Annexes

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Annexes

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I. Le texte des traités antérieurs à 1977 et mentionnés dans notre étude figure aux sources suivantes :


5) Convention entre les Etats-Unis d’Amérique et la République de Panama en vue de la construction d’un canal navigable reliant les eaux des océans Atlantique et Pacifique, du 18 novembre 1903 (traité Hay-Bunau-Varilla), *ibid.*, vol. 194, p. 263.

6) Etats-Unis d’Amérique et Panama. Traité en vue de resserrer les liens d’amitié et de coopération entre les deux pays et de régler certaines questions soulevées par suite de la

16) II. Pour les traités de 1977, voir ci-dessus, notes 1 à 3 de l’introduction ainsi que les annexes V, VI et VII.

Annexe I. Article 35 du traité Bidlack-Mallarino du 12 décembre 1846

Article 35

The United States of America and the Republic of New Granada desiring to make as durable as possible, the relations which are to be established between the two parties by virtue of this treaty, have declared solemnly, and do agree to the following points.

1. For the better understanding of the preceding articles, it is, and has been stipulated, between the high contracting parties, that the citizens, vessels and merchandize of the United States shall enjoy in the ports of New Granada, including those of the part of the granadian territory generally denominated Isthmus of Panamá from its southernmost extremity until the boundary of Costa Rica, all the exemptions, privileges and immunities, concerning commerce and navigation, which are now, or may hereafter be enjoyed by Granadian citizens, their vessels and merchandize; and that this equality of favours shall be made to extend to the passengers, correspondence and merchandize of the United States in their transit across the said territory, from one sea to the other. The Government of New Granada guarantees to the Government of the United States, that the right of way or transit across the Isthmus of Panamá, upon any modes of communication that now exist, or that may be, hereafter, constructed, shall be open and free to the Government and citizens of the United States, and for the transportation of any articles of produce, manufactures or merchandize, of lawful commerce, belonging to the citizens of the United States; that no other tolls or charges shall be levied or collected upon the citizens of the United States, or their said merchandize thus passing over any road or canal that may be made by the Government of New Granada, or by the authority of the same, than is under like circumstances levied upon and collected from the granadian citizens: that any lawful produce, manufactures or merchandize belonging to citizens of the United States thus passing from one sea to the other, for the purpose of exportation to any other foreign country, shall not be liable to any import duties whatever; or having paid such duties, they shall be entitled to drawback, upon their exportation: nor shall the citizens of the United States be liable to any duties, tolls, or charges of any kind to which native citizens are not subjected for thus passing the said Isthmus. And, in order to secure to themselves the tranquil and constant enjoyment of these advantages, and as an especial compensation for the said advantages and for the favours they have acquired by the 4th, 5th and 6th articles of this Treaty, the United States guarantee positively and efficaciously to New Granada, by the present stipulation, the perfect neutrality of the before mentioned Isthmus, with the view that the free transit...
from the one to the other sea, may not be interrupted or embarrassed in any future time
while this Treaty exists; and in consequence, the United States also guarantee, in the
same manner, the rights of sovereignty and property which New Granada has and
possesses over the said territory.

19 2nd. The present Treaty shall remain in full force and vigor, for the term of twenty years,
from the day of the exchange of the ratifications; and, from the same day, the treaty that
was concluded between the United States and Colombia on the 13th of October 1824, shall
cease to have effect, notwithstanding what was disposed in the 1st point of its 31st article.

20 3rd. Notwithstanding the foregoing, if neither party notifies to the other its intention of
reforming any of, or all, the articles of this treaty twelve months before the expiration of
the twenty years, stipulated above, the said treaty shall continue binding on both parties,
beyond the said twenty years, until twelve months from the time that one of the parties
notifies its intention of proceeding to a reform.

21 4th. If any one or more of the citizens of either party shall infringe any of the articles of
this treaty, such citizens shall be held personally responsible for the same, and the
harmony and good correspondence between the nations shall not be interrupted thereby;
each party engaging in no way to protect the offender, or sanction such violation.

22 5th. If, unfortunately, any of the articles contained in this treaty should be violated or
infringed in any way whatever, it is expressly stipulated that neither of the two
contracting parties shall ordain or authorize any acts of reprisal, nor shall declare war
against the other on complaints of injuries or damages, until the said party considering
itself offended shall have laid before the other a statement of such injuries or damages,
verified by competent proofs, demanding justice and satisfaction, and the same shall have
been denied, in violation of the laws and of international right.

23 6th. Any special or remarkable advantage that one or the other power may enjoy, from the
foregoing stipulations, are and ought to be always understood in virtue and as in
compensation of the obligations they have just contracted and which have been specified
in the first number of this article.

Annexe II. Traité Clayton-Bulwer du 19 avril 1850

24 The United States of America and Her Britannic Majesty, being desirous of consolidating
the relations of amity which so happily subsist between them, by setting forth and fixing
in a Convention their views and intentions with reference to any means of
communication by Ship Canal, which may be constructed between the Atlantic and Pacific
Oceans, by the way of the River San Juan de Nicaragua and either or both of the Lakes of
Nicaragua or Managua, to any port or place on the Pacific Ocean, –The President of the
United States, has conferred full powers on John M. Clayton, Secretary of State of the
United States; and Her Britannic Majesty on the Right Honourable Sir Henry Lytton
Bulwer, a Member of Her Majesty’s Most Honourable Privy Council, Knight Commander of
the Most Honourable Order of the Bath, and Envoy Extraordinary and Minister
Plenipotentiary of Her Britannic Majesty to the United States, for the aforesaid purpose;
and the said Plenipotentiaries having exchanged their full powers, which were found to
be in proper form, have agreed to the following articles.
Article I

The Governments of the United States and Great Britain hereby declare, that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said Ship Canal; agreeing, that neither will ever erect or maintain any fortifications commanding the same, or in the vicinity thereof, or occupy, or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America; nor will either make use of any protection which either affords or may afford, or any alliance which either has or may have, to or with any State or People for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito Coast or any part of Central America, or of assuming or exercising dominion over the same; nor will the United States or Great Britain take advantage of any intimacy, or use any alliance, connection or influence that either may possess with any State or Government through whose territory the said Canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one, any rights or advantages in regard to commerce or navigation through the said Canal, which shall not be offered on the same terms to the citizens or subjects of the other.

Article II

Vessels of the United States or Great Britain, traversing the said Canal, shall, in case of war between the contracting parties, be exempted from blockade, detention or capture, by either of the belligerents; and this provision shall extend to such a distance from the two ends of the said Canal, as may hereafter be found expedient to establish.

Article III

In order to secure the construction of the said Canal, the contracting parties engage that, if any such Canal shall be undertaken upon fair and equitable terms by any parties having the authority of the local Government or Governments, through whose territory the same may pass, then the persons employed in making the said Canal and their property used, or to be used, for that object, shall be protected, from the commencement of the said Canal to its completion, by the Governments of the United States and Great Britain, from unjust detention, confiscation, seizure or any violence whatsoever.

Article IV

The contracting parties will use whatever influence they respectively exercise, with any State, States or Governments possessing, or claiming to possess, any jurisdiction or right over the territory which the said Canal shall traverse, or which shall be near the waters applicable thereto; in order to induce such States, or Governments, to facilitate the construction of the said Canal by every means in their power; and furthermore, the United States and Great Britain agree to use their good offices, wherever or however it may be most expedient, in order to procure the establishment of two free Ports, one at each end of the said Canal.
Article V

29 The contracting parties further engage that, when the said Canal shall have been completed, they will protect it from interruption, seizure or unjust confiscation, and that they will guarantee the neutrality thereof, so that the said Canal may forever be open and free, and the capital invested therein, secure. Nevertheless, the Governments of the United States and Great Britain, in according their protection to the construction of the said Canal, and guaranteeing its neutrality and security when completed, always understand that, this protection and guarantee are granted conditionally, and may be withdrawn by both Governments, or either Government, if both Governments, or either Government, should deem that the persons, or company, undertaking or managing the same, adopt or establish such regulations concerning the traffic thereupon, as are contrary to the spirit and intention of this Convention, –either by making unfair discriminations in favor of the commerce of one of the contracting parties over the commerce of the other, or by imposing oppressive exactions or unreasonable lolls upon passengers, vessels, goods, wares, merchandise or other articles. Neither party, however, shall withdraw the aforesaid protection and guarantee, without first giving six months notice to the other.

Article VI

30 The contracting parties in this Convention engage to invite every State with which both or either have friendly intercourse, to enter into stipulations with them similar to those which they have entered into with each other; to the end, that all other States may share in the honor and advantage of having contributed to a work of such general interest and importance as the Canal herein contemplated. And the contracting parties likewise agree that, each shall enter into Treaty stipulations with such of the Central American States, as they may deem advisable, for the purpose of more effectually carrying out the great design of this Convention, namely, –that of constructing and maintaining the said Canal as a ship-communication between the two Oceans for the benefit of mankind, on equal terms to all, and of protecting the same; and they, also, agree that, the good offices of either shall be employed, when requested by the other, in aiding and assisting the negotiation of such Treaty stipulations; and, should any differences arise as to right or property over the territory through which the said Canal shall pass –between the States or Governments of Central America,— and such differences should, in any way, impede or obstruct the execution of the said Canal, the Governments of the United States and Great Britain will use their good offices to settle such differences in the manner best suited to promote the interests of the said Canal, and to strengthen the bonds of friendship and alliance which exist between the contracting parties.

Article VII

31 It being desirable that no time should be unnecessarily lost in commencing and constructing the said Canal, the Governments of the United States and Great Britain determine to give their support and encouragement to such persons, or company, as may first offer to commence the same with the necessary capital, the consent of the local authorities, and on such principles as accord with the spirit and intention of this
Convention; and if any persons, or company, should already have, with any State through which the proposed Ship-Canal may pass, a contract for the construction of such a Canal as that specified in this Convention, —to the stipulations of which contract neither of the contracting parties in this Convention have any just cause to object,— and the said persons, or company, shall, moreover, have made preparations and expended time, money and trouble on the faith of such contract, it is hereby agreed, that such persons, or company, shall have a priority of claim over every other person, persons or company, to the protection of the Governments of the United States and Great Britain, and be allowed a year, from the date of the exchange of the ratifications of this Convention, for concluding their arrangements, and presenting evidence of sufficient capital subscribed to accomplish the contemplated undertaking; it being understood, that if, at the expiration of the aforesaid period, such persons, or company, be not able to commence and carry out the proposed enterprise, then the Governments of the United States and Great Britain shall be free to afford their protection to any other persons, or company, that shall be prepared to commence and proceed with the construction of the Canal in question.

