The original documents are located in Box C37, folder "Presidential Handwriting, 3/23/1976" of the Presidential Handwriting File at the Gerald R. Ford Presidential Library.

THE WHITE HOUSE

WASHINGTON

March 23, 1976

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: JAMES T. LYNN

FROM: JAMES E. CONNOR JEC

SUBJECT: Panama Canal Tolls Rules Changes

The President reviewed your memorandum of February 24 and approved the following option:

> "Option #2 - Approve all but the on-deck cargo amendment."

The signed signature documents (TAB D of your memorandum) are forwarded herewith to Robert Linder for transmittal.

Please follow-up with other appropriate action.

cc: Dick Cheney
Brent Scowcroft
Robert Linder

THE WHITE HOUSE
WASHINGTON

March 23, 1976

Mr. President:

Panama Canal Tolls Rules Changes

Now that the Panama Canal employees have gone back to work, there is no reason not to act on this package.

The Army, the Panama Canal Company, and OMB all agree that it would be preferable to eliminate the proposed letter to the Secretary of the Army. I have therefore removed that letter from the package (it is at Tab F in the event you wish to refer to it), and modified the letters to Mrs. Sullivan and Senator Magnuson to delete reference to the letter to the Secretary of the Army.

All Agency and individual positions on the various options remain the same.

Option #2
Tab A

Brent Scowcroft

BE IT FURTHER RESOLVED, That the Secretary of the Panama Canal Company cause notice of the adoption of the amendments of the measurement rules to be published in the Federal Register in the form prescribed by applicable laws and regulations.

BE IT FURTHER RESOLVED, That upon publication of the said notice of amendment of the measurement rules in the Federal Register, the Stockholder of the Panama Canal Company transmit the amendments of said rules to the President for his approval.

Approved except for Section 135.113 which would provide for the inclusion in net tonnage of the space occupied by deck cargo:

Gerald R Ford

Date: March 23, 1976

THE WHITE HOUSE

WASHINGTON

Dear Mrs. Sullivan:

This is in further reply to your December letter to me regarding the measurement rule amendments proposed by the Panama Canal Company and the Secretary of the Army.

I have carefully reviewed the issues and decided to approve the proposed amendments with the exception of the so-called "on-deck cargo" amendment.

Sincerely,

Gerald R. Ford

Honorable Leonor K. Sullivan
Chairman, Committee on
Merchant Marine and Fisheries
House of Representatives
Washington, D. C. 20515

Attachment

cc: Honorable Ralph H. Metcalfe

THE WHITE HOUSE

WASHINGTON

Dear Mr. Chairman:

This is in further reply to your December letter to me regarding the measurement rule amendments proposed by the Panam Canal Company and the Secretary of the Army.

I have carefully reviewed the issues and decided to approve the proposed amendments with the exception of the so-called "on-deck cargo" amendment.

Sincerely,

Gerald R. Ford

Honorable Warren G. Magnuson
Chairman
Committee on Commerce
United States Senate
Washington, D. C. 20510

Attachment

cc: Russell B. Long

BEFORE ANY DECISION IS PUT IN WRITING

NSC SHOULD BE CONTACTED TO DISCUSS

FURTHER WITH JIM CONNOR THE MANNER

THE DECISION IS HANDLED -- NSC CONTACT

IS STEVE LOW. X5004

GBF

March 19, 1976

MR PRESIDENT:

Panama Canal Tolls

Brent Scowcroft asked that I convey these views on the Panama Canal Toll material to you:

He has no preference in substance between Option 1 and 2. If you wish to select Option 1, he feels that you could make that decision now and that it would not have any harmful impact on the strike situation and might have a positive one. If however you wish to select Option 2, he would like to point out the following:

"A letter such as the OMB suggests the President send the Secretary of the Army would be interpreted by the workers as a decision by the President to require them to bear the burden of current Canal Company financial difficulties instead of the shippers. In the current atmosphere it would be highly incendiary and seriously complicate any resolution of the present strike. I therefore request that no further action be taken on the memorandum while the strike is in progress and that it be returned so that we can append a comment to it."

Jim Connor

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR: JAMES E. CONNOR

FROM: BRENT SCOWCROFT

SUBJECT: OMB Memorandum on Rules Changes for Panama Canal Tolls

The memorandum from Jim Lynn to the President on Panama Canal measurement rules changes recommends that the President approve all changes but the most important relating to on-deck cargo. It contains a letter from the President to the Secretary of the Army asking the Secretary to restudy this latter category of suggested rules changes. The letter also suggests that the Canal Company make further cost reductions.

A wildcat strike is now in progress in the Canal arising from the workers objections to economy measures already adopted by the Canal Company. A letter such as the OMB suggests the President send the Secretary of the Army would be interpreted by the workers as a decision by the President to require them to bear the burden of current Canal Company financial difficulties instead of the shippers. In the current atmosphere it would be highly incendiary and seriously complicate any resolution of the present strike. I therefore request that no further action be taken on the memorandum while the strike is in progress and that it be returned so that we can append a comment to it.

THE PRESIDENT HAS SEEN.

1670

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

March 19, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: BRENT SCOWCROFT

SUBJECT: Panama Canal Labor Dispute

Last night the striking workers rejected the Governor's offer to support a modification of the wage freeze and a study of the application of the collective bargaining Executive Order in the Canal Zone, if they returned to work. He is only one of three members of the Canal Zone Personnel Board which would decide the issue, and they do not believe he could carry the Board with him. The workers are demanding complete withdrawal of the Company's proposal and agreement on a labor contract before they return to their jobs. A contract is not possible unless the Executive Order is applied to the Zone.

At the present time over 100 ships are waiting to transit the Canal.

The Governor is requesting a temporary restraining order today against the striking workers. If granted by the court, the restraining orders would require them to return to work for a ten-day period. It is the Army's expectation that the order will probably be issued tonight and that the workers will honor it.

In the meantime, the Army is putting into operation its "King Trump" contingency plan under which the Secretary of the Army establishes a task force with representatives from the Department of Transportation (Coast Guard), the Navy, and the Army to provide pilots and tugboat masters for use in the Canal. Twenty-five pilots and tug operators will probably leave for the Canal from Andrews tomorrow. The strikers are aware that the Governor has this option but have not been told that the pilots will soon be on their way.

An alternative plan would be to ask you to call those pilots who are reservists to active duty. They would then be ordered back to work. However, the coercive aspect of this gives it a drastic appearance and the Army is not pursuing it.

As you know, the Secretary of the Army is the sole stockholder in the Panama Canal Company and is responsible directly to you. To this point, the focus of publicity and concern has been directed at the economic factors involved, i.e., the financial state of the Company and wage and bargaining demands of the workers. The parties have been clearly identified as the Army, the Company, and the workers. Relatively little attention has been called to the Canal negotiations or broader commercial or defense considerations. Should these latter types of issues be raised, you may want to consider involving yourself more directly in it. This could occur if the shippers, who are losing substantial sums daily, become more vocal in their complaints. They have been pressing the Merchant Marine Committee very hard and it could call on you to take action. At such time you could consider:

1. Asking the Secretary of the Army to come over to give you a briefing on the situation;

2. Sending the Secretary of the Army a message that you desire all possible steps be taken to resolve the problem;

3. Issuing a statement calling on workers to return to their jobs in the national interest.

RECOMMENDATION:

I believe that for the time being you may want to confine your involvement to following the situation closely and only at a later time consider associating yourself with it more visibly.

March 19, 1976

MR PRESIDENT:

Panama Canal Tolls Rules Changes

Staffing of the attached memorandum from Jim Lynn resulted in the following:

Messrs. Buchen, Cannon, Friedersdorf, Hartmann, Seidman and Morton recommend Option II.

Jack Marsh has indicated that although he initially favored Option #2 after investigation he favors Option #1 the position taken by the Secretary of the Army.

If you select Option #1 sign Resolution at TAB E.

