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Panama-U.S. Relations

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Mark P. Sullivan and M. Angeles Villarreal
Foreign Affairs, Defense, and Trade Division

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Panama-U.S. Relations

SUMMARY

The December 20, 1989, U.S. military intervention in Panama, known as Operation Just Cause, heralded a new period in U.S.-Panamanian relations. In the aftermath of the intervention, U.S. policymakers immediately faced a new range of challenges including assistance for economic recovery, support for the development of a civilian police force, cooperation with the new government on counter-narcotics measures, and support for fragile democratic institutions.

Panama has made abundant progress in all these areas, although the country still faces challenges. U.S. policymakers maintain an active concern about these issues because of continued U.S. interests in Panama, particularly the Panama Canal, which continues to be important to the United States for its commercial value.

Over the years, U.S. officials consistently affirmed a commitment to follow through with the Panama Canal Treaty and turn the Canal over to Panama at the end of 1999. That transition occurred smoothly on December 31, 1999. The Panama Canal Treaty terminated on that date and the Panama Canal Commission (PCC), the U.S. agency operating the Canal, was succeeded by the Panama Canal Authority, a Panamanian government agency established in 1997. All U.S. troops have been withdrawn from Panama and all U.S. military installations have reverted to Panamanian control.

Under the terms of the Neutrality Treaty, which has no termination date, Panama now has responsibility for operating and defending the Canal. However, the treaty gives the

United States the right to use military force to reopen the Canal or restore its operations.

For several years, U.S. policymakers faced the issue of a potential U.S. military role in Panama beyond the end of 1999, when Panama assumed control of the Canal. Talks on a U.S. military contribution for a new Multinational Counternarcotics Center led to a draft U.S.-Panamanian agreement in December 1997, but in September 1998, the two countries announced that a final agreement had not been reached and that talks were being terminated by mutual agreement. Some believe that Panama's internal politics appear to have influenced the MCC negotiations.

In 1999, some Members of the U.S. Congress and politicians in Panama suggested that the United States negotiate the use of facilities in Panama for U.S. antidrug flights, similar to arrangements negotiated with Ecuador, Aruba, and Curacao. But in late March 2000, the United States signed a 10-year agreement with El Salvador for anti-drug flights, making the potential of negotiating such an agreement with Panama unlikely.

Other U.S. interests or concerns in Panama have included a controversy over whether the United States will clean up three firing ranges in Panama; and allegations by some that China could threaten the operation of the Panama Canal because of its links to a Hong Kong company operating ports at both ends of the Canal. Both the State and Defense Departments and the Panama Canal Commission asserted that the operation of the ports by a Hong Kong company does not constitute a threat to the Canal.

MOST RECENT DEVELOPMENTS

The Panamanian President's popularity fell significantly during the first year of her administration but improved in the latter part of 2000. A December 2000 public opinion poll showed an overall approval rating of 62%. However, many analysts believe that it will be difficult for President Moscoso to sustain her popularity because of sluggish economic growth and the administration's recent increases in electricity and telecommunications rates. The rate increases, which occurred in January 2001, resulted in violent street protests in the capital and led to many arrests. The political difficulties the president is facing may make it unlikely for her to gain legislative approval of proposed tax and social security reform measures she is proposing in March 2001. These measures are part of an agreement with the IMF that had been earlier scheduled for 2000. Without these reforms, the government will have difficulty meeting its fiscal and debt reduction targets or its public investment goals.

BACKGROUND AND ANALYSIS

Political and Economic Situation

The December 1989 U.S. military intervention in Panama was the culmination of two and a half years of strong U.S. pressure against the de facto political rule of General Manuel Antonio Noriega, commander of the Panama Defense Forces (PDF). President Bush ordered U.S. forces into combat on December 20, 1989, for four reasons: "to safeguard the lives of Americans, to defend democracy in Panama, to combat drug trafficking, and to protect the integrity of the Panama Canal Treaty." A new Panamanian government was installed headed by Guillermo Endara, who was widely believed to have won the May 1989 elections by a 3-1 margin. On January 3, 1990, General Noriega, who had taken refuge at the Vatican Embassy, turned himself over to U.S. officials, whereupon he was arrested by members of the U.S. Drug Enforcement Administration and brought to the United States to stand trial on drug trafficking charges. After this, President Bush announced that all four objectives of the U.S. intervention had been accomplished. (After a seven-month trial, on April 9, 1992, Noriega was convicted on 8 out of 10 drug trafficking counts in U.S. federal court in Miami, and on July 10, 1992, he was sentenced to 40 years in prison. On March 4, 1999, a federal judge reduced Noriega's prison term to 30 years because of disparity between his sentence and his co-conspirators. The reduction makes Noriega eligible for parole in 2007.)

A decade after the U.S. military intervention, Panama has made notable economic and political progress, with abundant U.S. assistance and cooperation, but the country still faces notable challenges. The economy has rebounded, but critics maintain that the recovery has not trickled down to the nation's poorer classes. Under the Endara government (December 1989 - August 1994), a new civilian Public Force replaced Noriega's Panama Defense Forces (PDF), but the demilitarization process was difficult, with some police and former PDF members at times plotting to destabilize, if not overthrow, the government. Panama cooperates closely with the United States on counter-narcotics measures, but the nation remains a major narcotics money laundering and illicit drug transshipment center. The

government generally respects human rights, but, as noted by the State Department in its human rights report for 1999, serious human rights problems include excessive force against detainees by police and prison guards; poor prison conditions; prolonged pretrial detention; an inefficient and often corrupt criminal justice system; and instances of illegal searches and political pressure on the media.

Election of Pérez Balladares

On May 8, 1994, Panamanians went to the polls to vote in presidential and legislative elections that observers called the freest in almost three decades. Ernesto Pérez Balladares, candidate of the former pro-Noriega Democratic Revolutionary Party (PRD) who led a coalition known as “United People” won the election with 33% of the vote. Placing a surprisingly strong second, with 29% of the vote, was Arnulfist Party (PA) candidate Mireya Moscoso de Gruber (widow of former president Arnulfo Arias) who headed a coalition known as the “Democratic Alliance.” Then Secretary of State Warren Christopher expressed satisfaction that the elections were conducted freely and fairly. Pérez Balladares was inaugurated on September 1, 1994.

