

POLITICAL AND  
MILITARY



Treaty Series No. 11 (1983)

Treaty  
concerning the Permanent Neutrality  
and Operation of the Panama Canal  
with Protocol and Aide-Memoire

Washington, 7 September 1977

[The United Kingdom which is not eligible to become a Contracting Party to the Treaty itself, acceded to the Protocol on 15 December 1982. The Protocol entered into force for the United Kingdom on that date]

*Presented to Parliament  
by the Secretary of State for Foreign and Commonwealth Affairs  
by Command of Her Majesty  
March 1983*

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**TREATY  
CONCERNING THE PERMANENT NEUTRALITY AND  
OPERATION OF THE PANAMA CANAL**

The United States of America and the Republic of Panama have agreed upon the following:

**ARTICLE I**

The Republic of Panama declares that the Canal, as an international transit waterway, shall be permanently neutral in accordance with the regime established in this Treaty. The same regime of neutrality shall apply to any other international waterway that may be built either partially or wholly in the territory of the Republic of Panama.

**ARTICLE II**

The Republic of Panama declares the neutrality of the Canal in order that both in time of peace and in time of war it shall remain secure and open to peaceful transit by the vessels of all nations on terms of entire equality, so that there will be no discrimination against any nation, or its citizens or subjects, concerning the conditions or charges of transit, or for any other reason, and so that the Canal, and therefore the Isthmus of Panama, shall not be the target of reprisals in any armed conflict between other nations of the world. The foregoing shall be subject to the following requirements:

- (a) Payment of tolls and other charges for transit and ancillary services, provided they have been fixed in conformity with the provisions of Article III (c);
- (b) Compliance with applicable rules and regulations, provided such rules and regulations are applied in conformity with the provisions of Article III;
- (c) The requirement that transiting vessels commit no acts of hostility while in the Canal; and
- (d) Such other conditions and restrictions as are established by this Treaty.

**ARTICLE III**

1. For purposes of the security, efficiency and proper maintenance of the Canal the following rules shall apply:

- (a) The Canal shall be operated efficiently in accordance with conditions of transit through the Canal, and rules and regulations that shall be just, equitable and reasonable, and limited to those necessary for safe navigation and efficient, sanitary operation of the Canal;

- (b) Ancillary services necessary for transit through the Canal shall be provided;
- (c) Tolls and other charges for transit and ancillary services shall be just, reasonable, equitable and consistent with the principles of international law;
- (d) As a pre-condition of transit, vessels may be required to establish clearly the financial responsibility and guarantees for payment of reasonable and adequate indemnification, consistent with international practice and standards, for damages resulting from acts or omissions of such vessels when passing through the Canal. In the case of vessels owned or operated by a State or for which it has acknowledged responsibility, a certification by that State that it shall observe its obligations under international law to pay for damages resulting from the act or omission of such vessels when passing through the Canal shall be deemed sufficient to establish such financial responsibility;
- (e) Vessels of war and auxiliary vessels of all nations shall at all times be entitled to transit the Canal, irrespective of their internal operation, means of propulsion, origin, destination or armament, without being subjected, as a condition of transit, to inspection, search or surveillance. However, such vessels may be required to certify that they have complied with all applicable health, sanitation and quarantine regulations. In addition, such vessels shall be entitled to refuse to disclose their internal operation, origin, armament, cargo or destination. However, auxiliary vessels may be required to present written assurances, certified by an official at a high level of the government of the State requesting the exemption, that they are owned or operated by that government and in this case are being used only on government non-commercial service.

2. For the purposes of this Treaty, the terms "Canal," "vessel of war," "auxiliary vessel," "internal operation," "armament" and "inspection" shall have the meanings assigned them in Annex A to this Treaty.

#### ARTICLE IV

The United States of America and the Republic of Panama agree to maintain the regime of neutrality established in this Treaty, which shall be maintained in order that the Canal shall remain permanently neutral, notwithstanding the termination of any other treaties entered into by the two Contracting Parties.

#### ARTICLE V

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

## ARTICLE VI

1. In recognition of the important contributions of the United States of America and of the Republic of Panama to the construction, operation, maintenance, and protection and defense of the Canal, vessels of war and auxiliary vessels of those nations shall, notwithstanding any other provisions of this Treaty, be entitled to transit the Canal irrespective of their internal operation, means of propulsion, origin, destination, armament or cargo carried. Such vessels of war and auxiliary vessels will be entitled to transit the Canal expeditiously.

