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**THE PANAMA CANAL AND UNITED STATES
INTERESTS**

HEARING
BEFORE THE
COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE
ONE HUNDRED FIFTH CONGRESS
SECOND SESSION

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JUNE 16, 1998
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THE PANAMA CANAL AND UNITED STATES INTERESTS

TUESDAY, JUNE 16, 1998

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC.

The committee met, pursuant to notice, at 10:15 a.m. P.m. in room SD-419, Dirksen Senate Office Building, Hon. Jesse Helms, Chairman, presiding.

Present: Senators Helms, Dodd, and Sarbanes.

The CHAIRMAN. Well, I see some familiar and friendly faces here this morning, and I appreciate your being here, Chris.

Senator DODD. Mr. Chairman.

The CHAIRMAN. This morning's hearing of the Foreign Relations Committee will focus on the future of the Panama Canal. Many of those assembled here today were on one side or the other of the Senate debate leading to the ratification of the Panama Canal Treaties. Now, we are not here this morning to re-open that debate. However, we decided some weeks ago that, the time being what it is, that the Senate ought to be aware of a lot of facts that we hope to bring out. Nor are we here to cast doubt on the intent of our government regarding U.S. treaty obligations.

But many of the concerns that some of us raised in the Senate in that debate 20 years ago are just as relevant and timely today as they were back then. After all the Carter-Torrijos Treaties did not suspend the laws of gravity, alter the world's geography, or shrink America's national security interests. In fact, we share today with the Panamanians an abiding interest in the continued secure and efficient operation of the canal.

We have asked this morning's witnesses to address a number of issues which I believe to be timely. First, regarding the canal's operations, is it being maintained and operated efficiently today? Are the Panamanians well-prepared to take on the enormous task of running the canal efficiently and honestly?

Second, regarding the security of the canal, we will be discussing with our witnesses questions about the current United States military presence in Panama. Now, these witnesses will be asked to describe the importance of this presence to our—meaning the United States—broader security interests in the region, as well as our Nation's ability to defend and protect the canal as stipulated in the treaty. We also raise the important question of whether Communist China has gained a foothold in the Panama Canal through one of its front companies.

Third, we are going to discuss the impact of Panama's turbulent political situation and what effect it will have on the canal's future. We are going to ask several of our witnesses to explain how Panamanians and their friends in the region can work together to ensure transparent and fair elections in the years ahead.

Now, before introducing our panelists, I will exercise the Chairman's prerogative to address two specific issues that seem to me at least to be especially important. During the past several years the Congress has called upon the President to open talks with Panama to ensure the continued presence of United States troops in that country beyond December 31, 1999. Frequent polls show that a majority of Panamanians support such a presence, and canal users around the world hope that our troops will remain nearby for the sake of stability. Most important, our forward deployment in Panama is important to the security of the canal and to United States anti-drug efforts and other key military activities in the region.

It may well be that the administration will have opened these talks too late. But United States negotiators made up for lost time and produced a viable plan to maintain a United States military presence in Panama, and that plan was ready for signature by both sides last December.

Since that time the Panamanian Government clearly has not bargained in what I regard as good faith. Panamanian authorities scuttled the earlier bilateral agreement and reopened a series of previously settled issues. And, just this month, Panama has sought to impose dramatic limitations on the size, scope, and duration of United States presence there.

Now, I for one insist that it be made clear that the United States Congress—that means the House and the Senate—recognizes the importance of a continued presence of United States military forces in Panama. If the Government of Panama is prepared to negotiate in good faith, our troops should remain to carry out a variety of missions beneficial to both countries.

However, if the Panamanian officials insist on playing petty domestic politics on this vital security issue, the international community may well judge Panama as failing a first test of its ability to preserve the integrity of the Panama Canal.

I, for one, hope the administration will hear two clear messages this morning; the first being, of course, that our troops can remain under an agreement ensuring an adequate size, scope, duration, and security of the U.S. mission there.

Second, it is better to sign no agreement than to sign a bad agreement.

Let me make one final point that is keenly relevant both to the security of United States troops and to the future of Panama. Most of us may recall that a young American Army Sergeant—his name was Zak Hernandez—was murdered in Panama in 1992. Eyewitnesses identified as one of the killers Pedro Gonzalez, the son of a political crony of Panama's current president. A Panamanian jury trial acquitted Gonzalez last November. In a bizarre twist, the diligent police official who investigated the murder of Hernandez now faces a political witch hunt.

Now, what my colleagues in the Senate and all of our colleagues in the House of Representatives may not know is that the alleged killer, Pedro Gonzalez, is now a candidate for Panama's Congress and the amnesty that goes along with that job on the ruling party's slate.

It seems to me that justice for Zak Hernandez is an unpaid debt that the United States of America should neither forgive nor forget.

Senator Dodd.

Senator DODD. Thank you very much, Mr. Chairman. Let me thank you for hosting and holding this hearing today. I think it is highly appropriate in relevant that we examine the issue of the Panama Canal treaties and the status of them as we are a year and a half away from full implementation of those agreements. So it is very worthwhile to hear from witnesses who will share with us their observations about where we stand today.

I point out there are some here—it is almost as if, to quote Yogi Berra, Mr. Chairman, "It is like *deja vu* all over again" as I look out here. And while not a member of the U.S. Senate when these treaties were first being considered, certainly, like most Americans, I followed them rather closely and recall, Mr. Chairman, certainly in the case of Bob Pastor and Admiral Moorer—in fact, Admiral Moorer I think testified in October 1977, if I went back and looked at the record correctly. He was sitting at this very table. So we welcome you back, Admiral, to this table and appreciate very much your being here today.

Bob Pastor, of course, was deeply involved in these issues. And Dr. Falcoff, I have read your writings and so forth. I do not know if you were testifying back 20 years ago.

Dr. FALCOFF. No, I was not in Washington at that time, sir.

Senator DODD. But anyway, welcome back to all of you here.

As I said, Mr. Chairman, in slightly more than a year and a half the Government of Panama will assume full responsibility for the management, operations and maintenance of the Panama Canal. The terms and conditions for the reversion of the canal and related properties to full Panamanian control by the end of 1999 is spelled out, of course, in the 1997 Panama Canal Treaty.

Under the terms of a second treaty entered into at the same time between the United States and Panama, the treaty concerning the permanent neutrality and operation of the Panama Canal, the Government of Panama recognizes the canal as an international transit waterway, declares its permanent neutrality, and commits to keeping it secure and open to transit by all nations in times of peace and war. The United States and Panama jointly agreed pursuant to this treaty to maintain this regime of neutrality.

The world obviously has changed dramatically since this body, the Senate, gave its advice and consent to ratification of these two treaties some 20 years ago. A major concern raised during the course of the very extensive debate on these treaties was the intentions of the Soviet Union and a fear that this strategic location would come under Soviet influence and threaten the United States' interests. Another concern was that Panama was not a democracy, but was governed by a military dictator whose motives would be suspect.

Well, the treaties have been in effect now since 1979, almost 20 years. So far no dire consequences have befallen the canal. Today, of course, the Soviet Union no longer exists and the United States enjoys relatively good relations with the democratically elected Government of Panama, a government which I believe is committed to honoring the terms of the treaties.

As one of our witnesses, Mark Falcoff, will testify and concluded in a recent book on Panama: "With the end of the cold war, the United States no longer needs a permanent physical presence in the isthmus and the canal itself, while important, is no longer indispensable." I would maybe modify that a bit. I think it is very important, not just "important." I am not so sure it is indispensable at this point, but it certainly may be getting to that point if alternatives, viable alternatives, can be reached.

At any rate, the 1977 canal treaty provided for a 20-year transition period whereby the Government of Panama would take increasing responsibility for the day to day operations of the canal. It also provided for the phased turnover of related properties.

This morning I would hope we could take a look at how the transition has proceeded thus far, as well as what remains to be done in the coming months to ensure a seamless transition to full Panamanian control by December 31, 1999. Above and beyond the operation of the canal, there are other issues of mutual concern to the United States and Panama, including the status of negotiations between the United States and Panama to establish a Multinational Counternarcotics Center in Panama. This center, if established, will put to good use property that has been under U.S. control, such as Howard Air Force Base, Rodman Naval Station, and Fort Cobbe, on the Pacific side of the canal that might be otherwise or might otherwise stand idle.

It would also permit the United States forces to maintain a presence in Panama beyond 1999, and I thank the Chairman for raising this issue of United States military presence, a very important one and one that needs to be, obviously, reached with some mutual understanding here if it is going to succeed.

Other nations in the hemisphere, of course, could also be invited and probably should be in my view to take part in the activities of a Multinational Counternarcotics Center. I believe that such a center could be an enormous step toward promoting greater multilateral cooperation, something we have not been getting, in combating illegal drug trafficking throughout the hemisphere.

While I understand that the Panamanian domestic political considerations have temporarily slowed the pace of negotiations, I would hope that our two governments could reach a mutually acceptable agreement to make that possible in the not too distant future. To do so would be in the interest of both countries in my view.

Mr. Chairman, this hearing this morning should be particularly interesting, as I mentioned earlier, in that we have several witnesses who appeared before this committee going back to the earliest days and have watched, I know, with great interest over the past 20 years, despite the fact their lives have moved on and they have covered different areas. But they have watched this debate

and watched how these treaties have worked. So it would be very interesting, I think, to hear from them, as I mentioned earlier.

As I mentioned, Mark Falcoff has just recently written a very comprehensive book on this subject addressing such issues as the tasks that lie ahead as Panama assumes full control of the canal, as well as the implications for the role of the United States in Panama's economy and political life. So all three of our witnesses should add immeasurably, Mr. Chairman, to the committee's understanding of these issues.

For those reasons, I thank you again for convening this meeting and following up on an issue that I know you paid tremendous attention to and interest 20 years ago, and it does not surprise me that you would be following it and be deeply interested in it today as well.

The CHAIRMAN. Both of us were younger then.

Senator DODD. I had black hair in those days.

Thank you.

The CHAIRMAN. Congressman Bob Barr is on his way, but he has been delayed, and we will hear from him when he comes. Tom Moorer, our favorite Chairman of the Joint Chiefs of all time, has testified before this committee many times, as well as other committees. There is no man whom I have met in Washington whom I respect more, and I appreciate your coming.

Dr. Mark Falcoff, Resident Scholar at the American Enterprise Institute, and Dr. Robert A. Pastor, Director of the Latin American and Caribbean Program of the Carter Center in Atlanta, Georgia will also testify.

Admiral Moorer, we will hear from you first. You may proceed, sir.

**STATEMENT OF ADMIRAL THOMAS H. MOORER, U.S. NAVY
(RETIRED), FORMER CHAIRMAN, JOINT CHIEFS OF STAFF**

Admiral MOORER. Thank you, Mr. Chairman. Mr. Chairman, Senator Dodd. I am grateful for the opportunity to participate in this hearing involving the defense of our country.

I think that the Panama Canal is vital to our defense, as we have proved over and over again, and I will speak to that a little bit later. But in the old days this testimony would have been given more appropriately before the Senate Armed Services Committee, as was the case in 1978 when I testified so earnestly in behalf of the security of our Nation with regard to the Panama Canal Treaty.

Now, today, 20 years later, there have been many changes in our country and around the world. The Soviet Union has been dismantled as we knew it. The Berlin Wall is down. And the cold war is supposedly over.

But is our Nation now safe from harm? Mr. Chairman, I maintain that the status of our military readiness is at an all-time low as regards our ability to defend our country and at an all-time high as regards the threat to our national security, especially in our own hemisphere. Despite the fact that we have engaged in more so-called "contingency operations" than any other previous administration in the history of our Nation, our military forces have suffered 14 consecutive cuts in the defense budget, invalidating the

longstanding policy of our country to be able to win in two major regional contingencies simultaneously.

According to the distinguished Chairman of the House National Security Committee, the Honorable Floyd Spence of South Carolina, it is doubtful that we could win even one major contingency at this point. The United States Marine Corps, by its own admission, are prepared and trained to fight one, not two, major contingencies at the present time.

Let me state here, Mr. Chairman, for the record the actual approximate figures obtained recently on specific cuts which greatly endanger our Nation. I will not go into detail because this information is available to the committee, but let me say that there have been significant reductions in the budgets of about 14-plus percent for each service and there has been a reduction of 317,000 personnel.

As an example, we are spending \$2.5 billion yearly in Bosnia alone and are still presently heavily engaged in Southwestern Iraq. We are accepting military commitments one after another, while simultaneously disarming America. In one high-ranking Pentagon officer's opinion, a gentleman who prefers to remain anonymous for obvious reasons, we will be involved in another peacekeeping operation very, very shortly.

Mr. Chairman and members of the committee, I state these facts and figures not so much for your information, but for those who need to be reminded that we are on what I consider to be a collision course with disaster in the very near future.

Today I specifically want to speak about the Panama Canal Treaty and the very real mess in which we find ourselves in our own hemisphere regarding a canal this distinguished body has relinquished to the authorities in that country, effective at the latest within the year 2000. It might have sounded like a good idea at the time, but it was not. Many members of this distinguished body agreed with me. Indeed, Senator Harry F. Byrd, Jr., on 31 January inserted into the *Congressional Record* my remarks made on that same date to the Senate Armed Services Committee, including a letter from me and other military officers to the President in which we expressed deep concern about Panama.

Ironically, 20 years ago we were in better shape militarily than we are today. Today, unfortunately, the fears and concerns of those of us who have had military experience over a great number of years in a great many different situations have been absolutely confirmed.

In 1978, I along with Admiral Robert Carney, Admiral George Anderson, and Admiral Arleigh Burke pleaded with the President not to give away the Panama Canal. Our pleas, along with those of many still serving in this body, went unheeded.

Most of the time it is gratifying to be proved correct in one's views. However, this time I cannot state strongly enough that I wish we had been dead wrong and that the President and his supporters had been right. This is absolutely not the case.

Much has been in the press lately about so-called White House scandals, rumors of obstruction of justice, and daily commentary on the President's personal lifestyle. I cannot say that these matters do not concern me at all, but they pale in comparison to my main

concern, which is, now as in the past, the security of our country and the ability of this great Nation to defend itself. So regardless of the press reports which sell TV programs, magazines, and newspapers, and which fill the gossip mills throughout the country, we are really missing the point if we do not concentrate on the security aspects of the actions or inactions of this administration and the consequences that will surely follow.

Mr. Chairman, I have been honored to serve as this Nation's commander in chief of the Pacific Fleet, commander in chief of the Atlantic Fleet, Chief of Naval Operations, and Chairman, Joint Chiefs of Staff. I truly cannot remember a time when I have been more concerned about the security of our country. Perhaps you think that remark strange, with the history of World War I and II, the Korean War, and the Vietnam War. But it is a statement I will stand behind, for the following reasons.

Since 1812 no war has been fought against a foreign enemy on American soil. This is a very long time ago. I am an old sailor now, but I know trouble when I see it and, Mr. Chairman and distinguished members of this committee, I see big trouble in Panama, trouble that could evolve quickly into a conflict in our own hemisphere with worldwide implications.

Mr. Chairman, I speak of the transfer of the Panama Canal to the Panamanian Government under the circumstances which now exist. Perhaps some of you will say that is old news, but there is far more going on than meets the eye.

A company called Panama Ports Company, affiliated with Hutchison-Whampoa Limited through its owner, Dr. Li Ka-Shing, currently maintains control of four of the Panama Canal's major ports. Now, Panama Ports Company is 10 percent owned by China Resources Enterprises, the commercial arm of China's Ministry of Trade and Economic Cooperation. On July 16, 1997, Senator Fred Thompson was quoted by the *South China Morning Post* as stating that China Resources was "an agent of espionage, economic, military, and political, for China."

Further, this same newspaper article said that China Resources "has solid relations with the Lippo Group." In 1992 it acquired 50 percent of the Hong Kong Chinese Bank, which is also 50 percent owned by Lippo, and sold its stake to its listed arm, China Resources Enterprises.

True, Hutchison-Whampoa Limited is listed on the London Stock Exchange. But what does that mean? Not a thing. Many companies in the United States in the past were perfectly legitimate companies, although funded by the Mafia. A stock exchange listing is inconsequential and not a reliable reference.

Hutchison-Whampoa controls countless ports around the world. My specific concern is that this company is controlled by the Communist Chinese and they have virtually accomplished, without a single shot being fired, a stronghold on the Panama Canal, something which took our country so many years to accomplish. The building and control of the Panama Canal along with military and commercial access is in our own hemisphere.

This stronghold of power has been almost completely accomplished through something called Law No. 5, passed by the Pan-

amanians. This law provides, among other things, the following concessions to the Chinese:

One, responsibility for hiring new pilots for the canal. Pilots have complete control of all ships passing through the canal.

Two, assumes control over critical Atlantic and Pacific anchorages, including a monopoly on the Pacific side when Rodman Naval Base is vacated next year. According to Law No. 5, effective March 4, 1997, Hutchison has a right to demand possession of Rodman.

Three, they have authority to control the order of ships utilizing the entrance to the canal on the Pacific side and also the right to deny ships access to the ports and entrances of the canal if they are deemed to be interfering with Hutchison's business. This is in direct violation of the 1977 Panama Canal Treaty, which guarantees expeditious passage for the United States Navy.

Four, the right to unilaterally transfer its right to a third party, any company or any nation which they choose anywhere in the world.

Five, certain public roads became private, cutting off strategic areas of the canal.

Six, included in the deal with Hutchison is U.S. Naval Station Rodman, a portion of U.S. Air Station Albrook, Diablo, Balboa, a Pacific U.S.-built port, Cristobal, an Atlantic U.S.-built port, the island of Telfers, which is strategically located adjacent to Galeta Island, a critical communications center. I am told that Telfers Island is the future home of the Chinese-planned export zone, "The Great Wall of China."

A clause was inserted in the end of Law 5 which states that if a conflict between provisions of the law and provisions of the canal treaty occurred, the canal treaty prevails. Of course, point number 7 which I just read is meaningless if the U.S. Government does not act today.

In my testimony before the Senate Armed Services Committee in 1978 I stated:

The defense and use of the Panama Canal is wrapped inextricably with the overall global strategy of the United States and the security of the free world. I submit that if the United States opts to turn over full responsibility for the maintenance and operation of such an important waterway to a small, resource-poor, and unstable country as Panama and then withdraws all United States presence, a vacuum will be created which will be quickly filled by proxy or directly by the Soviet Union, as is their practice in every opportunity. Also noteworthy is the fact that in July of last year a Soviet commission visited Panama seeking port and airport concessions and offering economic assistance.

The Soviet Union's thinking and conclusions about the canal and their approach to gain control of this important strategically situated waterway was not lost on the Chinese Communists. They have replicated the Soviet Union's intent to the letter quickly, silently, and successfully.

In the first place, Mr. Chairman, Law No. 5 is illegal. It runs counter to the so-called treaty entered by this country with Panama calling for a neutrality provision. I say "so-called treaty" be-

cause the treaty was never signed by Panama. I have been acquainted with President Lacas, who held office at the time, and seen him several times and he assured me that he was never asked to sign the treaty and he never did sign the treaty. It was signed by Torrijos, who was one of the renegades of the Panamanian operation.

Under Panamanian law a treaty cannot be simply entered into by its governing body. A plebiscite must be held so that the Panamanian people can voice their approval or disapproval with a vote. No such plebiscite has ever been held.

Additionally, the bid process for port control in the Canal Zone has been flawed. That is a nice way to put it. Bechtel, a U.S. company, for instance, reportedly won the bid on four occasions, but the bids were set aside. We now know why. Bechtel bid \$2 million yearly and Hutchison bid \$22 million yearly, beating out Bechtel on the last bid process by a whopping \$20 million yearly. So the Panamanian authorities receive \$22 million each year from Hutchison, a known Communist Chinese-controlled company, in their 25 year agreement, renewable for an additional 25 years, for a total of 50 years.

Mr. Chairman, 50 years is a long time and \$22 million a year is a lot of money. If that is not news enough, the so-called Law No. 5 provides that Panama can assign its rights under this agreement with no further ado. This assignment, Mr. Chairman, could be given to Cuba, the actual Communist Chinese Government, Libya, Iraq, Iran, or any other stated opponent of the United States, including rogue states, rogue states who sponsor terrorism and who have nuclear bombs aimed at this country right now. For instance, I believe the Chinese have 13 such missiles aimed at our country today.

I do not know who has the most money, but it would probably be difficult to outbid the Red Chinese, with \$45 billion in holdings, although Hussein might attempt to give them a run. One thing is obvious: As in most places in the world, money talks. That is absolutely a fact in Panama, Mr. Chairman.

As an individual who has laid his life on the line for our country for many years and led numerous others into battle who have paid the ultimate price, I for one cannot understand why the government has passively permitted this Law No. 5 to happen, thereby endangering our security interests in this hemisphere. In a staff report to your committee in February of last year, Mr. Chairman, it was stated:

In September 1995 Presidents Clinton and Balladares formally announced that the United States and Panamanian Governments would begin exploratory talks on maintaining a United States military presence in Panama. 15 months passed and no exploratory negotiations transpired. Instead, in November 1996 President Balladares announced to a young left-wing faction of the Democratic Revolutionary Party, the political party which was founded by General Omar Torrijos and later backed General Noriega of drug and prison fame, that there would be no United States forces in Panama beyond the year 2000.

Mr. Chairman, the provisions in the permanent neutrality treaty on the Panama Canal, agreed on by both countries, is completely ignored to the detriment of the security of this Nation, and I find this truly unbelievable.

I will terminate my verbal comments by saying that I think at all costs we must get the Chinese out of Panama.

Thank you, Mr. Chairman. I will submit the rest of my statement to the committee for further study.

[The prepared statement of Admiral Moorer follows:]

PREPARED STATEMENT OF ADMIRAL THOMAS H. MOORER, USN (RET.)

Mr. Chairman, Senator Biden, and distinguished members of the Senate Foreign Relations Committee, ladies and gentlemen:

I am indeed honored today and grateful to you for this opportunity to testify before your important committee on behalf of the defense of our great country.

In the old days, this testimony would have been given more appropriately before the Senate Armed Services Committee, as was the case in 1978, when I testified so earnestly on behalf of the security of our Nation with regard to the Panama Canal Treaty.

Today, 20 years later, there have been many changes in our country and around the world: the Soviet Union has been dismantled as we knew it; the Berlin Wall is down; and the Cold War is supposedly over. But is our Nation now safe from harm?

Mr. Chairman, I maintain that the status of our military readiness is at an all-time low as regards our ability to defend our country, and at an all-time high as regards the threat to our national security, especially in our own hemisphere.