In the electoral race, Pérez Balladares campaigned as a populist and advocated greater social spending and attention to the poor. He stressed the need for addressing unemployment, which he termed Panama’s fundamental problem. Pérez Balladares severely criticized the Endara government for corruption, while weathering attempts to portray him as having been closely associated to General Noriega. (Pérez Balladares served as campaign manager during the 1989 elections for candidate Carlos Duque, which the Noriega regime had tried to impose through fraud.) Instead, Pérez Balladares focused on the PRD’s ties to the populist policies of Gen. Omar Torrijos, Panama’s military leader who died in a plane crash in 1981.

Although Panama’s constitution does not allow for direct presidential reelection, President Pérez Balladares actively sought a second term in 1999. In 1997, the President’s PRD had begun studying the possibility of amending the constitution to allow a second bid for the presidency in the May 1999 elections. Later, an August 30, 2000 national referendum buried the proposed constitutional amendment by a vote of 64% to 34%.

President Moscoso

In her second bid for the presidency, Arnulfist Party (PA) candidate Mireya Moscoso was victorious in the May 2, 1999 elections. Moscoso, who was inaugurated September 1, 1999, for a 5-year term, captured almost 45% of the vote and soundly defeated the ruling PRD’s candidate Martin Torrijos (son of former populist leader Omar Torrijos), who received almost 38% of the vote. Until March 1999, Torrijos had been leading in opinion polls, but as the election neared the two candidates were in a dead heat. A third candidate, Alberto Vallarino, heading a coalition known as Opposition Action, received about 17% of the vote.

While Moscoso took the presidency, the PRD-led New Nation coalition won a majority of 41 seats in the 71-member unicameral Legislative Assembly. Just days before her inauguration, however, Moscoso was able to build a People’s Bloc coalition that gave her government 36 seats in the Assembly compared to 35 for the opposition. In the newly formed coalition, the Solidarity Party, the Christian Democratic Party (PDC), and the National Liberal Party threw its support behind Moscoso. However, in August 2000, the PDC deserted the

coalition and formed an alliance with the principal opposition, the PRD. The opposition now holds a slim majority of 37 votes out of a total of 71 in the parliament and has the ability to block legislation, although it has pledged to cooperate in passing legislation.

President Moscoso, a coffee plantation owner and Panama's first female president, ran as a populist during the campaign, promising to end government corruption, curb the pace of privatizing state enterprises, and reduce poverty. She also promised to ensure that politics and corruption do not interfere with the administration of the Canal. The memory of her husband Arnulfo Arias, a nationalist who was elected three times as president but overthrown each time, was a factor in the campaign, particularly since Arias was last overthrown in 1968 by General Omar Torrijos, the father of the PRD's 1999 presidential candidate.

The President's popularity fell significantly during the first year of her administration but improved in the latter part of 2000. A December 2000 public opinion poll showed an overall approval rating of 62%. However, many analysts believe that it will be difficult for President Moscoso to sustain her popularity because of sluggish economic growth and the administration's recent increases in electricity and telecommunications rates. The rate increases, which occurred in January 2001, resulted in violent street protests in the capital and led to many arrests. The political difficulties the president is facing may make it unlikely for her to gain legislative approval of proposed tax and social security reform measures she is proposing. In 2000, the administration failed to present these proposals, which were part of an agreement with the International Monetary Fund (IMF), and hopes to gain approval in 2001 (*The Economist Intelligence Unit (EIU) Country Report*, March 1, 2001).

Economic Conditions and Outlook

The Pérez Balladares government (1994-1999) implemented an economic reform program that included liberalization of the trade regime, privatization of state-owned enterprises, the institution of fiscal reform, and labor code reform. In 1997, Panama lowered its tariff rates to a range of 10-15% (with the exception of rice, milk products, and automobiles) in preparation for joining the World Trade Organization. To date, privatizations have included two ports, electrical distribution companies, electrical power plants, the Panama Canal Railway, the state telecommunications company, two sugar companies, and a cement company. President Moscoso canceled the plans of the previous administration to privatize the state water company after strong opposition by labor and political groups; she has vowed not to privatize it. The administration has delayed two other planned privatization operations, the Tocumen International Airport and the ATLAPA convention center, which are scheduled for 2001.

Before the December 1989 U.S. intervention, the Panamanian economy had been severely damaged by two years of strong U.S. economic sanctions and economic disruption caused by the political crisis. Gross domestic product (GDP) had declined about 25% between 1987 and 1989. The economy improved during most of the 1990s but has worsened over the past year and a half, largely because of the 1999 departure of the U.S. military. Although the economy improved considerably in the 1990s, poverty remains a problem. The government estimates that more than 40% of the population lives in poverty.

Under the 1990-1994 Endara government, real economic growth averaged almost 6.6%. In 1995, the economic growth rate declined to 1.9% and continued to decline the following

year to 1.5%. The economy rebounded to a 4.7% growth rate in 1997 and a 4.6% growth rate in 1998. In 1999, however, growth decreased to 3.2%. In 2000, preliminary government figures show that GDP growth decreased further to 2.7%. The slower rate of economic growth reflects a weakening of consumer and investor confidence and a tightening of bank credit. Economic forecasts for 2001 and 2002 show that economic conditions may not improve because of the political difficulties President Moscoso is facing in gaining approval for the proposed economic reform measures. Growth will rely heavily on export demand. (*EIU Country Report*, March 1, 2001)

As part of an IMF stand-by arrangement, President Moscoso is planning to implement economic reforms to meet certain fiscal targets. Included in the plan are unpopular measures such as tax reform and changes in the social security system, which may make it difficult for President Moscoso to obtain legislative and public approval. Without these reforms, the government will have difficulty meeting its fiscal and debt reduction targets or its public investment goals.