Article VIII

32 The Governments of the United States and Great Britain having not only desired in entering into this Convention, to accomplish a particular object, but, also, to establish a general principle, they hereby agree to extend their protection, by Treaty stipulations, to any other practicable communications, whether by Canal or rail-way, across the Isthmus which connects North and South America; and, especially, to the interoceanic communications,—should the same prove to be practicable, whether by Canal or rail-way,—which are now proposed to be established by the way of Tehuantepec, or Panama. In granting, however, their joint protection to any such Canals, or rail-ways, as are by this Article specified, it is always understood by the United States and Great Britain, that the parties constructing or owning the same, shall impose no other charges or conditions of traffic thereupon, than the aforesaid Governments shall approve of, as just and equitable; and, that the same Canals, or rail-ways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall, also, be open on like terms to the citizens and subjects of every other State which is willing to grant thereto, such protection as the United States and Great Britain engage to afford.

Article IX

33 The ratifications of this Convention shall be exchanged at Washington, within six months from this day, or sooner, if possible.

34 In faith whereof, we, the respective Plenipotentiaries, have signed this Convention, and have hereunto affixed our seals.

35 Done, at Washington, the nineteenth day of April, Anno Domini, one thousand eight hundred and fifty.
Les États-Unis d'Amérique et Sa Majesté Édouard VII, roi du Royaume-Uni de Grande-Bretagne et d'Irlande et des Dominions au-delà des mers, Empereur des Indes, étant désireux de faciliter la construction d'un canal navigable reliant les océans Atlantique et Pacifique selon le tracé qui pourra être jugé opportun, et d'éliminer à cette fin toute objection pouvant résulter de la Convention du 19 avril 1850, communément appelée le traité Clayton-Bulwer, à la construction dudit canal sous les auspices du gouvernement des États-Unis, sans porter atteinte au « principe général » de la neutralisation, posé à l'article 8 de ladite Convention, ont à cette fin nommé comme leurs Plénipotentiaires :

Le Président des États-Unis, John Hay, secrétaire d'État des États-Unis d'Amérique ;

Et Sa Majesté Édouard VII, roi du Royaume-Uni de Grande-Bretagne et d'Irlande et des Dominions au-delà des mers, et empereur des Indes, le très honorable lord Pauncefote, ambassadeur extraordinaire et plénipotentiaire de Sa Majesté aux États-Unis ;

Lesquels, après s'être communiqué mutuellement leurs pleins pouvoirs, reconnus en bonne et due forme, ont convenu et arrêté ce qui suit :

Article premier. Les Hautes Parties contractantes conviennent que le présent traité remplacera la susdite Convention du 19 avril 1850.

Article 2. Il est entendu que le canal pourra être construit sous les auspices du Gouvernement des États-Unis, soit directement à ses frais, soit au moyen d'un don ou d'un prêt d'argent à des particuliers ou à des corporations, soit par voie de souscription ou d'achat de parts de capital ou d'actions, et que, sous réserve des dispositions du présent Traité, ledit Gouvernement aura et exercera tous les droits se rapportant à ladite construction, ainsi que le droit exclusif de pourvoir à la réglementation et à l'administration du canal.

Article 3. Les États-Unis adoptent, comme base de la neutralisation dudit canal navigable, les règles suivantes, contenues en substance dans la Convention de Constantinople, signée le 28 [29] octobre 1888, pour la libre navigation du canal de Suez, à savoir :

1° L'accès au canal sera libre et ouvert aux navires marchands et aux navires de guerre de toutes les nations observant les présentes règles, sur un pied de complète égalité, de manière qu'il n'y ait aucune discrimination au détriment de l'une quelconque de ces nations, ou à ses citoyens ou ressortissants, quant aux conditions ou tarifs des transports ou autres. Lesdites conditions et tarifs de transports devront être justes et équitables.

2° Le canal ne devra jamais faire l'objet d'un blocus et il ne devra y être exercé aucun droit de guerre, ni commis aucun acte d'hostilité. Il sera loisible, toutefois, aux États-Unis, de maintenir sur le canal la police militaire qui pourra être nécessaire à sa défense contre les illégalités et les désordres.

3° Les navires de guerre d'un belligérant ne devront ni se ravitailler ni s'approvisionner dans le canal, si ce n'est dans la mesure du strict nécessaire, et le transit desdits navires à travers le canal devra s'effectuer dans le plus bref délai possible, conformément aux règlements en vigueur, et seulement avec les arrêts imposés par les nécessités du service. Les prises seront à tous égards assujetties aux mêmes règlements que les navires de guerre des belligérants.
4° Aucun belligérant ne devra embarquer ni débarquer des troupes, des munitions de guerre ou du matériel de guerre dans le canal, sauf le cas d'obstruction accidentelle au transit et, dans ce cas, le transit devra être repris le plus promptement possible.

5° Les dispositions du présent article s'appliqueront aux eaux limitrophes du canal, dans un rayon de trois milles marins de chacune de ses extrémités. Les navires de guerre d'un belligérant ne séjourneront pas dans ces eaux plus de vingt-quatre heures à la fois, sauf le cas de détresse, et dans ce cas ils en repartiront le plus tôt possible ; toutefois, un navire de guerre appartenant à l'un des belligérants ne partira pas moins de vingt-quatre heures après le départ d'un navire de guerre de l'autre belligérant.

6° L'outillage, les installations, les bâtiments et tous les ouvrages nécessaires pour la construction, l'entretien et le fonctionnement du canal seront considérés comme faisant partie dudit canal, suivant le présent traité, et j ouiront en temps de guerre, comme en temps de paix, d'une immunité complète de la part des belligérants, de toute attaque et de tout dommage, ainsi que de tout acte susceptible d'en diminuer l'utilité en tant que faisant partie du canal.

Article 4. Il reste entendu qu'aucune modification de la souveraineté territoriale ou des relations internationales du pays ou des pays traversés par le susdit canal n'affectera le principe général de neutralisation, ni l'obligation des Hautes Parties contractantes aux termes du présent Traité.

Article 5. Le présent Traité sera ratifié par le Président des États-Unis, d'accord avec le Sénat des États-Unis, et par Sa Majesté britannique ; et les ratifications seront échangées, à Washington ou à Londres, le plus tôt qu'il sera possible, dans les six mois qui suivront ledit Traité.

En foi de quoi les Plénipotentiaires respectifs ont signé le présent Traité et y ont apposé leurs sceaux.

Fait en double, à Washington, le dix-huit novembre mil neuf cent un.

Annexe IV. Extraits du traité Hay-Bunau-Varilla du 18 novembre 1903

Article premier. Les États-Unis garantissent et maintiennent l'indépendance de la République de Panama.

Article 2. La République de Panama concède aux États-Unis, à perpétuité, en vue de la construction, de l'entretien, de l'exploitation, de l'assainissement et de la défense dudit canal, l'usage, l'occupation et le contrôle d'une zone de terrains sous-marins, d'une largeur de dix milles, et s'étendant à une distance de cinq milles de chaque côté de l'axe du canal à construire ; ladite zone commençant dans la mer des Antilles à trois milles marins de la ligne moyenne de marée basse, et s'étendant à travers l'isthme de Panama, dans l'océan Pacifique, jusqu'à une distance de trois milles marins à partir de la ligne moyenne de marée basse, sous réserve que les villes de Panama et de Colon et les ports attenant aux dites villes, situés à l'intérieur de la zone décrite ci-dessus, ne soient pas compris dans cette concession. La République de Panama concède aux États-Unis, à perpétuité, l'usage, l'occupation et le contrôle de toutes autres terres et eaux non comprises dans la zone décrite ci-dessus, qui pourront être nécessaires et utiles pour la...
construction, l’entretien, l’exploitation, l’assainissement et la défense de ladite entreprise.

56 La République de Panama concède en outre de la même manière aux États-Unis, à perpétuité, toutes les îles comprises dans les limites de la zone décrite ci-dessus et, de plus, le groupe des petites îles de la baie de Panama appelées Perico, Naos, Culebra et Flamenco.

57 Article 3. La République de Panama concède aux États-Unis tous les droits, pouvoirs et autorité, à l’intérieur de la zone mentionnée et décrite à l’article 2 du présent accord, ainsi que dans les limites de toutes les terres et eaux mentionnées et décrites au dit article 2, que posséderaient et exerceraient les États-Unis si la souveraineté du territoire où sont situées lesdites terres et eaux leur appartenait, et ce à l’entièreative exclusion de l’exercice par la République de Panama des dits droits souverains, pouvoirs ou autorité.

58 Article 4. Comme droits subsidiaires aux susdites concessions, la République de Panama concède à perpétuité aux États-Unis le droit d’utiliser pour la navigation les fleuves, rivières, lacs et autres eaux situés sur son territoire et dont les eaux pourront être nécessaires et utiles pour la construction, l’entretien, le fonctionnement, l’assainissement et la défense dit canal.

59 Article 5. La République du Panama concède aux États-Unis à perpétuité, le monopole de la construction, de l’entretien et du fonctionnement de tout système de communication par canal ou par voie ferrée à travers son territoire, entre la mer des Antilles et l’Océan Pacifique.

60 Article 17. La République de Panama concède aux États-Unis l’usage de tous les ports de la République ouverts au commerce, comme lieux de refuge pour tous les navires utilisés pour l’entreprise du canal et pour tous navires traversant ou obligés de traverser le canal, qui pourront se trouver en détresse et réduits à chercher un refuge dans lesdits ports. Ces navires seront exemptés de droits de mouillage et de tonnage de la part de la République de Panama.

61 Article 18. Le canal, lorsqu’il sera construit, et les entrées du dit canal, seront neutres à perpétuité et seront ouverts aux termes du premier paragraphe de l’article 3 du Traité conclu le 18 novembre 1901 par les Gouvernements des États-Unis et de la Grande-Bretagne et conformément à toutes les dispositions du dit traité.

62 Article 19. Le Gouvernement de la République de Panama aura le droit d’utiliser le canal en tout temps pour le transit de ses navires, ainsi que des troupes et des munitions de guerre transportées dans lesdits navires sans payer de redevances d’aucune sorte. Cette exemption s’étendra au chemin de fer auxiliaire pour le transport des personnes au service de la République de Panama ou des forces de police chargées du maintien de l’ordre public, en dehors de ladite zone ainsi que de leurs bagages, munitions de guerre et fournitures.

63 Article 23. S’il est nécessaire, à un moment quelconque, d’employer la force armée pour la sécurité ou pour la défense du canal, ou des navires qui en font usage, ou des chemins de fer et ouvrages nécessaires, les États-Unis auront le droit, en tout temps et à leur discrétion, d’utiliser à ces fins leur police et leurs forces militaires et navales ou d’établir des fortifications.

64 Article 24. Aucun changement, soit dans le Gouvernement, soit dans les lois et traités de la République de Panama, n’affectera un droit quelconque des États-Unis aux termes de la présente Convention, ou aux termes d’une stipulation quelconque d’un Traité entre les
deux pays, que ce droit existe actuellement ou qu’il vienne à exister ultérieurement par rapport au fond de la présente Convention.