If you select Option #2 sign Resolution and three letters at TAB D.

Jim Connor

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

FEB 24 1976

ACTION

MEMORANDUM FOR: THE PRESIDENT

FROM: James T. Lynn

SUBJECT: Panama Canal Tolls Rules Changes

Issue

Should approval be given to the Panama Canal Company to modify cargo measurement rules which determine toll assessments for ships transiting the Panama Canal?

Background

You have been requested to approve seven substantive changes in tonnage measurement rules governing tolls for vessels transiting the Panama Canal. The proposed changes were adopted by the Board of Directors of the Panama Canal Company and have been forwarded by the Secretary of the Army in his capacity as "stockholder" of the Company (Tab A). Below is a brief discussion of the issues, along with recommendations. A more detailed discussion of the issue is attached (Tab B).

The purpose of the changes, according to the Company, is to redistribute costs more equitably among Canal users. Cost redistribution would be accomplished by altering the definitions of space availability on board vessels for carrying freight and passengers. The last systematic review of tonnage measurement rules was conducted in 1937. In addition to redistributing costs, the changes would increase total revenue from tolls, as shown below:

(dollars in millions)

	Container Ship	General Cargo Ship	All other	Total
All-Flags Tolls	+4.6	+3.1	+4.6	+12.3
% Increase	+28%	+10%	+6%	+9%
U.S.-Flag Tolls	+1.7	+0.4	+0.2	+ 2.3
% Increase	+37%	+12%	+4%	+17%

The disproportionately large tolls increase for containerships (modern vessels which carry pre-boxed cargo) is primarily a result of one rules change--the "on-deck cargo" amendment. This amendment would require the measurement, and toll assessment, of all on-deck cargo. Currently this cargo is exempt from measurement. Of the total annual $12.3 million tolls revenue increase, $6.0 million is attributable to the on-deck cargo amendment, mostly relating to containership operations.

The financial health of the Panama Canal Company has been weak in recent years largely as a consequence of rising costs and declining traffic. If approved, the revenues gained by the measurement rule amendments would help alleviate, but would not eliminate, a projected 1976-1977 operating deficit. In fact, either with or without the proposed amendments, a general toll increase will be needed in the coming year. A large toll increase is certain to be strongly opposed by the maritime industry--as are the proposed amendments. Without additional revenues, however, the Company will be forced to request U.S. Government assistance.

Options

#1. Approve all seven amendments in their entirety.

#2. Approve all but the on-deck cargo amendment.

#3. Disapprove all seven amendments.

Discussion of the Proposed Amendments

The existing Panama Canal toll assessments are based on commonly-accepted, international principles of ship "earning capacity." Earning capacity is measured by the volume of below-deck space (gross tonnage), with deductions for space, such as the engine room, which is not available for revenue-producing carriage (net tonnage). The actual utilization of ship space is not considered in determining tolls charged for a particular transit. A primary reason for this approach is to avoid the costly delays that would be involved in measuring the volume, weight or value of cargo actually carried on each transit. Under the existing measurement system, a particular ship only needs to be measured once instead of each transit.

Six of the seven proposed amendments seek to remove minor anomalies in the existing measurement system. Four of the changes would increase and two would decrease toll assessments.

Generally, the amendments would abolish "double counting" of space and/or refine measurement standards in accord with modern ship design. They would change capacity measurement rules for the following spaces: fuel tanks, hatchways, water tanks, public rooms on passenger ships, and selected shop and store rooms. These six changes are all consistent with the established principle of basing tolls on the measurement of earning capacity. Few specific objections have been filed to these proposed amendments.

The seventh amendment constitutes a major change in the approach to assessing tolls. In addition to the traditional method of establishing tolls for below-deck carrying capacity, it would charge tolls for cargo actually carried on the ship deck during each transit. This means that if a ship were only partially loaded below deck, and carried on-deck cargo, it would be charged for its full below-deck capacity as well as for its actual on-deck cargo. By comparison, a ship carrying the same tonnage, all below deck, would have to pay only for its below-deck capacity, even though it may have a capability of carrying on-deck cargo.

This proposed change would be a departure from the traditional principle of basing tolls only on carrying capacity. It also would establish different standards for below-deck and on-deck cargo carriage.

The effect of this change would be to penalize ships which carry on-deck cargo but which do not or can not fully utilize below-deck space. Containerships, in particular, would be impacted by the change. Containerships are designed to carry significant on-deck loads, but they are not able to fully utilize below-deck space because the rectangular containers cannot use curved hull space on the sides, front and back, and because space between and around containers is needed for purposes of loading and unloading. Consequently, with the current method of establishing tolls, containerships on the average pay more per cargo ton actually carried than do other ships. Recent data show that containerships pay tolls averaging $2.12 per cargo ton, compared with about $1.15 per ton for general cargo ships.

Few would disagree with the Canal Company's position that, in theory, on-deck cargo carriage should be subject to toll assessment. The Company's proposal, however, does not seem to be an equitable means of assessing such tolls, particularly when applied to containerships. It may be necessary to establish an entirely new method of assessing tolls for containerships, rather than simply modifying a measurement system which did not anticipate containership technology.

Recommendation

Option #2 is recommended. We believe that the six relatively minor amendments are sensible and would not be inequitable. The on-deck cargo amendment, however, represents a major departure from traditional measurement practices, and it appears that it would create greater inequities than it would remove. It is recommended that the issue of how to assess tolls for on-deck cargo be studied further.

Positions of Interested Parties

Maritime interests have expressed across-the-board objections to the proposed amendments. Their concern, however, is primarily focused on the on-deck cargo amendment. Two major U.S. shipping company associations--the American Institute of Merchant Shipping and the American Maritime Association--have privately indicated that if the on-deck cargo amendment were dropped (option #2), their opposition to the remaining amendments would be minimal.

Although the Congress has no statutory role relative to the establishment of Panama Canal tolls, the maritime interests have generated strong support in both the House and Senate. In the House, Mrs. Sullivan (Chairman of the Merchant Marine and Fisheries Committee) and Mr. Metcalfe (Chairman of the Panama Canal Subcommittee), as well as 29 other members, have cosigned a letter to you asking that Presidential action be delayed until the House has had the opportunity to review the measurement rules. Senators Magnuson (Chairman of the Commerce Committee) and Long (Chairman of the Merchant Marine Subcommittee) have likewise requested that you delay action (letters at Tab C). Insofar as congressional opposition to the amendments is generated by the maritime interests, we expect that rejection of the on-deck cargo amendment would also minimize congressional concerns.

The following agencies have expressed no objection to the proposed amendments: Justice, Treasury, Federal Maritime Commission, National Security Council, and Council of International Economic Policy. Although both Commerce and Transportation have recommended that the amendments be delayed or disapproved pending further analysis, both report that option #2 largely mitigates their concerns. State advises that the amendments have no effect on the sensitive treaty negotiations over the status of the Panama Canal. Although State indicates that Greece, Norway, Spain, Japan, Italy and Sweden have made oral representations to the Department critical of the changes, State does not oppose their approval.

The Panama Canal Company and the Secretary of Army stand by their recommendation, option #1. However, they report that option #2 is preferable to option #3.

Decision

-- Option #1: Approve all seven amendments _____

-- Option #2 (Recommended): Approve all but the on-deck cargo amendment _____

-- Option #3: Disapprove all amendments _____

-- See me _____

Action

To carry out option #2, it is necessary for you to sign the attached resolution approving all but the on-deck cargo amendment. Additionally, we recommend that you sign the attached letters to the chairmen of the House and Senate authorizing committees explaining your decision, and to the Secretary of the Army requesting additional review of the tonnage measurement system and indicating the necessity for the Panama Canal Company to take action to restrain costs. These signature documents are at Tab D.