2. The United States of America, so long as it has responsibility for the operation of the Canal, may continue to provide the Republic of Colombia toll-free transit through the Canal for its troops, vessels and materials of war. Thereafter, the Republic of Panama may provide the Republic of Colombia and the Republic of Costa Rica with the right of toll-free transit.

## ARTICLE VII

1. The United States of America and the Republic of Panama shall jointly sponsor a resolution in the Organization of American States opening to accession by all States of the world the Protocol to this Treaty whereby all the signatories will adhere to the objectives of this Treaty, agreeing to respect the regime of neutrality set forth herein.

2. The Organization of American States shall act as the depositary for this Treaty and related instruments.

## ARTICLE VIII

This Treaty shall be subject to ratification in accordance with the constitutional procedures of the two Parties. The instruments of ratification of this Treaty shall be exchanged at Panama at the same time as the instruments of ratification of the Panama Canal Treaty, signed this date, are exchanged. This Treaty shall enter into force, simultaneously with the Panama Canal Treaty, six calendar months from the date of the exchange of the instruments of ratification<sup>(1)</sup>.

Done at Washington, this 7th day of September, 1977, in duplicate, in the English and Spanish languages, both texts being equally authentic.

For the United States of America:      For the Republic of Panama:

JIMMY CARTER

D. LASKAS

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<sup>(1)</sup> The Treaty entered into force on 1 October 1979.

## ANNEX A

1. "Canal" includes the existing Panama Canal, the entrances thereto and the territorial seas of the Republic of Panama adjacent thereto, as defined on the map annexed hereto (Annex B), and any other inter-oceanic waterway in which the United States of America is a participant or in which the United States of America has participated in connection with the construction or financing, that may be operated wholly or partially within the territory of the Republic of Panama, the entrances thereto and the territorial seas adjacent thereto.

2. "Vessel of war" means a ship belonging to the naval forces of a State, and bearing the external marks distinguishing warships of its nationality, under the command of an officer duly commissioned by the government and whose name appears in the Navy List, and manned by a crew which is under regular naval discipline.

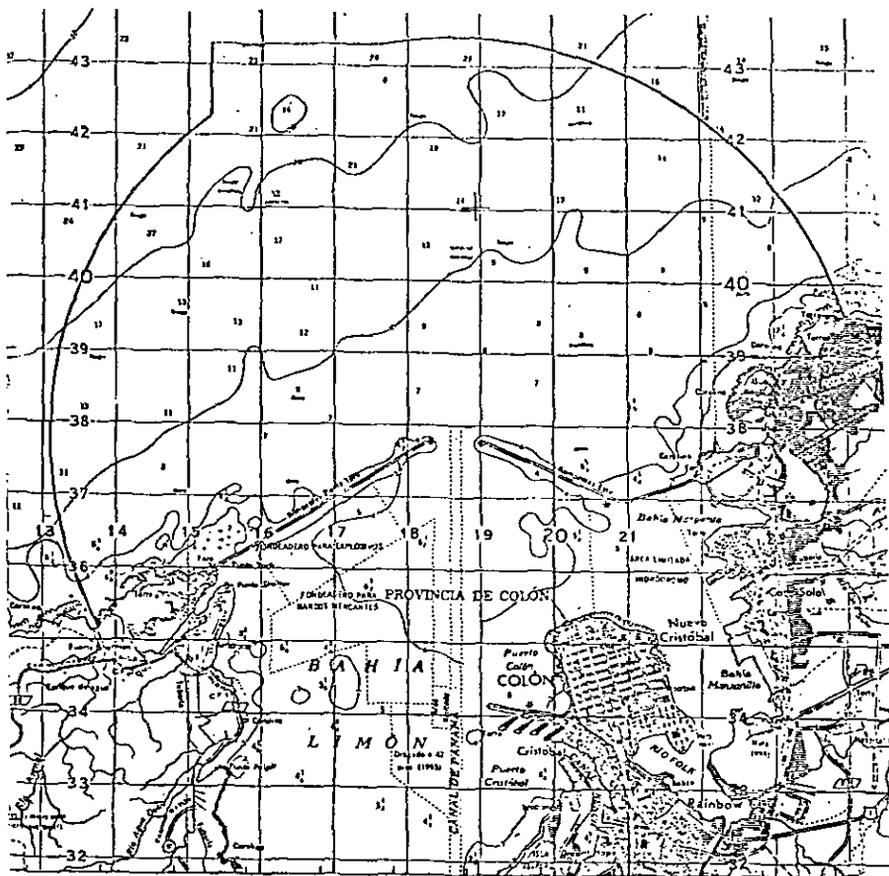
3. "Auxiliary vessel" means any ship, not a vessel of war, that is owned or operated by a State and used, for the time being, exclusively on government non-commercial service.