Policy Issues and Concerns

Over the past several years, U.S.-Panamanian relations centered on the continued implementation of the Panama Canal treaties and the possibility of a continued U.S. military presence in Panama into the next century. Talks on a U.S. military contribution for a new Multinational Counternarcotics Center (MCC) began in 1996 and led to a draft U.S.-Panamanian agreement in December 1997. But on September 25, 1998, both countries announced that they were ending the talks through mutual agreement (see below).

Other U.S. interests and concerns in Panama include controversy over whether the United States will clean up three firing ranges in Panama; a possible agreement on visiting military forces from the United States to Panama; continued Panamanian cooperation on antidrug efforts; and a 1999 scandal involving a Chinese immigrant smuggling ring, with the alleged involvement of Panamanian government officials. In addition, another issue that has been raised by some are allegations that China could threaten the operation of the Panama Canal because of its links to a Hong Kong company operating ports at both ends of the Canal. These and other issues are discussed in more detail below.

Former U.S. Military Presence in Panama

Under the terms of the Panama Canal Treaty, all U.S. military forces withdrew from Panama by December 31, 1999, since no mutual agreement was reached to continue their presence. At that time, Panama assumed responsibility for defending as well as operating the Canal. Nevertheless, under the terms of the Treaty on the Permanent Neutrality and Operation of the Canal, often referred to as the Neutrality Treaty, the United States will have the right to use military force to reopen the canal or restore its operations. (Also see discussion of treaties in the "Operation of the Panama Canal" section below.)

Role and Presence of U.S. Troops. Over the years, U.S. military forces in Panama had several functions. The primary purpose of the troops was to provide for the defense of the Panama Canal, as set forth in the Panama Canal Treaties, until December 31, 1999.

Another function served by the presence of the U.S. military in Panama stemmed from its activities throughout Latin America. Until late September 1997, Panama served as the headquarters of the U.S. Southern Command (SOUTHCOM), a unified command responsible for all U.S. military operations south of Mexico. In March 1995, President Clinton announced that SOUTHCOM headquarters, located at Quarry Heights in Panama, would be moved to Miami. The move began in June 1997 and was completed by the end of September 1997. U.S. bases in Panama also supported assistance to Latin American nations combating drug trafficking, such as aerial reconnaissance and counter-narcotics training. Howard Air Force Base provided secure staging for detection, monitoring, and intelligence collecting assets. Panama also provided unique opportunities and facilities for military training, including the Jungle Operations Training Center (which was deactivated on April 1, 1999) at Fort Sherman.

By the end of December 1999, all U.S. forces had withdrawn from Panama, and all of the U.S. bases and facilities had reverted to Panamanian control. Ten major installations were returned to Panama over a 4-year period: Fort Davis and Fort Espinar in early September 1995; Fort Amador, at the Pacific entrance to the Canal, on October 1, 1996; Albrook Air Force Station on October 1, 1997; Galeta Island on March 1, 1999; Rodman Naval Station on March 11, 1999; Fort Sherman, on the Atlantic side, on June 30, 1999; Howard Air Force Base, which ceased air operations in May 1999, was officially turned over to Panama on November 1, 1999, along with Fort Kobbe; and Fort Clayton and was turned over on November 30, 1999.

Failed Negotiations for a Multinational Counternarcotics Center (MCC).

In September 1995, President Clinton and President Pérez Balladares met in Washington and announced that the two countries would begin informal discussions to determine if there was mutual interest in the United States maintaining a military presence in Panama beyond the end of 1999. Those talks never materialized, but instead there were a series of bilateral talks regarding a U.S. contribution to a Multinational Counternarcotics Center (MCC). President Pérez Balladares had announced in July 1996 that Panama would be willing to allow the United States to use Howard Air Force Base, at no cost, as a international drug interdiction center. He stated that Panama would “provide the facility free of charge as part of our contribution to the drug war.”

Talks on a potential MCC began in late November 1996 and ultimately led to a tentative agreement, announced December 24, 1997, on the establishment of a MCC with the United States contributing troops for the center. Despite the tentative accord, progress on a final agreement was stymied during 1998, and on September 25, 1998, both countries announced that they were ending the MCC talks without a final accord.

As described in the press, the MCC would have involved about 2,000 U.S. troops operating at Howard Air Force Base, Rodman Naval Station, and Fort Kobbe on the Pacific side of the Canal. Other facilities reportedly to be utilized would have been communication facilities at Galeta Island and Corozal. Panama would have provided free use of the bases, while the United States would have been expected to pay for such facilities as housing. The MCC reportedly would have been established for a 12-year period, renewable for additional five-year periods, with the potential participation of participation of other Latin American nations. Reportedly the MCC would have had a Directors’ Council made up of the foreign ministers of participating countries and presided over by Panama’s foreign minister. If the

United States and Panama had agreed on the MCC, the next step would have been for Panama's Legislative Assembly to approve the agreement, and then would have been subject to a national referendum in Panama.

As early as April 1998, the Clinton Administration had expressed concern that negotiations would have to be concluded soon, or the United States would be forced to locate the U.S. antidrug operations elsewhere. Although the text of the draft MCC accord was not made public, press reports indicated that one problem in the negotiations was a provision that would permit U.S. soldiers to engage in other missions beyond counter-narcotics. Panama and several Latin American nations expected to join the MCC expressed reservations about this aspect of the accord, with concerns centered on the potential for U.S. military intervention in the region. U.S. officials, however, maintained that U.S. military activities beyond antinarcotics work would consist of such benign activities as search and rescue and disaster relief. Another reported problem in the negotiations was U.S. rejection of Panama's call for a change in the agreement, whereby the center could be dissolved after 3 years if the drug trafficking problem diminished.

Some, including former Ambassador Thomas McNamara, the lead negotiator in the talks with Panama, believe that the main reason that an agreement was not reached was Panama's internal politics. While Panamanian opinion polls overwhelmingly favored a continued U.S. military presence, the President appeared concerned about vocal opposition, even from within his own party, to the proposed center. Moreover, President Pérez Balladares was actively seeking a constitutional change for a second term of office, and this appeared to have influenced the MCC negotiations.