Despite the fact that we have engaged in more so-called "contingency" military operations than under any previous administration in the history of our Nation, our military forces have suffered 14 consecutive cuts in the defense budget, invalidating the long-standing policy of our country to be able to win in two major regional contingencies simultaneously. According to the distinguished Chairman of the House National Security Committee, the Honorable Floyd Spence of South Carolina, it is doubtful that we could win even one major contingency at this point. The United States Marine Corps, by its own admission, are prepared and trained to fight one—not two, but one—major contingency at the present time.

Let me state here, for the record, the actual approximate figures obtained recently on specific cuts which greatly endanger our Nation:

The total decline in overall services during the period 1993 to 1999 is 15.3 percent; that is, \$267.4 billion in '93 and \$257.2 billion now. To keep pace with inflation and to maintain the status quo prior to '93, however, \$303 billion would have been required; thus, the actual cut, in real terms, is not a mere \$10 billion, but approximately \$36 billion.

Of this, the army was cut 14.2 percent, from \$74.3 billion in '93 to \$63.8 billion in '99, the Department of the Navy, which includes the Marine Corps, suffered a similar cut of 14.1 percent, down from \$94.7 billion to \$81.3 billion in '99; and the Air Force is weathering a 14.4 percent cut, down from \$89.5 billion in '93 to \$76.6 billion in '99.

In overall manpower, active duty military personnel suffered a 17.8 percent cut, down from 1,776,000 in '93 to 1,459,000, despite the many so-called military contingencies and peace-keeping operations around the globe.

As an example, we are spending \$2.5 billion yearly in Bosnia alone, and are still presently heavily engaged in Southwestern Iraq. We are accepting military commitments, one after another, while simultaneously disarming America. In one high-ranking Pentagon officer's opinion, a gentleman who prefers to remain anonymous for obvious reasons, we will be involved in another "peace-keeping" operation very, very shortly, that being Kosovo. This additional engagement of U.S. forces, according to this very reliable source, appears imminent.

Mr. Chairman and members of the Committee, I state these facts and figures not so much for your information, but for those who need to be reminded that we are on what I consider to be a collision course with disaster in the very near future.

Today, I specifically want to speak about the Panama Canal Treaty and the very real mess in which we find ourselves in our own hemisphere regarding a canal this distinguished body has relinquished to the authorities in that country, effective, at the latest, within the year 2000.

It might have sounded like a good idea at the time, but it wasn't. Many members of this distinguished body agreed with me; indeed, Senator Harry F. Byrd, Jr. of Virginia, on 31 January, 1978, inserted into the *Congressional Record* my remarks made on that same date to the Senate Armed Services Committee, including a letter from me and other military officers to the President, in which we expressed deep concern about Panama. Ironically, 20 years ago, we were in better shape militarily overall.

Today, unfortunately, the fears and concerns of those of us who have had military experience over a great number of years in a great many different situations, have been absolutely confirmed. In 1978, I, along with Admirals Robert Carney, George Anderson, and Arleigh Burke, pleaded with the President not to give away the Panama Canal. Our pleas, along with those of many still serving in this body, went unheeded.

Most of the time, it is gratifying to be proved correct in one's views; however, this time, I can't state strongly enough that I wish we had been dead wrong, and that the President and his supporters had been right. This is absolutely not the case.

Much has been in the press lately about so-called White House scandals, rumors of obstruction of justice, and daily commentary on the President's personal lifestyle. I can't say that these matters don't concern me at all, but they pale in comparison to my main concern, which is, now, as in the past, the security of our country and the ability of this great Nation to defend itself.

So, regardless of the press reports which sell TV programs, magazines, newspapers, and which fuel the gossip mills throughout the country, we are really missing the point if we don't concentrate on the security aspects of the actions, or inactions, of this administration, and the consequences that will surely follow.

Mr. Chairman, I have been honored to serve as this Nation's Commander in Chief of the Pacific Fleet; Commander in Chief, Atlantic and Atlantic Fleet; Chief of Naval Operations, and Chairman, Joint Chiefs of Staff. I truly can't remember a time when I have been more concerned about the security of our country.

Perhaps you think that remark strange, with the history of World Wars I and II, the Korean War and the Vietnam War. But it is a statement I'll stand behind for the following reasons:

Since 1812, no war has been fought against a foreign enemy on American soil. That was a very long time ago. I'm an old sailor now. But I know trouble when I see it, and Mr. Chairman and distinguished members of this committee, I see big trouble in Panama—trouble that could evolve quickly into a conflict in our own hemisphere with world-wide implications.

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A company called Panama Ports Company, S.A., affiliated with Hutchison Whampoa, Ltd. Through its owner, Mr. Li Ka-Shing, currently maintains control of four of the Panama Canal's major ports.

Now, Panama Ports Company is 10 percent owned by China Resources Enterprise, the commercial arm of China's "Ministry of Trade and Economic Cooperation."

On July 16, 1997, Senator Fred Thompson was quoted by the South China Morning Post as stating that China Resources was, quote, "an agent of espionage—economic, military and political—for China." unquote.

Further, this same newspaper article said that China Resources, quote, "has solid relations with the Lippo Group. In 1992, it acquired 50 percent of the Hong Kong Chinese Bank, which is also 50 percent owned by Lippo, and sold its stake to its listed arm, China Resources Enterprise, last month." unquote.

True, Hutchison-Whampoa Ltd. is listed on the London Stock Exchange. What does that mean? Not a thing; many companies in the United States, in the past, were perfectly legitimate companies, although funded by the Mafia. A stock exchange listing is inconsequential and not a reliable reference.

Hutchison-Whampoa controls countless ports around the world. My specific concern is that this company is controlled by the Communist Chinese. And they have virtually accomplished, without a single shot being fired, a stronghold on the Panama Canal, something which took our country so many years to accomplish—the building and control of the Panama Canal, along with military and commercial access in our own hemisphere.

This stronghold of power has been almost completely accomplished through something called "Law No. 5," which provides *inter alia*, the following:

1. Responsibility for hiring new pilots for the Canal. (Pilots have complete control of all ships passing through the Canal);

2. Assumes control over critical Atlantic/Pacific 6 anchorages, including a monopoly on the Pacific side when Rodman Naval Base is vacated next year. [Note: According to "Law No. 5," effective March 1, 1997, Hutchison has the right to demand possession of Rodman];

3. Authority to control the order of ships utilizing the entrance to the Canal on the Pacific side, and also the right to deny ships access to the ports and entrances of the Canal if they are deemed to be interfering with Hutchison's business—in direct violation of the 1977 Panama Canal Treaty which guarantees expeditious passage for the United States Navy;

4. The right to unilaterally transfer its rights to a third party—any company or nation of their choosing;

5. Certain public roads become private, cutting off strategic areas of the Canal;

6. Included in the deal with Hutchison is U.S. Naval Station Rodman; a portion of U.S. Air Station Albrook; Diablo; Balboa, a Pacific U.S.-built port; Cristobal, an Atlantic U.S.-built port; the island of Telfers, which is strategically located adjacent to Galeta island, a critical communications center. I am told that Telfers island is the future home of the Chinese-planned export zone called, "The Great Wall of China project."

7. A clause was inserted at the end of "Law No. 5" which states that if a conflict between provisions of the law and provisions of the Canal treaty occur, the canal treaty prevails. Of course, point number 7's clause is meaningless if the U.S. Government doesn't act now.

In my testimony before the Senate Armed Services Committee in 1978, I stated:

... the defense and use of the Panama Canal is wrapped inextricably with the overall global strategy of the United States and the security of the free world. I submit that if the United States opts to turn over full responsibility for the maintenance and operation of such an important waterway to a very small, resource-poor and unstable country as Panama and then withdraws all U.S. presence, a vacuum will be created which will quickly be filled by proxy or directly by the Soviet Union, as is their practice at every opportunity. Also noteworthy is the fact that in July of last year, a Soviet Commission visited Panama, seeking port and airport concessions and offering economic assistance.

The Soviet Union's thinking and conclusions about the Canal, and their approach to gain control of this important, strategically situated waterway, was not lost on the Chinese Communists. They have replicated the Soviet Union's intent to the letter—quickly, silently, and successfully.

In the first place, Mr. Chairman, Law No. 5 is illegal. It runs counter to the so-called treaty entered into by this country with Panama, calling for a neutrality provision. I say so-called treaty, because the treaty was never signed by Panama. Under Panamanian law, a treaty cannot be simply entered into by its governing body; a plebiscite must be held so that the Panamanian people can voice their approval or disapproval with a vote. No such plebiscite has ever been held.

Additionally, the bid process for port control in the Canal Zone has been flawed. That's a nice way to put it. Bechtel, for instance, reportedly won the bid on four occasions, but the bids were set aside. We now know why. Bechtel bid \$2 million yearly; Hutchison-Whampoa bid \$22 million yearly, beating out Bechtel on the last "bid process" by a whopping \$20 million yearly.

So the Panamanian authorities receive \$22 million each year from Hutchison-Whampoa, a known Communist Chinese controlled company, in their 25-year agreement, renewable for an additional 25 years, for a total of 50 years. Mr. Chairman, 50 years is a long time. And \$22 million a year is a lot of money.

If that's not news enough, the so-called Law No. 5 provides that Panama can assign its rights under this agreement with no further ado. This assignment, Mr. Chairman, could be given to Cuba, the actual Communist Chinese government, Libya, Iraq, Iran, or any other stated opponent of the United States, including rogue states who sponsor terrorism and who have nuclear bombs aimed at this country right now. For instance, I believe the Communist Chinese have 13 such missiles aimed at our country presently.

I don't know who has the most money, but it would probably be difficult to outbid the Red Chinese, with \$45 billion in holdings, although Saddam Hussein might attempt to give them a run for their money, literally. One thing is obvious: as in most places in the world, money talks. That is absolutely a fact in Panama, Mr. Chairman.

As an individual who has laid his life on the line for our country for many years, and led numerous others into battle who paid the ultimate price, I, for one, cannot

understand why our government has passively permitted this "Law 5" to happen, thereby endangering our security interests in this hemisphere.

In a staff report to your committee in February of last year, Mr. Chairman, it was stated:

"In September 1995, Presidents Clinton and Balladares formally announced that the U.S. and Panamanian Governments would begin exploratory talks on maintaining a U.S. military presence in Panama. Fifteen months passed and no exploratory negotiations transpired.

Instead, in November 1996, President Balladares announced to a young, left-wing faction of the Democratic Revolutionary Party (PRD)—the political party which was founded by General Omar Torrijos and later backed General Manuel Noriega [of drug and prison fame], that there would be no U.S. forces in Panama beyond the year 2000."

Thus, the provision in the permanent neutrality treaty with the Panama Canal, if agreed upon by both countries, was completely ignored, to the detriment of the security of this Nation. I find this truly unbelievable.

All ports in the Panama Canal are of strong strategic importance to this country, Mr. Chairman. But the most important U.S. military installation there is Howard Air Force Base, located on the west coast of the Canal, on the Pacific side, which has the aircraft-capable airfield for conducting U.S. military or oversight operations. In 1994 alone, the U.S. military spent more than \$4 billion in repairs and improvements at Howard. In a recent poll, 70 percent of the Panamanian people expressed a desire to have some kind of continuing U.S. presence in the Canal Zone after the year 2000. They, apparently more than we, understand the implications of the security and absolute necessity of the Canal in war time, as well as in peace time.

For instance, the Canal is the only viable way to transport oil to the Gulf of Mexico and East Coast from the West. And in every military conflict—past, present or future—control of the canal has and will remain an absolutely essential factor.

Additionally, in either the Pacific or the Atlantic, the United States must be able to utilize the Canal freely and without constraint to transport heavy armor, food, supplies and troops.

The recent refusal of some of the Arab states, including at least one which has already been attacked by Saddam Hussein, to permit U.S. landings and take-offs from their soil should make it very clear that we cannot depend upon the good grace of other "friendly" nations in time of conflict necessary to preserve world peace.

And the very recent nuclear tests in Pakistan and India should contribute to our concern. Due to our vulnerability to incoming nuclear missiles this was an ideal time for the President to voice his support for the rapid development of an anti-missile, missile system.

This brings us to the Multicultural Counterdrug Center, known as MCC, as a potential framework for the continued United States presence in Panama.

This proposal is so far-fetched as to prove not only dangerous but embarrassing as a truly viable solution. We've seen the drug problem in Colombia and Mexico expand into disastrous proportions. Even with a limited U.S. presence in the Canal, we could only hope to stand by and watch.

The MCC would provide that numerous countries maintain a presence and oversee conditions, allegedly to prevent drug trafficking. Mr. Chairman, this considered option is, in my judgment, not a viable one.

The drug cartels in Colombia, Mexico and elsewhere are already impacting on Panamanians who have been kidnaped near the Colombian border. Some have reportedly been murdered, while others have been returned to their families after ransom money has been paid.

This activity gives us a clue about how this MCC option would work. I believe it simply couldn't. The board of the MCC, which could possibly include representatives from Colombia, Cuba, Libya, Communist China and other unfriendly nations, could even choose the aviators who are permitted to utilize the U.S.-built and maintained runways in the Canal Zone.

We would only be bystanders and witnesses to increased drug trafficking, especially since closed containers marked "humanitarian supplies," for instance, could possibly be transporting heavy drug shipments to further infiltrate the young people of this country. The MCC would simply be another coup for the drug lords.

Reportedly, President Balladares received approximately 30 percent of his campaign funding from the drug cartels, so I don't think he would object. These reports are unconfirmed, but his political statements have been public and are thus verifiable.

In a report on money laundering in Panama, the Honorable Robert Gelbard, Assistant Secretary of State, reportedly stated the \$10 billion of the \$35 billion in

funds that pass through Panama's International Banking Center are drug related. Panama is considered by some to be the Switzerland of Latin America, as the official monetary tender, the Balboa, is equivalent and thus interchangeable with the U.S. dollar.

I commend to the attention of the Congress a Bill offered in the First Session of the 105th Congress, formally known as H.R. 2950 and referred to as the "United States-Panama Security Act of 1997." The Honorable Duncan Hunter, Chairman of the House Military Procurement Subcommittee, authored this Bill. Although I do not know the status of this Bill, Mr. Chairman, it contains provisions which should be of keen interest to all of us interested in national security matters.

Mr. Chairman, our own problems with reports of Chinese money into U.S. elections is disturbing. I am not a politician, Mr. Chairman—I am a sailor. I am too old now to serve on active duty, but I can state to you in no uncertain terms that war is indeed hell. It's bad enough when it's fought on foreign soil, in another hemisphere, away from the uninterrupted lives American citizens.

But the American people would rightfully hold our government responsible if it comes to this hemisphere. Under the present conditions, it's not a matter of if, but when, in my judgment.

How long will it take for us to comprehend that a "politically correct" military is no substitute for a lethal force, capable of handling two major contingencies at once, especially if one of those contingencies is in this hemisphere?

We are not talking here about an ill-funded Nicaraguan effort against the Communists in the late '80's; we are talking about the control of a strategic part of the world in our hemisphere, shortly to be controlled by the largest country on earth, Communist China, financially flush and people-strong with a growing imbalance of men over women.

I am not here to dictate the terms of our foreign policy, Mr. Chairman. But I can tell you honestly and truthfully, with strong conviction, that somebody needs to take a long, hard look at our vulnerability in the Panama Canal Zone.

The Panama Canal give-away in 1978, although worrisome at the time, cannot begin to compare with the problem that we now face. The American people will hold their government responsible, and rightly so, if we don't act now to rectify the rapidly deteriorating condition of an American strategic and globally important part of the world—that small area in our own hemisphere which has already cost the American taxpayers a huge sum and claimed so many American lives to construct and maintain. Lives were also lost when we were forced to intervene during the Noriega regime.

I don't like to offer constructive criticism without a proposed solution, and it is a simple one, in my view: stop the process in Panama now. Don't relinquish another square foot of American bases in Panama unless and until the neutrality agreement already in place is honored by the Panamanian government. The Congress should pressure the administration to get their act together in the Panama Canal Zone.

War, Mr. Chairman, is a terrible thing. I know. Ask anybody that has been there. Demand that the Congress and this administration protect the American people and our strategic interest in the Panama Canal Zone before we reach that point of no return.

The President is a charming fellow, and this country needs his talents in the Canal Zone to protect American lives and world-wide strategic interests. The security of our Nation, Mr. Chairman, is a precious thing.

I have a great deal of respect for the duly elected officials in this country, the freest place on earth. But we have dropped the ball in the Canal Zone, and the game is almost over. Let us not go into overtime. Let's act now.

Thank you, Mr. Chairman. I appreciate your holding this important hearing, and I thank each member of the committee and staff for your attention to my remarks.

The CHAIRMAN. Admiral, there may be somebody in this broad land who knows more about this situation than you, but I have not met him. Your statement is very excellent and I have a hunch that it is going to be reprinted around the country by people who still have a concern.

Congressman Barr has another commitment and he has asked us to let him appear next so he can go to his next meeting. If there be no objection, I would like to accommodate the Congressman. Congressman Barr, we will be glad to hear from you.

**STATEMENT OF HON. BOB BARR, MEMBER, U.S. HOUSE OF
REPRESENTATIVES, FROM GEORGIA**

Mr. BARR. Thank you, Mr. Chairman. And I appreciate Senator Dodd being here also. I appreciate the honor of appearing with my colleagues over here on the Senate side. I would respectfully ask, Mr. Chairman, if my complete statement with the attachments thereto be submitted for the record.

The CHAIRMAN. They will, and as a matter of fact the statements of all four of the witnesses will be made a matter of record, and I imagine it is going to be reprinted, each one of them, extensively.

Mr. BARR. Thank you.

The CHAIRMAN. You may proceed.

Mr. BARR. Thank you, Mr. Chairman.

Mr. Chairman, whatever knowledge I have of Panama through degrees and through having worked at the CIA for a number of years on Latin American affairs predates that. When I was a teenager, my dad—we were working on a project down in South America and were transferred to Panama and our trip to Panama was held up for many months in early 1964 because of the trouble there.

So even as a teenager, I was aware of the sensitivities with regard to Panama-United States relations, and certainly we are all sensitive to that, and the relations between our two countries have progressed considerably since then.

I have, Mr. Chairman, traveled twice recently to Panama, once last year as part of a CODEL studying drug matters and Panama and the Andean cocaine-producing countries; and then earlier this year as part of a private group trip to Panama to focus exclusively on the state of negotiations between the United States and Panama and other countries with regard to the Multinational Counter-narcotics Center that is under contemplation and under negotiation especially between Panama and the United States.

My purpose, Mr. Chairman, in appearing today is simply to do everything possible to urge our Congress, both in the Senate and the House, and certainly the preeminence of the Chairman and Mr. Dodd and this committee places it in the forefront of these efforts, to urge the administration to use every means at its disposal to move these negotiations forward.

It is my impression from talking both with Panamanian officials as well as our distinguished Ambassador, Mr. Hughes in Panama, who is in the forefront in country in trying to move these negotiations forward, as well as in speaking with many Panamanians—private citizens and political figures in Panama—just a few months ago, that this is something that the Panamanian people view as desperately necessary. That is, some sort of multinational presence involving both Panama and the United States continuing in that country, focusing, if not exclusively, primarily on the counter-narcotics effort.

The Panamanian Government sees certainly what has happened to their neighbors to the south in Colombia with the rise of narcoterrorists. They border, of course, on Colombia. Notwithstanding the fact that that part of Panama, the Davide Province bordering on Colombia, is at times virtually impassable, it is a common border and it is of considerable concern to the Panamanians, the

overflow of the narcotraffickers and terrorists into their country from Colombia. That is an increasing problem as we see the instability mounting in Colombia.

It also is of tremendous concern to the Panamanians, the fact that their country as a financial crossroads, not just for Central America but for the entire world, is becoming not necessarily a haven, but a vehicle used with increasing frequency by money-launderers, not only from Colombia and Mexico but other countries as well.

So we have a unique opportunity, Mr. Chairman, to establish a functional and very important Multinational Counternarcotics Center in Panama. The negotiations appear, despite the best efforts, I believe, of the Ambassador and certain others, do not seem to be moving forward. I do not know whether this reflects a disconnect between the needs of our country and Panama and the policy-makers in this administration or some other unknown reason, but they do not seem to be moving forward.

Every day that goes by, Mr. Chairman, as that timetable that I am sure has been discussed here with other witnesses moves forward, it makes it more and more difficult and more costly to move forward. I would simply and very respectfully urge the committee chair, Mr. Dodd, and the other members of this committee to do everything they can, given the importance of this matter, to move these negotiations and urge the administration in every way we can here in the Congress to move these vital negotiations forward.

I believe it is absolutely essential if we are to get a handle on the money-laundering and narcotics trafficking from Colombia, through Central America and Panama into our country and indeed into other parts of the world, primarily Europe.

I appreciate the chair's indulgence and Mr. Dodd's indulgence as well and the honor for appearing here today.

[The prepared statement of Mr. Barr follows:]

PREPARED STATEMENT OF CONGRESSMAN BOB BARR OF GEORGIA

Good morning Mr. Chairman and thank you for the opportunity to come before you today. Mr. Chairman, under the 1977 Panama Canal Treaties, the United States is to hand over full operational control of the Panama Canal and to withdraw all troops from the country by December 31, 1999. I have visited the Canal twice recently, and there is a great deal to be concerned about.

The drug trade, and its accompanying terrorism and instability, is a constant threat to Panama, which borders on Colombia with its expanding narco-terrorist problem. It would be foolhardy to argue drug traffickers do not have an interest in Panama.

Panama is itself a world commercial and transportation crossroads. As such, it is a tempting target for terrorists, narcotics traffickers and money launderers. A strong, multi-national anti-drug presence in Panama would decrease the ability of narco-traffickers to ply their trade, in and through that vital country. We must move forward quickly, while there is still time. If we wait until January 1, 2000, the difficulties of establishing such a center will increase substantially if not prohibitively, and its chances for success will be severely lessened. I know Congress does not want this to happen, but we must do more than wish. We must act.

Recently, I successfully introduced a Sense of Congress Resolution to provide momentum for the establishment of a Counter-Drug Center in Panama. The U.S. Ambassador to Panama, the Honorable William J. Hughes, is very supportive of the resolution as witnessed by the letter dated May 28, 1998. Mr. Chairman, I would request that my communications with Ambassador Hughes be made a part of the record.

As you are aware, Mr. Chairman, the U.S. is currently in negotiations with Panama and we must make sure the Administration does everything within its power

to successfully conclude these negotiations sooner rather than later. It is not now doing anywhere near what it could or ought to be doing.

