and, if or when a canal was built, both countries would guarantee that it would be available on a neutral basis for all shipping.

The 1850 Treaty would eventually require the US and Britain to agree a new treaty to allow the former to proceed with its plans for a canal in Panama. It also contained a provision that would become a central element of the Panama Canal to this day, that it would be a neutral waterway, and not an internal or national one.

As mentioned, in 1857, Britain ceased its diplomatic opposition to US westward expansion and, treaties between Britain and Nicaragua and Honduras settled the question of the Bay Islands (ceded to Honduras in 1860) and the Mosquito Coast (ceded to Nicaragua in 1860, although Britain maintained a presence until 1895).

THE GADSDEN TREATY OF 1853 (US WITH MEXICO)

This guaranteed to the US freedom of transit across the Isthmus of Tehuantepec in Mexico should any means of transit be constructed there.⁵ There had been plans for a US trans-continental railway, which would have passed through newly acquired, formerly Mexican, territory.

THE HAY-PAUNCEFOTE TREATY OF 1901 (US WITH GREAT BRITAIN)

Due to the Clayton-Bulwer 1850 Treaty, there was a need for the US to obtain, in effect, a waiver, and a revocation or at least an amendment of its terms if it wanted to pursue the plan of taking over the failed French canal project in Panama. The resulting Hay-Pauncefote Treaty with Great Britain of 1901⁶ has been described as the “cornerstone” of US rights in the Panama Canal. In essence, it provided that the US could not regulate the Canal in any way affecting British interests in a way that was contrary to the 1901 Treaty without risking violating that treaty, but it did amount to a waiver on the part of Great Britain of the terms of the 1850 Treaty and the rights of cooperation and partnership it contained.

One interesting point about the 1901 Treaty is that, while it allowed the US to protect the canal from “lawlessness”, it made no mention of any fortification of it. Of course, the US would put in place considerable fortifications, guns and mines to protect what it saw as a vital asset, essential to allow its fleet swift movement between the east and west coasts of the US.⁷

In 1902, the Spooner Act of Congress authorised the US President to acquire for the US all rights, grants, plants etc of the New Panama Canal Company of France. However, it also allowed the US to acquire from Colombia (or alternatively Costa Rica or Nicaragua,

⁵ The main feature of the 1853 treaty was the acquisition of 29,640 square miles (76,800 km²) on the border with Mexico, which was added to the US, initially as an addition to New Mexico Territory.

⁶ The Treaty to facilitate the Construction of a Ship Canal of 18 November 1901.

⁷ The Spanish-American War had highlighted the problems caused by ship having to travel around the tip of South America to travel from one side of the US to the other in an emergency.

if negotiations with Colombia were unsuccessful) “perpetual control of a strip of land”, and to build, operate and protect a canal in any one of those three countries.

As the construction of the Canal approached completion, the need became apparent for a more comprehensive and permanent US law concerning the Canal and Canal Zone – the Panama Canal Act, which, among other things, placed a US-appointed Governor in control of the Canal Zone.⁸

THE HAY-HERRAN TREATY OF 1903 (US WITH COLOMBIA, BUT NEVER RATIFIED)

This would have given the US the right to construct a canal in the Province of Panama. The failure of the Colombian Government to ratify this treaty led to US support of the province’s secession, the creation of the Republic of Panama, and the Hay-Bunau Varilla Treaty of 1903.

THE HAY-BUNAU VARILLA TREATY OF 1903 (US WITH PANAMA)

The 1903 Treaty governed the relationship between Panama and the US, and the rights to build and operate a canal across the isthmus, with territory ceded to the US in perpetuity (and the right to obtain further land, if required, as well as the right to intervene in Panama to maintain order).⁹ Despite subsequent supplementary treaties, this remained the cornerstone of US control of the Canal, Canal Zone, and its presence in Panama.

The 1903 Treaty provided, *inter alia*, for US control of the Canal “in perpetuity”, and for the US to have the right to take any further land it might deem necessary for the operation of the Canal or its security.

⁸ *The Panama Canal in Time of Peace* by Norman J Padelford (The American Journal of International Law, Vol 34, No 4, October 1940).

⁹ https://avalon.law.yale.edu/20th_century/pan001.asp

A continuing bone of contention for Panamanian nationalists was that the 1903 Treaty was not actually negotiated or signed by a Panamanian, but rather on its behalf by a Frenchman with commercial interests in the French company¹⁰, as well as effectively ceding sovereignty of the Canal Zone to the US. The delegation that arrived in Washington (after the treaty had been signed by its representative) immediately protested the effect on the new country's sovereignty but to no avail, and was given the threat of the new state being exposed to the return of Colombian troops as the alternative.¹¹

The US created Panama as a formal protectorate, although US officials shunned the use of the term.¹²

Despite misgivings over provisions of the new treaty, the first Constitution of the new country in 1904 recognised the facts of the 1903 Treaty, the Canal and the rights of the US and the Canal Zone.¹³ Its terms were such that, should Panama denounce or unilaterally abrogate the 1903 Treaty, the Constitution would still preserve the US rights even under Panamanian law, and hence any such move would be unconstitutional. It also recognised the right of the US to intervene in Panamanian affairs.¹⁴

¹⁰ Philippe-Jean Bunau-Varilla, former chief engineer in the failed French project, and subsequently a major shareholder in the Compagnie Nouvelle du Canal de Panama, which had acquired the concession and assets from the first failed company. In 1902, as the US Senate was considering whether to choose a Panamanian or a Nicaraguan route, he sent each senator a Nicaraguan postage stamp depicting a smoking volcano. He encouraged Panamanians to revolt and declare independence, and even designed a proposed flag for the new republic. The provisional government was to name him its plenipotentiary and negotiated in Washington on its behalf – signing the new treaty before a Panamanian delegation arrived.

¹¹ <https://www.britannica.com/biography/Philippe-Jean-Bunau-Varilla>

¹² *What Roosevelt Took: The Economic Impact of the Panama Canal, 1903-37* by Noel Maurer & Carlos Yu (Paper 06-041, Harvard Business School, 2006): <https://www.hbs.edu/ris/Publication%20Files/06-041.pdf>

¹³ Referring to the "United States of North America".

¹⁴ Although, under the 1903 Treaty, the US also guaranteed to preserve the independence of Panama.

In June 1904, a further agreement was entered into on the limits of the Canal Zone. The 1914 Boundary Convention (see below) would define the limits of the Canal Zone following the completion of the Canal.¹⁵

THE TAFT AGREEMENT OF 1904 (US WITH PANAMA)

This was, in effect, a concession made by the administration of President Theodore Roosevelt, and followed a dispute over the presence of US-run ports, tariffs, custom houses and post offices in the Canal Zone and outside the jurisdiction of the Republic of Panama. President Roosevelt asked his Secretary of War to travel to Panama to resolve the matter. Taft said that it was not the intention to hurt Panamanian businesses and their revenues, and the Taft Agreement provided that the Canal Zone would only import those materials deemed necessary for the construction of the Canal, the use of its employees, or sale to transiting ships. Under the agreement, Canal Zone commissaries were not to be open to the general public, (though it is said that enforcement of this rule was sometimes lax).¹⁶

The Taft Agreement expired in 1924.¹⁷

THE BRYAN-CHAMORRO TREATY OF 1914 (US WITH NICARAGUA)

To this day, a canal across Nicaragua has often been proposed as an alternative to that in Panama, and this treaty gave the US the right in perpetuity to construct an interoceanic canal across Nicaraguan territory. As with the treaty with Panama, this treaty also granted the US the right to protect the planned canal, as well as a 99-year lease on Great and Little Corn Islands and the right to maintain a naval base on the Gulf of Fonseca.¹⁸

¹⁵ <https://cdn.corprensa.com/la-prensa/uploads/2025/02/21/Panama%20Canal%20Treaty.pdf>

¹⁶ *The Panama Canal* by Robert W Aguirre (Martinus Nijhoff Publishers, 2010).

