

**FEES AND FOREIGN INFLUENCE:
EXAMINING THE PANAMA CANAL AND ITS
IMPACT ON U.S. TRADE AND NATIONAL SECURITY**

HEARING

BEFORE THE

**COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE**

ONE HUNDRED NINETEENTH CONGRESS

FIRST SESSION

JANUARY 28, 2025

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED NINETEENTH CONGRESS

FIRST SESSION

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FEES AND FOREIGN INFLUENCE: EXAMINING THE PANAMA CANAL AND ITS IMPACT ON U.S. TRADE AND NATIONAL SECURITY

TUESDAY, JANUARY 28, 2025

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 10:07 a.m., in room SR-253, Russell Senate Office Building, Hon. Ted Cruz, Chairman of the Committee, presiding.

Present: Senators Cruz [presiding], Thune, Wicker, Fischer, Moran, Sullivan, Blackburn, Young, Budd, Schmitt, Curtis, Moreno, Sheehy, Capito, Lummis, Cantwell, Klobuchar, Schatz, Markey, Peters, Baldwin, Duckworth, Rosen, Luján, Hickenlooper, Kim, and Blunt Rochester.

OPENING STATEMENT OF HON. TED CRUZ, U.S. SENATOR FROM TEXAS

The CHAIRMAN. Good morning, everyone. Welcome. The Senate Committee on Commerce, Science, and Transportation will come to order.

We are here today to examine a monument to American ingenuity, the Panama Canal. Senator Moreno down there suggested we open the hearing by playing Van Halen and Panama. We may not do that. But between the American construction of the Panama Canal, the French effort to build an Isthmus Canal, and America's triumphant completion of that canal, the major infrastructure projects across Panama cost more than 35,000 lives.

For the final decade of work on the Panama Canal, the United States spent nearly \$400 million, equivalent to more than \$15 billion today. The Panama Canal proved a truly invaluable asset, sparing both cargo ships and warships the long journey around South America. When President Carter gave it away to Panama, Americans were puzzled, confused, and many outraged.

With the passage of time, many have lost sight of the Canal's importance, both to national security and to the U.S. economy. Not President Trump. When he demanded fair treatment for American ships and goods, many in the media scoffed. But the Panama Canal was not just given away. President Carter struck a bargain. He made a treaty.

And President Trump is making a serious and substantive argument that that treaty is being violated right now. This committee

has jurisdiction under the Senate rules over the Panama Canal, and today we will examine evidence of potential violations.

President Trump has highlighted two key issues: Number one, the danger of China exploiting or blocking passage through the Canal. And number two, the exorbitant costs for transit. Chinese companies are right now building a bridge across the Canal at a slow pace so as to take nearly a decade. And Chinese companies control container ports at either end.

The partially completed bridge gives China the ability to block the Canal without warning. And the ports give China ready observation posts to time that action. This situation, I believe, poses acute risks to U.S. national security.

Meanwhile, the high fees for canal transit disproportionately affect Americans, because U.S. cargo accounts for nearly three-quarters of canal transits. U.S. Navy vessels pay additional fees that apply only to warships. Canal profits regularly exceed \$3 billion. This money comes from both American taxpayers and consumers in the form of higher costs for goods. American tourists aboard cruises, particularly those in the Caribbean Sea, are essentially captive to any fees Panama chooses to levy for canal transits.

And they have paid unfair prices for fuel bunkering at terminals in Panama as a result of government-granted monopoly. Panama's Government relies on these exploitative fees, nearly one-tenth of its budget is paid for with canal profit. As those fees cascade through the American economy in the Federal FISC, the Chinese Communist Party advances its global economic contest against the United States and takes a militaristic interest in the Canal.

While President Trump has rightly focused on these key issues, there are additional problems. In the last 2 years, the Canal Authority generated record revenue even while transits were depressed by drought conditions. And the only comfort to delayed and overcharged ships is that Panama may invest in more freshwater reserves in the future.

Even as it takes advantage of the global maritime system, Panama has emerged as a bad actor. Panama has for years flagged dozens of vessels in the Iranian Ghost Fleet, which brought Iran tens of billions of dollars in oil profits to fund terror across the world.

And Chinese companies have won contracts, often without fair competition, as the infamous Belt and Road Initiative has come to Panama. China often engages in debt-trap diplomacy to enable economic and political coercion. In Panama, it also seems to have exploited simple corruption.

We have four panelists with us today. At Ranking Member Cantwell's request, we also invited the Deputy Administrator of the Panama Canal to appear today. She declined that invitation.

I understand this witness claimed her absence was due to a scheduling matter, but I also recognize that defending the Panama Canal Authority is an unenviable task. This committee may be obliged to compel her testimony at a future hearing.

It will not escape Senators' notice that Professor Kontorovich is appearing virtually today. That will be a very unusual practice before this committee. The Professor was ready to fly from Israel to D.C. to appear in person, but he was unable to because too few

American carriers have resumed direct flights to Israel. While European airliners are willing to fly to Israel, service to America has been prohibitively long and expensive.

Israel is America's closest ally in the Middle East, and U.S. carriers are refusing to fly there. Late last week, Delta Airlines announced it would finally restart direct flights to Tel Aviv in April. And I very much hope that United Airlines and American Airlines will very quickly follow suit and resume direct flights to Israel.

Turning back to the topic at hand, I am grateful to President Trump for raising public awareness about the state of the Panama Canal and the threats to American interests. We cannot afford to let American shippers be extorted. We cannot turn a blind eye if Panama exploits an asset of vital commercial and military importance. And we cannot stay idle while China is on the march in our hemisphere.

I expect and hope the testimony today to enlighten all of those issues.

I will now turn to Ranking Member Cantwell for her opening statement.

**STATEMENT OF HON. MARIA CANTWELL,
U.S. SENATOR FROM WASHINGTON**

Senator CANTWELL. Thank you, Mr. Chairman. And thank you for having this important hearing, and the witnesses that are here today, and virtually.

Access to the Panama Canal is essential, maintaining America's supply chains, lowering inflation costs on consumers and goods, and ensuring our national security. With about 72 percent of the goods transiting the Canal coming to or from U.S. markets, a stable waterway is vital for states like mine, where one in four jobs are related directly or indirectly to trade.

Seattle-based SSA Marine, operated in the Manzanillo International Terminal in Colon, Panama, for the last 30 years, is our largest U.S. logistics presence in Panama, with 19 massive cranes, 3.5 million cargo containers, and employing over a thousand people.

In fact, Washington's maritime economy supports 170,000 jobs and \$45 billion in revenue, and our U.S. maritime economy supports over 21 million jobs and almost \$3 trillion in America's GDP.

So anything that our committee can do to help grow our maritime economy, I am all for. That is why it is so important that the Committee not just focus on Panama, but the broader solutions to meet our U.S. maritime opportunities and challenges. This committee passed the Ocean Shipping Reform Act, led by our colleagues, Senator Klobuchar and Senator Thune, to address shipping costs and stop carriers from practices that delay U.S. cargo or increased costs.

This law also gave the FMC, our two Commissioners that are here today, the ability to do better investigation. So I look forward to hearing about their investigation on the Panama Canal and these cost issues.

And many members of this committee have worked on the Infrastructure Bill to do dock replacements in places like Alaska, rail improvements, pier infrastructure, safety improvements, container

yard expansion. And I know that my colleagues who represent these maritime investments need a maritime workforce and continued investment.

Many of our colleagues, Mr. Chairman, have great ideas. Senators Kelly and Young from the Senate, Representatives Garamendi and Kelly from the House, and they have been working with maritime stakeholders on these larger bills.

But Mr. Chairman, if this committee does not embrace this larger agenda, it is going to get decided in the Finance Committee. So I hope that we can get some of these issues and show that this committee is the Committee for maritime jurisdiction.

A bill that provides a comprehensive strategy to rebuild America's supply chain supremacy, sea lift capacity that we need to defend our interests in the South China Sea and the Indo-Pacific region, and to revitalize our Nation's ports and shipbuilding capacity. A revitalized U.S. maritime strategy would not only be good for our economy, but critical for national security.

At the same time, we face cyber threats from our foreign adversaries, and Panama is a perfect example, which brings us to the hearing today. I am concerned about Chinese-owned ports in Panama and their proximity to the Canal.

I am also deeply concerned about the installation of Chinese equipment from Huawei and Chinese companies near the Canal. This is why this committee successfully worked to get \$3 billion in Rip and Replace at the end of the last Congress. So if we are trying to get them out of U.S. ports and areas, we should not certainly allow them in vessels and back doors in places like Panama.

Mr. Chairman, I would like to ask unanimous consent to enter into the record a letter from the two most recent U.S. Ambassadors to Panama, who make the case for continued U.S. investment in infrastructure and cybersecurity.

The CHAIRMAN. Without objection.

Senator CANTWELL. Thank you, Mr. Chairman.

[The information referred to follows:]

U.S. Senate Committee on Commerce, Science, and Transportation
Russell Senate Office Room 254
Washington, DC, 20510

Dear Senator Cantwell:

We write in our private capacities as private citizens and the two most recent American Ambassadors to Panama. We welcome your and the Commerce Committee's attention to the strategic relationship between the United States and Panama. Your focus is well-timed and of vital importance to the strategic commercial and national security interests of the United States.

For 25 years the Panama Canal Authority (PCA), an independent entity not subject to the authority of any Panamanian government, has managed the Canal in a neutral and professional manner that has validated the original intent of the 1977 Carter-Torrijos treaties. When Canal Zone sovereignty was legally transferred to Panama on December 31st, 1999, international maritime shipping was in its infancy compared to the traffic we see today in a global economy linked by multinational supply chains. The Canal's importance has grown exponentially and to the great benefit of the Canal's primary user: the United States.

While there is no significant U.S.-owned commercial shipping fleet today, roughly 72% of the goods that transit the Panama Canal either originate from or are destined to U.S. markets. Panama's sovereign financing and construction of a third locks completed in 2016 afford U.S. liquid natural gas producers a new commercial lifeline to sell their product to Asian markets aboard post-Panamax sized ships, vessels that had not even been designed or built when the 1977 treaties were signed. If an American citizen purchased a Chinese-manufactured iPhone or large screen TV in the last decade, it was likely shipped in the most cost-efficient manner through the Panama Canal.

During these years, the security and strategic integrity of the Panama Canal has been guaranteed by the Neutrality Treaty. Under this treaty, the governments of the United States and Panama have both the right and the obligation to defend the Canal from any foreign interference. Given the close and enduring cooperation of multiple governments in both countries over two decades, a well-oiled mechanism for doing that has been established. The United States Southern Command (SouthCom), the U.S. Coast Guard, the Department of Homeland Security, the Department of Defense, the Army Corps of Engineers and multiple agencies of the U.S. Intelligence community all have an ongoing presence in Panama and routinely engage, under the coordination of the American Embassy in Panama, to conduct exercises, training of Panamanian counterparts, and private sector engagement with international shipping consortia. This is accomplished to ensure that terrorists, organized crime syndicates or malign nation states do not exploit or endanger the Canal.

In 2013, Ambassador Feeley coordinated, from his State Department position as the Western Hemisphere Security Coordinator, the interception of a North Korean ship attempting to transit the Canal with hidden Soviet-era MIG jet parts that came from Cuba and were destined for Pyongyang. That example of coordination and cooperation between Panama and the United States government is emblematic of how we protect the Canal under the Neutrality Treaty.

That said, we both share profound concerns about China's creeping commercial expansion in Panama. In 2017, when then-President Juan Carlos Varela surprised the United States by recognizing Beijing, Ambassador Feeley rang alarm bells in Washington to little effect. Several years later, in 2021, when the Hutchinson concessions at Balboa and Colon ports were renewed without going to another open bid, the United States raised no significant concerns. We see this as a missed opportunity by multiple U.S. administrations to take concrete steps to compete with China's state-owned enterprises on the commercial playing fields of Panama and the rest of the Western Hemisphere.

At this critical juncture, we would encourage the leadership of the Commerce Committee of the United States Senate to work with the Trump administration to better incentivize U.S. technology, infrastructure, and construction firms in taking advantage of Panama's multiple requests for foreign direct investment in their infrastructure needs, both at the Canal and throughout the country. Neither of us sees a short-term, plausible Chinese naval threat to the Canal, nor can the Hutchinson-operated ports block or sabotage the Canal operations any more than the other three ports in the Canal, which are operated respectively by a U.S., a Singaporean, and a Taiwan-based private company.

We know cyber attacks do not respect geography. For that reason, SouthCom recently signed a cyber security agreement with the PCA in the spirit of upholding the Neutrality Treaty. We are both convinced that the strongest and most potent weapon the United States could deploy to compete with Chinese commercial expansion is U.S. commercial interest and activity in Panama. We encourage the Commerce Committee to explore ideas such as an alliance of private, pre-certified American service providers who might have a fast track to securing bids on needed Panamanian infrastructure.

Senator Cantwell, Panama is by far the most pro-American country in Latin America. Current President Jose Raul Mulino already cooperates with the United States to an unprecedented degree, allowing U.S.-funded deportation flights from Panama to return undocumented migrants once they have crossed the Darien. Seeking even deeper cooperation now on commercial, migration, and national security interests with Panama is, in our opinion, effectively pushing on an open door.

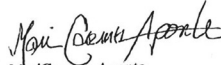
We urge Senate engagement with the Trump administration to ensure that the next 25 years of

sovereign Panamanian operations of the Panama Canal benefit the United States as much as the past 25 years have.

Thank you again for your interest in this vital issue.



John D. Feeley
U.S. Ambassador (ret)



MeriCarmen Aponte
U.S. Ambassador (ret)

Senator CANTWELL. These Ambassadors know better than anyone that America's adversaries have built back doors into communication technology, software—supply chains, both software and hardware. So whether it is a crane over the port, or a bridge, we cannot tolerate Huawei, TikTok, artificial intelligence, or other adversaries using a government back door.

Mr. Chairman, I am a very big fan of the five biggest technology interests and basic democracies forming a technology NATO, we should be saying to the world, nobody should be buying technology or equipment that has a government back door.

These are complex issues and we need solutions. I will be requesting that the Department of Defense provide a classified briefing to all members of our committee about foreign adversary threats to the Panama Canal, including these adjacent areas. I received an initial classified briefing from the U.S. Southern Command and have spoken to former U.S. Southern Command leader General Laura Richardson on these issues.

I also plan to go as a delegation, or by myself, to Panama and visit the Panama Canal Authority. I invite other members to do so hopefully this spring.

Any successful strategy also has to not just focus on cybersecurity and cooperation, and we will ask some of our witnesses here today, but the larger issue is we need to understand what are the shortfalls of the current agreement that does not get at this upgraded technology concern, I would hope that Panama would be very cooperative in discussing these cybersecurity investments and what needs to be made.

As we all know, the Panama Canal is, as an authority, independent and the Chinese Government do not start the shipping rates, but the authority has been grappling with historic rainfalls, climate change, and the solution, I believe, is for us to work together, as the Army Corps did before on solutions, in making sure that instability in water is not the cause of increase in rates. We need to work on these solutions.

But Mr. Chairman, I also believe that the larger issue here, as you mentioned in your statement about Belt and Road Initiative by the Chinese and their expansion, needs to be met with an aggressive response by the United States. I firmly believe in trade.

But, again, easy for me to say, or maybe for Texas, when you are coming from a very trade-dependent state, but the issue is we did not have an ambassador there for 5 years in Panama. For all my colleagues who hold up Ambassadors, you should rethink your strategies when you do this, because holding up Ambassadors and not dealing with these issues put us behind the eight ball.

Expanding exports to 95 percent of the world's consumers and roughly 3.5 billion people, I believe, is a good idea. I hope we can have a more aggressive strategy in Latin America.

I think the proposals by Senator Cassidy and Bennet, the Americas Act, is also a like-minded thing of Latin American countries that we could join together in sort of a U.S.-Mexico-Canada free trade agreement.

And I also believe that a free trade agreement of the Americas that link modernization of all our FTAs in Latin America and the Caribbean would help, along with an aggressive strategy on saying

no government back doors, and making the kind of investments that the Export-Import Bank can do to counter China.

So Mr. Chairman, thank you for organizing this important hearing. Such investments ensure resilient supply chains, boost exports, lower consumer costs, and most importantly, protect our national security. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Cantwell. Our first witness today is Chairman Louis Sola of the Federal Maritime Commission. He was recently in Panama on a fact-finding mission and can speak to concerning developments that I noted in my opening statement.

Chairman Sola, you are recognized for five minutes.

**STATEMENT OF HON. LOUIS E. SOLA, CHAIRMAN,
FEDERAL MARITIME COMMISSION**

Mr. SOLA. Thank you, Chairman Cruz, Ranking Member Cantwell, and distinguished members of the Committee. Thank you for the opportunity to speak today about the critical importance of the Panama Canal to U.S. trade and global commerce.

I bring a unique perspective as someone who has not only served as a maritime regulator but also lived and worked extensively in Panama. I have transited the Panama Canal over 100 times. This experience provides me with a profound understanding of the Canal's significance and challenges it faces.

Prolonged drought conditions last year forced operational changes, reducing transit slots, restricting vessel types, and auctioning of slots, raising alarm about its resilience. The Panama Canal is managed by the Panama Canal Authority, ACP, an independent agency of the Panamanian Government. The ACP is a model of public infrastructure management and its independence has been key to ensure a safe and reliable transit of vessels critical to the U.S. and global commerce.

During my recent visit to Panama, I had the opportunity to meet with leaders of the ACP to better understand their efforts to address the ongoing challenges facing the Canal. I saw firsthand their commitment to maintaining the Canal's efficiency and resilience.

These conversations also highlighted the broader challenges posed by the Panamanian Government's maritime policies, which complicate the ACP's mission and raise concerns about corruption and foreign influence.

In contrast, the broader maritime sector in Panama, including the Nation's ports, water rights, and the world's largest ship registry, falls under the direct purview of the Panamanian Government. Unfortunately, this sector has faced persistent challenges, including corruption scandals and foreign influence, particularly from Brazil and China. These issues create friction with the ACP, especially as it works to address long-term challenges, such as securing adequate water supplies for the Canal.

Although the ACP operates independently under U.S. law, both the ACP and the government of Panama's maritime sector are considered one and the same. This means that any challenges in Panama's maritime sector, including corruption, lack of transparency, or foreign influence, can have a direct or indirect impact on the operations and long-term stability of the Canal.

This legal perspective highlights the need for diligence in monitoring both the ACP's management and Panama Government's policies affecting maritime operations.

Since 2015, Chinese companies have increased their presence and influence throughout Panama. Panama became a member of the Belt and Road Initiative and ended its diplomatic relations with Taiwan.

Chinese companies have been able to pursue billions of dollars in development contracts in Panama, many of which were projects directly on or adjacent to the Panama Canal. Many were no-bid contracts, labor laws were waived, and the Panamanian people are still waiting to see how they have been benefited. It is all the more concerning that many of these companies are state-owned, and in some cases even designated as linked to the People's Liberation Army.

We must address the significant growing presence and influence of China throughout the Americas, and in Panama specifically. American companies should play a leading role in enhancing the Canal's infrastructure. By supporting U.S. firms, we reduce reliance on Chinese contractors and promote fair competition.

Additionally, confirming a U.S. Ambassador in Panama is critical to advancing our national and economic interests. The FMC will continue to monitor the Canal's pricing practices and consider broad reviews of Panama's maritime sector. Yes, FMC has the authority to impose significant remedies, including fines and restrictions on Panamanian-flagged vessels entering U.S. ports.

In closing, the Panama Canal is vital to our economy, with over 75 percent of its traffic bound for our ports. Safeguarding the ACP's independence and addressing the challenges posed by the broader government are essential to maintaining U.S. competitiveness in a global economy.

I look forward to your questions.

[The prepared statement of Mr. Sola follows:]

PREPARED STATEMENT OF HON. LOUIS E. SOLA, CHAIRMAN,
FEDERAL MARITIME COMMISSION

Chairman Cruz, Ranking Member Cantwell, and distinguished members of the Committee: Thank you for the opportunity to appear before you today to address the vital role the Panama Canal plays in U.S. trade and the global economy. I understand many of the issues of interest to you from not only my perspective as a regulator, but as someone who is a "Zonian."

Panama is a place I know well. I grew-up in Goodland, Indiana, but Panama has been a part of my life from when I first moved there in my very early twenties as a young Army Non-Commissioned-Officer. I launched my post-military career there, my children were born there, I have transited the Canal 110 times as a Captain, earning the distinction as "Honorary Lead Pilot." I know the country, I speak the language at home, I have a genuine affinity for the people of Panama and for the country itself. Nonetheless, I am not blinded to issues which should command each of our attention.

Your interest in the Panama Canal is commendable. Despite the Canal being more than 100 years old, it remains a critical conduit for trade moving by vessel. The United States, more than any other nation, benefits from ships being able to transit the Panama Canal. In excess of 40 percent of U.S. container traffic, valued at roughly \$270 billion annually, transits this waterway. Nor is Canal traffic limited to container ships. Vessels of all sorts—container ships, passenger vessels, bulk and breakbulk vessels, and product tankers—use the waterway to carry cargoes to and from the United States.

For much of the more than 100-year history of the Canal, the United States was responsible for operating the facility, but that responsibility shifted in 1999 when control of the Canal was transferred to the Republic of Panama. For the past 25 years, the Canal has been very ably administered by the (Panama Canal Authority) a government entity that is separate from the government of Panama.

Drought conditions had consequential effects on Canal operations in 2024, forcing the Authority to cut the total number of transit slots available, bar some classes of vessels from transiting at all, and mandate vessels be more lightly loaded to allow for higher drafts. In some instances, available transit slots were auctioned off to the highest bidder. In response to the concerns expressed by many different sources about how the Canal was being operated, then-Chairman Maffei and I traveled to Panama last August to meet government, the Authority, and business executives to learn more about how the drought was impacting Canal operations and what measures the Authority was taking to make the Canal more drought resistant.

Panama Canal Authority executives appeared to be fully transparent in discussing the management of the Canal and options for making the waterway more resilient against drought conditions. These improvements are absolutely critical. Without a solution, projections suggest that by 2050, the Canal's capacity could decline by as much as 50 percent, which would have devastating consequences for global trade and U.S. commerce. The Authority is working to create the additional volumes of water necessary to operate the Canal, but must do so within the constraints of laws and regulations administered by the Government of the Republic of Panama. That relationship has been frictional at times. The Republic of Panama is responsible for administering that nation's ports, water rights, and ship registry. The reality is one entity—the Panama Canal Authority—administers the Canal and is responsible for its continued viability, but many of the initiatives necessary to realize that goal are under the control of Panama's government.