The lack of a U.S. presence in Panama is likely to have the greatest effect on our counterdrug operations. Howard Air Force Base and its runways, taxiways, aircraft staging areas and maintenance facilities are the center of gravity for our current counterdrug air operations. To conduct the kinds of missions we require, at current frequency and duration from bases in the continental United States, would require assignment of significantly greater numbers of both mission and support aircraft.

Costs would rise exponentially, and in light of other worldwide commitments the availability of assets is questionable. In addition to resource considerations, the realities of geography merit attention. Panama, with its extensive base infrastructure which has been developed over the past 95 years, is ideally situated to support both regional engagement and counterdrug missions. The later requirements are particularly important. Panama provides safe and secure operating bases immediately adjacent to the nations of the Andean Ridge where we prosecute our extensive source zone operations.

Mr. Chairman, there are four key points which are critical to any continued U.S. presence in Panama: (1) adequate force protection; (2) acceptable quality of life; (3) U.S. command and control of U.S. forces, and (4) multi-mission capabilities.

In addition to counterdrug missions, any military authorization should include the ability to conduct other missions such as search and rescue, disaster relief, humanitarian assistance and logistic support for our regional engagement activities. It should be noted these missions benefit not just the United States and Panama, but all nations in the hemisphere.

Panama wants something done. Our hemispheric and national interests demand that something be done. Mr. Chairman, this Committee, and its counterpart in the House, must take the lead. In the absence of such leadership, nothing will happen except very tragic consequences.

The Honorable BOB BARR,
7th District, Georgia,
Congress of the United States.
May 22, 1998

The Honorable WILLIAM J. HUGHES,
Ambassador of the United States to Panama,
Unit 0945,
APO AA 34002.

IN RE: Multi-national Counter Narcotic Center

Dear Bill:

I am pleased to enclose the final language for an amendment which I proposed and which was adopted by the full House of Representatives on May 21, 1998, as an amendment to the U.S. Department of Defense Authorization Bill for Fiscal Year 1999, HR 3616. I am also enclosing a copy of my remarks, which appeared in the Congressional Record, amplifying my reasons for proposing, and the rationale for the House of Representatives adopting, this language.

This language, which I anticipate will be adopted in the final legislation, reflects the strong desire by the Congress of the United States to see that a multi-national counter narcotics center is developed, and that the negotiating process leading up to the implementation thereof, proceeds more rapidly and productively than recently.

If I might be of assistance, I hope you will not hesitate to contact me. Looking forward to seeing you again soon, and with kind regards,

I remain, very truly yours,

BOB BARR,
Member of Congress.

cc: The Honorable Floyd Spence
The Honorable Ben Gilman
The Honorable J. Dennis Hastert

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MODIFICATION TO AMENDMENT NO. 24 OFFERED
BY MR. BARR OF GEORGIA

Mr. BARR of Georgia. Mr. Chairman, I ask unanimous consent that the amendment at the desk in place of amendment D-24 be inserted in this en bloc amendment.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Amendment, as modified, offered by Mr. Barr of Georgia:

The amendment as modified is as follows:

At the end of subtitle C of title X (page 227, after line 14), insert the following new section:

SEC. 1023. SENSE OF CONGRESS REGARDING ESTABLISHMENT
OF COUNTER-DRUG CENTER IN PANAMA.

In anticipation of the closure of all United States military installations in Panama by December 31, 1999, it is the sense of Congress that the Secretary of Defense, in consultation with the Secretary of State, should continue negotiations with the Government of Panama for the establishment in Panama of a counter-drug center to be used by military and civilian personnel of the United States, Panama, and other friendly nations.

Mr. BARR of Georgia (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore (Mr. PEASE). Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. BARR of Georgia. Mr. Chairman, I appreciate the opportunity to have this amendment in the en bloc amendment, and particularly as amended.

This amendment puts the Congress of the United States firmly on record as encouraging and supporting and urging the administration of this country and the administration in Panama to do everything possible to move forward the negotiations for the development of a multinational counter-drug center to be located in Panama after the date of December 31, 1999, which is when all U.S. military and civilian presence in control of the canal ceases.

This is a very important set of negotiations that are moving forward. They have not been moving forward with the dispatch that is necessary. And I think it is important in our joint effort with Panama and our colleagues in Latin America to go on record as encouraging, supporting and proactively moving forward with these very important negotiations for the development of a multinational counter-drug center to be located in Panama with military and civilian personnel from Panama, the United States and other friendly nations to fight the war against drugs.

* * * * *

EMBASSY OF THE UNITED STATES OF AMERICA,
Panama, Republic of Panama,
Office of the Ambassador.

May 28, 1998

The Honorable BOB BARR,
Member of Congress,
1130 Longworth House Building.

Dear Bob:

Thank you for your letter of recent date enclosing a copy of your Sense of Congress Resolution on the MCC negotiations and which was adopted as an amendment to R3616, the Defense Authorization Bill for FY 1999.

Congratulations! Needless to say, I very much appreciate your continued support and assistance in our effort to bring the negotiations for a multi-lateral counter-narcotics center to a successful conclusion.

While there are some issues yet to settle, I know I speak for our Chief Negotiator Ambassador Ted McNamara and our negotiating team when I say that we remain committed to a positive outcome and hopeful.

With kindest personal regards, I remain,
Sincerely,

WILLIAM J. HUGHES,
Ambassador.

The CHAIRMAN. Thank you, Mr. Barr.

I am tempted to ask if there are any questions at this point.

Senator DODD. No. I appreciate the Congressman has another place to be. But I think the point is made, which both of us have made before you arrived, Congressman, of the importance of this Multinational Counternarcotics Center, which I think makes very good use of some of the properties in the zone. I hope that we can get something going on this, because if we do not it is going to get worse and worse.

I appreciate your coming.

Mr. BARR. Thank you, Mr. Dodd.

Thank you very much, Mr. Chairman.

The CHAIRMAN. That is the purpose of this hearing, to get something going, because it was lying dormant until we looked at the situation and saw what was happening or not happening.

But thank you and we will be glad to have you stay around. But I expect you have got some votes coming up.

Mr. BARR. Thank you, Mr. Chairman. As part of my comments which the chair was kind enough to submit for the record, there are some comments that I made on the floor of the House last month with regard to a sense of the Congress resolution that we passed as part of the foreign relations bill, that urges action in this area as well as a letter from the Ambassador in Panama.

The CHAIRMAN. Without objection.

Mr. BARR. Thank you very much. And thank you, Senator.

The CHAIRMAN. We will go back in our regular order, then. Dr. Falcoff, you may proceed, sir.

**STATEMENT OF DR. MARK FALCOFF, RESIDENT SCHOLAR,
AMERICAN ENTERPRISE INSTITUTE, WASHINGTON, D.C.**

Dr. FALCOFF. Thank you. Mr. Chairman, Senator Dodd. It is an honor to have the opportunity to share with you some notions about Panama, the canal, and United States interests in the isthmus. These subjects are complex and I have tried to deal with them at considerable length in my written testimony, which you very kindly agreed to insert in the record.

I would be glad to answer any questions about any of the other aspects that are in my written testimony. But since I was told my time would be limited, I have decided to confine my remarks here to the most pressing issue on the agenda, which seems very quickly, by the way, to have taken over our discussion here, and that is the Multinational Counternarcotics Center.

At the time the Carter-Torrijos treaties were negotiated, Panama's Government would not hear of any residual United States military presence in the country. Since then, however, ordinary Panamanians, often as many as seven out of ten, have favored ex-

actly that. No doubt they were influenced by the \$250 to \$500 million that American service personnel and their families poured into the country each year. But they also derived a sense of pride and security from close association with the United States.

Contrary to what many Americans may believe from what they have seen on the television news or been told by self-styled experts, most Panamanians are extremely friendly to the United States and its people.

At the same time, the Panamanian business community has become gradually aware of the fact that the military presence provided a kind of unspoken insurance policy against anything too strange happening in the country, a policy which presumably would attract considerable foreign investment. Now, I agree with former Ambassador Ted Briggs that United States military presences are not necessary to attract investment of very considerable magnitude in other Latin American countries, but Panamanian business people have told me that in their trips to Europe and Asia they have frequently heard this issue raised. So I assume if we are talking about perceptions, it has been an important factor.

Now, all of this runs against the grain of Panamanian politics as usual, which, instead of concentrating on jobs, education, environment, health, and other concrete issues, tends to be about saving Panama from nonexistent perils, like contamination from the evil Yankee.

As long as the United States military was there, Panama could have it both ways: enjoy the benefits of an American presence and luxuriate in the role of victim, put-upon, exploited, and deprived of its identity by a foreign occupier. Unfortunately, within 18 months the country will no longer be able to have its cake and eat it, too. Hence, the hatching of President Perez Balladares' Multinational Counternarcotics Center.

This is a trap, I submit, into which the United States should not fall. Please permit me to explain why. First of all, the multilaterality will be largely fictitious. Although President Perez Balladares talks about representation from Argentina, Brazil, Peru, Colombia, and Mexico, there is strong opposition to participation in many of these countries. People see this as a way of getting the military into the drug war, which they do not want, and opposition is overwhelming in Mexico. So that about 80 percent of the military personnel would have to be from the United States.

Second, a center would require a new treaty. No doubt the Clinton Administration and indeed I suppose any administration would prefer an executive agreement. But this would contravene article 5 of the neutrality treaty, which states unambiguously that: "After the termination of the Panama Canal Treaty, only the Republic of Panama shall maintain military forces, defense sites, and military installations within the national territory."

In my own view, the Senate should require the administration to subject any residual United States military presence in Panama, under whatever label, to this restriction and then force the treaty to run the full gauntlet of the ratification process.

Third, neither the United Nations nor the Organization of American States nor any other international actor has offered to loan the center its flag. The best President Perez Balladares can offer

is a committee of foreign ministers of participating countries, headed by his own, to supervise the activities of the center. As far as the United States is concerned, this begs crucial questions of command, control, and safety of American personnel and their families. And you, Mr. Chairman, in your opening statement pointed out some of the problems we are living with right now in that regard.

Fourth, as contemplated by Panama the Center will be a permanent object of controversy. Nobody will believe in its multilaterality. Indeed, that is precisely what the Panamanian Government intends. However, it will be an open sore in Panamanian politics, with agitators perpetually insisting that it is really an American base and demanding its removal. The fact that the current Panamanian position in the negotiations calls for extending facilities in 3-year increments almost certainly builds in political problems, with anti-U.S. agitation—rent-a-crowd, a skill, by the way, which the governing party in Panama is very good at, rent-a-crowd—with anti-U.S. agitation returning promptly in the second year of each cycle.

With all due respect to the distinguished former Chairman of the Joint Chiefs of Staff, I personally believe that United States interests are better served by a rigorous adherence to the Carter-Torrijos Treaties and a complete and total withdrawal of our military forces from Panama. If we need to accomplish certain missions related to narcotics trafficking in the region, these could be carried out either from our own territory or our own territory in conjunction with other countries. As a matter of fact, I was in Miami last week attending a SOUTHCOM conference and I was able to see the contingency plans that are already very well advanced to put these missions in other countries and in other areas of the region.

But if we are to have a residual military presence in Panama, under whatever label, then Panama must ask for it by name, rank, and serial number. Then it should submit that decision to a plebiscite. No one in Panama should ever be able to say that American troops were introduced into the country through the back door. And as I have said, a new treaty with appropriate status of forces agreements must be negotiated, signed, and sent to this distinguished body for ratification. Anything else I believe is a disservice to the U.S. national interest.

Thank you.

[The prepared statement of Dr. Falcoff follows:]

PREPARED STATEMENT OF DR. MARK FALCOFF

Mr. Chairman and distinguished members of the Committee:

It is an honor to appear before you to discuss problems relating to Panama, the Canal, and U.S. interests in the isthmus. These hearings are particularly timely in light of the upcoming surrender of the Canal and adjoining facilities on the last day of 1999, as prescribed by the Carter-Torrijos treaties ratified by the U.S. Senate in 1978 and by the Panamanian people in a national plebiscite.

The first thing to say is perhaps the most obvious—whatever our opinion of the treaties themselves, either now or at the time of ratification—in a technical sense the transfer of facilities has gone forward without serious difficulty. The United States has rigorously adhered to the schedule established by the treaties, indeed, in some ways has moved ahead of it. Since 1990 the administrator of the Canal has been a Panamanian, and the overwhelming majority of employees of the Canal authority are now Panamanian. We have expeditiously relocated both the School of the Americas and the U.S. Southern Command to the continental United States, dras-

tically reduced our troop presence, and turned over hundreds of military buildings and facilities in the old Zone to the Panamanian government.

The orderly fashion in which this has taken place is remarkable, particularly in view of the emotions in both countries, and the constant accusations by elements of the Panamanian media and political class—accusations which continue to the present day—that the United States was (or is) secretly conspiring to go back on its agreements. Our record stands in stark contrast to the Suez disaster suffered by Great Britain.

On the other hand, many issues which were either ignored, minimized, or swept under the rug at the time of ratification are poised to foist themselves upon us. My purpose today is to discuss some of these.

The Canal

One of the great engineering marvels of the world, the Canal is a tribute to the determination, engineering genius, and back-breaking work of a multinational labor force directed by our own U.S. Army Corps of Engineers. Nonetheless, it is an old facility, and as such in constant need of maintenance. It also requires a benevolent environmental situation, since every ship that transits the canal pushes 52 million gallons of fresh water from the Central Lake out into the sea. In addition, in order to remain competitive, the Canal must be modernized. At present neither oil super-tankers nor aircraft carriers can pass through the Canal. This deficiency could be remedied by the construction of a third set of locks, and there are plans to do just that. However, that eventuality is long-term and depends upon the capacity of Panama to borrow enormous amounts of money. Whether that happens depends largely on the country's capacity to demonstrate its stability in the absence of a large American civil and military presence.

Generations of Panamanian politicians have assured their people that the Canal is a kind of potential bonanza, that, like oil in Kuwait, once incorporated into the national patrimony, would assure effortless prosperity for all. This has always been a gross exaggeration. The Canal was constructed by the United States for strategic and commercial reasons, not as a profit-making enterprise. Indeed, under law it was supposed to merely break even, and often ran a deficit made up by the U.S. Congress. In some recent years it has made a modest profit, but certainly negligible in terms of Panama's overall social and economic needs. The real economic benefit from Panama has always come from ancillary activities—repairing or provisioning ships—or from salaries dispensed to the Canal work force or money spent within the territory of the Republic by the military and their families—in some recent years amounting to as much \$500 million.

In some ways the presence of the U.S. military also amounted to an invisible insurance policy for foreign investors and traders; as long as the Americans were there, nothing too strange would be allowed to happen in Panama. Although the current decline in confidence suffered by the Panamanian government in Western Europe and Asia may be unjustified, it is at least understandable, particularly given the country's problematic political history. This is a point to which I shall return shortly.

The Panamanian dilemma is this—the country is condemned to make a success of the Canal or lose its viability as a nation-state. To do this means to pay serious attention to things like maintenance, management, and the environment. Under all three headings there are reasons for concern.

Maintenance. Just how well Panama has done along this line since 1978 is a matter of opinion. During the 1980s, when the country was under military or quasi-military rule, all public facilities were neglected, and many shippers complained bitterly about the deterioration of Canal facilities. Since the intervention of the United States in 1989-90, and particularly since 1994 when the present government took office, there has been a significant increase in the amount of resources earmarked for maintenance, and some of the facilities at the Pacific and Atlantic ports modernized with the latest computer technology.

On the other hand, members of the Committee should be aware of a 1997 report of the U.S. Army Corps of Engineers which identified 830 maintenance tasks requiring immediate attention. Of these, fully 389—that is to say, 47 percent—had not even been started. They include such arcane matters as replacing the existing locks machinery, reactivating emergency dams (the upkeep on which had been "abandoned since 1982"), repairing the concrete around the locks machinery tunnel (the work done to date was found "less than desirable"), widening the Atlantic entrance, refurbishing the tugboat fleet and the canal railroad (the "mules").¹ While President

¹Panama Canal Commission, *Master Plan to Implement the U.S. Army Corps of Engineers (USACE) Recommendations* (Panama City, 1977), pp. 2-3, 5-6.

Ernesto Perez responded peevishly to the report, he also implicitly endorsed its findings by putting into motion a \$1 billion program to improve Canal maintenance, whether it will be adequate, and carried out in a timely fashion, remains to be seen.

Management. Like most Latin American countries, Panama has at best a spotty record of managing public enterprises. These are usually run as employment agencies for deserving members of the victorious party, with virtually no attention paid to the bottom line. Ever since taking office President Perez Balladares has complained that everyone in Panama expects to be put on the government payroll; this, he has explained repeatedly, is an impossibility.

Nonetheless, the public sector in Panama has been large, and there are many institutional and political reasons why its downsizing or privatization is resisted by politicians and public alike. Moreover, the ruling Democratic Revolutionary Party has a long history of using public enterprises for political patronage.

The new Organic Law of the Canal is supposed to insulate the Canal from such pressures. Nonetheless, the board of the new Canal authority has been packed with friends and relatives of the current president, and its new head, Jorge Ritter, is a politician with an unsavory past and no experience whatever in maritime affairs. Moreover, the Organic Law mandates that the Canal show a profit. However, this objective is bound to be undercut by pressures for political patronage on one hand, and the need to keep tolls low enough to continue to attract shipping on the other.

This last requires additional comment. Changes in shipping technologies—for example, double-stacking of CONEX containers on railroad cars across the U.S. and Canada—now make the Canal less vital than in the past. Even for certain types of high-value, low-volume products air shipment is competitive. For products like oil, trade-offs between Pacific and Atlantic producers can dispense with inter-isthmian traffic altogether if necessary. In effect, the Canal is not the transoceanic monopoly it once was.

Environment. Panama's stewardship of its environment is crucial to the continued competitiveness of the Canal. This is so because water shortages in the Central Lake will lead to delays, and for every day that ships are backed up in a line waiting to use the facility, the unit cost of shipping each item rises. Water shortages will also create serious problems for city-dwellers, who now constitute more than 50 percent of Panama's population.

Unfortunately, the environment has been given short shrift in Panama. The entire ecosystem of the Chagres river basin has been steadily deteriorating since 1978, when the area was turned over (along with the rest of the old Canal Zone) to Panama. An unrestrained invasion of peasants practicing slash-and burn agriculture has drastically reduced the forested area, and by some estimates will denude it entirely by the end of the next century. Deforestation has a negative effect on rainfall, and even more important, fosters erosion and build-up of sediment in the lakes, which in turn creates problems for navigation.

The Panamanian government has recently undertaken to institutionalize its environmental concerns. On the other hand, like all other government agencies, the Panamanian environmental organization INRENARE, is a patronage machine, staffed with political appointees, many of whom are utterly unqualified for their work. Several qualified environmentalists have been discharged for political reasons.

There is no intrinsic reason that Panama cannot redress deficiencies in all three areas—maintenance, management and environment, but it must make up for an entire lost decade—the 1980s—and accelerate actions taken since the ouster of General Noriega. This in turn requires a change in the country's political culture, and a new respect for professionalism, insulation from partisan pressures, and rigorous attention to the bottom line.

This may or may not occur. But the interest of the United States in the efficient operation of the Canal is much less crucial than in the past, both because of changes in global politics and the emergence of new shipping technologies. Of course, ideally a well-run Canal is in everyone's interest—starting with Panama's. But if Panama fails to meet the challenge, it will not be the end of the world for the international shipping community or the United States.

Panama's Political Development

At the time of the Carter-Torrijos treaties, Panama was ruled by a populist military dictatorship. Today it has an elected government and national assembly, an independent press, and a lively civic life. The Panamanian army has been abolished and replaced with a national police on the Costa Rican model. Unfortunately, it remains a deeply divided society—fractured along political, racial, class, linguistic and regional lines. Of course this is true for many countries, including the United States. But it is dangerously true for Panama, which has the most inegalitarian distribution of income of any Latin American country except Brazil.

As a result, no political party in Panama can expect to win anything like 50 percent of the vote. In the 1994 election President Perez Balladares won 33.3 percent of the vote, which made him the victor in Panama's first-past-the-post system. But his opponent, Mireya Moscoso of the Arnulfista party, garnered 29.1 percent—nearly as much. Salsa singer Ruben Blades of the new Papa Egoro party won 17 percent, and Ruben Dario Carles of the MOLIRENA party won 16 percent, respectively.

Not all parties in Panama are alike. Perez Balladares' Democratic Revolutionary Party is the successor to the Torrijos-Noriega dictatorship, and although it has greatly improved its behavior since 1990, still polarizes Panamanian opinion. Other parties, particularly the Arnulfistas and MOLIRENA, feel (not wholly without reason) that the PRD still harbors many anti-democratic elements. Indeed, they are not slow to suggest that rather than a party in the ordinary sense, it is a collection of thugs who believe that they alone have the right to govern the country, by fair means or foul. For example, many members of these two opposition parties believe that the PRD rigged the 1978 plebiscite on the Canal, and they also believe that in the upcoming referendum on constitutional reform, electoral fraud is genuinely possible.

Recognizing these divisions, and also the limitations of his own electoral score, following his election President Perez Balladares reached out to the opposition and tried to incorporate as many of its members as he could in his new administration. For reasons of their own, the Arnulfistas, Panama's second largest party, chose not to accept his offer.

Meanwhile, as his term has worn on, Perez Balladares has been increasingly deferred to the less respectable elements of his own party in order to consolidate support for a constitutional amendment which would allow him to run for another term. One example is the appointment of Jorge Ritter as minister of canal affairs; another is the curious composition of the Canal Authority. Even more troubling, in recent weeks there has been a coarsening of political discourse. When former Vice-President Ricardo Arias Calderón, a Christian Democrat and a political figure of unmatched integrity, recently suggested that it would not be a good idea to change the rules so as to allow consecutive presidential terms, PRD leader Mitchell Doens suggested that Dr. Arias Calderón needed "a political Viagra to bring him into line with the new times in which we are living." The Electoral Tribunal recently overturned a measure which would have required newspapers to submit all public opinion polls to prior censorship.

Panama's democratic political culture is extremely fragile and needs nurturing. While a second presidential term in and of itself need not threaten democratic institutionality, given Panama's troubled past, and the role which the PRD has played in propping up military dictatorships, *continuismo* of the type contemplated by President Perez Balladares may not be the best solution. Panamanian political life has been plagued by sectarianism, intolerance, random violence, and intemperate discourse—it needs a healthy dose of what Latin Americans call *alternancia* to strengthen the forces of moderation, pragmatism, and good sense.

