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405. Memorandum of Conversation¹

Washington, June 12, 1962, 4:45 p.m.

SUBJECT

United States–Panamanian Relations

PARTICIPANTS

For Panama:

President Roberto F. Chiari²

Foreign Minister Galileo Solis

ex-Foreign Minister Octavio Fabrega

Ambassador A. Guillermo Arango

For the United States:

President Kennedy

Under Secretary Ball

Ambassador Farland

Assistant Secretary Martin

Mr. Carl Kaysen, The White House

Mrs. Katherine W. Bracken (rapporteur)

President Kennedy welcomed President Chiari and suggested President Chiari proceed with any points he wished to make.

President Chiari repeated the burden of his September 8, 1961, letter to President Kennedy on the Panamanian case for renegotiation of the Canal treaties. He suggested that the two countries, in order to bring about a revision of relations, should get to the very bottom of the question and eliminate the clauses that have caused misunderstandings between the two peoples for a great many years. He pointed out the Canal was built not just for one party but to aid international maritime commerce and the security of the United States, as well as to develop the welfare of Panama. He quoted from President Kennedy's letter of November 8 ("When two friendly nations are bound by treaty provisions which are not fully satisfactory to one of the parties arrangements should be made to

permit both nations to discuss these points of dissatisfaction”) and asked in the name of Panama that the treaties be revised and not considered sacred just because they were signed 58 years ago, that he was certain that [Page 832] with President Kennedy’s backing, Congress would agree to renegotiation.

President Kennedy responded that he well understood that the situation was different today than it was in the early 20th century when the treaty was signed and that if the treaty were written today it would be written differently. “The difficulty arises,” the President said, “because of our long experience with the Canal. Sovereignty of the Canal by Panama has been recognized; we are there for operating, maintaining and defending it.” He continued that he could not see the end of the road in sitting down to rewrite the treaty nor how he could demonstrate to two-thirds of the Senate that such a course had advanced the United States interest. He suggested that since sovereignty is the principal issue and we have recognized Panama as sovereign that we attempt within this framework to work out operation of the Canal along with mitigation of frictions. For example, the contraband problem had been mentioned to him by Finance Minister Arias as well as the problem of Panamanian employees. He noted we were dealing with a tenderly sensitive issue over which any bankrupt politician could arouse emotion. He added that should he try to take any treaty changes through the Senate and fail it would be worse for both countries.

Under Secretary Ball pointed out that the fact that the Canal is 50 years old presents the United States with recognition of changed conditions; that we are seriously preoccupied with the possibility of a sea-level Canal; that it will be some time before we are prepared to make a decision on a sea-level Canal; at that time we would approach Panama for a new treaty and such treaty for a sea-level Canal would be of a different kind. From the point of view of the State Department, Mr. Ball said, an attempt to negotiate on the basis of renegotiation at a time when we are looking toward the strong possibility of going ahead with a sea-level Canal would create greater confusion.

President Chiari noted that studies on a sea-level Canal have been going on for many years, that one must think of the good will of the Panamanian people later toward a sea-level Canal, and repeated his claim for a terminal date, noting that a revision of relations is impossible within the framework of the “in perpetuity” of the present treaty. He described the national feelings involved in seeing the Panamanian flag flying with that of the United States at every place in the Zone.

President Kennedy said he recognized the problems of Panama, how these matters of national sovereignty were sensitive ones and how easily these feelings may be aroused. He stated that he was aware we should take appropriate action but not “at the point of a mob.” He pointed out that free movement through the Canal was a part of the folklore of the United States on which there were feelings in this country as well. He asked what was [Page 833] considered unsatisfactory in the present arrangement.

President Chiari replied “to recognize sovereignty in the right way” and President Kennedy responded that that had been done in Eisenhower’s time. President Chiari repeated that it was a Panamanian right to have flags at every point but this would not mean Panama had jurisdiction over that particular place. President Chiari became frustrated and petulant in his speech at this point. He said his words were misunderstood, that not for a single moment does Panama wish to participate in the maintenance, operation and protection of the Canal, that Panama cannot do it and what happens to the Canal happens to Panama.

