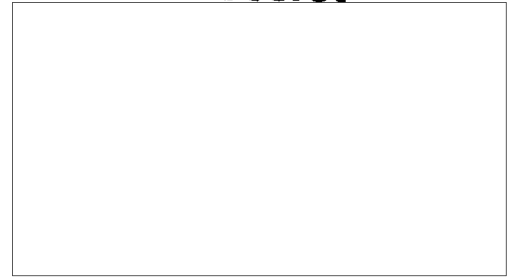


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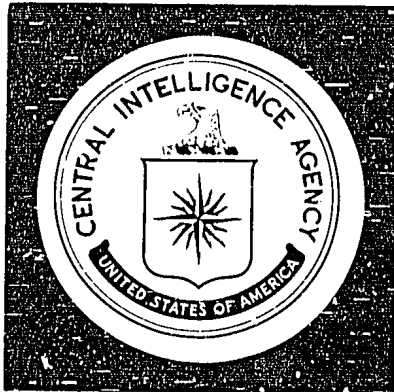
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DIRECTORATE OF
INTELLIGENCE

Intelligence Memorandum

The Canal Zone: Panama's Quest for Control

State Dept. review
completed



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CENTRAL INTELLIGENCE AGENCY
Directorate of Intelligence
29 December 1971

INTELLIGENCE MEMORANDUM

The Canal Zone: Panama's Quest for ControlSummary

The current round of US-Panamanian canal negotiations, which have been under way since 29 June 1971, will enter a particularly critical phase when the talks resume in January after a Christmas recess. The US has already agreed to negotiate a fixed termination date for a new treaty and has offered to return the canal to Panama in 50 years, or in 85 years if a third set of locks is built. A new sea-level canal, if constructed, would extend the combined period of US control of the present and new canal to a total of 90 years. The US has also agreed to increase the compensation paid to Panama, to return about 25 percent of the land and water areas making up the present Canal Zone as soon as the treaty is concluded, and to give Panama significant jurisdiction over areas retained by the US. The US would continue to control and operate the canal for the duration of the new treaty and be responsible for its defense. It would also be given the right to increase the canal's capacity either by installing a third set of locks or by digging a new sea-level canal.

The US has already conceded much of what it can afford, and, indeed, much of what Panama wants. The ball is therefore squarely in the Panamanian court. The US has apprised General Torrijos of its reluctance to allow the treaty issue to be entwined with the 1972 American election campaign, and has stressed that a draft agreement must be ready for signature in early 1972 if Panama wants a new treaty before 1973.

Note: This memorandum was prepared by the Office of Current Intelligence and coordinated within CIA.

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Even under the best of conditions, this timetable would be difficult to meet. Thus far only the jurisdiction issue has been discussed in depth. The Panamanians have not yet stated their position on a defense agreement, and they still have not come up with a firm figure on the amount of compensation they require. Even if Torrijos agrees with the broad outline of the US position and sends his negotiators back to Washington with enough flexibility to conclude an agreement, the process of ironing out details and drafting the appropriate treaty language could easily take several months. It now appears unlikely that completion of drafting and ratification prior to the height of the campaign will be possible.