Attachments

SECRETARY OF THE ARMY
WASHINGTON

December 12, 1975

The President
The White House
Washington, D. C. 20500

Dear Mr. President:

In my capacity as "stockholder" of the Panama Canal Company under authority delegated to me by Executive Order 11305 of September 12, 1966, I am forwarding for your approval a Resolution adopted by the Board of Directors of the Panama Canal Company on November 17, 1975, amending the rules of measurement of vessels for the Panama Canal.

The action by the Board of Directors is based on Sections 411 and 412 of Title 2 of the Canal Zone Code under which the Panama Canal Company is authorized to prescribe rules of measurement for determining the earning capacity of vessels using the Canal. Section 412 provides that changes in the measurement rules shall be subject to and take effect upon the approval of the President of the United States. Section 411 requires six months' notice of the changes in the measurement rules. This notice was published in the FEDERAL REGISTER on July 31, 1975, so that the earliest date on which the new rules could become effective is January 30, 1976.

Following publication of the notice in the FEDERAL REGISTER, the Panama Canal Company invited written comments from the public and held a public hearing in accordance with applicable regulations. After consideration of all relevant matter presented in the written comments received and presented at the hearing, the Board of Directors adopted the proposed amendments of the measurement rules, subject to your approval.

The inclosures to this letter set out in detail the background of the proposed changes in the rules and the proceedings by the Board of Directors leading up to the adoption of the amendments.

Your approval of the proposed changes in the measurement rules is recommended, effective January 30, 1976.

Respectfully yours,

Martin R. Hoffmann

Inclosures
as

Tab B

[illegible]

[illegible] became effective [illegible] January [illegible]

Following publication of the [illegible] in the FEDERAL REGISTER, the Panama Canal Company [illegible] written comments [illegible] [illegible] After consideration [illegible] at the [illegible] the Board of Directors adopted the proposed amendments [illegible] the measurement rules subject to your approval.

The inclosures to this letter set out in detail the background of the proposed changes in the rules and the proceedings by the Board of Directors leading up to the adoption of the amendments.

Your approval [illegible] [illegible] effective January [illegible]

Respectfully yours,

[illegible]

Inclosures

[illegible]

ATTACHMENT

DISCUSSION OF PANAMA CANAL TOLLS RULES CHANGES

Background

The attached letter from the Secretary of the Army requests Presidential approval of proposed changes in rules governing tolls for ships transiting the Panama Canal. The proposal was adopted by the Board of Directors of the Panama Canal Company on November 17 and was forwarded to the President by the Secretary of the Army, in his capacity as "stockholder" of the Company, on December 12. The rules changes require Presidential approval and can be put into effect on or after January 30, 1976, a minimum statutory 6 months after notice of the proposal was published in the Federal Register.

Since the beginning of Panama Canal operations in 1914, tolls have been based on ship "earning capacity." The measure of ship earning capacity has been the space available (net tonnage) for carrying freight and passengers. The Panama Canal Company argues that the measurement rules which determine ship earning capacity should now be altered because: (a) the last systematic review was conducted in 1937; (b) ship configuration and technology have dramatically changed in the past 38 years; and (c) the operating costs of the Canal are no longer equitably distributed to reflect the earning capacity of vessels using the Canal. Consequently, the Company has proposed seven substantive changes to the measurement rules, requiring thirty amendments to the Code of Federal Regulations. The Company has found that the proposed rules "better reflect the earning capacity of vessels than the present rules, are nondiscriminatory, just and equitable."

OMB is the coordinating agency for Panama Canal Company toll proposals. We have solicited the views of the following agencies on the proposal: State, Commerce, Transportation, Justice, Treasury, Agriculture, Federal Maritime Commission, National Security Council, and Council of International Economic Policy. We also have received unsolicited comments from members of Congress and the maritime industry (shipping companies, unions and port authorities). These views will be discussed below, as well as other issues pertaining to the proposal.

Panama Canal Company Financial Condition and Canal Toll Issues

The Panama Canal Company is a wholly-owned Government corporation whose primary purpose is maintaining and operating the inter-oceanic Canal. From the Canal's tolls and other charges, the

Company is expected to be self-sustaining. Additionally, the Company is expected to reimburse the U.S. Treasury for: (a) uncovered costs accrued by the Canal Zone Government; (b) interest payments relating to original Canal construction costs borne by the U.S. Government; and (c) annuity payments made by the U.S. to the Republic of Panama pursuant to the Treaty of 1903, as amended in 1936.

For the past five years, the Panama Canal Company has experienced rapidly rising costs and declining traffic. For example, between 1970-1975, the number of transits declined from 15,500 to 14,700, while operating costs climbed from $172 million to $261 million. As a result, the first toll increase since the Canal's 1914 opening was instituted in July 1974 (+20% in toll rates). Despite the toll increase, the Company's financial condition has continued to deteriorate as a result of: (a) continuing cost-of-doing-business increases; and (b) traffic downturns in the wake of worldwide economic recession, the diversionary impact of the opening of the Suez Canal, and the dampening effect of the 1974 toll increase. Whereas the Company had planned to handle 40 ships daily in FY 1976, an average of only 36 daily have been transiting the Canal to date. The net effect of the financial downturn is that the Company has sustained losses in the past two years and is expected to continue to run losses in 1976 and 1977, as shown below (millions of dollars):

1974 deficit	1975 deficit	est. 1976 deficit	est. 1977 deficit
$-11.8	$-6.4	$-18.0*	$-38.0*

*assumes no toll changes, measurement rules amendments, or other remedial actions.

If approved, the measurement rules amendments would help alleviate, but would not eliminate, projected Company deficits in 1976 and 1977. The amendments would increase the measurements of vessel net tonnage, leading to higher annual toll assessments on the order of $12-13 million (further discussed below). The Company argues, however, that it is incorrect to equate the proposed amendments with a toll increase -- rather, the purpose of the amendments is to redistribute the operating costs of the Panama Canal more equitably. In the Company's framework of thinking, the processes of establishing tolls and changing measurement rules, although related, are separate. Any positive revenue effects resulting from the proposed amendments would be accounted for in computing the need for future toll rate changes (i.e., future toll increases would be reduced by the amount of additional revenues gained by the proposed amendments).

In fact, either with or without the proposed rules changes, the Panama Canal Company is now indicating that a substantial general toll increase will be required in the next 12 months to meet the anticipated deficits. This would be the second general toll increase in three years. Required toll rate increases are shown below. The figures presume the imposition of moderate cost-cutting measures and the continued operation of the Company on a self-sustaining basis.

	($ in millions) Measurement Rules Approved	Measurement Rules Not Approved
Additional revenue required to meet FY 1977 deficit.....	$26	$38
Future required toll increase..	+17%	+28%
Additional revenue required to meet FY 1977 deficit as well as recoup FY 1976 deficit over five years.....	$28	$42
Future required toll increase..	+19%	30%

The Company has pointed out that its statutory authorities provide several alternative means for handling long term deficits. It can: (a) defer payment to the U.S. Treasury of interest and/or the net cost of the Canal Zone Government to the extent the required amounts are not earned; (b) request Congressional authority to waive entirely payment of the net cost of the Canal Zone Government; (c) request a separate appropriation for the Company to meet losses; or (d) use available borrowing authority up to a maximum of $40 million. Company officials are increasingly talking about the necessity of employing these fallback authorities. For example, in a January meeting, the Company's Board of Directors authorized Company staff to explore the desirability of using one or more of the authorities in the context of the future 1978 budget request. Utilization of the above authorities would be highly undesirable from a budgetary point of view in that they would entail U.S. Government subsidization of potentially sizable Company deficits.

Of course, the future required toll increase can be reduced by the extent to which the Company undertakes reductions in services, employee benefits, and planned capital construction projects. The President of the Company cum Governor of the Canal Zone Government has already taken measures to cut spending, but has shied away from major reductions which would lead to strong opposition from Panama Canal employee groups, (e.g., elimination of a 15% tropical pay differential).

