

106TH CONGRESS
2D SESSION

H. R. 3673

To provide certain benefits to Panama if Panama agrees to permit the United States to maintain a presence there sufficient to carry out counternarcotics and related missions.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 16, 2000

Mr. GILMAN 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

A BILL

To provide certain benefits to Panama if Panama agrees to permit the United States to maintain a presence there sufficient to carry out counternarcotics and related missions.

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 2000”.

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 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 evolved
11 to include significant responsibilities for the conduct
12 of counter narcotics operations in Latin America
13 and the Caribbean, and for the provision of logistical
14 support to such operations by other countries and
15 other agencies of the United States Government.

16 (4) In accordance with the Panama Canal Trea-
17 ty of 1977, the United States withdrew all United
18 States military personnel from Panama by Decem-
19 ber 31, 1999, and turned over all United States
20 military facilities to the Government of Panama.

21 (5) Under the terms of the Treaty Concerning
22 the Permanent Neutrality and Operation of the Pan-
23 ama Canal of 1977, the United States retains re-
24 sponsibilities for the defense of the Panama Canal.

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

11 (7) Public opinion surveys in Panama in recent
12 years consistently have shown that approximately 70
13 percent of the population of Panama support a
14 United States presence in Panama.

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

22 (9) Early discussions pursuant to the announce-
23 ment of September 6, 1995, were very encouraging,
24 but the discussions foundered after the United
25 States refused to consider providing any form of

1 compensation to Panama in exchange for an exten-
2 sion of the United States presence in Panama.

3 (10) After it became clear that no agreement
4 could be reached on extending the United States
5 presence in Panama past 1999 in its customary
6 form, Panama proposed negotiations on the estab-
7 lishment of a Multinational Counternarcotics Center
8 (MCC), which would permit the continuation of a
9 limited United States presence in Panama past 1999
10 and for which no compensation would be expected.

11 (11) On December 24, 1997, the United States
12 and Panama announced that preliminary agreement
13 had been reached on establishment of the MCC, but
14 the Government of Panama subsequently reopened a
15 number of issues on which preliminary agreement
16 had been reached.

17 (12) Following rejection by the voters of Pan-
18 ama on August 30, 1998, of a proposed constitu-
19 tional amendment to permit President Perez
20 Balladares to seek reelection, the United States and
21 Panama announced on September 24, 1998, that the
22 MCC negotiations had failed and would be termi-
23 nated.

24 (13) Panama and the United States continue to
25 have a strong shared interest in maintaining a

1 United States presence in Panama and both coun-
2 tries should seek to agree on an appropriate package
3 of benefits to facilitate such a presence.

4 **SEC. 3. CERTIFICATION AND REPORT REGARDING AGREE-**
5 **MENT TO MAINTAIN A UNITED STATES PRES-**
6 **ENCE IN PANAMA.**

7 (a) SUBMISSION OF CERTIFICATION AND REPORT.—
8 At any time after the date of the enactment of this Act,
9 the President may submit to the Committee on Inter-
10 national Relations of the House of Representatives and
11 the Committee on Foreign Relations of the Senate the cer-
12 tification described in subsection (b) and the report de-
13 scribed in subsection (c).

14 (b) CONTENT OF CERTIFICATION.—The certification
15 referred to in subsection (a) is a certification by the Presi-
16 dent that the United States and the Government of Pan-
17 ama have reached an agreement permitting the United
18 States, for a period of not less than 15 years, to maintain
19 a presence, alone or in conjunction with other friendly
20 countries, sufficient to carry out necessary counter-
21 narcotics, search and rescue, logistical, training, and re-
22 lated missions at Howard Air Force Base, Fort Kobbe,
23 Rodman Naval Station, and Fort Sherman, under terms
24 and conditions substantially similar to those applied to the
25 United States presence at those facilities during the period

1 beginning on October 1, 1979, and ending on December
2 31, 1999.