¹⁷ <https://www.encyclopedia.com/humanities/encyclopedias-almanacs-transcripts-and-maps/taft-agreement-1904>

¹⁸ <https://history.state.gov/historicaldocuments/frus1969-76ve10/d486#:~:text=The%20Bryan%20Chamorro%20Treaty%20of,Juan%20River%20and%20Lake%20Nicaragua.>

THE THOMPSON-URRUTIA TREATY OF 1914 (US WITH COLOMBIA, RATIFIED IN 1922)

Only Colombia and Costa Rica had the right of toll-free transit of the Panama Canal¹⁹, and this 1914 treaty recognised the right in respect of Colombia.

Following the US support of the breakaway former province of Panama there was an attempt to resolve differences between the US and Colombia.²⁰ The 1914 treaty provided for a payment of \$25 million to Colombia, expressed the “sincere regrets” of the US over its actions in Panama, and recognised Panamanian independence and the boundary between the two countries.²¹

However, the US Senate refused to ratify the treaty, and, in 1917, the US sought further concessions (including the exclusive right to build a canal along the Atrato River or elsewhere on Colombian territory).²² Further amendments were proposed in 1919, but it still took until 1921 for the Senate to ratify the treaty.²³ However, the final version did not contain the original “expression of regret”, nor any right for the US to construct a canal in Colombia.

THE PRICE-LEFEVRE BOUNDARY CONVENTION OF 1914 (US WITH PANAMA)

Signed in Panama in September 1914 and ratified in 1915, this defined the boundary line of the Canal Zone. It followed the completion of the Canal, and transits that began in August 1914. The US had acquired additional necessary land in the years since 1903, and the new convention was to formalise these changes. It also formally defined the limits as they applied to the waters at either end of the Canal.²⁴

¹⁹ Now only Colombia retains the right.

²⁰ Initially with the failed Root-Cortés Treaty of 1909.

²¹ <https://sk.sagepub.com/ency/edvol/encyclopedia-of-us-latin-american-relations/chpt/thomsonurrutia-treaty-1914>

²² Interestingly, a countryman of mine produced plans for such a canal in northern Colombia earlier in the century. See <https://www.william-kennish.com/>

²³ Being delayed this time over fears that Colombia was contemplating legislation that might threaten US petroleum interests there.

²⁴ <https://history.state.gov/historicaldocuments/frus1915/d1732>

THE LANSING-MORALES PROTOCOL²⁵

This Protocol was an agreement on restricting use of Panama and Canal Zone waters by belligerents.²⁶ Signed in October 1914, it followed the outbreak of World War 1.²⁷

Panama, like other Latin American states, wanted to stay neutral. However, when the US entered the war in April 1917, Panama joined in too. In his proclamation, President Ramon Valdés spoke of the “obligation” to make common cause with the US “whose interests and existence are linked to ours in a perpetual way”.²⁸

In 1914, there had been no question as to the US right to defend the Canal so long as the US remained a non-belligerent. The 1903 Treaty had granted to the US the right "*at any time to employ armed forces for the safety or protection of the Canal*". The legal right of a neutral state to take military action to defend itself had long been recognised in international law. The US declaration of war in 1917 brought with it new problems as to the legitimacy of continued neutrality of the Canal - though the Canal had been declared "*neutral in perpetuity*", was it now considered to be the territory of a belligerent?

THE KELLOGG-ALFARO TREATY OF 1926 (US WITH PANAMA, REJECTED BY PANAMA)

This was intended to settle at least some of the disputes between the US and Panama that arose from the original 1903 Treaty. As would become common with subsequent agreements, it was accompanied by an exchange of notes on details. It was signed by the US Secretary of State, Frank B Kellogg, and President Ricardo J Alfaro.

<https://www.usni.org/magazines/proceedings/1955/march/isthmian-canal-policy-evaluation>

²⁵ Aka Protocol of an agreement concluded between Honorable Robert Lansing, Acting Secretary of State of the United States, and Don Eusebio A. Morales, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Panama, signed the tenth day of October, 1914.

²⁶ <https://www.jstor.org/stable/2212567?seq=1>

²⁷ As in World War 2, the commanding general of US Army forces in the Canal Zone took over the operation of the Panama Canal and the Canal Zone Government by presidential order.

²⁸ However, it only declared war on Austria-Hungary in December 1917.

It provided for a means of transfer of additional private property needed for the Canal, and the compensation process – while also granting in perpetuity occupation and control of that portion of Manzanillo Island, at the Atlantic end of the Canal. There were provisions dealing with the construction and maintenance of necessary roads, as well as a bridge across the Canal at the Pedro Miguel Locks. It also granted the US free use of roads within Panama itself.

It dealt with the sale of goods to ships in the Canal Zone, and the importation of goods into the Canal and sales through commissaries. This included customs processes for goods passing between Panama and the Canal Zone. It would prohibit the establishment of private businesses in the Canal Zone.

Control would be applied to radio stations in Panama, and subject to the US being able to block new operations and even transfers of licences. It also dealt with the control of aircraft based in the Canal Zone or Panama, and restrictions over areas for the defence of the Canal.

Article XI dealt with arrangements in time of war or threatened hostilities, with Panama promising to cooperate in all possible ways.

It was felt that this treaty would have forced Panama to allow continued control of the radiographic stations by the US and to make dangerous concessions at the military level, turning Panama into a war ally of the US.

It was subsequently rejected by the National Assembly in Panama and therefore never came into effect.²⁹

²⁹<https://history.state.gov/historicaldocuments/frus1926v02/d535#:~:text=The%20United%20States%20agrees%20to,and%20passengers%20consigned%20to%20or>

THE ARIAS-MADRID MEMORANDUM OF 1933 (BETWEEN US AND PANAMA)

Dr Harmodio Arias Madrid assumed power in Panama in January 1931, after a coup³⁰ (in which his brother and future President, Arnulfo, was a leader³¹) overthrew President Arosemena, until giving way to Ricardo Alfaro (who would go on to negotiate the 1936 Treaty). He was then elected as President in 1932 (in an election where, not for the first time, the relationship with the US was the overriding issue), serving until 1936.

Just seven months after his inauguration, President Roosevelt invited Harmodio Arias Madrid to Washington to discuss the differences between the two countries. Despite concerns of the US military and in the Canal Zone (something else that would arise again in US-Panama relations), the two Presidents issued a joint statement with President Arias Madrid, saying that, they were in accord on certain general principles as forming the bases of the relations between Panama and the US in so far as the Canal Zone was concerned.

While this new relationship would eventually yield the 1936 Treaty (though resistance to it would delay US ratification until 1939), the two Presidents also agreed an interim memorandum in 1933 which contained the following principles points -

- Restrictions on the sale to vessels by commissariats;³²
- Measures to prevent sales at "below normal" prices on items such as cigarettes and beer that did not generate tax revenue in Panama; and

³⁰ The coup, seeking to depose the ruling elite which had governed Panama since its inception, heralded a rise in nationalism through the 1930s, with a significant anti-US streak that saw expression in the 1940 election, the postwar protests that saw US bases outside the Canal Zone evacuated, and the continued unrest throughout the 1950s and 1960s.