Possibility of Panama as a Forward Operating Location (FOL). In early December 1998, U.S. officials announced that they had begun talks with several Latin American countries to find new bases of operation in Central and South America to replace the antidrug mission of the U.S. presence in Panama. Short-term interim agreements were concluded in April 1999 to have Forward Operating Locations (FOLs) in Ecuador, Aruba, and Curacao for U.S. aerial counternarcotics missions. Subsequently, the United States concluded longer-term 10-year agreements with Ecuador and the Netherlands (for Aruba and Curacao) for the anti-drug FOLs. An additional FOL site also was being sought in Central America, and on March 31, 2000, a 10-year agreement was signed with El Salvador.

In 1999, some Members of the U.S. Congress and politicians in Panama suggested that there was still an opportunity for the United States to negotiate the use of facilities in Panama for U.S. antidrug flights, similar to the FOLs negotiated with arrangements with Ecuador, Aruba, and Curacao. Press reports in 1999 suggested that President-elect Moscoso was interested in allowing the U.S. military to use Panama as a staging area for anti-drug flights (e.g. see "A Panama Site for U.S. Anti-Drug Planes," *Miami Herald*, August 5, 1999.) In 2000, however, President Moscoso resisted a request from the United States to allow the U.S. military to establish an FOL in Panama. On September 26, 2000, she announced that Panama would remain neutral regarding drug trafficking problems between Colombia and the United States.

Congressional Views on Continued U.S. Military Presence in Panama. In previous sessions, Congress had twice gone on record favoring negotiations to consider a continued U.S. presence in Panama beyond the end of 1999, and in the 104th Congress the

Senate approved a nonbinding resolution on the issue. In 1991, Congress enacted legislation (P.L. 102-190, Section 3505) expressing the sense of Congress that the President should begin negotiations with Panama to consider whether the two nations should allow the permanent stationing of U.S. forces in Panama past 1999. Twelve years earlier, Congress had approved the Panama Canal Act of 1979 (P.L. 96-70, Section 1111) which states that “it is the sense of the Congress that the best interests of the United States require that the President enter into negotiations” with Panama “for the purpose of arranging for the stationing of United States military forces after the termination of the Panama Canal Treaty.” And on September 5, 1996, the Senate approved S.Con.Res. 14, expressing the sense of Congress that the President should negotiate a new base rights agreement with Panama, while consulting with Congress regarding any bilateral negotiations that take place.

In the 106th Congress, numerous measures were introduced relating to a continued U.S. military presence in Panama, many introduced late in the first session as the Canal turnover approached. No legislative action has been taken on these measures. Three resolutions – S.Con.Res. 59 (Smith), S.J.Res. 37 (Smith), and H.Con.Res. 233 (Myrick) – urge the President to negotiate a new base rights agreement with Panama to permit U.S. troops beyond December 31, 1999. H.Con.Res. 186 (Rohrabacher)/S.Con.Res. 61 (Sessions), among other provisions, express the sense of Congress that the United States should negotiate security arrangements with Panama to protect the Canal and ensure Panama’s territorial integrity. S.Res. 257 (Craig), expresses the sense of the Senate that the President should negotiate security arrangements with Panama regarding the protection of the Canal, and that any attack on or against the Canal would be considered an act of war against the United States. H.R. 2244 (Hunter), among other provisions, authorizes and directs the President to confer with Panama to renegotiate the terms of the Panama Canal Treaties or to negotiate a new agreement for the purpose of providing for the security of the Canal. H.R. 3452 (Baker) provides that unpaid balances of the Panama Canal Commission shall be payable to Panama only upon completion of an agreement that leases half of Howard Air Force Base to the United States. (Also see *Legislation* section for broader initiatives related to the overall implementation of the Panama Canal Treaties.)

In the second session, H.R. 3673 (Gilman), introduced February 16, 2000, and reported by the House International Relations Committee on July 27, 2000 (H.Rept. 106-803, Part I), would provide Panama with certain benefits if Panama agreed to permit the United States to maintain a presence there sufficient to carry out counternarcotics and related missions in Panama. The benefits would be preferential trade access to the U.S. market similar to that enjoyed by Canada and Mexico; a scholarship program for Panamanians to study in the United States; assistance in preparing for construction of a new bridge across the Canal; and assistance in preparing for construction of a new sewage treatment plan for Panama City. Supporters of the bill argue that it offers an opportunity for the United States to regain its traditional military presence in Panama and restore full U.S. military capability to perform anti-narcotics missions in the region. Opponents of the bill argue that Panama has not expressed interest in regaining a U.S. military presence in the country and believe that it could jeopardize talks underway with Panama for a “visiting forces” agreement. The State Department expressed opposition to the bill for several reasons. It maintained that there is a lack of credible support in Panama for any agreement to re-establish a U.S. military presence there; that the quid pro quo nature of the offer to Panama would give the appearance of the United States paying rent for the right to establish a military presence, and U.S. policy is not to pay rent for foreign bases or base rights; and the trade benefits Panama

offered could violate the most-favored-nation obligation of the World Trade Organization. State Department officials also pointed out that trade benefits for Panama and other Caribbean Basin countries were recently enacted into law in May as part of the U.S.-Caribbean Basin Trade Partnership Act (Title II of P.L. 106-200).

Panamanian Views on Continued U.S. Military Presence in Panama. Over the past several years, public opinion polls in Panama cited overwhelming support for a continued U.S. military presence. Some focused on the importance of continuing a U.S. military presence to help conduct counternarcotics operations in Panama and in the region. They pointed with concern to incursions of Colombian narco-traffickers into the Darien jungle region of Panama. Nevertheless, while public opinion polls consistently showed that a majority of Panamanians would have liked some U.S. military presence after the end of 1999, Panamanian opponents to the MCC were vocal and staged protests at various times. In 1997, there were several protests by student, human rights, and labor groups who oppose a continued U.S. presence. An umbrella organization was formed known as the Organizations Against Military Bases, which included some 30 labor, peasant, and student groups. In early 1998 another umbrella organization against U.S. military presence was formed, the National Movement for the Defense of Sovereignty, consisting of labor, student, and professional organizations. Arguments of these groups addressed the need to break Panama's dependent relationship with the United States and recover its own national identity.