Foreign Minister Solis interrupted to state the case more clearly: That Panama would not now attempt to sign a treaty, but that Panama should bring up for discussion points of dissatisfaction over the way the basic treaty now operates; further, that any problem Panama puts up for discussion be subject to thorough consideration and just

negotiation. A committee formed of representatives should try to find solutions on points agreed upon. Perhaps the points agreed upon will not need a treaty; what Panama wants is discussion of its point of view.

President Kennedy asked Foreign Minister Solis to clarify his statement, whether he had in mind treaty negotiations or a discussion of issues arising under the treaty.

Foreign Minister Solis, replied: The treaty stipulates all the authority and powers granted by Panama to the United States for the specific purpose of operation, maintenance, sanitation and defense of the Canal. There are manufacturing activities in the Canal Zone that do not relate to those purposes. President Kennedy suggested that in such cases a revision of treaties was not necessary, only an analysis to determine how Panama could benefit more from the market offered by the Canal Zone. Foreign Minister Solis then passed to the demand that jurisdiction over land areas not used should be returned to Panama. President Kennedy replied that if we are holding areas outside treaty purposes, this should be discussed during coming months and resolved in a way that is mutually satisfactory.

Foreign Minister Solis repeated his point that Panama wants consent to discuss all points and to try to find solutions. President Kennedy reiterated his reluctance to become involved in formal discussions which implied renegotiation of the treaty. He repeated his suggestion that we should attempt to see what are major points of concern under present treaties, indicating that 1964, 1965 or 1966 would be a better time to go about a "basic document."

Foreign Minister Solis repeated his suggestion for discussion on points of difference, adding that, if there is agreement, "no harm will be done." President Kennedy replied that an appropriate group should be set [Page 834.] up to discuss the problems of Panama. It should not be designated a committee to set the basis for renegotiation; rather it should have as terms of reference improvement of relations with Panama with respect to the Canal Zone. The President repeated his earlier statement that he did not want "to start along a road and three-quarters along the way not see where" he was going. He would like to see the committee set up, to see where we are and start formal treaty negotiations in, say, five to ten years when both the American people and Congress would understand the problem better. If we go ahead with a sea-level canal we would have an entirely different kind of negotiation.

Ex-Foreign Minister Fabrega then presented his version of Panama's case. He said we should be frank and candid; that President Kennedy had stated his problem with regard to Senate confirmation of a treaty but that in Panama there was also a problem of national sentiment that it was difficult to control and postpone. This generation of Panamanian youth does not have the mentality of 1903; new leaders are more aware of rights and are demanding they be granted. Panama should be given a new deal in substantial recognition of its rights. A new treaty would not hamper or limit the need to run or operate the Canal. President Kennedy inquired of Dr. Fabrega what he would like to propose for a treaty. Dr. Fabrega replied: recognition of Panamanian sovereignty and a terminal date.

Foreign Minister Solis repeated the demand for recognition of Panamanian sovereignty with the flying of Panamanian flags, use of Panamanian postal stamps, acceptance of Panamanian exequaturs in the Canal Zone, and mixed courts. Dr. Fabrega interrupted to say that for a clear manifestation of sovereignty it will not be enough to have this done by unilateral act. He then went into the annuity request, noting that Panama was not getting its share of profits, that the annuity is minor compared to the major Panamanian contribution, that Panama has a joint and vital interest in the Canal and that the Canal should be a source of labor in all categories, not only in lower levels.

President Kennedy repeated his offer to begin discussions, particularly to seek to work out a solution of the commissary problem. President Chiari supported Dr. Fabrega's request for more equal opportunity for Panamanian labor in the Canal Zone.