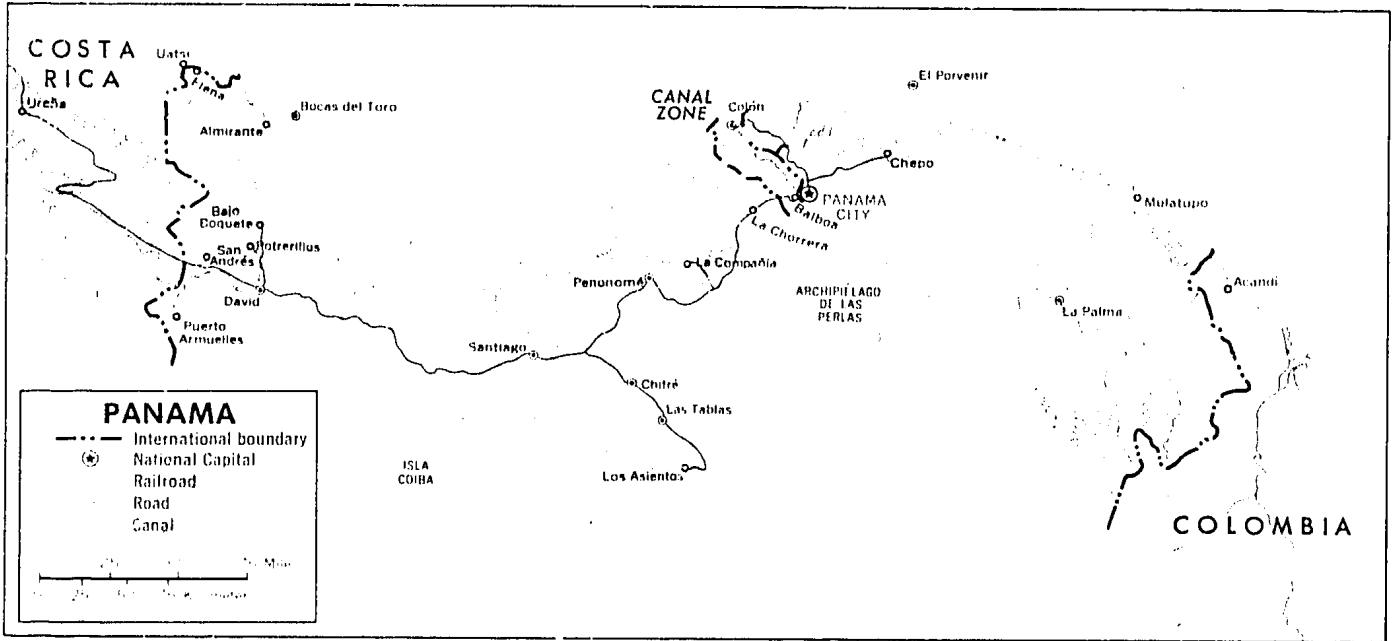
Torrijos' time constraints, moreover, are not immediate, and the Panamanian leader may not be prepared to accept at face value or with good grace a US schedule. Although some Panamanian officials still think that an agreement can be reached early in 1972, there are no real pressures on Torrijos to conclude an agreement before late summer or early fall. Legislative elections in August, designed to lay the basis for Torrijos' election as president, and the fourth anniversary of his regime in early October are occasions when Torrijos will want to present some dramatic evidence of success in the treaty negotiations.

General Torrijos and Foreign Minister Tack have both been devotees of a tough bargaining stance and may well credit this approach with inducing the concessions they have already won. Their question may be whether Panama has in fact pushed the US to its ultimate fall-back position, not whether a suitable treaty is on the table. Further probing of the US position could eat heavily into available negotiating time. Moreover, if Torrijos at some point comes to feel that he is not getting desired results, he might decide to risk a major confrontation with the US in the hope of extracting additional concessions.

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The Panamanian Perspective

1. Since 1903 there has only been one significant issue in Panamanian foreign policy--the revision of the 1903 treaty which gave the US, in perpetuity, rights it would have if it were sovereign over a five-mile strip of land on either side of the canal. Panama disputed what prerogatives it had granted to the US, maintaining that the US right to act as if sovereign within the Canal Zone extended only to the construction, maintenance, operation, sanitation, and defense of the canal system. It denied that the US could set up a complete governmental structure in the Zone with its own customs, tariffs, and postal service, and objected to US commercial enterprises in the Zone. It was even less happy at the influence the US wielded in the republic itself.

2. Some of the accumulated Panamanian complaints were settled by the 1936 treaty. Panama won a number of concessions, such as exclusion of private US commercial operations unconnected with the operation of the canal. Most important from Panama's point of view, however, were an increase in its annuity from \$250,000 to \$430,000 and the renunciation of the US right to intervene in Panamanian affairs.

3. After World War II, Panama sought another basic revision. Pointing to the disproportion between its \$430,000 annuity and the \$37 million brought in by Canal tolls, Panama demanded a greater share of the revenue. Panamanian merchants continued to be unhappy with the competition from the nonprofit commissaries in the Zone, and Panamanian workingmen were angry about the discriminatory wage difference in the Zone favoring US citizens over Panamanians.

