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MEMORANDUM

NATIONAL SECURITY COUNCIL

INFORMATION

January 28, 1976

MEMORANDUM FOR: BILL HYLAND
FROM: STEPHEN LOW *SL*
SUBJECT: Panama Canal Negotiations: January Status

Background

Following the riots of January 1964 in which four Americans and twenty Panamanians were killed, President Johnson agreed to negotiations with Panama to revise the 1903 treaty, which gave to the United States in perpetuity the same rights it would have "if it were sovereign" over a canal area. President Johnson agreed to enter these negotiations after consulting with and receiving the support of former Presidents Truman and Eisenhower. Early negotiations were carried on by Robert Anderson as chief negotiator. An agreement was reached with Panama in 1967 for a new treaty which would be terminated at the turn of the century. However, the Panamanians rejected this treaty and it was never submitted to the U.S. Senate. Shortly thereafter, the President of Panama, Arnulfo Arias, was overthrown by the National Guard and General Torrijos became chief of government in 1968. Ambassador Bunker was appointed chief negotiator in 1973.

A few months after becoming Secretary of State and just prior to the meeting with Latin Americans in Mexico City at Tlatelolco, Secretary Kissinger traveled to Panama where he signed with then Foreign Minister Tack a set of eight Principles to guide negotiation of a new treaty. These Principles continue to serve as the basis for the current negotiations. They acknowledge an end to perpetuity, termination of U.S. jurisdiction in the Zone, a reassessment of compensation, and increased Panamanian participation in administration and defense of the Canal.

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Progress to Date

During 1974 the two negotiating teams concluded "threshold agreements" on three issues and a Status of Forces agreement. The threshold agreements spelled out the Principles in more specific terms but not in actual treaty language. This still remains to be done.

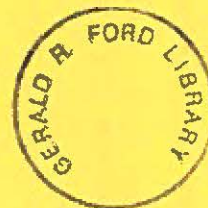
1. Jurisdiction: Jurisdiction will pass to Panama over a three-year period from the date of ratification of the treaty.
2. Canal Operation: The United States will control operation and maintenance of the Canal during the treaty's lifetime. Panama will participate through gradually increasing employment of Panamanians at all levels.
3. Canal Defense: The U.S. will have the right to act unilaterally to defend the Canal during the treaty's lifetime. Panama will participate.

Status of Forces:

The agreement would go into force at the same time as a Canal treaty. It is very satisfactory from our (DOD) point of view.

Presidential Guidance

The progress described above was accomplished under the terms of negotiating instructions approved by President Nixon. Ambassador Bunker felt that no further progress could be made until his instructions were modified. This was accomplished through a NSDM (302) signed by President Ford on August 18, 1975. The leeway in the guidelines contained in the NSDM has not yet been entirely exhausted but probably will be by the end of the next round of negotiations (February), following which Ambassador Bunker expects to come back for new instructions. NSDM 302 addresses particularly two of the remaining problems: duration and lands and waters, and provides as follows:



1. Duration

- A. For purposes of Canal defense, we should seek a treaty of 50 years but be willing to fall back to 40 years from date of ratification. (This, of course, is still longer than we had agreed to with the Panamanians in 1967.)
- B. For purposes of Canal operation, we should seek 25 years but be willing to fall back to 20 in return for other concessions.

2. Lands and Waters

The President authorized five further geographic areas which negotiators could offer to return to Panama.

Outstanding Questions

The Panamanian reaction to our initial negotiating position after the NSDM was negative. They had expected more. However, they sent a secret team up in December and were more encouraged at the prospects of U.S. flexibility. This is the point at which we are now. There are a number of outstanding issues on which agreement has not been reached.

1. Duration

Panama is formally demanding control for defense and operation by the end of the century, with "effective control" by 1995. Some intelligence reports indicate they may be willing to settle for a longer period for defense.

2. Lands and Waters

There is still considerable difference. The Panamanians seek return of all but a narrow strip on either side of the Canal and three bases. We hope to retain about 40 percent of the present Zone.



3. Neutrality

The U.S. seeks a pre-eminent role in guaranteeing the Canal's neutrality. Panama opposes this. DOD would like re-entry rights but is beginning to recognize this is unlikely. Our formal position is for a joint guarantee of neutrality. Panama seeks multilateral guarantees open to all nations, with the U.S. position no different from that of any other country.

4. Compensation

The U.S. has in mind a figure of about \$35 million based on traffic and tonnage through the Canal, with a fixed minimum. But we are beginning to recognize that Canal tolls will probably not bear this as the Canal's profitability decreases. Panama wants a fixed sum, around \$50 million.

5. Expansion

The U.S. seeks unilateral right for a specific period of time to construct a third set of locks or sea-level canal, with financing and duration of control to be mutually agreed upon. Panama would be willing to give the U.S. the right to expand the facilities but subject to its veto. However, the need for any expansion at all is becoming less and less apparent. It seems quite possible that the existing instructions would contain enough leeway for us to accept the Panamanian position on this if we get concessions in other areas.

Prospects

In September 1975 shortly after the President signed NSDM 302, General Brown and Deputy Secretary Clements, together with Bill Rogers, Army Assistant Secretary Veysey and myself, visited Panama. Clements and Brown assured Torrijos of President Ford's serious intention to conclude an agreement, but explained to him that it would be difficult for us to do so before the end of 1976. Torrijos said he understood and agreed, but requested a statement by



General Brown supporting the continued negotiations and asked for better cooperation from lower-level officials in the Zone. Before leaving, Secretary Clements informed the Governor and CINC of our intention to continue serious negotiations and conclude an agreement. In no uncertain terms he instructed them to cooperate fully with the Panamanians, to eliminate petty irritations in our relations, and prepare them for the eventual operation of the Canal. On the group's return, retired three-star Army General Tom Dolvin was appointed a Deputy Negotiator with equal status with State Deputy, Panamanian Country Director Morey Bell. Since that time cooperation between the two Departments has been good.

Bunker has agreed to another round in Panama. The date of February 5 was tentatively agreed to when the Tack statement and Panamanian leaks came out indicating we are near final agreement. This is simply another Panamanian tactic aimed largely at placating domestic criticism. State has responded by telling the Panamanians the February 5 date was not firm. We expect they will tone down the level of optimism they have created, enabling the talks to go ahead, perhaps later in February. Bunker understands fully that no treaty can be concluded at this stage. He does hope to complete the "threshold agreements" by the Fall.

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