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

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

8 (2) A detailed explanation of the manner in
9 which the agreement ensures that the United States
10 will be able to use the facilities subject to the agree-
11 ment under terms and conditions substantially simi-
12 lar to those that applied during the period beginning
13 on October 1, 1979, and ending on December 31,
14 1999.

15 (3) If the agreement provides for a United
16 States presence at the facilities subject to the agree-
17 ment for a period longer than 15 years, a statement
18 of the date on which that presence expires under the
19 agreement.

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

1 **SEC. 4. BENEFITS.**

2 (a) IN GENERAL.—If the President submits the cer-
3 tification and report under section 3, then the provisions
4 of subsections (b) through (h) apply.

5 (b) ASSISTANCE FOR BRIDGE PROJECT IN PAN-
6 AMA.—

7 (1) ACTION BY TRADE AND DEVELOPMENT
8 AGENCY.—The Director of the Trade and Develop-
9 ment Agency shall consider a grant or grants to as-
10 sist in the design, financial planning, training, and
11 other preparatory steps for the construction of a
12 new bridge across the Panama Canal.

13 (2) REPORTING REQUIREMENT.—Not later than
14 1 year after the date on which the President submits
15 the certification and report under section 3, the Di-
16 rector of the Trade and Development Agency shall
17 submit a report to the Committee on International
18 Relations of the House of Representatives and the
19 Committee on Foreign Relations of the Senate re-
20 garding the steps taken pursuant to paragraph (1)
21 and the status of planning for construction of a new
22 bridge across the Panama Canal.

23 (c) ASSISTANCE FOR SEWAGE TREATMENT PLANT
24 PROJECT IN PANAMA.—

25 (1) ACTION BY TRADE AND DEVELOPMENT
26 AGENCY.—The Director of the Trade and Develop-

1 ment Agency shall consider a grant or grants to as-
2 sist in the design, financial planning, training, and
3 other preparatory steps for the construction of a
4 new sewage treatment plant for Panama City.

5 (2) REPORTING REQUIREMENT.—Not later than
6 1 year after the date on which the President submits
7 the certification and report under section 3, the Di-
8 rector of the Trade and Development Agency shall
9 submit a report to the Committee on International
10 Relations of the House of Representatives and the
11 Committee on Foreign Relations of the Senate re-
12 garding the steps taken pursuant to paragraph (1)
13 and the status of planning for construction of a new
14 sewage treatment plant for Panama City.

15 (d) SCHOLARSHIP PROGRAM FOR PANAMA.—

16 (1) ACTION BY AGENCY FOR INTERNATIONAL
17 DEVELOPMENT.—The Administrator of the Agency
18 for International Development shall ensure that, for
19 the duration of the agreement period, up to
20 \$2,000,000 of the funds made available each year to
21 the Cooperative Association of States for Scholar-
22 ships program shall be made available for scholar-
23 ships for deserving students from Panama to study
24 in the United States.

1 (2) REPORTING REQUIREMENT.—Not later than
2 1 year after the date on which the President submits
3 the certification and report under section 3, the Ad-
4 ministrators of the Agency for International Develop-
5 ment shall submit a report to the Committee on
6 International Relations of the House of Representa-
7 tives and the Committee on Foreign Relations of the
8 Senate regarding the steps taken pursuant to para-
9 graph (1).

10 (e) TREATMENT OF CERTAIN TEXTILE AND AP-
11 PAREL ARTICLES.—

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

14 (A) the tariff treatment accorded at any
15 time to any textile or apparel article that origi-
16 nates in Panama shall be identical to the tariff
17 treatment that is accorded at such time under
18 section 2 of the Annex to an article described
19 in the same 8-digit subheading of the HTS that
20 is a good of Mexico and is imported into the
21 United States;

22 (B) duty-free treatment under the Carib-
23 bean Basin Economic Recovery Act shall apply
24 to any textile or apparel article that is imported

1 into the United States from Panama and
2 that—

3 (i) is assembled in Panama, from fab-
4 rics wholly formed and cut in the United
5 States from yarns formed in the United
6 States, and is entered—

