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DEPARTMENT OF STATE  
ACTION MEMORANDUM

S/S

SECRET/EXDIS

February 6, 1975

*This should be discussed including Defense. Let Brent start up finally.*

To: The Secretary  
From: S/AB - Ellsworth Bunker  
ARA - William D. Rogers

PANAMA

We have discussed the need to request new negotiating instructions from the President promptly (Tab A).

An "action plan" for educating the Congress and the public on the benefits of a reasonable new treaty has been developed (Tab B).

Recommendation:

That you initial the Memorandum to the President at Tab A.

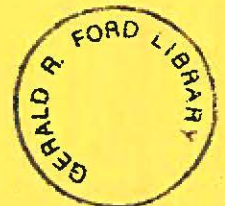
Attachments:

- Tab A - Memorandum to the President
- Tab B - Public Relations Action Plan

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STATE DEPT, GUIDELINES  
BY Gay, NARA, DATE 11/17/2000

*wub*  
Drafted: ARA: WGBowler *SAB*  
PAN: PFMorris/SMBell:mw  
x28562:2/6/75

Concurrences: L - Mr. Feldman (subs) *SAB*  
H - Mr. Jenkins (subs) *SWS*



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*[Handwritten signature]*

THE SECRETARY OF STATE  
WASHINGTON

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MEMORANDUM FOR: THE PRESIDENT

From: Henry A. Kissinger *HK*

Subject: Panama Canal Negotiations

The negotiations have progressed to a critical point at which certain trade offs are necessary to reach agreement on a treaty which safeguards our basic interests. If Ambassador Bunker is to make such trade offs, certain flexibility in the Presidential instructions is required. Without those trade offs Panama will not agree to a treaty. Serious confrontation, possibly involving violence against the Canal Zone, would ensue, plus a consequent deterioration of our relations with Latin America and mounting world censure. Granting this flexibility to Bunker could produce a treaty by the late Spring.

STATUS OF THE NEGOTIATIONS

Areas of Agreement:

Bunker has reached agreement in principle with the Panamanians on three major issues. Those agreements are well within existing negotiating instructions:

- Jurisdiction: The Zone as an entity will disappear, and the Zone Government will be disestablished upon entry into force of the treaty. Jurisdiction over the Zone area will pass to Panama over a period of 3 years. The U.S. will be afforded the use of those areas necessary for the operation, maintenance and defense of the Canal, and unimpeded movement between them. U.S. Government employees will be granted immunity from Panamanian jurisdiction while performing official duty. U.S. Government agencies and entities will have immunity from Panamanian jurisdiction.

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- Canal Operation: During the treaty's lifetime the U.S. will have the primary responsibility for the operation of the Canal. The Panama Canal Company will be disestablished and replaced by a new entity which operates the Canal. There will be a growing participation of Panamanian nationals at all levels in day-to-day operations, including policy formulation. This is in preparation for Panama's assumption of total responsibility for Canal operation upon the termination of the treaty.

- Canal Defense: The U.S. will have primary responsibility for the defense of the Canal during the life of the treaty. Panama will confer upon the U.S. "use rights" for defending the waterway including (1) rights to maintain land, air and sea forces on locales in Panama and (2) a Status of Forces Agreement for effective operation of these forces. A Combined Board of Panamanian and U.S. military representatives will coordinate U.S.-Panamanian plans and actions in defending the Canal. Panama will participate in Canal defense in accordance with its capabilities. The question of residual U.S. Defense rights upon expiration of the treaty is not fully settled, but we do have agreement that the two countries will jointly guarantee - perpetually - the Canal's neutrality as well as free access to it by world shipping. More importantly, Bunker has secured for the U.S. the right to defend the Canal unilaterally for the treaty's lifetime - against Panamanian incursion, if need be.

