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Item 50 of the preliminary list*

IMPLEMENTATION OF THE DECLARATION ON THE STRENGTHENING
OF INTERNATIONAL SECURITY

Letter dated 9 May 1978 from the Permanent Representative of Panama
to the United Nations addressed to the Secretary-General

Further to my letter of 28 March 1978 (A/33/73), I have the honour to forward to you herewith the following documents:

- (a) Resolution of ratification of the Panama Canal Treaty of 1977, adopted by the United States Senate on 18 April 1978 (see annex I);
- (b) Letter addressed by the President of the United States, Mr. Jimmy Carter, to the Head of Government of the Republic of Panama, General Omar Torrijos Herrera, on 15 March 1978 (see annex II);
- (c) Letter addressed by the Head of Government of the Republic of Panama, General Omar Torrijos Herrera, to the President of the United States, Mr. Jimmy Carter, on 15 March 1978 (see annex III);
- (d) Letter addressed by the President of the United States, Mr. Jimmy Carter, to the Head of Government of the Republic of Panama, General Omar Torrijos Herrera, on 18 April 1978 (see annex IV).

On instructions from my Government, I request you to have this note and the attached documents distributed as a document of the General Assembly under item 50 of the preliminary list.

(Signed) Jorge E. ILLUECA
Ambassador
Permanent Representative

* A/33/50/Rev.1.

ANNEX I

Resolution of Ratification of the Panama Canal Treaty of 7 September 1977
adopted by the Senate of the United States of America on 18 April 1978 a/

/Original: English/

The VICE PRESIDENT. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification, as amended is agreed to.

The resolution of ratification, as amended, as agreed to is as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Panama Canal Treaty, together with the Annex and Agreed Minute relating thereto, done at Washington on September 7, 1977 (Executive N. Ninety-Fifth Congress, first session), subject to the following -

(a) RESERVATIONS:

(1) Pursuant to its adherence to the principle of non-intervention, any action taken by the United States of America in the exercise of its rights to assure that the Panama Canal shall remain open, neutral, secure, and accessible, pursuant to the provisions of this Treaty and the Neutrality Treaty and the resolutions of advice and consent thereto, shall be only for the purpose of assuring that the canal shall remain open, neutral, secure, and accessible, and shall not have as its purpose or be interpreted as a right of intervention in the internal affairs of the Republic of Panama or interference with its political independence or sovereign integrity.

(2) Notwithstanding any other provisions of this Treaty, no funds may be drawn from the United States Treasury for payments under Article XIII, paragraph 4, without statutory authorization.

(3) Any accumulated unpaid balance under paragraph 4(c) of Article XIII at the termination of the Treaty shall be payable only to the extent of any operating surplus in the last year of the Treaty's duration, and that nothing in that paragraph may be construed as obligating the United States of America to pay after the date of the termination of the Treaty any such unpaid balance which shall have accrued before such date.

(4) Exchange of the instruments of ratification shall not be effective earlier than March 31, 1979, and the treaties shall not enter into force prior to October 1, 1979, unless legislation necessary to implement the provisions of the Panama Canal Treaty shall have been enacted by the Congress of the United States of America before March 31, 1979.

a/ See United States of America. Congressional Record, Proceedings and Debates of the 95th Congress, second session, vol. 124, No. 54, 18 April 1978 (Washington D.C., Government Printing Office, 1978), pp. S 5796-5797.

(5) The instruments of ratification to be exchanged by the United States and the Republic of Panama shall each include provisions whereby each Party agrees to waive its rights and release the other Party from its obligations under paragraph 2 of Article XII.

(6) After the date of entry into force of the Treaty, the Panama Canal Commission shall, unless it is otherwise provided by legislation enacted by the Congress, be obligated to reimburse the Treasury of the United States of America, as nearly as possible, for the interest cost of the funds or other assets directly invested in the Commission by the Government of the United States of America and for the interest cost of the funds or other assets directly invested in the predecessor Panama Canal Company by the Government and not reimbursed before the date of entry into force of the Treaty. Such reimbursement of such interest costs shall be made at a rate determined by the Secretary of the Treasury of the United States of America and at annual intervals to the extent earned, and if not earned, shall be made from subsequent earnings. For purposes of this reservation, the phrase "funds or other assets directly invested" shall have the same meaning as the phrase "net direct investment" has under section 62 of title 2 of the Canal Zone Code.

(b) UNDERSTANDINGS:

(1) Nothing in paragraphs 3, 4, and 5 of Article IV may be construed to limit either the provisions of paragraph 1 of Article IV providing that each party shall act, in accordance with its constitutional processes, to meet danger threatening the security of the Panama Canal, or the provisions of paragraph 2 of Article IV providing that the United States of America shall have primary responsibility to protect and defend the Canal for the duration of this Treaty.