U.S. Interests in the Isthmus

Security of the Canal. At the time of the ratification of the Canal treaties, some legitimate U.S. security concerns were raised by members of the Senate and the general public. These were understandable in the context of the times. They have been largely addressed by the Neutrality Treaty, which assures that the facility will remain "secure and open to peaceful transit by vessels of all nations on terms of entire equality." (Article II). The United States is also guaranteed "expeditious passage" of its ships through the Canal in time of war—that is, that its ships will be allowed to go to the head of the line. (Article VI).

The Neutrality Treaty has generally been construed, in the United States at least, as giving our country the right to forcibly intervene militarily to keep the Canal open if necessary. This was one of the pretexts used to justify our intervention in 1989. However, as many Panamanian politicians have pointed out, whether the United States does or does not have that right, if it wants to it will intervene anyway. Certainly we retain the capacity to do so, whether we or not we are physically present in the isthmus.

The United States has been extraordinarily lucky in the years since ratification. Our only serious global adversary, the Soviet Union, has disappeared, and the political environment in the circum-Caribbean is significantly more favorable to us now than twenty years ago. Among other things, Fidel Castro's Cuba is in rapid decomposition, and all of the countries of the basin, including Panama, are anxious to become part of the NAFTA community of nations.

Further, no country in the world has a greater interest in keeping the Canal open than the Republic of Panama. This was as true twenty years ago as today. It is per-

haps worth noting that the only time the facility has ever been shut down in its more than eighty year history was the day after the U.S. invasion in December 1989—and by action of the U.S. military.

Other security considerations. There are other security considerations in Panama, but they are marginal to the Canal itself. The biggest problem is the porous nature of the country's southern border, where the province of Darien meets Colombia's Choco province. The latter is a wild, sparsely populated area, home to clandestine drug labs and airfields. According to Panamanian law-enforcement officials, since 1988 Colombian drug traffickers have been smuggling their product—as well as millions of dollars in cash-through Puerto Abadia in Darien for transshipment through Panama or laundering through Panamanian banks.

Further, clashes between Colombian paramilitary groups and rebels on Panamanian soil are taking place with increasing frequency, with local authorities powerless to do anything about it. Indeed, by the summer of last year the situation had become so serious that Panamanian authorities were granting permission for Colombian Army troops to camp in Darien province and conduct operations against rebels who had taken refuge there.

These developments are all the more troubling in light of the fact that Panama no longer has an army. The national police agencies are still struggling to find their professional feet. No matter what happens, however, the United States is not going to have the kind of military presence in Panama which would equip it to defend the country's frontiers or engage in hot pursuit of drug dealers.

U.S. military presence in Panama. Under the Carter-Torrijos treaties the United States is obliged to liquidate the totality of its military presence in the country by the last day of 1999. We are actually slightly ahead in this process, from a high of 12,000 in 1990 to 4,000 today. We are moving very expeditiously as well to turn over some 7,000 buildings on what used to be U.S. military bases.

At the time the Carter-Torrijos treaties were negotiated, Panama would not hear of any residual U.S. military presence in the country. For many years thereafter, however, various public opinion polls showed that a decisive majority of Panamanians (usually around 70 percent) did not favor the departure of the U.S. military. Indeed, some polls even reflected a strong majority in favor of the U.S. remaining in Panama to run the Canal, jointly with the Panamanians or even on its own! In recent years—that is, since President Perez Balladares took office in 1994—Panamanian enthusiasm for a residual U.S. military presence has been somewhat tempered by the realization that we were not prepared to pay for the privilege of remaining.

The bases issue dramatically illustrates the disconnect between Panamanian opinion and Panamanian politics. During all the years that ordinary Panamanians were telling pollsters that they wanted the U.S. military to stay, the politicians were each accusing the other of secretly conspiring—oh horrors!—to respond to majority opinion. On the other hand, it must be admitted that the political class did an excellent job of convincing the public that the United States should have to pay for the privilege of remaining in the country—as if \$250 to \$500 million a year thrown into the local economy by American military personnel was just so much spare change.

The Panamanian political class greatly overestimated the country's importance, particularly in the light of the end of the Cold War, and played its cards badly on this issue. The U.S. refused to be blackmailed, and any further discussion of a residual base presence came to an end.

The Multinational Counternarcotics Center. Once the Panamanians realized that the U.S. military was definitely leaving the country, panic set in, particularly in the circles of the wealthy elite and the political class. As one business delegation explained to me, in their visits to Western Europe they found that potential investors were interested only in one thing—would the United States continue to be present in Panama. With the closing of the bases, some sort of mousetrap had to be found.

Our concern with narcotics nicely meshed with the need of Panama's elite to retain some sort of symbolic U.S. military presence. This convergence of needs explains the current plan to construct a Multinational Counternarcotics Center at Fort Howard, run by civilians and drawing on representatives of the United States and a number of Latin American countries. A framework agreement was announced on Christmas Day 1997, but American and Panamanian negotiators have had considerable difficulty thrashing out the final details.

The MCC poses a number of serious problems which this Committee should carefully consider.

1. The "multilaterality" will be largely fictitious. Although President Perez Balladares likes to talk about complements from Argentina, Brazil, Peru, Colombia and Mexico, there is strong opposition to participation in many of these countries (it is overwhelming in Mexico), so that the overwhelming majority of military personnel would be from the United States.

2. Such a center would require a new treaty. No doubt the Clinton administration would prefer an executive agreement, but this would contravene Article V of the Neutrality Treaty, which states unambiguously that "after the termination of the Panama Canal Treaty, only the Republic of Panama shall . . . maintain military forces, defense sites, and military installations within its national territory."

In my own view, the Senate should require the Clinton administration to subject any residual U.S. military presence in Panama—under whatever label—to this restriction, and then force the treaty to run the gauntlet of ratification.

3. Neither the United Nations nor the Organization of American States nor any other international actor has offered to loan the center its flag; the best that President Perez Balladares can lamely offer is a committee of foreign ministers of participating countries, headed by his own, to supervise the activities of the Center. As far as the United States is concerned, this begs crucial questions of command, control, and safety of American personnel and their families.²

4. As envisaged by Panama, the Center will be a permanent object of controversy. Nobody will believe in its multilaterality—indeed, that is precisely what Panama hopes. (All foreign investors will read it as a largely American enterprise, which what it will be, but without the advantages of our outright basing agreements with Spain, Italy, Germany and Japan.) However, it will be an open sore in Panamanian politics, with agitators insisting that it is "really" an American base and demanding its removal. The fact that Panama wants to extend facilities in three year increments almost certainly builds in political problems, with anti-U.S. agitation returning promptly in the second year of each cycle.

I personally believe that U.S. interests are better served by a rigorous adherence to the Carter-Torrijos treaties, and a complete and total withdrawal of our military forces from the country. If we need to accomplish certain missions related to narcotics trafficking, these would be best carried out from our own territory.

But if we are to have a residual military presence in Panama—under whatever label—Panama must first ask for it by name, rank and serial number, and then submit the decision to a plebiscite. There must be no ambiguity, no pretense. No one in Panama must ever be able to say that American troops were introduced into the country through the back door or against the will of the people. And, as I have said above, a new treaty with appropriate status-of-forces agreements must be negotiated, signed, and sent to this distinguished body for ratification. Anything else is a disservice to the U.S. national interest.

The CHAIRMAN. Thank you, sir.

Dr. Pastor.

STATEMENT OF DR. ROBERT A. PASTOR, DIRECTOR, LATIN AMERICAN AND CARIBBEAN PROGRAM, THE CARTER CENTER, ATLANTA, GEORGIA

Dr. PASTOR. Thank you very much, Mr. Chairman and Senator Dodd, for inviting me to testify. It is a moment for which I have been waiting for many years, and it is an important moment to evaluate the status of the transition in Panama. So I applaud you for holding these hearings.

Twenty years ago when the Senate approved the treaties, the transfer of the canal seemed very far off, but it is upon us now. We have not used these past 20 years well. Just about half of all of the buildings, the bases, and the land have been transferred, leaving the other half to be transferred in just 18 months. Most of that transfer, incidentally, has occurred in the last 3 years. We are in

²The question of safety is not a frivolous one. Shortly before President George Bush's visit to Panama in 1991, two American soldiers were murdered in cold blood by Pedro Miguel Gonzalez, son of the president of the Democratic Revolutionary Party. Despite eyewitnesses, no Panamanian court felt capable of establishing his guilt. *Miami Herald*, October 23, 1997. At this writing Mr. Gonzalez is a candidate for congress on the PRD ticket.

the middle of a negotiation which appears aimless on the Multi-national Counternarcotics Center.

The 23 years could have been used much more wisely to assure a more stable and gradual transition. Instead, I think the late reversion of the properties has introduced a certain amount of uncertainty.

You have my statement, which I appreciate your putting into the record. Let me just summarize it very briefly so that you have time for questions.

The transfer can be an important moment for our country that will make us proud of the canal's construction and our contribution in Panama. But the first and most important thing is to focus on our interests. Then, let me offer some recommendations.

There are three broad interests at stake. First, we maintain an interest in an open and secure Panama Canal. Second, we have an interest in a democratic and prosperous Panama. Third, we have an interest in relating to Panama, because of its history and our relationship with Panama, in a manner that could further our other interests in Latin America.

These three interests are endangered by an unstable transition that might happen and that could endanger all of these interests. In fact, there are three different transitions. The first is the transition to Panama of the operation and administration of the canal. That, fortunately, is working very well. The Panamanians today account for 92 percent of the people running and managing the canal. They have passed a new law. They have an effective administrator.

The second transition is on the reversion of property and, as I said, the schedule of that reversion is now concentrated in a manner that could introduce uncertainty in the next 18 months, just when we most need stability.

Finally, there is the question of the defense of the canal. As a result of General Noriega and of Operation Just Cause, there is considerable insecurity on the part of Panama and, whereas the majority of the Panamanians in the 1970's were very much in favor of a full transfer, as Dr. Falcoff has pointed out, of the canal to Panama, that changed. Now about 70 percent or more of the Panamanians would like some United States presence to remain, and the shift in opinion is a result of those events at the turn of this last decade. At the same time there is a very intense minority in Panama who feel that the United States should leave.

The United States, on the other hand, has gone from an obsession to keep the Panama Canal to a situation in which we seem disinterested. Therefore, I applaud you holding these hearings, because I do not see the kind of high level attention that is required at this critical moment.

I would say the Panamanian ambivalence is understandable, given the importance of this issue in Panamanian politics. U.S. disinterest and its shortsighted, very bureaucratic approach to the issues that are on the table is, in my judgment, deplorable. It is time, in my judgment, for the President to focus on the issue, to define the U.S. national security interests, and to authorize his negotiators to complete an agreement as soon as possible.

Let me conclude with two broad sets of recommendations. U.S. national interests at this point require that we lend our influence

to making this 18-month transition work, making it as smooth as possible. Unfortunately, I think we are doing the opposite right now. I think it is too late to introduce the discussion of military bases. That moment passed a couple of years ago. It is not too late to complete the negotiations for the MCC.

But we need to keep our focus, not on some very limited issues that have been raised recently, in my judgment, such as the duration of the agreement. The Panamanians have suggested a 3- to 5-year period. This corresponds with the ideas of sunset provisions that the Congress has championed in the United States. Three years after the year 2000, both the United States and Panama can evaluate whether the Multinational Counternarcotics Center is working, and if it is then it can be extended. If it is not, it still would have served a very effective purpose of assuring that this transition from United States to Panamanian control will be a little bit more stable than it would have been in the absence of such an agreement or in the continuation of negotiations.

So I would recommend first that the President does authorize his negotiators to complete the agreement expeditiously, that he help Americans understand that we have a stake in facilitating a smooth transfer of authority to Panama, that the MCC in my judgment will do that, while also helping us forge a possible collaborative effort with Latin America against narcotraffickers in a rather novel enterprise.

Finally and most importantly, we need to leave the bases as clean and free of ordnance and contamination as we do in the United States. We should leave in a proud way. We should make sure that we hold to the same standards in Panama as we do when we close a base in the United States. That does not appear to be the case right now.

The Senate has always played a very important role in Panama and in the treaties, and I would recommend that you, Mr. Chairman and Senator Dodd, take the lead in introducing a resolution that would make four points:

First, it would reaffirm America's commitment to fulfill its obligations under the Panama Canal Treaties.

Second, it offers United States support during this very delicate and uncertain transition to Panamanian control. It will serve all of our long-term interests if we do that.

Third, you recommend a Multinational Counternarcotics Center of any duration and with a fixed mission, to focus on the mission of counternarcotics.

And finally, that the United States and Panama work together to create a climate that will encourage needed investment in both Panama and the canal area, so as to assure that Panama does have the capability to manage itself and its affairs in the years to come.

In conclusion, Mr. Chairman, 100 years ago, America conceived of and built a remarkable technological feat. Twenty years ago, we recognized that the best way to secure the canal was to transform our relationship with Panama from one with a resentful neighbor to one with a cooperative, respectful partner. I think we have secured the canal by doing that.

Today we have a different responsibility and it is to make sure that the transfer in 18 months is done with dignity, stability, effi-

ciency, and respect. To accomplish that, the President and the Senate should act now.

Thank you.

[The prepared statement of Dr. Pastor follows:]

PREPARED STATEMENT OF DR. ROBERT PASTOR

Mr. Chairman, I appreciate your Committee's invitation to speak on the transition from U.S. to Panamanian operation of the Canal that will be completed on December 31, 1999. I applaud your Committee's decision to hold hearings now.

Two symbols of our country's greatness can be found in the construction of the Canal, one of the world's great technological feats, and in the 1977 Panama Canal Treaties. The turn-of-the-century technology that lifts and lowers each ship 85 feet still works; indeed, the Canal is as busy as ever. American leadership, however, is not just based on our economic, military, and technological prowess, it rests on our ideals and our ability to adapt to changes in the world. Beginning in the 1960s, four U.S. Administrations—two Republican and two Democrat—understood that we needed a new relationship with Panama on the Canal if we were to retain the respect and support of Latin America and keep the Canal secure. The best defense of the Canal were new treaties that changed Panama from a resentful neighbor to a respectful partner. We are fortunate that President Jimmy Carter and 68 Senators from both parties had the courage to negotiate and approve the treaties.

Just as we needed to adapt in the 1970s to a world in which smaller nations demanded and deserved respect, so today do we need to adapt to the changes that have occurred in Panama and the world since the treaties were ratified. Neither the U.S. nor Panama have used the past 20 years wisely in preparing a stable transition, and current negotiations for a Multilateral Counternarcotics Center are being handled ineptly and indecisively. Thus our interests in a smooth transition are endangered. We should delay no longer. Both President Clinton and the Senate need to move quickly and boldly to ensure a sturdy transition. Specifically, I recommend:

- The President should authorize his negotiators to conclude an agreement expeditiously that would reflect our long-term, national interests in Panama, the Canal, Latin America, and against drug-trafficking.
- At the same time, the Senate should reaffirm our nation's commitment to fully implementing the Panama Canal Treaties and to respecting Panama as a sovereign partner. The Senate should insist that the Defense Department clean up its bases at least as well as it does when it closes a base in the United States. Finally, Congress should consider new ways for the United States to work with Panama to help it attract needed investment.

Let me first describe U.S. interests, then the changes that have occurred, and finally develop these recommendations.

I. U.S. Interests

The United States has three sets of interests as they relate to Panama and the Canal. First, the United States has an interest in a secure, efficient, and open Canal. Second, we have an interest in a prosperous and democratic Panama. And finally, we have an interest in relating to Panama in a manner that strengthens our relationships in Latin America and enhances our ability to pursue our interests in the hemisphere.

With almost all of Latin America now democratic, we have new opportunities for creative cooperation. One critical area is counter-narcotics, and Panama has offered the use of the airport at Ft. Howard in the Canal area as a Multilateral Counter-Narcotics Center (NCC). This idea emerged after the U.S. and Panama failed to agree on compensation for bases that could be used after the year 2000. Nonetheless, it is an imaginative way to generate inter-American cooperation on an issue that demands it, and in a way that also could provide some stability to Panama's transition.

Our three interests are endangered by an unstable transition, and that might happen if we don't reach agreement with Panama soon.

II. Old Assumptions and New Realities

Actually, there are three transitions. The first—the operation and the administration of the Panama Canal—is fortunately doing well. More than 92 percent of all Canal employees are Panamanians, the new Administrator is competent, and the government has just established the authority to manage the Canal. There was some concern two decades ago that the Panamanians could not operate the Canal; few people now believe that.

The second transition regards the reversion of properties, and that has been disgraceful. Just three years ago, only about 10 percent of the 5,000 buildings, 20 percent of the land, and few of the bases had been transferred to Panama. The two governments then began to rush. Today, 20 years after the treaty, roughly half of all bases and buildings managed by the United States in the Canal area have been transferred, leaving the other half to be turned over in the final 18 months. This is a dismal record.

Some of the bases contain hazardous materials, including unexploded ordinance and contaminated fuel. Thus far, the Pentagon seems to hope that no one will notice, but no American community would tolerate this. This behavior soils a proud legacy. We should clean up the bases just as we do in the United States.

The third transition regards the defense of the Canal. When the United States negotiated the treaties, the assumption was that Panama's Defense Forces would assume principal responsibility for the defense of the Canal, but these forces were abolished after "Operation Just Cause." The United States, of course, retains the independent right to defend the Canal.

In large part because of General Manuel Noriega and the U.S. invasion, Panamanian public attitudes toward a post-2000 U.S. presence changed. The majority that opposed a U.S. military presence in 1978 now seem to favor some U.S. presence today. But an articulate and intense minority oppose it, and many of those are in the party of the Panamanian President so the Panamanian government has been ambivalent and divided on the issue.

The United States, on the other hand, seems to have gone from obsessed with staying in Panama to being disinterested. The Pentagon evidently believed that it was not very important to remain in its bases and therefore wasn't prepared to offer any compensation. Negotiations today seem driven by two groups—those responsible for the anti-drug war and those who would like to use Ft. Howard for other missions in Latin America. As a result, the U.S. seems about to repeat the mistake it made in the first round of talks in 1995-96—inducing uncertainty rather than stability.

Panamanian ambivalence is understandable; U.S. disinterest and its myopic, bureaucratic approach is deplorable. It's time for the President to focus on the issue, define U.S. national interests, and authorize his negotiators to complete an agreement immediately.

III. Recommendations

During treaty negotiations, the United States did not focus on the simultaneous transfer of both the Canal's operation and its defense because plenty of time was allowed for the gradual transfer of both functions to Panama, and the abolition of Panama's Defense Forces was not envisaged. It is clear that many Panamanians and world shippers are nervous about the simultaneous transfer, and the rapid reversion of properties could add to the uncertainty.

Panama can operate the Canal, but the government's ability to attract needed investments and make effective use of the properties depends greatly on political stability and economic development during the next five years. The U.S. national interest requires that we lend our influence to making the transition work. We are doing the opposite right now.

It is too late to talk about maintaining military bases in Panama; the mere suggestion of it at this time would have a negative political effect in Panama, thereby undermining our own interests in a stable transition. It is not too late, however, to reach agreement on an MCC, but we need to resolve at least two outstanding issues—both of which seem to be driven by a narrow, short-term bureaucratic slice of U.S. interests.

First regarding the duration of an agreement, I understand that the Pentagon wants to stay at Ft. Howard for 15 years, and Panama would like a trial period of about 3 years (or 5 from now). Congress often establishes sunset provisions on new programs, and the MCC is a new idea that perhaps should be tested before given a long term. Even if the MCC does not work to curb narcotics-trafficking, it will have furthered U.S. national interests if it provides 3-5 years of stability during the transition.

The second issue is whether the United States should be able to use Ft. Howard for other reasons than those related to anti-narcotics trafficking. If the center is going to be genuinely multilateral, then we need to keep a focus on its principal mission, lest other countries also raise additional missions. Panama is correctly concerned that the U.S. will use the agreement to continue its military presence as if the Canal Treaties had never been approved. Again, let's keep our focus: let's support an MCC because it could help against drugs, and it will add some stability to an uneasy transition.

So, in brief, I recommend that the President define the U.S. national interest in a manner that will help Americans understand we have a stake in facilitating a smooth transfer of authority to Panama to operate and defend the Canal. An MCC will help us do that, and at the same time, it could provide a vehicle for forging modern, collaborative relationships with our Latin American neighbors against drug trafficking.

The Senate always has played a role in shaping U.S. policy toward Panama, and it's role today remains important. I would encourage this Committee to introduce a resolution that: (1) reaffirms U.S. commitments to the Canal Treaties; (2) lends support for a peaceful, stable transition; (3) recommends an MCC of any duration and with a focused anti-drug mission; and (4) works with Panama to create a climate that will encourage needed investment in the country and especially the Canal area.

One hundred years ago, America emerged from isolation and conceived and built a Canal. Twenty years ago, we recognized that the best way to secure the Canal was to modernize our relationship with Panama. Today, we have a responsibility to make sure that the transfer in 18 months is done with dignity, stability, efficiency, and respect. To accomplish that, the President and the Senate need to act now.

The CHAIRMAN. Thank you very much.

The chair is going to exercise a point of personal privilege to recognize two great Americans—we all know them—whose names will be a part of history, whether they know it or not. One of them is John Singlaub, General Singlaub. Stand up, if you will. We welcome you here this morning. And Admiral Clarence Hill. The same goes for you, sir. I have followed your career for years and years and years. I thank you for what you have meant to our country.

Now, Chris, with two this is a situation of luxury as far as time is concerned. Suppose we each of us take 10 minutes.

Senator DODD. You take whatever time you like.

The CHAIRMAN. No, I want you to go first. But I have got some questions that I want to ask, and I know you have, too.

Senator DODD. Well, thank you very much, Mr. Chairman. I thank you witnesses again for your testimony here this morning.

Mr. Falcoff, let me just begin. I appreciate your testimony. I am curious, though. Maybe you have a different interpretation than I do, but you quote article 5 of the neutrality treaty that prohibits United States troops in Panama absent a new treaty.

Dr. FALCOFF. Well, no. It says that no country but Panama may maintain troops, military installations, and so forth in Panama after the consummation of Carter-Torrijos, which of course would be the last day of next year.

Senator DODD. We attached a condition, the Senate did.

Dr. FALCOFF. That is right, there were protocols.