Impact of the Proposed Measurement Rules Amendments

Of the seven substantive amendments, five will increase total measurement tons, leading to higher toll assessments, and two will lower total assessments. The net effects of the amendments on tolls are shown below:

Company Estimates of Annual Tolls Impact of Rules Amendments[1]/
($ in thousands)

Measurement Rule Amendments	Ship Type: General Cargo	Container Ship	Passenger	All Other[2]/	Total
Amendments which Increase Measurement tons:					
Deck Cargo	+578	+4,332	+9	+1,038	+5,957
Fuel	+2,290	+356	+117	+2,965	+5,728
Hatch Exemption	+209	+101	+5	+477	+792
Public Rooms	--	--	+423	--	+423
Water tanks	+198	+1	+3	+290	+492
Amendments which Decrease Measurement tons:					
Boatswain's Stores	-118	-213	-7	-641	-979
Engr. Shops	-11	-8	-1	-45	-65
All Flags Tolls Increase	+3,146	+4,569	+550	+4,083	+12,348
% Increase	+10%	+28%	+28%	+4%	+9%
U.S. Flag Tolls Increase	+410	+1,708	+59	+156	+2,333
% Increase	+12%	+37%	+16%	+3%	+17%

1/ Shipping companies generally believe that the Company's estimates of tolls impact are understated.

2/ Includes dry bulk carriers, tankers, specialized product carriers.

Maritime Industry Views

Shipping companies, unions, port authorities and selected industries (e.g., lumber companies) have filed objections with the Panama Canal Company regarding the proposed amendments. The most commonly-cited objections to the amendments have been the following:

--the amendments constitute a "de facto" toll increase, the impact of which has not been satisfactorily evaluated.

--the amendments particularly impact containerships and hence are "discriminatory." Furthermore, because the U.S.-flag fleet has more containerships than do foreign-flag fleets, U.S. shipping companies sustain a proportionally greater financial injury.

--the amendments do not improve the accuracy of the measurement of ship cargo capacity and hence are not more equitable.

--the amendments' impact on tolls will have negative side effects; it will:

...further reduce Canal traffic and therefore dampen positive revenue effects of the amendments.

...increase ocean freight rates and contribute to inflation.

...lead to the abandonment of some shipping services and divert cargo passing through North Atlantic U.S. ports to cross-continental rail or truck transportation (leading to possible environmental degradation).

--the amendments, and the perceived toll increases they cause, beg the issue of the Company's ability to cut costs and thereby obviate the need for additional revenue.

The Company published the amendments in the Federal Register in July 1975, received written replies, opened the issue to hearings, and in November the Company's Board of Directors approved the original recommendations. The maritime industry is highly irritated over the fact that the Board approved the amendments without change, seemingly having ignored the industry's many objections.

Despite the wide range of objections filed with the Company, the maritime industry is principally concerned with only one amendment -- the "on-deck cargo" amendment. This amendment would have the effect of measuring all on-deck cargo transiting the Canal, and assessing tolls accordingly. Currently on-deck cargo is excluded from measurement and toll assessment.

Measurement by the Company of deck loads of 102 containerships transiting the Canal showed that the net tonnage (and therefore tolls) for these ships as a result of the application of the deck cargo rule would increase by 28% in the aggregate, although the net tonnage of U.S.-flag vessels in the group would increase by 37%. As shown in the table in the previous section, the on-deck cargo rule accounts for about half of the annual estimated rules toll increase of $12 million.

Two major U.S. shipping company associations-- the American Institute of Merchant Shipping (AIMS) and the American Maritime Association (AMA)--have privately indicated to us that if the on-deck cargo rule were dropped from the package of amendments, the opposition of their member companies to the remainder of the amendments would be minimal.

Congressional Views

Although the Congress has no statutory role relative to the establishment of Panama Canal Company tolls, the maritime industry has generated strong support for its position in both the House and Senate. In the House, Mrs. Sullivan (Chairman of the Merchant Marine and Fisheries Committee) and Mr. Metcalfe (Chairman of the Panama Canal Subcommittee), as well as 29 other members of the House, have cosigned a letter to the President asking that no action be taken on the pending measurement rules amendments until the House has had the opportunity to review the measurement formulas in detail at future hearings (letter attached). Likewise in the Senate, Senators Magnuson (Chairman of the Commerce Committee) and Long (Chairman of the Merchant Marine Subcommittee) have "join[ed] with Members of the House of Representatives who have expressed their interests in this to you and request that no action be taken on these proposed changes until adequate Congressional review of this important subject has been undertaken."

Mrs. Sullivan and Mr. Metcalfe have also requested a "full investigation" of the financial situation of the Panama Canal Company by the GAO, and have sent an extensive list of questions on the anticipated impact of the proposed measurement rules to the Company. However, hearings have not yet been scheduled in either House or Senate. Company staff report that little congressional action could be expected if the President were to delay action on the amendments--that the primary purpose of congressional intervention is to obstruct Company action which would be injurious to the U.S. merchant marine.

Agency Views

The following agencies have expressed no objection to the proposed amendments: Justice, Treasury, Federal Maritime Commission, Agriculture, National Security Council, and Council of International Economic Policy. Agencies which have expressed concerns are as follows:

-- Commerce. The Commerce Department opposes the proposed amendments and recommends that Presidential approval "be delayed until a thorough assessment of the problems which are raised by these proposals can be completed." Commerce reiterates most of the objections raised by the maritime industry, along with the following additional points:

...The amendments deviate from the concepts established in 1937 by a Presidentially-appointed committee. The amendments should be evaluated by a body of the same level before approval.

...The amendments adversely impact U.S.-flag containerships, the most competitive element of the U.S.-flag fleet. In the long term, the amendments could result in an increased need for Federal assistance to the U.S. merchant fleet.

...The on-deck cargo amendment is not precisely defined and administration may be difficult.

--Transportation. DOT recommends that "additional analysis would be desirable before... issuance of the regulations" based on the following:

...If diversion of cargo from ocean carriage to cross-continential land carriage were to result from the amendment, there could be benefits to the U.S. railroad industry but disbenefits to the U.S. shipping industry. This should be assessed.

...The Senate may ratify the 1969 International Convention on Tonnage Measurement of Ships, which would establish new parameters for measuring shipping tonnages. Although the law would not enter into force until at least two years later, and although the Company would not be legally required to alter its measurement system, "it might seem reasonable for the...Company to consider developing a system employing the same... parameters as those used in the Tonnage Convention."

-- State. The State Department advises that the amendments have no effect on the sensitive U.S. treaty negotiations with the Republic of Panama over the status of the Panama Canal. State further reports that foreign shipping interests have objected to the amendments and the governments of Greece, Norway, Spain, Japan, Italy and Sweden have made representations to the Department of State critical of the changes. State concludes that the "complaints should be carefully considered and treated appropriately in any final decision."

Discussion of the Merits and Demerits of the Proposed Amendments

The rules of measurement currently employed by the Panama Canal Company are based on the principle that canal tolls are to be assessed on the "earning capacity" of vessels. Earning capacity of vessels is defined as space available for carriage of cargo and passengers. In the most general terms, this determination is made by measuring the volume of the space enclosed by the entire vessel (gross tonnage) and deducting from this total, that space, such as the engine room, which is not available for the carriage of cargo or passengers (net tonnage). The assumption is that every net cubic foot of below-deck space can be potentially used. A ship's net capacity, therefore, is currently the sole basis for toll assessments. Net capacity does not consider such factors as volume, weight, or value of cargoes carried (utilization of capacity). Because the system entails measuring the ship instead of the cargo, ships only need to be measured once, instead of transit-by-transit, and administration of the system is thereby facilitated.

The Panama Canal vessel measurement system, like almost all other vessel measurement systems, is derived from principles originally laid down in nineteenth century England by George Moorsom. Moorsom established the principle of measuring vessels net capacities as determined by all enclosed (below-deck) spaces as measured in cubic feet, divided by 100, so that one ton represents 100 cubic feet of space. Almost all vessel measurement systems start with the Moorsom method for determining gross tonnage. However, differences often result from the application of differing exemptions and deductions in arriving at net tonnage figures. Panama Canal and Suez Canal systems are similar and produce similar net tonnages.