Contamination of Defense Sites. A controversial bilateral issue that continues is the extent to which the United States will clean up three ranges (Empire, Pina, Balboa West) that were used for testing ground explosives. U.S. officials acknowledge that some 7,500 acres being returned to Panama will be not available for unrestricted use because "the technology is not available to do the job safely while protecting the environment." (New York Times, October 14, 1998, "U.S. Balks at Cleanup of Hazardous Canal Zone Sites") They assert that it is not possible to remove the unexploded ordinance without tearing down the rain forest and threatening the Canal's watershed. They point to a Canal treaty provision (Agreement in Implementation of Article IV of the Panama Canal Treaty, Article IV) which states that the United States is obligated to take all measures, "insofar as may be practicable," in order to ensure that hazards to human life, health and safety are removed from the defense sites reverting to Panama. Officials of the Pérez Balladares government believed that the United States was renegeing on its treaty commitment and wanted to press the United States to clean up the firing ranges regardless of economic cost. The Pina range was turned over to Panama in June 1999, while the Empire and Balboa West ranges were turned over in July 1999. Some 60,000 Panamanians live in areas surrounding the ranges, and reportedly at least 21 Panamanians have been killed in the last two decades by coming into contact with the explosives ("No Home on Panama's Range, U.S. Munitions Scattered Over Canal Training Zones," *Washington Post*, January 10, 2000).

In September 1999, the new Moscoso government announced plans for an independent study to determine the level of danger posed by the unexploded ordnance. In October 1999, President Moscoso appointed Juan Mendez to head a Task Force on the cleanup of the bases. She also raised the issue during her October 19, 1999, meeting with President Clinton in Washington. President Clinton stated that the United States had met its treaty obligations to clean up the ranges to the extent practicable, but did say that the United States wanted to stay engaged and work with Panama on the issue. The issue also came up during Secretary of State Albright's visit to Panama on January 15, 2000, in which she reportedly promised to

send a mission to Panama to investigate the situation at the ranges. In mid-February 2000, a group of 10 U.S. experts traveled to Panama to visit the ranges. A visit by the Chemical Arms Prohibition Organization (OPAQ) to be carried out in September 2000 was requested by the government of Panama but later postponed to allow further inspections by Panamanian authorities in the area prior to an OPAQ visit (“Panama Seeks Declassification of U.S. Chemical Weapons Document,” *El Panama America* (Internet version), September 4, 2000).

The controversy over whether the United States will clean up the ranges has strained the relationship between the United States and Panama. In 2000, the United States requested an agreement with Panama to allow visiting military forces in Panama for training and other technical assistance projects with the Panamanian police. Panama has resisted partially because of the ongoing disagreement over the firing ranges.

Operation of the Panama Canal

When Panama proclaimed its independence from Colombia in 1903, it concluded a treaty with the United States for U.S. rights to build, administer, and defend a canal cutting across the country and linking the Pacific and Atlantic oceans. The treaty gave the United States rights in the so-called Canal Zone (about 10 miles wide and 50 miles long) “as if it were sovereign” and “in perpetuity.” Construction of the canal was completed in 1914. In the 1960s, growing resentment in Panama over the extent of U.S. rights in the country led to pressure to negotiate a new treaty arrangement for the operation of the Canal. Draft treaties were completed in 1967 but ultimately rejected by Panama in 1970.

New negotiations ultimately led to the September 1977 signing of the two Panama Canal Treaties by President Jimmy Carter and Panamanian head of government General Omar Torrijos. Under the Panama Canal Treaty, the United States was given primary responsibility for operating and defending the Canal until December 31, 1999. (Subsequent U.S. implementing legislation established the Panama Canal Commission to operate the Canal.) Under the Treaty on the Permanent Neutrality and Operation of the Panama Canal, or simply the Neutrality Treaty, the two countries agreed to maintain a regime of neutrality, whereby the Canal would be open to ships of all nations. The U.S. Senate gave its advice and consent to the Neutrality Treaty on March 16, 1978, and to the Panama Canal Treaty on April 18, 1978, both by a vote of 68-32, with various amendments, conditions, understandings, and reservations. Panama and the United States exchanged instruments of ratification for the two treaties on June 16, 1978, and the two treaties entered into force on October 1, 1979.

Some treaty critics have argued that Panama did not accept the amendments, conditions, reservations, and understandings of the U.S. Senate, including the DeConcini condition to the Neutrality Treaty. That condition states: “if the Canal is closed, or its operations are interfered with, the United States of America and the Republic of Panama shall each independently have the right to take such steps as each deems necessary, in accordance with its constitutional processes, including the use of military force in the Republic of Panama, to reopen the Canal or restore the operations of the Canal, as the case may be.” However, as the State Department has asserted, Panama expressly accepted all U.S. Senate amendments, conditions, and understandings to the two treaties, including the DeConcini condition. All the Senate provisions were incorporated into the U.S. and Panamanian instruments of ratification for the two treaties.

Over the years, U.S. officials consistently affirmed a commitment to follow through with the Panama Canal Treaty and turn the Canal over to Panama at the end of 1999. That transition occurred smoothly on December 31, 1999. The Panama Canal Treaty terminated on that date, and the Panama Canal Commission (PCC), the U.S. agency operating the Canal, was succeeded by the Panama Canal Authority, a Panamanian government agency established in 1997. Panamanian Alberto Aleman Zubieta, who served as Administrator of the PCC since 1996, also is serving as Administrator of the Panama Canal Authority. On August 23, 2000, the United States made the final payment of \$6,666,141.39 to Panama for profits earned by the Canal for a 3-month period that ended December 31, 1999.

Under the terms of the Neutrality Treaty, which has no termination date, Panama will have responsibility for operating and defending the Canal after 1999. As noted above, both Panama and the United States, however, in exercising their responsibilities to maintain the regime of neutrality (keeping the Canal secure and open to all nations on equal terms) will each independently have the right to use military force to reopen the Canal or restore its operations. This is delineated in condition (1) of the Neutrality Treaty.