Further complicating this split of authorities is the reputation the Government of Panama has for corruption and susceptibility to foreign influence. Transparency International places Panama at 108 out of 180 rated countries, and the U.S. Department of Commerce International Trade Administration notes that "Corruption is Panama's biggest challenge." Prevalent examples exist of the systemic corruption found in how the Panamanian government does business. Officials have been sanctioned. The Panamanian Registry included Iranian-owned vessels that were involved in sanctions busting. Presidential administrations that preceded that of now-President Mulino were particularly receptive to Chinese overtures and beginning in 2015, the People's Republic of China only had to push lightly on a cracked door in Panama. In subsequent years, Panama became a member of the Belt and Road Initiative and ended its diplomatic relations with the Republic of China (Taiwan). Chinese companies have been able to pursue billions of dollars in development contracts in Panama, many of which were physical infrastructure projects, some on or adjacent to the Panama Canal. No bid contracts were awarded, labor laws were waived, and the Panamanian people are still waiting to see how they benefitted.

The United States is not without options in addressing the growing presence of China and Chinese companies in Panama and throughout the Americas. Nor are we without options as they relate to the continued viability of the Canal.

First, we need to increase support for American companies seeking to do business in Panama and throughout the Americas. Chinese companies must not be the sole bidders on contracts. Improving the resiliency of the Panama Canal will require significant engineering and construction work. U.S. firms can and should be at the top of the list of bids considered. Further, the United States must address any conduct by foreign competitors that American companies are legally prohibited from engaging in. Commercial opportunities abound throughout the Americas and our foreign and commercial services must embrace their roles as champions of U.S. businesses in spite of a strong presence of anti-US and Chinese aligned local media outlets. The U.S. Embassy in Panama is a crucial part of these efforts. Having an ambassador confirmed, in place in Panama, and protecting our national interests must be a priority.

Second, we must protect the independence of the Panama Canal Authority. Any effort by other interests in Panama to diminish the independence or professionalism of the Authority must be stopped. Building or expanding relationships with the Panama Canal Authority can increase its capabilities and competencies even further. The United States should work with the Authority to identify opportunities for technical collaboration or expertise sharing. One example is the U.S. Army Corps of Engineers, which has unparalleled experience in managing large public works projects. The relationship between it and the Authority could be formalized. Another opportunity for growing relationships is to foster closer, more frequent consultations between users, or their representatives, of the Canal and the Authority leadership.

Such exchanges would be productive, particularly if they identified and alleviated concerning issues before they become problematic issues.

Third, the Federal Maritime Commission will continue its monitoring and review of the practices of the Panama Canal Authority with a particular eye toward the appropriateness of pricing structure for transits. The Commission will also consider expanding its ongoing examination of the Authority to include other maritime/supply chain businesses operating in Panama. The authorities the Commission possesses under section 19 of the Merchant Marine Act of 1920 to address conditions affecting shipping in foreign trade (46 U.S. Code Chapter 421) authorize the Commission to address foreign government laws or practices that are harmful to U.S. shipping. More explicitly, should the Commission formally investigate the practices of the Panama Canal Authority and find them to be unfavorable, the Commission could act against the Republic of Panama broadly as opposed to the Authority specifically. The Commission can levy significant remedies under the law, including substantial daily fines and barring Panamanian-flagged vessels from calling at U.S. ports.

More than one-third of the U.S. economy is tied to goods, commodities, and inputs that move by sea, and the Panama Canal is an indispensable part of the ocean-linked supply chains on which we are reliant. Safeguarding the viability of the Panama Canal for the coming century and beyond must be a priority we meet if we want to remain economically competitive.

Thank you for your attention and interest. I am pleased to address any questions you might have.

The CHAIRMAN. Thank you, Chairman.

Our next witness is Commissioner Daniel Maffei of the Federal Maritime Commission. He was also in Panama with Chairman Sola.

Mr. Maffei, I look forward to your opening statement.

**STATEMENT OF HON. DANIEL B. MAFFEI, COMMISSIONER,
FEDERAL MARITIME COMMISSION**

Mr. MAFFEI. Thank you very much, Chairman Cruz, and Ranking Member Cantwell, and members of the Committee.

I do want to say that in addition to Chairman Sola and myself, Commissioner Max Vekich is also here from the Federal Maritime Commission, which I just think underscores the importance of this issue to us.

More than 110 years after its opening, the Panama Canal does remain absolutely vital to maintaining resilient supply chains for both American importers and exporters. Because the Canal is essentially a waterway bridge over mountainous terrain above sea level, it does depend on large supplies of fresh water to maintain the full operations.

Panama has among the world's largest annual rainfalls, nonetheless, insufficient fresh water levels have occurred before in the Canal's history, such as in the 1930s when the Madden Dam and Lake Alejuela were built to address water shortages. Since that time, the Canal has undertaken several projects to accommodate larger, more modern ships.

In the last couple of years, a trend of worsening droughts in the region once again has forced limits to the operations of the Canal. Starting in June 2023, the Panama Canal Authority employed draft restrictions and reduced the number of ships allowed to transit the Canal per day. Now, the Panama Canal limitations, in combination with the de facto closure of the Suez Canal to container traffic, has had serious consequences for ocean commerce, increasing rates, fees, and transit times.

In the first half of 2024, U.S. importers and exporters expressed Panama Canal-related concerns to the FMC, including doubts about the future reliability of the Canal, and questions about how the Panama Canal Authority was determining which ships could transit the Canal, and how long they would have to wait.

The FMC has statutory authority under the laws concerning foreign shipping practices to investigate and potentially take appropriate counteraction if it finds that a foreign country, through its laws or regulations, has contributed to, quote, “Conditions unfavorable to shipping in the foreign trade”, unquote.

Given this statutory mandate and consistent with FMC’s mission, I and then Commissioner Louis Sola started to look deeper into the causes of the issues facing the Canal. The first step was to meet with Panamanian officials and other stakeholders, as the Chairman has pointed out, about the conditions adversely affecting the Canal’s operations, about what was being done to address these concerns, and about whether any aspect of the Canal’s operations might result in conditions unfavorable to U.S. shipping that should be addressed under the Commission’s authority.

So we traveled to Panama, which was in July 2024, and we met with then-recently elected President Jose Mulino and officials in his administration. We also met with the Panama Canal Authority, as well as private sector stakeholders.

We had very candid discussions on key issues, such as Panama’s command to—I am sorry—Panama’s plans to ameliorate the water-level challenges, the bidding processes used to allocate transits during times of restrictions, and our concern the Canal Authority was bringing in far more revenue during the crisis than it had before limits were forced by water shortages.

Both the Government of Panama and the Canal Authority did answer our questions very substantively. The Canal Authority informed us they were already making changes to that allocation system. Now, fortunately, Panama’s 2024 rainy season has, for now, alleviated the most acute water supply issues at the Canal, and normal transit volumes have been restored.

That said, while the Panamanian Government and Canal Authority have, with the advice of the U.S. Army Corps of Engineers, developed credible plans to mitigate future water shortages, they also warned that it is likely that at least one more period of reduced transits will occur before these plans can be fully implemented.

Now, since our meetings, the FMC has continued to monitor Panama’s progress on this front and examined other policy changes announced by the Canal Authority. I do have continuing concerns, particularly about the auction-like slot allocation procedures, not so much as they are applied right now because transits are not being rationed, but when another low rainfall rain period occurs—or rainfall period occurs.

As we learn more about Panama and the Canal Authority and how they would handle another drought and receive more input from American importers and exporters, the Commission does remain positioned to take appropriate action if warranted. How the Panama Canal’s operations affect American commerce was a high priority for the FMC under my chairmanship, it remains a high

priority at the Federal Maritime Commission under Commissioner Sola's chairmanship, and I am extremely pleased that it is a priority for this committee as well.

Thank you.

[The prepared statement of Mr. Maffei follows:]

PREPARED STATEMENT OF HON. DANIEL B. MAFFE, COMMISSIONER,
FEDERAL MARITIME COMMISSION

Thank you, Chairman Cruz, Ranking Member Cantwell, and members of the Committee for inviting me to participate.

The Panama Canal is crucial to ensuring an efficient and reliable ocean transportation system, particularly for the United States. When the Canal opened in 1914, global trade by sea was drastically altered as international commerce benefited from the expedited maritime passage through Central America. Today—more than 110-years later—the Panama Canal remains vital to maintaining resilient supply-chains for both American importers and exporters.

The Panama Canal has always had limits to its capacity. Because the Canal is essentially a waterway bridge over mountainous terrain above sea level, it depends on large supplies of fresh water to maintain full operations.

Panama has among the world's largest annual rainfalls. Nonetheless, insufficient freshwater levels have occurred before in the Canal's history, such as in the 1930s, when Madden Dam and Lake Alejuela were built to address water shortages. Since that time, the Canal has undertaken several projects to accommodate larger, more modern ships. Less than a decade ago, the Panama Canal Authority opened new sets of locks on both the Atlantic and Pacific ends.

In the last couple years, a trend of worsening droughts in the region forced limits to the operations of the Canal. Starting in June of 2023, the Canal Authority employed draft restrictions (preventing some larger and/or heavily loaded ships from passing through the Canal's lock systems) and reduced the number of ships allowed to transit the Canal per day.

The diminished capacity at the Panama Canal, in combination with the de facto closure of the Suez Canal—due to Houthi attacks in the Red Sea—had serious consequences for ocean commerce which sometimes included increased rates, fees, and/or transit times. U.S. importers and exporters expressed Panama Canal-related concerns to Commissioners and staff at the FMC, including doubts about the future reliability of the Canal and questions about how the Panama Canal Authority was determining which ships could transit the Canal and when.

The FMC has statutory authority under the laws concerning foreign shipping practices to investigate and potentially take appropriate counter action if it finds that a foreign country, through its laws or regulations, has contributed to "conditions unfavorable to shipping in foreign trade."

Given this statutory mandate, and consistent with FMC's mission, I and then-Commissioner Sola started to look deeper into the causes of the issues facing the Canal. We thought the first step was to meet with Panamanian officials and other stakeholders and speak to them directly about the conditions adversely affecting the Canal's operations and some of the input we had heard from American shippers. We specifically sought to better understand the current state of the Canal's operations, what was being done to improve them, and whether any aspect of the Canal's operation might result in conditions unfavorable to U.S. shipping that should be formally investigated under the Commission's authority.

While in Panama, we met with the then recently elected President, Jose Mulino, as well as several senior officials in his administration to discuss maritime policy. We also met with the Canal's Administrator and other officials of the Panama Canal Authority. We had additional meetings with private-sector stakeholders.

We had candid discussions on key issues such as Panama's plans to ameliorate the water level challenges, the bidding process used to allocate transits during times of restrictions, and our concern that the Canal Authority was collecting much more money per transit during the crisis than it had before the 2023–24 water shortage. Both the government of Panama and the Canal Authority answered our questions substantively. The Canal Authority informed us they were already making changes to the allocation system.

Fortunately, Panama's 2024 rainy season has now alleviated the most acute water supply issues at the Canal for the time-being and restored normal transit volumes. That said, while the Panamanian government and Canal Authority have, with the advice of the U.S. Army Corps of Engineers, developed credible plans to mitigate

future water shortages, they also warned that it is likely at least one more period of reduced transits will occur before these plans can be fully implemented.

Since our meetings in late July, the Commission has continued to monitor Panama's progress on this front and examined other policy changes announced by the Canal Authority. I do have continuing concerns about the auction-like slot allocation procedures—not so much as they are applied right now when transits are not being rationed—but when another lower rainfall period occurs. As we learn more about how Panama and the Canal Authority would handle another drought crisis and receive more input from American importers and exporters, the Commission remains prepared to take any appropriate action, if warranted.

How the Panama Canal's operations affect American commerce remains a priority at the Federal Maritime Commission, and I am very pleased that it is a priority for this Committee as well.

Thank you.

The CHAIRMAN. Thank you, Commissioner. Our next witness is Law Professor Eugene Kontorovich, who can explain Panama's treaty obligations and the remedies the U.S. might seek for potential violations.

Professor Kontorovich is appearing virtually. And Professor, you are recognized for your opening statement.

**STATEMENT OF EUGENE KONTOROVICH, PROFESSOR,
ANTONIN SCALIA LAW SCHOOL, GEORGE MASON UNIVERSITY**

Mr. KONTOROVICH. Chairman Cruz, Ranking Member Cantwell, Honorable Members of the Committee, I appreciate and regret the opportunity to testify before you remotely.

I have been asked to discuss possible violations of the treaty concerning the permanent neutrality and operation of the Panama Canal entered into between the two countries in 1977.

I should say at the outset that determining whether a certain situation violates the treaty is a mixed question of law and fact, depending on both the meaning of the treaty and the actual situation on the ground. I have not had any classified intelligence briefings on this subject, so I am going to speak about the meaning of the treaty primarily. We shall see that under international law, each party to the treaty is entitled to determine for itself whether a violation has occurred.

Now, in exchange for the United States seizing control of the Canal, which it built and maintained, Panama agreed to a special regime of neutrality. The essential features of this regime of neutrality is that the Canal must be open to all nations for transit, that is Article II, equitable tolls and fees, Article III, and exclusive Panamanian operation, Article V (sic), the prohibition of any foreign military presence, Article V.

Article V provides that only Panama shall operate the Canal. Testifying about the meaning of the treaty at the Senate ratification hearings, the Carter administration emphasized that this prohibits foreign operation of the Canal as well as the garrisoning of foreign troops.

Now, Article V appears to be primarily concerned about control by foreign sovereigns. If Panama signed a treaty with the People's Republic of China, whereby the latter would operate the Canal on Panama's behalf, this would be a clear violation. But what if Panama contracted for port operations with a Chinese state firm, or even a private firm influenced, or controlled in part by the Chinese Government?

The Suez Canal Company was itself, before being nationalized, a private firm in which the United Kingdom was only a controlling shareholder, yet this was understood to represent British control over the Canal. In other words, a company need not be owned by the government to be, in part, controlled by the government.

So the real question is the degree of de jure or de facto control over a foreign sovereign company. And scenarios range from government companies in an authoritarian regime, completely controlled, to purely private firms in an open society like the United States, but those many possible situations in the middle.

The treaty is silent on the question of how much control is too much. And as we will see, this is one of the many questions committed to the judgment and discretion of each party.

Now, turning to foreign security forces, the presence of third-country troops would manifestly violate Article V. But this does not mean that anything short of a People's Liberation Army base flying a red flag is permissible. The presence of foreign security forces could violate the regime of neutrality, even if they are not represented in organized and open military formations.

Modern warfare has seen belligerent powers seek to evade international legal limitations by disguising their actions in civilian garb. From Russia's notorious little green men, to Hamas terrorists hiding in hospitals or disguised as journalists, bad actors seek to exploit the fact that international treaties focus on sovereign actors.

Many of China's man-made islands in the South China Sea began as civilian projects before being suddenly militarized. Indeed, this issue was discussed in the Senate ratification hearings over the treaty.

Dean Rusk said, "Informal forces would be prohibited under the treaty." Thus, the ostensible civilian character of the Chinese presence around the Canal does not in itself mean that it could not represent a violation of the treaty if, for example, these companies and their employees involved Chinese covert agents or other agents of the Chinese security forces.

So this leads us to the final question: Who determines whether neutrality is being threatened or compromised? Unlike many other treaties that provide for third-party dispute resolution, the Neutrality Treaty has no such provision. Instead, the treaty makes clear that each party determines for itself the existence of a violation.

Article IV provides that each party is separately authorized to maintain the regime of neutrality, making it a separate obligation of each party. The Senate's understanding made accompanying the ratification also made clear that Article V allows each party to take, quote, "unilateral action".

Senator Jacob Javits, at the markup hearing, said that while the word "unilateral" is abrasive, we can, quote, "Decide that the regime of neutrality is being threatened and then act with whatever means are necessary to keep the Canal neutral, unilaterally."

I look forward to your questions.

[The prepared statement of Mr. Kontorovich follows:]

PREPARED STATEMENT OF PROFESSOR EUGENE KONTOROVICH, ANTONIN SCALIA LAW SCHOOL, GEORGE MASON UNIVERSITY SENIOR AND RESEARCH FELLOW, HERITAGE FOUNDATION

Chairman Cruz, Ranking Member Cantwell, and Honorable Members of the Committee:

I am Eugene Kontorovich, a professor at George Mason University's Antonin Scalia Law School, as well as senior research fellow at the Heritage Foundation's Margaret Thatcher Center for Freedom.¹ My research focuses on constitutional and international law.

I have been asked to discuss possible violations of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, entered into on September 7, 1977, between the United States and Republic of Panama. I should say at the outset that determining whether a certain situation represents a violation of a given treaty is a mixed question of law and fact. It depends both on the treaty and its interpretation, as well as on the actual situation on the ground, the latter of which I have no special information about.

We shall see that under international law that each party to a treaty is entitled to determine for itself whether a violation has occurred. In our constitutional system, that determination is left primarily to the President, in part because of his superior and ongoing access to facts, much of which might not be public.

What “Neutrality” Means

The Neutrality Treaty was part of a deal made with Panama and embodied in two instruments. In one, the Panama Canal Treaty, the United States agreed to cede the Panama Canal Zone and, as of 1999, the operation of the Canal, to Panama. In exchange for the United States ceding the control of the Canal which it built and then maintained and defended, Panama agreed to a special “regime of neutrality” of the Canal, which is set forth in a separate treaty.

Under international law, neutrality is a robust and detailed doctrine focused on third parties treating belligerents equally, or not affording them certain facilities, in time of war. The rules of neutrality are complex and detailed. Such rules were of great interest to the Framers, as they navigated the geopolitics of the Napoleonic Wars. The technicalities of neutrality are of somewhat less practical relevance today,² when states of declared war are uncommon, and belligerence falls in several shades of grey.

In any case, the neutrality spoken of by the Treaty is not the general doctrines of customary international law, but the specific “regime of neutrality”³ that is “spelled out in the treaty itself,” as Dean Rusk explained in Senate hearings at the time.⁴ Indeed, the neutrality spoken of in this treaty is different from classic neutrality in several ways, as it applies in times of peace, and gives preferential treatment to U.S. warships and Colombian vessels. This is not general neutrality, but rather a relative neutrality that places the safeguarding of U.S. interests in a special position.

What Violates Neutrality

The essential features of the neutrality that must be preserved in the Canal are the non-discrimination among nations in the right of transit (Art. II); just and equitable tolls and fees (Art. III); exclusive Panamanian operation of the Canal (Art. V); and the prohibition of any foreign military or defense presence in the country (Art. V). A significant purpose of these provisions was to ensure foreign powers would not control the Canal.

Foreign Operation of the Canal

Article V provides that only Panama shall “operate” the Canal. Testifying about the meaning of the treaty in the Senate ratification hearings, the Carter Administration via Assistant Secretary of State for Legislative Affairs Douglas J. Bennet,

¹ The title and affiliation are for identification purposes. Members of The Heritage Foundation staff testify as individuals discussing their own independent research. The views expressed here are my own and do not reflect an institutional position for The Heritage Foundation, its Board of Trustees, George Mason University, or the Commonwealth of Virginia.

² See STEPHEN P. MULLIGAN, CONG. RSCH. SERV., LSB10735, INTERNATIONAL NEUTRALITY AND U.S. MILITARY ASSISTANCE TO UKRAINE (2022).

³ Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, U.S.-Panama, Sept. 7, 1977, T.I.A.S. No. 10030, reprinted in 16 I.L.M. 1022 (1977), Art. I.

⁴ See *Panama Canal Treaties: Hearings Before S. Comm. on Foreign Relations*, 95th Cong., 559–60 (1978) (statement of Dean Rusk, former U.S. Sec. of State).

Jr., emphasized that the treaty “prohibits *foreign operation* of the Canal, the garrisoning of foreign troops.”⁵

This raises the question of whether the operation of the Canal or its appurtenant facilities by a private firm, neither American nor Panamanian, is consistent with the treaty. Article V appears primarily to be concerned about control by foreign sovereigns. If Panama signed a treaty with the People’s Republic of China, whereby the latter would operate the Canal on Panama’s behalf, it would be a clear violation of the treaty. But what if Panama contracted for port operations with a Chinese state firm? Or even a private firm? The Suez Canal company was itself a private firm in which the United Kingdom was only a controlling shareholder, and yet it was understood to represent Anglo-French control over the Canal.

One analytic factor would be the degree of *de jure* or *de facto* control the foreign sovereign has over the company. Here, scenarios range from government companies in an authoritarian regime to purely private firms in an open society such as the United States. In between exists a spectrum of levels of governmental control and influence. The treaty is silent on the question of how much is too much. As we shall see, that is one of the many questions committed to the judgment and discretion of each party.

In a communist regime, distinctions between private and government-owned firms are not as absolute or clear-cut as in a Western liberal society. This is particularly the case for the People’s Republic of China (PRC), which has an official doctrine known as “Military-Civilian Fusion,” a top-level strategy of the CCP Central Committee since 2019.⁶ Moreover, Panama has formally joined China’s “Belt and Road Initiative” (BRI), a sprawling Chinese governmental policy to strengthen its strategic influence overseas. China has used the BRI to expand its overseas security footprint in Belt and Road countries.⁷

Another formal distinction of uncertain substantive value is that between Hong Kong and the PRC. When a Hong Kong company first won contracts to manage the ports on each side of the Canal—over vigorous U.S. objections⁸—the island was still a British Crown Dependency. Just a few months later, it was handed over to China; two years later, the Canal Zone was handed over by the United States to Panama. In the ensuing decades, China has cemented its control over Hong Kong far beyond what was contemplated in its agreement with the United Kingdom, culminating in imposition of Chinese security laws in 2020.

These developments may have a combined cumulative effect. It emerges that the operation of facilities proximate to the Canal is under the control of companies subordinate to a rival or even hostile power, known for its integration of civilian and military sectors and use of infrastructure development to project global power.

Foreign Security Forces

The presence of third-country troops or military infrastructure would manifestly violate Article V. But this does not mean that anything short of a People’s Liberation Army base flying a red flag is permissible. The presence of foreign security forces could violate the neutrality regime even if they are not represented by organized military formations. Modern warfare has seen belligerent powers seek to evade international legal limitations by disguising their actions in civilian garb. From Russia’s notorious “little green men” to Hamas terrorists in hospitals, bad actors seek to exploit the fact that international treaties focus on *sovereign* actors. Many of China’s manmade islands in the South China Sea began as ostensibly civilian projects before being militarized.