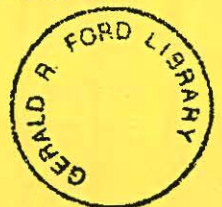
Issues Pending:

During the course of this month the negotiators will be seeking agreement on our compensation to Panama and on our use of lands and waters in the Zone:

- On compensation the Panamanians, as an opening gambit, have indicated they expect far more than we are prepared to give. We shall offer an annual payment of about \$35 million (we now pay \$2.3 million), based on tonnage passing through the Canal, to be funded from tolls collected.

- On lands and waters to be returned to Panama, their initial request is also too large. How far we can accommodate Panamanian desires is now being reviewed by State and Defense.

In March, Bunker and Tack will address the remaining -- and toughest -- issues: duration of the treaty, and whether



we retain an exclusive right to expand Canal capacity through a sea level canal or another set of locks. On these points, the Panamanians have indicated that they will not accept:

- a treaty covering the present Canal that goes beyond the year 2000;
- any formula that would commit them now to extend the treaty's duration to cover an expanded Canal;
- exclusive rights for the U.S. to expand the Canal without Panama's agreement and without its participation in operation and defense, and
- a 25-year option to decide whether to expand the Canal (Panama has suggested 5 years).

ADEQUACY OF PRESENT INSTRUCTIONS

Existing Presidential instructions -- now almost four years old -- permit us to offer Panama less favorable terms on treaty duration and Canal expansion than we did in 1967. Bunker is certain the Panamanians would reject what we can agree to under present guidance on those two key issues -- as they did flatly in the 1971-72 negotiations.

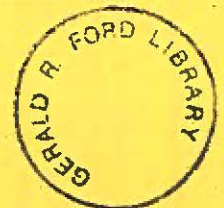
Present guidance covering these areas is satisfactory:

- Jurisdiction: U.S. jurisdiction is to be phased out over a minimum of 20 years, but the U.S. negotiator is authorized to negotiate a shorter time period if he deems such action necessary to achieve our non-negotiable objectives on operation and defense.

- Operation: first preference is to maintain exclusive U.S. control of Canal operations, but with a fall back position of Panamanian participation in the Canal management.

- Defense: our non-negotiable position is to gain specific treaty rights to defend the Canal unilaterally for the duration of the treaty. The negotiators are also to seek rights to conduct important military and research activities in canal areas.

- Land and Water Areas: we should be as forthcoming as



possible in terms of what is essential for the defense and operation of the Canal, its supporting facilities, and the agreed upon U.S. Government activities. U.S. defense bases should be located in the Canal area with conventional SOFA arrangements.

- Compensation: There should be substantially increased income for Panama from Canal operations, even though this may involve a significant increase in tolls, and from the opening up of commercial opportunities to Panama in the Canal area.

Existing Presidential guidance on which Bunker needs flexibility relate to:

- Duration: a fixed period of at least 50 years -- with provision for an additional 30-50 years if Canal capacity is expanded.

- Canal Expansion: we should retain definitive rights, without obligation, to add a third lane of locks to the existing Canal, or to construct, operate and defend a sea-level canal.

REQUIRED CHANGES IN INSTRUCTIONS

With flexibility on duration and expansion, Bunker believes he can get the Panamanians to come to an accomodation on the length of the treaty; land and water areas essential for defense and operation of the Canal; some rights covering expansion; and a reasonable level of payment to be made to Panama.

Bunker asks that the guidance be changed as follows:

- Duration (Existing Canal)

1. Seek to obtain the longest possible period between 25 and 50 years, applicable to both operation and defense of the Canal.

2. Alternatively, propose separate duration periods for operation and for defense, neither to fall below 25 years nor to exceed 50 years, and seek to obtain the longest possible periods in each case.

3. Seek also to obtain, in the course of negotiating



the duration or any other issue, a right in principle for the United States to have a limited military presence in Panama following the expiration of the treaty period applicable to defense, of a nature and under terms to be agreed upon between the parties not less than 1 year prior to the treaty's expiration, for the purpose of providing Panama assistance in the defense of the Canal or for such other purposes as Panama may desire.

4. As a fallback, if deemed necessary to achieve the objective of a more extended period for Canal defense than 25 years and/or the objective of a right in principle to have a limited military presence in Panama following the treaty's expiration, offer a reduction of the duration period applicable to Canal operation to a period less than 25 years but no less than 20 years.