President Kennedy said he desired a just administration of employment policies to bring about improvements within the next twelve months. On the question of mixed courts he said he would have to study the Panamanian proposal. He went on to say that the basic question is the timing, that he was concerned about becoming involved in discussions where there was “no turning back” and public opinion in either country might become overly upset. When we can make a final decision on a sea-level canal it will provide a basis for a more satisfactory arrangement. He asked again whether or not we could work out some immediate improvements. [Page 835]

President Chiari repeated the doubt expressed earlier that any improvement could be worked out without changing the perpetuity clause. President Kennedy asked what time limit Panama suggested and President Chiari suggested a term of something like 50 years.

Foreign Minister Solis repeated his suggestion that Panama put up a list of points for discussion by the joint committee, that the committee would solve those items which could be solved by executive measures, that discussion would not mean a commitment to solutions, that he was not looking for solutions immediately on any point.

President Kennedy suggested that we explore solutions to problems by a more liberal interpretation of present treaties and mentioned the flag issue. President Chiari interrupted to object to the manner in which the Panamanian flag was raised in Shalers Triangle,³ whereupon President Kennedy countered that although it might have been “raised in the dead of night and in the middle of the woods it was still recognition” of Panamanian sovereignty.

Foreign Minister Solis reiterated his desire for a revision of relations between the two countries to try to reach just solutions. President Kennedy proposed that agreement be sought on some language that would give guidance to a committee. Dr. Fabrega remarked that to revise relations, one must revise treaties; without new treaties there could be no change in relations.

Under Secretary Ball asked what special points of concern the Panamanians had in mind. He added that in his opinion within the framework of cooperation voiced by President Kennedy solutions can certainly be found for some of these problems.

Foreign Minister Solis then interjected that unless they could agree on a revision of all relations and publish it in the communiqué the visit would be a failure.

President Chiari referred again to the perpetuity clause and cited a 19th century example of the United States asking great Britain for a revision of a treaty on the basis conditions and circumstances of date of signing were temporary. He then emphasized Panama’s objection to consideration of internationalization of the Canal, that Panama would rather deal with the United States than with 40 or 50 people they did not know, and then launched into a statement of other dissatisfactions about the Canal Zone—the fact that officials did not speak Spanish, that cigarettes sold for 15 cents in the Canal Zone, gasoline for 17 cents per gallon, that Canal Zone residents were given houses [Page 836] and were a “privileged oligarchy.” He continued that Zone residents live better than Panamanians and that it hurt Panama’s economy, referring to contraband of liquor.

Under Secretary Ball suggested that the matters President Chiari was describing were a matter for solution under the present treaty. President Chiari repeated his request that negotiators not argue about how sacred this or that clause might be, pointing to the 20 months of negotiations for the 1955 treaty. He went on to say that Panama and the United States have a common destiny, that when bombs were expected to blow up the Canal in the last war, the bombs would also have destroyed Panama City, that cooperation in the defense of the Canal was something the

Panamanians understood and accepted. However, he urged a new approach to revise relations and then began describing the “filling stations, bakeries, repair shops, furniture factories,” etc. operating in the Zone. President Kennedy noted that he understood the problem of contraband from the PX. President Chiari replied that he did not mean “PX-es” which are “international” and that on “military bases the world over the same rules apply.”

Dr. Fabrega proposed a procedure similar to that followed in the 1932 joint Roosevelt-Arias statement where there was a general statement or agreement to revise treaties, together with a statement of general principles and general guidance, which was followed by 4 years of discussion culminating in the 1936 treaty. He suggested that if the Presidents announce plans for a revision that would not be adopting an extreme position. He repeated his earlier statements on the intensity of the feeling of the present Panamanian generation with regard to the 1903 treaty.

Under Secretary Ball pointed out that one of the main problems in this procedure is that, in the case of whatever revisions President Kennedy submits to Congress, one of the first questions to be asked is the status of plans for the Canal, that it is very difficult to present revisions until there has been a decision on a sea-level canal. One of the things to be done now is go ahead with plans for the study of Canal needs in which Panama might participate. He reiterated his belief that many problems can be solved without revision of treaties.

