

105TH CONGRESS  
2D SESSION

# H. R. 4858

To provide certain benefits to Panama if Panama agrees to permit the United States to maintain military bases there after December 31, 1999.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 20, 1998

Mr. GILMAN (for himself, Mr. RANGEL, Mr. COX of California, Mr. HASTERT, Mr. MENENDEZ, Mr. DREIER, Mr. SPENCE, Mr. HYDE, Mr. BURTON of Indiana, and Mr. MCCOLLUM) introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To provide certain benefits to Panama if Panama agrees to permit the United States to maintain military bases there after December 31, 1999.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “United States-Panama  
5 Partnership Act of 1998”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1           (1) Since Panama gained its independence in  
2           1903, the United States and Panama have main-  
3           tained extremely close relations, resting primarily on  
4           the shared interest of both countries in the smooth  
5           operation and defense of the Panama Canal.

6           (2) In order to defend the Panama Canal, the  
7           United States has maintained a military presence in  
8           Panama for over 90 years.

9           (3) In recent decades, the mission of United  
10          States military forces stationed in Panama has  
11          evolved to include significant responsibilities for the  
12          conduct of counter narcotics operations in Latin  
13          America and the Caribbean, and for the provision of  
14          logistical support to such operations by other coun-  
15          tries and other agencies of the United States Gov-  
16          ernment.

17          (4) Under the terms of the Panama Canal  
18          Treaty of 1977, the United States is obligated to  
19          withdraw all United States military personnel from  
20          Panama no later than December 31, 1999, and turn  
21          over all United States military facilities to the Gov-  
22          ernment of Panama.

23          (5) Under the terms of the Treaty Concerning  
24          the Permanent Neutrality and Operation of the Pan-  
25          ama Canal of 1977, the United States will retain re-

1       sponsibilities for the defense of the Panama Canal  
2       after December 31, 1999.

3               (6) A 1977 protocol to the Treaty Concerning  
4       the Permanent Neutrality and Operation of the Pan-  
5       ama Canal provides that “Nothing in the treaty  
6       shall preclude the Republic of Panama and the  
7       United States from making . . . agreements or ar-  
8       rangements for the stationing of any United States  
9       military forces or the maintenance of defense sites  
10      after [December 31, 1999] in Panama that Panama  
11      and the United States may deem necessary or ap-  
12      propriate”.

13              (7) Public opinion surveys in Panama in recent  
14      years consistently have shown that approximately 70  
15      percent of the population of Panama favor a con-  
16      tinuation of the United States military presence in  
17      Panama.

18              (8) On September 6, 1995, during an official  
19      visit of Panama’s President Ernesto Perez  
20      Balladares to the United States, it was announced  
21      that Presidents Clinton and Perez Balladares had  
22      agreed to begin informal consultations on the pos-  
23      sible extension beyond December 31, 1999, of the  
24      United States military presence in Panama.

1           (9) Early discussions pursuant to the announce-  
2           ment of September 6, 1995, were very encouraging,  
3           but the discussions foundered after the United  
4           States refused to consider providing any form of  
5           compensation to Panama in exchange for an exten-  
6           sion of the United States military presence.

7           (10) After it became clear that no agreement  
8           could be reached on extending the United States  
9           military presence in Panama past 1999 in its cus-  
10          tomary form, Panama proposed negotiations on the  
11          establishment of a Multinational Counternarcotics  
12          Center (MCC), which would permit the continuation  
13          of a limited United States military presence in Pan-  
14          ama past 1999 and for which no compensation  
15          would be expected.

16          (11) On December 24, 1997, the United States  
17          and Panama announced that preliminary agreement  
18          had been reached on establishment of the MCC, but  
19          the Government of Panama subsequently reopened a  
20          number of issues on which preliminary agreement  
21          had been reached.

