

International Agreements

The Panama Canal Treaties of 1977: Senate Condition, Understandings and Reservations to the Panama Canal Treaty

Editor's Note: *On Tuesday, April 18, 1978 the United States Senate approved a resolution of advice and consent to the ratification of the Panama Canal Treaty. The text of the resolution is set forth below.*

RESOLVED, two-thirds of the senators present concurring therein,

That the Senate advise and consent to the ratification of the Panama Canal Treaty, together with the annex and agreed minute relating thereto, done at Washington on Sept. 7, 1977, (Executive N. 95th Congress, first session):

Subject to the condition that the instruments of ratification to be exchanged by the United States and the Republic of Panama shall each include provisions whereby each party agrees to waive its rights and release the other party from its obligations under paragraph 2 of Article XII;

Subject to the reservation, which is to be made part of the instrument of ratification, that any accumulated unpaid balance under paragraph 4c of Article XIII at the termination of the treaty shall be payable only to the extent of any operating surplus in the last year of the treaty's duration, and that nothing in the paragraph may be construed as obligating the United States of America to pay after the date of the termination of the treaty any such unpaid balance which shall have accrued before such date;

Subject to the understanding which is to be made a part of the instrument of ratification that nothing in the treaty, in the annex or agreed minute relating to the treaty or in any other agreement relating to the treaty, obligates the United States to provide any economic assistance, military grant assistance, security supporting assistance, foreign military sales credits, or international military education and training to the Republic of Panama;

Subject to the understanding which is to be made a part of the instrument of ratification, that before the first date of the three-year period beginning on the date of entry into force of this treaty and before each three-year period following thereafter, the parties shall agree upon the specific levels and quantities of services as are referred to in Article III, paragraph 5 of the treaty to be provided during the following three-year period and, except for the first three-year period, on the reimbursement to be made for the cost of such services, such services to be limited to such as are essential to the effective functioning of such canal operating areas and such housing areas referred to in Article III, paragraph 5 of the treaty.

If payments made under Article III, paragraph 5 of the treaty for the preceding three-year period, including the initial three-year period, exceed or are less than the actual cost to the Republic of Panama for supplying, during such period, the specific

levels and quality of services agreed upon, then the commission shall deduct from or add to the payment required to be made to the Republic of Panama for each of the following three years one-third of such excess or deficit, as the case may be. There shall be an independent and binding audit, conducted by an auditor mutually selected by both parties, of any cost services disputed by the two parties pursuant to the reexamination of such costs provided for in this understanding;

Subject to the reservation that exchange of the instruments of ratification shall not be effective earlier than March 31, 1979, and the treaty shall not enter into force prior to Oct. 1, 1979, unless legislation necessary to implement the provisions of the Panama Canal treaty shall have been enacted by the Congress of the United States of America before March 31, 1979;

Subject to the understanding which is to be made a part of the instrument of ratification, that nothing in subparagraph 4c of Article XIII shall be construed to limit the authority of the United States of America through the United States government agency called Panama Canal Commission to make such financial decisions and incur such expenses as are reasonable and necessary for the management, operation and maintenance of the Panama Canal. In addition, toll rates established pursuant to paragraph 2d of Article III need not be set at levels designed to produce revenues to cover the payment to Panama described in subparagraph 4c of Article XIII;

Nothing in paragraphs 3, 4 and 5 of Article IV may be construed to limit either the provisions of paragraph 1 of Article IV providing that each party shall act in accordance with its constitutional processes to meet danger threatening the security of the Panama Canal, or the provisions of paragraph 2 of Article IV providing that the United States of America shall have primary responsibility to protect and defend the canal for the duration of the treaty;

Subject to the following understanding, any agreement concluded pursuant to article IX, paragraph 11 with respect to the transfer of prisoners shall be concluded in accordance with the constitutional processes of both parties;

Subject to the following understanding the President shall include all amendments, reservations, understandings, declarations and other statements incorporated by the Senate in its resolution of ratification respecting this treaty in the instrument of ratification exchanged with the government of the Republic of Panama.

. . . Notwithstanding any other provisions of this treaty, no funds may be drawn from the United States Treasury for payments under Article XIII, paragraph 4, without statutory authorization.

Subject to the reservation that: pursuant to its adherence to the principle of nonintervention, any action taken by the United States of America in the exercise of its rights to assure that the Panama Canal shall remain open, neutral, secure, and accessible, pursuant to the provisions of this treaty and the neutrality treaty and the resolutions of advise and consent thereto, shall be only for the purpose of assuring that the canal shall remain open, neutral, secure, and accessible, and shall not have as its purpose nor be interpreted as a right of intervention in the internal affairs of the Republic of Panama or interference with its political independence or sovereign integrity.