4. In 1955 a new treaty was signed. Panama received another increase in its annuity, this time to \$1,930,000; the principle of one basic wage was established for all Zone employees; and commissary privileges for non-US citizen employees of Zone agencies not residing in the Zone were withdrawn. On the other hand, Panama was not given increased jurisdiction in the Zone and the perpetuity clause was retained.

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5. The 1955 treaty was even less successful than the 1936 treaty in quieting Panamanian dissatisfaction, primarily because of the rising tide of nationalism. Demands that the Panamanian flag be flown in the Zone as evidence of Panamanian sovereignty led to riots in 1959 and again in 1964. Panamanians of all political persuasions agitated for drastic revision of the economic and political arrangements in the Zone. They renewed their call for a still higher annuity and clamored for better jobs and higher pay for Panamanians employed by the Canal Company. They pressed for control of commercial enterprises in the Zone. They sought an end to the perpetuity clause and demanded control of courts, schools, and hospitals in the Zone.

6. Panamanian hopes rose in December 1964 when President Johnson announced that the US was willing to negotiate an entirely new treaty to replace the 1903 document. For two and a half years the negotiators labored. Finally, in June 1967, three separate treaties dealing with the present lock canal, a possible sea-level canal, and defense arrangements were signed and ready for ratification.

7. The 1967 drafts were no minor patch job. The 1903, 1936, and 1955 agreements were abrogated. The perpetuity clause was voided. Panama was to receive the canal by the year 2000 and the proposed sea-level canal by 2067. Some of the land and water areas no longer used for defense or canal operation were to be returned to Panama. The fixed annuity was done away with, and Panama awarded a percentage of the tolls--which at present toll levels would have yielded approximately \$24 million in fiscal 1971.

8. The key to the problem of jurisdiction and sovereignty was the creation of a Joint Administration of the Canal to replace the Canal Company and Canal Zone Government. Instead of the US having all the right, power, and authority of a sovereign, Panama, for the first time, was to be permitted a voice. The Joint Administration would establish employment policies, and would operate the postal

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system using Panamanian rates of postage. The Administration would operate the hospitals, jails, and schools and establish its own police force. After a five-year transition period, most commercial establishments would be sold to firms authorized to do business in Panama. The US court system that had had exclusive jurisdiction over all crimes committed in the Zone would be abolished. A new court, staffed by an equal number of US and Panamanian judges, would handle crimes related to the security of the canal system, and jurisdiction over other crimes and over civil actions would be vested in the Panamanian courts.

9. Even these major concessions failed to meet Panamanian expectations and the treaty package was never ratified. In 1970 the Junta Government of General Torrijos repudiated the drafts. A major complaint was that the Joint Administration headed by a board of five Americans and four Panamanians and operating by majority vote did not go far enough toward ending US jurisdiction.

10. Panamanian aspirations have so escalated that no treaty that adequately covers US interests is likely to be completely satisfactory to Panama. Panama's concern after World War I was to end its "protectorate" status and secure its effective independence as a nation; the focus of Panama's efforts after World War II was to increase the economic benefits it received from the canal; today the thrust of Panamanian diplomacy is to gain jurisdiction over the Zone and ultimately control over the canal itself.

11. Panamanian attitudes toward the US, it should be noted, have often paralleled those of other Latin American countries. Panamanian concern with the US right of intervention peaked, for example, at about the time the rest of Latin America was urging a policy of nonintervention in hemispheric affairs. Panamanian attitudes toward the Canal Zone have been consonant with the general Latin American attitude toward foreign corporations. Panama has objected to US-run commercial enterprises and social services in the

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Zone, just as other Latin American countries have objected to company towns. Finally, Panama views the canal much as other nations view their own natural resources. Today as economic nationalism sweeps through Latin America, it is not surprising that Panama seeks greater control over its only significant asset--the canal and the Canal Zone. There is a major difference, of course. When other countries become concerned about foreign ownership and exploitation of their natural resources--primarily extractive industries and export agriculture--they initially deal with the corporations involved. Panama, however, must deal with the US Government and its efforts to assert control over natural resources develop more sharply as a state-to-state problem.