Si la République de Panama rentre, par la suite, comme élément d’un autre Gouvernement ou d’une union ou confédération d’États, de manière à fondre sa souveraineté ou son indépendance dans les dits gouvernements, union ou confédération, les droits des États-Unis aux termes de la présente Convention ne devront sous aucun rapport subir une diminution ou une atteinte quelconque.

Annexe V. Traité relatif au canal de Panama du 7 septembre 1977

The United States of America and the Republic of Panama,

Acting in the spirit of the Joint Declaration of April 3, 1964, by the Representatives of the Governments of the United States of America and the Republic of Panama, and of the Joint Statement of Principles of February 7, 1974, initialed by the Secretary of State of the United States of America and the Foreign Minister of the Republic of Panama, and

Acknowledging the Republic of Panama’s sovereignty over its territory,

Have decided to terminate the prior Treaties pertaining to the Panama Canal and to conclude a new Treaty to serve as the basis for a new relationship between them and, accordingly, have agreed upon the following:

Article I. Abrogation of prior treaties and establishment of a new relationship

1. Upon its entry into force, this Treaty terminates and supersedes:

(a) The Isthmian Canal Convention between the United States of America and the Republic of Panama, signed at Washington, November 18, 1903;


(c) All other treaties, conventions, agreements and exchanges of notes between the United States of America and the Republic of Panama concerning the Panama Canal which were in force prior to the entry into force of this Treaty; and

(d) Provisions concerning the Panama Canal which appear in other treaties, conventions, agreements and exchanges of notes between the United States of America and the Republic of Panama which were in force prior to the entry into force of this Treaty.

2. In accordance with the terms of this Treaty and related agreements, the Republic of Panama, as territorial sovereign, grants to the United States of America, for the duration of this Treaty, the rights necessary to regulate the transit of ships through the Panama Canal, and to manage, operate, maintain, improve, protect and defend the Canal. The Republic of Panama guarantees to the United States of America the peaceful use of the land and water areas which it has been granted the rights to use for such purposes pursuant to this Treaty and related agreements.
3. The Republic of Panama shall participate increasingly in the management and protection and defense of the Canal, as provided in this Treaty.

4. In view of the special relationship established by this Treaty, the United States of America and the Republic of Panama shall cooperate to assure the uninterrupted and efficient operation of the Panama Canal.

**Article II. Ratification, entry into force, and termination**

1. This Treaty shall be subject to ratification in accordance with the constitutional procedures of the two Parties. The instruments of ratification of this Treaty shall be exchanged at Panama at the same time as the instruments of ratification of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, signed this date, are exchanged. This Treaty shall enter into force, simultaneously with the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, six calendar months from the date of the exchange of the instruments of ratification.

2. This Treaty shall terminate at noon, Panama time, December 31, 1999.

**Article III. Canal operation and management**

1. The Republic of Panama, as territorial sovereign, grants to the United States of America the rights to manage, operate, and maintain the Panama Canal, its complementary works, installations and equipment and to provide for the orderly transit of vessels through the Panama Canal. The United States of America accepts the grant of such rights and undertakes to exercise them in accordance with this Treaty and related agreements.

2. In carrying out the foregoing responsibilities, the United States of America may:

   (a) Use for the aforementioned purposes, without cost except as provided in this Treaty, the various installations and areas (including the Panama Canal) and waters, described in the Agreement in Implementation of this Article, signed this date, as well as such other areas and installations as are made available to the United States of America under this Treaty and related agreements, and take the measures necessary to ensure sanitation of such areas;

   (b) Make such improvements and alterations to the aforesaid installations and areas as it deems appropriate, consistent with the terms of this Treaty;

   (c) Make and enforce all rules pertaining to the passage of vessels through the Canal and other rules with respect to navigation and maritime matters, in accordance with this Treaty and related agreements. The Republic of Panama will lend its cooperation, when necessary, in the enforcement of such rules;

   (d) Establish, modify, collect and retain tolls for the use of the Panama Canal, and other charges, and establish and modify methods of their assessment;

   (e) Regulate relations with employees of the United States Government;

   (f) Provide supporting services to facilitate the performance of its responsibilities under this Article;

   (g) Issue and enforce regulations for the effective exercise of the rights and responsibilities of the United States of America under this Treaty and related agreements.
The Republic of Panama will lend its cooperation, when necessary, in the enforcement of such rules; and

(h) Exercise any other right granted under this Treaty, or otherwise agreed upon between the two Parties.

3. Pursuant to the foregoing grant of rights, the United States of America shall, in accordance with the terms of this Treaty and the provisions of United States law, carry out its responsibilities by means of a United States Government agency called the Panama Canal Commission, which shall be constituted by and in conformity with the laws of the United States of America.

(a) The Panama Canal Commission shall be supervised by a Board composed of nine members, five of whom shall be nationals of the United States of America, and four of whom shall be Panamanian nationals proposed by the Republic of Panama for appointment to such positions by the United States of America in a timely manner.

(b) Should the Republic of Panama request the United States of America to remove a Panamanian national from membership on the Board, the United States of America shall agree to such request. In that event, the Republic of Panama shall propose another Panamanian national for appointment by the United States of America to such position in a timely manner. In case of removal of a Panamanian member of the Board at the initiative of the United States of America, both parties will consult in advance in order to reach agreement concerning such removal, and the Republic of Panama shall propose another Panamanian national for appointment by the United States of America in his stead.

(c) The United States of America shall employ a national of the United States of America as Administrator of the Panama Canal Commission, and a Panamanian national as Deputy Administrator, through December 31, 1989. Beginning January 1, 1990, a Panamanian national shall be employed as the Administrator and a national of the United States of America shall occupy the position of Deputy Administrator. Such Panamanian nationals shall be proposed to the United States of America by the Republic of Panama for appointment to such positions by the United States of America.

(d) Should the United States of America remove the Panamanian national from his position as Deputy Administrator, or Administrator, the Republic of Panama shall propose another Panamanian national for appointment to such position by the United States of America.

4. An illustrative description of the activities the Panama Canal Commission will perform in carrying out the responsibilities and rights of the United States of America under this Article is set forth at the Annex. Also set forth in the Annex are procedures for the discontinuance or transfer of those activities performed prior to the entry into force of this Treaty by the Panama Canal Company or the Canal Zone Government which are not to be carried out by the Panama Canal Commission.

5. The Panama Canal Commission shall reimburse the Republic of Panama for the costs incurred by the Republic of Panama in providing the following public services in the Canal operating areas and in housing areas set forth in the Agreement in Implementation of Article III of this Treaty and occupied by both United States and Panamanian citizen employees of the Panama Canal Commission: police, fire protection, street maintenance, street lighting, street cleaning, traffic management and garbage collection. The Panama Canal Commission shall pay the Republic of Panama the sum of ten million United States
dollars ($10,000,000) per annum for the foregoing services. It is agreed that every three
years from the date that this Treaty enters into force, the costs involved in furnishing
said services shall be reexamined to determine whether adjustment of the annual
payment should be made because of inflation and other relevant factors affecting the cost
of such services.

6. The Republic of Panama shall be responsible for providing, in all areas comprising the
former Canal Zone, services of a general jurisdictional nature such as customs and
immigration, postal services, courts and licensing, in accordance with this Treaty and
related agreements.

7. The United States of America and the Republic of Panama shall establish a Panama
Canal Consultative Committee, composed of an equal number of high-level
representatives of the United States of America and the Republic of Panama, and which
may appoint such subcommittees as it may deem appropriate. This Committee shall
advise the United States of America and the Republic of Panama on matters of policy
affecting the Canal’s operation. In view of both Parties’ special interest in the continuity
and efficiency of the Canal operation in the future, the Committee shall advise on matters
such as general tolls policy, employment and training policies to increase the
participation of Panamanian nationals in the operation of the Canal, and international
policies on matters concerning the Canal. The Committee’s recommendations shall be
transmitted to the two Governments, which shall give such recommendations full
consideration in the formulation of such policy decisions.

8. In addition to the participation of Panamanian nationals at high management levels of
the Panama Canal Commission, as provided for in paragraph 3 of this Article, there shall
be growing participation of Panamanian nationals at all other levels and areas of
employment in the aforesaid commission, with the objective of preparing, in an orderly
and efficient fashion, for the assumption by the Republic of Panama of full responsibility
for the management, operation and maintenance of the Canal upon the termination of
this Treaty.

9. The use of the areas, waters and installations with respect to which the United States of
America is granted rights pursuant to this Article, and the rights and legal status of
United States Government agencies and employees operating in the Republic of Panama
pursuant to this Article, shall be governed by the Agreement in Implementation of this
Article, signed this date.

10. Upon entry into force of this Treaty, the United States Government agencies known as
the Panama Canal Company and the Canal Zone Government shall cease to operate within
the territory of the Republic of Panama that formerly constituted the Canal Zone.

Article IV. Protection and defense

1. The United States of America and the Republic of Panama commit themselves to
protect and defend the Panama Canal. Each Party shall act, in accordance with its
constitutional processes, to meet the danger resulting from an armed attack or other
actions which threaten the security of the Panama Canal or of ships transiting it.

2. For the duration of this Treaty, the United States of America shall have primary
responsibility to protect and defend the Canal. The rights of the United States of America
to station, train, and move military forces within the Republic of Panama are described in
the Agreement in Implementation of this Article, signed this date. The use of areas and
installations and the legal status of the armed forces of the United States of America in
the Republic of Panama shall be governed by the aforesaid Agreement.

3. In order to facilitate the participation and cooperation of the armed forces of both
parties in the protection and defense of the Canal, the United States of America and the
Republic of Panama shall establish a Combined Board comprised of an equal number of
senior military representatives of each Party. These representatives shall be charged by
their respective governments with consulting and cooperating on all matters pertaining
to the protection and defense of the Canal, and with planning for actions to be taken in
court for that purpose. Such combined protection and defense arrangements shall not
inhibit the identity or lines of authority of the armed forces of the United States of
America or the Republic of Panama. The Combined Board shall provide for coordination
and cooperation concerning such matters as:

(a) The preparation of contingency plans for the protection and defense of the Canal
based upon the cooperative efforts of the armed forces of both Parties;
(b) The planning and conduct of combined military exercises; and
(c) The conduct of United States and Panamanian military operations with respect to the
protection and defense of the Canal.

4. The Combined Board shall, at five-year intervals throughout the duration of this
Treaty, review the resources being made available by the two Parties for the protection
and defense of the Canal. Also, the Combined Board shall make appropriate
recommendations to the two Governments respecting projected requirements, the
efficient utilization of available resources of the two Parties, and other matters of mutual
interest with respect to the protection and defense of the Canal.