Senator DODD. Right, and it says there: "Nothing in the treaty shall preclude the Republic of Panama and the United States from making, in accordance with their respective constitutional processes, any agreement or arrangement between the two countries to facilitate performance at any time after December 31, 1999, of their responsibilities to maintain the regime of neutrality established in the treaty, including agreements or arrangements for the stationing of any United States military forces or the maintenance of defense sites after that date in the Republic of Panama that the Republic of Panama and the United States of America may deem necessary or appropriate."

It seems to me there that the necessity for a treaty would not be required. This was a very important condition, which I am confident the chairman has a far better recollection than I do of that

part. It was a very important element to securing some of the additional votes, as I recall, that would not have occurred, and the treaty probably would not have been ratified had that condition, Senate condition, not been added.

Dr. FALCOFF. Well, of course at the end of a negotiation you never foreclose the possibility of a new negotiation once the contract has run out. That is obvious.

You are focusing on the treaty aspect. I am not a lawyer. You will have to get one of your lawyers to tell you.

Senator DODD. I do not want to dwell on that.

Dr. FALCOFF. I think, though, Senator, as an American citizen I would wish to see this new U.S. relationship enshrined in a treaty, because a treaty would therefore require very thorough investigation by this body and I believe that is desirable.

Senator DODD. Well, that is a different point and it is a very meritorious point. But I did not want to leave the impression here that the treaties themselves would have precluded the presence of U.S. military forces.

Dr. FALCOFF. Unless a new agreement is made.

Senator DODD. And agreement and a treaty are different things.

Dr. FALCOFF. As we stand now, it does.

Senator DODD. But that is different than going through a ratification process for a treaty. An agreement could be reached without having to go through—

Dr. FALCOFF. Well, that is right. But as I said in my testimony, I am nervous about executive agreements.

Senator DODD. I understand that. I appreciate that. And I think, by the way, I am not disagreeing with your point. I think these arrangements, they are better, they have greater solidity, if in fact they are reached. Speaking for the legislative branch here, you will find that we oftentimes raise concerns about the fact that agreements are reached and we are disregarded or not included in the process. Obviously, I think it is very, very helpful—John Glenn likes to offer the analogy, better to be involved with the takeoff as well as the landings. Certainly the admirals here will appreciate that analogy as well.

Let me as well—and Admiral, again, we thank you immensely for your presence here today. I was curious, and the chairman has already commented on this a bit, but you may want to comment some more on it. I was interested in your concerns being raised by the presence of Asian business interests in operating the privatization of some of these port facilities.

The committee, the staff of the committee here, has made an assessment of this, as you pointed out, I think, in a 1997 report where this issue has been raised. The committee staff points out, I think with a degree of appropriateness here, the economic concerns about this, the monopolistic concerns, the absence of bidding, for instance, that we would normally anticipate where leases or privatization were to occur, that there would be an opportunity for others to participate in that.

But I think the major findings of the report—and they are in here. You can read this if you care to. But: “The controversy surrounding bidding on recently privatized Panamanian ports, to include the awarding of the contract to the Hong Kong group,

Hutchison Port Holdings, is more about international business in a small country than about strategic geopolitics.” I am reading, quoting from the report here that Senator Helms’ committee staff has put together.

Again, I am not reading all of it here and there are parts in this report where they do raise concerns here. They are not without concerns here, but in terms of the geopolitical nature of these concerns, it seems to be more of a reference here to that aspect. I will not go into all of it here, but there are a number of places where this issue is raised.

I presume you read this or saw this or someone here within the group here read over the report, and you may want to respond to this. I do not want to just lay it out here. You may have a different point of view. I am not suggesting this is Biblical, what we have written here, what is written by the staff report. But it is the conclusion here that it is more of an economic concern rather than a geopolitical one. You find that through this report. At least that is the conclusion I reach.

Do you have any comment on that?

Admiral MOORER. Well, my main interest in coming here has to do with the Chinese, and certainly the Chinese when it comes to trade, I think by and large that is what this is all about in their minds. I notice neither one of these two gentlemen used the word “China” in their statements.

The idea of having the Panamanian Government allocate to this Chinese company the rights and authorities and so on, which means that they have practically taken over the canal—as a matter of fact, they have already designated one of the properties they acquired as their trade center. So I will leave this with you, Senator: If we get in a big war, whether we have the canal or not, we have to take it.

Senator DODD. Thank you very much. That report, I will just ask, Mr. Chairman, some of the report’s conclusions here regarding this point be included, some of the quotes here. All these interviews, speaking about people who were involved in this, this report: “The Chinese-owned companies’ development of the two ports does not translate into a direct national security threat to the Panama Canal.” I am just quoting it. It further states: “The controversy surrounding the bidding”—I read that one—“is more about international business,” which is not insignificant.

I do not mean to minimize it. I think trade is very important and clearly going to be a major issue for us in the twenty first century, with a country of that size and capacity. But I think it is worthy to note here those particular points.

Mr. Pastor, we appreciate your coming back here. Let me ask—in fact, let me ask all three of the witnesses. The treaties have been in effect now for 20 years. And I think, Admiral, you have probably answered this already. In retrospect—and Dr. Falcoff as well—do you believe that these treaties have furthered the interests overall of the United States or harmed U.S. interests, with the ability of 20–20 hindsight?

Dr. FALCOFF. You are asking me, Senator?

Senator DODD. Yes.

Dr. FALCOFF. I think we were very lucky. We took a gamble in 1978. The world was a very different place. I think it was a more dangerous place for us. And for reasons we could not have predicted, the international geopolitical situation changed radically and we came out smelling like a rose.

I do not think the same could be said for Panama. Panama took a gamble, too. They are now stuck with the task of making this work and they will have to do it. I hope they will be able to do it. But whether they can do it or whether they cannot do it, I think we came out ahead.

Senator DODD. So, by and large?

Dr. FALCOFF. I think on balance the outcome has been favorable to us. I supported the treaties in 1977-78, by the way.

Senator DODD. You can change your view.

Dr. FALCOFF. No. Twenty years later, I feel that history has ratified what was admittedly a risky decision at the time.

Senator DODD. Bob, other than the implementation on which you have raised the issue?

Dr. PASTOR. Yes. The hard part of questions like yours is what academics call the counterfactual. We cannot really say what would it have been like if we had not done it. But our judgment at the time—and it has been confirmed subsequently through a variety of sources, including Noriega's memoirs, was that the best way to protect the canal, the best way to build good relations with Latin America, was to modernize our relationship with Panama.

One of the reasons perhaps that the Panamanians have a more positive view toward the United States today was that the treaties showed we respected them as a small nation, able to take over such a large task, because it is a task that is vital to them.

Now, I agree with Mark, we do not know how well they will do, although frankly I think they will do well in managing the canal, because they understand its importance, and they have some very talented people there.

Senator DODD. Admiral, I want to give you a chance to respond. I think you did in your statement. But is it your view, with 20-20 hindsight, have these treaties helped or harmed U.S. interests?

Admiral MOORER. Helped or harmed who?

Senator DODD. U.S. interests. With 20 years hindsight, knowing how you felt about the treaties 20 years ago, understanding what the world looked like 20 years ago, in retrospect, putting aside the concerns you have raised about the recent issues involving ports, do you think the treaties have helped or harmed U.S. interests?

Admiral MOORER. Well, I think it harmed U.S. interests. I think that on several occasions where we have had combat action, in Desert Storm in Iran, in Vietnam, and so on, we have had to transfer a tremendous amount of material back and forth from one ocean to another. We would have to make significant increases in our military structure in terms of size if we were denied the right and the opportunity to pass back and forth through that canal.

I think the figure is something like 94 ships are required to concentrate in the Atlantic or turn around and concentrate in the Pacific. So I think that I would point out to you that during the Bush Administration when the situation got so bad in Panama with Noriega and company, we went in there with troops. We lost, 26

boys were killed. And if we are going to have to go in there every time the thing gets unacceptable, I would say that the treaties generated that requirement and so I think they harmed us.

Senator DODD. Thank you.

Mr. Chairman, my time is up.

The CHAIRMAN. Thank you, sir.

I think I have a confession to make. I may as well make it publicly. Two or three people in the media have referred to it, perhaps jokingly. But you know who my number one adviser on this matter is? Mr. Noriega—who was born in Kansas, by the way.

I am interested that no emphasis has been placed by any of you on the effects on the Panamanian economy with the withdrawal of the troops. What is it going to be? I get a different story than some of you apparently have. People come to my office with some regularity from Panama. I have some friends, and I had an enemy down there, named Noriega. But what would the economic consequences be when the withdrawal is completed? Anybody want to tackle that? Yes, sir?

Dr. FALCOFF. Well, I think inevitably it will affect a number—it already is affecting a number of industries, particularly hotels and restaurants and stores. Those of you who have been to Panama and maybe stayed in the downtown hotels in the past years know that most of the people in the hotels were United States military and their families waiting for permanent housing. There has to be an impact when you had 12,000 troops and their families there pouring money into the economy.

Panama does have a fairly high unemployment rate for a country of its level of development, and now President Perez Balladares has talked about or is suspected of wanting to modernize the canal administration, and there already are labor problems developing because there is a fear, I do not know how well justified, that if he is able to win a second term he is going to fire a large number of canal employees to try to keep expenses down.

But getting back to your point about the withdrawal of the United States, this of course poses an important challenge for the Panamanian Government and the Panamanian business community, to find new enterprises and new activities that will bring in foreign investment in very large amounts to absorb that \$250 to \$500 million that used to be put in by the American military. Some contracts have been signed and some plans are afoot, for example, to turn Fort Amador into a tourist resort. There is talk of converting some U.S. military installations into condominiums. There is talk of modified cruise facilities to increase Panama's tourist potential, which is very considerable.

I think Panama has many possibilities to, with the proper management and proper incentives to foreign and domestic business, to easily replicate the \$500 million that the U.S. military poured into the country. But it will not happen overnight and it may not happen at all. But certainly the possibilities are there, and I think that explains the nervousness of a lot of people in Panama about the potential of a zero United States military presence.

The CHAIRMAN. Dr. Pastor, do you anticipate that there is going to be an early urgent request for foreign aid for Panama after the withdrawal?

Dr. PASTOR. Well, I think that there may be, but I would not anticipate it would matter as much as the need for Panama to attract significant investment. I agree with Mark's analysis. I think the loss of roughly \$250 million a year will have an adverse effect on Panama.

But on the other hand, the canal is an extraordinary resource. It is not just a great waterway. As a container area, as a transportation hub, for tourism and eco-tourism, it could easily rival Costa Rica, which does remarkably well in terms of tourism. But it requires investment, and that requires some stability, which is one of the reasons that I would argue, as I did, for going ahead with the MCC. I think that will add a little more certainty, a little bit more stability.

I think Mark's concerns are good ones in broad terms. The original idea of the canal treaties was to turn it all over to Panama in the year 2000; let them run it completely themselves. And that was a good idea, but we did not fully anticipate certain things that have happened since then.

The CHAIRMAN. We certainly did not.

Dr. PASTOR. We did not anticipate Noriega. We did not anticipate the abolition of the Panama Defense Forces. And there is as a result a fair amount of uncertainty, which I think the MCC could help overcome and get them over this hump.

The CHAIRMAN. Who should help them?

Dr. PASTOR. With instability during this period—

The CHAIRMAN. Who should help them?

Dr. PASTOR. The Multinational Counternarcotics Facility could help assure a certain measure of stability during the next 3 to 5 years, which could, in effect, assure investors to come in and replace the funds that United States soldiers would have spent, but to do it on a more sustaining and a long term basis, and to help Panama become a Singapore, a great entrepot.

The CHAIRMAN. Well, I suggest that such a proposition for outlay of American taxpayers' funds would not be greeted with enthusiasm in the Congress of the United States. They better not count on too much cooperation from the Congress. There could be a whole lot of debate on that.

Now, when the treaty was signed it was expressly agreed, if I can find it:

Nothing in the treaty shall preclude the two sides from making, in accordance with their respective constitutional processes, any agreement for the stationing of any U.S. military forces or the maintenance of defense sites that the two sides deem necessary or appropriate.

That seemed to me to be an anticipation that this thing might not work out. Article 5 of the Neutrality Treaty stated clearly that—here I quote again:

After the termination of the Panama Canal Treaty on December 31, 1999, only the Republic of Panama shall operate the canal and maintain military forces, defense sites, and military installations within its national territory.

We all know that.

But in the light of all of this, if an agreement is reached, extending the United States presence in Panama beyond 1999, do you believe that such an agreement should be considered a new treaty?

Dr. PASTOR. I do not see any particular reason why it should. I think the first provision that you quoted and that Senator Dodd did before, as I recall, was introduced by Senator Nunn. And as I recall, the language there does not talk about a treaty. It talks about an agreement, which suggests that it does not have to be submitted to the Senate.

I frankly do not think that the MCC as currently being considered is of the weight that would justify the deliberations that the Senate undertakes on behalf of a treaty, and indeed I think there would be some liabilities to doing that in the sense that debate would be stretched over a period of time, and it is in our interests to move as expeditiously as possible to complete the negotiations and implement the agreement as soon as possible.

Dr. FALCOFF. I wonder if I could comment, Senator. Others are very vain about their books. I wonder if I could just read a couple sentences of mine about the MCC.

The CHAIRMAN. Sure.

Dr. FALCOFF. Thank you.

The center would have nothing whatever to do with factors affecting Panama's success or failure as a nation. It would not affect the administration of the canal for good or for ill. It would contribute nothing to the management of the environment. It would not replace the Panamanian Army nor play a role in securing Panama's southern border against drug traffickers. It would not even be in a position to act effectively in cases of civil disorder, since the infantry and military police components would be minimal or nonexistent. Even the direct economic benefits of the center would be minimal since it would consist only of 2,000 people, many of them on hardship tours and therefore unaccompanied by their families.

Now, certainly from a marketing point of view for the Panamanian Government, such a center would be useful and when traveling abroad people would not know all the details about the center, that it would be mostly Air Force personnel, that they would have a very limited mission. They would just say, we have American troops in Panama, and it might help them get some investment by people who do not look very carefully.

But I would be very hesitant to pin much hope for the stability of Panama on the MCC.

The CHAIRMAN. Admiral Moorer, in your excellent statement you referred two or three times to a matter that seems not to be troublesome to the administration or many people in Congress. It is troublesome to me. You referred to the fact that the Panamanians have provided a contract to a company that has direct ties to a company in Communist China, which has direct ties to the government of China.

Now, what details can you add to what you said in your statement?

Admiral MOORER. Mr. Chairman, from an overall point of view the Panamanians, undoubtedly swayed by \$22 million a year, have

in effect permitted the Chinese government, through an arrangement of controls and contacts, to for all practical purposes wind up as the managers of the canal. They have rights in this agreement with Hutchison, they the Chinese do, to dispose of any assets to another country if they want to.

I think it is disastrous, and I am amazed that the Panamanian Government would permit this, what is called Law 5, to be enacted. And the United States sits here sitting on their hands and has not done anything about it, either.

Another point I will make in passing. No one has mentioned the physical condition or the mechanical condition of the canal.

The CHAIRMAN. That was going to be my next question.

Admiral MOORER. Sir?

The CHAIRMAN. That was going to be my next question.

Admiral MOORER. I was going to say that while the treaty was in effect the canal has deteriorated significantly and the Panamanians do not have the know-how or the funds to keep it in proper conditions. Somebody is going to have to help them when it gets to the point it cannot even be operated if it continues in its deterioration, and maybe the Chinese will do it if they want to ask them to do it.

The CHAIRMAN. Well, San Francisco had about the same problem with the little deal out there, too.

Chris.

Senator DODD. Well, thanks, Mr. Chairman.

As I understand it, by the way, the administration is probably going to do this Multinational Counternarcotics Center by executive order rather than—executive agreement, excuse me, which I hope will have a chance, Mr. Chairman, even if it is done by executive agreement, that we will want to have maybe a hearing or two just on that, what is involved in it. It seems to me that, while I am not enthusiastic about going through a treaty route on the narcotics center, it certainly I think would be appropriate for us to want to know in more detail how this is going to work and what would be done.

But I just raise that as what I have been told, anyway.

I want to pick up on the last point the chairman has raised. It seems to me one of the greatest threats to the Panama Canal may not be outside political influences, economic or otherwise, but the condition of the canal itself and particularly what is happening in Lake Gatun, where the ecosystems are collapsing. Obviously, the entire canal depends upon the success of that lake, the tides and so forth, to provide the amount of water there.

I, having gone back and read David McCullough's *Pathways Between the Seas*, you go back and you appreciate the efforts of the French and so forth who predated our involvement in the canal and the herculean efforts to build this ditch was remarkable—it is a great story. But obviously the success of it is going to depend more on what Mother Nature decides to do and how we cooperate with Mother Nature and make it possible for these water supplies to continue to flow freely.

I wonder if you might comment, any of you who are knowledgeable. I know, doctor, you spent some time talking about this.

Dr. FALCOFF. Yes, I have a section in my book on that.

Senator DODD. I know you do, yes. It seems to me we may be talking about a moot issue here, people owning ports and everything else, and if you cannot get the water into the canal this thing becomes the ditch again.

Dr. FALCOFF. Well, the first thing to say is that every ship that passes through the canal pushes out 52 million gallons of fresh water. So that water in the lake has to be replaced, obviously, for the proper functioning of the canal, but also to supply the Panamanian cities with fresh drinking water. Over 50 percent of the population of Panama lives in cities.

Up to 1978 when the treaties were ratified, one could fly over the area in a helicopter and see right to the chain link fences where the U.S. Army authority began, since the effects of slash and burn agriculture were evident right up to the barrier. Since 1978 the fences have been removed and slash and burn agriculture has proceeded apace.

There are differences of opinion, Senator, on just how serious the ecological crisis in Panama is. However, in going back and looking at the hearings of this committee in 1977-78, I was interested to see that this issue was raised at the time. It was not ignored. It was just that it was kind of swept under the rug.

Well, now what we have is a situation where, unless something is done to arrest ecological decline, there will be a serious water shortage. The politics of environmentalism in Panama is not encouraging. I could go on on this in great detail. The book talks about it. The Panamanians understand they must do something about this and they have said they will. I hope they will.

But there are alternative shipping technologies available and the international shipping community has told the Panamanian Government that if they are not serious about this effort that this canal will become obsolete indeed.

Senator DODD. Do you have any sense of this? Maybe it is in the book, and I do not recall it. But is there some time period that experts, knowledgeable people looking at just this issue, would share in terms of how short a time span we are looking at before, assuming you have a continuation of the slash and burn?

Dr. FALCOFF. I quote in the book a couple estimates having to do with where we are on the environment. But as I say, there is no—well, I will read you this:

Whereas in 1952 some 85 percent of the Chavez River basin was covered with forests, by 1983 the figure had fallen to 30 percent, by some estimates to 20 percent.

I go on to say:

Although there are no accurate figures for the rate of deforestation, various extrapolations suggest that the basin may be virtually denuded by the twenty-second century. Deforestation has a negative impact on rainfall and, even more important, fosters erosion and the buildup of sediment in the lakes, which creates problems for navigation. Frequent dredging is expensive and introduces delays that detract from the canal's competitiveness with other forms of transoceanic shipment.

It is like the maintenance issue, Senator. You can get very different opinions from different people from the shipping industry, from the canal commission itself, from the Panamanian Government, from the United States Army Corps of Engineers. You can get different estimates about how well the canal has been maintained since 1978. None of them are completely and robustly positive, but some are modestly positive, some are not.

We really ought to ask the experts to come in and tell us more.

Senator DODD. Well, I appreciate you making that last point, too, because in fact I have been down a couple of times and been impressed by the professionalism of the commission and the people around it, many of whom of course have worked for years with the United States when we were operating the canal. So they did not come de novo to this process.

It is just a factor of years. There is a deterioration that occurs, obviously, and that will happen. But I think, in fairness to the Panamanians, I think there is a degree of professionalism. They obviously appreciate what value this has to them economically. In the absence of this, it is a major disruption. So any intentional disruption of the use of the canal, while it obviously poses problems for us and others that are of major concern, for them it is catastrophic in proportions if it does not work. So that motivational factor I think ought not to be disregarded in talking about what Panamanian interests are going to be here as they look to the maintenance and operation of this facility and obviously the importance of preserving it from potential disruption by outside interests that may have other strategic goals in mind. That ought to be, I think, kept clearly in the forefront of our minds as we discuss this.

I would be remiss if I did not also suggest here in the hearing how fortunate we have been to have Bill Hughes as our Ambassador in Panama, who has done a wonderful job in my view down there raising these issues and highlighting some of the very specific concerns that we should have.

I do not disagree with you, Bob. I think your point, and I know you make it with an obvious degree of some reluctance, and that is that we have not, and in my view as well, paid the kind of attention—too often this happens. It is not unique to Panama. We get involved in an issue here and we focus on it, Mr. Chairman, and it becomes the hot issue of the day and once it is “resolved” one way or the other, we sort of move on, and we wait for the next crisis to emerge before we respond to it here.

Certainly in Panama we have responded during the Noriega years, but then have sort of backed away again from the kind of sustained interest in seeing to it that these treaties would not just work in terms of a treaty working, but also that the canal would be working as well as it could be.

So I take your concerns that you have raised here to heart, and I am sure those who are listening to your comments will as well. And with 18 months to go, there is time here to take some positive steps that could certainly correct or at least moderate some of the problems that have emerged over the past 20 years.

So Mr. Chairman, I again thank you immensely for the hearing here this morning and appreciate immensely the testimony of our witnesses as well.

The CHAIRMAN. We will not keep you for but just a little bit longer.

Admiral Moorer referred, and I saw the media show some interest and start scribbling on it. He said, additionally the bid process for port control in the Canal Zone has been flawed, and then he said:

That is a nice way to put it. Bechtel, for instance, reportedly won the bid on four occasions, but the bids were set aside, and we know now why. Bechtel bid \$2 million yearly, Hutchison-Whampoa bid \$22 million annually, beating out Bechtel on the last bid process by a whopping \$20 million yearly.

Now, it is your understanding, and from what little we have been able to find out—and we have got some direct formal inquiries in process now—Hutchison-Whampoa is the concern that has ties to Communist China, is that right? Is that what you are saying?

Admiral MOORER. Yes, sir.

The CHAIRMAN. Why do you not extrapolate a little bit more.

Admiral MOORER. I think that, according to this writeup that I have, that the Panamanians in effect, lured on by the \$22 million, agreed to practically every request that the Chinese submitted. When I read about this activity of the Hutchison-Whampoa group, I was absolutely astounded that it was allowed to get as far as it did.

I understand that the American ambassador was not aware of what was going on and that also the Panama Canal Commission told an individual he had never heard of it.

