

	Name and Title	Initial	Date
X	DEFENSE GENERAL COUNSEL		
X	DIRECTOR, JOINT STAFF		
X	ASA (CW)		

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 Authority: EO 12958, as amended
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08-17-0818



INTERNATIONAL
SECURITY AFFAIRS

ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301

MEMORANDUM FOR THE SECRETARY OF DEFENSE

THROUGH: DEPUTY SECRETARY OF DEFENSE

SUBJECT: Panama Canal Treaty Implementing Guidance -- ACTION
MEMORANDUM

The Department of Defense (DoD) will be the recipient of many of the functions to be transferred from the Panama Canal Company/ Canal Zone Government. Due to restrictions imposed by the White House, planning for treaty implementation was severely restricted. Now that the Senate has given its advice and consent to the Panama Canal Treaties, it is necessary to provide the DoD components with planning assumptions and guidelines and assign responsibility for specific function transfers. Proposed memorandum at Tab 1 has been staffed with agencies as indicated.

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Attachment
a/s





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OFFICE OF THE SECRETARY OF DEFENSE
WASHINGTON, D. C. 20301

Mr. Horn

28 October 1976

MEMORANDUM FOR THE PANAMA CANAL NEGOTIATIONS WORKING GROUP

Subject: October 1976 Negotiating Round, Panama Canal Treaty Negotiations

1. General. During the period 19-26 October 1976, I traveled to Panama with the United States negotiating team for the purpose of resuming discussions with the Panamanians on the unresolved issues in the negotiations. There were, in all, three meetings of the two full teams, plus several technical-level meetings on the issue of lands and waters.

2. Background. The last negotiating round prior to these October 1976 discussions was in May 1976. (For discussion of the results of the May 1976 round, I refer you to my memorandum of 14 May 1976.) Because the May round was essentially a "get acquainted" round--i.e., an opportunity to meet and talk with the new Panamanian Foreign Minister and Chief Negotiator, Aquilino Boyd--the last substantive negotiating round prior to these October 1976 discussions was in February 1976.

On 7 October 1976 the Secretary of State met with Aquilino Boyd in New York just prior to an address Boyd was to deliver to the United Nations General Assembly. At this meeting Secretary Kissinger committed the United States team to meet with the Panamanian team during the month of October but with the understanding that the United States team would not address the issue of duration until after the election. Otherwise, the meeting could have an open slate agenda.

CLASSIFIED BY Dep Neg, DoD, PCN
SUBJECT TO GENERAL DECLASSIFICATION
SCHEDULE OF EXECUTIVE ORDER 11652
AUTOMATICALLY DOWNGRADED IN TWO
YEAR INTERVALS
DECLASSIFIED ON 31 DECEMBER 1982

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3. Participants. The United States team participating in the October 1976 round consisted of the personnel listed at Enclosure 1. The Panamanian team consisted of the persons listed at Enclosure 2.

4. Negotiating Sessions:

a. At the first meeting the Panamanian team presented a lengthy statement of their positions on the major issues. In this statement the Panamanian team reiterated their insistence on the year 2000 as the termination date "for all purposes" of the new treaty. They acknowledged that the United States team was not in a position to address the issue of duration and expressed their willingness to proceed with discussions on other issues but only with the understanding that anything Panama might propose or accept in principle would be subject to ultimate agreement by the United States that that treaty will have a term of no longer than the year 2000. The United States team accepted the statement without substantive comment and asked for an adjournment during which it could study the statement carefully and formulate a response.

b. At the second meeting the United States team did not comment on the details of the Panamanian statement. Rather, the United States team offered only a general response. In addition, the issues of canal employees and non-military activities were discussed.

(1) Response to Panama's Statement. The United States response included the following points: (a) the platforms of both political parties in the United States supported the negotiations; (b) the next move in the process of seeking a formula for accommodation rests with the United States; (c) at the next round the United States team hopes to present their views on how the interests of both nations can be accommodated; and (d) that it should not be inferred from the response of the United States team that our Government accepts the critical component of Panama's statement--which was termination of the new treaty for all purposes at the year 2000. The United States negotiators turned the meeting to a discussion of two issues--the status and rights of United States

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national employees of the new entity and certain non-military activities that are presently conducted in the Canal Zone.

