

106TH CONGRESS  
1ST SESSION

# H. J. RES. 77

Notifying the Government of Panama of the nullity of the Carter-Torrijos treaties and recognizing the validity of the Hay-Bunau-Varilla Treaty with respect to control of the Panama Canal Zone.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 9, 1999

Mrs. CHENOWETH-HAGE introduced the following joint resolution; which was referred to the Committee on Armed Services

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## JOINT RESOLUTION

Notifying the Government of Panama of the nullity of the Carter-Torrijos treaties and recognizing the validity of the Hay-Bunau-Varilla Treaty with respect to control of the Panama Canal Zone.

Whereas the United States Canal in Panama, linking the Pacific and Atlantic Oceans, is one of the most strategically important naval choke points in the world, essential to our national defense and vital to our economic well-being;

Whereas occupation, damage, or destruction of this crucial waterway by a hostile power—whether an unfriendly Panamanian Government, terrorist organization, or other foreign government—could be calamitous to the United States in time of war and disastrous to our economy even in time of peace;

Whereas the Republic of Panama does not have an army, navy, air force, or other military or police capability adequate for the defense of such a strategic asset;

Whereas the communist government of the People's Republic of China has been pursuing an aggressive expansionist agenda in Panama, the Caribbean, and Latin America, while, at the same time carrying out a concerted and much-publicized campaign of bribery and espionage reaching to the highest offices of the United States;

Whereas Hutchison Whampoa, a front company for the People's Liberation Army of China, utilizing corrupt practices, has acquired leases giving it control of the ports of Cristobal and Balboa at the Atlantic and Pacific ends of the Panama Canal, positioning the People's Republic of China for de facto control of the Canal;

Whereas the People's Republic of China, through its agent, Hutchison Whampoa, is also in the process of taking over the Rodman Naval Station and other military facilities being abandoned by the United States, and has the exclusive authority to hire the pilots who control all traffic through the Canal;

Whereas the People's Republic of China, a totalitarian regime, refers to the United States in its military literature and official Communist Party statements as its "main enemy" and has aligned itself with other communist regimes and terrorist states avowedly hostile to the United States;

Whereas China expert Dr. Michael Pillsbury of the National Defense University testified to the Senate Select Committee on Intelligence in September 1997 that the Chi-

nese military officials have written extensively of their nation's intention "to defeat the United States";

Whereas in spite of these manifest dangers, the Government of the United States is pursuing a policy of transferring possession, ownership, and control of the Panama Canal and Canal Zone, which includes the United States military bases, to the Government of Panama, in accordance with the 1977 Carter-Torrijos treaties, which were never legally ratified by either the United States or Panama;

Whereas in their respective instruments of ratification, the United States and Panama did not agree to the same text of the treaties, and, in fact, each party stipulated to conditions that are in fundamental conflict with, and mutually exclusive of, the demands of the other;

Whereas one of the most basic and universally accepted principles of international law concerning treaties holds that the parties must agree to the same written text, or there is no "meeting of the minds" and, thus no treaty;

Whereas Article 20.2 of the 1969 Vienna Convention on the Law of Treaties states unequivocally that "a reservation requires acceptance by all the parties"; and whereas the "Restatement of the United States Foreign Relations Law" declares unambiguously that "If the other state has made a reservation . . . the Senate . . . will take it fully into account in acting on the treaty," and, moreover, that "Senate consent to the acceptance of the reservation is required";

Whereas ratification of the Carter-Torrijos treaties by the United States Senate was contingent upon the DeConcini Reservation in the United States version guaranteeing

the United States the right to use military force, with or without Panama's consent, to keep the Canal open;

Whereas the United States Senate was not informed that the President of the United States had secretly agreed with the regime of Omar Torrijos in Panama not to include the essential DeConcini Reservation in Panama's text version; and, moreover, that the President of the United States added further to this illegal and unconstitutional action by secretly accepting Panama's counter-reservation, which explicitly repudiates the DeConcini Reservation and subjects United States right of military intervention to "principles of mutual respect and cooperation";

Whereas these discrepancies in the treaty texts involve the most substantive and fundamental contradictions imaginable affecting matters of the most serious import to both the United States and Panama, and, thus, render the ratifications by both parties invalid, null, and void;

Whereas additional serious violations of legal norms and the Constitutions of both the United States and Panama also render the Carter-Torrijos treaties of transfer and neutrality null and void, and, therefore, of no legal standing;

Whereas therefore, the original Hay-Bunau-Varilla Treaty of 1903 between the United States and Panama—under which the United States legally purchased the Canal Zone territory from Colombia, Panama, and private landowners, and then, at great cost, built the Panama Canal, which has proved to be an enormous boon to the whole world—remains legally in force;

Whereas the 1903 Treaty between the United States and Panama grants the United States full sovereign rights

over the Panama Canal and Canal Zone “in perpetuity”, and the United States Supreme Court has ruled (1907) that the Canal Zone is indeed United States territory;

Whereas even the terms of the invalid Carter-Torrijos Neutrality Treaty have been violated, rendering that treaty doubly void, in that Article V of the Neutrality Treaty specifies use of defense sites by Panama only, but Panama is leasing defense sites to a partner of the merchant marine arm of China’s People’s Liberation Army (Hutchison Whampoa);

Whereas the President of the United States, in defiance of both law and the national security and economic interests of the United States, has proceeded, and is proceeding, with the complete transfer of this vital, sovereign territory of the United States to Panama;

Whereas this transfer process is proceeding toward imminent completion on December 31, 1999; and

Whereas treaties are legislative acts and, as officially noted in Jefferson’s Manual and Rules of the House of Representatives, “Treaties being declared equally with the laws of the United States, to be the supreme law of the land, it is understood that an act of the legislature alone can declare them infringed and rescinded”: Now, therefore, be it

1       *Resolved by the Senate and House of Representatives*  
 2       *of the United States of America in Congress assembled,*  
 3       That notice is given to the Government of Panama of the  
 4       decree of nullity of the 1977 Carter-Torrijos treaties, and,  
 5       further, that the United States recognizes the Hay-

- 1 Bunau-Varilla Treaty of 1903 has never been voided and
- 2 remains legally binding.