Indeed, this issue was discussed in the Senate ratification hearings, with Dean Rusk testifying that “informal forces” would also be prohibited under the Treaty.⁹ (The question of Chinese influence over the canal was already discussed with concern by Senator Joe Biden during the mark-up hearings on the treaty.) Thus, the ostensible civilian character of the Chinese presence around the Canal does not mean China cannot be involved in violations of the treaty if, for example, the civilian presence includes agents of Chinese intelligence or security forces. It would hardly be surprising if these companies included agents of Chinese security services, but this is of course a factual matter.

⁵*Id.* at 673, 675 (1978) (statement of Douglas J. Bennet, Jr., Ass’t Sec. of State for Legislative Affairs).

⁶See U.S. Dep’t of Defense, *Military and Security Developments Involving the People’s Republic of China*, 28–30 (2023).

⁷*Id.* at 27.

⁸*The Security of the Panama Canal: Hearings before the S. Armed Serv. Comm.*, 106th Cong. (1999) (statement of Amb. Lino Gutierrez).

⁹*Supra* note 3 at 539–40 (statement of Dean Rusk, U.S. Sec. of State).

Who Determines Neutrality Violations

The operations of Chinese companies have apparently not compromised traffic through the Canal in any way at this point. But the treaty is not merely violated when transit through the Canal is obstructed in wartime—indeed, such a treaty would leave the United States with no recourse until it is too late.

This leads to the question of who determines whether neutrality is being threatened or compromised. Under international law, states determine for themselves the meaning of their treaty obligations unless a dispute resolution mechanism is provided for. Unlike many other treaties, the Neutrality Treaty provides no clause referring disputes to some form of third-party resolution.

Instead, the treaty makes clear that each party determines for itself the existence of a violation. First, Article IV provides that each party is separately authorized to “maintain” the regime of neutrality. The Carter-Herrera Declaration, which is part of the full treaty, makes clear that both countries have “the responsibility” to “defend the canal against any threat to the regime of neutrality.”¹⁰ This is far from the language of the U.N. Charter, which requires an “armed attack” to trigger a right of self-defense—and even that language the United States interprets as allowing for preemptive self-defense. By contrast, the Neutrality Treaty makes explicit that the United States can act when it deems the neutral operation of the Canal threatened—that is, when the danger is still inchoate.

The Senate ratification amendments also indicate that “each of the two countries” shall separately be entitled to defend the neutrality regime. Indeed, this is the only plausible interpretation, as a requirement of joint-decision making would allow Panama to veto any U.S. action and violate the neutrality regime with impunity. Similarly, the Senate’s understandings accompanying ratification make clear that Article V allows each party to take “unilateral action.” Senator Jacob Javits said at the mark-up hearings that, while the word “unilateral” is abrasive, “we can decide that the regime of neutrality is being threatened and then act with whatever means are necessary to keep the canal neutral.”¹¹

How Neutrality Is Enforced

There is no doubt that the treaty authorizes the use of force against threats to the neutrality of the Canal. This was a matter of general consensus in the ratification debates and is made explicit in the conditions attached by the Senate to the ratification. The Statement of Understanding issued by the United States and Panama also makes this clear, adding the limitation that any use of force may not be directed against the “territorial integrity or political independence of Panama.” This phrasing means that while the treaty authorizes (but does not require) military force to remove threats to the neutrality of the Canal, such force can be used only as far as required to remove the threat. The treaty does not provide a basis for the reconquest of the Canal on a permanent basis.

The fact that the treaty allows the use of military force—in contexts when it would otherwise have been forbidden by international law—does not mean this should be the first recourse. Needless to say, any resort to arms should be not taken lightly and should only follow the failure of diplomacy. And as the Statement of Understanding notes, the treaty’s allowance for military action does not substitute for the satisfaction of the “constitutional processes” of each party, which for us may, depending on the circumstances, require congressional authorization.

Senators, thank you for your attention.

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Individuals—82 percent

Foundations—14 percent

¹⁰ Joint Statement of Understanding Issued Following a Meeting Between the President and Brigadier General Omar Torrijos Herrera of Panama (Oct. 14, 1977).

¹¹ *Hearings on Neutrality Treaty Before the S. Foreign Relations Comm.*, 95th Cong. 71 (1978) (statement of Sen. Jacob Javits).

Corporations—1 percent

Program revenue and other income—3 percent

The top five corporate givers provided The Heritage Foundation with 1 percent of its 2023 income. The Heritage Foundation's books are audited annually by the national accounting firm of RSM US, LLP.

The CHAIRMAN. Thank you, Professor.

Our final witness, World Shipping Council CEO, Joseph Kramek, can discuss the challenges faced by container lines moving goods to or from America through the Panama Canal.

Mr. Kramek, you are recognized for your opening statement.

**STATEMENT OF JOSEPH KRAHEK, PRESIDENT AND CEO,
WORLD SHIPPING COUNCIL**

Mr. KRAHEK. Thank you, Chairman Cruz, Ranking Member Cantwell, and members of the Committee.

My name is Joe Kramek. I am President and CEO of the World Shipping Council.

The World Shipping Council is the global voice of the liner shipping. Our membership consists of 90 percent of the world's liner shipping tonnage, which are container vessels and vehicle carriers. They operate on fixed schedules to provide our customers with regular service to ship their goods in ports throughout the world. Our focus is on sustainable, safe, and secure international ocean transportation.

Nothing could be more important to the U.S. economy and WSC member lines who carry the trade that supports the U.S. economy, than a sustainable, safe, and secure Panama Canal. As you have heard, using the Panama Canal to transit between the Atlantic and Pacific saves significant time and money. A typical voyage from Asia to the U.S. or East Coast can be made in under 30 days using the Canal, while the same journey can take up to 40 days if carriers must take alternate routes.

From a commercial trade perspective, the big picture is this: One of the world's busiest trade lanes is the Trans-Pacific. The Trans-Pacific is cargo coming from and going to Asia via the United States. Focusing in a bit, cargo coming from Asia and bound for U.S. Gulf and East Coast ports always transits the Panama Canal, similarly, cargo being exported from U.S. and East Coast ports, a large share of which are U.S. agricultural exports like soybeans, corn, cotton, livestock, and dairy also almost always transits the Panama Canal.

The result is that 75 percent of canal traffic originates in or is bound for the United States. Some examples include the Port of Houston ships—exports \$14 billion in containerized trade to Asia. The Port of New Orleans exported \$27 billion in seaborne trade to Asia, not all of which was on container vessels. The Port of New York and New Jersey exported \$16.5 billion to Asia. And the Port of Savannah exported \$13 billion to Asia.

Our member lines are the largest users of the Panama Canal, and we carry the bulk of this trade. Global ocean trade is always facing challenges, as you have heard, and the Panama Canal is no exception. We have talked about the drought in 2023 and the historic low water levels that it caused in Lake Gatun, which feeds the Canal locks, a unique system that is a freshwater feed as a re-

sult as contrasted to an ocean-to-ocean system, which the French tried and failed, but which is actually active in the Suez Canal.

These low water levels reduce transits from 36 transits a day to as low as 22 per day. Additionally, the low water levels required a reduction in maximum allowable draft levels or the depth of the ship below the water line which, for our members, reduced the amount of containers they could carry through the Canal.

This resulted in a 10 percent reduction in import volumes for U.S. Gulf and East Coast ports, with the Port of Houston experiencing a 26.7 percent reduction.

Looking forward, the volume of containerized trade coming into the United States remains at near record levels and continues to expand. 2024 numbers are just out, and the inbound trade to the U.S. expanded 15 percent, which is second only to the 17.5 percent inbound traffic we experienced during the pandemic-driven demand.

Just yesterday, the Port of Houston reported record-breaking trade volumes with an 8 percent increase. More broadly, WSC member lines have transported 1. (sic) trillion in goods to and from U.S. ports, which represents 64 percent of all seaborne trade, contributed 2 trillion in economic output to the United States, supported 6.4 million U.S. jobs, and over \$442 billion in wages and salaries.

These goods are the clothes on your back, the shoes on your feet, and the phones likely in your hands or on your dais. WSC members look forward to working with the Committee on maintaining the sustainability, safety, and security of the Panama Canal.

It is a vital ocean artery critical to U.S. trade. The record volume of cargo that our members continue to carry demonstrates our commitment.

We appreciate the Committee's continuing support, commitment to the liner shipping industry, the U.S. maritime industry. And I look forward to answering your questions.

Thank you.

[The prepared statement of Mr. Kramek follows:]

PREPARED STATEMENT OF JOE KRAHEK, PRESIDENT AND CEO,
WORLD SHIPPING COUNCIL

Introduction

Chairman Cruz, Ranking Member Cantwell, and members of the Committee, thank you for the invitation to testify today. My name is Joe Kramek. I am President and CEO of the World Shipping Council ("WSC"). WSC is a non-profit global trade association whose goal is to provide a coordinated voice for the liner shipping industry in its work with policymakers, the public, and other industry groups with an interest in sustainable, safe and secure international transportation.

WSC members are the international container ocean carriers and roll-on roll-off vehicle carriers that make global trade possible by offering cost efficient and effective transport for everything from raw materials, food, and machinery, to consumer goods like clothes, furniture, and electronics.

Liner Shipping—An Economic Engine of the United States

Shipping delivers 80 percent of global trade by volume, and liner ships carry 64 percent of all U.S. seaborne trade. In 2023 alone, global liner shipping contributed just over \$2 trillion to the economic output of the nation—transporting nearly \$1.5 trillion in goods to and from U.S. ports.

The liner shipping industry provides American importers and exporters with door-to-door delivery service for almost any commodity to and from roughly 190 countries.

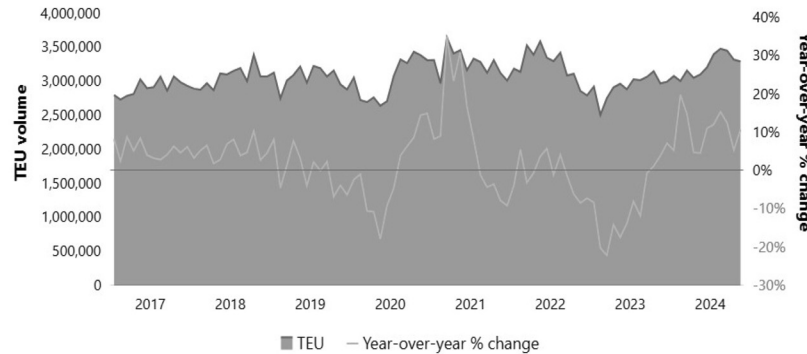
Approximately 1,100 ocean-going liner vessels, mostly containerships, make more than 18,000 calls at ports in the United States during a given year. The liner shipping industry supports, both directly and indirectly, 6.4 million U.S. jobs; with wages and salaries paid to U.S. workers amounting to just over \$442 billion.

WSC members' vessels calling on U.S. ports carry on average over 7,000 twenty-foot equivalents (TEU)—amounting to about 36 million TEUs of international trade transported into or out of U.S. ports.¹ Our members' largest vessels can carry 24,000 TEU at one time.

What makes liner shipping unique is that our vessels operate on regularly scheduled services with fixed routes—known as strings or loops—much like a bus or train service does. These regularly scheduled services provide our members' customers—U.S. importers and exporters including agricultural exporters and farmers—with a vessel in a particular port several times a week to receive and offload imports or load their exports.

In 2024, U.S. container import volumes remained at near record levels, continuing a trend of higher year-on-year volumes, with December marking only the third time in history when imports exceeded 2.3 million TEUs.²

US total containerized trade (PIERS)



Source: PIERS, S&P Global

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These record volumes demonstrate WSC member lines' sustained commitment to serving the international trade of the United States.

Importance of the Panama Canal to the U.S. Trade and Economy

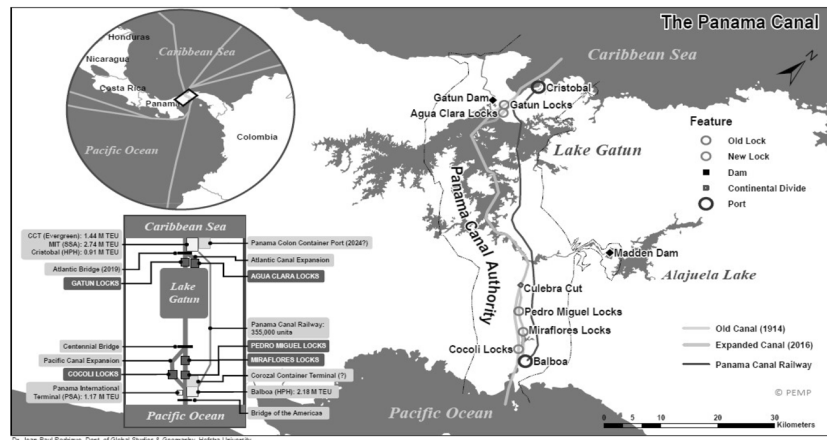
The Panama Canal connects the Atlantic and Pacific Oceans running some 51 miles across the Isthmus of Panama. The original locks were completed in 1914 and can handle ships with a draft of 40 feet, a width of 106 feet, and a length of 965 feet—ships of this size have a maximum capacity of approximately 4,500 TEU.³ The new expanded locks were completed in 2016 and can handle ships with a draft of 50 feet, a width of 160 feet, and a length of 1200 feet—ships of this size are known as Neopanamax vessels and can carry in excess of 14,000 TEU.⁴ Uniquely, unlike other canals such as the Suez, the Panama Canal is fed by freshwater from Lake Gatun, and recent droughts have impacted canal water levels, resulting in reduced transits or vessel draft restrictions.

¹ PIERS, S&P Global

² Descartes Global Shipping Report 2024, available at <https://www.descartes.com/resources/global-logistics-shipping-report-resource-center>

³ <https://transportgeography.org/contents/chapter5/maritime-transportation/evolution-containerships-classes/>

⁴ Port Economics and Management Policy 2022, Theo Notteboom, Athanasios Pallis and Jean-Paul Routledge, available at *Main Components of the Panama Canal* | Port Economics, Management and Policy



The Panama Canal is strategically important to ocean liners servicing U.S. markets. The Canal handles about 5 percent of global maritime trade, and 75 percent of Panama Canal traffic either originates or is bound to the United States. Recently, more than 14,000 transits through the Panama Canal were made in a single year.

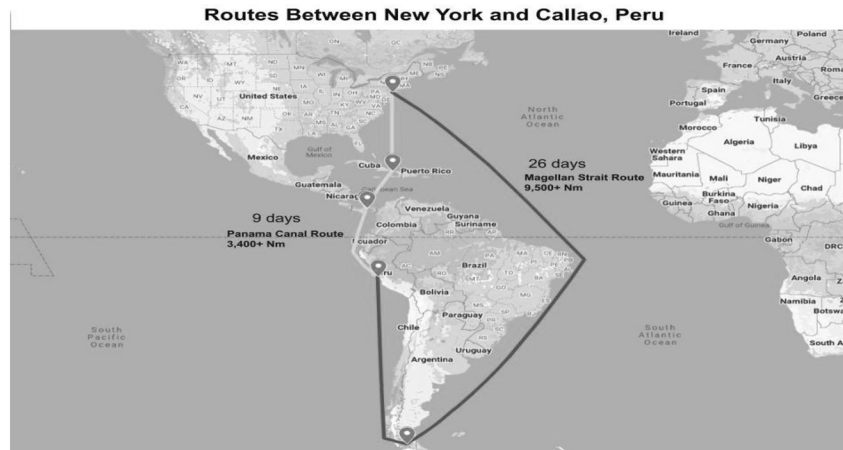
Use of the Panama Canal reduces transit time and the associated fuel costs that would otherwise be incurred to transit between the Atlantic and Pacific Oceans. The reduction in transit time and distance facilitates trade between East Asia and the East Coast of the United States, as well as between Europe and the West Coast of South America.

An ocean carrier transiting from New York to Shanghai via the Panama Canal could complete this trip in 29 days using the Panama Canal, whereas not using the Panama Canal would require transit via Suez Canal or transiting around the Cape of Good Hope which would take 34 or 39 days, respectively.

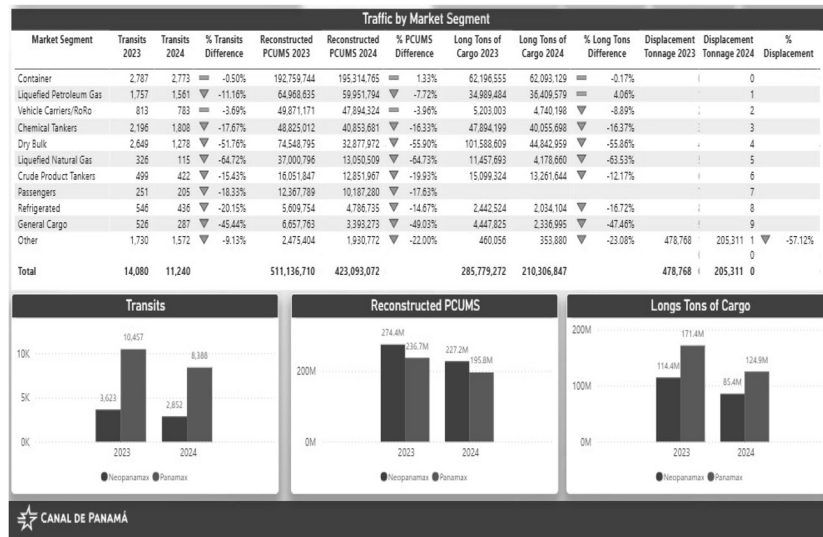
Routes Between New York and Shanghai



Similarly, a vessel transiting from Peru to New York would take 9 days on average via the Panama Canal, and 26 days via Cape Horn.



Container liners are the largest users of the Panama Canal, accounting for 20 percent–25 percent of all transits, with 2,787 transits in 2023, and 2,773 transits in 2024.



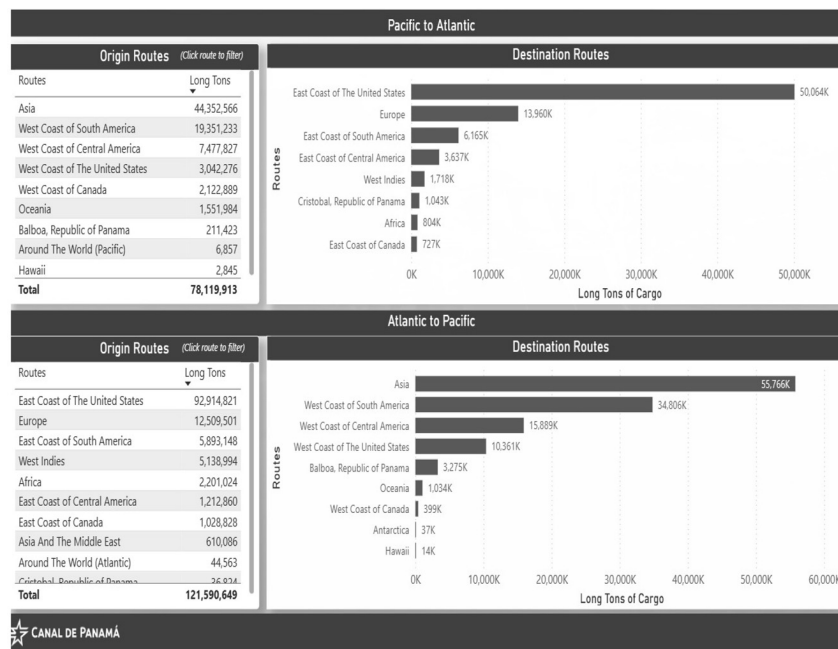
Source: Panama Canal Authority <https://pancanal.com/en/statistics/>

75 percent of all cargo transiting the canal originates in or is destined for the United States. In 2024 alone, nearly 100 million long tons of cargo originating in the United States (of which 93 percent originated in the Gulf or East Coast), and over 57 million long tons of cargo destined for the United States (of which 87 percent was destined for the Gulf or East Coast) passed through the Panama Canal.⁵

⁵ <https://pancanal.com/en/statistics/>

Top 5 Countries by Cargo (Long Tons) FY 2024						
Country	Origin	Destination	Intercoastal	Total	Total Excluding Intercoastal	%
United States	99,627,938	57,434,100	3,059,031	160,121,069	157,062,038	74.7%
China	23,801,407	21,241,347		45,042,754	45,042,754	21.4%
Japan	5,292,370	25,437,768		30,730,138	30,730,138	14.6%
Korea, Republic of	11,330,537	8,338,453		19,668,991	19,668,991	9.4%
Chile	7,803,167	9,620,743		17,423,910	17,423,910	8.3%

U.S. East and Gulf Coast imports and exports, *by a large margin*, are the most common goods transported through the Panama Canal.



Source: Panama Canal Authority <https://pancanal.com/en/statistics/>

Exports to Asia from the U.S. Gulf and East Coast, also represent a significant market, for which the Panama Canal provides the fastest route.

In 2023, the Port of Houston exported \$13.9 billion in containerized trade to Asia—the largest commodity being plastics (or resins); and while not entirely containerized, the Port of New Orleans exported \$26.9 billion in seaborne trade to Asia. In that same year along the East Coast, the Port of New York and New Jersey exported \$16.4 billion in containerized commodities headed for Asia. This was closely followed by the Port of Savannah with their containerized exports to Asia valued at \$13.1 billion—the top containerized exports being cotton and vehicles.

The U.S. exported \$71 billion in agriculture exports to Asia in 2023, with the major containerized ports on the Gulf and East Coast being Norfolk, New York and New Jersey, Houston, and Savannah.

Panama Canal Administration, Tariff Schedule and Transit Options

The Panama Canal is managed by the Panama Canal Authority (PCA). The PCA is an autonomous legal entity with the exclusive responsibility for the administration, operation, conservation, regulation, maintenance and modernization of the

Canal. The PCA sets the tariffs schedule to transit the Canal and makes the fees available to the public on its website.⁶

Canal transit charges are based on, among other things, the size of the vessel, the lock to be used, and the cargo aboard the vessel. Prior to revising its tariff schedule, the PCA is required to provide interested parties an opportunity to participate in a public consultation process.

There are several ways to arrange passage through the Panama Canal—advanced booking, regular transit and auctions. WSC members, because of the nature of liner shipping being on scheduled routes, largely book their passage in advance—which can be done up to a year in advance.