22          (12) Following rejection by the voters of Pan-  
23          ama on August 30, 1998, of a proposed constitu-  
24          tional amendment to permit President Perez  
25          Balladares to seek reelection, the United States and

1 Panama announced on September 24, 1998, that the  
2 MCC negotiations had failed and would be termi-  
3 nated.

4 (13) Panama and the United States continue to  
5 have a strong shared interest in maintaining a  
6 United States military presence in Panama beyond  
7 1999, and both countries should seek to agree on an  
8 appropriate package of benefits to facilitate such a  
9 presence.

10 **SEC. 3. CERTIFICATION AND REPORT REGARDING AGREE-**  
11 **MENT TO MAINTAIN UNITED STATES MILI-**  
12 **TARY BASES IN PANAMA AFTER DECEMBER**  
13 **31, 1999.**

14 (a) SUBMISSION OF CERTIFICATION AND REPORT.—  
15 At any time before December 31, 1999, the President may  
16 submit to the Congress the certification described in sub-  
17 section (b) and the report described in subsection (c).

18 (b) CONTENT OF CERTIFICATION.—The certification  
19 referred to in subsection (a) is a certification by the Presi-  
20 dent that the United States and the Government of Pan-  
21 ama have reached an agreement permitting the United  
22 States, for a period of not less than 15 years beginning  
23 on January 1, 2000, to maintain its military presence at  
24 Howard Air Force Base, Fort Kobbe, Rodman Naval Sta-  
25 tion, and Fort Sherman, under terms and conditions sub-

1 stantially similar to those that have applied since October  
2 1, 1979, to these facilities with respect to—

3 (1) United States force levels;

4 (2) missions performed;

5 (3) command and control of United States ele-  
6 ments;

7 (4) legal status of United States personnel;

8 (5) quality of life of United States personnel;

9 and

10 (6) physical security of United States person-  
11 nel.

12 (c) CONTENT OF REPORT.—The report referred to  
13 in subsection (a) is a report containing the following:

14 (1) The text of the agreement described in sub-  
15 section (b) that has been reached between the  
16 United States and the Government of Panama.

17 (2) A detailed explanation of the manner in  
18 which the agreement ensures that the United States  
19 will be able to use the facilities subject to the agree-  
20 ment under terms and conditions substantially simi-  
21 lar to those that have applied since October 1, 1979,  
22 to those facilities with respect to each of the items  
23 set forth in paragraphs (1) through (6) of subsection  
24 (b).

1           (3) If the agreement provides for a United  
2 States military presence at the facilities subject to  
3 the agreement for a period longer than 15 years, a  
4 statement of the date on which that presence expires  
5 under the agreement.

6           (d) SUBMISSION IN CLASSIFIED FORM.—To the de-  
7 gree necessary, the report under subsection (c) may be  
8 submitted in classified form.

9 **SEC. 4. BENEFITS.**

10          (a) IN GENERAL.—If the President submits the cer-  
11 tification and report under section 3, then the provisions  
12 of subsections (b) through (g) apply.

13          (b) ASSISTANCE FOR BRIDGE PROJECT IN PAN-  
14 AMA.—

15           (1) ACTION BY TRADE AND DEVELOPMENT  
16 AGENCY.—The Director of the Trade and Develop-  
17 ment Agency shall approve a grant or grants to as-  
18 sist in the design, financial planning, and other pre-  
19 paratory steps for the construction of a new bridge  
20 across the Panama Canal.

21           (2) REPORTING REQUIREMENT.—Not later than  
22 one year after the date on which the President sub-  
23 mits the certification and report under section 3, the  
24 Director of the Trade and Development Agency shall  
25 submit a report to the Committee on International

1 Relations of the House of Representatives and the  
2 Committee on Foreign Relations of the Senate re-  
3 garding the steps taken pursuant to paragraph (1)  
4 and the status of planning for construction of a new  
5 bridge across the Panama Canal.