The CHAIRMAN. Well, they were in slumberland. What does that indicate to you, Dr. Falcoff?

Dr. FALCOFF. Well, the way I read it, Senator—

The CHAIRMAN. The Admiral has got a point here and I hope that the media will emphasize this, because whether we pretend to care about it this morning or not, the Chinese having control of the Panama Canal could be exceptionally dangerous for the United States and our interests. That seems to be just ignored like a ship passing in the night.

Now, what do you know about this?

Dr. FALCOFF. Well, a couple points, Senator. A couple points, if I may. First of all, I think that the bidding process illustrates one of the problems that Panama will have in administering all of the facilities being turned over to it, namely corruption, payments under the counter, and so on. This is not new to Panamanian politics.

The difference is that if you take a lot of bribes in the selling of public facilities, those facilities probably cannot be run efficiently, and that is going to be a big problem for Panama.

The CHAIRMAN. And for the United States.

Dr. FALCOFF. Yes, but less so, sir, for the United States than for Panama, because in fact there are new shipping technologies, such as the double-stacking of CONEX containers on rail cars and air shipment, which are making some kinds of transportation competitive with the canal. If the canal is delayed or shut down, of course there will be serious problems from a naval point of view and serious problems from the point of view of some products. But of

course, under the best of circumstances supertankers cannot even go through the canal. Neither can aircraft carriers. Some items of high value, low volume, can be shipped by air very profitably.

It is a problem for us, but it is much more a problem for Panama in my view.

Now, as to the strategic aspect of it, I have to say that I am not a specialist on China. I did consult with some people who were, whose opinion I trust, and they were not as concerned, if I may say so, about the strategic aspect as Admiral Moorer and some other people are. That is the best answer I can give you to that question.

Dr. PASTOR. I think it is useful to distinguish the economic and the strategic element. From a strategic standpoint, the Panama Canal Treaties give us adequate authority to defend our interests, to keep that canal open. I have no question that we will continue to use that if they are threatened in any way. So we have all the rights that we need to defend the canal.

From an economic standpoint, the real question is what does this investment imply? I mean, it is not a surprise that the Panamanians would want a bid ten times higher than another bid. I have not looked into this particular company very closely, but it is a very large shipping and construction company. They now have a stake in making sure that the canal works well in order for them to recoup their own investment, and Panama does as well.

Panama, as Mark has pointed out, is in a competition. This is not the only transportation link between the oceans. There is a land bridge. There are a lot of other alternatives.

So I think they understand how vital is this resource and the need to remain competitive. And that will impose on them a degree of austerity or rules that will ensure that if they do not do it right they are going to be the ones that will pay the biggest price.

The CHAIRMAN. I want you to comment on that, Admiral. But to the extent that it is the dangerous thing for the United States potentially, it is a bargain for China and a bargain for Hutchison-Whampoa and everybody involved in that transaction. I think that is what you are saying, is that correct?

Admiral MOORER. That is right. Also, Mr. Chairman, if I may, I would like to point out that there is far more going on here than meets the eye. A company called Panama Ports Company, affiliated with Hutchison-Whampoa, Limited, through its owner Mr. Li, who is well known as being super-rich, currently maintains control of four of the Panama Canal's major ports. And now Panama Ports Company is 10 percent owned by China Resources Enterprises, the commercial arm of China's Ministry of Trade and Economic Cooperation.

On July 16, 1997, Senator Fred Thompson was quoted by the *South China Morning Post* as stating that China Resources was "an agent of espionage, economic, military, and political espionage, for China." And further, the same newspaper article said that China Resources "has solid relations with the Lippo Group."

The CHAIRMAN. We are going to continue to followup on that.

Admiral Moorer, I agree with you. I cannot see why it is helpful to the United States at all. We sort of need some help once in a while in foreign affairs.

Anybody got anything else to add? I say very often that the best speeches I ever made are the ones driving home after I have made the speech. I say: Why did I not say that? Do you have anything to add, Dr. Pastor? And incidentally, we are glad to have you here.

Dr. PASTOR. Well, thank you very much for saying that. I find it a special treat that, on the principal question that you put before us on what the U.S. should do with regard to the MCC, the counternarcotics facility, that we are in agreement, Mr. Chairman, but not with my two panel members.

The CHAIRMAN. Dr. Falcoff?

Dr. FALCOFF. No, Senator. I merely want to thank you for this opportunity, and I hope that you will call on me again if you need me.

The CHAIRMAN. You bet.

Admiral.

Admiral MOORER. Yes, sir. I want to point out that it is ridiculous to compare air transport with shipping transport. You are comparing ounces with tons. The United States really cannot fight an effective war. There is another factor that no one brought up, and that is that the oil from Alaska has to go through the canal because most of the refineries are in the Gulf. And there are several other things that make it vital that we have access to the canal and have the canal running.

I think that, as I said a while ago, that if we were in an emergency of the level of World War I or II and did not have that canal, we would have to take it.

The CHAIRMAN. On that note, we will bid adieu. Seriously, thank you, gentlemen, for coming this morning. We may ask you to come again after the full committee considers the testimony that the full committee and the majority missed. There being no further business to come before the committee, we stand in recess.

[Whereupon, at 11:59 a.m., the committee was adjourned.]

APPENDIX

Replies of Admiral Thomas H. Moorer, (U.S.N. Ret.) to the Comments of Hon. William Hughes, Ambassador to Panama, Upon Adm. Moorer's Testimony Before the Foreign Relations Committee of the United States Senate

[Ambassador Hughes submitted written comments for the consideration of the Committee, which are included in the record by the Chairman.]

Date of Original Testimony: June 16, 1998

Date of Replies: August 20, 1998

(Also included: Comments of William Bright Marine, a Panamanian-American dual citizen and businessman, and a candidate for the presidency of Panama)

Opening Comment of Ambassador Hughes:

The Chinese and the Ports: A Threat to the Canal?

In his June 16, testimony before the Senate Foreign Relations Committee, Admiral (ret.) Thomas Moorer asserted that the contract between Panama Ports Company (PPC—a subsidiary of Hong Kong-based Hutchison Whampoa) and the GOP [Government Of Panama] grants PPC rights which could affect the security and operation of the Canal, in conflict with the Panama Canal Treaties. The contract was given legal effect as Panama's Law #5 of January 1997. In assessing the Admiral's concerns, it is useful to note that the Canal and the ports at either end of it are separate and distinct entities, and ships transiting the canal are not required to go through PPC ports. Ships entering PPC ports, however, do transit the Canal channel. Port tugs operate within the ports, in turning basins adjacent to the Canal, but do not disrupt the normal transit of ships through the Canal channel. Many of Admiral Moorer's comments focus on possibilities that could arise in managing the traffic.

Admiral Moorer Replies:

Any one who has been involved in logistic planning where the time of transit from sources of supply to the deployed forces is so critical, knows the danger faced when choke points are controlled by unfriendly forces. In the case of the Panama Canal any entity that controls the anchorages has the capacity to control and disrupt the flow of shipping. Panama's recent Law #5 does just that. It gives the PPC, closely allied with the commercial arms of the Chinese military, (As has been recognized in the maritime press and by Senator Thompson's committee, among others) control of the anchorages and anchorage area. Thus the distinction made by Ambassador Hughes between the ports and the canal proper is evasive and irrelevant. The capability to interfere with U.S. National Security that was so carefully guarded against by the terms our Senate put into the treaty with Panama is the problem here. It is Law #5 which creates that capability of interference with that security and which, therefore, violates the treaty. In the event of a military confrontation in the Pacific, (e.g. Taiwan Straits or Korea) the large number of logistic ships required to support our deployed forces in the western Pacific must have available to them unfettered transit of the canal from a matter of hours to a maximum of ten days to sustain combat effectiveness. The forward deployed forces in the Eastern Mediterranean (NATO) or the Persian Gulf require the same assurances for logistic resupply from the Pacific to the Atlantic through the Canal. Control by a hostile power of the approaches to the Canal and the anchorages that would interdict the timely transit of those ships could require taking the facilities by force at a high cost in American lives. It is not "managing traffic" under normal circumstances with which I am con-

cerned, it is the ability of a potential enemy to disrupt traffic so as to block military supply, which in times of conflict is 80 to 90 percent dependent upon sea lift capability for there to be any sustained forward effort.

Mr. Marine Comments:

Law #5 is not only for the ports, but includes other areas as well. The anchorages are located at each end of the Canal and on the Atlantic side ships using the Canal must go through the breakwater and anchorage area. Hutchison Whampoa (PPC) controls the anchorage areas. Law #5 allows PPC to cite interference in the areas that they control and take action to block that interference. The Panama Canal Commission proper (PCC as opposed to PPC) does not take control of a ship until it enters Canal waters. Thus ships that are barred from entering the anchorages are effectively blocked from use of the Canal.

Ambassador Hughes:

Institutional Framework:

It is also important to understand the subordinate relationship of Law #5 to the Panama Canal treaties, the Panamanian Constitution, and the Panama Canal Authority (PCA) Organic Law (Law 19 of June 1997). Under Panamanian Law, treaties and international agreements have precedence over Panamanian domestic laws, including Law #5. Article V of the agreement in Implementation of Article III of the Panama Canal Treaty specifies that any changes made in the ports requires PCC review and approval. Furthermore, any conflict between Panama's Constitution and Panamanian law is resolved in favor of the Constitution. Article 310 of the Constitution states that "Any plans for construction, the use of waters, and the utilization, expansion, and development of the ports, or any other work of construction along the banks of the Panama Canal shall require the prior approval of the Panama Canal Authority."

Admiral Moorer Replies:

This is hardly reassuring when one considers that Law #5 itself, giving effective control of much of the Canal to a Chinese Communist business front, is itself a violation of the Panamanian Constitution, which requires a plebiscite to enact such a provision affecting the Canal. It is misleading to speak of institutional structures in this regard as well. The only "institutions" that could enforce such a purported violation of the Panamanian Constitution, short of effective enforcement by the U.S. Government for violating the Canal Treaty in the first instance, would be courts. No one would be likely to have standing to enforce such a Panamanian constitutional violation in a U.S. court and there is not a shred of evidence that such a law could be enforced in Panamanian courts, (if that could be done at all given the forcing out of honest judges in recent years in Panama,) within a time frame that would protect our national security. The idea of having to go to court in any country to support our forces world wide (Army, Navy, Air Force and Marines) in the event of a major contingency or attack under our forward deployed strategy is sufficiently unworkable as to only have to be stated to expose its lack of practicality in the world of *realpolitik* or military conflict.

Mr. Marine Comments:

Panama's Constitution has not proven to be a deterrent to anything and has been violated often with impunity. A perfect example of this is that Panama's Constitution was violated by giving China Law #5. Under Article 319 of the Panamanian Constitution: "Any treaty or international agreement celebrated between the Executive Branch regarding the Canal, its adjacent areas and the protection of such Canal, also the construction of a sea level canal or the third set of locks, must be approved by the Executive Branch and then must be approved via plebiscite no sooner than 3 months after the Legislative Branch approves such agreement. No agreement having to do with a treaty or international agreement will be valid unless the above article is implemented. This article must also be applied to any contract that the Executive Branch enters into with a public or private company or those that have to do with other nation or nations, regarding the construction of a sea-level Canal or the third set of locks." Obviously this provision was no bar to either Law #5 or the contracts with PPC and the Constitution is paid about as much attention to as the advice in a Chinese fortune cookie.

It is true that Law #19 requires that any major change in the Canal ports be reviewed by the Panama Canal Commission, which is still at present, according to the Canal Treaty, a creature of U.S. law. But despite the presence still of U.S. law, it is not being enforced. The environmental impact statements, for instance, required by U.S. law, are nowhere to be seen in the massive work already done by Hutchison

Whampoa companies in building extensive new piers in the ports and creating very large landfills. The reason for the landfills clearly affects U.S. national security. The largest one was allowed when Hutchison, in cooperation with four Panamanian entities, was thwarted by Panamanian popular opinion and outcry in taking over Albrook Station military air field. The Panamanian public rebelled at the idea of a Chinese Communist related company being given a substantial ownership of a huge military airfield when it was supposed to be in the port business. But then, in its place, Hutchison is being allowed to build a huge landfill at the port, a project initiated with no forethought and one which appears to have no relationship to ocean shipping and to be an environmental nightmare. For "giving up" its Albrook participation Hutchison Whampoa got something else in exchange as well, in the form of a 60 million dollar discount on its promised annual payment to the Government of Panama from its concessions, thus causing the Government of Panama to bargain with itself and give up a very large portion of what it supposedly gained in the very large bid it got from the Hutchison Whampoa interests for giving up all of these concessions. This is just one of many steps where the Communist Chinese government appears to be shaving back its overwhelmingly larger monetary bid with which it bought Law #5 and it illustrates how the institutional structure is working against and not for both U.S. and Panamanian national security. For there is nothing to prevent Hutchison Whampoa from participating in owning Albrook, and possibly Howard as well starting when the U.S. leaves in 2000, or, for that matter, from building a military airfield on the landfill later on. The intention has been revealed. It is just a matter of when the Hutchison and its Panamanian allies feel they can get away with it.

Was the Panama Canal Commission (PCC) involved in the negotiations over these matters? To my knowledge it was not. There is also extensive work being done at Amador, a military base of enormous strategic importance, historically and even today, which is right at the entrance to the Canal. No environmental studies are being done as this work forges ahead. This project is owned and is being managed by private entities controlled by Panama Canal Commission Administrator Aleman Zubieta and came to him after he dropped his initial opposition to Hutchison interests being given the ports they now control and all of the contractual and service rights which they received. The work has an ostensible commercial purpose which appears to be simply a "scam", because at bottom it makes little commercial sense as presently conceived though it makes excellent strategic sense. The idea being publicized is that this will be a resort development with hotels, casinos and other attractions for cruise ships and that the development will include a cruise ship port. This appears to be a pretense because Amador includes a causeway three miles long that protects the Canal entrance. On the other side of the causeway is Panama Bay, where the water is heavily polluted by the raw waste of Panama City, which is pumped directly into it. Though the scenery is magnificent, what kind of resort can you build on the shores of what amounts to an unfiltered, untreated sewage dump? Despite this the first Panamanian administrator of the Panama Canal Commission, Alberto Aleman Zubieta, has made no comment about this project and its commercial impracticality as presently conceived and about its environmental dangers. Why? Surely one of the reasons is that, since these matters began to develop, his private company, CUSA, which he operates in addition to being head of the PCC, has received a 24\$ million contract to tear down the existing facilities there, which are valued at several hundred million dollars, a project that again does not make commercial sense. The Panamanian government received a 69\$ million loan for the purpose of making Amador a tourist development So the 69\$ million covers the 24\$ million. In my opinion, based on experience and history, the insiders are going to drain off the 69\$ million to themselves and their associates and the project will founder and have to be bailed out. This will increase the security threat not decrease it and it shows how the "institutional structure" is working.

Though the Panama Canal Commission itself is still a joint U.S.-Panamanian project, it also illustrates how the "institutional structure" is operating to make matters worse not better, contrary to the position of Ambassador Hughes, that the Panama Canal Commission will cease to exist as the Treaty reaches its conclusion and will be replaced by the Panama Canal Authority (PCA). Who is the President of the PCA? Jorge Ritter. He is the chief Panamanian negotiator who has purposely torpedoed base talks in Panama, even though 80% of Panamanians want the U.S. to stay. He has been tied by the Panamanian press and the outside press to the highest levels of the drug cartels, and he served as Panama's ambassador to Colombia during the time that the dictator Noriega was doing business with the drug cartels in Colombia. He was more than an ambassador, he was Noriega's point man in Colombia. Another incident involving Jorge Ritter was reported in the *Miami Herald* about six months ago: Ritter provided Gaucha (Capo of one of the drug car-

tels) with a Mercedes. It was also reported that when the drug capo Jorge Escobar was killed in Colombia, they found a Panamanian Cedula (ID card) on him. It had been procured for him by Ritter. Escobar was the most violent capo and the enforcer for the drug cartels. It was he who had even blown civilian airliners out of the sky in Colombia. So this is the institutional structure that is in charge, a threat to the security of both Panama and the U.S.

Ambassador Hughes:

When Law 5 was being debated by the Panamanian Legislative Assembly, PCC officials arranged, with the complete knowledge of Panama Ports Company, for an override provision ensuring PCA [Panama Canal Authority] authority. Article 2 of Law 5 states: "Pursuant to the provisions of Article 310 of the Constitution, whereby the Panama Canal Authority is established and granted attributes and responsibilities, and also by virtue of the close ties that exist between the activities of the Authority and the operation of the ports adjacent to the Panama Canal, the contract contained in this law is approved under the condition that none of its clauses may be interpreted in a manner that is contrary to the attributes, rights, and responsibilities that are conferred upon the Canal Authority in the referenced constitutional provisions or in the law whereby the Authority is organized, especially in relation to the use of areas and installations, marine traffic control and pilotage of vessels transiting the Canal and its adjacent ports, including its anchorages and moorings. In any case, when a conflict exists between the stipulations of this contract and the law whereby the Canal authority is organized or with the regulations that develop such law, the latter shall prevail over the former."

Admiral Moorer Replies:

Again, there is no practical way to enforce this provision if a military confrontation necessitating transit of the canal to support our forward deployed forces should occur. I cannot emphasize too strongly that the national security requirements imposed by the Treaty speak to the allowance by Panama of the existence of the threat in the first place. It is mere capacity that threatens national security and that is barred by the provisions which this body added to the Treaty. Once the threat is in place those provisions of the Treaty are already breached. The violation that is thus created cannot then be cured by some abstract legal right that, as a practical matter, is unenforceable for lack of a timely remedy. Resort to litigation in some judicial or arbitration forum cannot be timely from a military perspective and, from such a perspective, is not sufficiently reliable for military planning. The impingement upon and interference with the operation of the Canal as threat exists by virtue of Law #5. In time of conflict there would be no practical enforcement of this supposed right short of armed seizure at the loss of American lives. I note that in this comment Ambassador Hughes is dropping his opening pretext that the ports and the canal are separate. His argument now shifts to admitting that they are not but that there is a legal right that would suffice for our national security. This shift is misleading.

Mr. Marine Comments:

When Law #5 was pushed through, the Administrator of the Panama Canal Alberto Aleman Zubieta freely stated that Law #5 that the agreement in the law should be canceled because it included violations of the Panamanian Constitution and the Panama Canal Treaty. He was quoted as saying this in an article reporting on his opinion about Law #5 in the Panama America (dated 4/15/97) by former Vice President (Christian Democratic Party) Ricardo Arias Calderon. I myself had learned this in a phone conversation with a partner of Aleman Zubieta prior to the publication of that article, i.e., that he was opposed to Law #5. It should be noted also that under the agreement of Law #5, even if the U.S. were to prevail upon Panama to override Law #5 provisions as violating the Panama Canal Treaty, that is a violation of the language of Law #5 which requires Panama must pay the Communist Chinese affiliated PPC and indemnify it for all losses incurred. So that here again the institutional structure behind Law #5 operates against and not for U.S. national security interests. Because this language would force the U.S. to financially damage Panama if it chooses to enforce the treaty over Law #5, in order to enforce the Canal Treaty by protecting its national security interests. Thus, in enforcing its national security interests the U.S., by the language of Law #5, would trigger the requirement that the Panamanian Government pay the front for the Communist Chinese military, engendering ill-will and providing fodder for the Panamanian extreme left. This extremely vocal minority of Panamanians loves to whip up an anti-gringo fever anyway in order to provide cover for its efforts to undermine the sovereignty of Panama in the name of its diehard attachment to its failed ideal of communism. The Panamanian hard left is very pro-communist Chinese despite the cur-

rent widespread resentment in Panama of the Chinese communist infringement upon Panama's national security.

Ambassador Hughes:

This article is specific as to anchorages, traffic control, and pilots, and is also quite sweeping [in] its overall scope. PCC officials are confident that these legal safeguards are adequate to protect future Canal operations. In the event of a conflict or a challenge by PPC, Clause 3.4 of Law 5 provides for arbitration "according to the Rules of Conciliation and Arbitration of the International Chamber of Commerce." Furthermore, "the seat of the Arbitrating Tribunal will be the City of New York, and the arbitration proceedings shall be in English."

Admiral Moorer Replies:

I am unable to understand how an American ambassador can assure the United States Senate that concerns of national security are alleviated by the fact that officials of an organization that has become increasingly responsive to the wishes of a commercial entity closely allied to, and virtually part of, the enormous business operations of the Communist Chinese military "are confident that . . . legal safeguards" *which they have negotiated without any participation by the United States, or without even keeping the United States informed, for that matter,* "are adequate to protect future Canal operations." It is not the question of specificity of reference "to anchorages, traffic control, and pilots" that is significant, it is that the specific references do not change the simple fact that a major strategic opponent is being given the capability to interfere with our unimpeded ability to use the Canal where the national security interests of the United States are concerned. And who gave Panama the authority under the Canal Treaty to agree to have matters arbitrated under the rules of the International Chamber of Commerce? Not only are such arrangements inconsistent with our nation's security, they are inimical to it. The International Chamber of Commerce has historically been disinclined to rule fairly in favor of U.S. interests and for that reason is often avoided by American business in its international dealings. This hardly augers well for our security interests as a nation.

Ambassador Hughes:

Pilotage

Following is a point-by-point commentary on the issues raised by Admiral Moorer. His first point was that the contract gives the company responsibility for hiring new Canal pilots.

Comment: Article 57 of the PCA Organic law, however, states that the PCA "shall regulate . . . navigation in the Canal, vessel transit, inspection, and control, and all other activities related to navigation in the Canal and adjacent ports, including maritime safety, pilotage, and the issuance of special licenses to pilots, mates, and operators of vessels and other floating equipment to work in the Canal." Implementing regulations, currently in draft, will establish PCA practice with regard to employment of pilots. However the law is implemented, PCA will have the final say.

Since the movement of ships to, within and from a port is critical for any port operator, it was logical for Panama Ports Company under Law 5 to seek to assure access to pilotage services whether from PCC/PCA or from its own pilots. It also sought guarantees of coordination with the PCC/PCA to assure "efficient" operation. Under current practice, pilots, who are employees of the PCC, board ships at Canal entrances and pilot them either in transit to the other end, or to dockside in the ports. Pilots in the ports, also employees of the PCC, move ships for activities like loading and unloading.