The 1971 Negotiations

12. From the Panamanian point of view the current round of negotiations is a continuation and extension of the 1964-1967 effort. The same six basic issues remain at center stage: jurisdiction, treaty duration, canal expansion, defense, compensation, land areas and usage. The Panamanians regard the concessions won in 1967 as vested rights and have bitterly resisted any attempt to erode them. Indeed, their entire negotiating efforts have been to expand upon them. The Panamanians understand the vital US national interest in continued control of the operation of the canal and full responsibility for its defense. Although seeking to limit the duration of these rights and to define them as narrowly as possible, there has been no direct challenge to them. Instead, Panama has concentrated on whittling down other US prerogatives, conceding in return only the right to expand canal capacity.

jurisdiction

13. None of the issues is uncomplicated or unimportant, but the one which thus far has preoccupied the Panamanians is jurisdiction. In a

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recent speech, for example, General Torrijos noted that past Panamanian governments were very determined to obtain a better treaty. But as he graphically put it, "I do not know whether they sent for a dollar's worth of treaty or a nickel's worth of treaty, because the treaty always came back strong in economic benefits and weak in jurisdiction." Torrijos' negotiators have almost reversed the priorities.

14. The Panamanians want not only explicit recognition of their sovereignty over the Zone but also the right to exercise territorial jurisdiction. They demand the dismantling of the "government within a government," as they derisively refer to the Canal Zone Government, and the assumption by Panama of all normal governmental functions. Although recognizing that a transitional period might be necessary, they would reduce the ten or fifteen years proposed by the US to five years or less.

15. As was the case under the 1967 drafts, Panama wants its courts to have jurisdiction over civil cases as well as ordinary crimes, misdemeanors, and traffic violations committed within the Zone. During the transition period it agrees that US courts might have jurisdiction over all US personnel who commit crimes in the Zone. After this period and for the duration of the treaty US courts would have jurisdiction only over US personnel who commit crimes against canal security or shipping. Panama has strenuously insisted that its courts assume jurisdiction over Panamanians at the outset of a new treaty. They have argued that it would be politically unacceptable for Panamanian citizens to continue to be tried in US courts and under US law.

16. The Panamanians have argued for a five-year transition period during which Panamanian and Canal Zone police would have concurrent responsibilities within the Zone. At the end of the period the Canal Zone police would be disbanded, leaving Panamanian police with full authority.

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The Panamanians would agree that the US retain security guards to protect canal installations, but they stipulate that these guards should have limited powers.

17. Panama wants also to take over responsibility for the operation of certain public services in the Zone, such as the fire department, hospitals, postal service, and schools. After a transition period Panama wants Spanish to be the official language in the Zone. Panama wants the right to tax private businesses, levy an individual income tax, and control customs and immigration into the Zone. Finally, Panama wants its flag alone to fly in the Canal Area, but is willing to negotiate for a joint committee to consider if and where the US flag might fly.

duration

18. Having refused to consider an earlier US suggestion that a new treaty contain no fixed termination date, the Panamanians have settled in for some serious bargaining. As of mid-December the Panamanians did not seem to have a firm date in mind, but it appeared certain that they were attempting to improve substantially on the 1967 drafts. Under the 1967 arrangement the canal would have been given to Panama within 30 years and a proposed sea-level canal turned over within 60 years after its opening or at the latest within 100 years after the treaty was signed.

19. The Panamanians, in what is apparently an opening position, have called for return of the present canal within 20 years if the US does not build a sea-level canal or within 25 years if it does. The US could control the sea-level canal for a maximum of 50 years and the entire treaty, therefore, would lapse within 75 years. There is probably some give in these demands, but Panama's negotiators have thus far been unwilling to accept the US offer of a treaty lasting 85-90 years.

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expansion

20. Panama appears ready to concede to the US the right to expand the capacity of the canal, although the issue has not yet been discussed in detail. Expansion can be either by constructing a third set of locks, providing another lane for traffic through the canal, or by constructing a conventionally excavated sea-level canal approximately ten miles to the west of the present canal. A sea-level canal would be twice as expensive as a third set of locks, but it would also be far less vulnerable to sabotage.