5. To the extent possible consistent with its primary responsibility for the protection and
defense of the Panama Canal, the United States of America will endeavor to maintain its
armed forces in the Republic of Panama in normal times at a level not in excess of that of
the armed forces of the United States of America in the territory of the former Canal Zone
immediately prior to the entry into force of this Treaty.

Article V. Principle of non-intervention

Employees of the Panama Canal Commission, their dependents and designated
contractors of the Panama Canal Commission, who are nationals of the United States of
America, shall respect the laws of the Republic of Panama and shall abstain from any
activity incompatible with the spirit of this Treaty. Accordingly, they shall abstain from
any political activity in the Republic of Panama as well as from any intervention in the
internal affairs of the Republic of Panama. The United States of America shall take all
measures within its authority to ensure that the provisions of this Article are fulfilled.

Article VI. Protection of the environment

1. The United States of America and the Republic of Panama commit themselves to
implement this Treaty in a manner consistent with the protection of the natural
environment of the Republic of Panama. To this end, they shall consult and cooperate
with each other in all appropriate ways to ensure that they shall give due regard to the protection and conservation of the environment.

2. A Joint Commission on the Environment shall be established with equal representation from the United States of America and the Republic of Panama, which shall periodically review the implementation of this Treaty and shall recommend as appropriate to the two Governments ways to avoid or, should this not be possible, to mitigate the adverse environmental impacts which might result from their respective actions pursuant to the Treaty.

3. The United States of America and the Republic of Panama shall furnish the Joint Commission on the Environment complete information on any action taken in accordance with this Treaty which, in the judgment of both, might have a significant effect on the environment. Such information shall be made available to the Commission as far in advance of the contemplated action as possible to facilitate the study by the Commission of any potential environmental problems and to allow for consideration of the recommendation of the Commission before the contemplated action is carried out.

Article VII. Flags

1. The entire territory of the Republic of Panama, including the areas the use of which the Republic of Panama makes available to the United States of America pursuant to this Treaty and related agreements, shall be under the flag of the Republic of Panama, and consequently such flag always shall occupy the position of honor.

2. The flag of the United States of America may be displayed, together with the flag of the Republic of Panama, at the headquarters of the Panama Canal Commission, at the site of the Combined Board, and as provided in the Agreement in Implementation of Article IV of this Treaty.

3. The flag of the United States of America also may be displayed at other places and on some occasions, as agreed by both Parties.

Article VIII. Privileges and immunities

1. The installations owned or used by the agencies or instrumentalities of the United States of America operating in the Republic of Panama pursuant to this Treaty and related agreements, and their official archives and documents, shall be inviolable. The two Parties shall agree on procedures to be followed in the conduct of any criminal investigation at such locations by the Republic of Panama.

2. Agencies and instrumentalities of the Government of the United States of America operating in the Republic of Panama pursuant to this Treaty and related agreements shall be immune from the jurisdiction of the Republic of Panama.

3. In addition to such other privileges and immunities as are afforded to employees of the United States Government and their dependents pursuant to this Treaty, the United States of America may designate up to twenty officials of the Panama Canal Commission who, along with their dependents, shall enjoy the privileges and immunities accorded to diplomatic agents and their dependents under international law and practice. The United States of America shall furnish to the Republic of Panama a list of the names of said officials.
officials and their dependents, identifying the positions they occupy in the Government of the United States of America, and shall keep such list current at all times.

**Article IX. Applicable laws and law enforcement**

1. In accordance with the provisions of this Treaty and related agreements, the law of the Republic of Panama shall apply in the areas made available for the use of the United States of America pursuant to this Treaty. The law of the Republic of Panama shall be applied to matters or events which occurred in the former Canal Zone prior to the entry into force of this Treaty only to the extent specifically provided in prior treaties and agreements.

2. Natural or juridical persons who, on the date of entry into force of this Treaty, are engaged in business or non-profit activities at locations in the former Canal Zone may continue such business or activities at those locations under the same terms and conditions prevailing prior to the entry into force of this Treaty for a thirty-month transition period from its entry into force. The Republic of Panama shall maintain the same operating conditions as those applicable to the aforementioned enterprises prior to the entry into force of this Treaty in order that they may receive licenses to do business in the Republic of Panama subject to their compliance with the requirements of its law. Thereafter, such persons shall receive the same treatment under the law of the Republic of Panama as similar enterprises already established in the rest of the territory of the Republic of Panama without discrimination.

3. The rights of ownership, as recognized by the United States of America, enjoyed by natural or juridical private persons in buildings and other improvements to real property located in the former Canal Zone shall be recognized by the Republic of Panama in conformity with its laws.

4. With respect to buildings and other improvements to real property located in the Canal operating areas, housing areas or other areas subject to the licensing procedure established in Article IV of the Agreement in Implementation of Article III of this Treaty, the owners shall be authorized to continue using the land upon which their property is located in accordance with the procedures established in that Article.

5. With respect to buildings and other improvements to real property located in areas of the former Canal Zone to which the aforesaid licensing procedure is not applicable, or may cease to be applicable during the lifetime or upon termination of this Treaty, the owners may continue to use the land upon which their property is located, subject to the payment of a reasonable charge to the Republic of Panama. Should the Republic of Panama decide to sell such land, the owners of the buildings or other improvements located thereon shall be offered a first option to purchase such land at a reasonable cost. In the case of non-profit enterprises, such as churches and fraternal organizations, the cost of purchase will be nominal in accordance with the prevailing practice in the rest of the territory of the Republic of Panama.

6. If any of the aforementioned persons are required by the Republic of Panama to discontinue their activities or vacate their property for public purposes, they shall be compensated at fair market value by the Republic of Panama.
7. The provisions of paragraphs 2-6 above shall apply to natural or juridical persons who have been engaged in business or non-profit activities at locations in the former Canal Zone for at least six months prior to the date of signature of this Treaty.

8. The Republic of Panama shall not issue, adopt or enforce any law, decree, regulation, or international agreement or take any other action which purports to regulate or would otherwise interfere with the exercise on the part of the United States of America of any right granted under this Treaty or related agreements.

9. Vessels transiting the Canal, and cargo, passengers and crews carried on such vessels shall be exempt from any taxes, fees, or other charges by the Republic of Panama. However, in the event such vessels call at a Panamanian port, they may be assessed charges incident thereto, such as charges for services provided to the vessel. The Republic of Panama may also require the passengers and crew disembarking from such vessels to pay such taxes, fees and charges as are established under Panamanian law for persons entering its territory. Such taxes, fees and charges shall be assessed on a nondiscriminatory basis.

10. The United States of America and the Republic of Panama will cooperate in taking such steps as may from time to time be necessary to guarantee the security of the Panama Canal Commission, its property, its employees and their dependents, and their property, the Forces of the United States of America and the members thereof, the civilian component of the United States Forces, the dependents of members of the Forces and the civilian component, and their property, and the contractors of the Panama Canal Commission and of the United States Forces, their dependents, and their property. The Republic of Panama will seek from its Legislative Branch such legislation as may be needed to carry out the foregoing purposes and to punish any offenders.

11. The Parties shall conclude an agreement whereby nationals of either State, who are sentenced by the courts of the other State, and who are not domiciled therein, may elect to serve their sentences in their State of nationality.

**Article X. Employment with the Panama Canal commission**

1. In exercising its rights and fulfilling its responsibilities as the employer, the United States of America shall establish employment and labor regulations which shall contain the terms, conditions and prerequisites for all categories of employees of the Panama Canal Commission. These regulations shall be provided to the Republic of Panama prior to their entry into force.

2. (a) The regulations shall establish a system of preference when hiring employees, for Panamanian applicants possessing the skills and qualifications required for employment by the Panama Canal Commission. The United States of America shall endeavor to ensure that the number of Panamanian nationals employed by the Panama Canal Commission in relation to the total number of its employees will conform to the proportion established for foreign enterprises under the law of the Republic of Panama.

   (b) The terms and conditions of employment to be established will in general be no less favorable to persons already employed by the Panama Canal Company or Canal Zone Government prior to the entry into force of this Treaty, than those in effect immediately prior to that date.
3. (a) The United States of America shall establish an employment policy for the Panama Canal Commission that shall generally limit the recruitment of personnel outside the Republic of Panama to persons possessing requisite skills and qualifications which are not available in the Republic of Panama.

(b) The United States of America will establish training programs for Panamanian employees and apprentices in order to increase the number of Panamanian nationals qualified to assume positions with the Panama Canal Commission, as positions become available.

(c) Within five years from the entry into force of this Treaty, the number of United States nationals employed by the Panama Canal Commission who were previously employed by the Panama Canal Company shall be at least twenty percent less than the total number of United States nationals working for the Panama Canal Company immediately prior to the entry into force of this Treaty.

(d) The United States of America shall periodically inform the Republic of Panama, through the Coordinating Committee, established pursuant to the Agreement in Implementation of Article III of this Treaty, of available positions within the Panama Canal Commission. The Republic of Panama shall similarly provide the United States of America any information it may have as to the availability of Panamanian nationals claiming to have skills and qualifications that might be required by the Panama Canal Commission, in order that the United States of America may take this information into account.

4. The United States of America will establish qualification standards for skills, training and experience required by the Panama Canal Commission. In establishing such standards, to the extent they include a requirement for a professional license, the United States of America, without prejudice to its right to require additional professional skills and qualifications, shall recognize the professional licenses issued by the Republic of Panama.

5. The United States of America shall establish a policy for the periodic rotation, at a maximum of every five years, of United States citizen employees and other non-Panamanian employees, hired after the entry into force of this Treaty. It is recognized that certain exceptions to the said policy of rotation may be made for sound administrative reasons, such as in the case of employees holding positions requiring certain nontransferable or nonrecruitable skills.

6. With regard to wages and fringe benefits, there shall be no discrimination on the basis of nationality, sex, or race. Payments by the Panama Canal Commission of additional remuneration, or the provision of other benefits, such as home leave benefits, to United States nationals employed prior to entry into force of this Treaty, or to persons of any nationality, including Panamanian nationals who are thereafter recruited outside of the Republic of Panama and who change their place of residence, shall not be considered to be discrimination for the purpose of this paragraph.