Six Minor Amendments

Of the seven substantive measurement rule amendments proposed by the Panama Canal Company, six are relatively non-controversial. These six would alter, in a minor way, existing exemptions and deductions for the following spaces: fuel tanks, hatchways, water tanks, public rooms on passenger vessels, boatswain's stores, and engineer's shops. The first four would have the effect of increasing tonnage measurements. The last two would have the effect of decreasing tonnage measurements. These are further described below:

-- Amendments which increase measurement tons:

...Fuel. The amendment would substitute actual measurement of fuel spaces for the existing rule by which the deduction for fuel is normally computed at 75% of the measured space of the engine room.

...Hatch Exemption. The amendment would eliminate the current exclusion of the cubical contents of hatchways. In modern ship design, hatch covers fit over the top of hatchways and the space under the hatch cover is available for cargo.

...Water Tanks. The amendment would eliminate the current exclusion of the measurement of water tanks used for fresh water for ship use. This would achieve consistency with the treatment of other like spaces that are not allowed as measurement deductions.

...Public Rooms. The amendment would eliminate the current exclusion of the measurements of public rooms (e.g., dining rooms, lounges, barber shops, swimming pools). This is based on the premise that public rooms are spaces available for the use of the passengers and hence a consistent application of the earning capacity concept precludes deduction of these spaces.

-- Amendments which decrease measurement tons;

...Boatswain's Stores. The amendment would permit exclusion of measurements for boatswain's stores on the premise that space used for this purpose is unavailable for stowage of cargo, passenger use, or other directly related purposes.

...Engineers' Shops. This amendment would allow deductions of measurements for engineers' shop space over the current arbitrary deduction ceiling of 50 tons. Actual measurements of engineers' shops would determine the applicable deduction.

The intent of these six amendments is to avoid "double counting" of selected ship spaces and/or refine measurement standards in accord with changed ship design. None of the above six proposed amendments have been strongly opposed by the maritime industry as a whole. However, passenger vessel operators are upset over the "public rooms" amendment which would increase their toll assessments by about $550 thousand annually (+28%). U.S.-flag vessel operators account for only $59 thousand of the total.

The On-Deck Cargo Amendment

Currently, on-deck cargo (e.g., containerized cargo, stores, livestock) is excluded from measurement and toll assessment. The seventh amendment proposed by the Panama Canal Company

would require the measurement of all on-deck cargo for every vessel transit. The proposed amendment describes this as follows:

> "The deck space occupied by the goods thus carried shall be determined at the time of the application of the vessel for passage through the canal and shall be deemed to be the space limited by the area occupied by the goods and by straight lines enclosing a rectangular space sufficient to include the goods."

The on-deck cargo amendment has generated a great deal of heat on the part of the maritime industry (e.g., the amendment is alleged to be "arbitrary and capricious" and "discriminatory" against both containership operators and the U.S.-flag fleet).

Containerships are the primary carriers of on-deck cargo. By this amendment, if a containership operator transited the Canal with no on-deck containers on one occasion, 50 on another, and 100 on another, he would be charged differently on each occasion. The Panama Canal Company believes the amendment is desirable because there is "no doubt that the use of the deck for deckloads adds to the space of the vessel available for carrying cargo, and hence is a valuable component of earning capacity of the vessel required to be measured."

Few would disagree with the proposition that, in theory, on-deck cargo carriage should be subject to toll assessment. However, the Company's proposal for assessing on-deck cargo poses serious problems, principally because it is inconsistent with other Company cargo measurement rules. The inconsistency results from the fact that the on-deck cargo amendment requires measurement and toll assessment for all cargo actually carried on deck. Utilization of on-deck space, therefore, would be the basis for toll assessment. However, as previously explained, the existing Panama Canal ship measurement system for below-deck space is based on the principle of net ship capacity, assuming no wasted space resulting from the type of cargo carried or manner of carriage and irrespective of the amount of cargo actually carried on a given transit.

The result of the inconsistency is a toll assessment system which appears to be prejudicial to containership operators. Much of the below-deck space is lost in containerships because rectangular container cells cannot fully utilize the curved spaces against the hull of the vessel and because spaces must be left between containers. As partial compensation for this lost space, containerships carry containers on deck. In effect, the containership operator has chosen

to offset the somewhat reduced carrying capacity of the vessel with greater efficiency in cargo handling. In this light, the proposed amendment does not account for "lost space" on containerships and thereby constitutes a serious deviation from the concept of measurement which requires tolls to be assessed against vessels' actual cargo carrying capacities.

Approval of the on-deck cargo amendment would penalize this form of cargo carriage. It would require continued toll assessment for all below-deck space, whether or not utilized, and would superimpose a tolls burden for on-deck cargo carriage. In fact, it appears that containership operators are already relatively "over assessed." FY 1975 data indicate that, when recomputed on a dollar-per-ton-carried basis, containership operators were assessed $2.12 per ton compared with $1.15 for general cargo ship operators.

Based on the above, it may be appropriate for the Panama Canal Company to reevaluate the tonnage measurement system to determine if it is prejudicial to certain classes of carriers, and, if so, to recommend remedial actions.

Options

#1. Approve all seven amendments in their entirety.

#2. Approve all but the on-deck cargo amendment. Request the Company to reevaluate on-deck cargo measurement rules in the context of the overall equities/inequities of the existing measurement system.

#3. Disapprove all seven amendments. Request the Company to further study alleged prejudicial aspects of the existing measurement system.

Discussion of Options

Option #1

Pro

-- The amendments, in the aggregate, improve the tonnage measurement standards which have been in force for the past 38 years in terms of accuracy and equity.

-- The amendments add revenues to the Company (until a toll increase is put into effect) in a period in which the Company's financial situation is seriously deteriorated.

-- Insofar as the Company is able to collect additional revenues now, the magnitude of the future general toll increase could be reduced. The smaller the general toll increase, the less strenuous will be the opposition to it.

Con

-- The appropriateness of the on-deck cargo amendment is not clear. It is inconsistent with the existing measurement system and appears prejudicial to containership operators who would suffer a heavy toll burden (+37%).

-- Approval of the amendments may give the false impression of curing the Company's financial woes, whereas only a general toll increase can generate sufficient revenues to make the Company self-sustaining.

-- Approval of the amendments runs counter to expressed maritime industry and congressional requests to the President. This could lead to congressional action to restrict Administration authority relative to the Canal (e.g., make all toll proposals subject to congressional review). This, in turn, could endanger the more important future general toll increase.

Option #2

Pro

-- It retains most of the amendments, thereby improving the overall cargo measurement system.

-- Insofar as there are justifiable grievances against the on-deck cargo amendment and/or the cargo measurement system as a whole, the issues could be further studied by the Company.

-- Disapproval of the on-deck cargo amendment would almost entirely diffuse U.S. maritime industry dissatisfaction with the amendments package.

-- It allows Congress to hold hearings on the on-deck cargo issue, per congressional requests to the President. Congressional action to circumscribe Administration authorities would be unlikely.

Con

-- Insofar as approximately $6 million in revenues will be forfeited if the amendment is not approved, the deficit situation of the Company will worsen by a like amount and the amount of the general toll increase will have to be raised accordingly to accommodate the loss. The higher the toll increase, the more likely will be strenuous industry opposition to it.

Option #3

Pro

-- It would completely negate maritime industry and congressional criticisms.

-- Insofar as the industry and the Congress will have been mollified on this issue, it may lessen tensions relative to the announcement of a future toll increase (although the magnitude of the increase will certainly be an issue of contention).

Con

-- The measurement rule anomalies of the current system will be maintained indefinitely.

-- It may make it more difficult to approve future Canal toll proposals by leading the industry and Congress to think that vigorous opposition to such proposals will lead to their rejection by the President.