7 (I) under subheading 9802.00.80
8 of the HTS; or

9 (II) under chapter 61, 62, or 63
10 of the HTS if, after such assembly,
11 the article would have qualified for
12 treatment under subheading
13 9802.00.80 of the HTS, but for the
14 fact the article was subjected to
15 bleaching, garments dyeing, stone-
16 washing, enzyme-washing, acid-wash-
17 ing, perma-pressing, oven-baking, or
18 embroidery;

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

21 (iii) is made in Panama from fabric
22 knit in Panama from yarns wholly formed
23 in the United States;

24 (iv) is cut and assembled in Panama
25 from fabrics wholly formed in the United

1 States from yarns wholly formed in the
2 United States; or

3 (v) is identified under paragraph (3)
4 as a handloomed, handmade, or folklore
5 article of Panama and is certified as such
6 by the competent authority of that coun-
7 try; and

8 (C) no quantitative restriction or consulta-
9 tion level may be applied to the importation
10 into the United States of any textile or apparel
11 article that—

12 (i) originates in the territory of Pan-
13 ama, or

14 (ii) qualifies for duty-free treatment
15 under clause (i), (ii), (iii), (iv), or (v) of
16 subparagraph (B).

17 (2) TREATMENT OF OTHER NONORIGINATING
18 TEXTILE AND APPAREL ARTICLES.—

19 (A) PREFERENTIAL TARIFF TREAT-
20 MENT.—Subject to subparagraph (B), the
21 President may place in effect at any time dur-
22 ing the transition period with respect to any
23 textile or apparel article that—

24 (i) is a product of Panama, but

1 (ii) does not qualify as a good that
2 originates in the territory of Panama or is
3 eligible for benefits under paragraph
4 (1)(B),
5 tariff treatment that is identical to the in-pref-
6 erence-level tariff treatment accorded at such
7 time under Appendix 6.B of the Annex to an
8 article described in the same 8-digit subheading
9 of the HTS that is a product of Mexico and is
10 imported into the United States. For purposes
11 of this subparagraph, the “in-preference-level
12 tariff treatment” accorded to an article that is
13 a product of Mexico is the rate of duty applied
14 to that article when imported in quantities less
15 than or equal to the quantities specified in
16 Schedule 6.B.1, 6.B.2., or 6.B.3. of the Annex
17 for imports of that article from Mexico into the
18 United States.

19 (B) LIMITATIONS ON ALL ARTICLES.—Tar-
20 iff treatment under subparagraph (A) may be
21 extended, during any calendar year, to not more
22 than 6,750,000 square meter equivalents of cot-
23 ton or man-made fiber apparel, to not more
24 than 225,000 square meter equivalents of wool
25 apparel, and to not more than 3,750,000 square

1 meter equivalents of goods entered under sub-
2 heading 9802.00.80 of the HTS.

3 (C) PRIOR CONSULTATION.—The Presi-
4 dent may implement the preferential tariff
5 treatment described in subparagraph (A) only
6 after consultation with representatives of the
7 United States textile and apparel industry and
8 other interested parties regarding—

9 (i) the specific articles to which such
10 treatment will be extended, and

11 (ii) the annual quantities of such arti-
12 cles that may be imported at the pref-
13 erential duty rates described in subpara-
14 graph (A).

15 (3) HANDLOOMED, HANDMADE, AND FOLKLORE
16 ARTICLES.—For purposes of paragraph (1), the
17 United States Trade Representative shall consult
18 with representatives of Panama for the purpose of
19 identifying particular textile and apparel goods that
20 are mutually agreed upon as being handloomed,
21 handmade, or folklore goods of a kind described in
22 section 2.3 (a), (b), or (c) or Appendix 3.1.B.11 of
23 the Annex.