Congressional Action. Authorizations for Panama Canal Commission expenditures were usually included in defense authorization measures. For FY2000, PCC expenditures are included in P.L. 106-65 (Title XXXV). The law authorize expenditures until December 31, 1999, when the Canal is transferred to Panamanian control according to the Panama Canal Treaty of 1977, and authorizes an Office of Transition Administration to expend funds until October 1, 2004 (see **106th Congress Legislation** section).

As the Canal turnover approached, several Members introduced resolutions regarding the implementation of the Panama Canal Treaties, but no action was taken on these measures. H.R. 2244 (Hunter), among other provisions, authorizes and directs the President to confer with Panama to renegotiate the terms of the Panama Canal Treaties or to negotiate a new agreement for the purpose of providing for the security of the Canal. H.J.Res. 77 (Chenoweth) nullifies the Canal treaties and recognizes the validity of the 1903 treaty regarding U.S. control of the Canal. H.Con.Res. 231 (Paul) expresses the sense of Congress that the Panama Canal is and ought to remain U.S. property. H.R. 3452 (Baker) provides that unpaid balances of the Panama Canal Commission shall be payable to Panama only upon completion of an agreement that leases half of Howard Air Force Base to the United States. H.R. 3231 authorizes the transfer to Panama of certain U.S. properties as set forth in the Panama Canal Treaties. Another resolution introduced in the second session of the 106th Congress, S.Res. 257 (Craig), expresses the sense of the Senate that any attack against the Canal by any country will be considered an act of war against the United States; the resolution also called for the President to negotiate security arrangements with Panama regarding the protection of the Canal.

Privatization of Two Panamanian Ports and the China Issue. A controversy that arose in U.S.- Panamanian relations in 1996 and continued through 1999 relates to the privatization of two Panamanian ports at either end of the Panama Canal, Balboa on the Pacific and Cristobal on the Atlantic. In July 1996, the Panamanian government awarded the concession to the Hong Kong company, Hutchison International Port Holdings (one of the world's largest container port operators and a subsidiary of the Hutchison Whampoa Limited Group) which operates the concession in Panama as the Panama Ports Company, S.A. Then U.S. Ambassador to Panama William Hughes complained about the lack of transparency in

the bidding process in which several U.S. companies competed. The Panamanian government responded with a communique describing the process by which Hutchison was awarded the 25-year concession. Panamanian officials maintain that Hutchison had the highest bid, agreeing to pay Panama \$22.2 million annually over the life of the concession. In May 1997, six U.S. Senators charged in a letter to the Federal Maritime Commission that there were irregularities in the bidding process that denied U.S. companies an equal right to develop and operate terminals in Panama. After a review of the issue, the Commission responded that while the port award processes were unorthodox and irregular by U.S. standards, it saw no evidence that U.S. companies were subjected to discriminatory treatment. A May 1997 Senate Foreign Relations Committee staff report on the issue also concluded that while the bidding process was unorthodox, U.S. officials found no evidence of illegality.

In addition to the privatization process, some press reports in March 1997 raised the issue of Hutchison's relationship with the Chinese government and the China Ocean Shipping Company (COSCO) and suggested that China would gain control of the Panama Canal. (Also see CRS Report 97-476, *Long Beach: Proposed Lease by China Ocean Shipping Company (COSCO) at Former Naval Base.*) The same May 1997 Senate Foreign Relations Committee staff report mentioned above concluded that Hutchison's operations of the ports does not constitute a threat to the Panama Canal. It noted that there are legal safeguards in the Panama Canal Treaties and Panamanian law that guarantee the continued operation of the Canal and ensures its access to all nations.

In early August 1999, Senator Trent Lott raised questions about Chinese influence over the Canal in a letter to Defense Secretary William Cohen. Subsequently, both the State Department and the Department of Defense made statements responding to the concerns raised about potential Chinese influence in Panama. In an August 12, 1999 press briefing, the Department of Defense noted that it does not consider Hutchison's ownership of two port facilities as a threat to U.S. security. DOD asserted that "the company does not have any ability to stop or impede traffic through the Canal," and noted that under the Neutrality Treaty, "the United States has a unilateral right to maintain the neutrality of the Canal and reopen it if there should be any military threat." The State Department, in an August 12, 1999, press briefing, noted that it has seen "no capability or interest on the part of the People's Republic of China, a major user of the Canal, to disrupt its operations."

According to September 29, 1999 congressional testimony by Peter Romero, Acting Assistant Secretary of State for Western Hemisphere Affairs (before the House International Relations Committee, Subcommittee on the Western Hemisphere), the U.S. intelligence community also studied the question of the influence of China in Panama as a result of the concession. Romero testified that, after reviewing the study, the State Department concluded that the Hutchison concession "does not represent a threat to canal operations or other U.S. interests in Panama."

On October 22, 1999, the Senate Armed Services Committee held a hearing on Canal security. Officials from the Department of Defense, the Panama Canal Commission, the SOUTHCOM, and the Department of State testified, and all concluded that the Hutchison's port operations did not constitute a threat to the Canal. Ambassador Lino Gutierrez, Principal Deputy Assistant Secretary of State for Western Hemisphere Affairs, stated that the Department found no information to substantiate the allegation that Hutchison is a front for the People's Republic of China. He noted that Panama's contract with Hutchison (Law 5)

does not give China any role in determining which ships will pass through the Canal or in which order they will travel, and it does not give Hutchison any control over Canal pilots. Alberto Aleman Zubieta, Administrator of the Panama Canal Commission, stated that “Hutchison has no authority whatsoever to interfere with, dictate or influence the operation of the Canal, nor will it ever be allowed to do so.” Gen. Charles Wilhelm, SOUTHCOM Commander in Chief, stated: “We are not aware of any current internal or external threats to the Panama Canal, and we have no evidence that it has been targeted by terrorists or foreign governments.” In contrast, two Member of Congress, Representatives Bob Barr and Dana Rohrabacher, testified before the Committee, arguing that Hutchison, because of its alleged close associations with China and the Chinese military, poses a future threat to Canal operations. In addition, former Secretary of Defense Casper Weinberger testified that the United States should work out details with Panama about how the United States will have the right to defend the Canal in the future once Panama takes over its operation.