Other types of shipping, such as product tankers or bulk vessels, tend to use “regular transit” because they receive their orders on a per trip basis (known as tramp shipping) and therefore can only book their canal transit slot once their destination is known. Vessels making regular transit books have their transit order determined by the PCA, and may have to wait several days until their transit slot is available.

Transit slots may also be arranged via auction. While typically more costly, the auction process does provide a unique service where vessels with high priority cargos, who do not have advanced booking slots, and do not wish to wait for slot availability, can bid for immediate availability. The PCA typically keeps two extra slots open per day for auction customers. In August 2024, the PCA implemented a new system for the larger Neopanamax locks—called long term slot allocation system (LoTSA)—which is a blind tender bid process starting at \$200,000, that allows parties to bid for remaining Neopanamax slots.

Panama Canal—Low Water Level Impacts 2023–2024

The Panama Canal locks are fed by fresh water from Lake Gatun. The rainy season in Panama runs from May to November. However, in 2023, Panama experienced a severe drought, which led to historic low water levels in Lake Gatun, resulting in the PCA reducing transits through the canal from 36 to as low as 22 per day—ultimately reducing

yearly transits by 20 percent.⁷ In addition, the PCA reduced the maximum allowable draft (*i.e.*, the vertical distance between the waterline and the lowest point of the vessel) from 50 feet to 44 feet for Neopanamax vessels, to conserve water.⁸

The low water levels had significant impacts on global shipping. The impacts on liner shipping resulted in an almost 10 percent reduction in import volumes for U.S. Gulf and East Coast Ports, with the Port of Houston experiencing a 26.7 percent reduction.⁹

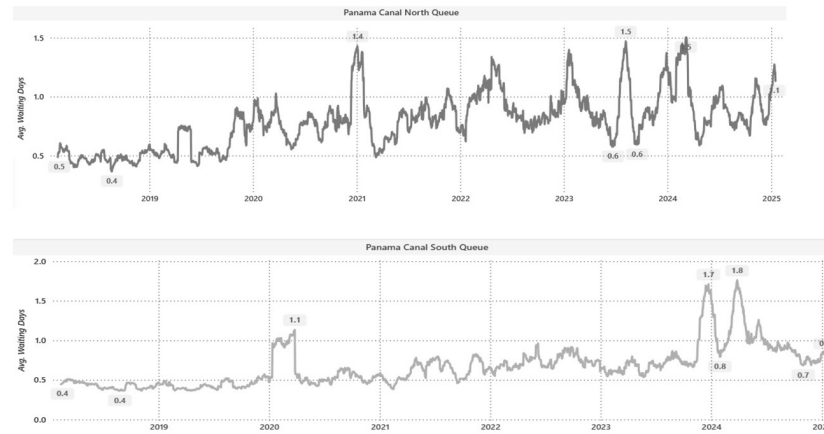
Overall, however, liner shipping experienced the least impact of all vessel sectors, because as discussed above, container liners booked advanced slot reservations which were honored by the PCA. The average wait time for container vessels transiting from North to South (Atlantic Ocean to the Pacific Ocean) did not exceed 1.5 days. For container vessels transiting from South to the North (Pacific to Atlantic) the average wait time did not exceed 1.8 days. Some liner companies also elected to move a portion of their loaded containers via rail across Panama and retrieve them on the opposite side, as a means of dealing with draft restrictions.

⁶Panama Canal Authority, Tariff Schedules, available at <https://pancanal.com/en/maritime-services/maritime-tariff/>

⁷Freightwaves Nov. 29, 2023, “No reservation at the Panama Canal? Prepare for a long wait,” available at <https://www.freightwaves.com/news/no-reservation-at-panama-canal-prepare-for-a-long-wait>

⁸Panama Canal Authority, Advisory to Shipping No. A–20–2023

⁹Descartes Global Shipping Report November 2023, Panama Drought Impacting East and Gulf Coast Ports, available at <https://www.descartes.com/resources/knowledge-center/global-shipping-report-november-2023-us-container-import-volumes-down-from-october>



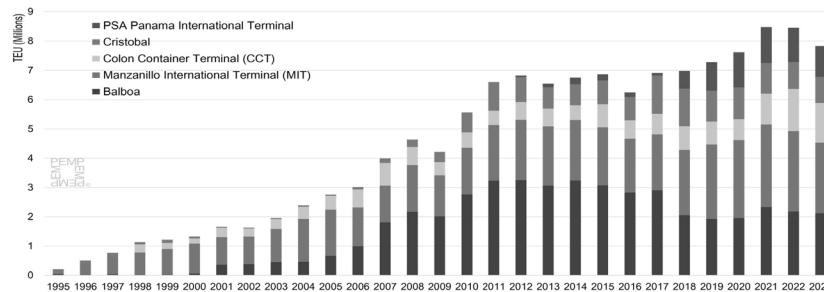
Source: Alphaliner – Canals Traffic & Congestion Liner - Panama Canal Wait Time. Data above is inclusive of container vessel transits booked in advance and container vessels not booked in advance.

Facilitating Transshipment—Major Container Ports in Panama

Prior to the mid-1990s, Panamanian ports handled small container volumes—under 200,000 TEU—and most of those were for domestic use. However, between 1995 and 2002, a time corresponding to the initial privatization of ports, new container facilities were built in Panama—thereby starting the process of making Panama a major regional transshipment hub.

Transshipment is the process of transferring containers from one vessel to another at an intermediate port. This method is critical to container shipping as it optimizes shipping routes and reduces costs—allowing goods to be routed efficiently to their final destination. The main container terminal facilities on the Atlantic side of Panama are the Manzanillo International Terminals, and the Colon Container Terminal—privatized in 1995 and 1997, respectively. On the Pacific side of Panama, the major ports are the Port of Balboa (privatized in 1997) and the PSA Panama International Terminal (opening and privatized in 2011).

From 2002 through 2011 the Port of Balboa made significant gains in the number of TEUs handled—signaling the emergent transshipment function that Panama plays in the transpacific and west coast of Latin America trade. Thereafter from 2012 through today, ports in Panama have increased their transshipment capability with the PSA Panama International Terminal starting with an initial container capacity of 250,000 TEU in 2012 and expanding that capacity to 2 million TEU in 2017.¹⁰ All told, collectively, container traffic handled at the main container ports in Panama exceeded 8 million TEU in 2021 and 2022. The drop in 2023 is attributed to the aforementioned drought.¹¹



¹⁰ Port Economics and Management Policy 2022, Theo Notteboom, Athanasios Pallis and Jean-Paul Routledge, available at <https://porteconomicsmanagement.org/pemp/contents/part1/inter-oceanic-passages/container-traffic-panamanian-ports/>

¹¹ Id.

Conclusion

Thank you for the opportunity to discuss WSC member lines' contributions to the U.S. economy and our industry's use of the Panama Canal. WSC members appreciate the Committee's continuing support and commitment to the liner shipping and maritime industry, and I look forward to any questions you and the members of the Committee may have.

The CHAIRMAN. Thank you very much. We will now move to questioning.

I want to start, Chairman Sola, Commissioner Maffei: Are you aware of allegations from some vessel operators of disparate treatment, such as sweetheart deals or favorable rebates, by Panama for canal transits?

Mr. SOLA. Thank you for the question, Mr. Chairman. We have become aware through some complaints by cruise lines that said that they were not getting a refund of their canal tolls. When we looked into this, we found a Panamanian Executive Order Decree 73, that specifically says that if a cruise line would stop at a certain port, that they could be refunded 100 percent of the fees. As far as I know, that is the only instance where that exists.

Mr. MAFFEI. We continue to look into it. But the cruise ships is the one area where we have found something that would fit that bill, I think, in general.

The CHAIRMAN. Some press coverage says the Panama Canal is nominally independent, even though it provides a large share of the Panamanian Government's revenue. Chairman Sola, briefly, can you describe how the FMC views the Canal authority and the Panamanian Government? Are they distinct entities or a single foreign government apparatus that controls the Panama Canal?

Mr. SOLA. Mr. Chairman, our law is clear. It comes from the Merchant Marine Act of 1920 that there is only one entity. And in addition to that, that our predecessor at the Federal Maritime Commission was the U.S. Shipping Board, it was formed in 1916 in direct result of the Panama Canal. The very first chairman of that was George Washington Goethals, which was the very first administrator of the Canal. We look at it as one entity.

Mr. MAFFEI. Yes. If I might just add, Mr. Chairman?

The CHAIRMAN. Sure.

Mr. MAFFEI. It is sort of like the Georgia Ports Authority and the State of Georgia. The Georgia Ports Authority is clearly independent. It can do its own bonds, it has got independent governance. But ultimately, Georgia is responsible for it, the State of Georgia.

The CHAIRMAN. Right. So Panama was the very first Latin American country to join China's Belt and Road Initiative. And right now, China is building a fourth bridge across the Panama Canal for car traffic and light rail.

Chairman Sola, why should Chinese construction of a bridge near Panama City concern the United States?

Mr. SOLA. Mr. Chairman, we all saw the tragedy that happened here in the Francis Scott Key Bridge incident and the devastation that had happened to Baltimore. We also saw recently what hap-

¹²Id.

pened in the Suez Canal, where we had a ship get stuck in there. It is not only the construction of the bridge, but it is a removal of a bridge, as I understand it, called the Bridge of the Americas, it was built in 1961, and that would paralyze cargo traffic in and out of the Canal.

The CHAIRMAN. Panama also recently renewed the concessions for two container ports to a Chinese company, Hutchison Ports PPC. Of course, Chinese companies are controlled by the Communist Party. How does China use control of those ports for economic gain?

Mr. SOLA. Mr. Chairman, I am a regulator, a competition regulator, and the Chinese ports that you are referring to, let me put them into scope. The one on the Pacific, the Port of Balboa, is roughly the same size as the Port of Houston. They do about 4 million containers a year. They have about 28 gantry cranes. The one on the Atlantic is the same as my hometown of Miami. They do about 1 million containers. So where Roger Guenther in the Port of Houston generates about \$1 billion a year, and Hydi Webb in Miami does about \$200 million, the Panama Ports company paid zero, zero for 20 years on that concession.

It is really hard to compete against zero. So I think that is our concern, our economic concern that we would have.

The CHAIRMAN. Commissioner Maffei, anything to add on that?

Mr. MAFFEI. Yes. I do, too, also think it is important. And I would point out that you do not have to stop at either port. It is not like these two ports control the entrance to the Canal. That is the Canal Authority that does control that. However, I think it is of concern. I would also point out that the Panamanian Government thinks it is of concern, too, because they are conducting their audit of those particular deals. But we remain very interested as well.

The CHAIRMAN. So Professor Kontorovich, I want to turn to the treaty. So President Trump has made important arguments, both the Chinese control over canal infrastructure and exorbitant fees charged for canal transits are violations of the Neutrality Treaty.

I want to highlight three specific provisions that you mentioned in your opening statement. Article IV of the neutrality treatment requires both the United States and Panama to establish and maintain "A regime of neutrality".

Article V limits any foreign control by providing, "Only the Republic of Panama shall operate the Canal and maintain military forces, defense sites, and military installations within its national territory".

And finally, Article 3(1)(c) requires that, "Tolls and other charges be just, reasonable, equitable, and consistent with the principles of international law." In your opinion, as an expert in international law, could the facts discussed here be considered violations of the Neutrality Treaty in force right now between the United States and Panama?

Mr. KONTOROVICH. So I think, Senator, I think potentially they could, but it is impossible to say definitively without knowing more, in particular about the degree of Chinese control and involvement in these companies. I think it is important to note that these port operation companies that operate the ports on both sides, when

they received their first contract, it was just a few months before Hong Kong was handed over to China.

In other words, they received them as British companies, sort of very oddly, just a few months before the handover. Now, of course, since then, Hong Kong has incorporated—been incorporated into China, has been placed under a Special National Security regime, and the independence of those companies has been greatly abridged. To say nothing of state-owned companies involved elsewhere in the Canal area, which raise significantly greater questions.

Additionally, I should point out that the understandings between President Carter and Panamanian Leader Herrera, which were attached to the treaty and formed part of the treaty, provide that the United States can, “Defend the Canal against any threat to the regime of neutrality”. And I understand that as providing some degree of preemptive authority to intervene, one need not wait until the Canal is actually closed by some act of sabotage or aggression, which, as we heard from the testimony, would be devastating to the United States. But there is some incipient ability to address potential violations.

The CHAIRMAN. And your final point there leads to my last question, which is, if the United States determines that Panama is in violation of the treaty, what remedies, what is the range of remedies the United States would have for that treaty violation?

Mr. KONTOROVICH. So I think it may be shocking to people to hear today, but when one goes over the ratification history and the debates and discussions in this body over this treaty, it was clear that the treaty was understood as giving both sides, separately, the right to resort to use armed force to enforce the provisions of the treaty.

And it is not so surprising when one understands that the United States made an extraordinary concession to Panama by transferring this canal, which the United States built at great expense, and maintained, and operated, to Panama, gratis. And in exchange, it received a kind of limitation, a permanent limitation on Panamanian sovereignty, that Panama agreed that the United States could enforce this regime of neutrality by force.

Now, of course, armed force should never be the first recourse for any kind of international dispute, and should not be arrived at sort of rashly, or before negotiations and other kinds of good offices are exhausted. But it is quite clear that the treaty contemplates that as a remedy for violations.

The CHAIRMAN. Thank you very much.

Ranking Member Cantwell.

Senator CANTWELL. Thank you, Mr. Chairman.

Mr. Kramek, I think costs are critical. When you think about it, we are here discussing costs. Why? Because consumers pay more when shipping costs are higher, whether their—or our farmers who are trying to export their products, as we saw during COVID, are literally our products getting left on the docks. And importers are paying more if shipping costs are too high.

So when we look at these incidents that we now see in our supply chain, and we had our own incident in Seattle where a container ship lost power and was careening toward our big Ferris

wheel in the downtown, right next to our ferry terminal; luckily, some ferry, a passenger ferry vessels were able to push the tug from, you know, out of the direct path of severe devastation.

So now we mentioned Suez Canal, we mentioned Baltimore. We have our own Seattle experience. What do we need to do to make sure, on the cost side, that we are not—that we are making the right investments from a security level to make sure that these kinds of incidents that can do great harm do not happen?

And Commissioner Sola, since you were at U.S. Southern Command, what do you think we need to do to renegotiate or to have a conversation with the Panamanians about the security level that we think needs to exist in Panama with this close proximity?

And Mr. Maffei, this audit, will the audit lead to a discussion with Panama about those contracts? As I have said in my opening statement, I believe we should be very aggressive about U.S. involvement here and in Latin America. I think Panama represents one of our—the biggest U.S. supporters in that region. But we should engage to get this right, both on the cost side and on the security side.

So if I could just hear your comments on each of those.

Mr. Kramek. Thank you, Senator Cantwell. Well, certainly even one incident is unacceptable from a safety perspective that you are citing. Our members work tremendously hard with the International Maritime Organization, the U.S. Coast Guard, and other entities to try to have the safest operations possible. But accidents do occur. They are rare if you really, if you count the number of some 7,000 port visits a year. But again, one is unacceptable.

So continued investment, obviously, in U.S. infrastructure and a review, I mean, we have a lot of old infrastructure as the tragic incident in Baltimore illustrated, unfortunately, when we have these bridges that need a hard look to whether or not they need additional fendering systems, and the like. And investments in our ports and infrastructure can be helpful along those lines as well.

And for our members, I can assure you that they continue to invest in the latest technology. We have over 600 new ships on order with some of the latest technology in the world. So we are playing our role with this—

Senator Cantwell. And I want the U.S. to get a big portion of that. That is why we need to reinvigorate.

Mr. Kramek. Yes, ma'am.

Senator Cantwell. Commissioner Sola, what about just a new U.S. Southern Command, U.S. Government conversation with the Canal Authorities and the Government about the security level that we seek?

Mr. Sola. Thank you very much, Senator. First of all, the airborne wing that I am wearing today is decorative. I have not worn a uniform in 35 years. So this is my personal experience here.

I believe that the security of the Canal has always been understood to be provided by the United States. Panama does not have a military, and I always believe that there has been a close relationship with Southern Command that we would provide that. And it would be nice to see if we had a formalization of that in one way or another, because I do not believe that it is in the treaty at all.

Senator CANTWELL. OK, so formalization of maybe a cybersecurity agreement? You see, I am thinking this is—you have accidents, and then you have larger cybersecurity issues that you just have to be on top of. And what I do not like about anybody that has a back door is, I am for the United States advocating, do not buy from people who have a government back door. Do not do it. Because what are you going to do? At some point in time, you are going to regret that.

Commissioner Maffei, what about this audit, and could we push Panama on these issues of looking at closer U.S.—

Mr. MAFFEI. You mean, yes—

Senator CANTWELL.—infrastructure instead, particularly since, you know, the sea change here is like what everybody said? Like everybody thought this was Hong Kong, then it turned into China. We did not have an ambassador after that. Next thing you know, they have made more aggressive postures.

They are making aggressive postures everywhere. That is why the United States saying no government back doors in technology and getting five other technology nations and democracies to say the same thing and evangelize that every day is going to help us.

Mr. MAFFEI. Yes.

Senator CANTWELL. And so is the investment. But what about getting the stevedoring business or some of that back into proximity under the audit?

Mr. MAFFEI. Well, it is the Panama Comptroller's Office and they are investigating, you know, contracts at Panamanian ports. And we do not have any jurisdiction over Panamanian ports, per se.

But your broader point, I think, is very, very important. While we were down there, both of us heard, I think, several times, that the Panamanians would—the ones we talked to anyway, would welcome U.S. companies coming in and doing a lot of this work. Frankly, their bids are not competitive with the Chinese bids. Frankly, they are not that existent because the U.S. companies can make more money doing things other places.

But even if they were existent, it is difficult to put competitive bids when the Chinese bids are so heavily subsidized by China. So you are absolutely right. This is a problem and it is a problem in many, many other areas of the world that we can get into if you want in subsequent questions. But that is the concern.

Senator CANTWELL. I think my time has expired, but I think my major point is, let us be a big maritime powerhouse. Let us revitalize our supply chains, drive down costs for consumers, and secure what we need to secure.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Cantwell.

And very quickly, Commissioner Maffei, you talked about the Chinese bids were heavily subsidized by the Chinese Government. What would China's incentive be to heavily subsidize those bids to undercut American companies and other companies?

Mr. MAFFEI. Yes, and so it is not a real short answer, but Senator, China has made no secret of its ambitious policies to gain influence at ports throughout the globe. It has invested in 129 ports in dozens of countries. It runs a majority of 17 ports. That does not

include this Hong Kong company, right, so that is just directly, direct Chinese-owned ports.

So it has been a part of their Belt and Road Strategy, whatever you want to call it, the Maritime Silk Road for decades. So they believe that this influence, this investment in owning maritime ports is important to their economy.

The CHAIRMAN. Senator Fischer.

**STATEMENT OF HON. DEB FISCHER,
U.S. SENATOR FROM NEBRASKA**

Senator FISCHER. Thank you, Mr. Chairman. I would like to follow up on the ports and where we are on that. In 2021, Hutchinson was awarded those two ports, Port Balboa and Port Cristobal, in a no-bid award process. Can you tell me, does the United States have any authority or recourse with the Panama Canal Authority under our current agreement with Panama to re-bid those terminal concession contracts? And perhaps, Mr. Kontorovich, that is more in your purview?

Mr. SOLA. Senator——

Mr. KONTOROVICH. Senator Fischer——

Mr. SOLA. Both of those ports were redone for 25 years, until 2047, if I believe. And they have to pay \$7 million, is what the ongoing rate is for the Port of Houston and the Port of Miami size concessions. As far——

Senator FISCHER. And it cannot be rebid until after that date?

Mr. SOLA. Well, I believe that that is what the Comptroller's Office is auditing, both of those ports and that contract. And that was done under the previous Panamanian administration. A new administration came in and they called for an audit of that contract immediately.

Senator FISCHER. Mr. Maffei, you were talking about how to incentivize, perhaps incentivize companies from the United States to be able to participate in a bid process that does not seem to be reasonable. And do you think that the Panamanians would welcome viable alternatives? Are we in that position yet?

Mr. MAFFEI. Senator, let me first say that this is outside the scope of what the Federal Maritime Commission does. But having gone there, having looked at this issue very carefully, I think it would—it is very important. It was mentioned actually, Senator Cantwell just mentioned EXIM Bank programs.

So it is not like this does not happen. But it certainly has not been a huge priority of the United States to try to, if you will, match these bids, to create programs widely available to U.S. firms in order to put together more competitive bids in these countries, where some of their domestic laws, I am not sure about Panama, but some of their domestic laws actually require that you go to the lowest bidder sometimes, just as ours do.

So yes, I think if you are looking for places to do—U.S. policy to counter this, I think you definitely want to look at whether the United States should be, for strategic and economic reasons, investing in infrastructure, in important maritime locations all over the world.

China certainly has done that. And they have been doing it for 20 years, and it is a cow that has long left the barn.

Senator FISCHER. You mentioned investing in infrastructure. I was at the Panama Canal in 2023, and I learned at that time about the loss of fresh water with each ship movement through the Canal.

You talked about the drought, sir, in your opening comments. Fresh water is vital to the workings with the Canal. How effective do you think investments in increasing that fresh water storage are? Are they happening? Are they viable? You touched on it briefly in your opening comments, but how do we see those investments happening so that we can have operational stability?

Mr. MAFFEL. Yes. That is a good question, a bit out of my purview, but I will say that there are several investments. There is water reclamation, pumping water up, et cetera, but the main thing, the main plan that the U.S. Army Corps of Engineers has helped the Panamanian Authority develop involves another basic expansion of bringing in even more water at an elevation that you could then use to continue the Canal. Now, there is a lot of issues with implementing that, not the least of which being indigenous people in those areas.

Not a huge number, but certainly towns, and thanks, and negotiating that and all sorts of other issues, just as if it was in the United States, there would be issues, but it is a very—it is viable. In that part of the world, you can make more fresh water available to make the Canal not have to be limited. However, it takes time, and there will at least be one more incidence of severe limitations before that occurs unless we get really, really lucky, and there could be more than that.

Senator FISCHER. Thank you. Thank you, Mr. Chair.

The CHAIRMAN. Thank you. Senator Blunt Rochester.