- Canal Expansion

1. Seek to obtain the longest possible period up to 25 years for a United States option to exercise definitive rights to expand the Canal's capacity, whether by addition of a third lane of locks or the construction of a sea-level canal.

2. As a fallback, seek to obtain -- either in lieu of or in combination with definitive rights -- commitments that:

(a) Panama will not permit the construction of a sea-level canal in its territory during the period of United States control of the existing Canal unless it has first offered to the United States the option to construct such a canal. That option should be under terms and conditions which would accord to the United States rights relating to operation and defense commensurate with the due protection and enjoyment of a United States investment of that magnitude;

(b) No country other than the United States or Panama shall have responsibility for operation and defense of an interoceanic canal in Panama; and

(c) The neutrality guarantee applicable to the existing Canal will apply to any new canal built in Panama.



CONGRESSIONAL OUTLOOK

For the past year Bunker has systematically consulted with key leaders in both Houses. The consultations have been along general lines, awaiting agreement on the package as a whole before talking specifics. He believes that with a treaty which clearly safeguards our rights to operate and defend the Canal, is demonstrably fair to both Panama and the U.S., and is backed by a carefully orchestrated public and Congressional educational campaign, the necessary support can be obtained in the Senate and House. It is not going to be an easy fight, and it will require mobilization of strong advocacy by State, Defense and the White House.

A major difficulty now confronting us on the Hill are initiatives by Senator Thurmond and Congresswoman Sullivan to sign up colleagues on Resolutions opposing the negotiation of a new treaty. Senator Thurmond did this last summer and collected some 34 signatures. We are now contacting key members of both Houses asking them to help us counter the Thurmond-Sullivan campaign by counseling their colleagues to take no stand until they have a chance to examine the full scope of the agreements reached.

Once we have these agreements in hand, we will:

- In consultation with the majority and minority leadership, mount a campaign to gain support for the treaty in both Houses, particularly among the "non-committed" membership.
- Launch a campaign with the media (particularly those which have influence on Congressional attitudes) in an effort to educate the general public on the new treaty as a reasonable solution to the Panama problem.
- Establish a Citizens Committee to organize public support.
- Step up the schedule of public speeches on Panama by Ambassador Bunker, Assistant Secretary Rogers and other Department officials.
- Pay particular attention to the labor movement and to church organizations -- two potentially strong supporters of our efforts.



In the event it becomes clear that there is insufficient support in the Senate for the treaty, the Panamanians still want us to conclude and present it. They reason that it is better to have a treaty which lies in the Senate whether or not it is acted on. The Executive would then have demonstrated it had done all it could for Panama.

Recommendation:

That you issue the attached new negotiating instructions as a National Security Decision Memorandum.

Approve \_\_\_\_\_ Disapprove \_\_\_\_\_





PANAMA NEGOTIATIONS

SPECIFIC RECOMMENDATIONS FOR NEW NEGOTIATING INSTRUCTIONS

A. General

The United States Negotiators are to arrive at a new treaty as speedily as possible, with a target date for presentation to the Senate of June 30, 1975.

The draft treaty should reflect the concept that the interests of the United States in the Panama Canal will best be protected by offering to Panama a meaningful and increasing partnership in the operation and defense of the Canal over the span of the new treaty relationship, to prepare Panama for the assumption of control over it to which the United States is committed.

Preeminent among those interests is adequate security control over the waterway in its role as a military line of communication for the longest period possible to negotiate.

To assure such adequacy of control it is essential to assure also in the draft treaty that the control be exercised with minimum visibility. Negotiations with Panama have become a requirement of national policy not so much because of the fact of United States control as because of the dominating manner of it over many decades.

The following specific instructions are intended to supplement the flexibility of the United States Negotiators embodied in prior presidential negotiating instructions.

B. Duration (Existing Canal)

1. Seek to obtain the longest possible period between 25 and 50 years, applicable to both operation and defense of the Canal.