21. Panama has mixed feelings about the alternatives. A sea-level canal would provide larger economic benefits during construction but might cause greater economic dislocations afterward. A sea-level canal would require fewer employees to operate it, and its location might divert population and economic growth away from Panama City and Colon. There are, moreover, ecological considerations that have not been fully explored. On the other hand, if a third set of locks were built the US would retain portions of the Canal Zone for a longer period of time than would be the case if a sea-level canal were constructed.

22. At issue, however, is not which option is better but rather the length of time the US would have to decide on its expansion plans. Panama does not want to hold open for an extended period a right-of-way for a sea-level canal nor unnecessarily limit land development plans in areas that might be required for a third set of locks. Panama has proposed to give the US a 15-year option and, for additional consideration, provide two five-year extensions. This does not differ radically from the US request for a flat 25-year option period and appears merely to be an attempt by Panama to obtain additional benefits at little cost. It could also serve as a bargaining counter to secure from the US additional concessions in other areas.

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defense

23. The Panama Canal is the United States' most important defense asset in Latin America but it is also highly vulnerable to a wide variety of threats, ranging from sabotage to nuclear attack. The Panamanians have no objection to US defense of the canal and no illusions about their capacity to do the job. They maintain, however, that any real danger to the canal would originate and have to be dealt with far from Panamanian shores. US forces in the Canal Zone are, therefore, merely protecting the canal against a threat from Panama. This, they argue, is absurd. Panama could not want to see its primary natural resource destroyed; Panamanians have never attempted to sabotage the canal, and such riots as have occurred have been directed at the US and not at the canal. Moreover, the negotiators state, Panama has no interest in shutting down the canal and putting many thousands of its citizens out of work.

24. These arguments are addressed primarily to the issue of land required for canal defense. Panama claims that the US is interested in maintaining a buffer zone between Panama and the canal and that US retention of significant portions of Zone territory for military installations, maneuver, and training areas interferes with Panamanian land-use plans. Panama, moreover, seeks early definition of areas that would be required for defense of a sea-level canal.

25. Panama nevertheless recognizes that the defense issue is one on which it must show some flexibility. It wants less to interfere with US activities than to extract substantial payment for them. The Panamanians have agreed to work out a status-of-forces agreement that would leave primary responsibility for canal defense to US forces but would provide some limited defense role for Panama. The Panamanians have made a clear distinction, however, between canal defense and regional security. Thus far in the negotiations they have not seriously objected to the continued presence of the US Southern Command or to US retention of the Jungle Operations Center, the School for the Americas, or the Tropical Test Center located in the Zone. Nor have

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they called for an end to hemispheric operations. They have, however, indicated that the continuation of these activities must be specifically negotiated, and they probably will insist that the US make additional payments for facilities and activities not directly related to canal defense.

26. It is of great importance to the US that the canal remain open under all circumstances and particularly that there be no interference with the free transit of US warships, transports, and military cargo vessels in the event of war. A possibly troublesome problem, therefore, may be negotiation of the status of the canal after the expiration of a new treaty. The Panamanians oppose any provision that would allow US forces to remain after the termination of a new treaty. The Panamanians have thus far countered proposals that the US retain the right to use the canal for its warships and to deny passage to ships of belligerents at war with it by suggesting a multilateral guarantee of canal neutrality, possibly through the UN.

compensation

27. Although the Panamanians are placing heavy emphasis on jurisdictional and sovereignty issues, this is not because they lack interest in increased economic benefits. Rather it is that they are more confident that economic concessions will come easily. Still, the Panamanians have developed rather inflated notions of what is acceptable, and some very tough bargaining may be in prospect.

28. The Panamanians maintain that the canal is not being operated as a business but as a non-profit undertaking. They note, for example, that tolls have not been increased since the canal opened in 1914. As a result, they estimate that US shipping interests, and indirectly the US consumer, have received a cumulative subsidy of one billion dollars. The Panamanians leave it to the US to decide whether tolls should be raised sufficiently so that the canal can be operated on a normal commercial basis or whether operations should continue to be subsidized. They insist that in either event the present \$1.93 million annuity is ridiculous and that henceforth Panama must receive a fair share of the revenues.