6 (c) SCHOLARSHIP PROGRAM FOR PANAMA.—

7 (1) ACTION BY AGENCY FOR INTERNATIONAL  
8 DEVELOPMENT.—The Administrator of the Agency  
9 for International Development shall ensure that, for  
10 the duration of the agreement period, up to  
11 \$2,000,000 of the funds made available each year to  
12 the Cooperative Association of States for Scholar-  
13 ships program shall be made available for scholar-  
14 ships for deserving students from Panama to study  
15 in the United States.

16 (2) REPORTING REQUIREMENT.—Not later than  
17 one year after the date on which the President sub-  
18 mits the certification and report under section 3, the  
19 Administrator of the Agency for International Devel-  
20 opment shall submit a report to the Committee on  
21 International Relations of the House of Representa-  
22 tives and the Committee on Foreign Relations of the  
23 Senate regarding the steps taken pursuant to para-  
24 graph (1).

1 (d) TREATMENT OF CERTAIN TEXTILE AND AP-  
2 PAREL ARTICLES.—

3 (1) EQUIVALENT TARIFF AND QUOTA TREAT-  
4 MENT.—During the transition period—

5 (A) the tariff treatment accorded at any  
6 time to any textile or apparel article that origi-  
7 nates in Panama shall be identical to the tariff  
8 treatment that is accorded at such time under  
9 section 2 of the Annex to an article described  
10 in the same 8-digit subheading of the HTS that  
11 is a good of Mexico and is imported into the  
12 United States;

13 (B) duty-free treatment under the Carib-  
14 bean Basin Economic Recovery Act shall apply  
15 to any textile or apparel article that is imported  
16 into the United States from Panama and  
17 that—

18 (i) is assembled in Panama, from fab-  
19 rics wholly formed and cut in the United  
20 States from yarns formed in the United  
21 States, and is entered—

22 (I) under subheading 9802.00.80  
23 of the HTS; or

24 (II) under chapter 61, 62, or 63  
25 of the HTS if, after such assembly,

1 the article would have qualified for  
2 treatment under subheading  
3 9802.00.80 of the HTS, but for the  
4 fact the article was subjected to  
5 bleaching, garments dyeing, stone-  
6 washing, enzyme-washing, acid-wash-  
7 ing, perma-pressing, oven-baking, or  
8 embroidery;

9 (ii) is knit-to-shape in Panama from  
10 yarns wholly formed in the United States;

11 (iii) is made in Panama from fabric  
12 knit in Panama from yarns wholly formed  
13 in the United States;

14 (iv) is cut and assembled in Panama  
15 from fabrics wholly formed in the United  
16 States from yarns wholly formed in the  
17 United States; or

18 (v) is identified under paragraph (3)  
19 as a handloomed, handmade, or folklore  
20 article of Panama and is certified as such  
21 by the competent authority of that coun-  
22 try; and

23 (C) no quantitative restriction or consulta-  
24 tion level may be applied to the importation

1 into the United States of any textile or apparel  
2 article that—

3 (i) originates in the territory of Pan-  
4 ama, or

5 (ii) qualifies for duty-free treatment  
6 under clause (i), (ii), (iii), (iv), or (v) of  
7 subparagraph (B).

8 (2) TREATMENT OF OTHER NONORIGINATING  
9 TEXTILE AND APPAREL ARTICLES.—

10 (A) PREFERENTIAL TARIFF TREAT-  
11 MENT.—Subject to subparagraph (B), the  
12 President may place in effect at any time dur-  
13 ing the transition period with respect to any  
14 textile or apparel article that—

15 (i) is a product of Panama, but

16 (ii) does not qualify as a good that  
17 originates in the territory of Panama or is  
18 eligible for benefits under paragraph  
19 (1)(B),

20 tariff treatment that is identical to the in-pref-  
21 erence-level tariff treatment accorded at such  
22 time under Appendix 6.B of the Annex to an  
23 article described in the same 8-digit subheading  
24 of the HTS that is a product of Mexico and is  
25 imported into the United States. For purposes

1 of this subparagraph, the “in-preference-level  
2 tariff treatment” accorded to an article that is  
3 a product of Mexico is the rate of duty applied  
4 to that article when imported in quantities less  
5 than or equal to the quantities specified in  
6 Schedule 6.B.1, 6.B.2., or 6.B.3. of the Annex  
7 for imports of that article from Mexico into the  
8 United States.