2. Alternatively, propose separate duration periods for operation and for defense, neither to fall below 25 years nor to exceed 50 years, and seek to obtain the longest possible periods in each case.

3. Seek also to obtain, in the course of negotiating the duration or any other issue, a right in principle for the United States to have a limited military presence in Panama

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following the expiration of the treaty period applicable to defense, of a nature and under terms to be agreed upon between the parties not less than 1 year prior to the treaty's expiration, for the purpose of providing Panama assistance in the defense of the Canal or for such other purposes as Panama may desire.

4. As a fallback, if deemed necessary to achieve the objective of a more extended period for Canal defense than 25 years and/or the objective of a right in principle to have a limited military presence in Panama following the treaty's expiration, offer a reduction of the duration period applicable to Canal operation to a period less than 25 years but no less than 20 years.

C. Canal Expansion

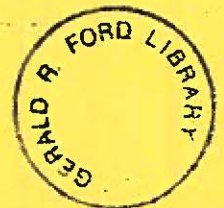
1. Seek to obtain the longest possible period up to 25 years for a United States option to exercise definitive rights to expand the Canal's capacity, whether by addition of a third lane of locks or the construction of a sea-level canal.

2. As a fallback, seek to obtain -- either in lieu of or in combination with definitive rights -- commitments that:

(a) Panama will not permit the construction of a sea-level canal in its territory during the period of United States control of the existing Canal unless it has first offered to the United States the option to construct such a canal. That option should be under terms and conditions which would accord to the United States rights relating to operation and defense commensurate with the due protection and enjoyment of a United States investment of that magnitude;

(b) No country other than the United States or Panama shall have responsibility for operation and defense of an interoceanic canal in Panama; and

(c) The neutrality guarantee applicable to the existing Canal will apply to any new canal built in Panama.



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Public Relations Plan

Congressional Contacts

This will be the second phase of Ambassador Bunker's efforts to keep Congress apprised of developments in treaty negotiations. It will concentrate on key Senators and Representatives and will be the initiation of an expanded program of congressional contacts. Appointments will be made with congressional leaders for Ambassador Bunker, Assistant Secretary Rogers, Ambassador McCloskey, Ambassador Bowdler and Minister Bell to explain the Administration's position on treaty negotiations.

Immediately upon returning from Panama in January Ambassador Bunker and Mr. Jenkins should consult with the White House (Messrs. Friedersdorf, Kendall and Marsh). We will discuss: (1) when a treaty should be submitted for Senate consideration and (2) the names of key Senators who will be helpful in generating support for the treaty. Also an early meeting with Vice President Rockefeller should be arranged to enlist his support and to get his suggestions and guidance on congressional strategy.

Subsequent congressional contacts and strategy can then be developed from those consultations. H already has a proposed schedule of meetings ready which can be adjusted to take into account suggestions from the Vice President and the White House.

Ambassador Jorden has already seen Senators Hruska, Tower, Beall, Fannin, Nunn, and Taft, and Congressman Hays. He also met with the administrative assistants to Senator Chiles and Senator Bentsen on January 9.

Later, we will move to seek DOD collaboration before attempting to brief and enlist the support of DOD oriented Senators (Stennis, Jackson, et al.).

Contacts in the House will be planned after these actions are taken.

H will also work out with ARA/PAN a proposed calendar of calls on congressional staff people for various Departmental officers based on the congressional strategy growing out of Amb. Bunker's consultations with the White House.

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B. Media

Our campaign with the media will have two approaches:

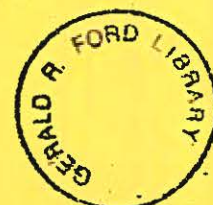
- (1) General education of the public concerning the facts regarding U.S. operation of the Canal and U.S.-Panama relations and
- (2) Specific concentration on media outlets which might have some influence on congressional attitudes.