On November 30, 1999, President Clinton dismissed concerns that the security of the Canal would be threatened by the operation of the two ports by Hutchison. But in doing so, the President misspoke and implied that China would be operating the Canal. The State Department subsequently corrected the record and indicated that the President was referring to the operation of the two ports by Hutchison.

In the 106th Congress, three measures have been introduced related to the port concession issue. H.R. 2244 (Hunter), among several other provisions, requires a report from the President describing how Hutchison was selected to manage the two ports. The bill also prohibits U.S. assistance to Panama if a defense site or military installation built or formerly operated by the United States has been conveyed to any foreign government-owned entity. Identical concurrent resolutions H.Con.Res. 186 (Rohrabacher) and S.Con.Res. 61 (Sessions) express the sense of Congress that the United States should request Panama to nullify the lease agreements for the two ports and to investigate charges of corruption related to the granting of the concession. (See **106th Congress Legislation** section.)

Drug Trafficking and Money Laundering

An important concern for U.S. policymakers has been securing Panamanian cooperation in anti-drug-trafficking and anti-money-laundering measures. Panama is an important drug money laundering center and a drug transshipment point from South America to the U.S. market. The county is also a small-scale producer of coca leaf in the remote Darien province area bordering Colombia.

On June 22, 1996, President Pérez Balladares acknowledged that accused Cali cartel drug trafficker Jose Castrillon had contributed \$51,000 to his 1994 presidential campaign, although the President maintained that he was unaware of where the money came from. Castrillon was arrested in Panama on drug charges in April 1996. The President’s acknowledgment, which tarnished his government’s image, sparked a broad investigation into the contributions of drug money launderers to a number of politicians. Castrillon was subsequently flown to the United States in May 1998 to face justice on drug trafficking charges in Tampa, Florida. A *Washington Post* investigative article (“In Panama, Drug Money’s Clout Outlives Noriega, November 19, 1998) maintained that Castrillon had high-level contacts in the Pérez Balladares government and quoted sources stating that Castrillon had provided hundreds of thousands of dollars to the Pérez Balladares 1994 campaign.

For 1995-1999, the Clinton Administration certified Panama as fully cooperating with the United States on counter-narcotics measures. The State Department's March 2000 International Narcotics Control Strategy Report stated that Panama "continues to demonstrate its willingness to combat transnational drug trafficking," and noted that "Panama's law enforcement agencies continue to maintain excellent relations with their U.S. counterparts." The report noted that the Moscoso government had demonstrated its commitment to combat money laundering, corruption, and drug trafficking. Looking ahead to what further efforts Panama should take, the report stated that a U.S.-Panamanian bilateral maritime agreement would facilitate joint cooperation on counternarcotics efforts; that Panama's law enforcement efforts would be enhanced through closer coordination between Panamanian agencies and their U.S. counterparts; and that anti-money laundering efforts would be strengthened through Panama's implementation of banking reforms, including the enactment of legislation to extend the existing law against drug money laundering to include the proceeds from all serious crimes.

In its June 2000 money laundering report, the Financial Action Task Force (FATF) of the Organization for Economic Cooperation and Development (OECD) places Panama on the "non-cooperative countries" list along with 15 other nations. According to the FATF, Panama made important improvements through its membership in the Caribbean Financial Action Task Force (CFATF). However, the report claims Panama has failed to criminalize money laundering offenses that are not connected to drug trafficking, that current laws impede identifying true owners of trusts, and that information exchanges with other Financial Intelligence Units (FIUs) are deficient as well as Panama's mechanisms for transmitting suspicious transactions reports (see OECD, *Financial Action Task Force on Money Laundering, Annual Report 1999-2000*; Paris, June 22, 2000). Consequently, the Cabinet Council approved two draft money laundering bills. In early October 2000, Congress approved a legislative amendment to existing laws to tighten up controls over money laundering in Panama's financial centers. The amendment extended the law to cover revenue from arms trafficking, extortion, kidnaping, corruption, and trade in stolen cars. It also increased prison sentences and imposed stricter rules on banks and lending housing on reporting deposits.

Security Concerns and Plan Colombia

In testimony before the Senate Foreign Relations Committee on June 22, 1999, SOUTHCOM commander-in-chief Gen. Charles Wilhelm expressed concern about the incursion of Colombian guerrillas into Panama and about the ability of Panama's security forces to deal with the threat. He asserted that the Panamanian Public Forces (PPF) were neither organized nor equipped to deal with incursions by Colombian insurgents. In late May 1999, several hundred guerrillas of the Colombian Revolutionary Armed Forces (FARC), in flight from Colombian paramilitaries, crossed into the dense jungle Darien province region of Panama. President Moscoso has vowed to equip the National Police with weapons, helicopters, and other equipment to bolster surveillance on the border. Concerns about the spillover of violence from Colombia heightened in early November 1999 when two tourist helicopters were hijacked near Panama City by armed men claiming to be FARC guerrillas. More recently, Panamanian authorities confiscated an illegal shipment of 217 AK-47 rifles and 2,768 pounds of military explosives destined to Colombian armed groups.

Panama stands to receive U.S. assistance (\$4 million) as part of the Administration's plan to assist Colombia and other regional nations in counternarcotics efforts (see CRS Report RL30541, *Colombia: U.S. Assistance and Current Legislation*). Some in Panama have expressed their concern on the possible effects of Plan Colombia. Some fear environmental hazard stemming from the use of biological herbicides. In addition, massive eradication, as well as the potential escalation of guerrilla and paramilitary activities in response to U.S. aid could drive peasants and other local Colombians into Panamanian territory. A refugee crisis is not discarded by the Panamanian public. Others fear that the Colombian conflict and U.S. policies towards Colombia could eventually place greater military demands on Panama, risking an unwanted involvement in the Colombian conflict ("A pesar suyo Panamá quedó envuelta en el 'Plan Colombia'", *El Siglo*, September 12, 2000). Other Panamanians have found Plan Colombia's regional budget, which allocates a portion to Panama, to be insufficient.