³¹ For more on Arnulfo Arias Madrid, and other Presidents during World War 2, see <https://raytodd.blog/2024/06/30/panama-in-world-war-2-the-wartime-presidents/>

³² The Army and the Canal Zone authorities both operated commissaries supplying a wide range of goods to troops and other residents in the Canal Zone.

- Instructions to prevent smuggling activities by those authorised to use the commissariats and restrictions on the use of restaurants, clubhouses and admission to cinemas in the Canal Zone.

There was also a 1932 Convention regulating the transit of alcoholic liquors through the Canal Zone.

THE HULL-ALFARO TREATY OF 1936 (US WITH PANAMA, RATIFIED IN 1939)

Although signed in 1936, and ratified by Panama, it would take until June 1939 for the US Senate to finally ratify the Treaty.³³

The attitude of the US (towards all of Latin America) had changed with the administration of President Franklin Roosevelt and its “Good Neighbor Policy”,³⁴ this was perhaps reflected in the fact that an important element of this new treaty was that it saw the US give up its preemptory right to take over such territory as it thought necessary for the Canal and its defence. Nevertheless, it took three years for the parties to agree the final version.

The new treaty also saw the annual payment made to Panama by the US rising significantly, in part to offset devaluation of the US dollar. Other provisions involved undertakings to limit commissary sales to those not employed by the Canal and US forces³⁵, to curb contraband flowing into Panama, to give Panamanian merchants access to ships in transit, and to allow Panamanians free transit across the Canal Zone –

³³ <https://www.govinfo.gov/content/pkg/STATUTE-53/pdf/STATUTE-53-Pg1869.pdf>

For more on the 1936 Treaty and changes in the relationship between the US and Panama, see <https://raytodd.blog/2024/06/30/panama-in-world-2-the-1936-treaty-and-changes-in-the-relationship-with-the-us/>

³⁴ First announced in his inaugural speech in 1933, marking a distinct departure from previous policies of interference and intervention (particularly in Central America). The US went on to formally renounce its right to intervene unilaterally in the internal affairs of other countries at a conference in Montevideo in 1933.

³⁵ Both the US forces and the Canal operated commissaries that supplied all that those resident in the Canal Zone could need.

as it effectively divided the country in two, but *transit* and not the right of residence in the Canal Zone.³⁶

The treaty was accompanied by an exchange of notes, including one that promised equal employment treatment of Panamanian and US nationals.³⁷

THE EXCHANGE OF NOTES TO THE 1936 TREATY

These Notes included provisions allowing that Panamanian suppliers were permitted and encouraged to participate in the sale of supplies to ships passing through the Canal, and the Panama Canal Company would impose a special surcharge on many items sold by the Panama Canal Company to such ships.³⁸

As already mentioned, another promised equal employment treatment of Panamanian and US nationals. However, it would be a long time before anything like equality would be achieved. While the State Department was said to have endeavoured to place into actual practice the treaty commitments with respect to the exercise of a policy of non-discrimination in employment practices in the Canal Zone, it was reported that “*full cooperation from all sectors of this Government has not been obtained*”.³⁹

During the negotiation of what became the 1936 Treaty, the two parties agreed on the provisions of a Radio Convention for the regulation of radio communications in Panama and the Canal Zone. This Convention was ratified by Panama but not by the US Senate.

³⁶ <https://read.dukeupress.edu/hahr/article/48/2/220/157650/Negotiating-New-Treaties-with-Panama-1936>

³⁷ <https://www.encyclopedia.com/humanities/encyclopedias-almanacs-transcripts-and-maps/hull-alfaro-treaty-1936>

³⁸ <https://history.state.gov/historicaldocuments/frus1952-54v04/d633>

³⁹ 11 years after the treaty was signed, a labour relations adviser assigned to the Governor submitted a lengthy report on labour relations which offered evidence of both official and unofficial discrimination against Panamanians in the Canal Zone and made definite recommendations for reforms. However, it was only after the 1955 Treaty that concrete steps would be made to address the equal pay question, though disparities would continue until the US departed the Canal Zone.

THE TRANS-ISTHMIAN HIGHWAY CONVENTION 1936 (US WITH PANAMA)

As well as the Radio Convention, the 1936 Treaty was also accompanied by this agreement which provided for the US to construct a new trans-isthmian highway connecting Panama City and Colón.⁴⁰

Article V of the original 1903 Treaty had granted the US a monopoly of the communication routes in the Canal Zone, which prevented Panama from building a highway to connect the cities of Panama and Colón. This had been one of the concerns raised by Panama's representatives in negotiations of the new treaty.

Despite this agreement, which would have to involve a highway largely through the Canal Zone, no such road would be completed until World War 2⁴¹, being completed (as the Boyd-Roosevelt Highway⁴²) only in 1942 (and then limited US military traffic).

Also known as the Transisthmian Highway (*Carretara Transistmica*), the new highway ran roughly parallel to the Canal.

EXECUTIVE AGREEMENT WITH PANAMA REAFFIRMING THE LANSING-MORALES PROTOCOL OF 1914

Concluded on 25 August 1939, this reaffirmed the 1914 Protocol that dealt with the extension of hospitality to belligerent war vessels or associated vessels in the waters of the Canal Zone or Panama.⁴³ The US and Panama agreed that the Protocol was "at

⁴⁰ <https://apps.dtic.mil/dtic/tr/fulltext/u2/a210486.pdf>

The American Journal of International Law (Vol 31, No 2, April 1937).

⁴¹ Supplemented by a further 1940 convention, and a 1939 arrangement between the US and Panama re the Trans-Isthmian Joint Highway Board.

⁴² Named for the two Presidents at the time the road was begun – President Augusto Samuel Boyd and President Roosevelt.

⁴³ <http://www.gwpda.org/naval/panama00.htm>

Any vessel of a belligerent power which committed a warlike deed within the territorial waters of the Canal Zone or the territorial waters of the Republic would be barred from both such waters for a period of three months. Warships and auxiliaries which were "prosecuting or aiding hostilities" would be barred for three months from Panamanian/ Canal Zone waters. Those which were not so "prosecuting

present in effect and may be applied by both countries whenever circumstances require".⁴⁴

PROCLAMATION CONCERNING NEUTRALITY IN THE CANAL ZONE 1939⁴⁵

This closely resembled the Lansing-Morales Protocol of 1914 (see above), and limited use of US docks and repair facilities in the Canal Zone to belligerents' vessels only in the case of actual distress and only to the extent to make the vessel seaworthy.⁴⁶ Additional rules were introduced by means of an Executive Order on 5 September 1939, as regulations governing the passage and control of vessels through the Canal in any war in which the US was neutral.⁴⁷

Security in the Canal Zone was tightened further, with armed guards on ships in transit and Japanese vessels barred (stranding a large number of Japanese citizens who needed to leave, but had to await a vessel which had to sail via the bottom of South America. Unfortunately, for them, its arrival date was after that of the attack on Pearl Harbor).