For this we intend to make contact with managing editors of the Washington Post, the New York Times, the Miami Herald, the St. Louis Post Dispatch, the Los Angeles Times and the Wall Street Journal to suggest that they do in-depth reports -- similar to the series recently run in the Washington Post on Cuba -- on the origins of, the present situation, and future prospects for U.S. operation of the Panama Canal. We have already begun such conversations with the Baltimore Sun. We will also try to inspire similar treatment in some of the major magazines with conservative readership such as Business Week, National Review and U.S. News and World Report. A cover story in Time or Newsweek may also be possible.

The Department has limited access to officials making programming decisions for the major television networks. NBC and CBS on their own initiatives did short programs on Panama in 1974. We will take advantage of the limited contacts we have to suggest that the three major networks provide additional time in 1975 for some treatment of the Panama issue. We will also try to stimulate interest in the Public Television to do a special on Panama.

Wherever possible, our efforts with the media will be related to and coordinated with our program of congressional contacts, concentrating on those outlets which might swing votes in the Senate for a treaty.

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C. Citizens' Committee

The Citizens Committee will be the principle vehicle for organizing public support for the treaty. In order for it to have an effect it should be established and in operation by February 1. (see separate memo)

The following steps should be taken now: (1) We must agree on possible candidates for chairman of the Committee and decide who in the Department will make contact with them. (2) Once a chairman is chosen and has accepted, financing for the Committee's activities must be arranged. The choice of a chairman should take financing into account. (3) The Chairman in discussions with the Department will have primary responsibility for establishing the size and membership of the Committee. Our Public Affairs Working Group will be available to assist in this effort.

We should agree on candidates for Chairman of the Committee in the next two weeks and make plans for immediate contact with them. Ambassador Bunker should discuss this with the Secretary at their next meeting.

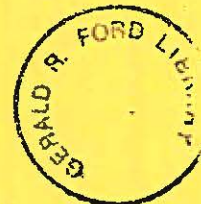
ACTION: ARA/PAN  
Amb. Bunker  
Sec. Kissinger

D. Public Speeches

During the period from now to March, Ambassador Bunker and Assistant Secretary Rogers have agreed that each will make at least two speeches on treaty negotiations which reach as wide an audience as possible. We will try to get television and press coverage for each of the speeches to increase the size of the audience and to generate follow-up requests for information. Public Affairs is now considering appropriate dates and audiences for these appearances. Also, we should probably suggest that the Secretary consider dedicating a portion of one of his speeches to Panama, or if the occasion presents itself, an entire speech. He is scheduled to make a speech in Oklahoma in early February on Latin America. An early preliminary draft has an extensive section on Panama.

We plan to increase the number of public speeches on Panama given by other Department officers as well. However, in order for them to have maximum impact they will be targeted to specific groups or audiences which can influence individual Senators. This will require close collaboration between H and PA.

ACTION: ARA/PAN  
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E. Contacts with Private Organizations and Groups

ARA/PAN and PA are making an inventory of private organizations and groups active with the Congress or with some impact on public opinion. We will evaluate their potential for support of our Panama policy on the basis of the public position they have taken on the Panama issue in the past, their general political orientation, their possible interest in the Panama issue and their possible impact on public and congressional opinion. From this list we will select those organizations which can have the maximum favorable impact and establish contact with their leadership and begin a systematic information campaign with them. We will pay particular attention to the labor movement and organizations related to the Catholic Church, two potentially strong supporters of our efforts.

ACTION: ARA/PAN  
PA

F. Miscellaneous

The Panamanian Government and Panamanian business community will also be undertaking various public relations endeavors to present Panama's views on a new treaty to the American public. Once we have agreed on a draft treaty with Panama, we will have a mutual interest with them in getting Senate ratification. Therefore, ARA/PAN has established close working relations with the Embassy of Panama so that we can keep abreast of the full extent of their public relations efforts.

Also, the American business community with interests in Panama can be influential during treaty ratification hearings in the Senate. ARA/PAN has kept this group informed of progress on treaty negotiations through direct contact and through the Council of the Americas. We plan another round of formal briefings at the Council sometime before April. At this time we will try to line up those business organizations which would be prepared to offer testimony at treaty ratification hearings.

ACTION: ARA/PAN

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