-- Insofar as approximately $12 million in revenues will be forfeited if the amendment is not approved, the deficit situation of the Company will worsen by a like amount and the amount of the general toll increase will have to be raised accordingly to accommodate the loss.

Tab C

United States Senate
COMMITTEE ON COMMERCE
WASHINGTON, D.C. 20510

December 19, 1975

The Honorable Gerald A. Ford
President of the United States
The White House
Washington, D. C. 20500

Dear Mr. President:

Great concern has been expressed to us over the anticipated consequences on U. S.-flag ocean carriers, particularly container-ship operators and forest product shippers, resulting from the proposed changes in the rules for measuring vessels transiting the Panama Canal.

The Panama Canal Company's proposal will actually result in the third increase in Canal toll charges in less than 18 months. Despite a large number of written and oral statements presented to the company concerning the proposed changes which were published in the Federal Register on July 31, 1975, the measurement rules changes have been submitted for your action without modification.

There appears to be a substantial number of very serious questions regarding statutory requirements and treaty provisions as well as significant economic and transportation issues involved in these proposals.

We join with Members of the House of Representatives who have expressed their interests in this to you and request that no action be taken on these proposed changes until adequate Congressional review of this important subject has been undertaken.

Sincerely yours,

Warren G. Magnuson

WARREN G. MAGNUSON, U.S.S.

RUSSELL B. LONG, U.S.S.

U.S. House of Representatives
Committee on
Merchant Marine and Fisheries
Room 1334, Longworth House Office Building
Washington, D.C. 20515

December 8, 1975

The President
The White House
Washington, D. C.

Dear Mr. President:

We have been advised that the Board of Directors and Stockholder of the Panama Canal Company have transmitted for your approval certain changes to their Rules for Measurement of Vessels. Since historically it has been the responsibility of the President of the United States to gauge the effect of changes in Panama Canal rules on the national transportation policy of the United States, we wish to communicate to you some of our concerns which we feel you should be cognizant of in making your decision on this matter. The purpose of this letter is to request that you sign the proposed rules only after a thorough review of the national economic consequences of these changes and upon the advice of those agencies in the Executive Branch who can best speak to the effect of the proposed rules on this Nation's commerce.

We are increasingly concerned with the financial well-being of the Canal. In July of 1974, a 19.7 percent toll rate increase was approved, the first since the opening of the Canal. We should note that no toll increase was required during these many years since the constantly escalating number of vessel transits and increasing vessel size generated sufficient revenue to keep ahead of constantly rising Canal Company costs.

The need for the 1974 general increase in the toll rate was premised upon certain accounting changes made by the Company, decreasing vessel transits, and increasing operating and overhead costs. We were assured it was necessary if the Company were to continue in a "break-even" status, as is required by statute. The additional financial burden placed on America's commerce was estimated to be many millions of dollars annually. It is noted that the current proposed rules change would result in an additional 37 percent assessment for deck cargo on containerships. Our carriers simply cannot afford these added operating costs, and the current proposed rules could be much more detrimental to U. S. commerce than the 1974 increase.

The proposed rules in question represent another de facto toll rate increase, although the burden would be largely borne by certain types of vessels, notably U.S.-flag containerships. While only eight percent of the annual transits of the Canal are made by vessels of U.S.-flag registry, approximately 37 percent of the containerships which transit the Canal are U.S.-flag vessels. The average containership which transits the Canal today pays about $19,000 in tolls. Under the proposed measurement rules, it would pay approximately $26,000. Since the Company has not yet prepared and released its fiscal year 1975 report, except for traffic statistics, it is not now possible to assess either the increased revenue resulting from the 1974 toll increase or the necessity for these proposed rules. We do know that vessel transits and cargo tonnage are continuing to decline, and that Company costs are continuing to rise. We believe that steps can and must be taken to reverse these trends.

At the time of the tolls increase last year, the Committee did not take any action since we felt the increase was reasonable inasmuch as it was the first and only increase since the Canal has been in existence. The present proposal to change the Canal Company's Rules for Measurement of Vessels presents a different picture, however. Among other things, it will affect the competitive balance between the continental railroads and the water carrier Canal users, and the burden will fall most heavily on several U.S.-flag container and passenger ship operators. In addition, if this change is approved, we

note the Canal Company's continuing emphasis on the alleged need for increased revenues, which suggests that the Company may propose another tolls increase in the near future.

We anticipate that the Committee and its Panama Canal Subcommittee will be reviewing the toll and tonnage measurement formulas in some detail at future hearings. We will be particularly interested in evaluating the adverse impact of the proposed rules on the well-being of the U. S. merchant marine and American commercial interests. We will keep you advised of our progress and plans, and again ask that no action be taken at this time on the pending measurement rules change.

Sincerely,

Leonor K. (Mrs. John B.) Sullivan
Chairman

Ralph H. Metcalfe
Chairman
Subcommittee on Panama Canal

Wm. L. Scott

Norman Mineta

Wm J Anderson

Edwin Eilberg

Carroll Hubbard

Wade F. Emery

Dave Treen

Don Bonker

Norman F. Lent

Respectfully

F. de la Garza

David R. Bowen

John B. Breaux

Phil Smith

Matthew J. Rinaldo

Fred B Rooney

Leo Ryan

Don Young

Pete McCloskey

DEMOCRATS
Signed

Leonor K. Sullivan, MO
John D. Dingell, MI
Thomas N. Downing, VA
Paul G. Rogers, FL
John M. Murphy, NY
Walter B. Jones, NC
Mario Biaggi, NY
Glenn M. Anderson, CA
E (Kika) de la Garza, TX
Ralph H. Metcalfe, IL
John B. Breaux, LA
Fred B. Rooney, PA
Paul S. Sarbanes, MD
Bo Ginn, GA
David R. Bowen, MS
Joshua Eilberg, PA
Ron de Lugo,
Carroll Hubbard, Jr., KY
Don Bonker, WA
Les AuCoin, OR
Norman E. D'Amours, NH
Leo C. Zeferetti, NY
James L. Oberstar, MN

REPUBLICANS
Signed

Paul N. McCloskey, Jr., CA
Edwin B. Forsythe, NJ
David C. Treen, LA
Joel Pritchard, WA
Don Young, AL
Norman F. Lent, NY
Matthew J. Rinaldo, NJ
David F. Emery, ME

DEMOCRATS
Did not Sign

Thomas L. Ashley, OH
Robert L. Leggett, CA
Gerry E. Studds, MA
Jerry M. Patterson, CA

REPUBLICANS
Did not Sign

Philip E. Ruppe, MI
Charles A. Mosher, OH
M. G. Snyder, KY
Pierre S. du Pont IV, DE
Robert E. Bauman, MD

Tab D

RESOLUTION

WHEREAS, pursuant to the authority of sections 411 and 412 of Title 2 of the Canal Zone Code, (76A Stat. 27), at a special meeting on July 28, 1975, the Board of Directors of the Panama Canal Company proposed certain amendments to the rules for measurement of vessels for the Panama Canal for the purpose of more accurately reflecting the earning capacity of vessels using the Canal; and

WHEREAS, at the special meeting of the Board of Directors on July 28, 1975, pursuant to the provisions of the applicable regulations of the Panama Canal Company, five members of the Board of Directors were designated as a panel to conduct a public hearing on the proposed changes in the measurement rules; and

WHEREAS, notice of the proposed amendments was published in the Federal Register on July 31, 1975, (40 FR 32140) and a correction was published in the Federal Register on August 11, 1975, (40 FR 34619); and

WHEREAS, the notice of the proposed amendments of the measurement rules invited interested parties to participate in the rulemaking process through submission of written data, views or arguments, and submission of supplementary data, views or arguments at a public hearing to be held in Washington, D. C., on October 6, 1975; and

WHEREAS, in accordance with the notice and the provisions of the Company's regulations governing procedures for rulemaking, interested

parties did submit written data, views and arguments and, at the public hearing on October 6, 1975, submitted supplementary data, views and arguments in reference to the proposed amendments of the measurement rules; and