24 (4) BILATERAL EMERGENCY ACTIONS.—(A)
25 The President may take—

1 (i) bilateral emergency tariff actions of a
2 kind described in section 4 of the Annex with
3 respect to any textile or apparel article im-
4 ported from Panama if the application of tariff
5 treatment under paragraph (1) to such article
6 results in conditions that would be cause for the
7 taking of such actions under such section 4
8 with respect to an article described in the same
9 8-digit subheading of the HTS that is imported
10 from Mexico; or

11 (ii) bilateral emergency quantitative re-
12 striction actions of a kind described in section
13 5 of the Annex with respect to imports of any
14 textile or apparel article described in clauses (i)
15 and (ii) of paragraph (2)(A) if the importation
16 of such article into the United States results in
17 conditions that would be cause for the taking of
18 such actions under such section 5 with respect
19 to a like article that is a product of Mexico.

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

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

1 (i) the term “transition period” in sections
2 4 and 5 of the Annex shall be deemed to be the
3 period defined in subsection (h)(8); and

4 (ii) any requirements to consult specified
5 in section 4 or 5 of the Annex are deemed to
6 be satisfied if the President requests consulta-
7 tions with Panama and Panama does not agree
8 to consult within the time period specified
9 under such section 4 or 5, whichever is applica-
10 ble.

11 (f) TREATMENT OF CERTAIN OTHER ARTICLES

12 ORIGINATING IN PANAMA.—

13 (1) EQUIVALENT TARIFF TREATMENT.—

14 (A) IN GENERAL.—Subject to subpara-
15 graph (B), the tariff treatment accorded at any
16 time during the transition period to any article
17 referred to in any of paragraphs (2) through
18 (5) of section 213(b) of the Caribbean Basin
19 Economic Recovery Act that originates in Pan-
20 ama shall be identical to the tariff treatment
21 that is accorded at such time under Annex
22 302.2 of the NAFTA to an article described in
23 the same 8-digit subheading of the HTS that is
24 a good of Mexico and is imported into the
25 United States.

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

5 (2) RELATIONSHIP TO OTHER DUTY REDUC-
6 TIONS.—If at any time during the transition period
7 the rate of duty that would (but for action taken
8 under paragraph (1)(A) in regard to such period)
9 apply with respect to any article under section
10 213(h) of the Caribbean Basin Economic Recovery
11 Act is a rate of duty that is lower than the rate of
12 duty resulting from such action, then such lower
13 rate of duty shall be applied for the purposes of im-
14 plementing such action.

15 (g) CUSTOMS PROCEDURES.—

16 (1) IN GENERAL.—

17 (A) REGULATIONS.—Any importer that
18 claims preferential tariff treatment under sub-
19 section (e) or (f) shall comply with customs pro-
20 cedures similar in all material respects to the
21 requirements of Article 502(1) of the NAFTA
22 as implemented pursuant to United States law,
23 in accordance with regulations promulgated by
24 the Secretary of the Treasury.

1 (B) DETERMINATION.—In order to qualify
2 for such preferential tariff treatment and for a
3 Certificate of Origin to be valid with respect to
4 any article for which such treatment is claimed,
5 there shall be in effect a determination by the
6 President that Panama has implemented and
7 follows, or is making substantial progress to-
8 ward implementing and following, procedures
9 and requirements similar in all material re-
10 spects to the relevant procedures and require-
11 ments under chapter 5 of the NAFTA.

12 (2) CERTIFICATE OF ORIGIN.—The Certificate
13 of Origin that otherwise would be required pursuant
14 to the provisions of paragraph (1) shall not be re-
15 quired in the case of an article imported under sub-
16 section (e) or (f) if such Certificate of Origin would
17 not be required under Article 503 of the NAFTA (as
18 implemented pursuant to United States law), if the
19 article were imported from Mexico.

20 (3) PENALTIES FOR TRANSSHIPMENTS.—If the
21 President determines, based on sufficient evidence,
22 that an exporter has engaged in willful illegal trans-
23 shipment or willful customs fraud with respect to
24 textile or apparel articles for which preferential tar-
25 iff treatment under paragraph (1) or (2) of sub-

1 section (e) is claimed, then the President shall deny
2 all benefits under subsections (e) and (f) of this sec-
3 tion to such exporter, and any successors of such ex-
4 porter, for a period of 2 years.