4. "Internal operation" encompasses all machinery and propulsion systems, as well as the management and control of the vessel, including its crew. It does not include the measures necessary to transit vessels under the control of pilots while such vessels are in the Canal.

5. "Armament" means arms, ammunitions, implements of war and other equipment of a vessel which possesses characteristics appropriate for use for warlike purposes.

6. "Inspection" includes on-board examination of vessel structure, cargo, armament and internal operation. It does not include those measures strictly necessary for admeasurement, nor those measures strictly necessary to assure safe, sanitary transit and navigation, including examination of deck and visual navigation equipment, nor in the case of live cargoes, such as cattle or other livestock, that may carry communicable diseases, those measures necessary to assure that health and sanitation requirements are satisfied.

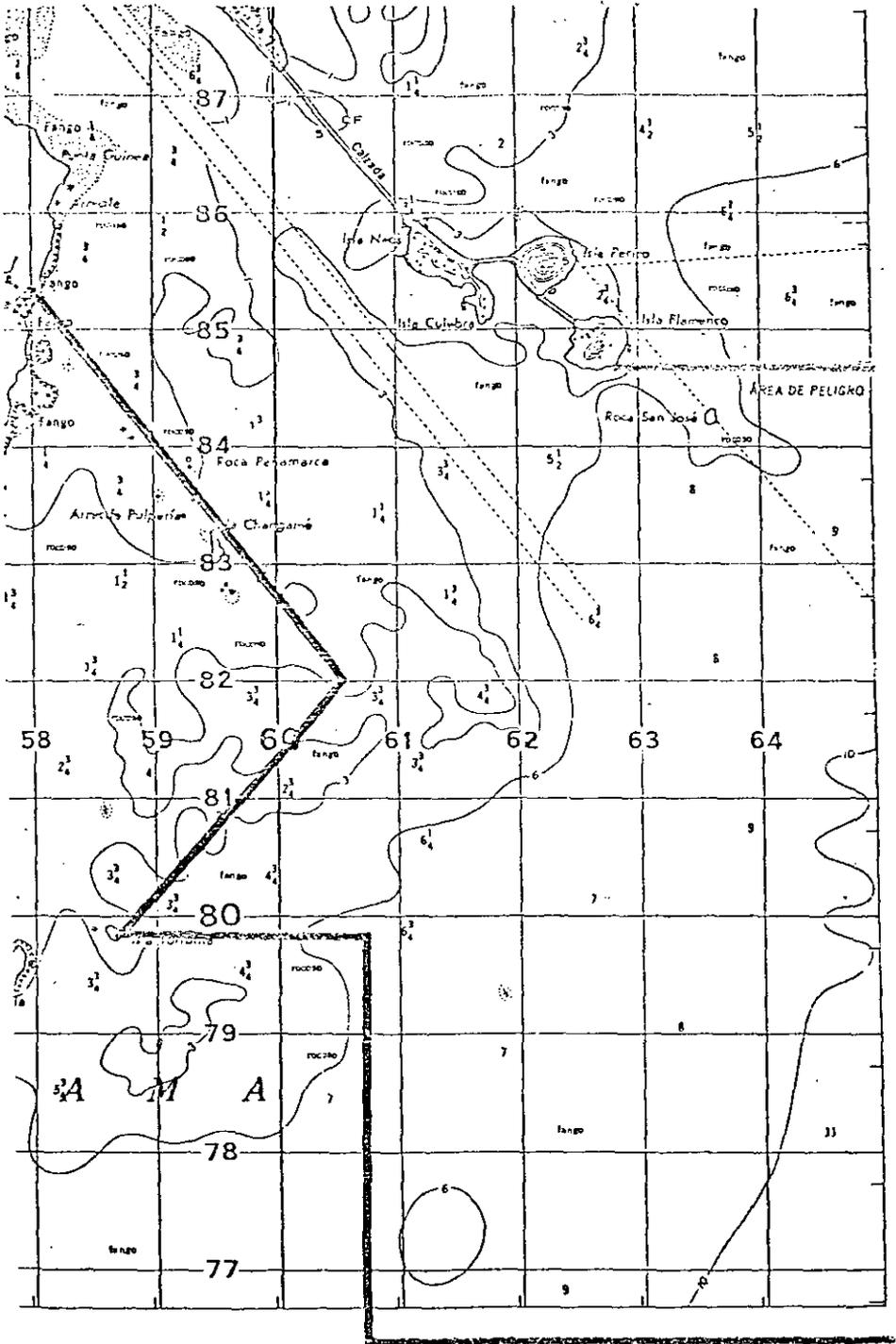
# ANNEX A



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MAP ATTACHMENT TO ANNEX "A" OF  
TREATY CONCERNING THE PERMANENT  
NEUTRALITY AND OPERATION OF THE  
PANAMA CANAL.