WHEREAS, the panel designated by the Board of Directors to conduct the hearing has submitted its report, including the written data submitted by interested parties and a full transcript of the hearing, with copies of documents submitted at the hearing and thereafter within the time fixed by the panel, and the recommendations of the panel with respect to the proposed amendments of the measurement rules; and

WHEREAS, all relevant matters presented have been considered by the Board of Directors; and

WHEREAS, the Board of Directors, having given careful consideration to the assessment of the environmental impact of the proposed amendments of the measurement rules, has determined that such amendments would not significantly affect the quality of the human environment;

NOW, THEREFORE BE IT RESOLVED, That, in accordance with sections 411 and 412 of Title 2 of the Canal Zone Code, (76A Stat. 27) the rules of measurement of vessels for the Panama Canal prescribed by the President by Proclamation 2248 of August 25, 1937, be amended upon approval by the President, but not earlier than six months from July 31, 1975, the date of

publication of notice of the proposed change in the Federal Register, by amendment of Part 135 of Title 35 of the Code of Federal Regulations as follows:

PART 135 -- RULES FOR MEASUREMENT OF VESSELS

§ 135.82 [Amended]

1. In § 135.82 the references to § 135.86 are amended to read § 135.85.

§ 135.83 [Amended]

2. In the last line of § 135.83 the reference to § 135.86 is amended to read § 135.85.

3. Section 135.85 is revised to read as follows:

§ 135.85 Certain spaces between inner and outer plating of double bottom.

Space or spaces between the inner and outer plating of the double bottom of a vessel shall be exempted from measurement, except when used, designated or intended for carrying cargo or fuel; but the tonnage of such spaces within the double bottom as are or may be used for carrying cargo or fuel shall be determined and included in the gross tonnage. The tonnage of double bottom tanks available for cargo or fuel may be obtained by multiplying the liquid-capacity weight by the proper conversion factor to get tons of 100 cubic feet.

§ 135.86 [Revoked]

4. Section 135.86 is revoked.

5. Following § 135.112 a new § 135.113, preceded by the undesignated center heading "DECK CARGO," is added, reading as follows:

DECK CARGO

§ 135.113 Deck cargo.

If any ship carries stores, timber, livestock, containers, or other cargo in any space upon an open deck not permanently covered or in spaces exempted under paragraphs (a) and (b) of § 135.82, all tolls and other charges payable on the vessel's net tonnage shall be payable upon the vessel's net tonnage (as defined below in §§ 135.271–287 and §§ 135.321–327) increased by the tonnage of the space occupied at the time at which the tolls or other charges become payable by the goods carried upon deck and not permanently covered or closed-in. The deck space occupied by the goods thus carried shall be determined at the time of the application of the vessel for passage through the canal and shall be deemed to be the space limited by the area occupied by the goods and by straight lines enclosing a rectangular space sufficient to include the goods. The tonnage of the space occupied by the goods shall be ascertained by multiplying together the length, breadth and depth of said rectangular space or spaces and dividing the product by 100 or 2.83, according as the measurements are taken in feet or meters. Nothing in this section shall in any manner affect the provisions of §§ 135.41–42; 135.61–63; or 135.81–88.

§ 135.142 [Amended]

6. In § 135.142 the reference to §§ 135.171–135.182 is amended to read §§ 135.171–135.183.

§ 135.175 [Amended]

7. In § 135.175 the last sentence is amended by adding the words "or fuel" between the words "cargo" and "the tonnage."

8. Following § 135.182 a new § 135.183 is added, reading as follows:

§ 135.183 Hatchways.

The cubical contents of hatchways shall be obtained by multiplying the length and breadth together and the product by the mean depth taken from the top of beam to the underside of the hatch cover.

§ 135.211 [Amended]

9. In § 135.211 the reference in the fourth line to § 135.132 is amended to read § 135.183.

§ 135.271 [Amended]

10. In § 135.271 the reference in the second line to § 135.286 is amended to read § 135.285.

§ 135.273 [Amended]

11. In § 135.273 the reference in the last line to § 135.286 is amended to read § 135.285.

12. In § 135.274, paragraph (c) is amended to read as follows:

§ 135.274 Spaces for stowage of stores or cargo, not deducted.

* * * * *

(c) On supply ships, stores, supplies of all kinds, distilling machinery and distilled water, machines, tools and material for repair work, mines and mining materials, torpedoes, arms, and ammunition.

13. Section 135.281 is revised to read as follows:

§ 135.281 Spaces used for boatswain's stores, deducted.

Spaces used exclusively for boatswain's stores, including paint and lamp rooms, shall be deducted. The deduction of spaces under this section shall be reasonable in extent.

14. Section 135.282 is revised to read as follows:

§ 135.282 Spaces used for engineer's shops, deducted.

Spaces used exclusively for engineer's shops shall be deducted. The deduction of spaces under this section shall be reasonable in extent.

15. In § 135.285 the heading of the section and paragraph (a) are revised to read as follows:

§ 135.285 Water ballast spaces, deducted.

(a) Water ballast spaces, other than spaces in the vessel's double bottom, shall be deducted if they are adapted and used only for water ballast, have for entrance only ordinary circular or oval manholes whose greatest diameter does not exceed 30 inches, and are not available for the carriage of cargo, stores, or fuel. Spaces that would otherwise qualify as water ballast except that they are also used for fuel for the vessel's own use shall be regarded as part of the vessel's fuel space as defined in § 135.390.

* * * * *

§ 135.286 [Revoked]

16. Section 135.286 is revoked.

17. Section 135.287 is revised to read as follows:

§ 135.287 Marking and use of deducted spaces.

Each of the spaces enumerated in §§ 135.275–135.285, unless otherwise specifically stated, shall be subject to such conditions and requirements as to marking or designation and use or purpose as are contained in the navigation or registry laws of the several countries, but no space shall be deducted unless the use to which it is to be exclusively devoted has been appropriately designated by official marking. In no case, however, shall an arbitrary maximum limit be fixed to the aggregate deduction made under §§ 135.271–135.285.

§ 135.322 [Amended]

18. In § 135.322 the reference to § 135.286 in the heading and in the second line of the section is amended to read § 135.285.

§ 135.324 [Amended]

19. In § 135.324 the reference to §§ 135.381–135.383 is amended to read §§ 135.252–135.354, 135.382.

20. Section 135.327 is revised to read as follows:

§ 135.327 Propelling power deductions, how made.

The deductions made for propelling power provided for in §§ 135.323–135.325 shall be made by adding to the space occupied by the engine room as defined in §§ 135.352–135.354 and 135.332, the spaces available for fuel as defined in §§ 135.390 and 135.391.

21. The undesignated center heading preceding § 135.351 is amended to read as follows:

SPACE OCCUPIED BY ENGINE ROOM

§ 135.351 [Revoked]

22. Section 135.351 is revoked.

23. In § 135.352 the last four sentences are revised to read as follows:

§ 135.352 What understood by space occupied by engine rooms.

* * * When a portion of the space within the boundary of the engine or boiler room is occupied by a tank or tanks for the storage of fresh water, lubricating oil, or fuel, including settling tanks, the space considered to be within the engine room shall be reduced by the space taken up by such tanks. Installations not strictly required for the working of the engines or boilers are not to be included in the engine room measurement no matter where situated but given separate deductions when they qualify under §§ 135.271–135.285 and are listed under the appropriate item on page 2 of the Panama Canal Certificate.

24. In § 135.353 the last sentence is revised to read as follows:

§ 135.353 Manner of ascertaining cubical content of spaces occupied by engine room.

* * * Add such contents, as well as those of the space occupied by the shaft trunk and by any donkey engine and boiler located within the boundary of the engine room or of the light and air casing above the engine room and used in connection with the main machinery for propelling the ship, to the cubical contents of the space below the crown of the engine room; divide the sum by 100 or by 2.83, according as the measurements are taken in feet or meters, and the result shall be deemed to be the space occupied by the engine room for purposes of calculating the deduction for propelling power.