**STATEMENT OF HON. LISA BLUNT ROCHESTER,
U.S. SENATOR FROM DELAWARE**

Senator BLUNT ROCHESTER. Thank you Chairman Cruz, and Ranking Member Cantwell.

At the heart of this hearing is a fundamental question about how the U.S. will compete on the world stage and maintain our national security. These are the questions that will define the future of this country.

For American families to see lower prices and better economic opportunities, we have to meet this moment honestly and seriously, and I am proud to have joined Senators Cantwell and Blackburn to reintroduce the bipartisan Promoting Resilient Supply Chains Act, a legislation that I led and authored in the House.

This bill ensures that we have a national strategy to address our broken supply chains, whether it is a bridge collapse, a major global conflict, or unions striking for their rights. Interruptions and disruptions to our supply chains severely impact our economy. Our bipartisan legislation tackles this issue by elevating supply chains, like the disruptions at the Panama Canal, to be proactive and strategic.

It helps us understand how we strengthen our ties with our friends and allies instead of pushing them into the arms of our competitors. I agree with Ranking Member Cantwell that we should have a hearing on how we compete with countries like

China, and I have grave concerns about China's global infrastructure investments and any cyber threats to the U.S., addressing these are our national security interests.

With that, I would like to shift to my first line of questioning, and it is for you, Captain Kramek. It is no secret that the Canal has had issues due to droughts, nor is the increasingly frequent drought a new phenomenon. Do you believe the Panama Canal Authority did enough to anticipate the issues impacting the Canal's operation?

Mr. KRAHEK. Senator Blunt-Rochester, thanks for your question. They did the best, I guess, with the information that they had. I do not know that they anticipated a drought of that magnitude.

I would say, going forward, with what Commissioner Maffei just discussed about the development of a second reservoir to feed into Lake Gatun and the U.S. Army Corps of Engineers doing a feasibility review of that project, as well as some other projects that were mentioned, that that seems to be a good path forward in terms of resiliency of the Panama Canal and making it a viable waterway for 2050 and beyond.

Senator BLUNT ROCHESTER. I think part of the challenge is that it was recently started and time is of the essence. Did you think that the Canal Authority considered the obvious impacts from drought in its planning?

Mr. KRAHEK. Senator Blunt Rochester, I do not have that information on what they considered.

Senator BLUNT ROCHESTER. It is clear that the Canal Authority knew that this would have an impact on shipping and that enough had not been done to address it. Now that we are faced with this impact, what do you think the Canal Authority needs to do expeditiously to bring the Canal back into full authority and full operation?

Mr. KRAHEK. So they are back to full operation, is my understanding. Traffic is flowing well. But looking forward, I think it is taking a hard look at some of these infrastructure projects to make the Canal more viable, like I mentioned.

Senator BLUNT ROCHESTER. The Port of Wilmington is in my state. We are very proud of it. It is one of the leading importers of fruits. The delays through the Canal have an outsized impact on perishable goods like those that my port handles. Do you believe the Canal Authority can and should prioritize perishable goods? Or provide some other solution to support perishable goods? And anyone on the panel can answer that.

Mr. MAFFEI. Yes, ma'am. Let me address your question, because I am not sure it is my place to exactly answer it. But you are quite right. So one of the complaints that we have heard is from container shippers, mostly exporters that export goods, as you say, and many other commodities, too, are sensitive, either because of market conditions such as cotton, or because of actual perishability of the product, such as what you mentioned.

However, they are on container ships, and most of the cargo on the container ship is less time-sensitive. In the bidding process that the Panamanian Canal Authority developed in order, when they did have to ration these slots, it was a bidding process, and the highest bidder got the first slot, got the less of a delay.

The challenge there is every kind of commodity, and every kind of ship was bidding, so liquid natural gas, which is extraordinarily, all the cargo on that ship is both extraordinarily valuable, not that your agricultural commodities are not valuable, but compared pound for pound to the LNG, and very, very—I mean, it is out, you know, there is a—you are losing volume every delay. So they would far outbid the container shippers.

Now, whether or not there is something that can be done specifically to help these container, I am not sure we have been looking into that, but it does remain a large concern is, how do we figure out a way for these agricultural shippers who are, you know, not the main players on these ships, but part of it, an important part of it, particularly for the United States.

So you bring up a great question. I wish I had a better answer, but.

Senator BLUNT ROCHESTER. Thank you for your answer. I will be submitting some questions for the record because I know my time has run out, and I really want to understand also what we can do, as the United States, in terms of us being able to bid and be competitive in these bids. What can we do better?

So I will be submitting questions for the record. Thank you, Mr. Chairman, and I yield back.

The CHAIRMAN. Thank you.

Senator Sullivan.

**STATEMENT OF HON. DAN SULLIVAN,
U.S. SENATOR FROM ALASKA**

Senator SULLIVAN. Thank you, Mr. Chairman, for this important hearing. And I appreciate the witnesses.

I have questions, for now primarily focused on Chairman Sola and Professor Kontorovich. So let us just—the setting in which you testified, two Chinese companies operate the two huge ports on both ends of the Panama Canal, and the concession for these ports were extended in 2021 for a 25-year period without any bidding, is that correct?

Mr. SOLA. That is correct, Senator.

Senator SULLIVAN. OK, so it was clearly a sweetheart deal, correct?

Mr. SOLA. According to the press releases, the company paid back taxes of \$150 million.

Senator SULLIVAN. And the Panama Deputy Attorney General has now objected to that. That is my understanding. Is that correct?

Mr. SOLA. The Comptroller of the country has asked for an audit of—

Senator SULLIVAN. But someone objected to it when it was going on, a lot in Panama?

Mr. SOLA. A lot of people objected to it.

Senator SULLIVAN. So Chinese Communist Party officials are known to bribe other officials in countries all around the world. We know that, they do it all the time. No offense to Panama, but they do not have the greatest reputation of having officials who are not on the take.

So is there any evidence that the Chinese bribed people for this great concession? And if so, Professor, would that be a violation of the treaty? Let us assume we find evidence that Chinese Communist Party officials bribed Panama officials for this sweetheart deal, would that be a—and I think it is probably likely because the Chinese do this everywhere—would that be a violation of this treaty?

Mr. KONTOROVICH. So in itself, that would not be a violation. What would be a violation is actual threats to the operation of the Canal.

Senator SULLIVAN. OK.

Mr. KONTOROVICH. However, to the extent that the Chinese Government was involved in procuring these contracts, it strongly, it provides sort of additional support for the notion that these companies are serving some kind of governmental interest. And that would not be a violation itself.

Senator SULLIVAN. All right. Let us say—I do not want to—sorry to interrupt.

Mr. KONTOROVICH. There would be circumstantial evidence to support it.

Senator SULLIVAN. Let me get to the issue of threats. Let us assume the PRC, the PLA invaded Taiwan, or invaded the Philippines, or went to war somewhere in the South China Sea, and we were surging our Navy to the Indo-Pacific through the Panama Canal. Are the companies now controlling both sides of the Panama Canal, the Chinese companies, subject to the PRC's National Security Laws that mandate cooperation with the military, with state intelligence agencies? Does anyone know that?

Professor, do you know that?

Mr. KONTOROVICH. They are subject all the time.

Senator SULLIVAN. Do you know that—

Mr. KONTOROVICH. They are subject to those—they are subject to those laws all the time by virtue of being Hong Kong companies. And you know, they face, of course, consequences for not complying with the wishes of the Chinese Government, and one of the companies—

Senator SULLIVAN. And would not that be a—would not that be a violation of the treaty? And isn't that a huge risk to us right now that the Chinese, the PLA invaded—

Mr. KONTOROVICH. So that is a threat to be in the neutrality.

Senator SULLIVAN. They invaded Taiwan, invaded the Philippines. They could go to these two companies saying, hey, shut it down, make it hard, sink a ship in the Canal. And wouldn't they be obligated to do that under Chinese law if they were ordered to by the PLA or the CCP?

Mr. KONTOROVICH. I do not know if they would be obligated, but certainly the People's Republic of China would have many tools of leverage and pressure on these companies. That is why the treaty specifically says that we can act not just to end actual obstructions to the Canal. We do not have to wait until the Canal is closed by hostile military action. That would be a suicide pact. That would be catastrophic for us.

But rather that we can respond at the inchoate, incipient level to threats. And then this is up to the President to determine whether this is significantly robust to constitute any threat.

Senator SULLIVAN. So Professor, aren't we kind of walking up to the idea of a suicide pact, because we have got two big Chinese companies on both ends of the Panama Canal who, if there is a war, INDOPACOM, Taiwan that involves us and China, these companies would be obligated to do the bidding of the Chinese Communist Party and PLA? I mean, isn't that—aren't we kind of walking up to a very significant national security threat already?

Mr. KONTOROVICH. Certainly there is a threat. And I think what makes the action of the Chinese Government so difficult to respond to, but important to respond to, is that they conceal this in sort of levels of gray, right, without direct control.

Senator SULLIVAN. Yes. Well, let me ask you on that topic, this is my last question, Professor. Let us assume that we find out, and again, it would not be surprising. I think you can almost assume it, that these two companies have Chinese spies or military officials within the ranks of the employees of the companies. Let us assume we found that out, that somehow that becomes public. But I do not think it is a big assumption. It is probably true right now.

So you have spies and military personnel within the ranks of these two companies that are controlling both ends of the Panama Canal. For you, Professor and Chairman Sola: would not that be a blatant violation of Article V of the Neutrality Treaty if that were true; which probably is true?

Mr. KONTOROVICH. Yes, I do think—

Senator SULLIVAN. What is your answer, Professor?

Mr. KONTOROVICH.—it would be a—yes, I do think it would be a clear violation. As Dean Rusk, Former Secretary of State Dean Rusk said at the ratification hearings, informal forces can violate Article V as well as formal forces. It is a clear—

[Crosstalk.]

Senator SULLIVAN. And Chairman Sola, do you agree with that? Is there any evidence of Chinese spies or other nefarious Chinese actors embedded in these companies?

Mr. SOLA. Senator, we have no information of that.

Senator SULLIVAN. OK.

Mr. SOLA. And that is not under the purview of the Federal—

Senator SULLIVAN. But you agree that would be a violation of Article V of the Neutrality Treaty?

Mr. SOLA. I do.

Senator SULLIVAN. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. Senator Baldwin.

**STATEMENT OF HON. TAMMY BALDWIN,
U.S. SENATOR FROM WISCONSIN**

Senator BALDWIN. Thank you. Commissioner Maffei, good to see you, thank you for being here today.

Mr. MAFFEI. Thank you.

Senator BALDWIN. I am very concerned about China's large and growing influence in the world's infrastructure network. A company from Hong Kong operates two ports in the Panama Canal, one on each end. And while the company is not Chinese state-owned, it is

subject to China's national intelligence law as we have been discussing. Moreover, a Chinese state-owned entity is currently building a bridge over the Panama Canal.

But the Panama Canal is just one example of how far China's influence stretches. Their dominance in maritime, logistics, and shipbuilding sectors lessens competitions—competition creates supply chain risks, and creates opportunities for surveillance and information gathering. In order to facilitate the movement of goods throughout the world, it is essential to have a secure and level playing field, which we currently do not. Chinese current practices do not allow for that.

The United States trade representative recently investigated China's practicing—practices in the commercial shipbuilding sector under Section 301, and recently concluded that their dominance is a burden to United States commerce.

One, a few decades back, we were the dominant country in commercial shipbuilding. Last, or in 2023, we built five commercial ships, and China built over 1,700 according to that—according to that investigation.

So what policies would you recommend to prioritize growth of the United States influence in the maritime and logistics sector to compete with China and level the playing field?

Mr. MAFFEI. I will answer in less than a minute.

Senator BALDWIN. Yes.

Mr. MAFFEI. Senator Baldwin, it is very good to see you again. And we were colleagues for one term in the House, and I appreciate that.

I think the best I can answer in the short term is to amen to everything you said. And as an illustration, Senator Sullivan was talking about Hutchison Ports. That is actually the same company that runs terminals on both ends of the Canal. I am concerned about that.

However, if we want be concerned about that, all of us should lose a lot more sleep than we are losing, because if there are spies there, then there might be spies at other Hutchison Ports. And there are other Hutchison Ports in almost every part of the world. They own the largest container port in the United Kingdom, Felixstowe, which is responsible for nearly half of Britain's container trade.

They control major maritime terminals in Argentina, Australia, the Bahamas, Germany, Indonesia, Mexico, Myanmar, the Netherlands, South Korea, and Tanzania. If owning and managing adjacent ports means that China somehow like has operational control or strategic control over the Panama Canal, they also have it over the Suez, the Singapore Straits, the Mediterranean Sea, and the English Channel. That is just one aspect of what you were talking about.

That does not include the shipbuilding, heavily subsidized, such that now, I believe over half of new ships that are in the companies that belong to the World Shipping Council are coming from China, not because these are bad companies, but because they are undercutting other things. And it is a problem that has been going on for 20 years, which makes it very difficult to answer your question. It is a long answer.

This is not a problem that occurred last week. This is not something that President Trump identified. This was going on all of President Biden's term, but all of President Trump's first term. It has been going on for decades and decades through both U.S. Republicans and Democrats as President.

The only thing I can say is I echo what Ranking Member Cantwell said, and I think others of both parties have echoed it, that we need some sort of overall maritime strategy. We have to acknowledge that this is part of our national security. That economic resilience is extraordinarily important. And I believe this is the greatest country in the world. I think if we start countering some of these efforts, we can do it, but it has to become a national priority.

And part of the challenge is, we are talking about outside the borders of our U.S., investing outside the borders of our U.S. does not make a very good campaign ad, but it may be necessary to secure, particularly with such an aggressive, and frankly on this, open strategy that China has had.

Senator BALDWIN. Thank you for that answer. I know my time is now short.

I will allow Professor Kontorovich to answer this for the record. But Professor, I would like to ask for your help in finding productive actions we can take to overcome some of the challenges that are being discussed today. I am confident that we can find bipartisan solutions to pursue.

It is my view that we should strengthen our relationship with Panama through mutually beneficial actions. For one, we should have a fully staffed embassy. The United States went without an ambassador to Panama from 2018 to 2022, largely due to partisan gridlock in the Senate confirmation process.

So what additional strategies would you suggest the U.S. pursue to encourage Panama to enhance its security relationship with us, the United States of America, rather than China? And how can we leverage the strength of the American private sector to encourage more investment in the important infrastructure projects where China currently has a strong presence, in fact, dominance?

Mr. KONTOROVICH. So thank you. So my understanding of the Chinese advantage is that to the extent that they are using—willing to use their government wealth to consistently underbid contracts, they have an advantage that cannot be beat. And thus leaving these kinds of issues to contracting is going to put American companies perpetually at a disadvantage.

You know, I think one potential action would be to make clear to Panama that based on these changes that have occurred over the years, increasing Chinese control over Hong Kong, the passage of the national security law, the Belt and Road Initiative, the military-civilian integration doctrine of China, that contracts with Chinese-based companies are considered suspect and incompatible with the neutrality regime of the treaty. That would at least give American companies and other truly private companies a fighting chance.

The CHAIRMAN. Thank you. Senator Blackburn.

**STATEMENT OF HON. MARSHA BLACKBURN,
U.S. SENATOR FROM TENNESSEE**

Senator BLACKBURN. Thank you, Mr. Chairman. Yes or no, quickly, for the three of you, just for the record. Is the China investment into the Panama Canal a direct threat to U.S. national security? Yes or no?

Mr. SOLA, I will start with you down the panel. Thank you.

Mr. SOLA. To the economic security, yes Senator.

Mr. MAFFEI. Yes.

Mr. KRAHEK. I do not have that information as an Industry Trade Association, Senator.

Senator BLACKBURN. OK. All right. And we have talked some about the Neutrality Treaty, which I think is of concern to all of us. And as I have looked at this, and I appreciated Senator Sullivan's questioning on this, we look at how President Trump is going to push forward with getting this issue addressed. And we have heard a good bit about this from our shippers that are looking at what happens coming out of the port of Memphis.

And I think that the Government of Columbia learned a lesson last week that we are not going to go soft on some of these issues. And when you look at the fact that the U.S. is a primary user, it is the primary user of the Panama Canal. And we are also Panama's largest provider of direct foreign investment. I think those two things should be significant. Our foreign investment into Panama is \$3.8 billion annually. This is why people are looking at this issue.

So Professor, let me come to you on this, and we thank you for joining us remotely. Should not our investment in Panama be contingent on their adherence to that Neutrality Committee, ensuring that Panama and Panama alone would control that canal?

Mr. KONTOROVICH. So certainly that is an action we can take to enforce the treaty and to enforce our understanding of the treaty. That is an action we can take even without the treaty. So to the extent that the United States considers the Chinese operation of facilities around the Canal to be against its interests, it can certainly condition aid and economic relationships on the exclusion of China.

Now, the United States has typically not worked that way. And that may be one of the reasons why, as we heard in the testimony, China has basically made inroads everywhere. But for that, we do not even need the treaty. Certainly, if we consider the treaty to be violated, measures like that, far short of the Armed Force authorized by the treaty, would be reasonable to start a—

Senator BLACKBURN. And Professor, let me interrupt you there, because I do want to move on. I think that as you look at how China has used the Belt and Road Initiative, and we have talked some about that this morning, we know that they have pushed the digital yuan.

And I am concerned that given their control over much of that infrastructure around the Canal, that they would attempt to force U.S. shippers, or our allies to bypass the dollar and use the digital yuan as they are in other countries, where they are practicing debt diplomacy, and where they are expanding the Belt and Road Initiative.

So Chairman Sola, could you speak for a moment about the potential for fee manipulation with the CCP? Because as I mentioned, we are hearing a good bit about that, we are hearing that the toll structure disadvantages U.S. companies, that the Canal Authority has begun charging millions of dollars to skip the queue.

And these fees put many bulk shippers in an adverse position. And these bulk shippers have a huge impact on ports along the lower Mississippi River. And these exorbitant fees are there unless you are going to face delays at the Canal. And then the impact of hearing these Chinese companies would preference the yuan as opposed to the dollar.

Mr. SOLA. Thank you, Senator. The fees that I think we are looking at, or we have been looked at, and the reason that we went there was because of the auctioning of the slots. And so what Panama did is they had a smaller percentage, maybe 20 percent allocation, and then they moved it up to 30 percent and 40 percent because it became a moneymaker for them. So as they were doing this—

Senator BLACKBURN. OK, and let us—let me interject here. The auctioning of the slots gives these the right to skip the queue?

Mr. SOLA. Yes, ma'am.

Senator BLACKBURN. OK. So just for the record there, continue.

Mr. SOLA. So the auctioning of the slot—under maritime law, it is first come, first serve. But Panama has always put a certain percentage aside. And they started to put more and more. So we got a lot of complaints. We got a lot of complaints from LNG carriers that paid \$4 million to go through. And we got a lot of complaints from agriculture that did not have the money to pay to go through because their goods were going to—their goods were going to go down.

So if you look at the financial statements, I am a nerd, I look at financial statements of everybody, but the Canal increased the amount of revenue that they had from about \$500 million to \$1.8 billion in the last three years just because of those fees, so this is what is very concerning to us and for the American shipping.

Senator BLACKBURN. And have you seen a tendency to preference the digital yuan over the dollar?

Mr. SOLA. I have heard of the digital yuan, and I have also heard of it used in international shipping as a currency.

Senator BLACKBURN. OK.

Mr. SOLA. It is something that I would say that we have an eye on because we have a digital shipping exchange rule coming up.

Senator BLACKBURN. Yes.

Mr. SOLA. But we will keep monitoring it.

Senator BLACKBURN. OK, thank you, Mr. Chairman.

The CHAIRMAN. Thank you. Senator Klobuchar.

**STATEMENT OF HON. AMY KLOBUCHAR,
U.S. SENATOR FROM MINNESOTA**

Senator KLOBUCHAR. Thank you very much, Mr. Chairman. And I cannot help but think as we debate this issue of the Panama Canal, while it is important, if you want to look at what is happening right now as in the middle of the night last night when an executive order was issued by—well, not an executive order, just a

memo by the Acting Budget Director which put a pause on all Federal funding for not only NIH research of cancer trials, and not only HeadStart, and people are in a panic in calling our offices, it is also a severe problem for trade and America's innovation.

Freezing all Federal funding already granted to improve port and freight infrastructure through the Port Infrastructure Program seems to me a major problem we should be addressing if we are talking about America's shipping interests.

But I will go to the topic at hand. The Panama Canal is a critical trade corridor that allows for American farmers, other businesses to reach international customers. I care a lot about the shipping issue. As many of you know, Senator Thune and I joined forces two years ago to pass a very important bill that took on the international shippers in terms of giving more power to the Maritime Commission in taking on the rates they were charging businesses, and farmers, and manufacturers in America, and it actually immediately had an impact because they knew what was coming their way, and continues to. I will get to that in a minute.

But I do want to raise with you, Commissioner Maffei, do you know of any instances where the United States has been singled out, or treated unfairly under the Neutrality Treaty in the operation of the Canal?

Mr. MAFFEI. I do not. I would add that one of the reasons why saying the U.S. is disproportionately affected by raises in canal fees, and other kinds of fees at the Canal, is because the United States disproportionately utilizes the Canal.

Senator KLOBUCHAR. Right. and that is something that would affect the total number of fees, and we know it is a critical, critical trade corridor and want to continue to use that corridor and be treated in a fair way. But I do think one of the things that has not been brought out as we look at the periods of congestion or reduced capacity at the Canal which we know have occurred, like we saw with last year's drought can delay shipments, increase transportation costs, potentially leading to higher consumer prices.

Commissioner, what steps can be taken to minimize disruptions and prevent cascading costs for consumers during periods of operational strain?

Mr. MAFFEI. At the Panama Canal?

Senator KLOBUCHAR. Yes.

Mr. MAFFEI. I mean, the main thing is that companies, importers, and exporters need to make sure that they have very resilient supply chains. Depending on any one sea lane is awfully risky in this very, very difficult to predict world. It is one of the reasons why the Panama Canal is so important. In fact, it may be a bigger reason than a particular transit or line transit is the fact that it is there in case something goes wrong on the other end of the world, say for instance, the Suez Canal, right.

And it is that lack of redundancy right now that has been a big problem, and frankly, one of the reasons why shipping costs have gone up, because if you have to go all the way around Africa, or go all the way around the Americas, you are taking fewer ships, so yes.

Senator KLOBUCHAR. Thank you. Mr. Kramek, in your testimony you described how drought reduced imports at U.S. ports. Do these reductions affect prices for American consumers, or could they?