9 (B) LIMITATIONS ON ALL ARTICLES.—Tar-  
10 iff treatment under subparagraph (A) may be  
11 extended, during any calendar year, to not more  
12 than 6,750,000 square meter equivalents of cot-  
13 ton or man-made fiber apparel, to not more  
14 than 225,000 square meter equivalents of wool  
15 apparel, and to not more than 3,750,000 square  
16 meter equivalents of goods entered under sub-  
17 heading 9802.00.80 of the HTS.

18 (C) PRIOR CONSULTATION.—The Presi-  
19 dent may implement the preferential tariff  
20 treatment described in subparagraph (A) only  
21 after consultation with representatives of the  
22 United States textile and apparel industry and  
23 other interested parties regarding—

24 (i) the specific articles to which such  
25 treatment will be extended, and

1 (ii) the annual quantities of such arti-  
2 cles that may be imported at the pref-  
3 erential duty rates described in subpara-  
4 graph (A).

5 (3) HANDLOOMED, HANDMADE, AND FOLKLORE  
6 ARTICLES.—For purposes of paragraph (1), the  
7 United States Trade Representative shall consult  
8 with representatives of Panama for the purpose of  
9 identifying particular textile and apparel goods that  
10 are mutually agreed upon as being handloomed,  
11 handmade, or folklore goods of a kind described in  
12 section 2.3 (a), (b), or (c) or Appendix 3.1.B.11 of  
13 the Annex.

14 (4) BILATERAL EMERGENCY ACTIONS.—(A)  
15 The President may take—

16 (i) bilateral emergency tariff actions of a  
17 kind described in section 4 of the Annex with  
18 respect to any textile or apparel article im-  
19 ported from Panama if the application of tariff  
20 treatment under paragraph (1) to such article  
21 results in conditions that would be cause for the  
22 taking of such actions under such section 4  
23 with respect to an article described in the same  
24 8-digit subheading of the HTS that is imported  
25 from Mexico; or

1           (ii) bilateral emergency quantitative re-  
2           striction actions of a kind described in section  
3           5 of the Annex with respect to imports of any  
4           textile or apparel article described in clauses (i)  
5           and (ii) of paragraph (2)(A) if the importation  
6           of such article into the United States results in  
7           conditions that would be cause for the taking of  
8           such actions under such section 5 with respect  
9           to a like article that is a product of Mexico.

10           (B) The requirement in paragraph (5) of sec-  
11           tion 4 of the Annex (relating to providing compensa-  
12           tion) shall not be deemed to apply to a bilateral  
13           emergency action taken under this paragraph.

14           (C) For purposes of applying bilateral emer-  
15           gency action under this paragraph—

16           (i) the term “transition period” in sections  
17           4 and 5 of the Annex shall be deemed to be the  
18           period defined in subsection (g)(8); and

19           (ii) any requirements to consult specified  
20           in section 4 or 5 of the Annex are deemed to  
21           be satisfied if the President requests consulta-  
22           tions with Panama and Panama does not agree  
23           to consult within the time period specified  
24           under such section 4 or 5, whichever is applica-  
25           ble.

1 (e) TREATMENT OF CERTAIN OTHER ARTICLES  
2 ORIGINATING IN PANAMA.—

3 (1) EQUIVALENT TARIFF TREATMENT.—

4 (A) IN GENERAL.—Subject to subpara-  
5 graph (B), the tariff treatment accorded at any  
6 time during the transition period to any article  
7 referred to in any of paragraphs (2) through  
8 (5) of section 213(b) of the Caribbean Basin  
9 Economic Recovery Act that originates in Pan-  
10 ama shall be identical to the tariff treatment  
11 that is accorded at such time under Annex  
12 302.2 of the NAFTA to an article described in  
13 the same 8-digit subheading of the HTS that is  
14 a good of Mexico and is imported into the  
15 United States.