HAVANA CONFERENCE 1940

Held not long after the Fall of France, this conference⁴⁸ in July 1940 was concerned with enhancing solidarity in the hemisphere, resisting acts of aggression and increasing cooperation. It saw agreements to jointly govern any territories of nations that were taken over by the Axis powers (such as the colonies of France and the Netherlands),

or aiding" could go about their lawful occasions. A merchantman could arrive, re-coal, give the crew a three-day liberty, and so forth, so long as they were not doing something warlike. Ships involved in activities linked to war would be restricted, as would actual warships, to the more usual 24-hour rule.

⁴⁴ <http://bdigital.binal.ac.pa/rdd/historicoview.php?ID=178321>

⁴⁵ A "limited emergency" was proclaimed by the US on 8 September 1939, to safeguard neutrality and strengthen US defence. An "unlimited emergency" was proclaimed on 27 May 1941.⁴⁵

⁴⁶ <http://bdigital.binal.ac.pa/rdd/historicoview.php?ID=178321>

⁴⁷ <https://www.history.navy.mil/research/library/online-reading-room/title-list-alphabetically/n/neutrality-instructions-usnavy-1940.html>

⁴⁸ Formally known as the Second Meeting of Consultation of Ministers of Foreign Affairs.

and that any attack on any of the countries would be considered to be an attack on them all (which had also been agreed at an earlier conference in Lima in 1938).

While the US held bilateral military staff discussions with almost every Central American, South American, and Caribbean republic, this was not the case for Panama. It was suggested that this was because it would deal directly with the Commanding General of the US Army's Panama Canal Department.⁴⁹ However, Panama was a party to the Havana conference.

That said, the Act of Havana, as the outcome was known, is seen as the beginning of the system of mutual defence system that was reinforced by the Act of Chapultepec in 1945 and culminated in the Rio Treaty of 1947,⁵⁰ which guaranteed reciprocity in defence, making an attack against one American state equivalent to an attack against all of the Americas, leading to the formation of the Organisation of the American States (OAS) in 1948.⁵¹

DECLARATION OF WAR BY PANAMA IN 1941

Interestingly, Panama declared war on Japan *before* the US, as the US awaited the formal approval of Congress – although, of course, a state of war had existed since the start of the attack on Pearl Harbor on 7 December.

Resolution No. 1 of the National Assembly on 8 December referred to commitments acquired by Panama under the 1936 Treaty, as it declared that a state of war existed.⁵²

⁴⁹ <https://digitalcommons.fiu.edu/cgi/viewcontent.cgi?article=3672&context=etd>

⁵⁰ Which guaranteed reciprocity in defence, and providing that an attack against one state equivalent to an attack against all of the Americas.

⁵¹ <https://www.encyclopedia.com/humanities/encyclopedias-almanacs-transcripts-and-maps/havana-meeting-1940>

⁵² This "state of war" was extended to the other powers of the Axis, Italy and Germany, by Law No. 104 of 13 December 1941. Germany and Italy had pre-empted the US by declaring war on it on 11 December, the US responding the same day.

THE TWELVE-POINT AGREEMENT OF 1942 (BETWEEN THE US AND PANAMA)⁵³

This was an understanding concerning the settlement of 12 outstanding problems in the relations between the two countries.⁵⁴ It was signed at the same time as the Defense Sites Agreement (see below), and was intended to improve relations with the new Panamanian government (which had replaced that of President Arnulfo Arias Madrid, who had won the 1940 elections, after he was deposed in October 1941), and covered a number of contentious matters – but without altering any of the basic positions under the 1903 and 1936 Treaties.⁵⁵

The Arias Madrid administration had originally presented the US with a set of 12 demands in February 1941, these being said to be a condition of allowing the use of the bases in the country.

The three most important elements of the agreement had involved the waterworks and sewerage systems in Panama City and Colón (with the US giving up to right to acquire and operate the systems); certain parcels of land in the two cities owned or used by the railway (which were transferred to Panama); and the US was to forgo the \$2.5 million loan⁵⁶ made to pay for Panama's share in the cost of a highway built between Chorrera and Rio Hato.⁵⁷

⁵³ Aka The General Relations Agreement entered into through an exchange of notes at Washington on May 18, 1942.

⁵⁴ Aka The Agreement on Economic Compensation of May 18, 1942.

<https://history.state.gov/historicaldocuments/frus1948v09/d467>

⁵⁵ However, it did transfer some land back to Panama that were not required for operation and security of the Canal, as well as the sewerage and waterworks of Panama City and Colón.

⁵⁶ By the US Export-Import Bank.

⁵⁷ <https://history.state.gov/historicaldocuments/frus1948v09/d467>

Incidentally, the US forces were constructing bases in both places, that in Rio Hato was to expand and become a major facility for the US Army and USAAF (and later USAF), so much so that the US retained control of (except for the period 1948-55) until 1970. The USAAC had been in occupation of Rio Hato since 1 January 1938, under a private lease, with an annual rent of \$2,400.

THE DEFENSE SITES AGREEMENT OF 1942 (BETWEEN THE US AND PANAMA)⁵⁸

The 1936 Treaty had seen the US give up its right to take over such territory as it thought necessary for the Canal and its defence, while this agreement, signed on 18 May 1942⁵⁹, allowed for the *temporary* use of an eventual total of 134 sites outside the Canal Zone for the purposes of the defence of the Canal. These sites were to be available to the US until “one year after the date on which the definitive treaty of peace which brings about the end of the present war shall have entered into effect”. Interpretation of this wording would lead to problems when the war did end.

Negotiations had actually begun 1939, as the defences of the Canal Zone were being greatly improved, when the US Army requested 999-year leases from the Panamanian Government for over 100 sites across the country.⁶⁰ The idea of 999-year leases was rejected by Panama.

President Arias Madrid, who was seen as anti-American and a stumbling block in US-Panama relations, was removed from the scene in a bloodless coup by the *Policia Nacional* in October 1941.⁶¹ The Japanese attack on Pearl Harbor in the following December no doubt also helped to facilitate the eventual agreement (and the transfer and use of some sites, under informal arrangements, even before the agreement was signed).⁶²

⁵⁸ Aka the Fábrega-Wilson Agreement.

⁵⁹ And aka The Agreement for the Lease of Defense Sites in the Republic of Panama, or the Fábrega-Wilson Agreement.

⁶⁰ Bear in mind, that until mid-1939 the 1936 Treaty had not been ratified. However, it was the case that the US Government (if not the military) was minded not exercise its rights under the 1903 Treaty for peremptory rights to take over land and property outside the Canal Zone necessary for operation or defence of the Canal.

An Exchange of Notes between the US Secretary of State and the Panamanian Minister to the US on 1 February 1939 provided that, in the event of an emergency that arises so suddenly as to preclude prior consultations with Panama, the US would not be required to delay action pending consultation, but would be obliged to consult with Panama as soon as possible thereafter.

<https://apps.dtic.mil/sti/pdfs/ADA529923.pdf>

⁶¹ For more on President Arnulfo Arias Madrid and his successor(s), see <https://raytodd.blog/2024/06/30/panama-and-world-war-2-operating-outside-the-zone-the-1942-agreement-and-the-1947-row/>

⁶² During the war, the US was to construct in the Canal Zone and elsewhere nine new airbases and aerodromes, 10 bases for ground forces, 30 aircraft warning stations, 634 searchlight and anti-aircraft

Despite having taken months to finalise (chiefly due to delaying tactics of the deposed President Arnulfo Arias Madrid, who had also wanted to use its signing as leverage to obtain concessions), by the time it formally came into operation on 11 May 1943⁶³ the US had actually begun reducing the threat level and troop numbers.⁶⁴

Crucially, Article IV of the agreement asserted the preservation of Panamanian sovereignty over the new bases, and Article V emphasised the temporary character of the leases.