Mr. KRAHEK. Yes.

Senator KLOBUCHAR. OK, thank you. I love that short answer. Ocean Reform Act, I mentioned, back to you, Commissioner, has that law improved the ability of shippers to have unreasonable charges waived or refunded by ocean carriers? As we know, this has been a major problem for our carriers, which can translate into prices, and talk about how it has empowered shippers to file complaints against unreasonable practices by the carriers.

Mr. MAFFEI. Yes.

Senator KLOBUCHAR. But the shippers, of course, you know what I mean. I do not mean the carriers themselves, I mean the people that are trying to do business and sell their stuff so—

Mr. MAFFEI. American exporters, American importers.

Senator KLOBUCHAR. American exporters?

Mr. MAFFEI. Absolutely. Look, I do not have a lot of time, but yes, it has a tremendous effect. We have seen instances of waiving or forgiving detention demurrage fees or even refunding go way up. We have seen settlements go up with the major carriers. We have seen a lot more cases filed. So many, in fact, that we have had to take—we have had one—we used to have one administrative law judge, now we have three and they still have too many cases, so a huge impact.

Senator KLOBUCHAR. Mm-hmm. And are you concerned—I will just end where I started—are you concerned about freezing funding that has already been granted for port and infrastructure improvement right now, given what we are trying to do with American ports so we can make stuff here and ship it instead of having it all come to us?

Mr. MAFFEI. That is a complicated question. I will just say at the Federal Maritime Commission, we try to do an awful lot with less. As the *New York Times* reporter has pointed out, we are funded at approximately our entire annual budget, about 1 hour of the container ship industry's profits during the COVID pandemic. Because of that legislation and subsequent appropriations, that is more like 68 minutes now, it is still a fraction of it. I do not know where, and I do not believe the chairman knows where we—

Senator KLOBUCHAR. Well, of course, we only found this out 12 hours ago at midnight from an unknown bureaucrat. So our hope is that we will be able to give you those numbers to show what will happen to infrastructure if we simply freeze funding for all of these things across America. Thank you.

The CHAIRMAN. Thank you. Senator Budd.

**STATEMENT OF HON. TED BUDD,
U.S. SENATOR FROM NORTH CAROLINA**

Senator BUDD. Thank you, Mr. Chairman. Again, thank the panel for being here. It is good to see you all.

Mr. Sola, the November 2024 report from the U.S.-China Economic and Security Review Commission, it details China's efforts to deepen ties with countries across Latin America and the Caribbean.

So Mr. Chairman, I would like to ask unanimous consent to enter that report into the record. Mr. Chairman, if that is OK.

The CHAIRMAN. Without objection.

[The report referred to can be found on the *www.uscc.gov* website.]

Senator BUDD. OK, all right. Thank you. All right. I think it is important to view the Chinese Communist Party's, CCP, activities in the Panama Canal Zone in the context of the CCP's broader efforts to further access Latin America's markets, and obstruct American interests in our own backyard.

Mr. Sola, would you agree with that, that you see the CCP activity, and hopefully, to interrupt America's interests in the region?

Mr. SOLA. Definitely an economic interest, Senator.

Senator BUDD. I was able to travel there a few years ago to see this firsthand, and see the CCP's encroachment. So in your experience, are there noticeable differences in port operations when they are controlled by Chinese companies and financed or backed by Chinese loans, and if so would you explain that?

Mr. SOLA. We have a wonderful example because we have a U.S. port there, SSA, out of Washington State, and I actually worked on the development of many years ago, and helped develop. That used to be a former United States Navy Submarine Base, and we converted that.

As far as the two ports that we have, they are completely different. One is a major infrastructure footprint and also a container port that is moving four million containers a year. That is almost—I mean, that is really a phenomenal amount—that is more than Miami, Fort Lauderdale, and you probably have to add Tampa, and a little bit of Jacksonville in there to get that type of volume.

And on the other side, we have a very small port, but it is a very strategic port on the Atlantic. So how are the operations done? Yes I—I do not know how they do not make money. I mean, if you want to come to—right down to it, is that they have been operating port for 20 years, and they say that they have not made any money, so they have not been able to pay the Government, that is what concerns me. Because I believe that we are on a level playing field with the American ports.

Senator BUDD. I appreciate that, Mr. Kramek. What would be the consequences for U.S. trade and for the U.S. economy if access to the Canal was suddenly revoked or significantly decreased for U.S. shippers?

Mr. Kramek. It would be pretty catastrophic, Senator. And we have a good example. I mean, we have experienced that with the denial of the Red Sea right now being able to use that, and as Chairman Maffei said, having to go around, down the Continent of Africa 40 percent longer voyages, at significantly more costs in crew, maintenance, fuel, and even emissions.

Senator BUDD. Do you have a ballpark on the difference if they are able to transit the Canal versus going around South America?

Mr. Kramek. I do not have a figure, but I can tell you in days, and it depends.

Senator BUDD. 30 days?

Mr. Kramek. So it is about 30 days if you can go through the Canal, about 40 days right now because we cannot use the Suez

Canal, if you want to go from, say, Asia, Asia cargo going to the U.S. East Coast.

Senator BUDD. Thank you. Mr. Sola, another question. China is pouring billions of dollars into infrastructure projects all over Central and South America. And one example is in Ecuador, China made a deal with them to fund a \$3.4 billion hydroelectric dam. There are 17,000 cracks already, and there is a lot of corruption. Ecuadorian officials have been imprisoned on some bribery charges.

Using that as an example for the region, the strategy of China is clear, because to take—and this is in the words of an Ecuadorian minister—the strategy of China is clear that they want to take economic control of countries. In Panama, for instance, it is about 7.7 percent of their GDP, as I understand it.

So using Ecuador as an example, should Congress be concerned that China could extract significant leverage over Panama, given the outsized role and revenue from the Canal in their finances? If you could turn your microphone on.

Mr. SOLA. Yes, Senator, it very well could. And I believe that we are in a very fortunate position now with Secretary Rubio, who knows the area very well, and also knows China.

Senator BUDD. Thank you very much. Mr. Chairman.

Mr. MAFFEI. Senator, can I just say. You should also look at the Port of Chancay in Peru. It will fit that pattern—

Senator BUDD. Thank you very much.

Mr. MAFFEI.—of Chinese investment.

Senator BUDD. Thank you.

The CHAIRMAN. Thank you. Senator Kim.

**STATEMENT OF HON. ANDY KIM,
U.S. SENATOR FROM NEW JERSEY**

Senator KIM. Thank you, Chairman. Thank you to all of you for coming out here.

I will be honest with you. When I talk to some of my constituents in New Jersey about this, they mostly understand this issue right now because of the words of President Trump. So if you do not mind, I just kind of wanted to start there and work backward.

So Chairman Sola, you know, President Trump said, quote, “China is operating the Panama Canal. We did not give it to China, we gave it to Panama, and we are taking it back.” I guess I just wanted your assessment there. Is China operating the Panama Canal?

Mr. SOLA. Chairman—I mean, Senator Kim, I never discredit anything that President Trump says.

Senator KIM. Yes, he—

Mr. SOLA. He has a different briefing book than I do.

Senator KIM. Mm-hmm.

Mr. SOLA. What I can say is that the Panama Canal is operated, as far as I know, by the ACP, the Panama Canal Authority, and they are very efficient at operating the Canal and the throughput that they are able to do.

Senator KIM. So you are saying from your knowledge, you do not know of any reason to believe that China is operating the Panama Canal, from the knowledge that you have?

Mr. SOLA. From the knowledge that I have on whether the—Senator, what we have here is the Panama Canal Authority is the authority where people will pay into the Panama Canal.

Senator KIM. Mm-hmm.

Mr. SOLA. I think that what—if you will allow me to—if a company is able to operate both ports—

Senator KIM. Oh. I see. So you are talking about Hutchison Ports, right?

Mr. SOLA. Yes.

Senator KIM. So we are talking about like Balboa and Cristobal Ports, right.

Mr. SOLA. And they are subsidized. They are subsidized.

Senator KIM. They are subsidized? I guess my question to you is, does Hutchison Port actually control the locks of the Canal?

Mr. SOLA. No.

Senator KIM. Does it control, directly, the entrance to the Canal?

Mr. SOLA. Both ports are in operational control of the Canal. In order for those ports to operate, the Canal has to give them a special permit. And the reason is because when they are bringing a ship in or bringing a ship out, they block the traffic of the Canal every single time.

Senator KIM. I see, so—

Mr. SOLA. They have to have pilots, two pilots that are going on?

Senator KIM. Is Balboa or Cristobal Port under the jurisdiction of the Panama Canal Authority?

Mr. SOLA. They have been given by the Panama Government, the concessions. However, they are in the operational range of the Panama Canal, they are reframing.

Senator KIM. Does that make them—does that make those two ports under the jurisdiction of the treaty?

Mr. SOLA. Let me say this, because I was in Panama when the treaty—when the Panama Canal was turned over.

Senator KIM. Mm-hmm.

Mr. SOLA. We did not just give back the Panama Canal. We also gave back all the land and all the water on the entryway to it, and including what we had was a lot of military bases along there. So as soon as you come out of the Panama Canal, and I invite you to come there, I will be happy to take you.

Senator KIM. Well, let us—we do need to have—

Mr. SOLA. But as soon as you come out of the lock you run into Corozal, which was a former military base. Corozal is run, not by Panama—by the Panama Canal Authorities, it is run by the Panama Government. After you pass that, you run into the Port of Balboa. So what I am trying to say is when we talk about the Panama Canal Authority, they operate only where the ships go up, and go down, and come out.

After that, you have where the pilots—we have where the pilots will take you on the boat and take you off. So is it operational control of the Panama Canal? Yes, because the pilots are the ones that have to bring you in there and bring you out. And again, every time a ship goes into one of those ports, they block the traffic of the Panama Canal.

Senator KIM. Yes. Well, look, I guess I wanted to just ask you directly then, what is your assessment of the Panama Canal's Au-

thority, you know, in terms of their ability to administer the Canal?

Mr. SOLA. I think the Panama Canal Authority and their independence is, if you read my opening statement and my written statement, they have done a fantastic job. And Panama has been running the Canal for 25 years. They have promoted—they have given \$28 billion to the coffers of the Government in those 25 years.

In the 25 years that the two ports that we call—the two ports, they have contributed zero. So I do not understand why Panama would allow those two ports to operate and take—and put into jeopardy what they have and—the operations that they do have in the Canal.

Senator KIM. I want to just end here on this because I thought you had a really poignant point in your written testimony, where you said, “We must protect the independence of the Panama Canal Authority. Any efforts by other interests in Panama to diminish the independence or professionalism of the authority must be stopped.”

And I would just say, venture to say, as we talk about this as a committee, as a Government, that we should try to follow those same words as well. You know, we try to have nuance and precision with the words that we use, otherwise, it very much looks like some of what we talk about is going to be perceived as undermining the Panama Canal Authority. And you said that you warned that would be something that would actually boost up China’s capacity in the region.

So I just ask, as we deal with this going forward, that we be precise about it and try to make sure we are talking about exactly what we are addressing.

Mr. SOLA. And specifically, what I was talking about is the Board of Directors of the Panama Canal. I mean, are some of the Board of Directors on the Board of Directors of the ports that we have in question? So when you look at the annual report of those two ports, they have a hidden—or not a hidden, it basically says that they have local partners that are not identified. So I believe that if we had those identified, we would know more.

Senator KIM. Yes, and more precision there. Thank you so much. I yield back, Mr. Chair.

The CHAIRMAN. Thank you. Senator Schmitt.

**STATEMENT OF HON. ERIC SCHMITT,
U.S. SENATOR FROM MISSOURI**

Senator SCHMITT. Thank you, Mr. Chairman. I want the Committee to just imagine that Taiwan is under siege. The CCP, determined to crush Taiwan’s resistance and prevent a U.S. response, activates a multi-prong strategy, leveraging its control over global ports and shipping infrastructure. At the Panama Canal, one of America’s most vital trade arteries handling 40 percent of U.S. container traffic.

Chinese-controlled ports at both ends suddenly close. Ships carrying food, oil, and military supplies are turned away because of technical difficulties, paralyzing the global economy. Gasoline prices soar, supermarket shelves empty, and supply chains collapse within days. China’s state-owned ZPMC, which supplies 80 percent

of U.S. port cranes, has equipped their cranes with cellular modems that create explosive vulnerabilities—exploitable vulnerabilities.

These cranes at U.S. ports mysteriously malfunction, halting critical operations. Factories close, millions lose their jobs, and the economy grinds to a halt. While this scenario may seem hypothetical, it is entirely plausible.

Therefore, the Canal must remain neutral, and the U.S. must ensure the CCP does not encroach on our vital economic and national security interests. In 2017, Senators Markey, Schatz, and Rubio urged President Trump to address China's aggressive maritime actions. Their warnings apply today, as China's growing control over critical infrastructure, ports, and strategic waterways, like the Panama Canal, pose an unacceptable threat.

America is sleepwalking into a carefully laid Chinese trap. Fortunately, people like President Trump are not falling for it. I am glad he is raised this issue. This dangerous complacency must end. That is why, last week, I introduced a Senate resolution to safeguard the Panama Canal from Chinese influence. It calls on Panama to expel Chinese entities in foreign control and honor its neutrality under the 1977 transfer agreement. The cost of inaction is too great.

I want, and I will offer this up for anyone, but I think the biggest concern here is this Belt and Road Initiative, we have talked about it creating a debt trap, which is true, and building a bridge in Bangladesh is very different than this. I mean, there are reports of the CCP building airports, and then when people are critical of the CCP, all of a sudden flights are canceled.

Controlling a grid—they can turn it off, and they can turn it off, and there is just no way on God's green earth, that China can control the Panama Canal. So however you want to define it, and I hope my Democrat colleagues this is an issue that affects America, and it should not be partisan. And I hope they are not blinded by the fact that President Trump has come out so boldly on this. But we should not tolerate this.

The witnesses have stated they have operational control. We can get into the semantics of the Port Authority versus the control, but operational control of the Panama Canal is real by the CCP. The witnesses have also stated that a Chinese company got a sweetheart deal, a no-bid contract for control—operational control ultimately of these ports.

So I guess I want to ask, because I talked too long and do not have much time for questions, but Professor Kontorovich, I do want to ask you. As it relates to the treaty, I am glad Senator Cruz—or Chairman Cruz, has called this up, because there are real concerns about treaty violations here.

What are the most blatant? What are the most obvious? Is it the unfair—is the fact that we are being charged more? Is it the fact that these are Chinese-owned companies that are controlled by the CCP? What are the top two or three reasons you would argue that they are, in fact, in violation of the treaty?

Mr. KONTOROVICH. So again, I think the different—I think the charges and fees are less of an issue because they do not discriminate across countries. We pay more because we use more, but it is not nationally discriminatory. The presence of Chinese Govern-

ment—of Chinese companies, especially Chinese State Governments but not limited to them, do raise serious issues and concerns for the neutrality of the treaty.

And I should point out, in relation to some of the earlier questioning, the Canal, for purposes of the Neutrality Treaty, is not limited just to the actual locks of the Canal and the transit of ships through the Canal. According to Annex 1, Paragraph 1 of the Treaty, it includes also the entrances of the Canal, and the territorial sea of Panama adjacent to it.

So all of the activities we are talking about are within the neutrality regime, the geographic scope of the neutrality regime in the treaty.

Senator SCHMITT. So the most—I am out of time—but the most dead on hit here is the treaty specifically prevents foreign operations, and that is exactly what we have.

Mr. KONTOROVICH. Yes. So to the extent these companies are, in fact, de facto controlled by China, this is something that could threaten the neutrality regime of the treaty.

Senator SCHMITT. OK.

Mr. MAFFEI. Senator, may I make a point of clarification?

Senator SCHMITT. Sure.

Mr. MAFFEI. You said that we all stated that China had operational control. I do not believe that China currently has operational control over the Panama Canal. I am not sure if any—

Senator SCHMITT. No, I did not say all of you did. I said one of the witnesses.

Mr. MAFFEI. OK. Well, let me say this: I did agree that there was a threat posed by this ownership. I do think, though, that if your assumptions are correct, you are way understating the problem. That is right, understating the problem, because they also control the Suez Canal, and the Mediterranean Sea. And I actually have to admit, I am a little confused as to why some of the senators asking this question, Senator Blackburn, are not more concerned about the biggest port in the United Kingdom being run by the Chinese.

Piraeus in the port nearest Athens, one of the biggest ports in the Mediterranean is not just run by a Chinese-linked company; it is run directly by a Chinese-owned company. And I was there. So you are on to something. But if you are just focusing on Panama, that is only part of it.

Senator SCHMITT. No, I agree with you. I think the difference here is that we gave it away. Huge mistake. Both Missouri Senators voted for it back then, huge mistake. But the one thing we got out of it, the one thing we got out of it was a guarantee of neutrality. And that is the issue here. Thanks.

The CHAIRMAN. Thank you, Senator Curtis.

STATEMENT OF HON. JOHN CURTIS, U.S. SENATOR FROM UTAH

Senator CURTIS. Thank you, Mr. Chairman. Great hearing. I appreciate this opportunity today. I would like to touch on something I have not heard discussed today, and that is, unfortunately China is not the only hostile country that exploits Panama to endanger our national security. Iranian vessels under the Panamanian flag registry have been a problem for many years.

Chairman Sola, can you explain how Panama has enabled Iran to evade our sanctions?

Mr. SOLA. Yes. Thank you, Senator. About a year ago, when we were having this drought issue, there was also a lot of focus on Iran and how they were funding Hamas and the Houthis because they were attacking the Red Sea. What we found was, or what the United States has found is that Iranian vessels are sometimes flagged by Panama in order to avoid sanctions so they can sell the fuel that they have, and then can have—they can take that money and use it as they wish.

Panama, at the time, had a very complicated process to deflag the vessels. There was an investigation. There was an appeals process. By the time we would—OFAC or Treasury would go ahead and identify one of those vessels, by the time that they were doing the appeals, and stuff like this, they had already changed flags to somewhere else.

So when we went to Panama, we met with the Panamanian President. And I must say, we were very impressed because that—he was 30 minutes late, but he was breaking relations with Venezuela at the time because the election was the day before.

We explained to him the situation. The very next day, we met with the Maritime Minister, with U.S. Embassy personnel, and Panama actually adjusted their appeals process to make it more expedient. So if the United States or OFAC would to come and say that this Iranian vessel is avoiding sanctions, now we have a process in place to go ahead and do that. And 53 vessels were deflagged because of that meeting.

Senator CURTIS. OK. If you would, keep working on that, because that is a big deal. Thank you for that answer.

Let me also go to—I mean, we have hammered on this a little bit—and I have heard several times some of you acknowledge that the interest from China is an economic threat to us. But let me come back to this defense. I think we have asked a number of times in different ways, but let me go back to the analogy of, if China puts a blockade on Taiwan and we are trying to move ships into that area quickly, can any of you say this is not just an economic threat to the United States but a defensive threat as well?

Mr. MAFFEI. At the FMC, it is not our area of expertise. We will leave that to the military experts. I will just say that to me, an economic threat is a military threat.

Senator CURTIS. Sure.

Mr. MAFFEI. I mean, indirectly, but it is.

Senator CURTIS. I just, I know there are panels—

Mr. MAFFEI. But in terms of—you know, in terms of what you are directly asking—

Senator CURTIS.—in reference to economics.

Mr. MAFFEI. We at the Federal Maritime Commission do not have that area.

Senator CURTIS. Chairman.

Mr. SOLA. I would say that my biggest concern is that when a Chinese contractor gets a contract in Latin America, they usually put a clause in there that they bring their own workers in from China. And these workers are housed in camps outside, and these camps will have guards on them, and they will have—sometimes

they—in Panama, for example, they have barbed wire around the camps.

So we really do not know who is in the camps, and I think that, to me, causes me more concern, on who is in the camp and what are they doing. These are actually sometimes thousands of workers that are brought in, for example, for a bridge or to do a port, or something like this, to undercut the local labor.

Senator CURTIS. Along those lines, let me just talk about dollars from China spent. We far outspend China in the region, yet if you look back on when Panama switched diplomatic recognition from Taiwan, and we had comments from the President, Taiwan is an inalienable part of Chinese territory, it coincided with economic investment from China in the region. Is that something, overall, in addition to the Canal, we need to watch?

Mr. SOLA. Yes, we definitely need to watch economics, and we need to—the United States has left a void there. We really have not been competitive in Panama, and hopefully, we can be.

Senator CURTIS. OK. And I have got just a few seconds. So this bridge, we have brought this up a couple of times, the possibility of this bridge being damaged and closing the Canal. But it reminds me of going through TSA, a suitcase going through the TSA, is there any reason that China cannot watch or do whatever they want from this bridge to get their intel from these containers, and does that concern anybody?

Mr. SOLA. Well, it definitely concerns Southern Command because they have brought it up on numerous occasions that there could be some sort of surveillance or something like that on the bridges.

Senator CURTIS. OK. I yield my time. Thanks, Chairman.

The CHAIRMAN. Thank you, Senator Moreno.

**STATEMENT OF HON. BERNIE MORENO,
U.S. SENATOR FROM OHIO**

Senator MORENO. First of all, thank you, Chairman, for putting this hearing together. I think it is very timely.

Mr. Sola, I heard you say, it kind of rang in my head, you have navigated the Canal a hundred times. I mean, that is a—you have a pretty good experience. I want to turn the testimony in a little bit different direction. You obviously have been there that much. Tell me, for the testimony, what are the people of Panama, you have obviously probably been to my home country, where I was born, in Colombia, what is the sentiment among the people for how they feel about America?

Mr. SOLA. Senator, I have many friends, family, and professional relationships in Panama, and the bond between the United States and Panama is very deep. It is almost like the United States and Great Britain, for example. The Panamanians love baseball. They love basically a lot of the same things that we do. The people are absolutely wonderful.

Senator MORENO. Now, they have suffered through catastrophically bad leaders, especially today. The President of Colombia, Petro, we do not have to go down that path. But here is what I would ask you. Obviously, we understand about shipping, we understand the issues of trade, and that has been well documented.

I think the treaty is clearly in violation, there is no question about that.

In fact, Mr. Chairman, I would like to see us speedily get to a point where we get a resolution allowing the President to renegotiate or cancel that treaty. But here is my question to you. The Darien Gap is a stone's throw away, here to Annapolis, maybe not even a little bit further than that. It used to be this insurmountable piece of geography that separated Colombia from Panama, but it is now used as a massive human and drug trafficking operation.