5 (4) REPORT BY USTR ON COOPERATION CON-
6 CERNING CIRCUMVENTION.—The United States
7 Commissioner of Customs shall conduct a study ana-
8 lyzing the extent to which Panama—

9 (A) has cooperated fully with the United
10 States, consistent with its domestic laws and
11 procedures, in instances of circumvention or al-
12 leged circumvention of existing quotas on im-
13 ports of textile and apparel goods, to establish
14 necessary relevant facts in the places of import,
15 export, and, where applicable, transshipment,
16 including investigation of circumvention prac-
17 tices, exchanges of documents, correspondence,
18 reports, and other relevant information, to the
19 extent such information is available;

20 (B) has taken appropriate measures, con-
21 sistent with its domestic laws and procedures,
22 against exporters and importers involved in in-
23 stances of false declaration concerning fiber
24 content, quantities, description, classification,
25 or origin of textile and apparel goods; and

1 (C) has penalized the individuals and enti-
2 ties involved in any such circumvention, con-
3 sistent with its domestic laws and procedures,
4 and has worked closely to seek the cooperation
5 of any third country to prevent such circumven-
6 tion from taking place in that third country.

7 The United States Trade Representative shall sub-
8 mit to the Congress, not later than 1 year after the
9 certification is submitted under section 3, a report
10 on the study conducted under this paragraph.

11 (h) DEFINITIONS.—For purposes of this section—

12 (1) AGREEMENT PERIOD.—The term “agree-
13 ment period” means the period that begins on the
14 date on which the certification is submitted under
15 section 3, and ends on the date that is 15 years
16 after such date, or such later date as is reported to
17 the Congress under section 3(c)(3).

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

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

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

1 (5) NAFTA.—The term “NAFTA” means the
2 North American Free Trade Agreement entered into
3 between the United States, Mexico, and Canada on
4 December 17, 1992.

5 (6) ORIGINATING.—An article shall be deemed
6 as originating in the territory of Panama if the arti-
7 cle meets the rules of origin for a good set forth in
8 chapter 4 of the NAFTA, and, in the case of an ar-
9 ticle described in Appendix 6.A of the Annex, the re-
10 quirements stated in such Appendix 6.A for such ar-
11 ticle to be treated as if it were an originating good.
12 In applying such chapter 4 or Appendix 6.A with re-
13 spect to Panama for purposes of this section—

14 (A) no countries other than the United
15 States and Panama may be treated as being
16 Parties to the NAFTA,

17 (B) references to trade between the United
18 States and Mexico shall be deemed to refer to
19 trade between the United States and Panama,
20 and

21 (C) references to a Party shall be deemed
22 to refer to the United States or Panama, and
23 references to the Parties shall be deemed to
24 refer to Panama and the United States.

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

5 (8) TRANSITION PERIOD.—The term “transi-
6 tion period” means the period that begins on the
7 date on which the certification is submitted under
8 section 3, and ends on the earlier of—

9 (A) the date that is 3 years after such
10 date; or

11 (B) the date on which—

12 (i) the United States first applies the
13 NAFTA to Panama upon its accession to
14 the NAFTA; or

15 (ii) there enters into force with re-
16 spect to the United States and Panama a
17 free trade agreement comparable to the
18 NAFTA that makes substantial progress
19 in achieving the negotiating objectives set
20 forth in section 108(b)(5) of the North
21 American Free Trade Agreement Imple-
22 mentation Act (19 U.S.C. 3317(b)(5)).

23 **SEC. 5. APPLICABILITY OF BENEFITS.**

24 The tariff treatment under section 4 may be accorded
25 to goods of Panama only during such periods as a designa-

1 tion of Panama as a beneficiary country under the Carib-
2 bean Basin Economic Recovery Act is in effect.

3 **SEC. 6. CONFORMING AMENDMENT.**

4 Section 213(a)(1) of the Caribbean Basin Economic
5 Recovery Act is amended by inserting “and except as pro-
6 vided in section 4 of the United States-Panama Partner-
7 ship Act of 2000,” after “Tax Reform Act of 1986,”.

○