7. Persons employed by the Panama Canal Company or Canal Zone Government prior to the entry into force of this Treaty, who are displaced from their employment as a result of the discontinuance by the United States of America of certain activities pursuant to this Treaty, will be placed by the United States of America, to the maximum extent feasible, in other appropriate jobs with the Government of the United States in accordance with United States Civil Service regulations. For such persons who are not
United States nationals, placement efforts will be confined to United States Government activities located within the Republic of Panama. Likewise, persons previously employed in activities for which the Republic of Panama assumes responsibility as a result of this Treaty will be continued in their employment to the maximum extent feasible by the Republic of Panama. The Republic of Panama shall, to the maximum extent feasible, ensure that the terms and conditions of employment applicable to personnel employed in the activities for which it assumes responsibility are no less favorable than those in effect immediately prior to the entry into force of this Treaty. Non-United States nationals employed by the Panama Canal Company or Canal Zone Government prior to the entry into force of this Treaty who are involuntarily separated from their positions because of the discontinuance of an activity by reason of this Treaty, who are not entitled to an immediate annuity under the United States Civil Service Retirement System, and for whom continued employment in the Republic of Panama by the Government of the United States of America is not practicable, will be provided special job placement assistance by the Republic of Panama for employment in positions for which they may be qualified by experience and training.

8. The Parties agree to establish a system whereby the Panama Canal Commission may, if deemed mutually convenient or desirable by the two Parties, assign certain employees of the Panama Canal Commission, for a limited period of time, to assist in the operation of activities transferred to the responsibility of the Republic of Panama as a result of this Treaty or related agreements. The salaries and other costs of employment of any such persons assigned to provide such assistance shall be reimbursed to the United States of America by the Republic of Panama.

9. (a) The right of employees to negotiate collective contracts with the Panama Canal Commission is recognized. Labor relations with employees of the Panama Canal Commission shall be conducted in accordance with forms of collective bargaining established by the United States of America after consultation with employee unions.

(b) Employee unions shall have the right to affiliate with international labor organizations.

10. The United States of America will provide an appropriate early optional retirement program for all persons employed by the Panama Canal Company or Canal Zone Government immediately prior to the entry into force of this Treaty. In this regard, taking into account the unique circumstances created by the provisions of this Treaty, including its duration, and their effect upon such employees, the United States of America shall, with respect to them:

(a) determine that conditions exist which invoke applicable United States law permitting early retirement annuities and apply such law for a substantial period of the duration of the Treaty;

(b) seek special legislation to provide more liberal entitlement to, and calculation of, retirement annuities than is currently provided for by law.

Article XI. Provisions for the transition period

1. The Republic of Panama shall reassert plenary jurisdiction over the former Canal Zone upon entry into force of this Treaty and in accordance with its terms. In order to provide for an orderly transition to the full application of the jurisdictional arrangements...
established by this Treaty and related agreements, the provisions of this Article shall become applicable upon the date this Treaty enters into force, and shall remain in effect for thirty calendar months. The authority granted in this Article to the United States of America for this transition period shall supplement, and is not intended to limit, the full application and effect of the rights and authority granted to the United States of America elsewhere in this Treaty and in related agreements.

2. During this transition period, the criminal and civil laws of the United States of America shall apply concurrently with those of the Republic of Panama in certain of the areas and installations made available for the use of the United States of America pursuant to this Treaty, in accordance with the following provisions:

(a) The Republic of Panama permits the authorities of the United States of America to have the primary right to exercise criminal jurisdiction over United States citizen employees of the Panama Canal Commission and their dependents, and members of the United States Forces and civilian component and their dependents, in the following cases:

(i) for any offense committed during the transition period within such areas and installations, and

(ii) for any offense committed prior to that period in the former Canal Zone.

(b) Either Party may waive its primary right to exercise jurisdiction in a specific case or category of cases.

3. The United States of America shall retain the right to exercise jurisdiction in criminal cases relating to offenses committed prior to the entry into force of this Treaty in violation of the laws applicable in the former Canal Zone.

4. For the transition period, the United States of America shall retain police authority and maintain a police force in the aforementioned areas and installations. In such areas, the police authorities of the United States of America may take into custody any person not subject to their primary jurisdiction if such person is believed to have committed or to be committing an offense against applicable laws or regulations, and shall promptly transfer custody to the police authorities of the Republic of Panama. The United States of America and the Republic of Panama shall establish joint police patrols in agreed areas. Any arrests conducted by a joint patrol shall be the responsibility of the patrol member or members representing the Party having primary jurisdiction over the person or persons arrested.

5. The courts of the United States of America and related personnel, functioning in the former Canal Zone immediately prior to the entry into force of this Treaty, may continue to function during the transition period for the judicial enforcement of the jurisdiction to be exercised by the United States of America in accordance with this Article.

6. In civil cases, the civilian courts of the United States of America in the Republic of Panama shall have no jurisdiction over new cases of a private civil nature, but shall retain full jurisdiction during the transition period to dispose of any civil cases, including admiralty cases, already instituted and pending before the courts prior to the entry into force of this Treaty.
7. The laws, regulations, and administrative authority of the United States of America applicable in the former Canal Zone immediately prior to the entry into force of this Treaty shall, to the extent not inconsistent with this Treaty and related agreements, continue in force for the purpose of the exercise by the United States of America of law enforcement and judicial jurisdiction only during the transition period. The United States of America may amend, repeal or otherwise change such laws, regulations and administrative authority. The two Parties shall consult concerning procedural and substantive matters relative to the implementation of this Article, including the disposition of cases pending at the end of the transition period and, in this respect, may enter into appropriate agreements by an exchange of notes or other instrument.

8. During this transition period, the United States of America may continue to incarcerate individuals in the areas and installations made available for the use of the United States of America by the Republic of Panama pursuant to this Treaty and related agreements, or to transfer them to penal facilities in the United States of America to serve their sentences.

**Article XII. A sea-level canal or a third lane of locks**

1. The United States of America and the Republic of Panama recognize that a sea-level canal may be important for international navigation in the future. Consequently, during the duration of this Treaty, both Parties commit themselves to study jointly the feasibility of a sea-level canal in the Republic of Panama, and in the event they determine that such a waterway is necessary, they shall negotiate terms, agreeable to both Parties, for its construction.

2. The United States of America and the Republic of Panama agree on the following:

(a) No new interoceanic canal shall be constructed in the territory of the Republic of Panama during the duration of this Treaty, except in accordance with the provisions of this Treaty, or as the two Parties may otherwise agree; and

(b) During the duration of this Treaty, the United States of America shall not negotiate with third States for the right to construct an interoceanic canal on any other route in the Western Hemisphere, except as the two Parties may otherwise agree.

3. The Republic of Panama grants to the United States of America the right to add a third lane of locks to the existing Panama Canal. This right may be exercised at any time during the duration of this Treaty, provided that the United States of America has delivered to the Republic of Panama copies of the plans for such construction.

4. In the event the United States of America exercises the right granted in paragraph 3 above, it may use for that purpose, in addition to the areas otherwise made available to the United States of America pursuant to this Treaty, such other areas as the two Parties may agree upon. The terms and conditions applicable to Canal operating areas made available by the Republic of Panama for the use of the United States of America pursuant to Article III of this Treaty shall apply in a similar manner to such additional areas.

5. In the construction of the aforesaid works, the United States of America shall not use nuclear excavation techniques without the previous consent of the Republic of Panama.
Article XIII. Property transfer and economic participation by the Republic of Panama

1. Upon termination of this Treaty, the Republic of Panama shall assume total responsibility for the management, operation, and maintenance of the Panama Canal, which shall be turned over in operating condition and free of liens and debts, except as the two Parties may otherwise agree.

2. The United States of America transfers, without charge, to the Republic of Panama all right, title and interest the United States of America may have with respect to all real property, including non-removable improvements thereon, as set forth below:

   (a) Upon the entry into force of this Treaty, the Panama Railroad and such property that was located in the former Canal Zone but that is not within the land and water areas the use of which is made available to the United States of America pursuant to this Treaty. However, it is agreed that the transfer on such date shall not include buildings and other facilities, except housing, the use of which is retained by the United States of America pursuant to this Treaty and related agreements, outside such areas.

   (b) Such property located in an area or a portion thereof at such time as the use by the United States of America of such area or portion thereof ceases pursuant to agreement between the two Parties.

   (c) Housing units made available for occupancy by members of the Armed Forces of the Republic of Panama in accordance with paragraph 5 (b) of Annex B to the Agreement in Implementation of Article IV of this Treaty at such time as such units are made available to the Republic of Panama.

   (d) Upon termination of this Treaty, all real property and non-removable improvements that were used by the United States of America for the purposes of this Treaty and related agreements and equipment related to the management, operation and maintenance of the Canal remaining in the Republic of Panama.

3. The Republic of Panama agrees to hold the United States of America harmless with respect to any claims which may be made by third parties relating to rights, title and interest in such property.

4. The Republic of Panama shall receive, in addition, from the Panama Canal Commission a just and equitable return on the national resources which it has dedicated to the efficient management, operation, maintenance, protection and defense of the Panama Canal, in accordance with the following:

   (a) An annual amount to be paid out of Canal operating revenues computed at a rate of thirty hundredths of a United States dollar ($ 0.30) per Panama Canal net ton, or its equivalency, for each vessel transiting the Canal after the entry into force of this Treaty, for which tolls are charged. The rate of thirty hundredths of a United States dollar ($ 0.30) per Panama Canal net ton, or its equivalency, will be adjusted to reflect changes in the United States wholesale price index for total manufactured goods during biennial periods. The first adjustment shall take place five years after entry into force of this Treaty, taking into account the changes that occurred in such price index during the preceding two years. Thereafter, successive adjustments shall take place at the end of each biennial period. If the United States of America should decide that another indexing...
method is preferable, such method shall be proposed to the Republic of Panama and applied if mutually agreed.

(b) A fixed annuity of ten million United States dollars (\$10,000,000) to be paid out of Canal operating revenues. This amount shall constitute a fixed expense of the Panama Canal Commission.

(c) An annual amount of up to ten million United States dollars (\$10,000,000) per year, to be paid out of Canal operating revenues to the extent that such revenues exceed expenditures of the Panama Canal Commission including amounts paid pursuant to this Treaty. In the event Canal operating revenues in any year do not produce a surplus sufficient to cover this payment, the unpaid balance shall be paid from operating surpluses in future years in a manner to be mutually agreed.

**Article XIV. Settlement of disputes**

In the event that any question should arise between the Parties concerning the interpretation of this Treaty or related agreements, they shall make every effort to resolve the matter through consultation in the appropriate committees established pursuant to this Treaty and related agreements, or, if appropriate, through diplomatic channels. In the event the Parties are unable to resolve a particular matter through such means, they may, in appropriate cases, agree to submit the matter to conciliation, mediation, arbitration, or such other procedure for the peaceful settlement of the dispute as they may mutually deem appropriate.

DONE at Washington, this 7th day of September, 1977, in duplicate, in the English and Spanish languages, both texts being equally authentic.

(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 the Panama Canal Treaty, the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, and the resolutions of ratification 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 of interference with its political independence or sovereign integrity.

(2) The instruments of ratification of the Panama Canal Treaty to be exchanged by the United States of America 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 of the Treaty.