The presence of multinational gangs, multinational criminal organizations in that area, primarily, I will suggest funded by the Chinese—you do not have to comment on that—but what is the impact of these transnational gangs, this increase in human and drug trafficking, doing to maritime activity along the Canal?

Mr. KRAHEK. Senator, the Darien Gap is one of the most dangerous tracks that I think anybody can do. And thank God for the new policy that we have on migrants, and people coming into the country because countless people have been harmed, died, or even—you know, very bad things happen to them through there.

On transnational gangs, I mean, anytime there is money in a black market, they are going to fill that void. So hopefully, as I understand it, the Darien Gap is not being utilized very much right now because people are coming to the United States and now cannot come in.

Senator MORENO. Right, but the point is: What is the impact on maritime activity there? In other words, security, Mr. Kramek, has got to be an issue for your members. And having that increased presence of transnational gang activity, and drug trafficking, you are talking about billions and billions of dollars. Cocaine production in Colombia is at an all-time high. What impact does that have on your members?

Mr. KRAHEK. Senator, it is something we work hard on every day. The World Shipping Council has partnered with the World Customs Organization and 58 customs agencies throughout the world. We ran actual operations to give data that we have on our supply chain and where there are anomalies to those customs officials and law enforcement authorities so they can act on it.

A lot of the flow for commercial vessels, not into the United States, but to the European Union, is coming from the transshipment point in Panama, where our containers are being exploited and contaminated. And so we are working hard as we sit here right now on that problem.

Senator MORENO. And of course, the point I am making is that China's influence there, whether we want to make it a technical question as to what control means, it does not matter. When you have Chinese companies operating on both sides of the Canal, having influence there through drug trafficking, they bring basic chemicals into Mexico, which makes its way here, as fentanyl, you have enormous Chinese influence in Central and South America.

And Mr. Sola, I go back to you with my final question. Do you think, fundamentally, the problem here is that America has just failed to engage properly with Latin America?

Mr. SOLA. Yes, I do. I believe that we have not had a presence there for long enough. The State Department has designated count-

less past Panamanian presidents for corruption, but we have not had the DOJ go ahead and get any convictions on those. I think that if we did have a conviction one way or another, I think that that would change the narrative quite considerably.

Senator MORENO. And just one quick follow up. So if the U.S. took control back of the Canal, if that territory was completely controlled and protected by the United States of America, what influence could we have in solving a variety of problems, the shipping ones that we have talked about, but also having a U.S. presence with military backup there in Panama, preventing transnational organizations, preventing human trafficking, preventing drug trafficking; wouldn't that be celebrated among the free world as something that would be absolutely a net huge positive to that area?

Mr. SOLA. Well, I can say this—that is probably one of the top contraband areas in the world, just because of its geographical location and the amount of containers they move. So I think anytime we can lower the amount of contraband being distributed around the world, we would be doing a good service.

Senator MORENO. So Mr. Chairman, like I said earlier, we ratified that treaty here in the U.S. Senate. I would love to see us deratify it.

The CHAIRMAN. Thank you, Senator Capito.

**STATEMENT OF HON. SHELLEY MOORE CAPITO,
U.S. SENATOR FROM WEST VIRGINIA**

Senator CAPITO. Thank you, Mr. Chairman. Thank you all for being here today, really interesting hearing.

In the year 1913, the West Virginia—or the Governor of West Virginia said that the Panama Canal would be critical to the state's coal industry. What was then true is still true today, 11 percent of the cargo that goes through that canal is coal.

Chairman Sola, thank you for your military service and for your great insight into this, into Panama. I know that the draft restrictions have been brought up already today, but the fact that bulk goods, like West Virginia coal, and other forms of energy cannot always be fully loaded to go through the Canal is a major problem.

I know they are investing about \$900 million to try to make the Canal more resilient, but what ways can we ensure that our state's energy exports are actually getting where they need to go, when they need to get there?

Mr. SOLA. That is a very good question, Senator, and the bulk and the coal are probably the most affected by the draft restrictions that we have. The container ships and the passenger vessels have a much lighter draft. We talked extensively with the Canal Authority and also with the Government of Panama on how they need to add water to the—fresh water to the system.

They are losing about one or two percent a year, so if they continue this way, the Panama Canal will be severely diminished by up to maybe 40 percent by 2050, so fresh water is definitely the key to this. I know that they are working with the Army Corps of Engineers. We have seen some of those studies, and they have put a variety of options out there for the Canal Authority to go ahead and take advantage of it.

Senator CAPITO. Let me ask, this probably quite simple question: Why would they be in opposition to putting more fresh water in the Canal?

Mr. SOLA. I do not believe—well, the Canal Authority is not—

Senator CAPITO. It sounds easy. So maybe it is not quite as easy.

Mr. SOLA. The Canal Authority isn't, the issue that they have is maybe 10 years ago, environmentalists kind of restricted what their watershed was of the Canal, and that law has just recently been overturned. So now the Canal actually has access to the watershed. What they have to do is a major infrastructure project to go ahead and pull that water in. At the same time that they are saving up or raising the fees for the major infrastructure project, they are giving more and more money to the national coffers, so it is up to about \$2.4 billion right now, and they are saving for the infrastructure project.

Senator CAPITO. Is that the \$900 million infrastructure package like I referenced? Is that the same project?

Mr. SOLA. I believe it is. Is it the Rio M deal?

Senator CAPITO. Yes.

Mr. SOLA. Yes.

Senator CAPITO. So along with that, the issue going through the Canal, not just the offloading or—I mean, it is hard to offload coal out of a bulk container. I mean, that is not an easy thing to do if you can even do it. Is this whole thing about congestion pricing kind of—nobody here from New York, are they; but you know, the congestion pricing at the Canal where you can outbid and skip the line, so then the line can be like 14 days later even if you were at the front of the line.

This is probably what Senator Sheehy, is wondering like: How did I get in front of him, kind of question.

So how is that working? And is that fair? And who makes the judgment? That, to me—you are talking about corruption, that to me sounds like you could really be padding somebody's pockets here to be able to jump the line and have a significant effect.

Mr. MAFFEI. Yes, Senator, it is an auction system. It is being utilized more and more, and it is what I was most concerned about, and continue to be most concerned about—not necessarily right now because the unusual draft restrictions are not going on. But if there is another water shortage, the regular toll revenue has increased in terms of the Canal.

But what has really increased is the special revenue that they get from various fees and from this auction thing. That revenue has gone up about close to 300 percent for other transit services, so that is a huge amount. It also, it is analogous to me in some ways. I know a lot of the ocean carrier companies got a lot of heat when they were making more money during the—you know, during the—like the congestion during COVID.

Well, this is sort of similar. They are providing fewer transits, and at the same time, they are making more money because of a market mechanism. Though, you know, talking about the Chinese Communist Party, well, this is the other way, this is capitalist, but it is a different way of allocating space that they are more—they are utilizing more and more to make more and more money.

Now, I have no idea, to the best of my knowledge the money is going back to the Panamanian Government. I do not know of any reason to doubt that, but it is—that is a big cost. And as I said before, it does disadvantage certain kinds of cargos if—because they might feel that they do not—you know, they are on a ship which does not prioritize its time passage as much as other kinds of cargos. I do not know how that affects coal.

Senator CAPITO. All right, thank you very much.

The CHAIRMAN. Thank you. Senator Sheehy.

**STATEMENT OF HON. TIM SHEEHY,
U.S. SENATOR FROM MONTANA**

Senator SHEEHY. How long would it take China to block the Canal for our usage if they decided to do it? I know you are not military experts, but I think you have been in the Canal 100 times, you are all experts on the industry. If they wanted to deny our usage of it, how long would it take them to do it?

Mr. SOLA. Senator, I can say that prior to the year 2000, the Canal had a quick reaction force that kind of took all possibilities into consideration, either a ship be installed in the Canal or to be able to move one out. I do not know what those capabilities, or what the planning for that would be.

Senator SHEEHY. So effectively, we do not have a ready response. But if China—

Mr. SOLA. I am sure Southern Command does.

Senator SHEEHY. I do not like the—I do not like the mindset that has kind of pervaded that, there is this far-off hypothesis that someone someday could—

Mr. MAFFEI. Well, Senator, you are not—you are talking—you are not talking military experts. We are here because it is commercial reasons, if this is not—

Senator SHEEHY. Yes. But this is not a military question. I mean, if he has driven the Canal 100 times, and you are maritime experts, you know, a couple of years ago, as you remember, I think it was the Ever Given jackknifed in the Suez Canal. That is not a military operation. That is a ship that turns sideways. So if China chose to, how fast could they close the Canal to our usage?

Mr. MAFFEI. Well, they could probably do a similar thing, but it would more be an act of terrorism than it would be because they have facilities there. Most of this discussion has involved the economic threats that China is bringing up because of the Belt and Road Initiative and having these investments in other countries.

But yes, I mean, it is not hard to close off a waterway. The Panama Canal is actually quite vulnerable in terms of infrastructure. It is not—you know, this is not a fort or militarily reinforced location.

Now, that is—you are getting to the end of my knowledge of that. But no, it would not take long, but I do not know what it has to do with—it is not accelerated because they have people out of their port unless—I mean, unless you believe that they are, in theory, it is easier to infiltrate those ports with Chinese spies than it is other kinds of things. But that is totally out of my purview. That is more assignment for—

Senator SHEEHY. I do not think it is out of your purview. I think the reality is the Canal is an economic engine. It is also a national security engine, and I appreciate—I am not trying to be combative or setting you in traps. I am just trying to ask a commonsense question, which is, we can dance around, I am not an expert in this, I am an expert in that, but the Canal is vulnerable, as we have stated.

Mr. MAFFEL. I guess, Senator, I am just saying why would they—why would bother with a military-like operation when they can get what they want with non-military means?

Senator SHEEHY. Exactly.

Mr. MAFFEL. If they can have influence in other ways.

Senator SHEEHY. That is the point of the question. That is point of the question.

Mr. MAFFEL. OK.

Senator SHEEHY. As we segregate ourselves artificially in a way that they do not. We segregate ourselves. Well, let us talk about military, let us talk about intelligence, let us talk about economics. They do not—China does not work that way. It is a whole-of-government approach. They do not draw delineation between an economics discussion and a military one. And their attack may not look like Pearl Harbor.

It may look like an everyday ship that decides, you know, it pulls into the locks and blows itself up, and now the locks are nonfunctional for our usage and we cannot support an inter-ocean fleet transfer. And our ability to defend it, as you referred to, Chairman, is now inhibited by the fact that we no longer have the military infrastructure around the Canal that we did just as recently as 1999.

So from a commercial perspective, do the shipping companies have concerns over the security of the narrow waterways? We have got Strait of Malacca, we have got Suez Canal, we have got Gibraltar, we have got Panama, is that a concern that is thrown around the boardrooms of the largest shipping corporations in the world?

Mr. KRAHEK. Senator, I think it is something to think about every day. I mean, really, it has drawn into sharp relief with the Red Sea. That it was, what I call, a pink flamingo. Like, there are black swans that just come up, and there is, well, there are pink flamingos that you can see, but you do not act. But no one really thought a whole lot that one of the most important waterways in the world could be denied. And moreover, that it could be denied for such a sustained period.

The good news is that—and denied, I might add, by a disaffected non-state actor of Bedouins running around with rocket launchers who also managed to beat us in a 20-year war in Afghanistan.

But my point in saying all this is we have—we are just debating operational control of the Canal, yet it seems very clear to all of us that a very simple act can debilitate the Canal and eliminate our ability to use it in a matter of minutes, with no warning. And we have no ability to intervene or stop that. To me, that means we do not have operational control of the Canal.

Thank you, Chairman.

The CHAIRMAN. Thank you. I am told Senator Young is on his way, so I am going to ask a couple of questions and give him a few minutes to get here.

Chairman Sola, you have a deep understanding of Panama and the Canal from personal experience, in addition to your work on the Federal Maritime Commission. One example of China's influence with the Panamanian Government was the effort to seize land near the Pacific end of the Canal to build a new Chinese embassy, including your land. Can you describe your personal experience, including how Panama ignored property rights as it sought to appease China with the new embassy?

Mr. SOLA. Yes, Senator. About 10 years ago, the maritime business of my family expanded tremendously, and we were given a concession to build a marina on the Pacific area of Panama. We also incorporated a cruise component to that. We brought the cruise companies to Panama. This would have been the very first cruise port in the Pacific.

We spent millions of dollars on consultants with Atkins Global, Moffatt and Nichol, all the best consultants in the world, and everything was fine. When Panama turned over to Belt and Roads, they told us that that concession was going to be nationalized.

Then what they did is they rescinded our concession for the property, they—that we were going to build the cruise port for \$30 million, U.S. private funds. They gave the concession to a Chinese competitor and paid the Chinese competitor to date \$300 million to build that cruise port. It is going to take the Panamanian people 375 years to get it back. I am from Miami. That is the most expensive cruise port in the world by far, by passenger.

In addition to that, they took where our land was going to be for the marina, and they designated that to be the embassy for the People's Republic of China. So what happened next is absolutely appalling, because when I went to the U.S. Embassy and I went to the Commerce Department, they told me to fill out a complaint.

When I filled out the complaint, I went to my senator at the time, was Bill Nelson, and I remember that I was denied being able to even file the complaint, because the land that the Chinese embassy, or the land that was going to be used for the Chinese embassy, my environmental permit for the marina was going to expire in 6 months. So the United States Commerce Department would not even allow me to file a complaint.

So I brought that issue here, and thanks to the good work of, at the time, I think it was Chairman Nelson and Chairman Wicker, we were able to unwind that. After about 6 years, Panama did the right thing and returned the land to my family.

The CHAIRMAN. Very instructive. Senator Young,

**STATEMENT OF HON. TODD YOUNG,
U.S. SENATOR FROM INDIANA**

Senator YOUNG. Thank you, Chairman, for holding this important hearing. Thank you, gentlemen, for being here.

The Panama Canal underpins our current economic strength and national security. When 40 percent of U.S.-bound container traffic depends on a single waterway, we cannot afford unilateral toll hikes that choke out competition and leave our smaller carriers or our Midwestern exporters on the hook.

For instance, in my home state of Indiana, manufacturing firms and farmers rely on consistent, reasonably priced shipping routes

to move heavy machinery, auto parts, and ag products like corn and soy. If the Canal Authority's auction system prices them out, the ripple effects in American jobs and supply chains could be devastating.

Chairman Sola, given our enormous stake in the Canal's operation, do you believe Congress or the FMC should more aggressively use existing legal authorities, or even create new legislative tools to block or penalize toll practices that disproportionately harm U.S. shippers and exporters?

Mr. SOLA. Thank you, Senator, for the question. And I grew up in Goodland, Indiana, so that you know.

Senator YOUNG. Fantastic.

Mr. SOLA. I do believe that, you know, we should continue to monitor the situation, and if we do need more regulations or statutes, that we would come back to Congress because we get our marching instructions from you. Moving the agricultural products that we get out of the Midwest, and all over the world and through the country, not only do we focus on the Panama Canal, but we also focus on about \$5 trillion worth of goods coming in and leaving the United States here at the Federal Maritime Commission. So it is definitely one of our main concerns.

Senator YOUNG. Well, thank you. I am not surprised. I always tell people Indiana is a maritime state. If you think about our dependence on the waterways, and our shipping lines, and all the rest, so you are certainly proving that.

So we will stay in touch, and if you in the future would like to outline any mechanisms or measures that you think would be effective to help ensure fair treatment for our interests, please let me and others on this committee know.

When the two Panama Canal treaties were signed, we lived in a different world, one where Chinese state-backed actors did not wield strong influence over global infrastructure, and issues like drought were rarely factored into international agreements. As we all know, times have certainly changed. But the United States is still the Canal's biggest customer, and quite frankly, we have every right to expect an operational framework that acknowledges our modern security and economic challenges. States like Indiana, with robust exports, feel these impacts even if we are far from the Canal itself.

Chairman Sola—and then I will allow others to respond—in light of evolving conditions, especially increased foreign investment from China, do you believe the U.S. should explore a more comprehensive update or supplemental protocols to these decades-old treaties?

Mr. SOLA. I definitely believe that we should support U.S. investment, and not having an ambassador for so long that has been detrimental to us, especially as the case that I just mentioned earlier, where we did not have an ambassador and we had a U.S. company in need of service.

So however, we can promote U.S. investment, especially in infrastructure. This is where China is definitely beating us with the Belt and Road, where they understand that. I believe that our EXIM Bank and our DFC is so limited in what they can do by the restrictions that they have, that we are not able to invest in infrastructure like we should.

Senator YOUNG. I hope the administration will prioritize this Ambassador spot as nominations are made. I hope we will prioritize it in the Senate, and my colleagues on the Democratic side of the aisle will be warm to that nomination and moving it quickly. Something both parties, frankly, have fallen short on in recent years is prioritizing these.

But other comments, Mr. Maffei?

Mr. MAFFEI. Yes. Well, Senator, I will not surprise you, since you and I served together in the House, that I actually am pretty bipartisan and agreed with the Chairman on what he said. I will say that certainly we need to look at other kinds of ways to get U.S. companies in positions where they can truly compete with the Chinese on some of these things. And blaming it all on Panama really misses the point.

I have seen the same thing in Greece, where Greece did not want to give the concession of its largest port to a Chinese company, but because of its financial difficulties, it was getting pressure from international organizations such as the IMF, Europe, and even maybe some in the United States to do so. So I just ask you to look at that.

And I do want to say one quick thing. You are right about the cost, and as I said before, you were able to get here. The Panamanians are making far more on their Canal than they ever had before. That is not necessarily a bad thing, as long as it is going to the right place. But where they are really making the money is on these auctions, and that is why it remains a concern of mine. I am sure the Chairman's.

And that is where we are looking at, potentially, using our authority under Section 19 of the Merchant Marine Act, where we could, if we can show that it is, basically, a problem with the foreign trade of the U.S., it is interfering with foreign trade of the U.S. There are certain things that we can do. But I do think we need more information before we could make that kind of action. But we are certainly working on that, and we do have that authority at the FMC.

Senator YOUNG. Thank you, and good to see you again, sir.

Mr. Kramek, did you have anything?

Mr. Kramek. We had discussed, Senator Young, some of the infrastructure projects to make the Canal more sustainable and viable, and how the United States, on the U.S. Army Corps of Engineers has already done some feasibility reviews of those projects. So that would certainly be something to take a look at to make the Canal viable with additional supplies of fresh water.

Senator YOUNG. Thank you. Chairman?

Mr. KONTOROVICH. Senator, if I may?

Senator YOUNG. Sure.

Mr. KONTOROVICH. Sorry, I am on Zoom. You spoke about renegotiating the treaties.

Senator YOUNG. Yes.

Mr. KONTOROVICH. And I think one of the things about treaties, as an instrument of governance, is they are not very flexible and they do not really have automatic processes, typically, for easy amendment, and I spent—before this hearing, a fair amount of time reviewing the ratification hearings in the Senate in 1978.

Back then, the principal concerns the Senate was concerned with then is the Soviets and Cuba, actually, not China and Iran.

So the world has changed a huge amount, China's role has changed a huge amount, and of course, back then, 1999 seemed very far off, 2025 seemed a world away. As a result, I think it is useful to revisit treaties and seek to renegotiate them to update them to sort of current events. Of course, the United States has a considerable leverage it can use to seek such additional protocols to modernize these treaties to current events and current geopolitical realities.

Senator YOUNG. Makes great sense, and I am glad you spoke up. Thank you, Mr. Kontorovich.

Mr. Chairman.

The CHAIRMAN. Thank you. I want to ask a couple of follow-ups, and then we are going to wrap up the hearing.

Commissioner Maffei you mentioned a minute ago, if a determination was made that this was having negative impacts on U.S. trade, you said there are a number of remedies that are possible, and you did not specify what those were. So I just wanted to ask what you were referring to?

Mr. MAFFEI. Yes. I mean, there are certain things we can do as countermeasures, such as sanctioning Panamanian ships. That could be Panamanian flagships. The Panamanian flag is one of their major sources of revenue. It is the number one, what we call flag of convenience in the world. There are several others, and I think I would like to get back to you in writing. I mean, I am not trying to avoid the question but—

The CHAIRMAN. Yes. And I would love if—

Mr. MAFFEI. That way I can put—you know, we can—and we will, if you do not mind, we will get together and do a joint answer. We will put where our authority comes from, what we think we can do, and maybe even what we are concerned about or what the limits to that would be.

The CHAIRMAN. Well, and I will say that this hearing has been a nice bipartisan demonstration of a lot of expertise. There is a reason you guys have the role you have because you know what you are talking about.

Mr. MAFFEI. I am hoping my chairmanship, which ended last week after a full term, will result in a full, very successful term for my good friend and colleague as Chairman, may be the friendliest transition in Washington.

The CHAIRMAN. Professor Kontorovich, I want to get back also to the exchange you had with Senator Young, and then it hearkens back to the opening exchange you and I had. We have heard testimony that Panama may well be in violation of this treaty in at least two regards: one, with respect to its obligation to keeping the Panama Canal neutral; and the major concessions to China, the control that China has over ports on both ends, and the bridge across the Canal, which has the potential to shut down transit.

We also heard testimony about the degree of revenue that Panama is taking, and that is potentially in violation of the obligation that tolls and other charges shall be just, reasonable, equitable, and consistent with principles of international law.

I want to ask you, Professor, assume that the United States makes the determination that Panama is in violation of this treaty. I asked about what the remedies were, and you mentioned at the time military force. Military force is always one potential remedy. What other potential remedies are there?

And in particular, could a consequence of being in breach of the treaty be a determination that the treaty is null and void. That the concession of control of the Panama Canal to Panama is no longer in force? And could that, under international law, result in the United States returning to operating the Panama Canal? What is your judgment?

Mr. KONTOROVICH. Yes, I think treaties like this demonstrate that countries really need to think long and hard before they give away strategic assets, because the United States is free to cancel this treaty at any time, withdraw from the treaty, as it were. But given that the United States has transferred control and sovereignty of the Canal Zone to Panama, the cancellation of the treaty would not necessarily reverse that concession.

Concessions that have to do with sovereign control are not particularly reversible. For example, Israel made a deal with Lebanon to give maritime territory to Lebanon in exchange for peace just two years ago. It did not get peace. It is not clear that it can simply cancel and get that territory back.