The US to pay \$50 per hectare annually for all the bases, except Rio Hato, for which it would pay \$10,000 a year. Panama also received promises about the completion of various public works projects, including the Rio Hato Road, and a bridge over the Canal.⁶⁵

An appended exchange of notes provided that, in the event that additional sites were required, these could be added to the original list, if approved by Panama, and would be subject to the same terms and conditions.

With the end of the war, the US Army wanted to retain at least some of the new bases it had been using (including what had become a major installation at Rio Hato). As explained below, this led to the abortive Filós-Hines Agreement of 1947, public unrest, and the eventual evacuation of all US bases outside the Canal Zone by the end of January 1948.⁶⁶

positions, and various other facilities, including the Coco Solo Naval Hospital to the south-east of the Naval Air Station – at a total cost, in 1940 dollars, of \$1.36 billion.

⁶³ Many sites, especially airfields, have been occupied, prepared and use even before the agreement was signed, under informal arrangements.

⁶⁴ In April 1943, the War Department had reduced the Caribbean Defense Command based on the Canal Zone to the status of Category "B", that is, it was considered a coastal frontier that only "may be subject to minor attacks".

⁶⁵ It would take until the early 1960s, and the 1955 Treaty, before the promised bridge would open.

⁶⁶ For more on the 1942 Agreement, and the later evacuation of the US bases, see <https://raytodd.blog/2024/06/30/panama-and-world-war-2-operating-outside-the-zone-the-1942-agreement-and-the-1947-row/>

In 1943, a resolution signed by President Roosevelt provided for three things –

- The transfer⁶⁷ by the US to Panama of the water and sewer systems installed by the US in the cities of Panama and Colón⁶⁸;
- the conveyance by the Panama Railroad Company to the Government of Panama of certain of the former's real estate holdings in Colón and Panama City not needed in connection with the railroad or the Canal; and
- the payment to Panama of the principal and interest paid by it on account of the loan of the Export-Import Bank for the construction of Panama's share of the defence highway of over 70 miles between Chorrera and Rio Hato where the US had a military base and to liquidate the remaining obligations under that credit.⁶⁹

1945 ACT OF CHAPULTEPEC

This followed the preceding Act of Havana (see above), and Panama and the US were among the 20 original signatories to this agreement, binding the countries of Latin America and the US to a mutual defence agreement by which all were to respond to an external attack against anyone. Signatories resolved to undertake joint action in repelling any aggression against any state in the Americas.⁷⁰

⁶⁷ In return for payment water supplied by the Canal.

⁶⁸ Pursuant to the 1903 Treaty, the US installed water and sewerage systems in Panama City and Colón and from then had been responsible for their operation and maintenance, the rates being collected by US employees and designed to amortize the cost by 1957, with the intention for them to then revert to Panama. The US was to retain responsibilities for the health services in both cities.

⁶⁹ In 1940, a cooperative arrangement was entered into by an exchange of notes whereby Panama would undertake the responsibility for the construction, with the advice of US engineers. However, in December 1941, by agreement and in view of the urgency of the situation, the US took over responsibility for the construction.

⁷⁰ <https://untterm.un.org/untterm2/en/view/UNHQ/9E6CF11FA38FD198852569F90083CE12>

THE FILOS-HINES AGREEMENT OF 1947 (BETWEEN THE US AND PANAMA, BUT NEVER RATIFIED)⁷¹

As mentioned, the end date for occupation of the many additional defence sites outside the Canal Zone - until “one year after the date on which the definitive treaty of peace which brings about the end of the present war shall have entered into effect” – was to cause problems; as was the desire of the US Army to retain many of the sites (with early plans to retain some of the “temporary” sites on 99-year leases).⁷²

From as early as 1943, the US had actually been withdrawing from bases it had been using in other Latin American countries, as the perceived threat levels reduced. However, Panama and the Canal was a different matter. With signs of reluctance to withdraw on the part of the US military, in November 1946, Panama announced its intention of raising the issue at the General Assembly of the new United Nations.⁷³

The essence of the new agreement was that it would have preserved the US defence sites on or at the islands of Taboga, San José, Taboguilla, Isla Salud, and Isla del Rey; and at Jaqué, Pocrí, Punta Mala, San Blas, Isla Grande, Victoria and Las Margaritas for 10 years, or for 15 years for the base in Rio Hato.⁷⁴ Originally, 98 of the 134 sites in the Republic would be vacated, with extended leases for 36 others. The final version of the Treaty saw the US having reduced its requirements from 75 defence sites of 32,000 hectares to just 13 of 10,500 hectares.⁷⁵

⁷¹ Aka The Bases Agreement.

⁷² *We Answer Only to God: Politics and the Military in Panama 1903-1947* by Thomas L Pearcy (University of New Mexico Press, 1968).

⁷³ Already, in August, the Soviet Union had brought bringing up in the UN Security Council the issue of troops stationed abroad, with the exception of occupation forces on former enemy territory. *'Pro mundi beneficio'? The Panama Canal as an international issue, 1943-48* by John Major (Review of International Studies, 1983).

⁷⁴ <https://www.govinfo.gov/content/pkg/GOVPUB-S-dae74a31ce03269f4dc99454c183598c/pdf>

The subsequent Eisenhower-Rémon Treaty of 1955 would see the US being granted use of Rio Hato for training and use in major exercises for 15 years to 1970. Ironically, it was the same Rémon, then chief of the *Policia Nacional*, who had the demonstrations against the Filós-Hines Agreement violently suppressed in 1947.

⁷⁵ *We Answer Only to God: Politics and the Military in Panama 1903-1947* by Thomas L Pearcy (University of New Mexico Press, 1968).

President Jimenez⁷⁶ was inclined to accept a US offer, but announced that US occupation of the bases in the Republic after 2 September 1946 would represent a violation of Panamanian sovereignty. The next day the National Assembly passed a unanimous resolution demanding their immediate evacuation.⁷⁷ Nevertheless, President Jimenez Brin blatantly ignored popular opinion and the opposition to extending US base rights.⁷⁸

In March 1947, formal negotiations began, with the Minister of Foreign Affairs, Dr Ricardo Jaoquin Alfaro, as its official representative.⁷⁹ However, Alfaro resigned in December, as he plans to allow continued large-scale US military presence in the Republic, and he was replaced by Francisco Filós, who would give his name to the eventual draft.

The Filós-Hines Agreement was signed on 10 December 1947, by Filós and the US Ambassador, General Frank T Hines, with the approval of their respective Presidents: Enrique A Jiménez and Harry S Truman. President Jiménez then convened an extraordinary session of the National Assembly to debate and ratify the new treaty. Tensions and unrest had been rising in Panama, with President de la Guardia, accused of increasingly dictatorial tendencies, removed following student protests in early 1945. Opposition to longer-term continued occupation of the sites covered by the new agreement is said to have been fired by fear of “mini-Canal Zones”,⁸⁰ with the associated restrictions on citizens etc that that might entail.⁸¹

⁷⁶ The wartime President, Ricardo Adolfo de la Guardia Arango had been forced to resign; and on 15 June 1945 the Constituent Assembly had appointed Enrique Adolfo Jiménez as the new Provisional President until 7 August 1948.

