IMPROVING THE PANAMA CANAL TREATY

Recent actions by Panamanian strongman General Manuel Antonio Noriega and the mounting instability in Panama expose the long-term dangers to the Panama Canal. To ensure that the Canal does not one day fall victim to Panamanian turmoil, the United States should begin negotiations to improve the Panama Canal Treaty of 1977. Under the terms of the Treaty, the U.S. is legally bound to turn over complete control and defense of the Canal to the Panamanians on December 31, 1999.

These provisions should be reviewed and revised. Action, in fact, already has begun in Congress to do just this. Representative Robert Walker, the Pennsylvania Republican, and Gerald Solomon, the New York Republican, this week submitted a Resolution to the House of Representatives which states that because "the Panama Canal is vulnerable to disruption and closure by unforeseen events in Panama...the United States must have the discretion and the means to defend the Canal." The Walker-Solomon Resolution then calls on the President "to renegotiate those parts of the existing Panama Canal Treaty." Specifically, the Resolution wants the Treaty improved "to permit the permanent stationing, beyond the year 2000, of United States military forces in Panama and to permit the United States to act independently after the year 2000 to maintain the security of the Panama Canal and guarantee its regular operation."

Violating Key Treaty Provisions. The Walker-Solomon Resolution, which on its first day garnered some 70 co-sponsors, including a number of Democrats, was prompted by Noriega's secret stockpiling of large shipments of Soviet weapons, his working hand in hand with the Cubans, and his establishing closer ties with the Libyans. According to the former second-in-command of the Panamanian Air Force, Major Augusto Villalaz, who fled to the U.S. two weeks ago, Noriega is laying the groundwork for a Cuban-sponsored guerrilla war against the U.S. and recently received large stockpiles of Soviet weapons via Cuba.

Noriega and his Panamanian Defense Force (PDF) have been violating or threatening to violate key Panama Canal Treaty provisions. On February 8, he requested that now deposed Panamanian President Eric Arturo Delvalle illegally evict the U.S. Southern Military Command from Panamanian soil. PDF forces have been harassing U.S. servicemen, canal workers, and civilians, and in some cases violating their human rights. Panama's government illegally has ordered the expulsion of two U.S. diplomats in the past week, bringing to over 50 the number of U.S. diplomats expelled since last June. Levels of anti-U.S. rhetoric and threats are also on the rise. Noriega has announced his intentions to charge Canal users special fees for Panamanian navigational equipment. Such fees have never been charged in the past.

As long as the PDF continues to control events in Panama, the Canal could fall victim to the political patronage, corruption, and mismanagement that has afflicted other Panamanian public enterprises. Shipping companies and U.S. officials already complain that Panamanian authorities fail to maintain the Canal as specified in the Treaty.

Washington cannot await until 1999 to begin studying Canal policy options; steps must be taken now. To protect U.S. political, military, and economic interests in the Panamanian isthmus, Washington should consider a variety of diplomatic and legal options. They must be presented along with incentives for Panamanian cooperation. Among the options are:

Renegotiation of those Treaty provisions forcing the removal of U.S. military bases at the end of 1999. It is now clear that some form of U.S. military presence must be maintained in Panama after 2000.

An entirely new U.S. base rights treaty, similiar to those that Washington has with other countries. This would reaffirm Washington's commitment to international law, demonstrate a desire for cooperation with the Panamanians, and dampen any "anti-Yanqui" irritation by those who fear a Treaty abrogation.

Linking U.S. obligations regarding the 1977 Treaty to appropriation bills. A provision could be enacted forbidding the expenditure of funds to turn over the Canal if Panama does not establish a democratic political system.

Adding provisions to the current Treaty linking its implementation to Panamanian democratization and U.S. base rights.

Reaffirmation of Senator Dennis DeConcini's 1978 treaty reservation which was approved by the Senate 75 to 23. This reservation stresses the need for giving the U.S. the permanent right to intervene if the Canal were threatened. The U.S. also should reaffirm its commitment to those clauses of the 1977 Treaty that are popular in Panama and that place no U.S. geostrategic interests in jeopardy.

Decade of Experience. Though the U.S. has the right to abrogate the 1977 Treaty, this would add to Washington's regional problems. Latin Americans could view this as a violation of Panama's sovereignty. While abrogation thus should not be considered at this point, Washington should leave little doubt that the U.S. may not comply with Treaty provisions if the issues of base rights and U.S. security interests are not fully addressed. To encourage Panama to begin talks on improving the Treaty, such negotiations could be linked to pledges of U.S. economic assistance to Panama and resumption of joint U.S.-Panama military aid and training programs. In any event, Washington should reaffirm its right under the 1977 Treaty to intervene militarily to guarantee its security interests in the Canal.

The lesson of Panamanian events in recent months is clear: the Panama Canal is in greater jeopardy than was anticipated more than a decade ago when the Canal Treaty was signed. With this decade of experience, the U.S. should begin the process of improving the Treaty. The House of Representatives wisely seems ready to do so.

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