16 (B) EXCEPTION.—Subparagraph (A) does  
17 not apply to any article accorded duty-free  
18 treatment under U.S. Note 2(b) to subchapter  
19 II of chapter 98 of the HTS.

20 (2) RELATIONSHIP TO OTHER DUTY REDUC-  
21 TIONS.—If at any time during the transition period  
22 the rate of duty that would (but for action taken  
23 under paragraph (1)(A) in regard to such period)  
24 apply with respect to any article under section  
25 213(h) of the Caribbean Basin Economic Recovery

1 Act is a rate of duty that is lower than the rate of  
2 duty resulting from such action, then such lower  
3 rate of duty shall be applied for the purposes of im-  
4 plementing such action.

5 (f) CUSTOMS PROCEDURES.—

6 (1) IN GENERAL.—

7 (A) REGULATIONS.—Any importer that  
8 claims preferential tariff treatment under sub-  
9 section (d) or (e) shall comply with customs  
10 procedures similar in all material respects to  
11 the requirements of Article 502(1) of the  
12 NAFTA as implemented pursuant to United  
13 States law, in accordance with regulations pro-  
14 mulgated by the Secretary of the Treasury.

15 (B) DETERMINATION.—In order to qualify  
16 for such preferential tariff treatment and for a  
17 Certificate of Origin to be valid with respect to  
18 any article for which such treatment is claimed,  
19 there shall be in effect a determination by the  
20 President that Panama has implemented and  
21 follows, or is making substantial progress to-  
22 ward implementing and following, procedures  
23 and requirements similar in all material re-  
24 spects to the relevant procedures and require-  
25 ments under chapter 5 of the NAFTA.

1           (2) CERTIFICATE OF ORIGIN.—The Certificate  
2 of Origin that otherwise would be required pursuant  
3 to the provisions of paragraph (1) shall not be re-  
4 quired in the case of an article imported under sub-  
5 section (d) or (e) if such Certificate of Origin would  
6 not be required under Article 503 of the NAFTA  
7 (as implemented pursuant to United States law), if  
8 the article were imported from Mexico.

9           (3) PENALTIES FOR TRANSSHIPMENTS.—If the  
10 President determines, based on sufficient evidence,  
11 that an exporter has engaged in willful illegal trans-  
12 shipment or willful customs fraud with respect to  
13 textile or apparel articles for which preferential tar-  
14 iff treatment under paragraph (1) or (2) of sub-  
15 section (d) is claimed, then the President shall deny  
16 all benefits under subsections (d) and (e) of this sec-  
17 tion to such exporter, and any successors of such ex-  
18 porter, for a period of 2 years.

19           (4) STUDY BY COMMISSIONER OF CUSTOMS ON  
20 COOPERATION CONCERNING CIRCUMVENTION.—The  
21 United States Commissioner of Customs shall con-  
22 duct a study analyzing the extent to which Pan-  
23 ama—

24                   (A) has cooperated fully with the United  
25 States, consistent with its domestic laws and

1 procedures, in instances of circumvention or al-  
2 leged circumvention of existing quotas on im-  
3 ports of textile and apparel goods, to establish  
4 necessary relevant facts in the places of import,  
5 export, and, where applicable, transshipment,  
6 including investigation of circumvention prac-  
7 tices, exchanges of documents, correspondence,  
8 reports, and other relevant information, to the  
9 extent such information is available;

10 (B) has taken appropriate measures, con-  
11 sistent with its domestic laws and procedures,  
12 against exporters and importers involved in in-  
13 stances of false declaration concerning fiber  
14 content, quantities, description, classification,  
15 or origin of textile and apparel goods; and

16 (C) has penalized the individuals and enti-  
17 ties involved in any such circumvention, consist-  
18 ent with its domestic laws and procedures, and  
19 has worked closely to seek the cooperation of  
20 any third country to prevent such circumvention  
21 from taking place in that third country.