⁷⁷ *US-Panamanian Relations Since 1941* by Lester D Langley (Journal of Interamerican Studies and World Affairs, Vol. 12, No. 3, July 1970), Cambridge University Press: https://www.jstor.org/stable/175020?read-now=1&seq=1#page_scan_tab_contents

⁷⁸ *We Answer Only to God: Politics and the Military in Panama 1903-1947* by Thomas L Pearcy (University of New Mexico Press, 1968).

⁷⁹ He was one of the authors of the 1936 Treaty.

⁸⁰ Ak “zonitas”.

⁸¹ *US-Panamanian Relations Since 1941* by Lester D Langley (Journal of Interamerican Studies and World Affairs, Vol. 12, No. 3, July 1970), Cambridge University Press: https://www.jstor.org/stable/175020?read-now=1&seq=1#page_scan_tab_contents

My Panamanian wife, whose father worked for the US Army, recalls how, as a child, the Canal Zone and how even travelling with her father to his workplace was not straightforward.

Protests included a march of 10,000 women, dressed in black, who marched on the National Assembly on 16 December 1947.

The President made a plea in favour of the agreement, and addressed the country through a chain of radio stations. However, four days later, the agreement was unanimously rejected by the National Assembly, 51 to nil.⁸² The next day, the US began dismantling the remaining bases.⁸³

In its report to the US President in 1950, the Bureau of the Budget recommended that the operation of the waterway and all related business enterprises be transferred to the Panama Railroad Company, a US Government-owned corporation operating as an adjunct to the Canal and already conducting most of the business enterprises related to the Canal. This recommendation was transmitted to the Congress by the President with his approval, and implementing legislation was enacted in 1950, becoming effective on 1 July 1951. The Company was renamed the Panama Canal Company.⁸⁴

INTER-AMERICAN TREATY OF RECIPROCAL ASSISTANCE (THE RIO TREATY) OF 1947

Panama had been one of the 20 original signatories to the 1945 Act of Chapultepec, binding the countries of Latin America and the US to a mutual defence agreement by which all were to respond to an external attack against anyone. Two years later, in 1947, most of the same countries (including Panama) signed the Inter-American Treaty of Reciprocal Assistance (the Rio Treaty), which also provided for mutual defence against external attack, but further bound the signatories to peaceful arbitration of

⁸² The President of the National Assembly being quoted as saying that there were “10,000 boys with knives” awaiting the decision outside (and in Panama, he would likely be referring to machetes, not a comforting thought – these still commonly on sale in shops today).

⁸³ For more on the 1947 Filós-Hines Treaty, see <https://raytodd.blog/2024/06/30/panama-and-world-war-2-operating-outside-the-zone-the-1942-agreement-and-the-1947-row/>

⁸⁴ <https://history.state.gov/historicaldocuments/frus1952-54v04/d633>

disputes arising among member states. In 1948, the charter of the Organization of American States (OAS) incorporated the provisions of the Rio Treaty.⁸⁵

DRAFT AERONAUTICS AGREEMENT OF 1948

In 1948, the US Government drafted a proposed Aeronautics Agreement, which provided for the establishing of a permanent US-Panama joint aviation board to provide for the coordination, supervision, and regulation of air traffic in Panama. This board would be the sole agency for prescribing rules and regulations relating to civil and military air traffic in Panama, giving due consideration to the special needs of both Governments. Not surprisingly, the Panamanian Foreign Ministry considered that its provisions to be too much in the same tone of the defence sites agreement, which had just been rejected by the National Assembly.⁸⁶

Negotiations over the aviation treaty sparked a violent confrontation between the National Police and activists – the first since the 1947 protests over the abortive Filós-Hines Agreement on continued use of US bases outside the Canal Zone. The police declared a 3-month state of siege, and in continued violence 2 people died and many more were injured.⁸⁷

THE HIGHWAY CONVENTION 1950 (BETWEEN US AND PANAMA)

On 14 September 1950, the US and Panama signed this Convention⁸⁸ under which the US undertook to maintain the Boyd-Roosevelt (Trans-Isthmian) Highway, while Panama granted to the US armed forces free and unimpeded use without cost of all public

⁸⁵ https://arsof-history.org/arsof_in_panama/pdf/gen/panama_country_study_area_handbook.pdf

⁸⁶ *Memorandum by the Assistant Chief of the Division of Central America and Panama Affairs* (711.19/1–2048), 20 January 1948. Subject: General Relations Between the United States and Panama: <https://history.state.gov/historicaldocuments/frus1948v09/d467>

⁸⁷ *We Answer Only to God: Politics and the Military in Panama 1903-1947* by Thomas L Pearcy (University of New Mexico Press, 1968).

⁸⁸ Aka The Convention regarding the Colon Corridor and certain other corridors through the Canal Zone.

roads within Panamanian jurisdiction. There was also a separate agreement on the reciprocal recognition of driver and vehicle licences.⁸⁹

The Convention was ratified and entered into force in 1955.⁹⁰ It would remain in force until revoked by the Panama Canal Treaty of 1977.

THE REMÓN-EISENHOWER TREATY OF 1955 (BETWEEN THE US AND PANAMA)

The 1955 Treaty – properly called the Treaty of Mutual Understanding and Co-operation, and accompanied by a Memorandum of Understandings Reached (which dealt with the wage scales issue) was ratified by the US Senate on 29 July 1955 (a marked contrast with the earlier 1936 Treaty, which took three years for the US to ratify).⁹¹

The three most important provisions of the Treaty, from a US viewpoint, were –

- an increase in the annuity payable to Panama for the Canal and Canal Zone;⁹²
- concessions made by the US in giving up former treaty rights in certain matters (including ending the discriminatory the “Gold” and “Silver” wages system with a single pay scale)⁹³; and
- the effects of the above concessions on the interests of US citizens residing in the Canal Zone, and employees of the US Government and others there.⁹⁴

⁸⁹ <https://cdn.corprensa.com/la-prensa/uploads/2025/02/21/Panama%20Canal%20Treaty.pdf>

⁹⁰ <https://history.state.gov/historicaldocuments/frus1950v02/d502>

⁹¹ Nevertheless, it still faced opposition in the US, with many politicians being of the view that only US citizens should occupy technical or administrative posts in the Canal Zone, and a persistent opponent was the US Citizens Association (USCA), which represented the 3,800 employed in the Zone, and warned of low morale, and the higher costs of living from higher rents and taxes.

⁹² Originally \$250,000 under the 1903 Treaty, increased to \$430,000 by the 1936 Treaty, and now increased again, to \$1.93 million. An analysis in the 2000s suggested that tolls had been kept artificially low prior to the war, yielding the US economy a disguised boost. The increase in the annuity led to concerns about an effect on the tolls.

⁹³ However, disparities would continue for many years. For example, in the 1950s the US Army continued a 25% uplift for any US citizens as employees brought from the Continental US.

⁹⁴ Panama would be entitled to levy income tax on Panamanians working in the Canal Zone, even if they lived in the Zone, and on any non-US citizens who were employees and resided outside the Zone. US citizen employees remained exempt, whereas the 1903 and 1936 Treaties had previously granted tax exemption to all three groups.

The longstanding issue of commissaries in the Canal Zone was finally dealt with, with purchases restricted to residents of the Canal Zone, US citizen employees in the Zone and members of US forces. In addition, Items from Panama would be exempt from the “Buy American Act” for sale in the Zone⁹⁵, and the US would end supplies to ships passing through the Canal. The US also agreed not to import for sale in the Zone certain luxury and tourist items that would be sold by Panamanian stores, and which would not have been able to compete with the duty-free imports into the Canal Zone.