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

(4) Any accumulated unpaid balance under paragraph 4(c) of Article XIII of the Treaty at the date of termination of the Treaty shall be payable only to the extent of any operating surplus in the last year of the duration of the Treaty, and nothing in such 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.

(5) Exchange of the instruments of ratification of the Panama Canal Treaty and of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal shall not be effective earlier than March 31, 1979, and such 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.

(6) After the date of entry into force of the Treaty, the Panama Canal Commission shall, unless otherwise provided by legislation enacted by the Congress of the United States of America, 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 of the United States of America and not reimbursed before the date of entry into force of the Treaty. Such reimbursement for 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) Before the first day of the three-year period beginning on the date of entry into force of the 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 paragraph 5 of Article III 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 the Canal operating areas and the housing areas referred to in paragraph 5 of Article III. If payments made under paragraph 5 of Article III 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 Panama Canal 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.

(2) Nothing in paragraph 3, 4, or 5 of Article IV of the Treaty may be construed to limit either the provisions of the first paragraph 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 the Treaty.
(3) Nothing in paragraph 4(c) of Article XIII of the Treaty shall be construed to limit 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 the Republic of Panama described in paragraph 4(c) of Article XIII.

(4) Any agreement concluded pursuant to paragraph 11 of Article IX of the Treaty 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 of America 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 to be exchanged with the Government of the Republic of Panama.

Annexe VI. Traité relatif à la neutralité permanente et au fonctionnement du canal de Panama du 7 septembre 1977

The United States of America and the Republic of Panama have agreed upon the following:

Article I

The Republic of Panama declares that the Canal, as an international transit waterway, shall be permanently neutral in accordance with the regime established in this Treaty. The same regime of neutrality shall apply to any other international waterway that may be built either partially or wholly in the territory of the Republic of Panama.

Article II

The Republic of Panama declares the neutrality of the Canal in order that both in time of peace and in time of war it shall remain secure and open to peaceful transit by the vessels of all nations on terms of entire equality, so that there will be no discrimination against any nation, or its citizens or subjects, concerning the conditions or charges of transit, or for any other reason, and so that the Canal, and therefore the Isthmus of Panama, shall not be the target of reprisals in any armed conflict between other nations of the world. The foregoing shall be subject to the following requirements:

(a) Payment of tolls and other charges for transit and ancillary services, provided they have been fixed in conformity with the provisions of Article III (c);
(b) Compliance with applicable rules and regulations, provided such rules and regulations are applied in conformity with the provisions of Article III (c);

(c) The requirement that transiting vessels commit no acts of hostility while in the Canal; and

(d) Such other conditions and restrictions as are established by this Treaty.

Article III

1. For purposes of the security, efficiency and proper maintenance of the Canal the following rules shall apply:

(a) The Canal shall be operated efficiently in accordance with conditions of transit through the Canal, and rules and regulations that shall be just, equitable and reasonable, and limited to those necessary for safe navigation and efficient, sanitary operation of the Canal;

(b) Ancillary services necessary for transit through the Canal shall be provided;

(c) Tolls and other charges for transit and ancillary services shall be just, reasonable, equitable and consistent with the principles of international law;

(d) As a pre-condition of transit, vessels may be required to establish clearly the financial responsibility and guarantees for payment of reasonable and adequate indemnification, consistent with international practice and standards, for damages resulting from acts or omissions of such vessels when passing through the Canal. In the case of vessels owned or operated by a State or for which it has acknowledged responsibility, a certification by that State that it shall observe its obligations under international law to pay for damages resulting from the act or omission of such vessels when passing through the Canal shall be deemed sufficient to establish such financial responsibility;

(e) Vessels of war and auxiliary vessels of all nations shall at all times be entitled to transit the Canal, irrespective of their internal operation, means of propulsion, origin, destination or armament, without being subjected, as a condition of transit, to inspection, search or surveillance. However, such vessels may be required to certify that they have complied with all applicable health, sanitation and quarantine regulations. In addition, such vessels shall be entitled to refuse to disclose their internal operation, origin, armament, cargo or destination. However, auxiliary vessels may be required to present written assurances, certified by an official at a high level of the government of the State requesting the exemption, that they are owned or operated by that government and in this case are being used only on government non-commercial service.

2. For the purposes of this Treaty, the terms “Canal”, “vessel of war”, “auxiliary vessel”, “internal operation”, “armament” and “inspection” shall have the meanings assigned them in Annex A to this Treaty.¹

Article IV

The United States of America and the Republic of Panama agree to maintain the regime of neutrality established in this Treaty, which shall be maintained in order that the Canal shall remain permanently neutral, notwithstanding the termination of any other treaties entered into by the two Contracting Parties.
Article V

After the termination of the Panama Canal Treaty, only the Republic of Panama shall operate the Canal and maintain military forces, defense sites and military installations within its national territory.

Article VI

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

2. The United States of America, so long as it has responsibility for the operation of the Canal, may continue to provide the Republic of Colombia toll-free transit through the Canal for its troops, vessels and materials of war. Thereafter, the Republic of Panama may provide the Republic of Colombia and the Republic of Costa Rica with the right of toll-free transit.

Article VII

1. The United States of America and the Republic of Panama shall jointly sponsor a resolution in the Organization of American States opening to accession by all nations of the world the Protocol to this Treaty whereby all the signatories will adhere to the objectives of this Treaty, agreeing to respect the regime of neutrality set forth herein.

2. The Organization of American States shall act as the depositary for this Treaty and related instruments.

Article VIII

This Treaty shall be subject to ratification in accordance with the constitutional procedures of the two Parties. The instruments of ratification of this Treaty shall be exchanged at Panama at the same time as the instruments of ratification of the Panama Canal Treaty, signed this date, are exchanged. This Treaty shall enter into force, simultaneously with the Panama Canal Treaty, six calendar months from the date of the exchange of the instruments of ratification.

DONE at Washington, this 7th day of September, 1977, in the English and Spanish languages, both texts being equally authentic.

Annex A

1. “Canal” includes the existing Panama Canal, the entrances thereto and the territorial seas of the Republic of Panama adjacent thereto, as defined on the map annexed hereto (Annex B), and any other interoceanic waterway in which the United States of America is
a participant or in which the United States of America has participated in connection with the construction or financing, that may be operated wholly or partially within the territory of the Republic of Panama, the entrances thereto and the territorial seas adjacent thereto.

2. "Vessel of war" means a ship belonging to the naval forces of a State, and bearing the external marks distinguishing warships of its nationality, under the command of an officer duly commissioned by the government and whose name appears in the Navy List, and manned by a crew which is under regular naval discipline.

3. "Auxiliary vessel" means any ship, not a vessel of war, that is owned or operated by a State and used, for the time being, exclusively on government non-commercial service.

4. "Internal operation" encompasses all machinery and propulsion systems, as well as the management and control of the vessel, including its crew. It does not include the measures necessary to transit vessels under the control of pilots while such vessels are in the Canal.

5. "Armament" means arms, ammunitions, implements of war and other equipment of a vessel which possesses characteristics appropriate for use for warlike purposes.

6. "Inspection" includes on-board examination of vessel structure, cargo, armament and internal operation. It does not include those measures strictly necessary for admeasurement, nor those measures strictly necessary to assure safe, sanitary transit and navigation, including examination of deck and visual navigation equipment, nor in the case of live cargoes, such as cattle or other livestock, that may carry communicable diseases, those measures necessary to assure that health and sanitation requirements are satisfied.

Les États-Unis d'Amérique et la République de Panama sont convenus de ce qui suit :

**Article I**

La République de Panama déclare que le canal, en tant que voie d'eau internationale de transit, sera neutre en permanence conformément au régime établi par ce traité. Le même régime s'appliquera à toute autre voie d'eau internationale qui pourrait être construite en partie ou en totalité sur le territoire de la République de Panama.

**Article II**

La République de Panama déclare la neutralité du canal afin qu'il demeure sûr et ouvert, en temps de paix comme en temps de guerre, au transit pacifique des navires de toutes les nations, sur un pied d'entièr e égalité, de telle sorte qu'il n'y ait aucune discrimination au préjudice de quelque nation que ce soit comme de ses citoyens ou sujets quant aux conditions ou charges de transit, ou pour toute autre raison, et que le canal et l'isthme de Panama ne soient pas l'objet de représailles dans un conflit armé entre d'autres nations du monde. Les dispositions ci-dessus sont soumises aux conditions suivantes :

a) Paiement des droits de péage et autres taxes pour le transit et les services auxiliaires, pour autant qu'ils soient établis conformément aux dispositions de l'article III, c ;
b) Respect des règles et règlements applicables, à condition que ces règles et règlements s’appliquent conformément aux dispositions de l’article III, c ;

c) Les navires en transit ne doivent accomplir aucun acte d’hostilité pendant la traversée du canal ;

d) Respect des autres conditions et restrictions établies par le présent traité.

Article III

1. En vue d’assurer la sécurité, l’efficacité et l’entretien régulier du canal, les règles suivantes sont applicables :

a) Le canal doit être exploité de manière efficace conformément aux conditions de transit par le canal et aux règles et règlements qui doivent être justes, équitables, raisonnables et limités à ce qui est nécessaire pour assurer la sûreté de la navigation, le fonctionnement efficace du canal et le respect des prescriptions sanitaires ;

b) Les services auxiliaires nécessaires au transit par le canal doivent être assurés ;

c) Les droits de péage et autres taxes pour le transit et les services auxiliaires doivent être justes, raisonnables, équitables et conformes aux principes du droit international ;

d) En tant que condition préalable au transit, les navires peuvent être tenus d’établir clairement leur responsabilité financière et de présenter des garanties assurant le paiement d’indemnités raisonnables et adéquates, conformes à la pratique et aux standards internationaux, pour les dommages qui résulteraient d’actes ou d’omissions de ces navires à l’occasion de leur transit par le canal. En ce qui concerne les navires appartenant à un Etat ou exploités par lui ou dont un Etat a admis la responsabilité, un certificat émanant dudit Etat, par lequel celui-ci reconnaît qu’il respectera les obligations découlant du droit international quant à la réparation des dommages résultant d’un acte ou d’une omission de ces navires à l’occasion de leur passage dans le canal, sera considéré comme suffisant pour établir une telle responsabilité financière ;

e) Les navires de guerre et les navires auxiliaires de toutes les nations auront le droit de franchir le canal en tout temps, indépendamment de leur aménagement interne, de leur mode de propulsion, de leur origine, de leur destination ou de leur armement, sans être assujettis à inspection, enquête ou surveillance pour pouvoir exercer le transit. Ces navires pourront cependant être tenus de certifier qu’ils se sont conformés à tous les règlements sanitaires et de quarantaine. En outre, ces navires auront le droit de refuser de révéler leur aménagement interne, leur origine, leur armement, leur cargaison ou leur destination. Cependant, les navires auxiliaires peuvent être tenus de produire des assurances écrites émanant d’un agent du gouvernement de l’Etat qui demande l’exemption, attestant qu’ils appartiennent ou sont exploités par ce gouvernement et, dans ce cas-ci, qu’ils sont uniquement affectés à un service gouvernemental non commercial.