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29. Whereas the US believes that compensation ought to start at approximately the levels proposed in the 1967 drafts (about \$25 million) Panama is talking about compensation on the order of \$50-100 million per year. The magnitude of this amount of money in Panamanian terms can be appreciated when it is noted that the total expenditures of the central government were about \$170 million in 1971.

land area and usage

30. Panama and the US agree that some of the present Canal Zone should be returned to Panama. There is agreement also on establishment of a Joint Land and Water Commission to pass on land usage. The commission would allow agricultural, commercial, and urban development of land and water areas in the Zone as long as this usage does not interfere with the operation, maintenance, and defense of the Canal Area by the US. US-run commercial activities in the Zone would be discontinued, and new business enterprises would have to be approved by the Joint Commission before becoming eligible for a US license.

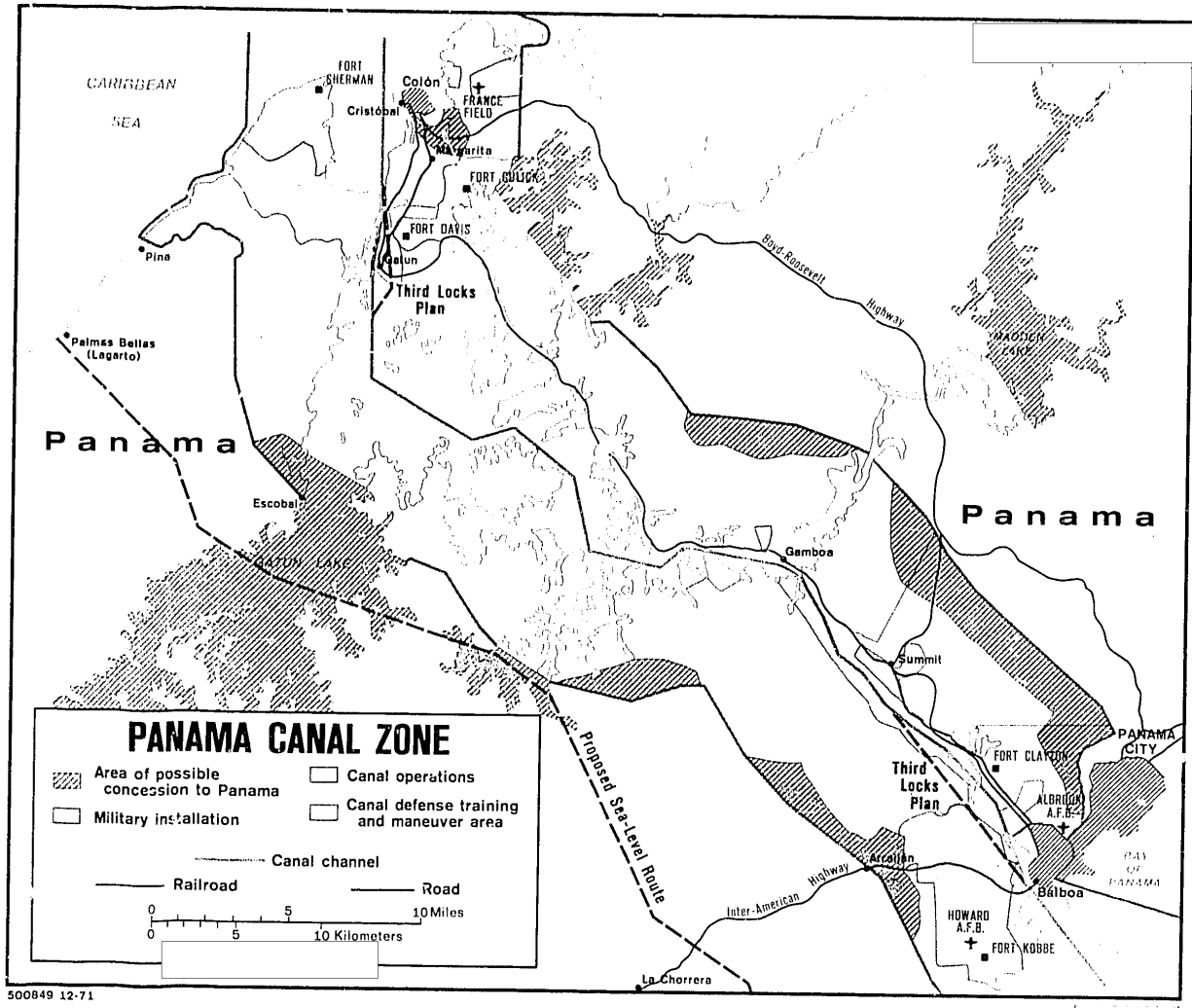
31. Panama takes a rather restricted view of the land areas which should be retained by the US-- primarily a narrow strip along the canal for operation and maintenance. The Panamanians note that only 15 square miles of the Zone are utilized for canal operations and only 40 square miles for military installations. The rest of the 372 square miles of land area and 275 square miles of water area ought to be available for any Panamanian uses that do not interfere with operation and defense of the canal.