(2) Before the first date of the three-year period beginning on the date of entry into force of this Treaty and before each three-year period following thereafter, the two parties shall agree upon the specific levels and quality of services, as are referred to in Article III, paragraph 5 of the Treaty, to be provided during the following three-year period and, except for the first three-year period, on the reimbursement to be made for the costs of such services, such services to be limited to such as are essential to the effective functioning of such canal operating areas and such housing areas referred to in Article III, paragraph 5 of the Treaty. If payments made under Article III, paragraph 5 of the Treaty for the preceding three-year period, including the initial three-year period, exceed or are less than the actual costs to the Republic of Panama for supplying, during such period, the specific levels and quality of services agreed upon, then the Commission shall deduct from or add to the payment required to be made to the Republic of Panama for each of the following three years one-third of such excess or deficit, as the case may be. There shall be an independent and binding audit, conducted by an auditor mutually selected by both parties, of any costs of services disputed by the two parties pursuant to the reexamination of such costs provided for in this Understanding.

(3) Nothing in paragraph 4(c) of Article XIII shall be construed to limit

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the authority of the United States of America through the United States Government agency called the Panama Canal Commission to make such financial decisions and incur such expenses as are reasonable and necessary for the management, operation, and maintenance of the Panama Canal. In addition, toll rates established pursuant to paragraph 2(d) of Article III need not be set at levels designed to produce revenues to cover the payment to Panama described in paragraph 1(c) of Article XIII.

(4) Any agreement concluded pursuant to article IX, paragraph 11 with respect to the transfer of prisoners shall be concluded in accordance with the constitutional processes of both parties.

(5) Nothing in the Treaty, in the Annex or Agreed Minute relating to the Treaty, or in any other agreement relating to the Treaty obligates the United States to provide any economic assistance, military grant assistance, security supporting assistance, foreign military sales credits, or international military education and training to the Republic of Panama.

(6) The President shall include all reservations and understandings incorporated by the Senate in this resolution of ratification in the instrument of ratification exchanged with the Government of the Republic of Panama.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the resolution of ratification.

The VICE PRESIDENT. Without objection, it is so ordered.

ANNEX II

Letter dated 15 March 1978 from the President of the United States
of America to the Head of Government of the Republic of Panama

/Original: English/

As you know, the Senate is now approaching the end of its debate on the Neutrality Treaty. Although we expect the final vote to be close, we remain hopeful about the result.

We have made good progress since last September when you and I signed the treaties. The Senate Foreign Relations Committee endorsed the treaties by an overwhelming vote. In the Senate debate, we have fortunately been able to prevent any amendments to the Treaty other than the so-called "leadership" amendments to articles IV and VI. These incorporate exactly the terms of the Statement of Understanding a/ published after our conversation of 14 October 1977.

In considering its resolution of ratification of the Treaty, the Senate will almost certainly attach a number of reservations, conditions or understandings reflecting certain of its concerns. We have made every effort and have been successful to date in ensuring that these will be consistent with the general purposes of our two countries as parties to the Treaty. I hope you will examine them in this light.

After approving the Neutrality Treaty, the Senate will move immediately to consider the basic Panama Treaty. While there will be problems, I am hopeful that the outcome will again be favourable, and that the two treaties combined will gain for our countries the advantages we had envisaged when we signed them last September.

I know that the long public discussion of the treaties in the United States has involved difficulties for you and your country. It has been a necessary element in informing the American public of the reasons for negotiating the treaties and the benefits they bring to both parties. We have made notable progress in this regard.

Thus, as matters stand today, we are approaching an important milestone. If all of us can continue to work patiently and constructively for the achievement of our objectives, I believe we can achieve the outcome we both desire - sound and equitable treaties in our common interest.

(Signed) Jimmy CARTER

a/ See A/33/73, appendix I.

ANNEX III

Letter dated 15 March 1978 from the Head of Government of the
Republic of Panama to the President of the United States

/Original: Spanish/

In your letter of today's date and in our conversation this afternoon you inform me, among other things, of your hope for a favourable vote in the United States Senate on the Neutrality Treaty. I understand and have observed the great efforts which you, as the head of a great nation, and many highly respected Senators have been making to create awareness on the part of the rest of the Senate and the people of the United States concerning the need for a new relationship between Panama and the United States.

After intense and arduous negotiations, we signed these treaties in Washington. Subsequently, because of confusions which had been created concerning two articles of the Neutrality Treaty, we proceeded to issue a memorandum of understanding clearly expounding the unilateral capacity of each of our countries to preserve the régime of neutrality against threats to attack on or closure of the Canal, priority passage for vessels of war in case of emergency and non-interference in the internal affairs of Panama, and the fact that the territorial integrity and political independence of my country would not be affected.

We thus completed treaties which, because of their balance and fairness, have received the support of practically all the nations of the world.