Other concessions made by the US included some boundary changes and giving up the monopoly under the 1903 Treaty for rail and road transportation across the isthmus.⁹⁶ The US also agreed (once more) to build a bridge across the Canal, this opening in 1962.

The US did achieve something it had wanted at the end of World War 2, with exclusive rights to a large area around Rio Hato and its airbase. This allowed US forces to return to what had been a large and important military and air base during the war, but abandoned in 1948.⁹⁷

Article IV of the Treaty saw the US give up its right to prescribe and enforce sanitary ordinances in Panama City and Colón, this being justified that it was considered the Panama was now able to perform the functions.⁹⁸

Panama obtained concrete economic benefits that would become apparent during the 1960s, with additional revenue from the Canal; equal pay for, and income tax from, Panamanian Canal employees; and the phasing out of a number of manufacturing activities in the Canal Zone opened a market for such Panamanian products as bakery

⁹⁵ This 1933 Act required the US Government to prefer US-made products in its purchases. However, the US did not agree with the proposal that everything needed in the Canal Zone, bar military materials, should be acquired from Panama.

⁹⁶ However, Panama only acquired control of the railway after the 1977 treaties.

⁹⁷ The area was obtained on a 15-year lease which, at a time of heightened tensions, was not renewed and US forces vacated the area once more in 1970.

⁹⁸ The American Journal of International Law (Vol 49, No 4, October 1955).

goods, soft drinks, meats, and bottled milk”.⁹⁹ During the debates in the US Senate it was put forward that the various changes produce a strong and stable country, while eliminating a number of areas of friction and dissatisfaction felt by Panamanians.¹⁰⁰

However, continued dissatisfaction, allied to growing nationalism, saw tensions increase as the 1950s ended and into the 1960s, culminating in the crisis in 1964, with riots, deaths and Panama briefly breaking off diplomatic relations with the US.¹⁰¹

THE ABORTIVE 1967 TREATIES BETWEEN THE US AND PANAMA

Successive US administrations, from that of Eisenhower onwards, sought to defuse tensions in and with Panama, with concessions, for example, over where US and Panamanian flags should be flown (the issue that sparked the riots in 1964). In the 1960s and 1970s, talks were begun over further changes to the relationship between the two countries and the status of the Canal and Canal Zone.

After the 1964 crisis, both sides recognised the need for negotiations over a new agreement for the Canal and, in 1967, they reached agreement on three treaties regarding the status of the Canal. However, the following year President Marco Robles was defeated by Arnulfo Arias Madrid in the Panamanian elections, only to be once more deposed (for the third time in his career)¹⁰² 11 days later in a coup led by Colonel Omar Torrijos (who would eventually sign the 1977 Treaties). Not surprisingly, the political uncertainty spelled the end of the draft treaties and the associated negotiations, and they were not ratified in Panama. The new government rejected the draft treaties.

⁹⁹ https://www.nab.usace.army.mil/Portals/63/docs/Environmental/HealthPhysics/FINAL_MH1A_STURGIS_Mitigation_Report_July_2019.pdf?ver=2020-06-04-211412-970

¹⁰⁰ *The Treaty of 1955 Between the United States and Panama* by Charles G Fenwick (The American Journal of International Law, Vol 49 No 4, October 1955).

¹⁰¹ For some more on the 1955 Treaty, see <https://raytodd.blog/2024/12/11/panama-and-world-war-2-the-1955-treaty-resolving-problems/>

¹⁰² 1941, after around a year; 1951, after two years; and 1968, after just 11 days.

The new leader of Panama still wanted to reach an agreement with the US, and in 1975, Secretary of State Henry Kissinger warned President Ford of the dangers of a failure in negotiations over the Canal, including “riots all over Latin America”.¹⁰³ Thus, for three years, a US delegations originally sent by Ford’s predecessor, President Nixon, drafted a series of agreements that were to form the basis of the eventual 1977 Treaties. The gist of the new draft agreements for perpetual US *use* of the Canal, rather than perpetual US *control* of the Canal Zone.¹⁰⁴

THE TORRIJOS-CARTER TREATIES OF 1977 (BETWEEN THE US AND PANAMA)

As mentioned, years of negotiations had developed a set of draft agreements by 1976 that would go on to form the basis of what became the 1977 Treaties. However, in the 1976 Presidential elections the Republican Party was split on the issue, with President Ford in favour of a new agreement and his chief opponent, Ronald Reagan, opposed to the idea. Indeed, the Democratic Party candidate, Jimmy Carter, also appeared to oppose one.¹⁰⁵

Despite his stated position during the campaign, once elected Carter was convinced of the need for a new agreement, and made concluding the negotiations a priority. The new treaties would be signed in September 1977 by carter and Omar Torrijos¹⁰⁶ The Panama Canal Treaty provided that, from 31 December 1999, Panama would assume full control of Canal operations and became primarily responsible for its defence¹⁰⁷.

¹⁰³ <https://history.state.gov/milestones/1977-1980/panama-canal>

¹⁰⁴ Ibid.

¹⁰⁵ In a debate with Ford, Carter vowed that he would not surrender “practical control of the Panama Canal Zone any time in the foreseeable future”.

¹⁰⁶ Described as “Chief of Government”, he was also Commander of the National Guard (the former *Policia Nacional*, that had deposed the elected President Arias Madrid twice in the past, before the successful 1968 coup). He was never President, as Presidents were appointed or elected, while Torrijos in fact retained absolute power for six years.

¹⁰⁷ <https://2001-2009.state.gov/p/wha/rlnks/11936.htm>

As with previous attempts to revise the arrangements with Panama, the new agreement faced stiff opposition, with some hardliners distrusting Torrijos, who they thought to be pro-communist.

There were two treaties.

TREATY CONCERNING THE PERMANENT NEUTRALITY AND OPERATION OF THE PANAMA CANAL 1977

One was the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (aka the “Neutrality Treaty”)¹⁰⁸, and under this treaty the US retained the permanent right to defend the Canal from any threat that might interfere with its continued neutral service to ships of all nations.

THE PANAMA CANAL TREATY OF 1977¹⁰⁹

The second treaty was the Panama Canal Treaty¹¹⁰, which provided that the Canal Zone would cease to exist on 1 October 1979, with the US presence and control of the Canal being phased out, with a final turning over of the Canal on 31 December 1999, by which time the last US forces would have left the country.

Transit rights through the Canal are governed by the Neutrality Treaty, which provides that the Canal is an international waterway that is permanently neutral in times of peace and in times of war and “*shall remain secure and open to peaceful transit by the vessels of all nations on terms of entire equality*”. As a result, it was felt that the Canal and the isthmus “*shall not be the target of reprisals in any armed conflict between other nations of the world*”. Ships in transit are prohibited from committing hostile acts while in the Canal.¹¹¹

¹⁰⁸ <https://pancanal.com/wp-content/uploads/2022/07/neutrality-treaty.pdf>

¹⁰⁹ <https://cdn.corprensa.com/la-prensa/uploads/2025/02/21/Panama%20Canal%20Treaty.pdf>

¹¹⁰ <https://cdn.corprensa.com/la-prensa/uploads/2025/02/21/Panama%20Canal%20Treaty.pdf>

¹¹¹ *Transit Rights Through the Panama Canal* by the Staff Judge Advocate, US Southern Command (International law Studies, Vol 99, 2022).