Article IV

Les États-Unis d'Amérique et la République de Panama acceptent de maintenir le régime de neutralité établi par le présent traité, qui sera maintenu afin que le canal demeure neutre de façon permanente, nonobstant la terminaison de tout autre traité conclu par les deux Parties contractantes.

Article V

Après l'expiration du traité relatif au canal de Panama, seule la République de Panama exploitera le canal et maintiendra des forces armées, des sites de défense et des installations militaires sur son territoire national.

Article VI

1. En reconnaissance des importantes contributions des États-Unis d'Amérique et de la République de Panama à la construction, à l'exploitation, à l'entretien, à la protection et à la défense du canal, les navires de guerre et les navires auxiliaires de ces États auront le droit, en dépit de toute autre disposition du présent traité, de franchir le canal indépendamment de leur aménagement interne, de leur mode de propulsion, de leur origine, de leur destination, de leur armement ou de la cargaison transportée. Ces navires de guerre et ces bâtiments auxiliaires auront le droit de franchir promptement le canal.

2. Aussi longtemps qu'ils auront la responsabilité de l'exploitation du canal, les États-Unis d'Amérique pourront continuer à accorder à la République de Colombie un transit exempt de péage dans le canal pour ses troupes, ses navires et son matériel de guerre. Par la suite, la République de Panama pourra accorder l'exonération des droits de péage à la République de Colombie et à la République du Costa Rica.

Article VII

1. Les États-Unis d'Amérique et la République de Panama présenteront conjointement à l'Organisation des États américains une résolution permettant l'accession au protocole annexé au présent traité de toutes les nations du monde qui, ce faisant, adhéreront aux objectifs du traité et s'engageront à respecter le régime de neutralité y établi.

2. L'Organisation des États américains agira en tant que dépositaire du présent traité et des instruments y relatifs.

Article VIII

Le présent traité sera soumis à ratification conformément aux procédures constitutionnelles des deux Parties. Les instruments de ratification du présent traité seront échangés à Panama en même temps que les instruments de ratification du traité relatif au canal de Panama signé à la même date. Les deux traités entreront simultanément en vigueur, six mois après la date d'échange des instruments de ratification.
Annexe A

1. Le « canal » comprend l’actuel canal de Panama, ses accès et la mer territoriale de la République de Panama qui y est adjacente, comme indiqué sur la carte annexée (Annexe B), et toute autre voie d’eau interocéanique à la construction ou au financement de laquelle les États-Unis d’Amérique participeraient ou auraient participé et qui serait exploitée entièrement ou partiellement sur le territoire de la République de Panama, ainsi que ses accès et la mer territoriale adjacente.

2. « Navire de guerre » désigne un navire appartenant aux forces navales d’un État et portant les signes extérieurs distinctifs des bâtiments militaires de sa nationalité ; le commandant doit être un officier nommé par le gouvernement et son nom doit figurer sur la liste des officiers ; l’équipage doit être soumis aux règles de la discipline militaire.

3. « Navire auxiliaire » désigne tout navire, autre qu’un navire de guerre, qui appartient à un État ou est exploité par lui et qui est exclusivement affecté, à l’époque considérée, à un service gouvernemental non commercial.

4. « Aménagement interne » comprend tous les systèmes de propulsion et la machinerie, ainsi que la direction et le contrôle du navire, y compris son équipage. Il ne comprend pas les mesures nécessaires au transit des navires sous le contrôle de pilotes pendant que ces navires sont dans le canal.

5. « Armement » désigne les armes, munitions, matériel de guerre et autre équipement d’un navire qui possède des caractéristiques appropriées pour servir à des fins militaires.

6. « Inspection » comprend l’examen à bord de la structure, de la cargaison, de l’armement et de l’aménagement interne du navire. Ce terme ne comprend pas les mesures strictement nécessaires au mesurage, ni celles strictement nécessaires pour assurer la sécurité du transit et de la navigation et l’état sanitaire du navire, y compris l’examen de l’équipement de pont et de la navigation optique ; il ne comprend pas non plus, dans le cas du transport de cargaisons vivantes telles que du bétail ou toute autre marchandise vivante, les mesures nécessaires pour s’assurer que les prescriptions d’hygiène et de contrôle sanitaire soient bien respectées.

Annex B
(a) Amendments:

250 (1) At the end of Article IV, insert the following:

251 “A correct and authoritative statement of certain rights and duties of the Parties under
the foregoing is contained in the Statement of Understanding issued by the Government
of the United States of America on October 14, 1977, and by the Government of the
Republic of Panama on October 18, 1977, which is hereby incorporated as an integral part
of this Treaty, as follows:

252 'Under the Treaty Concerning the Permanent Neutrality and Operation of the Panama
Canal (the Neutrality Treaty), Panama and the United States have the responsibility to
assure that the Panama Canal will remain open and secure to ships of all nations. The
correct interpretation of this principle is that each of the two countries shall, in
accordance with their respective constitutional processes, defend the Canal against any
threat to the regime of neutrality, and consequently shall have the right to act against
any aggression or threat directed against the Canal or against the peaceful transit of
vessels through the Canal.

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

254 (2) At the end of the first paragraph of Article VI, insert the following:
“In accordance with the Statement of Understanding mentioned in Article IV above: ‘The Neutrality Treaty provides that the vessels of war and auxiliary vessels of the United States and Panama will be entitled to transit the Canal expeditiously. This is intended, and it shall so be interpreted, to assure the transit of such vessels through the Canal as quickly as possible, without any impediment, with expedited treatment, and in case of need or emergency, to go to the head of the line of vessels in order to transit the Canal rapidly.’”

(b) Conditions:

(1) Notwithstanding the provisions of Article V or any other provision of the Treaty, if the Canal is closed, or its operations are interfered with, the United States of America and the Republic of Panama shall each independently have the right to take such steps as each deems necessary, in accordance with its constitutional processes, including the use of military force in the Republic of Panama, to reopen the Canal or restore the operations of the Canal, as the case may be.

(2) The instruments of ratification of the Treaty shall be exchanged only upon the conclusion of a Protocol of Exchange, to be signed by authorized representatives of both Governments, which shall constitute an integral part of the Treaty documents and which shall include the following:

“Nothing in the Treaty shall preclude the Republic of Panama and the United States of America from making, in accordance with their respective constitutional processes, any agreement or arrangement between the two countries to facilitate performance at any time after December 31, 1999, of their responsibilities to maintain the regime of neutrality established in the Treaty, including agreements or arrangements for the stationing of any United States military forces or the maintenance of defense sites after that date in the Republic of Panama that the Republic of Panama and the United States of America may deem necessary or appropriate.”

(c) Reservations:

(1) Before the date of entry into force of the Treaty, the two Parties shall begin to negotiate for an agreement under which the American Battle Monuments Commission would, upon the date of entry into force of such agreement and thereafter, administer, free of all taxes and other charges and without compensation to the Republic of Panama and in accordance with the practices, privileges, and immunities associated with the administration of cemeteries outside the United States of America by the American Battle Monuments Commission, including the display of the flag of the United States of America, such part of Corozal Cemetery in the former Canal Zone as encompasses the remains of citizens of the United States of America.

(2) The flag of the United States of America may be displayed, pursuant to the provisions of paragraph 3 of Article VII of the Panama Canal Treaty, at such part of Corozal Cemetery in the former Canal Zone as encompasses the remains of citizens of the United States of America.

(3) The President—

(A) Shall have announced, before the date of entry into force of the Treaty, his intention to transfer, consistent with an agreement with the Republic of Panama, and before the
date of termination of the Panama Canal Treaty, to the American Battle Monuments Commission the administration of such part of Corozal Cemetery as encompasses the remains of citizens of the United States of America; and

(B) Shall have announced, immediately after the date of exchange of instruments of ratification, plans, to be carried out at the expense of the Government of the United States of America, for—

(i) removing, before the date of entry into force of the Treaty, the remains of citizens of the United States of America from Mount Hope Cemetery to such part of Corozal Cemetery as encompasses such remains, except that the remains of any citizen whose next of kin objects in writing to the Secretary of the Army not later than three months after the date of exchange of the instruments of ratification of the Treaty shall not be removed; and

(ii) transporting to the United States of America for reinterment, if the next of kin so requests, not later than thirty months after the date of entry into force of the Treaty, any such remains encompassed by Corozal Cemetery and, before the date of entry into force of the Treaty, any remains removed from Mount Hope Cemetery pursuant to subclause (i); and

(C) shall have fully advised, before the date of entry into force of the Treaty, the next of kin objecting under clause (B) (i) of all available options and their implications.

(4) To carry out the purposes of Article III of the Treaty of assuring the security, efficiency, and proper maintenance of the Panama Canal, the United States of America and the Republic of Panama, during their respective periods of responsibility for Canal operation and maintenance, shall, unless the amount of the operating revenues of the Canal exceeds the amount needed to carry out the purposes of such Article, use such revenues of the Canal only for purposes consistent with the purposes of Article III.

(d) Understandings:

(1) Paragraph 1 (c) of Article III of the Treaty shall be construed as requiring, before any adjustment in tolls for use of the Canal, that the effects of any such toll adjustment on the trade patterns of the two Parties shall be given full consideration, including consideration of the following factors in a manner consistent with the regime of neutrality:

(A) the costs of operating and maintaining the Panama Canal;

(B) the competitive position of the use of the Canal in relation to other means of transportation;

(C) the interests of both Parties in maintaining their domestic fleets;

(D) the impact of such an adjustment on the various geographical areas of each of the two Parties; and

(E) the interests of both Parties in maximizing their international commerce. The United States of America and the Republic of Panama shall cooperate in exchanging information necessary for the consideration of such factors.

(2) The agreement “to maintain the regime of neutrality established in this Treaty” in Article IV of the Treaty means that either of the two Parties to the Treaty may, in accordance with its constitutional processes, take unilateral action to defend the Panama Canal against any threat, as determined by the Party taking such action.
(3) The determination of “need or emergency” for the purpose of any vessel of war or auxiliary vessel of the United States of America or the Republic of Panama going to the head of the line of vessels in order to transit the Panama Canal rapidly shall be made by the nation operating such vessel.

(4) Nothing in the Treaty, in Annex A or B thereto, in the Protocol relating to the Treaty, or in any other agreement relating to the Treaty, obligates the United States of America 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.

(5) The President shall include all amendments, conditions, reservations, and understandings incorporated by the Senate in this resolution of ratification in the instrument of ratification to be exchanged with the Government of the Republic of Panama.