32. Panama also wants to integrate the economy of the Canal Area with that of the rest of the country. It takes a rather broad view of what uses are compatible with canal operation and stresses that Panamanian development needs should be given priority. The Panamanians note that 76 percent of the Canal Zone is unimproved land used only as defense areas. They particularly point to the urgent need for land for urban development. The city of Colon, an enclave near the Atlantic side, cannot presently expand at all. Panama City, on the Pacific side, instead of

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growing in a normal radial basis is forced, at considerable cost, to expand roughly along a north-south axis. On the west side of the canal, they claim the town of Arrijan also needs land.

33. The US has already agreed to cede a number of areas to Panama but Panama's immediate demands, particularly in the Panama City area, have still not been satisfied. Panama, moreover, seeks the return of the entire east bank within 15 years, regardless of whether or not a sea-level canal is constructed.

PANAMANIAN NEGOTIATING STRATEGY: OPPORTUNITIES AND CONSTRAINTS

34. Although there are substantial areas of agreement on treaty provisions, a number of important issues have not been resolved. As a matter of principle, the Panamanians are likely to insist on jurisdictional rights, such as immediate jurisdiction over criminal acts of Panamanian citizens. As a matter of political expediency, the Torrijos government will also seek greater concessions on duration, compensation, and land returns than were won by the oligarchy-dominated government in 1967. Still, the concessions offered to Panama thus far meet most of the Panamanian objectives and could be presented to the public as a clear government victory. Without prejudging the possibility that agreement can be reached in early 1972 it should be noted, however, that neither General Torrijos nor Foreign Minister Tack has given any indication of regarding the negotiations as having moved from a hard bargaining phase to a compromise or conciliation phase.

35. There is, of course, the possibility that the Panamanian negotiators will return to Washington with more specific instructions and more flexible guidelines that could bring the talks to a successful and rapid conclusion. But the evidence suggests that Torrijos and Tack still are not convinced that the US has reached the limit of what it is prepared to give and are likely to continue to press hard for additional concessions, such as a rapid phasedown of US jurisdiction in the Zone.

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36. Certainly Panama wants a new treaty as soon as possible and Torrijos has advised the US on occasion that he is under heavy pressure to conclude an agreement. But the fact remains that whatever pressure exists is self-generated. Torrijos' political survival does not depend on gaining a treaty within the next few months, and there are no organized groups in Panama clamoring for an immediate agreement. Indeed, in the short run, Torrijos may feel that it is the US which is under pressure to conclude a treaty and--given his concern over his place in Panamanian history--he may be more interested in winning dramatic concessions than in achieving dramatic speed.