(2) Canal Employees. On the issue of canal employees, the United States team urged early resolution of this issue in the negotiations in order that certain meaningful assurances could be made to present employees of the Panama Canal Company/Canal Zone Government concerning their future situation under a new treaty with Panama. In this connection, the United States team presented its position on this issue, which is that United States national employees of the entity should enjoy the same rights and privileges as the civilian component under the initialed Status of Forces Agreement--to include the area of primary rights to exercise criminal jurisdiction. This represented a hardening of the position the negotiators had presented since November 1975 and a return to the position presented by the United States team on this issue in September 1975. The Panamanian negotiators agreed to address this issue on a priority basis and, in this connection, the United States team presented two sets of draft threshold agreement language that embodied its position for Panama's consideration (Enclosures 3 and 4). In addition, the United States team tabled a list of assurances designed for canal employees (Enclosure 5), for Panama's consideration, and asked that Panama agree to these assurances in order that they could be made public as soon as possible. Panama accepted all three papers and agreed to consider them carefully and respond at the next round.

(3) Non-Military Activities. On the issue of non-military activities, which are those activities of the United States Government presently performed in the Canal Zone and other than Panama Canal Company/Canal Zone Government and military activities, the United States team proposed that the question of these activities be addressed by a technical group composed of one member from the United States Embassy in Panama and one or more Panamanian representatives. This technical group would begin meeting as soon as possible

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to review the special circumstances and problems posed for each individual agency by a New Canal treaty that eliminates the Canal Zone and thus those agencies' legal basis for operating. The Panamanians agreed that such a step would be desirable and the United States team presented a draft of the terms of reference (Enclosure 6) for such a technical group for Panama's consideration.

c. The unofficial negotiators land and waters position was presented to the Panamanian team on 25 October. The package provided the Panamanians consisted of: (1) a map; (2) a description of each land and waters parcel; (3) terms for administration of the military areas of coordination; and (4) United States land and water use rights for the operation, maintenance, and sanitation of the Canal. (NOTE: The position presented to the Panamanians was the same as that distributed to the PCNWG on 15 September 1976.) Prior to presentation of the position, several preliminary technical level meetings were conducted on the land and waters issue. These discussions, held at Contadora and in the Canal Zone, were designed for the purpose of insuring that the United States position was completely understood by the Panamanians.

(1) The initial land and waters discussion was conducted at Contadora on 29 October. In attendance were General Dolvin, Colonel Jackley, Lieutenant Colonel Duker, and Sherman Hinson (of the United States Embassy, Panama). The Panamanians were represented by Edwin Fabrega, Omar Jaen, and Flavio Valasquez. A recommended manner for presentation of the package (paragraph 4.c. above) was outlined by General Dolvin. Edwin Fabrega agreed with the proposed format. General Dolvin briefly described the United States land and waters position. In describing the position, General Dolvin stressed the following:

(a) The negotiators land and waters position does not represent any approved United States position and goes beyond our Government's guidance.

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(b) The position is presented on a "what if" basis.

(c) The need for complete confidentiality.

Other than agreement with the previously outlined procedure, there was no discernable Panamanian reaction to the presentation.

(2) Technical meetings were held at Quarry Heights on 21 and 22 October. In attendance were the individuals named in the preceding paragraph, less General Dolvin. During these meetings, which occupied the majority of two days, the land and waters position was explained in detail. All documents were passed to the Panamanians. The map, land description, and terms for administration of military areas of coordination were received without substantive comment. The Panamanian representatives indicated complete understanding of these documents. Some difficulty was encountered in presenting the document describing United States land and waters use rights. It was apparent, even after considerable explanation, that the Panamanians have not completely grasped this concept. Undoubtedly, additional discussions will be required after the GOP negotiators review of the document.

(3) At the third and final negotiating session on 25 October, the United States team presented a detailed briefing of the land and waters position to the full Panamanian team. General Dolvin's briefing emphasized the following fundamental aspects of the United States position:

(a) This position is "what if", does not represent any approved United States position, and goes beyond our Government's guidance and the negotiators authority.

(b) This position represents a major concession for the United States.

(c) Ambassador Bunker will expect corresponding accommodations by Panama on issues the United States negotiators feel are important.

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COORDINATION:

ASD(C)	_____	Concur
ASD(HA)	_____	Concur
ASD(MRA&L)	_____	Concur
ASD(PA&E)	_____	Concur
ASA(Civil Works)	_____	Concur
Dir., Joint Staff	_____	Concur
Def Rep for Treaty Affairs	_____	Concur

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