Annexe VII. Protocole au traité relatif à la neutralité permanente et au fonctionnement du canal de Panama, du 7 septembre 1977

Whereas the maintenance of the neutrality of the Panama Canal is important not only to the commerce and security of the United States of America and the Republic of Panama, but to the peace and security of the Western Hemisphere and to the interests of world commerce as well;

Whereas the regime of neutrality which the United States of America and the Republic of Panama have agreed to maintain will ensure permanent access to the Canal by vessels of all nations on the basis of entire equality; and

Whereas the said regime of effective neutrality shall constitute the best protection for the Canal and shall ensure the absence of any hostile act against it;

The Contracting Parties to this Protocol have agreed upon the following:

Article I

The Contracting Parties hereby acknowledge the regime of permanent neutrality for the Canal established in the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal and associate themselves with its objectives.

Article II

The Contracting Parties agree to observe and respect the regime of permanent neutrality of the Canal in time of war as in time of peace, and to ensure that vessels of their registry strictly observe the applicable rules.

Le régime de neutralité du canal de Panama
Article III

284 This Protocol shall be open to accession by all States of the world, and shall enter into force for each State at the time of deposit of its instrument of accession with the Secretary General of the Organization of American States.

(a) Amendments2:

285 (1) Insérer ce qui suit à la fin de l’article IV :

286 « Un énoncé exact et faisant foi de certains droits et obligations des Parties en vertu de cet article est contenu dans la déclaration interprétative adoptée par le Gouvernement des Etats-Unis d’Amérique le 14 octobre 1977 et par le Gouvernement de la République de Panama le 18 octobre 1977, déclaration dont la teneur est incorporée au présent traité et en fait partie intégrante :

287 “Par le traité relatif à la neutralité permanente et au fonctionnement du canal de Panama (le traité de neutralité), le Panama et les Etats-Unis ont la responsabilité d’assurer que le canal de Panama demeure ouvert et sûr aux navires de toutes les nations. L’interprétation correcte de ce principe est que chacun des deux Etats, conformément à ses dispositions constitutionnelles, défendra le canal contre toute menace au régime de neutralité et aura par conséquent le droit d’agir contre toute agression ou menace dirigée contre le canal ou contre le transit pacifique des navires à travers le canal.

288 Cela ne saurait être interprété comme un droit d’intervention dans les affaires internes du Panama. Toute action des Etats-Unis aura pour but d’assurer que le canal demeurerà ouvert, sûr et accessible et ne sera jamais dirigée contre l’intégrité territoriale ou l’indépendance politique du Panama”. »

289 (2) Insérer ce qui suit à la fin du premier paragraphe de l’article VI :

290 « Conformément à la déclaration interprétative mentionnée à l’article IV ci-dessus, “le traité de neutralité prévoit que les navires de guerre et les navires auxiliaires des Etats-Unis et du Panama auront le droit de franchir rapidement le canal. Cela a pour but – et telle sera son interprétation – d’assurer le transit aussi rapide que possible de ces navires à travers le canal, sans entrave, avec des formalités accélérées et, en cas de besoin ou d’urgence, ces navires auront le droit de passer en tête de la colonne afin de franchir rapidement le canal”.”

(b) Conditions3:

291 (1) En dépit de l’article V ou de toute autre disposition du traité, si le canal est fermé ou si son fonctionnement est entravé, les Etats-Unis d’Amérique et la République de Panama auront le droit, de façon indépendante et en accord avec leurs dispositions constitutionnelles, de prendre les mesures jugées nécessaires, y compris l’usage de la force militaire au Panama, pour rouvrir le canal ou rétablir son fonctionnement.

292 (2) Les instruments de ratification du traité ne seront échangés qu’après la conclusion d’un protocole d’échange, dûment signé par les représentants autorisés des deux Gouvernements, qui constituera une partie intégrante des documents joints au traité et aura la teneur suivante:

Le régime de neutralité du canal de Panama
« Rien dans le traité n’empêchera la République de Panama et les États-Unis d’Amérique de conclure, conformément à leurs dispositions constitutionnelles respectives, tout accord ou arrangement entre les deux États en vue de faciliter, après le 31 décembre 1999, l’accomplissement de leurs responsabilités dans le maintien du régime de neutralité établi par le traité. Ces accords ou arrangements pourront concerner le stationnement de forces militaires des États-Unis ou le maintien de sites de défense sur sol panaméen après le 31 décembre 1999, si la République de Panama et les États-Unis d’Amérique le jugent nécessaire ou approprié. »

(c) Réserve⁴ :

(1) Avant la date d’entrée en vigueur du traité, les Parties entameront des négociations en vue de conclure un accord par lequel la Commission américaine des monuments de guerre sera chargée, à partir de l’entrée en vigueur dudit accord, de la gestion de la partie du cimetière Corozal, sis dans l’ancienne Zone du canal, où reposent les restes de citoyens des États-Unis d’Amérique. Cette gestion sera libre de toutes taxes ou autres charges, sans compensation accordée à la République de Panama, et s’opérera conformément aux usages, privilèges et immunités – y compris le déploiement du drapeau des États-Unis d’Amérique – relatifs à l’administration, par la Commission américaine des monuments de guerre, de cimetières situés hors des États-Unis d’Amérique.

(2) Le drapeau des États-Unis d’Amérique pourra être déployé, conformément au paragraphe 3 de l’article VII du traité relatif au canal de Panama, dans la portion du cimetière Corozal, sis dans l’ancienne Zone du canal, où reposent les restes de citoyens des États-Unis d’Amérique.

(3) Le Président

(A) Aura annoncé, avant la date d’entrée en vigueur des traités, son intention de transférer avant la date d’extinction du traité relatif au canal de Panama et conformément à un accord à conclure avec la République de Panama, l’administration de la portion du cimetière Corozal où reposent les restes de citoyens des États-Unis d’Amérique à la Commission américaine des monuments de guerre.

(B) Aura annoncé, sitôt après la date d’échange des instruments de ratification, des plans qui seront mis en œuvre aux frais du Gouvernement des États-Unis afin de :

(i) Transférer, avant la date d’entrée en vigueur du traité, les restes de citoyens des États-Unis d’Amérique du cimetière Mount Hope à la portion du cimetière Corozal abritant de tels restes, sauf si de tels restes ne doivent pas être déplacés suite à une demande écrite adressée par leur famille au Secrétaire à l’Armée dans les trois mois suivant la date d’échange des instruments de ratification du traité.

(ii) Transporter aux États-Unis dans un délai ne dépassant pas trente mois après la date d’entrée en vigueur du traité les restes de citoyens reposant au cimetière Corozal pour les y réenterrer, si les familles le requièrent ; ce transfert aura lieu avant la date d’entrée en vigueur du traité pour les restes de citoyens reposant au cimetière Mount Hope.

(C) Dans la mise en œuvre des objectifs de l’article III du traité – assurer la sécurité, l’efficacité et l’entretien adéquat du canal de Panama – les États-Unis d’Amérique et la République de Panama, durant les périodes respectives où ils auront la responsabilité du fonctionnement et de l’entretien du canal, n’utiliseront les revenus d’exploitation du
canal que pour des objectifs conformes à ceux de l’article III, sauf si le montant de ces revenus excède celui nécessaire à la mise en œuvre des objectifs dudit article.

(d) Déclarations interprétatives5 :

302 (1) L’article III, paragraphe 1, lettre c, du traité sera interprété de façon à ce que, avant tout ajustement des droits de péage pour l’usage du canal, entière considération soit accordée aux effets d’un tel ajustement sur les caractéristiques du commerce des deux Parties ; cela comprendra la prise en compte des facteurs suivants, dans une mesure compatible avec le régime de neutralité :

303 (A) Les coûts de fonctionnement et d’entretien du canal.
304 (B) La position compétitive de l’usage du canal par rapport à d’autres moyens de transport.
305 (C) Les intérêts des deux Parties au maintien de leurs flottes domestiques.
306 (D) L’impact d’un tel ajustement sur les diverses zones géographiques de chacune des deux Parties.
307 (E) Les intérêts des deux Parties à rentabiliser au maximum leur commerce international. Les Etats-Unis d’Amérique et la République de Panama coopéreront dans l’échange des informations nécessaires à la prise en considération de ces facteurs.

308 (2) L’engagement de « maintenir le régime de neutralité établi par le présent traité » inscrit à l’article IV du traité signifie que chacune des deux Parties au traité peut, conformément à ses dispositions constitutionnelles, agir unilatéralement pour défendre le canal de Panama contre toute menace, telle que déterminée par la Partie décidant d’agir.

309 (3) La détermination du « besoin ou de l’urgence » autorisant tout navire de guerre ou navire auxiliaire des Etats-Unis d’Amérique ou de la République de Panama de passer en tête de la colonne pour franchir rapidement le canal de Panama sera effectuée par l’Etat opérant le navire.

310 (4) Rien dans le traité, ses annexes A ou B, le protocole d’accession au traité, ou tout autre accord joint au traité, n’oblige les Etats-Unis d’Amérique à fournir à la République de Panama une assistance économique, une assistance sous forme de subventions militaires, une assistance touchant au maintien de la sécurité, des crédits à l’achat de matériel militaire, une formation et un entraînement militaires à l’échelon international.

311 (5) Le Président insérera dans l’instrument de ratification qui sera échangé avec le Gouvernement de la République de Panama tous les amendements, conditions, réserves et déclarations interprétatives incorporés par le Sénat dans cette résolution de ratification.

312 [Traduction5]

313 Considérant que le maintien de la neutralité du canal de Panama est important non seulement pour le commerce et la sécurité des Etats-Unis d’Amérique et de la République de Panama, mais aussi pour la paix et la sécurité de l’hémisphère occidental ainsi que pour les intérêts du commerce mondial ;

314 Considérant que le régime de neutralité que les Etats-Unis d’Amérique et la République de Panama se sont engagés à maintenir assurera un accès permanent au canal pour les navires de toutes les nations sur un pied d’entièr e égalité ;
Considérant que ledit régime de neutralité effective constituera la meilleure protection pour le canal et assurera l’absence de tout acte hostile à son encontre ;

Les Parties contractantes au présent protocole sont convenues de ce qui suit :

Article I

Les Parties contractantes reconnaissent le régime de neutralité permanente du canal établi par le traité relatif à la neutralité permanente et au fonctionnement du canal de Panama et s’associent à ses objectifs.

Article II

Les Parties contractantes s’engagent à observer et à respecter le régime de neutralité permanente du canal, en temps de guerre comme en temps de paix, et à s’assurer que les navires de leur nationalité observent strictement les règles applicables.

Article III

Le présent protocole sera ouvert à l’accession de tous les États du monde et entrera en vigueur pour chaque État à la date du dépôt de son instrument d’accession auprès du Secrétai re général de l’Organisation des États américains.

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