President Chiari then said that people in Panama were not thinking about a sea-level Canal since it might be built in 2000, may not be built and perhaps not in Panama; for this reason he wanted a change in the 1903 treaty. He then described the importance of symbolism to the Latins, noting that even though a terminal date of 50 years were set the Panamanians would be happy because a date had been set. He then addressed himself to Mr. Ball's comments on studies for a new Canal and said that there is a general impression in Panama that the more money the [Page 837] United States spends in enlarging Culebra cut or improving the Canal the more the suspicion grows that the United States is “going for the third locks” and that the intention to consider a sea-level Canal is not serious.

Dr. Fabrega reiterated his insistence on a “political” solution, asking why Panamanian postal stamps could not be used as they were until 1924.

Foreign Minister Solis interrupted to say that in his opinion the question of presentation of a treaty to the Senate is not an issue since President Kennedy would never sign a treaty he knew would not be ratified and restated the case for discussions of Panama's points, which might end in a treaty and might not. He repeated that President Chiari cannot go back to Panama without agreement to discuss in a negotiation committee all the claims Panama may present; otherwise he will face a political crisis.

President Kennedy replied that he was not in a position to give any commitment that the United States could at this time agree to, sign or ratify a new treaty. He said that he understood the sentiments which the Panamanians expressed, and that passing of time did not improve the features of the 1903 treaty to which the Panamanians objected. He then elaborated on the United States political problem related to any renegotiation of the 1903 treaty and stated that he was not prepared to revise the 1903 treaty, particularly the perpetuity clause, and that he did not intend that we should give the impression that we are engaged in the process of revision. He repeated his belief that we should see what matters could be settled over the next 12 months. He then directed that Assistant Secretary Martin explore with Foreign Minister Solis language for a joint communiqué which would be satisfactory to both sides. He noted that the Panamanian group would be discussing with Secretary Rusk the next morning some of the items that had not been covered in the present conversation. He said he understood there was a division of feeling, that the Panamanians wanted to begin real renegotiation and he was reluctant to begin renegotiation at this time.

The key issue was how to deal with the problem so that it did not become explosive, that the best time to deal with the matter of treaty revision was when there was a proper decision on a sea-level canal. He explained that if the canal could be built by nuclear means there was a certain advantage because of the lower costs and, therefore, economic feasibility was easier to establish. Some time was needed for research to establish the practicality of this technique. In addition there was a question of justification of a new canal because of increasing traffic which the present canal could not handle and some additional time was needed to study this factor.

Under Secretary Ball underlined President Kennedy's remarks, and said that the United States proposed to study the problem thoroughly so that within the next four to five years we could reach a decision on whether to [\[Page 838\]](#) build by nuclear or conventional means.

President Kennedy concluded by indicating that the United States would explore and decide the questions brought up with regard to the return of unneeded lands, control of contraband, flying more flags, increased employment opportunities, use of Panamanian postage stamps in Canal Zone post offices, and reduction of commercial activities in the Zone. Foreign Minister Solis said that if action is taken on interim measures they could wait long for the "main purpose."

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1. Source: Kennedy Library, National Security Files, Countries Series, Panama, General. Confidential. No drafting information appears on the source text, but it was approved in U on July 21 and by the White House on August 8. The meeting was held at the White House.↵
 2. President Chiari visited the United States June 11-16. A memorandum of a brief conversation between Kennedy and Chiari on June 13, when they signed a joint communique, is *ibid.* The text of the joint communique is printed in *Department of State Bulletin*, July 9, 1962, pp. 81-82. Memoranda of two conversations between Chiari and Rusk on September 13 are in Department of State, Central Files, 611.19/6-1362. Related material is *ibid.*, Conference Files: Lot 65 D 533, CF 2118-2119.↵
 3. The United States announced on September 17, 1960, that the Panamanian flag would thereafter be flown together with the U.S. flag on a daily basis in an area known as Shalers Triangle in the Canal Zone. For text of the announcement, see *Department of State Bulletin*, October 10, 1960, pp. 558-559.↵