Law 5 establishes PPC's right (Clause 2.10c) "to have and operate, under a separate concession from the National Port Authority . . . pilotage services. It also (Clause 2.12i) obliges the GOP to "guarantee, at the election of the customers of the Company and on a non-discriminatory basis, the services of the pilots appointed by the PCC or its successor [the PCA, headed by Jorge Ritter, Noriega's drug ambassador to Columbia], and to provide such pilotage services in accordance with established standards." But "If service levels are not obtained by the customers of the company, then they will have the right to directly hire the pilots they deem necessary for performance of such services." Since coordination with the PCC/PCA is critical, Panama Ports Company also sought (Clause 23.12j) to oblige the State to coordinate with the PCA/PCC pilotage services in port. Again, if service levels were not obtained, the "the Company may ask the State, and the State must provide to the Canal Commission or its successor agency sufficient additional pilotage resources to allow it to provide efficient service at a reasonable cost." Such services would be provided in accordance with applicable Canal regulations and procedures.

Admiral Moorer Replies:

It takes a long time to train a pilot for any particular waterway. Piloting skills are irreplaceable in a short span. This is even more critical for a "lock" canal where pilots are normally granted complete control during a ship's passage. The mere power to train its own pilots in an operation so closely tied to the PLA as the PPC is, will be a threat to our national security. But now we learn from William Bright Marine that Panama has agreed in Law #5 to allow Communist Chinese affiliated Hutchison to retain and use its own pilots, thus giving it the right to train pilots. All Hutchison has to do is to state that its (Hutchison's) customers are not satisfied with the performance of pilots provided by the Panama Canal Commission (which will become the Panama Canal Authority once the U.S. leaves.) Hutchison's customers include COSCO and many other arms of the People's Liberation Army, as well as those entities so anxious to do business with Communist China that they are willing to compromise the security of nations to please the Chinese Communists. In the meantime the training of pilots by the PCC is declining as the U.S. departure nears. It is easy to see where this is headed—toward *de facto* control of pilotage by Hutchison, which is subservient to the interests of the Chinese Communist military and its strategic goals. In the Vietnam conflict the President authorized the mining of Haiphong Harbor with a proviso that mine activation be delayed to allow sufficient time for neutral merchant ships to leave port. The Vietnamese, not wishing to lose the material in the unloaded ships, precluded their timely departure by the simple expedient of moving the qualified pilots up river out of the reach of those ships. The pilot issue is one that should not be avoided or evaded by an American Ambassador. To do so is to place us in a position where hostile action by Communist China, e.g., against Taiwan, could only be dealt with by the use of massive military force under extremely adverse conditions to retake the Canal with a large cost in American lives and extensive collateral damage to non-combatants—to Panamanians, to Americans, to other allies and to ships of other countries.

Mr. Marine Comments:

It takes six (6) years to train a Canal Pilot. The effect is to grant control of pilotage, along with other crucial services, to the PLA affiliated Hutchison Whampoa operations within the near future. This combines with control of facilities and land which would render U.S. forces incapable of forcing the passage of the Canal and landlocked, so that Panama's national security would be endangered by the high cost the American military would have to pay to open the canal, including having to bring pilots out of retirement or otherwise secure pilot services at a corresponding cost in efficiency of operation. The danger for Panama is that the cost to America to protect the Canal would be raised so high that America might acquiesce in actions which would lead to effective, non-American foreign control of Panama.

It should be noted that in Law #5 paragraphs in 2.12 I and J are identical but for one important omission. Under J the language states "port pilots", under lit just states "pilots." Both sections state, it is true, that the rules must be enforced that the Panama Canal has in place. This was a concern to the U.S. embassy, I grant, and the embassy's copy of Law #5, when it finally got it, shows underlining under these provisions. At present under these regulations, when a ship comes into a port, a Panama Canal Commission brings it in. When the ship then leaves a port to transit the Canal, a Panama Canal Commission also takes it To reach the ports on the other side the ship must travel through Canal waters. But, under this article all the Hutchison company has to do is declare that its clients are unhappy with the existing services and it can name its own pilots. Hence the contracting of the training for the pilots to Hutchison Whampoa. We see in the figures given by Ambassador Hughes that a very large number of communist Chinese ships transit the Canal each year and, of course, these ships are ships of COSCO, another branch of PLA, Inc. So if the ships run by the Communist Chinese military declare that they are unhappy with the pilots from PCC/PCA, under Law #5 the communists can simply train their own. Remember these are the folks that, under a similar system, crashed one of their ships into the shopping center on the New Orleans levee. The PPC pilots could do the same and put the Canal out of commission. Under the guise of privatization, Hugo Torrijos and President Balladares placed in Law #5 this provision to allow themselves and their partners in the Communist Chinese affiliated Hutchison interests the contract for pilotage in the Canal. PCC is presently negotiating a contract with the pilots and has already proposed allowing the ship captains to pilot the boats through the Canal, and privatization of pilot services.

Ambassador Hughes:*Anchorage*

Admiral Moorer maintains that the contract grants the company control over critical Atlantic/Pacific anchorages, including a monopoly on the Pacific side when Rodman Naval Base reverts.

Comment: Since Law 5 is a concession to manage ports, it does give PPC control over areas and facilities needed to that end. However, Article 58 of the PCA Organic Law provides that "all vessels or craft transiting or moving in Canal waters, anchorages, mooring stations, and the ports adjacent to the Canal shall be subject to the orders and supervision of the Traffic Control of the Authority, in accordance with the Regulations." Thus the PCA retains control over anchorages."

Regarding Rodman, Clause 2.1 of Law 5 states: "It is agreed that during a period of three years from the effective date of this contract, the State shall not grant the right to operate quay-side cargo handling businesses (including general cargo, container, passenger, bulk and roll-on/roll-off, but excluding fuel warehousing and supply activities) in the area of Rodman Naval Station to any individual, corporation, or incidental party without first giving the Company the right of first refusal to operate this business in the Rodman Naval Station, on the same terms and conditions no less favorable than those offered by the third party or parties, as the case may be."

This provision clearly represents an effort by Hutchison to deter competition on the Pacific side, and was controversial because it was not included in the original bidding terms. At the time Law 5 was negotiated, Manzanillo International Terminals (MIT) was negotiating for the right to develop a competitive container port in an area just north of Rodman. However, in a preliminary assessment of MIT's proposal, the PCC noted that MIT might have to dredge a new turning basin at a location acceptable to PCC to avoid interfering with Canal operations. It further noted that the proposed third set of Canal locks, if constructed, would pass through the Rodman area. MIT concluded that its proposal was unfeasible. Subsequent to passage of Law 5, the GOP granted a concession at Rodman to Alireza Mobil Terminals (Operator of Arraijan Tank Farm), which is already using two piers to provide bunkering (fuel) services, and has additional plans to develop the waterfront area, but presumably not in a manner that would trigger Panama Ports Company's right of first refusal.

A study performed by the Japanese International Development Agency found that Farfan, beyond the Bridge of the Americas, on the Pacific side, is the logical area for long-term port expansion, though such development would require considerable investment. Farfan is nowhere mentioned in Law 5, and PPC has no rights vis-a-vis Farfan. Thus, a long-term PPC monopoly on the Pacific side is by no means ensured. The bottom line is that competitors would have to invest considerable sums to compete with PPC's Balboa operations.

With regard to competition at the northern terminus of the canal, Taiwan-owned Evergreen and U.S.-owned Manzanilla International Terminals already compete with Panama Ports Company.

Admiral Moorer Replies:

I speak of our national security and the Ambassador answers by speaking of the lack of commercial competition and the possibilities for capital-intensive expansion of port capacity. This does not answer what I have said, it evades it. Granting the right to take over Rodman is a threat to our security because of its location and the facility that it is. If the PLA wants Rodman for strategic reasons, it can have Hutchison Whampoa take it and use it for its strategic purposes, that is the bottom line.

Mr. Marine Comments:

As a practical matter, and under Law #5, Hutchison Whampoa's company can interfere with ships coming into the anchorages by simply claiming interference. Thus the Panama Canal Commission has lost effective control, regardless of how responsive it might wish to be to U.S. national security interests, if that can be safely presumed.

The effect of the first right of refusal as granted to Hutchison Whampoa's company is to give this affiliate of the PLA control without having to put up any investment. The pattern that is shaping up is that, much in the manner of the shrewd traders of the Soviet Empire in its heyday, Hutchison Whampoa will control the situation, shave back what it is obliged to pay and generate income from controlled Panamanian assets to finance the exercise of options and other avenues of expansion. The degree of PLA control, and the overall giving in to its strategic purposes is revealed by the fact that Rodman was not put on the table for bargaining in the

attempts to bargain with other possible licensees of the ports in their negotiations with Panama, but it was not only put on the table, it was negotiated to Hutchison Whampoa.

A Senate report tells how MIT was coerced out of the Law #5 bid by Gabriel Castro, National Security Advisor to President Balladares. It seems that Sr. Castro is not interested in the national security of either Panama or the U.S. but rather the strategic goals of Communist China. Communist Chinese Ambassador Ju stated in an interview in *La Prensa* that Gabriel Castro was the best friend that the PRC had in Panama. There was protest which resulted in Rodman being offered to MIT, but when the Chinese Communist affiliates learned of this, they threatened to pull out with their payments above and under the table. So the Communist Chinese allied Hutchison Whampoa controls Rodman until after the U.S. leaves, at which point they will use further bribery to keep it under their control. So far the arm of the Communist Chinese has gotten whatever it wanted in implementing the Law #5 agreement. To assist the Chinese Communists, the Balladares gang has thrown other companies out of the ports, raised rents on still others and has allowed the Chinese Communist affiliate to exercise its option on Telfers Island. The Communist Chinese have been allowed to order the Panama Canal Commission out of their ports, thus creating large zones into which anything, including armaments, could be shipped into the sealed port zones in sealed containers and remain there indefinitely without monitoring or examination.

Admiral Moorer Inserts Parenthetically:

Such sealed containers could contain missiles with nuclear warheads that could be easily launched to reach targets within the continental United States. This is another reason for a continued U.S. presence to prohibit the ability of the Chinese to take control in a military way. Otherwise the Communist Chinese would be on the spot while we would be faced with the need to remove them by moving troops from a distance with attendant loss of life to American soldiers, sailors, marines and airmen.

Mr. Marine's Comments Continue:

Ambassador Hughes is correct about the expense of developing Farfan, but this illustrates that it is an illusion to maintain that there is much of an opening for competition. The overall effect is clearly to give Hutchison Whampoa interests control of all important strategic areas. We also note that the Communist Chinese affiliated Hutchison Whampoa interests are introducing Communist Chinese labor practices, to further gain a competitive edge to their commercial practices that results in a strategic advantage. Both MIT and Evergreen have created numerous jobs, and, by comparison to Hutchison Whampoa, have made heavy investments. By contrast Hutchison Whampoa's PPC fired 1,500 workers and then hired back only 400 at less than half of their prior wage. This has silenced the employees and effectively made sure that they will not report on any practices engaged in by the communist affiliated Hutchison Whampoa company which might be a threat to U.S. or Panamanian security and would be recognizable as such.

Ambassador Hughes:

Order of Ships; Denial of Access

Admiral Moorer stated that the contract gives the company authority to control the order of ships utilizing the entrance to the Canal on the Pacific Side, and the right to deny ships access to the Canal which are deemed to be interfering with Hutchison's business in violation of the 1977 Panama Canal Treaty, which guarantees expeditious passage for the United States Navy.

Comment: There is no provision in Law 5 on the order of ships entering the Canal on the Pacific Side. The only reference to ship priority is found in Clause 2.10G, granting the company the right "to continue the current practice that any vessel in the Port of Cristobal maintains its pre-booked transit slot in the transit schedule of the Panama Canal." Cristobal, of course, is on the Atlantic side. There is no such provision for vessels at Balboa.

Admiral Moorer Replies:

Precisely, the Ambassador confirms my fears and his conclusion is not justified by what he himself admits. He acknowledges the peril and then denies that it exists. By giving a company that is hand-in-glove with the Communist Chinese military the "right" to do what is now done by the Panama Canal Commission, the scheduling power is taken from the Canal authorities and given to a company which is virtually an arm of Communist Chinese military strategy, along with the ports of Diablo, Balboa, the rights to have and operate the piloting and switching tugs,

the work boats, the vessel repair services and, most importantly, the pilot services. It was this control of pilot services that was used effectively against us by the North Vietnamese Communist military in Haiphong Harbor. These "rights" granted to a company strategically allied with the Chinese Communist military, which in turn, is subservient to the party apparatus, are thereby taken away from the Canal Commission. The effect is to erase any distinction between commercial and strategic considerations and place our military needs for the effective preservation of America's national security interests at the disposal of a country that has the potential to become a dangerous strategic enemy.

Mr. Marine Comments:

The current practice is that the Panama Canal Commission exercises authority to maintain transit reservations. By omitting any deference to that existing practice, the clauses in Law #5 give the right to the Panama Ports Company, which is Hutchison Whampoa, the Chinese Communist military affiliated operations, the power to exercise this authority in the place of the Canal Commission. The absolute control over the port and anchorages on the Pacific side includes the same power. 2.10 of Law #5 gives Hutchison Whampoa's subsidiary the right to close the roads, Diablo, Balboa and the rights to have and operate the tugs, the work boats, the vessel repair service and the pilot services. The combined effect is to wrest the better part of the functions for controlling transit from the Canal Commission and hand them to a Chinese Communist front group. This is a great infringement of Panama's security and sovereignty and effectively creates another Canal Zone under the control of Communist Chinese dominated and allied interests. Given the incompatibility between Panama's republican form of government and Chinese Communism, which is one of world's largest employers of slave labor, the effect is to force Panama out of its democratic leanings modeled on its long association with the U.S. and into the orbit of Communist China and a system of government which most Panamanians oppose.

Ambassador Hughes:

There is also no reference in Law 5 to denial of entry of ships to the Canal. Only the PCA [Panama Canal Authority], under Article 59 of the Organic Law, has the right "to deny entry to the Canal of any vessel not abiding by the rules and regulations for navigational safety established in their Law and Regulations."

Admiral Moorer Replies:

As a former Commander-in-Chief of our Pacific Fleet, Supreme Allied Commander, Atlantic and Commander-in-Chief Atlantic Fleet, Chief of Naval Operations, and Chairman, Joint Chiefs of Staff, where an enemy's capabilities—*not an estimate of his intentions*—are the basis for strategic planning, I consider the Ambassador's answer to my testimony in this regard most unresponsive. The point is that, regardless of what the Canal Authority has the right to do or not do, the practical power of controlling anchorages, scheduling, pilotage and services is placed in the hands of a commercial affiliate of a strategic foe that is already on the spot and functioning, one that operates under a system that makes no difference between commercial and strategic planning, because the bulk of its commerce is, in the last analysis, controlled by its military and party apparatus, not by private merchants or entrepreneurs, however wealthy they may become from the monopolies which this apparatus bestows upon them. The Canal Treaty gives us the right to preserve our National Security in connection with the Canal. The operational capacity of an entity which is so closely tied to the Chinese Communist military to impede our passage through the canal by practical control of services and facilities essential to that passage is by its mere existence a threat and a violation of national security, regardless of the rights of the Canal Authority.

Mr. Marine Comments:

Once again, if the ships cannot enter the anchorage area, they cannot transit the canal. Hutchison Whampoa controls the anchorages; the Canal Commission does not.

Ambassador Hughes:

Regarding access to ports, Clause 2.11D of Law 5 obliges PPC [Panama Ports Company, the Hutchison Whampoa subsidiary company] to "permit the use of installations in the Existing Ports to US Army vessels, as established in the Panama Canal Treaty, until the expiration of such Treaty in the year 2000 ... provided that such use does not interfere with the daily operation of the Company in the Existing Port, but the Company will have the right to charge for the services it provides at commercial rates similar to those applied to the customers of the Company."

It should be stressed that Clause 2.11D refers to vessels' access to port services in installations adjacent to the Canal, and not to Canal use. This provision is intended as a specific limitation on the Company's operations during the Treaty period. Thereafter, US military vessels are free to contract on a commercial basis with PPC for access to ports and needed port services.

Admiral Moorer Replies:

The Ambassador's statements are made as if they refuted my testimony when in fact they make it clear that the Hutchison Whampoa company is being given control over U.S. National Security. For example, this supposed refutation of my concerns admits that, even in this legalistic world of the Ambassador, all Hutchison Whampoa and its head Li Ka Sheng, who is closely allied to the Chinese military, would have to do after the Treaty expires, is to jack up the rates on everyone to prohibitive levels on everyone and the U.S. military could be included, and that's apart from Hutchison's control of the services essential to passage through the canal. All I can say is that, when the Nazis, in the years leading up to our entry into World War II, were attempting to expand their influence in Latin America, President Roosevelt made his concerns about the Canal known in no uncertain terms in speeches that were broadcast on radio and shown in newsreels all over the country. Any ambassador to Panama at that time who had shown this degree of apologetic cooperation with the totalitarians would have found himself recalled in short order and would have enjoyed a considerable degree of opprobrium from the President and the American public.

Mr. Marine Comments:

Just read what Law #5 actually says, as the Ambassador urges: all that matters is that the use by the U.S. military does not interfere with the daily operation of the company in the Existing Ports. Then read what Law #5 includes, by options and extensions, in the Existing Ports, virtually everything. It includes, for example, Telfers Island, which is strategically placed right in the middle of Canal waters. Once the U.S. gives up Rodman, the U.S. forces will be landlocked and virtually neutralized. Neither Panama nor the U.S. will be secure. Even today, before the options are exercised and the additions to Existing Ports made, the company simply has to declare that the U.S. military is interfering with its daily operation of its present ports.

Ambassador Hughes:

Transfer of Company's Rights

Admiral Moorer suggested that the contract gives the company the right to unilaterally transfer its rights to a third party—any company or nation of their choosing.

Comment: Clause 2.8 of Law 5 gives PPC [Hutchison Whampoa, the Communist military affiliate] the right to "assign or transfer its rights and obligations under the present concession agreement or the activities derived herein, as long as it is to Panamanian corporations or to foreign corporations duly registered to conduct business in the Republic of Panama ... When the assignment or transfer be in favor of a subsidiary or affiliate of the Company, it shall suffice for the Company to communicate this fact in writing to the State. When the assignment or transfer be in favor of third parties which are not subsidiaries or affiliates of the Company, prior authorization will be required in writing from the Cabinet Council, such authorization not to be unreasonably withheld." Subsidiary or affiliate is defined as including, without limitation, "those which, although maintaining corporate individuality, are dedicated to the same activities to which the Company devotes itself, or to complementary activities related to the operation of the Ports." Any entity to whom the company might transfer its rights would be subject to the same conditions and restrictions now in place, and the GoP [Government of Panama] would retain its 10 percent equity stake.

Later in his testimony, Admiral Moorer noted that the contract permits Panama to assign its rights under the agreement "with no further ado." Embassy is unclear about Admiral's intent in making this statement. He may be referring to the Clause 2.8 provision explained in the preceding paragraph.

Admiral Moorer Replies:

Well, precisely. The Hutchison Whampoa conglomeration of companies controlled by Li Ka Sheng includes over 50 entities, in many of which there is participation either overt or covert by the various commercial arms of the PLA. COSCO, for example, the enormous shipping company run by the Communists which has been aggressively attempting to use the leverage of the Chinese Communist government to take market share from Western private ocean carriers, could be considered an affil-

iate of PPC. Any entity can either register to do business in Panama or incorporate a subsidiary in Panama. Thus the PLA and the Communist functionaries that control it can gain control of the Canal at any time. It is this capability, not the formalities of the legal entities as presently structured that must rule any consideration of what our security means under the Treaty provisions. What the U.S. Ambassador is putting forward here does not belie my contentions.

Mr. Marine Comments:

Panama Ports Company (PPC) as a subsidiary operation of Hutchison Whampoa, can transfer or cede all or part of the rights and obligations arising from the concession contract or from the activities derived from the contract, as long as it is to a Panamanian corporation or a foreign corporation properly registered to do business in Panama. It costs \$1,000 to incorporate or register in Panama. That's all there is to it.

When the ceding or transfer is made in favor of a subsidiary or affiliate of the Company, a written communication of said action from the Company to the State will suffice. This means with a written note Hutchison Whampoa, and behind it the PLA and the Communist Party of China, can transfer any rights to subsidiaries or affiliates which could include the China Overseas Shipping Corporation (COSCO), China Resource Enterprises, the Red Army's direct commercial front, or any of their thousands of subsidiaries and affiliates, the largest conglomerate in communist China, larger than all of its other enterprises combined. The United State Senate investigations have established that Hutchison International Terminals, for example, is in fact a 50 percent affiliate of the communist Chinese military operations.

Ambassador Hughes:

Cutoff of Strategic Areas

Fifth, Admiral Moorer stated that under the contract, some public roads become private, cutting off strategic areas of the Canal.

Comment: Clause 2.10e gives the company "the right to redesignate Diablo Road as a private service road instead of a public street, and the right to divert that road at the expense of the Company, as well as the right to divert Galliard Avenue (a public thoroughfare) at the expense of the Company, if it becomes necessary for the efficient operation of the Port of Balboa, said cost to be determined by the Company and subject to prior approval by the State. The State shall reimburse the Company for the referenced costs."

Following passage of Law 5, a major land dispute developed over areas granted to the port concessionaire but needed to operate the new civilian airport being developed at Albrook as well as the trans-isthmian railroad being revived by Kansas City Southern Railway, an American company. PPC is dealing with Kansas City Southern on implementation of their respective concessions. The PCC has approved the port and railroad operations, and maintains overall authority because the installations are within a Canal Operating Area. The redesignation or rerouting of these roads does not render the Canal inaccessible, and certainly not in a strategic context.

Admiral Moorer Replies:

It would be interesting to know what the Ambassador relies upon when he states at the very end of this comment that "The redesignation or rerouting of these roads does not render the Canal inaccessible, and certainly not in a strategic context." There does not appear to have been any strategic analysis. Nor does it appear that there is any expertise that is being drawn upon. Everything that precedes this statement in this portion of the Ambassador's comments is about what appears to be a concern about excessive monopolization. There is a connection between monopolization by an entity controlled by or working in close cooperation with the military of a strategic opponent and national security but it does not appear that the Ambassador is giving it any serious consideration. One only has to look at a map to see that the power to control and reroute the roads in question would affect military operations in the Canal area. The Ambassador does not make any point that would alleviate these concerns.