Chinese Immigrant Scandal

A scandal involving a Chinese immigrant smuggling ring resulted in President Pérez Balladares' firing several officials in June 1999, including Samantha Smith, the head of Panama's intelligence agency. Press reports allege that the scandal also prompted a dispute between U.S. Ambassador Simon Ferro and the U.S. Department of Justice, where officials claimed the Ambassador jeopardized the secrecy of a U.S. investigation when he canceled the U.S. visa of Samantha Smith ("U.S. Immigrant-Smuggling Probe Jars Panama," *Miami Herald*, August 8, 1999). The scandal allegedly involved the sale of Panamanian visas to Chinese citizens who would fly from Hong Kong to Panama, then travel to Central America or Mexico, and then into the United States. In September 2000, Pérez Balladares' lawyers announced the U.S. Justice Department had completed its investigations and was filing no charges against the former President ("3 Panamanians' Visas Revoked; Smuggling Probe Intensifies," *Miami Herald*, October 22, 1999, and *La Prensa*, Internet version, September 12, 2000).

106th Congress Legislation

P.L. 106-65 (S. 1059/H.R. 1401). FY2000 Defense Authorization bill. Authorizes expenditures for the Panama Canal Commission. S. 1059 reported by Senate Committee on Armed Services (S.Rept. 106-50) May 17, 1999; Senate passed, amended, 92-3, May 27, 1999. H.R. 1401 reported by House Committee on Armed Services (H.Rept. 106-162) May 24, 1999; House passed amended, 365-58, June 10, 1999. House passed S. 1059 June 14, substituting the language of H.R. 1401. Conference report (H.Rept. 106-301) filed August 6, 1999. House agreed to conference report September 15. Senate agreed to conference report September 22. Presented to the President September 23. As approved, Title XXXV authorizes expenditures for the Panama Canal Commission from a revolving fund for the operation, maintenance, improvement, and administration of the Canal until the termination of the Panama Canal Treaty of 1977 on December 31, 1999. Not more than \$75,000 can be expended for official reception and representation expenses. An Office of Transition Administration is authorized to expend funds until October 1, 2004.

H.Con.Res. 186 (Rohrabacher)/ S.Con.Res. 61 (Sessions). Identical concurrent resolutions expressing the sense of Congress that the United States should request Panama to nullify the lease agreements for the Balboa and Cristobal port facilities and to investigate charges of corruption related to the granting of the lease; and that the United States should negotiate security arrangements with Panama to protect the canal and ensure the territorial integrity of Panama. H.Con.Res. 186 introduced Sept. 17, 1999; referred to the Committee on International Relations. S.Con.Res. 61 introduced Oct. 19, 1999; referred to Committee on Foreign Relations.

H.Con.Res. 231 (Paul). Expresses the sense of Congress that the Panama Canal and the Panama Canal Zone should be considered to be the sovereign territory of the United States. Introduced November 16, 1999; referred to the Committee on Armed Services.

H.J.Res. 77 (Chenoweth). Notifies Panama of the nullity of the Carter-Torrijos treaties and recognizes the validity of the Hay-Bunau-Varilla Treaty with respect to control of the Panama Canal Treaty. Introduced November 9, 1999; referred to the Committee on Armed Services.

H.R. 2244 (Hunter). United States-Panama Security Act of 1999. Prohibits U.S. assistance to Panama if a defense site or military installation built or formerly operated by the United States has been conveyed by Panama to any foreign government-owned entity, and for other purposes. Requires several reports from the Administration, including a report from the President describing how Hutchison Whampoa was selected to manage the ports of Balboa and Cristobal. Authorizes and directs the President to confer with Panama to renegotiate the terms of the Panama Canal Treaties or to negotiate a new agreement to supersede the treaties for the purpose of providing for the security of the Canal into the 21st century. Introduced June 16, 1999; referred to the Committee on International Relations and to the Committees on Banking and Financial Services, Armed Services, and Intelligence (Permanent Select).

H.R. 3231 (Crane). Authorizes the transfer to Panama of certain U.S. properties as set forth in the Panama Canal Treaties. Introduced Nov. 4, 1999; referred to the Committee on Armed Services.

H.R. 3452 (Baker). Provides that unpaid balances of the Panama Canal Commission shall be payable only upon completion of an agreement that leases to the United States not less than 50% of Howard Air Force Base; and grants to the United States the continuing authority to ensure the proper disbursement and use of the balance paid. Introduced Nov. 18, 1999; referred to the Committee on Armed Services.

H.R. 3673 (Gilman). Provides certain benefits to Panama (preferential trade access, a scholarship program, and assistance in preparing for construction of a new bridge across the Canal and a new sewage treatment plant for Panama City) if Panama agrees to permit the United States to maintain a presence there sufficient to carry out counternarcotics and related missions. Introduced Feb. 16, 2000; referred to Committee on International Relations and Committee on Ways and Means. House Committee on International Relations approved by voice vote June 29, 2000, and reported the bill July 27, 2000 (H.Rept. 106-803, Part I). Placed on the Union Calendar, Calendar No. 567, on October 6, 2000.

S.Con.Res. 59 (Smith) / S.J.Res. 37 (Smith) / H.Con.Res. 233 (Myrick). Similar resolutions expressing the sense of Congress that the President should negotiate a new base rights agreement with Panama to permit the stationing of U.S. troops in Panama beyond December 31, 1999. S.Con.Res. 59 introduced Oct. 14, 1999; referred to Senate Committee on Foreign Relations. S.J.Res. 37 introduced November 4; placed on Senate Legislative Calendar under General Orders November 5, 1999. H.Con.Res. 233 introduced November 17, 1999; referred to House Committee on International Relations and to the House Committee on Armed Services.

S.Res. 257 (Craig). Expresses the sense of the Senate that any attack on or against the Panama Canal by any other country will be considered an act of war against the United States, and that the President should, prior to June 1, 2001, negotiate security arrangements with Panama regarding the protection of the Canal. Introduced Feb. 10, 2000; referred to Committee on Foreign Relations.

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U.S. Congress. Senate. Committee on Foreign Relations. *Future of U.S. Military in Panama*. Staff Report, Committee Print. May 1997. S. Prt. 105-22. Washington. U.S. Govt. Print Off. 1997. 47 p.

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