ANNEX B



**PROTOCOL  
TO THE TREATY CONCERNING THE PERMANENT  
NEUTRALITY AND OPERATION OF THE PANAMA CANAL**

Whereas the maintenance of the neutrality of the Panama Canal is important not only to the commerce and security of the United States of America and the Republic of Panama, but to the peace and security of the Western Hemisphere and to the interests of world commerce as well;

Whereas the regime of neutrality which the United States of America and the Republic of Panama have agreed to maintain will ensure permanent access to the Canal by vessels of all nations on the basis of entire equality;

Whereas the said regime of effective neutrality shall constitute the best protection for the Canal and shall ensure the absence of any hostile act against it;

The Contracting Parties to this Protocol have agreed upon the following:

**ARTICLE I**

The Contracting Parties hereby acknowledge the regime of permanent neutrality for the Canal established in the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal and associate themselves with its objectives.

**ARTICLE II**

The Contracting Parties agree to observe and respect the regime of permanent neutrality of the Canal in time of war as in time of peace, and to ensure that vessels of their registry strictly observe the applicable rules.

**ARTICLE III**

This Protocol shall be open to accession by all states of the world, and shall enter into force for each State at the time of deposit of its instrument of accession with the Secretary General of the Organization of American States.

## ACCESSIONS

<i>State</i>	<i>Date</i>
Bolivia ... ..	7 Mar. 1980
Chile ... ..	22 July 1980
China*	
Costa Rica ... ..	18 Sept. 1981
Denmark ... ..	15 Dec. 1982
Egypt, Arab Republic of ... ..	6 Apr. 1981
El Salvador ... ..	1 May 1980
Guatemala ... ..	17 July 1980
Honduras ... ..	13 May 1980
Korea, Republic of ... ..	4 Nov. 1980
Malawi ... ..	12 May 1980
Nicaragua ... ..	1 May 1980
Norway ... ..	15 Dec. 1982
Philippines ... ..	20 May 1981
Saint Vincent and the Grenadines ... ..	24 June 1981
Spain ... ..	13 Apr. 1981
Tunisia ... ..	18 June 1981
United Kingdom ... ..	15 Dec. 1982
Venezuela ... ..	4 Oct. 1982
Vietnam, Socialist Republic of ... ..	6 Nov. 1979

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\* An instrument of accession was deposited on behalf of the Republic of China on 22 July 1980.

## AIDE-MEMOIRE<sup>(2)</sup>

The Department of State refers the British Embassy to recent enquiries made by the United Kingdom authorities concerning certain aspects of the Protocol to the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, signed September 7, 1977.

The "applicable rules" referred to in Article II of the Protocol are those adopted in conformity with Article III of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal and the obligation of each contracting party to the Protocol to ensure that vessels of its registry strictly observe the applicable rules need be discharged only within the framework of its existing legislation.

In this connection, it is recognized that enforcement of the applicable rules would primarily be a matter for the Canal operator. The contracting parties to the Protocol would be expected to make reasonable, good faith efforts to cooperate in such enforcement within the framework of their own laws and practices when requested to do so by the Canal operator.

With reference to Article III(1)(d) of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, the phrase "consistent with international practices and standards" in this Article is intended to be a limitation on the bonding requirements that the Canal operator can impose on vessels. In drafting this provision, the United States and Panama sought to reassure Canal users that any bonding requirements adopted in the future could not be excessive in light of the prevailing practices. Thus, for example, in the case of particularly dangerous cargoes such as unstable chemicals Canal regulations have required additional security to be posted as a precondition to transit. It was felt that given changing technology and other such factors, precise regulations could not be constructed which would be useful for the life of the Treaty. Therefore, consistent with the Treaty's essential purpose of ensuring that the Canal remain open to peaceful transit by the vessels of all nations, the quoted formula was constructed to indicate that the Canal operator could not adopt unreasonable requirements in the light of international practice.

The Department understands that the United Kingdom authorities may wish to draw upon the foregoing in explaining the interpretation of the Protocol and the Treaty which the United States proposes to follow in applying the same.

Department of State,  
Washington, March 20, 1981.

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(<sup>2</sup>) An identical Aide-Memoire in the Spanish language was received from the Government of the Republic of Panama on 20 March 1981.

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