22 The Commissioner of Customs shall submit to the  
23 Congress, not later than October 1, 1999, a report  
24 on the study conducted under this paragraph.

25 (g) DEFINITIONS.—For purposes of this section—

1           (1) AGREEMENT PERIOD.—The term “agree-  
2           ment period” means the period that begins on Janu-  
3           ary 1, 2000, and ends on December 31, 2014, or  
4           such later date as is reported to the Congress under  
5           section 3(c)(3).

6           (2) ANNEX.—The term “the Annex” means  
7           Annex 300–B of the NAFTA.

8           (3) ENTERED.—The term “entered” means en-  
9           tered, or withdrawn from warehouse for consump-  
10          tion, in the customs territory of the United States.

11          (4) HTS.—The term “HTS” means the Har-  
12          monized Tariff Schedule of the United States.

13          (5) NAFTA.—The term “NAFTA” means the  
14          North American Free Trade Agreement entered into  
15          between the United States, Mexico, and Canada on  
16          December 17, 1992.

17          (6) ORIGINATING.—An article shall be deemed  
18          as originating in the territory of Panama if the arti-  
19          cle meets the rules of origin for a good set forth in  
20          chapter 4 of the NAFTA, and, in the case of an ar-  
21          ticle described in Appendix 6.A of the Annex, the re-  
22          quirements stated in such Appendix 6.A for such ar-  
23          ticle to be treated as if it were an originating good.  
24          In applying such chapter 4 or Appendix 6.A with re-  
25          spect to Panama for purposes of this section—

1           (A) no countries other than the United  
2 States and Panama may be treated as being  
3 Parties to the NAFTA,

4           (B) references to trade between the United  
5 States and Mexico shall be deemed to refer to  
6 trade between the United States and Panama,  
7 and

8           (C) references to a Party shall be deemed  
9 to refer to the United States or Panama, and  
10 references to the Parties shall be deemed to  
11 refer to Panama and the United States.

12           (7) TEXTILE OR APPAREL ARTICLE.—The term  
13 “textile or apparel article” means any article re-  
14 ferred to in paragraph (1)(A) that is a good listed  
15 in Appendix 1.1 of the Annex.

16           (8) TRANSITION PERIOD.—The term “transi-  
17 tion period” means the period that begins on the  
18 date of the enactment of this Act and ends on the  
19 earlier of—

20           (A) the date that is 3 years after such date  
21 of enactment; or

22           (B) the date on which—

23           (i) the United States first applies the  
24 NAFTA to Panama upon its accession to  
25 the NAFTA; or

1                   (ii) there enters into force with re-  
2                   spect to the United States and Panama a  
3                   free trade agreement comparable to the  
4                   NAFTA that makes substantial progress  
5                   in achieving the negotiating objectives set  
6                   forth in section 108(b)(5) of the North  
7                   American Free Trade Agreement Imple-  
8                   mentation Act (19 U.S.C. 3317(b)(5)), and  
9                   that should remain in effect at least until  
10                  the end of the agreement period.

11 **SEC. 5. APPLICABILITY OF BENEFITS.**

12                The tariff treatment under section 4 may be accorded  
13 to goods of Panama only during such periods as a designa-  
14 tion of Panama as a beneficiary country under the Carib-  
15 bean Basin Economic Recovery Act is in effect.

16 **SEC. 6. CONFORMING AMENDMENT.**

17                Section 213(a)(1) of the Caribbean Basin Economic  
18 Recovery Act is amended by inserting “and except as pro-  
19 vided in section 4 of the Panama Relations Act of 1998,”  
20 after “Tax Reform Act of 1986,”.

○