Mr. Marine Comments:

On one side of the Diablo/Galliard Road are the ports and on the other side is Albrook Station Air Field. When the agreement under Law #5 was first written the Hutchison Whampoa company, as an ally of the PLA, was given this up to date military air field and other facilities crucial to controlling the air space above the Canal and Panama generally. That arrangement was only abandoned in large part because of public outcry against such a concession to an organization so close to the Com-

munist Chinese military. But even with that strategic withdrawal by those attempting to assist the Communist commercial fronts the question of the roads remains. If you close the roads down, it would then be necessary to go all the way around this area to reach the present, remaining U.S. military bases, seriously impeding logistics and resupply as well as troop movement out of these bases. The effect would be to cut off from easy access by U.S. forces critical areas in the port of Balboa which is presently 100% under the control of Hutchison Whampoa. From this choke point in the port of Balboa shipping could easily be controlled with only light artillery, or for that matter missiles. Both of these armaments could easily be present in the port of Balboa today and neither the U.S. or the Panamanians would have any way of knowing it. The sealed container operations of Li Ka Sheng into the sealed port under Hutchison Whampoa control gives that capability to the PLA, which I take it, is the Admiral's point

Ambassador Hughes:

Inclusion of "Strategic" Facilities in Concession

Admiral Moorer noted that the contract includes U.S. Naval Station Rodman; a portion of U.S. Air Force Station Albrook, Diablo, Balboa, a Pacific U.S. built port; Cristobal, a U.S.-built Atlantic port; the island of Telfers, which is strategically located adjacent to Galeta Island, a critical communications center. Admiral Moorer has been told that Telfers Island is the home of the Chinese-planned export Zone called the Great Wall of China Project.

Comment: The PPC concession does include the ports of Balboa and Cristobal, with a 15-year option on Diablo and Telfers. The company may exercise its option on these latter two areas by providing written notice to the State. As noted above, Albrook, which reverted to Panama in September 1997, has been the subject of a dispute between PPC, Kansas City Southern, and civil aviation authorities. The company has right of first refusal over cargo and container port development for a portion of Rodman for three years, as previously noted, but port development at Rodman is considered unfeasible. Telfers Island is four miles from Galeta Island at the closest point, and is another area where the port, if developed, would have to coexist with the railroad. There is a proposed project called "Gran Muralla" (Great Wall) to develop an export processing zone on two sites on Telfers, which the PCC is studying to determine whether it is compatible with Canal operations. Again, the PCC/PCA will have the final word over activities at Telfers because it is in a Canal Operating Area. From a strategic perspective, it is not clear that this arrangement is potentially any more dangerous than the daily passage of Chinese flag vessels, which has been going on for years. There were 237 PRC ship transits in FY 96, and 215 in FY 97.

Admiral Moorer Replies:

Any one who cannot see where a sealed off port into which any armament can be delivered undetected in sealed containers (in the same manner that automatic weapons were shipped into this country by PLA affiliates) is different from the passage of flagged vessels cannot seriously have analyzed the strategic considerations involved. By the same token any one who thinks four miles is a deterrent distance strategically is clearly not aware of realistic strategic considerations. There the ambassador goes again, admitting the strategic vulnerability and then making irrelevant statements such as that "development at Rodman is considered unfeasible." The question is not one of commercial feasibility, but one of strategic vulnerability, to which the Ambassador does not seem willing, or able, to make an actual response to my statement.

Mr. Marine Comments:

The Albrook fiasco was that in their anxiety, those that were so anxious to help Hutchison Whampoa gave away to this affiliate of the Communist Chinese military not only Albrook Air Field but also other lands that included those adjacent to Panama's FAA and those around two private Panamanian companies. Thus, the effect was to extend the land control of Hutchison Whampoa five miles into the Zone rather than one and to include strategic stretches of the transiting railroad and both highways, a tactical disaster from a national security standpoint. One of the two private companies whose lands were given to Hutchison Whampoa was a company that is co-owned by the present president, President Balladares, and Mayor Alfredo Aleman. Mayor Alfredo Aleman, it is important to note, was forced by the U.S. to resign as the president of Panama's Central Bank before the U.S. would certify Panama as a country that was carrying out its responsibility to help in fighting the drug problem. The degree to which he is involved in these matters is ominous for Panama from two perspectives. It is a threat to Panamanian and also U.S. security

just because of the power and corrupting influence of the narcotics traffickers, but it is also a threat to the security of both nations because of the cooperation it indicates between the drug traffickers and the Chinese Communist commercial front operations. Significantly, the annex to Law #5 which revealed this information for the first time was not disclosed until one year after the law was pushed through. I have also talked to people at Bechtel who were involved in its attempts to obtain rights as a result of the privatization of the air field. They told me that not only were they not to be given the air field, but that Bechtel, as a major U.S. company, would only be allowed, by comparison, a small amount of land in the port area. In the package that they were told was the only possibility for Bechtel there was no inclusion of any option or extension for Rodman and Tellers Island as has been given to the Chinese Communist affiliated Hutchison Whampoa. There were other sundry differences as well that demonstrated a greater willingness to assist Hutchison Whampoa in obtaining rights that threaten Panamanian and U.S. security that were not offered, even as a possibility to Bechtel, which would have tended to protect the security interests of both countries by comparison if they had come under the control of a major U.S. concern such as Bechtel.

Under the present arrangements between Balladares and his cronies and Hutchison Whampoa, if Panama and the U.S. were to reach a deal on maintaining some American military bases after the Treaty runs its course, Chinese Communist interests could match the U.S. offer for Rodman and preemptively take the bases in the stead of the U.S. In 1995 and 1996, while the Ambassador and then Foreign Minister Gabriel Lewis Galindo were close to concluding a base agreement in which Rodman was part of the deal. Suddenly, however, in late 1996, Rodman was taken off the table as a possibility for a continuing U.S. base and the reason given was that it was to go instead to the Chinese Communist affiliated Hutchison Whampoa. This is a concrete illustration that there are strategic and not just purely commercial interests driving these things and that in fact the commercial goals are subsidiary to the strategic interests.

If we are to take Ambassador Hughes at his word, then the Hutchison Whampoa/PLA interests *might* not get Tellers Island for *development*, but in fact, what he does not reveal, is that they already have. In June of this year, 1998, the Government of Panama under this agreement, and Hutchison Whampoa/PLA signed an agreement that would allow Hutchison Whampoa interests to start developing Tellers. It is incredible that Ambassador Hughes cites the fact that Tellers and Galeta are four miles apart as if that were a protection rather than an exposure. Both Admiral Moorer and Ambassador Hughes acknowledge that this project is known as the Gran Muralla or Great Wall. Obviously the Admiral, from his knowledge and experience, and the importance of Galeta as a strategic communications center, does not share the Ambassadors rosy view of the symbolic significance of this name. Perhaps he has in mind how the Soviets gave the U.S. a bugged embassy in Moscow while the Soviets in turn took the best sites in Washington for monitoring all U.S. military and strategic communications in and out of the capital. Another disturbing aspect of this deal from the perspective of Panama is how, again, the Communist Chinese are taking back with the left hand what they appeared to have given with the right. Panama will have to give an additional discount to the Hutchison Whampoa interests of \$60 million over 6 years. This means another reduction, in the amount of \$10 million in each of those six years, from the \$22 million per year which Hutchison Whampoa bid to beat out the other bidders for the port concessions. If Tellers is worth \$60 million and generates revenues, then the Chinese military will have succeeded in making Panama, in effect, pay for the excess which it bid to win the concessions while expanding its revenues from the acquired concessions and at the same time increasing its strategic advantage and its threat to the security of Panama and the U.S. And if the agreement is interfered with by the U.S. in order to protect its security interests and violations of the Treaty then Panama is required to indemnify the commercial arms of the Chinese military for the U.S.'s having caught out the Balladares gang violating the treaty for gain. After all the above figures only refer to moneys above the table. The Panamanian press has exposed the existence of considerations under the table.

Ambassador Hughes:

The Admiral's Call for Action

Admiral Moorer noted that a clause was inserted at the end of Law 5 which states that if a conflict between provisions of Law 5 and provisions of the Panama Canal Treaty occur, the Canal Treaty prevails. He asserted that this clause is "meaningless if the U.S. Government doesn't act now."

The relationship between Law 5, the Treaties, and the PCA Organic Law was outlined above. The Admiral does not explain why he thinks the safeguards are meaningless, and Embassy and PPC do not agree with this assertion.

Admiral Moorer Replies:

Ambassador Hughes' comments are evasive inasmuch as they assume that the only considerations of importance are commercial and economic which can be addressed somehow in some vague way through the internal laws of Panama, options to intervene, and, in one instance, through arbitration procedures under the rules of the International Chamber of Commerce. This is to ignore the strategic considerations which we as a nation are entitled to invoke under the Treaty, particularly as modified by the United States Senate. As I have stated, we are talking about a time frame of from hours to days in which to move a vast number of support ships through the Canal to meet a major contingency or outright hostilities to support our forward deployed forces. The phrasing of that language in the Treaty which addresses our national security concerns is to be interpreted as applied in a military and strategic sense if it is not to be meaningless. The Ambassador is engaged in a process of denial which has been embraced by all who are attempting to shift attention away from the violations of the Treaty which appear to be occurring and require immediate investigation and analysis, followed quickly by swift and effective remedial action. At the heart of this denial is an unwillingness to face the reality of a totalitarian government such as that of Communist China and how it operates in a much more monolithic fashion than a Republic such as ours does. There is no separation between commercial and strategic considerations on the part of the controlling party elite of Communist China, any more than there was in the former Soviet Empire. The Party elites in turn, through operatives in all units of the armed forces, control the armed forces of Communist China. The armed forces of Communist China, in turn, and in this they are slightly different than the Soviet model, control the biggest business operation in Communist China. As a business, the military is bigger than all of the other businesses of Communist China combined. Some of its operations, and there are literally thousands, such as COSCO, and China Resources, have become known to committees of this Senate and through reports in the maritime and Asian business press. But we seem in the grips of a paralysis as far as fully analyzing the strategic implications of this operation.

The Chinese military has studied and learned from all of our military actions since Korea. Its operatives, under this administration have, believe it or not, been brought into the Pentagon itself and into all branches of our military operations, where their aggressive gathering of intelligence on our military operations have become legendary. Under a system such as theirs, moreover, all "students" in this country, and there are thousands, also are assigned to the care of party or government overseers and are used to gather intelligence. Correspondingly, however, our studies of the strategy and tactics of the Chinese Communist military appear to have had artificial restrictions and to have been dominated in some cases by ideas that appear faddish. Preoccupations in recent years, for example, with information warfare and such things as urban warfare appear to have resulted in a blindness to the obvious.

The architect of our present Naval superiority was Alfred Thayer Mahan who, in the late 19th Century began to point out the importance of the interaction of commercial and strategic considerations in the Pacific in particular. Ironically, as we come to the end of this century we seem to have forgotten those lessons. Our "nodal analysis" of key strategic points in ocean shipping underlying and necessary to the operation of our two ocean and forward deployed strategy in times of conflict seems to have been neglected even as the Chinese have increased their study of these matters and quietly moved to cut off our ability to support our technical Naval and military superiority where they realize they could not confront it directly for a number of years yet. This should come as no surprise. For, it is a concept which they have successfully employed for literally thousands of years. The principle of their great military strategist, Sun Tzu, in his famous work, *The Art of War*, is that the surest way to defeat an enemy is to make sure that you do not have to actually go to war to defeat him. This is to be done, under the lessons of this master of strategy, by rendering us unable to support our technically superior fighting capacity through a control of the ocean commerce necessary to support it in actual conflict. In times of actual conflict 80 percent and more of our supplies and weaponry and personnel must move by ocean commerce. We are only as strong as our weakest link in this vital commerce. That weakest link is the Panama Canal. It is astonishing to hear a man who is an ambassador of the United States of America standing together with an arm of the commercial operations of the Chinese military, the Panama Ports Company (PPC), against the carefully weighed considerations of those who, by

education, training, and experience, have spent a lifetime learning how best to preserve our national security under any and all circumstances and have been repeatedly called upon to do so. Truly the misrepresentation and evasion in these comments of the Ambassador constitute a type of "information warfare", with which many in government have been preoccupied in recent years, but it is being directed not against, but in cooperation with, the principal strategic enemy seeking to employ it against us, and thus is directed not to those whose intent it is ultimately to dominate us in the coming century if they can but rather against the interests of our own national security.

Mr. Marine Comments:

If having the Communist Chinese government via China Resource Enterprises, COSCO and Hutchison control the access to the Panama Canal is not enough, what is? If having such entities control U.S. ports, U.S. bases, including Naval stations and military airfields is not enough, then what is? Maintaining the ability to cooperate with the majority of Panamanians to protect and defend the Canal, which is in the national security interests of Panama as much as it is in the national security interests of the United States, is one thing. Having to take the Canal by force to protect the national security interests of both Panama and the United States is quite another. If the United States is excluded from appropriate security access and has to retake the Canal by force then in order to do so it has to first take the ports. This was shown in 1989 when the U.S. had to liberate Panama from the control of the dictator Noriega (by whom I was imprisoned and tortured) and the drug lords. When there were attacks upon the liberating forces by the "dignity battalions", where did they come from? They came from at the entrance of the Canal. The best defense for the Canal is to have 10,000 troops stationed there full time, with full tactical access to all necessary points of defense connected with the Canal and the ability to maintain landing facilities for the quick placement of an additional 100,000 ground troops into the Canal and its approaches.

Ambassador Hughes:

Other Points

Admiral Moorer states that Law 5 is illegal because it runs counter to the Panama Canal Treaty, and that the Treaty, "calling for a neutrality provision," is illegal because Panama did not sign it, nor ratify it via the plebiscite. Panama signed the Treaty Concerning Permanent Neutrality and Operation of the Panama Canal on September 7, 1977 and submitted it to plebiscite along with the Panama Canal Treaty in late September 1977; it was ratified. The U.S. Senate also ratified it. Article V of the Neutrality Treaty states that after the termination of the Panama Canal Treaty, "only the Republic of Panama shall operate the Canal," but does not address the issue of port operations.

Admiral Moorer expressed dismay and bewilderment that the U.S. Government "passively permitted" Law 5 to happen. In principle, USG supports privatization of state-owned facilities as a valuable tool in rationalizing and modernizing economies. Unfortunately, the GOP mishandled the process to the disadvantage of interested U.S. companies. Ambassador Hughes, officials of the Departments of State and Commerce, and the President's Special Envoy for Latin America made repeated and forceful public and private protests over the lack of transparency and a level playing field. Congressional delegations visiting Panama expressed their concern to GoP officials. Certain scheduled initiatives in Panama were canceled as a form of protest. The privatization process and ports contract became a major issue in our bilateral relations. It is inaccurate to assert that the USG "passively permitted" Law 5 to be passed. That said, it is not clear what legal authority the USG would have to impede the GoP from privatizing its ports in this manner, or from agreeing to the terms contained in Law 5.

Admiral Moorer Replies:

The bottom line is that the U.S. did not encourage the "privatization of state-owned facilities as a valuable tool in rationalizing and modernizing economies." By promoting a false and misleading conception that for a communist military apparatus such as that of Communist China "commercial" and "trade" considerations are somehow separate from, and not inextricably connected with and dominated by, strategic considerations, the administration promotes and protects the transfer to control of the communist dictatorial government of the People's Republic of China the ports and other strategic choke points endangering our free passage through the Panama Canal, which was built and has been defended with American and Panamanian sweat and blood. There is nothing "rationalizing or modernizing" about the PLA, Inc. Already its treatment of Panamanian labor shows that. It is a dictatorial

throwback that is out of synch with modern free market economies on which the future of a world that is free and secure depends. In China itself it is a massive user of slave labor. Its military strategies are centuries old and we are not even paying proper attention to their use against us on our very doorstep. The Canal under PLA control is a dagger pointed at the industrial heartland of America, particularly at the ports of the Gulf Coast and the vast system of waterways that feeds into them, carrying much of our heavy manufactures and materials and strategic materials. Franklin Delano Roosevelt, prior to and leading into World War II, in which I participated as a young Naval aviator, starting with the bombing attack on Pearl Harbor, was particularly outspoken in the newsreels and broadcasts of the day about just this very type of attempt to control the Canal, as attempted by Nazi Germany and the totalitarian empire of Japan and its Greater East Asia Co-prosperity sphere. It is indeed unfortunate that today, not only do we not enjoy such leadership, we have officers of our own government assisting the strategic designs of the leaders of Communist China as they implement them through their complex of commercial entities.

It is a serious misrepresentation to say that the Canal Treaty was adopted. What the United States Senate adopted contained the DeConcini amendments, specifically designed to strengthen our national security in order to in turn secure that of Panama and to correct problems with the Treaty as it came to the Senate which could have threatened our security. The version that was put to plebiscite in Panama was not the same Treaty and did not contain those essential provisions. Not only that, a provision was slipped into the version that was submitted to the Panamanian plebiscite which was specifically designed to destroy our ability to intervene to protect our national security and render the DeConcini amendments inoperable if allowed. There are other problems with its supposed adoption. For example, President Lakas of Panama was required to sign it and did not do so. I knew him and hunted with him. He was a fine man and specifically would not sign it because he knew of the intentions of the now departed dictators and their drug lord friends with regard to it. Further, there is considerable evidence that the plebiscite was fatally flawed with so much fraud as to not represent the actual vote of the majority of Panamanians and their true feelings on the issues it ostensibly embraced, even in the version which was put to plebiscite. The corruption in the process, and the differences in the two versions, go directly to concerns of our National security. The blind posturing and "business as usual" protests to which the Ambassador refers are the very definition of passivity in strategic matters, and, unfortunately, U.S. military personnel will some day have to pay an unnecessary price for this passivity unless we act now to correct it.

Mr. Marine Comments:

Actually, the evidence shows that Panamanians rejected the version of the Panama Canal Treaty which was put to them in the 1977 plebiscite. The results were falsified to obtain the result desired by a minority of Panamanians in league with the drug interests, and other interests inimical to Panama's long term security. Similar frauds were perpetrated in the 1984 and 1989 elections. The only reason that the United States Senate ratified the treaty was the fact that the DeConcini Amendments were added, and that they were not presented to the Panamanian people because the Panamanian people would have overwhelmingly favored them, perhaps to the point where they might have mitigated or overcome the fraud. As a result the votes in the two countries were on different treaties and there never was any one agreed upon treaty that was voted upon in both countries and adopted.

As to the denial of "passivity" by the U.S. administration as Law #5 went forward: The Department of Commerce is mentioned. Yet the only contact by the U.S. Department of Commerce while Law #5 was going forward was during the week that the bids were actually received, and that was an unsuccessful attempt by Secretary Kantor to make a phone call. According to the Panamanian press his call never got through.

The only protests by the American Department of State involved a protest about corruption involving which was proven concerning associates of Torrijos and Villareal taking a \$50K bribe for a lot on the ports for an American company, Saybolt. The President of Saybolt was arrested and faces charges in Boston for violating the Foreign Corrupt Practices Act. Yet the enormously larger corruption involving the Chinese Communists interests was not taken note of by the U.S. administration. Even Panamanian Senator Leopoldo Benndetti has stated that bucket loads of money were paid for the port. The Saybolt bribe was only a drop in those buckets. The U.S. minor corruption was exposed but the much greater corruption involving the Communist Chinese was unremarked by the U.S. administration even though its purposes were clearly strategic as well as commercial. For two years

Saybolt, an American company from Massachusetts, tried to get the small lots without paying bribes but was told pay if you want to play and get the lots. Finally they caved and paid and were very quickly exposed and caught. In the meantime, Torrijos and Villareal, taking the Saybolt money only to expose them, were involved in the receipt of much greater amounts as they were writing into Law #5 for the Communist Chinese Hutchison affiliate that these arms of PLA, Inc. could raise the rent on contracts with companies like Saybolt or cancel them altogether.

The picture given by Ambassador Hughes to the U.S. congressmen coming down to Panama to check on things has omitted essential details. He has consistently told them that Hutchison Whampoa is a Hong Kong British company without revealing that is a former and old British Hong Kong trading company that has been totally taken over by Li Ka Sheng and the interests of PLA, Inc., recast, and used as the hub of a conglomerate empire of some 50 companies with many interlinks with PLA entities, which number in the thousands. If an accurate picture had been given to visiting members of the Congress, it is unlikely that this quiet takeover would have gone virtually unrecognized for the threat which it presents as long as it has. How much faith can we in Panama have in U.S. administration spokesmen that have covered up what has gone on in Panama, and prevented even those officially in charge in its own State Department from knowing about these matters as they have progressed? The fact that Ambassador Hughes now states that the administration knew of what was going on all along is more like a confession than a contradiction of the Admiral's assertion of passivity. It is to admit that the administration knows of the ever increasing Chinese Communist influence and control and prefers to seek to divert attention from the alarming reality of the situation by its absurd pretension that in a communist country such as the PRC the commercial and trade interests are divorced from and totally separate from strategic considerations and military influence and control. The bottom line is that these Chinese communist entities have effective control of former U.S. bases as ports, and of bases and, as a practical matter, the functions of the Canal.

As to what the U.S. could do: it could order Panama to remove all Chinese Communist commercial front influence from the ports as a violation of the Treaty, if it has the will. Such decisive action would be welcome in Panama and the U.S. Panamanians, except for a small but vocal minority, are fervidly anti-dictator and anti-communist. The U.S. should never forget that in the 1989 liberation of Panama 24 U.S. soldiers died. There was also the murder of U.S. Sgt. Zak Hernandez, by a member of the same corrupt group that is in league with the drug lords and the communists.

At present such will is lacking. Ambassador Hughes has not responded to Admiral Moorer's national security concerns. Instead he is trying to change the subject. In a familiar technique in this administration, he is "compartmentalizing", and attempting to focus all attention on commercial aspects of the PLA Inc. as if they were separate private commercial entities divorced from the strategic considerations of the PLA and communist party controlling entities. The bottom line is that affiliates of the Chinese Communist military control the most important and strategic ports, and effectively control the U.S. bases and the functions of the Canal itself. Li Ka Sheng was offered the governorship of Hong Kong as the PRC moved in but turned the offer down in order to keep on working with them through his monopoly leverage as a chosen instrument of the PLA, Inc. Control of the ports is control of the Canal. Li Ka Sheng, strategically, is the PLA.

Why was the ambassador not aware of what was in the Law #5 treaty and agreement until 8 days before the Chinese Communist affiliated Hutchison Whampoa company physically took over? Why has he not disclosed to visiting Congressmen the true nature of Hutchison Whampoa and its connections to the PLA commercial/strategic conglomerate empire? Why does he defend the enemies of Panamanian and U.S. democracies, even after the revelations I have described? This is not an accident, this is policy. In Spanish there is a saying: *A otro perro con ese hueso!* "To some other dog with that old bone!" The Ambassador evades too loudly. This is not just passivity; it is purposeful passivity.