37. Torrijos may feel that it would be to his advantage to have a treaty by late summer or early fall. He announced this past October, on the third anniversary of his seizure of power, that if the US failed to negotiate in good faith, he would personally lead Panamanians into the Zone. He is not going to want to repeat that refrain and have nothing else to show on the fourth anniversary of the "revolution" next October. He probably prefers to have some good news even sooner. He has promised legislative elections in August and during the closing days of the campaign would doubtless like to make some positive announcement to generate popular enthusiasm. The legislature, under current plans, would then elect Torrijos president of the republic and he would undoubtedly like to commemorate his election by announcing a new treaty relationship. Even then Torrijos would not need a ratified treaty. A signed agreement or possibly even announcement of a dramatic breakthrough or concession would serve as well.

38. Given this kind of time frame and Torrijos' doubt that all possible concessions have already been won, the general may be less than impressed with a US argument that unless a treaty is concluded early in 1972 none will be possible until 1973. Torrijos may see the 1972 US elections more as an opportunity than as a constraint. He may, indeed, not be averse to launching a dramatic confrontation with the US as a means of injecting the canal

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issue into the campaign in hopes of generating further concessions. He probably does not believe that the US administration in its second term would be less ready to conclude a treaty and he probably does not think that a Democratic administration would be less generous. Given Torrijos' imperfect understanding of the US political system and--in the Panamanian context--his contempt of the legislature, he is probably not overly concerned about US ratification difficulties either, seeing them as a US rather than a Panamanian problem.

39. All this is not to suggest that Torrijos would be averse to an agreement in early 1972 but rather that a wholesale collapse of the Panamanian bargaining position is somewhat unlikely and that Panamanian pressure on the US for more concessions will probably continue over the next month or two. Torrijos apparently considers it useful to keep US-Panamanian relations under some strain and he has consistently done so. He also reportedly encourages speculation that the Canal Zone might be invaded. Such rumors were spread before the 11 October celebration and during the celebration of Anti-Imperialism Week from 6-14 December. The government has periodically drummed up a propaganda campaign against the Canal Zone Government or against the US. Recently, for example, the foreign minister charged that intimations that Panama was not doing enough to stop the flow of narcotics through Panama to the US were made in an effort to upset the negotiations. Seizing the offensive rather than doing anything to improve the situation, Panama protested to the US and took the unusual step of publicizing the note in the Panamanian press. It also temporarily required air passengers arriving in Panama and destined for the Canal Zone to go through Panamanian customs--in violation of a 1949 agreement.

40. If Torrijos has sought to keep relations with the US roiled, resorting to a policy of bluster and threat, he, nevertheless, has been careful to keep matters below the boiling point. Although he concluded a working arrangement with the Communist Party last year, he has allowed his leftist rhetoric to outpace his actions.

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41. Under certain conditions, however, relations with the US could rapidly deteriorate. Torrijos, for example, is likely to react with violence if the US caused the negotiations to be broken off. On the other hand, if a deadlock occurs in the negotiations, Torrijos would consider bringing his negotiators home and mounting a propaganda campaign that could include demonstrations against the Zone.

42. The Panamanians borrowed over \$27 million in new money in 1971 and are making final arrangements to borrow an additional \$37 million for 1972. Chances of obtaining these funds look good and, indeed most of this money is expected to be received in early January. After then, Panama may feel less constrained about being on good behavior to impress the international financial community.

43. Although continued pressure on the US, a hard bargaining stance, and continued diplomatic efforts to win international support can be expected, Torrijos probably recognizes that he cannot orchestrate public opinion on the canal issue as carefully as he would like. This was probably demonstrated to him earlier this month during the Communist-sponsored and government-supported commemoration of the 1947 anti-US student riots. Anti-Imperialism Week was designed to demonstrate to the US that students were pressing for a new treaty. Instead, the lack of student interest forced cancellation of a number of scheduled events. Even an appearance by Torrijos and the injection of the treaty issue failed to generate much enthusiasm. If anything, the students showed that they resented the rather blatant efforts by Torrijos to manipulate them for his own ends.

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44. Nevertheless, the government could stimulate the students--and the general public as well--into demonstrations against the US. Torrijos does not appear to regard violence as counter-productive and seems to believe that if other steps fail a confrontation with the US could yield additional concessions. Anti-US demonstrations might lead to a breakdown in public order which could work to the advantage of opponents of his regime. Torrijos is playing for high stakes, however, and may be willing to run the risk.

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