In your letter and in our conversation, you advise me that the Senate will attach a number of reservations but that these will not modify or reduce the substance of what was agreed on in the Neutrality Treaty or our Statement of Understanding of 14 October 1977. In this connexion, I wish to inform you that the Government of Panama will proceed to give careful study to these reservations and will state its position when the Senate has finished voting on both treaties. The reason for this is that, in the plebiscite held in Panama, the Panamanian people voted for the two treaties together and not separately.

I do wish to state, however, that our study will be based on the following conceptions: any reservation which offends national dignity, distorts or modifies the purposes of the Treaty or is aimed at preventing the effective exercise of Panama's sovereignty over the whole of its territory, the transfer of the Canal and the termination of military occupation on 31 December 1999 will be unacceptable to Panama.

Accordingly, I greatly appreciate your statements to the effect that those purposes will not be modified in any way whatsoever by amendments or reservations. This further confirms my judgement of you as a man of high morality and uprightness, both in your official position and personally.

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The Panamanian people would not accept words, misplaced commas or ambiguous phrases the purpose or effect of which would be occupation in perpetuity under the guise of neutrality, or intervention in its internal affairs.

President Carter: We are both aware of the difficulties we have to overcome in order to bring about a new attitude in our two countries. However, the terms in which you have addressed me reveal the innermost truths of a man of great integrity. We believe that the people of the United States elected you precisely because of that quality. Accordingly, with the frankness which has characterized our relationship, I venture to say to you that all these difficulties concerning the treaties must be confronted with the spirit of truth.

Your great capacity to convince cannot fail to move the men of rectitude and uprightness in your Senate. This has been amply demonstrated in your country by men who never regarded arrogance or threats as norms of conduct for the United States in its dealings with the various sectors of its own people and in its relations with other countries. That is why Lincoln, Franklin Delano Roosevelt, Kennedy and other great Presidents of the United States occupy a niche in the history of the United States and serve as an inspiration to other peoples throughout the world.

It is apparent that not only Panama but the whole world is anxiously awaiting the decision which the Senate will take tomorrow. The Canal, as an international public utility, is of concern to all mankind, which accordingly regards the treaties we signed as the peaceful solution that guarantees access to the Canal for all users on an equal footing. Panama has made its great sacrifice: waiting 22 long years to achieve its decolonization. We have shown maturity and generosity. We trust that the Senate will not disappoint the world.

(Signed) Omar TORRIJOS HERRERA
Head of Government of
the Republic of Panama

ANNEX IV

Letter dated 18 April 1978 from the President of the United States
of America to the Head of Government of the Republic of Panama

/Original: English/

A few moments ago the Senate of the United States accorded its consent to the second of the two Panama Canal treaties you and I signed here in Washington last September.

Ratification of the new treaties will open a new era in the relationship of the United States, not merely with Panama, but with all the nations of the hemisphere. Working together, our two countries can provide an example and an incentive to others, in the Americas and beyond, for fair and constructive international co-operation in the pursuit of common goals.

Precisely because these treaties are so important to our two countries, their negotiation and approval has been difficult and time-consuming. The debate in our Senate has been the most extensive ever conducted on any treaty in the history of the United States. As you know, it has been vigorous. The treaties have raised difficult and emotional issues in our nation, going far beyond the Canal and our ties with Panama. Just as in your country, patriotic men of goodwill have had sharply differing views, as they will whenever fair compromises are struck to advance a greater common interest.

The patience and patriotism of the people of Panama in this long process have been impressive and have earned for them the respect of the world.

There have been times in these past months when the outcome was uncertain, and when doubts arose as to whether we would be able to ratify the two accords. For our part, these doubts have now been set at rest. Through its action today, the Senate has reaffirmed what was central to the treaties from the outset: that the United States, while safeguarding its vital interest in a secure, open and accessible Canal, does not intend to intervene in the internal affairs of Panama, its Government, its public policy, its cultural integrity or in any way to impair its sovereign integrity or political independence.

These are principles that we as a nation have long cherished. We have observed them in our relations with the other American Republics since President Roosevelt first proclaimed our adherence to the doctrine of non-intervention in 1933. They are enshrined as international law in the Charters of the United Nations and the Organization of American States. It is therefore fitting that these principles - and particularly that no nation has the right to intervene in the internal affairs of another - should be embraced in the treaties and their accompanying documents, including the Senate resolutions. When we meet to exchange the instruments of ratification, we can reaffirm that this principle of non-intervention is clearly accepted by both our countries.

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Respect for the sovereignty and national dignity of Panama and the United States must be the foundation upon which we build the co-operation and mutual respect which will be crucial for the new period of partnership we are about to open.

I want to extend my congratulations and thanks to you, General Torrijos, for the great courage and leadership you have provided to the people of Panama as our countries have negotiated this new relationship. I look to the future with great hope and confidence and am personally looking forward to visiting Panama to reaffirm our personal friendship and this new relationship between our countries.

(Signed) Jimmy CARTER