STATEMENT OF UNDERSTANDING 1977

This Statement, adopted by the US and Panama in October 1977, amended the provision in the Neutrality Treaty which referred to US or Panamanian warships and naval auxiliaries. It was incorporated as an integral part of the Treaty prior to its entry into force. The Treaty said that warships and naval auxiliaries of both parties would be *“entitled to transit the Canal expeditiously”*, and the Statement clarified what expeditiously was to be taken to mean. The US instrument of ratification for the amended treaty indicated the understanding that the determination of *“need or emergency”* to jump any queue so as to be able to transit the Canal *“shall be made by the nation operating such vessel”*.

Under the Neutrality Treaty, only Panama may maintain military forces, defence sites, and military installations on the isthmus, although Article IV provides that both the US and Panama agreed to maintain the neutrality of the Canal so that it *“shall remain permanently neutral”*. The Statement also emphasised that both *“Panama and the United States have the responsibility to assure that the Panama Canal will remain open and secure to ships of all nations”*.¹¹²

The new treaties meant that the US could defend itself from charges of imperialism and of having a “colony” in the Canal Zone. While they replaced and revoked a host of previous conventions and agreements, a number were unaffected – such as those concerned with commercial aviation, defence equipment supplies and assistance.¹¹³

However, the relationship between the US and Panama deteriorated after Torrijos died in an air crash in 1981 and was eventually replaced as effective leader by Manuel

<https://digital-commons.usnwc.edu/cgi/viewcontent.cgi?article=3008&context=ils>

¹¹² *Transit Rights Through the Panama Canal* by the Staff Judge Advocate, US Southern Command (International law Studies, Vol 99, 2022).

<https://digital-commons.usnwc.edu/cgi/viewcontent.cgi?article=3008&context=ils>

¹¹³ <https://cdn.corprensa.com/la-prensa/uploads/2025/02/21/Panama%20Canal%20Treaty.pdf>

Noriega, to the extent that the US launched an invasion in December 1989 to depose Noriega and restore democratic stability to Panama.

Over the years there have been multiple attempts to overturn the 1977 Treaties and declare them null and void. None of these achieved their goal, but in December 2024 President-elect Trump, citing alleged Chinese influence in Panama and over the Canal, as well as national security concerns, raised the possibility of a US demand for the full and immediate return of control over the Canal. There was even a draft Bill proposed that would authorise the President to "initiate and conduct negotiations ... to reacquire the Panama Canal".¹¹⁴

Ray Todd

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20 June 2025

¹¹⁴ <https://thehill.com/homenews/house/5074775-republican-bill-panama-canal-trump-purchase/>

APPENDIX

A POTTED HISTORY OF THE MONROE DOCTRINE OF 1823

Although seen as fundamental to past and current US attitudes in the hemisphere, the idea of what became the Monroe Doctrine originated in proposals from Great Britain, which shared the concerns of the US in renewed interference in the Americas by Spain (and its support from the so-called Holy Alliance of Russia, Prussia and Austria).

In the end, the proceeded alone and the Doctrine was presented to Congress on 2 December 1823, as a bold declaration¹¹⁵ calling for a hemisphere free of European interference. It also pledged US non-intervention in the Old World, but that the US would view European attacks on its hemispheric neighbours as aggression against itself. Less mentioned was a second theme, an emphasis on republicanism, as opposed to monarchical forms of government in the region.¹¹⁶

At the time, the declaration was largely symbolic, as the US was not the great power it would become, and would have lacked the ability to enforce it.¹¹⁷

In 1895, the Olney Corollary¹¹⁸ by Secretary of State Richard Olney provided an interpretation of the Monroe Doctrine. This came during a border dispute between the Britain and Venezuela.¹¹⁹ Olney claimed that the Monroe Doctrine gave the US authority to mediate border disputes in the Western Hemisphere, and this foreshadowed attitudes that became relevant in the context of the Spanish–American War of just three years later. Theodore Roosevelt was to use the Doctrine to justify the US intervention in Cuba, in 1898 still a Spanish colony.

¹¹⁵ https://guides.loc.gov/sb.php?subject_id=162830

¹¹⁶ Although the US did acknowledge the independence of Brazil, headed by Emperor Pedro I, in 1824.

¹¹⁷ It did not prevent British annexation of the Falkland Islands in 1833, Spain's reassertion of colonial control in Santo Domingo (now the Dominican Republic) in 1861, or Napoleon III's puppet regime in Mexico during the US Civil War (when the US was busy with its internal struggle).

¹¹⁸ Aka the Olney interpretation or Olney declaration.

¹¹⁹ Over the Essequibo region of present-day Guyana (then British Guiana) which, in the 21st Century, became once more a potential flashpoint.

While the “Good Neighbor” policy of the Roosevelt administration from 1933¹²⁰ is said to have made the Olney interpretation defunct, in the meantime it and further revisiting of the meaning of the Doctrine was, in part, used to justify US intervention, particularly in Central America. Thus, in 1904, President Theodore Roosevelt’s announced that the US had the right and responsibility as an “international police power” to curb “chronic wrongdoing”, including civil unrest, in the Americas. This new interpretation was referred to as the Roosevelt Corollary.

The new corollary was to prove a useful tool to take economic benefits by force when Latin American nations failed to pay their debts to European and US banks and business interests. It was also invoked to intervene militarily in Latin America, such as to protect US commercial interests (the United Fruit Company perhaps being the best-known). Such use of military force would later be further justified by the Clark Memorandum of 1928¹²¹. However, this latter document said that such intervention was the right of the US as a state, and not the Monroe Doctrine, by noting that the Doctrine only applied to situations involving European countries.

In 1912, the US Senate ratified the so-called Lodge Corollary, which extended the scope of the Monroe Doctrine to cover actions of corporations and associations controlled by foreign states.¹²²

The administration of President Franklin Roosevelt favoured consultation and cooperation with Latin America over gunboats and deployment of US Marines, and this approach proved of use during World War 2, enabling a virtual united front against the Axis powers (despite considerable German and Italian investment and interests in parts of South America).

¹²⁰ http://www.hudok.info/files/1114/3526/0588/Evi-Doc_12_Monteideo.pdf

¹²¹ J Reuben Clark was President Coolidge’s Undersecretary of State. The memorandum would be officially released in 1930 by the following Hoover administration.

¹²² It was a reaction to negotiations between a Japanese syndicate and Mexico for the purchase of a considerable portion of Baja California, including a harbour considered to be of strategic value.

The Rio Pact of 1947¹²³ appeared to make the Monroe Doctrine obsolete, with its principles and the responsibility for defence transferred from the US to all 19 signatories, and with the Organisation of American States (OAS) established the following year.¹²⁴

In 2023, Secretary of State John Kerry went so far as to tell the OAS that the "era of the Monroe Doctrine is over". However, President Trump implied potential use of the Doctrine in August 2017 when he mentioned the possibility of military intervention in Venezuela, and his first administration would refer to it. The right-wing in the US would continue to use it as a form of shorthand for an unapologetically hawkish approach to what many would see as being a US sphere of influence.

¹²³ <https://www.encyclopedia.com/humanities/encyclopedias-almanacs-transcripts-and-maps/rio-treaty-1947>

¹²⁴ During the Cuban Missile Crisis in 1961 the Kennedy administration invoked the Rio Pact, not the Monroe Doctrine. In 1965, the Johnson administration intervened in the Dominican Republic, but made no mention of the Monroe Doctrine.