Now, it is the case that America can take all sorts of measures to insist on neutrality, and if neutrality means putting American firms in operation or otherwise taking other steps, that is something that can be done. But a kind of territorial control is not a clear remedy unless it is something that just accompanies the steps needed to restore the regime of neutrality.

The CHAIRMAN. All right, well, I want to thank all the witnesses for their important testimony here today.

Senators will have until the close of business on Tuesday, February 4, to submit questions for the record. The witnesses will have until the end of the day on Tuesday, February 18, to respond to those questions.

And this concludes today's hearing. The Committee stands adjourned.

[Whereupon, at 12:23 p.m., the hearing was adjourned.]

A P P E N D I X

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN THUNE TO
HON. LOUIS E. SOLA

Question 1. Under the Foreign Shipping Practices Act, the Federal Maritime Commission (FMC) has the ability to investigate unfair shipping practices. Based on what you saw on your trip to the Panama in the summer of 2024, do you believe that Panama is treating the United States unfairly?

Answer. The Federal Maritime Commission's ongoing monitoring of the operational and business practices of the Canal enables the agency to examine whether the practices, including pricing and the new reservation system, of the Panama Canal Authority create unfavorable shipping conditions in the U.S. foreign trade. If the Commission finds that such conditions exist and are due to the Canal Authority's practices and decisions, it can impose countervailing penalties, including port visit fees on Panamanian-flagged vessels. Panama's ship registry is among the largest in the world.

The actions of the Government of the Republic of Panama, separate from the Canal Authority, should also be considered. Under Presidential administrations that preceded President Mulino, Chinese companies made notable commercial and diplomatic inroads to Panama. This came at the expense of other nations and parties that were not Panamanian or Chinese. Prevalent corruption at the highest levels of Panamanian society creates conditions favorable to the sort of checkbook "diplomacy" routinely conducted by the People's Republic of China. The welcome reception previous Panamanian Presidential administrations gave the Chinese provided benefits to a strategic and economic competitor to the United States. In my opinion, this situation merits further engagement by the United States, including the Federal Maritime Commission.

Question 2. Can you describe the relationship between Panama and China as it relates to the canal and associated infrastructure?

Answer. The relationship between the Republic of Panama and the People's Republic of China grew closer under the administrations of previous Panamanian Presidents. While President Mulino does not seem to share the same intention as some of his predecessors to build closer ties to Beijing, over the years, the Chinese presence in Panama has become more deeply rooted across a number of critical sectors.

Chinese companies involved in the transportation, terminal, telecommunications, construction, and logistics sectors are active in Panama and in many cases pursuing development deals. Chinese companies involved in trade and commerce have a significant presence in the Colon Free Trade Zone.

While the Chinese presence in and around the Panama Canal should concern U.S. policymakers, the broad extent to which the People's Republic of China has made inroads throughout the Western Hemisphere must command our attention. Panama is but one of many nations throughout the Americas where the Chinese are building a stronger influence and gaining a surer foothold in port, bridge, rail, and other infrastructure projects.

Question 3. Do you have reason to believe that Panama's unfair treatment is motivated by the country's increasingly close ties with China?

Answer. There are several issues of concern to the Federal Maritime Commission.

The first is the business practices of the Panama Canal Authority. The United States ran the Panama Canal on a model akin to a public utility. In recent years, the Panama Canal Authority appears to be treating the Panama Canal as a for-profit entity and seeking to maximize revenue production. The Commission has questions regarding how the Panama Canal Authority prices its services, its use of ancillary fees, and the use of an auction system during the recent drought and what appears to be continuing to today in some form. The Commission is continuing its monitoring of the practices of the Canal Authority and could initiate more formal proceedings.

The second matter of concern to the Commission is what steps the Panama Canal Authority will take to mitigate against future droughts. Major infrastructure projects are necessary to increase water reserves necessary to operate the Panama Canal in dry years. The United States must be vigilant in making certain that engineering, design, construction, and related contracts for this project are awarded properly and free from both corruption and influence from China.

A third matter of concern relates to potential rebating of fees paid to transit the Panama Canal. The Commission has reports that agencies within the Government of Panama (and separate from the Panama Canal Authority) have offered to rebate or refund Canal fees in exchange for stopping at certain facilities in Panama. Some of these facilities have direct or indirect ties to the People's Republic of China. These allegations deserve further review and if proven could raise questions about whether the Government of the Republic of Panama is engaging in conditions unfavorable to shipping.

The cause of the matters commanding our attention are more likely driven by money. Considering circumstances in Panama beyond the limits of Commission authorities, however, should give one concern about the strong foothold the People's Republic of China and its proxies have established in a part of the world critical to the economic, diplomatic, and security interests of the United States.

Question 4. Based on the various experiences you have had over your career working in Panama, can you explain how Panama's treatment towards the United States has changed over time?

Answer. Bilateral relationships are never static, but the Republic of Panama and the United States of America have enjoyed close, favorable, and mutually beneficial relations for most of the past 122 years.

The decade between 2015 and 2025 was aberrant in that Presidential administrations of that era took deliberate steps toward the People's Republic of China. Beijing made many promises to the government and people of Panama and delivered on very few of them. To the extent anyone benefitted from any of the development promised by China, it was Chinese companies and citizens and not local populations. That access to Chinese largesse was at least in part contingent upon the Republic of Panama severing relations with the Republic of Taiwan, which makes the improved relations between Panama and the PRC all the more distasteful.

President Mulino seems to desire cordial relations with the United States. Additionally, he does not seem to share the same instincts as some of his predecessors when it comes to relations with China.

On a much more personal note, despite how the relationships between nations might wax and wane, I have never noticed anything less than good will among the Panamanian people toward the United States. Our two nations have more that binds us in common than sets us apart; the average Panamanian knows this.

Question 5. From your analysis, does the Panama Canal pose a significant security threat to the United States?

Answer. The Panama Canal itself does not pose a significant security threat to the United States, but the risk of loss of access to the Canal, caused either by weather conditions or the increased presence and influence of the People's Republic of China in and around the Canal, and throughout Panama, certainly does.

The Chinese have for decades engaged in a comprehensive and integrated level of investment and overtures to increase their influence and presence globally. Beijing dangles increased trade coupled with infrastructure development projects to lure other nations into the Sinosphere. Many of the development projects the Chinese are most interested in pursuing are related to ports, railroads, and other infrastructure associated with trade and logistics. Many of China's projects are "dual use" in nature, meaning that they can be easily repurposed to support Chinese military operations. In the case of some telecommunications, research, and space related developments, including in the Americas, it is not unreasonable to assume that those facilities could be involved in intelligence gathering operations, activities designed to improve capabilities of the Chinese missile forces, or towards the further militarization of space.

What is happening in Panama is an alarm bell for U.S. policymakers to look north and south from the Isthmus and see the extent to which the People's Republic of China has embedded itself on the American continents.

I believe it is worth noting that Panama Canal Authority essential personnel, such as marine traffic controllers and the pilots who transit the ships through the Canal, are forced to pass through Chinese security on the Atlantic side as the facility they use, the Panama Canal Port Captain's Office, is located within the Hutchison ports complex. This is clearly visible on Google Maps.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. ROGER WICKER TO
HON. LOUIS E. SOLA

Question 1. In 1996, a U.S. marine terminal operator bid and was awarded a terminal lease contract by Panamanian authorities. Panamanian authorities re-bid the contract in a process determined by the Federal Maritime Commission (FMC) to be commercially “irregular.” Subsequently, that contract was awarded to a PRC-controlled marine terminal operator. Another terminal lease contract was awarded to the PRC-controlled marine terminal operator on the other coast. Those lease agreements continue to this day.

Given national security concerns, would it be in the United States’ national security interest for Panamanian authorities to reevaluate the propriety of extending those PRC-controlled marine terminal operators additional lease options?

Answer. Yes.

The Comptroller General of Panama initiated an audit of the Panamanian-based operations of Hutchison Ports in January.

Question 1a. Of even more urgent concern than terminals in Panama is terminals in the United States. Has the FMC assessed the PRC-controlled investment and levels of operational control at US-based marine terminals? Would you provide the Committee with an assessment of PRC investment and control of U.S. marine terminals?

Answer. The Federal Maritime Commission has not to date conducted an assessment of investment by the People’s Republic of China, or companies based in China in marine terminals based in the United States. I will task the Commission’s Bureau of Trade Analysis to conduct such a survey and commit to sharing the results of their review with you immediately upon conclusion.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. DAN SULLIVAN TO
HON. LOUIS E. SOLA

Question. Chairman Sola, congratulations on your appointment as chair of the Commission. The Commission has an important role to play in ocean commerce, and we look forward to working with you on those issues. Over the past several years, we’ve witnessed the Commission’s efforts to expand its jurisdiction over chassis and rail terminals. I’ve expressed my concern over that expansive approach, preferring market-based solutions to regulatory overreach. So, as it relates to the Panama Canal, can you please explain to the committee the FMC’s jurisdiction over Panama or operations of the canal? I’m asking so that the committee not only has a clearer understanding of your jurisdiction but also of the tools at our disposal to addressing matters involving the Panama Canal.

Answer. I am grateful for your well wishes and honored to have this opportunity to serve.

I share your concern about any government agency exceeding its statutory authorities and I am mindful of the limits of the laws we administer.

The Commission authorities applicable to how the Panama Canal Authority operates the Panama Canal are 46 U.S.C. 421 and 46 U.S.C. 423.

The Commission began its examination of how the Panama Canal Authority was managing through drought conditions, as well as changes to its pricing structure, following repeated reports from shippers, cargo owners, shipping lines, forwarders, and even officials of other governments expressing frustrations of the conduct of the Canal Authority.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. ERIC SCHMITT TO
HON. LOUIS E. SOLA

Question 1. In 2021, the Ever Given container ship was grounded in the Suez Canal, for 6 days. It resulted in \$9.6 billion of trade delayed each day. If the Panama Canal were blocked and ships were forced to circumnavigate Cape Horn, what would be the economic repercussions?

Answer. Although the Federal Maritime Commission has not conducted an economic modeling analysis on the increased costs if all vessels were forced to go around Cape Horn instead of using the Panama Canal, it is safe to say that this would be a significant shock to the freight delivery system. Such effects would not be limited to the value of goods in transit taking the longer route. Shipping companies, shippers, and consumers would be faced with higher costs related to increased crew requirements, higher insurance, more fuel necessary to make the longer voy-

age, disrupted supply chains, and loss of business opportunities for commodities with short shelf lives.

Closures of the Suez Canal resulting from the grounding of the Ever Given or Houthi attacks on commercial shipping in the Red Sea provide useful examples to make informed presumptions about the consequences of a closed Panama Canal. The Commission held a hearing on February 7, 2024, to examine the effects of Houthi attacks in the Red Sea, and heard evidence that the Houthi attacks on merchant shipping in the Red Sea and Gulf of Aden had serious consequences for ocean commerce.

Moreover, recent experience has demonstrated that the Panama Canal does not have to shut down entirely for U.S. supply chains to feel the consequences. The Panama Canal's service level was significantly reduced in 2024 as the result of drought conditions, which in turn caused significant operational and commercial impacts. The Panama Canal Authority was forced to reduce the overall number of transits by almost 40 percent. Some ships were not permitted to transit the Canal, the carrying capacity of other vessels had to be reduced, and some companies explored land bridging the Isthmus. The cost to transit the Canal rose as the Panama Canal Authority auctioned off transit reservations to the highest bidder, causing companies transporting high value time sensitive cargoes to pay record rates to jump the queue of ships. Other shipping companies paid higher operating costs in both having to loiter for a transit slot to open and disruptions to vessel schedules. In other words, a loss of less than half of the operational capacity of the Panama Canal led to fewer ships carrying less cargo for higher costs and at opportunities lost.

Finally, there is one crucial impact to the American economy and consumers from a closure of the Panama Canal that we can be sure of—the economic impact would disproportionately affect *American* companies and interests. In excess of 70 percent of the traffic transiting the Panama Canal is either U.S. origin or destined, whereas the majority of the traffic through the Suez Canal serves European markets. Irrespective of the value of the trade having to go around Cape Horn, or the added costs and time from such a journey, the United States would endure any disruption to the operations of the Panama Canal more than any other nation.

Question 1a. Are there contingency plans in place to mitigate the economic fallout if the Panama Canal were blocked, similar to the disruption caused by the Ever Given incident in the Suez Canal?

Answer. The Commission does not have jurisdiction over the contingency plans of the commercial shipping companies that use the Canal. It seems likely that their experiences during the drought that caused significant cutbacks in Canal passages would inform their future risk assessments.

Question 2. How does the presence of Chinese-affiliated entities at critical Canal infrastructure, like Balboa and Cristobal, compromise the neutrality mandated by the 1977 Neutrality Treaty? In your assessment, should we consider Hong Kong-based companies subject to the PRC's national security laws as purely commercial? How does the PRC's civil-military fusion model pose a risk to the neutrality mandated in the 1977 Neutrality Treaty?

Answer. I cannot speak to how actions of the Republic of Panama and/or the Panama Canal Authority might compromise the neutrality requirements of the 1977 Neutrality Treaty. I will note that circumstances have established sufficient doubt that some experts now argue that the Panamanians are in breach of their commitments. As Chairman of the Federal Maritime Commission, I am interested in how the Government of the Republic of Panama and the Panama Canal Authority treat maritime commerce and charge for use of the Canal. I note that the Commission also regulates common carriers that are owned or controlled by the PRC. The Commission scrutinizes these government-controlled carriers under 46 U.S.C. Chapter 407 to ensure that they do not use their state-sponsored position to distort the commercial shipping market. One such company is COSCO, which was recently found by the U.S. Department of Defense to be a Chinese military company under Section 1260H of the William M. ("Mac") Thornberry National Defense Authorization Act for Fiscal Year 2021.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JACKY ROSEN TO
DANIEL B. MAFFEI

Question 1. It is critical for us to maintain strong diplomatic relations with Panama, which has been a close and longstanding U.S. ally. Since his inauguration last year, President Mulino's government has been a partner on major U.S. foreign policy and national security objectives, including regional approaches to addressing migration, standing up to the Maduro regime in Venezuela, leading on the Alliance

for Development in Democracy (ADD), and much more. Panama also works closely with other U.S. allies, having been one of Israel's staunchest supporters in Latin America for years. I also share my colleagues' concerns with increased presence from China in and around the canal, but we must ensure our actions do not have the unintended consequence of pushing our allies away from collaboration with the U.S. and closer to the PRC.

Do you have concerns that aggressive, unilateral statements about "taking back the canal" could inadvertently push Panama to deepen ties with China?

Answer. The PRC's diplomatic, military, or economic advancement with any of the United States' allies is always concerning to me. In the case of Panama, I too share the concerns of you, Senator Rosen, and your colleagues that companies linked with the PRC are making inroads in or around the Panama Canal. When Chairman Sola and I visited Panama last year, however, President Mulino and Canal officials were very receptive to our presence and appeared, to me at least, to be eager to engage in continued cooperation with the Federal Maritime Commission and the U.S. overall with regards to the operation of the Canal. Since that time, I have not received any indication from Panamanian officials that their cooperation with our agency in particular or the U.S. government in general is in jeopardy. Certainly, the Canal remains of vital importance to the United States' economy and global maritime commerce and efficient and predictable access to the Canal for ships making port calls in the United States remains a high priority for the Federal Maritime Commission.

Question 2. Despite facing robust sanctions from the U.S. and others, Iran has managed to build a vast network of tankers to facilitate its illicit oil exports, raising around \$54 billion in oil revenues in 2023 alone. Iran uses these revenues to fund its terrorist proxies, its nuclear program, and other destabilizing behavior around the world. In recent years, the U.S. has deepened its cooperation with Panama to put a stop to Iran's tanker fleet, and continuing this cooperation is a national security imperative.

How could President Trump's unilateral actions with respect to the canal undermine our partnership with the government of Panama to crackdown on the illicit transport of Iranian oil?

Answer. This is not an area where I have any access to classified national security information. My answer is only informed by the discussions Chairman Sola and I had with Panamanian government officials concerning the issue of Iranian ships bearing Panamanian flags being granted passage through the Canal last summer. At that time, the Panamanian authorities were taking decisive action to address this issue through an aggressive program to de-flag Iranian vessels having connections to the funding of terrorist organizations and other illicit causes. The Panamanians reported to us that they would continue to de-flag any such vessels to thwart the Iranian's efforts in the future. I have no knowledge beyond that given to us by Panamanian authorities and have received no information that their position on the issue has changed.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. ANDY KIM TO
DANIEL B. MAFFEI

Question 1. Is China operating the Panama Canal?

Answer. Based on the materials available to me, which does not include any classified national security information related to this topic, from my personal observations and knowledge gained while in Panama, and as reported in open sources, I have no information or knowledge that the Panama Canal is being operated by anyone other than the Panama Canal Authority, which is an independent agency of the Panamanian government.

Question 2. Does CK Hutchison Holdings, the Hong Kong-based conglomerate that received the contract to manage the Balboa and Cristobal ports, control the locks or entrance to the canal?

Answer. Based on the materials available to me, which does not include any classified national security information related to this topic, from my personal observations and knowledge while in Panama, and as reported in open sources, I have no information or knowledge that the Panama Canal, including its entrances and locks, is being operated by anyone other than the Panama Canal Authority, which is an independent agency of the Panamanian government. Certainly, however, the Ports of Balboa and Cristobal are operated by CK Hutchison Holdings. These ports are geographically proximate, but currently do not exert control over the waters that ships traverse to approach and exit the Canal.

Question 3. Is Balboa or Cristobal Canal under the jurisdiction of the Panama Canal Authority? And what is your assessment of the Panama Canal Authority and their ability to administer the Canal?

Answer. Based on the materials available to me, which does not include any classified national security information related to this topic, and as reported in open sources, it is my understanding that the Panama Maritime Authority (a separate agency from the Panama Canal Authority) has primary jurisdiction over the Ports of Balboa and Cristobal.

Based on the materials available to me, which does not include any classified national security information related to this topic, from my personal observations and knowledge gained while in Panama, and as reported in open sources, the Panama Canal Authority has competently run the Canal. As discussed during the hearing, the low water levels at the Canal have presented capacity issues. That said, I believe the Canal Authority has, and continues, to take steps towards implementing short-and long-term solutions to these issues, including working with the U.S. Army Corps of Engineers to plan new infrastructure projects geared at alleviating the Canal's water supply. In terms of a business, the Canal Authority generally makes a profit on the Canal, which they maintain goes to improvements, administrative costs at the Canal, and payments back to the government of Panama. In contrast, when the United States managed the Canal through the U.S. Canal Authority, the Canal was often operated at a deficit.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. ERIC SCHMITT TO
EUGENE KONTOROVICH

Question 1. How do Chinese national security laws ensure that even “private” companies that are based in China remain beholden to the CCP?

Answer. China's law requires that “all organizations and citizens shall support, assist, and cooperate with national intelligence efforts.”

Question 2. Some critics of President Trump's rhetoric around the Panama Canal argue that the companies in question, like CK Hutchinson, are Hong Kong-based, and therefore outside of the scope of Beijing influence. However, Hong Kong's 2019 national security laws effectively ended the “one country, two systems” framework that the CCP had committed to. Now Hong Kong companies are just as beholden to the CCP as mainland companies. Do you see a meaningful distinction between Hong Kong and the mainland in terms of subjection to draconian CCP state control?

Answer. Even if Hong Kong companies are somewhat *less* subject to CCP control, this does not mean the degree of control would not be enough to raise questions under the Neutrality Treaty. In any case, the Hong Kong national security law is only one way a communist regime with absolute power can extract compliance from nominally private entities. The power to arrest, confiscate, etc., without serious legal recourse create a relationship of subservience unlike private companies in free countries.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. JOHN THUNE TO
JOSEPH KRAHEK

Question. Since the Panama Canal's dynamic pricing model was unveiled in 2016, how have production costs been impacted and how does this hurt producers and consumers?

Answer. WSC does not have access to information on how U.S. production costs for exporters and importers have been impacted by the Panama Canal Authority (PCA) pricing model.

WSC member lines, like other carriers, pay the PCA's published rates to transit the Canal. If the published rates change, there are often contingency provisions in the contracts between the carrier and the shipper customer (*i.e.*, the exporter or importer) that can accommodate the change in rates or surcharges.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JACKY ROSEN TO
JOSEPH KRAHEK

Question 1. The Panama Canal is essential for international supply chains, handling about forty percent of all U.S. seaborne container trade. However, the number of ships that are permitted to travel through the Panama Canal has significantly fallen in recent years due to drought, which has increased costs for shipping companies and raised concerns about the Canal's aging infrastructure and Panama's abil-

ity to manage the water supply. Without increased water supply, the canal could lose significant amounts of business, affecting shipping costs and the supply chain and eventually raising prices on consumers.

How are American companies adjusting to the concern about reduced traffic at the Panama Canal? What has been the impact on the costs for shipping companies using the canal, and are you concerned that these costs will be passed along to consumers?

Answer. Liner shipping experienced the least impact from the drought of all vessel sectors, because liners know their schedules often up to a year in advance—and therefore will typically book canal transit reservations in advance. The reservations made by our members were honored by the Panama Canal Authority (PCA) during the drought. Notably, there was an increased wait time for vessels transiting the Panama Canal during the drought; that said the average wait time for container vessels transiting from North to South (Atlantic Ocean to the Pacific Ocean) did not exceed 1.5 days, and for container vessels transiting from South to the North (Pacific to Atlantic) the average wait time did not exceed 1.8 days.

Water levels in the Panama Canal have recovered since the drought, and the Panama Canal is currently operating without the restrictions implemented during the drought.

WSC member lines pay the PCA's published tariff rate for canal transits. If the published rates change, many liners' contracts with their shipper customers (*i.e.*, the importers and exporters) contain contingency provisions that can accommodate changes in rates.

Question 2. What can the U.S. do to partner with Panama to address water shortages, and to ensure resilience to climate change?

Answer. WSC understands that the Panama Canal Authority has a longstanding relationship with the U.S. Army Corps of Engineers (ACOE) and has previously signed contracts with the ACOE for consultation and technical advisory services for the Water Projects Program—which consists of a portfolio of projects to supply additional water sources to make the Canal's operations more sustainable during future periods of droughts. More broadly, the ACOE has a long history of working with Panama and the PCA.

Continued agreements with the ACOE and other U.S. government agencies with expertise in this area, as well as U.S. private entities supporting this work, could have the dual benefit of enhancing the partnership between the U.S. and Panama, and protecting this vital trade artery.