25. Section 135.354 is revised to read as follows:

§ 135.354 Manner of ascertaining cubical content of spaces occupied by engine room; where engines and boilers are in separate compartments.

If in any ship in which the space for propelling power is to be measured the engines and boilers are in separate compartments, the contents of each compartment shall be measured separately

in like manner, according to the above method; and the sum of the tonnage of the spaces included in the several compartments shall be deemed to be the space occupied by the engine room for purposes of calculating the deduction for propelling power.

§ 135.381 [Revoked]

26. Section 135.381 and the undesignated center heading preceding that section reading "PROPELLING POWER DEDUCTION FOR VESSELS WITH FIXED BUNKERS, OR HAVING FUEL-OIL COMPARTMENTS THAT CANNOT BE USED TO STOW CARGO OR STORES" are revoked.

§ 135.383 [Revoked]

27. Section 135.383 is revoked.

28. Two new sections numbered §§ 135.390 and 135.391, preceded by an undesignated center heading "SPACES AVAILABLE FOR CARRIAGE OF FUEL" are added, reading as follows:

SPACES AVAILABLE FOR CARRIAGE OF FUEL

§ 135.390 Spaces available for the carriage of fuel.

The spaces available for the carriage of fuel will include the actual volume of tanks or fixed compartments for the storage of lubricating oil or fuel, including settling tanks, which cannot be used to stow cargo or stores and which have been certified by official marking to be spaces for the vessel's own fuel. Dual purpose fuel tanks whose only other use is for the carriage of water ballast will be included in the fuel deduction provided they have been included in the gross tonnage and qualify in all other respects for a deduction.

§ 135.391 Manner of ascertaining cubical contents of spaces available for the carriage of fuel.

The cubical contents of the above-named spaces available for the carriage of fuel shall be ascertained in accordance with the following provisions: For each fuel tank or compartment, measure the mean length. Ascertain the area of three transverse sections of the ship (as set forth in §§ 135.141 or 135.142–135.241 for the calculation of the gross tonnage) to the deck which covers the tank or compartment. One of these three sections must pass through the middle of the aforesaid length, and the two others through the two extremeties. Add to the sum of the two extreme sections four times the middle one, and multiply the sum thus obtained by the third of the distance between the two section. This product, divided by 100 if the measurements are taken in English feet, or by 2.83 if they are taken in meters, gives the tonnage of the spaced measured. When they cannot be readily measured, the tonnage of tanks may also be obtained by using liquid capacity times the conversion factor with one-sixth off for frames in case of peak tanks and one-twelfth off in case of wings or deep tanks.

§ 135.412 [Amended]

29. In § 135.412 the words and figures in the second, third, and fourth lines "other than fuel spaces deducted under §§ 135.351–135.354" are revoked.

30. Section 135.511 is revised to read as follows:

§ 135.511 Administration of rules.

The rules of measurement provided in this part shall be administered by the President of the Panama Canal Company.

[FR Doc.75-31475 Filed 11-20-75;8:45 am]

BE IT FURTHER RESOLVED, That the Secretary of the Panama Canal Company cause notice of the adoption of the amendments of the measurement rules to be published in the Federal Register in the form prescribed by applicable laws and regulations.

BE IT FURTHER RESOLVED, That upon publication of the said notice of amendment of the measurement rules in the Federal Register, the Stockholder of the Panama Canal Company transmit the amendments of said rules to the President for his approval.

Approved except for Section 135.113 which would provide for the inclusion in net tonnage of the space occupied by deck cargo:

_____

Date: _____

THE WHITE HOUSE

WASHINGTON

Dear Mr. Secretary:

Pursuant to Section 411 of Title 2 of the Canal Zone Code, I have reviewed the request of yourself and the Panama Canal Company regarding rules of measurement of vessels transiting the Panama Canal.

I have approved the proposed amendments with the exception of 35 CFR 135.113, the provision for the inclusion in net tonnage of space occupied by on-deck cargo. In principle, I concur that on-deck cargo should be subject to toll assessment, like below-deck cargo. I am concerned, however, that this proposed amendment may tend to discriminate against containership operators. I note, for example, that 1975 data show that toll assessments per ton carried were $2.12 for containerships compared with $1.15 for general cargo ships. The on-deck cargo amendment would dramatically increase containership toll assessments and therefore increase this disparity. I encourage you and the Company to further review the tonnage measurement system to determine if it is prejudicial to certain classes of carriers and, if so, to recommend remedial measures.

I am also greatly concerned over the Panama Canal Company's financial condition, generated by rapidly rising costs and declining vessel transits. Recognizing that the Panama Canal Company and Canal Zone Government are actively seeking to restrain cost increases, I nevertheless request that your office and the Company determine where further reductions can be taken. These reductions are necessary to retain the Company's strict self-sustaining financial status and to minimize any general toll increase which may be needed. Your review should encompass both capital construction and operating expenses of the Panama Canal Company and the Canal Zone Government.

Respectfully,

Honorable Martin R. Hoffman
Secretary of the Army
Washington, D. C. 20310

THE WHITE HOUSE

WASHINGTON

Dear Mrs. Sullivan:

This is in further reply to your December letter to me regarding the measurement rule amendments proposed by the Panama Canal Company and the Secretary of the Army.

I have carefully reviewed the issues. For the reasons cited in my letter to the Secretary of the Army (copy attached), I have approved the proposed amendments with the exception of the so-called "on-deck cargo" amendment. As you know, this is the most important of the amendments proposed for my approval.

As you will note, I have encouraged the Secretary of the Army and the Panama Canal Company to review further the tonnage measurement system to determine if it is prejudicial to certain classes of carriers, and if so, to recommend remedial action. This action also will provide your committee the opportunity to review issues pertaining to the Company's toll structure and financial status, as the committee finds appropriate.

Respectfully,

Honorable Leonor K. Sullivan
Chairman
Merchant Marine and Fisheries
House of Representatives
Washington, D. C. 20515

Attachment

cc: Honorable Ralph H. Metcalfe

THE WHITE HOUSE

WASHINGTON

Dear Mr. Chairman:

This is in further reply to your December letter to me regarding the measurement rule amendments proposed by the Panama Canal Company and the Secretary of the Army.

I have carefully reviewed the issues. For the reasons cited in my letter to the Secretary of the Army (copy attached), I have approved the proposed amendments with the exception of the so-called "on-deck cargo" amendment. As you know, this is the most important of the amendments proposed for my approval.

As you will note, I have encouraged the Secretary of the Army and the Panama Canal Company to review further the tonnage measurement system to determine if it is prejudicial to certain classes of carriers, and if so, to recommend remedial action. This action also will provide your committee the opportunity to review issues pertaining to the Company's toll structure and financial status, as the committee finds appropriate.

Respectfully,

Honorable Warren G. Magnuson
Chairman
Committee on Commerce
United States Senate
Washington, D. C. 20510

Attachment

cc: Russell B. Long

THE WHITE HOUSE
WASHINGTON

Jim -

Spoke to Ken Schwartz of OMB who is handling case (X4506)

To select Option #1 the Resolution would have to be signed - striking out everything that follows "Approved".

He said it was not mandatory but perhaps some letters should go to Congress - i.e. Sullivan & Magnuson who will be very disappointed if this decision is made --

Trudy
3/19/76

Trudy:

Steve Low of NSC called xxxx and said that in view of the strike, they would like to take another look at the Panama Canal package -- noticed that they hadn't seen it the first time as sx far as I could tell, but Jim said tax o.k. to send, but for quick turn around.

S.

THE WHITE HOUSE
WASHINGTON

PANAMA CANAL PACKAGE

Marsh has great problems with it --- (sent memos to Pres. not thru us about it)

All attachments have been typed up in final and Bob Linder has them ready - when package is ready

GBF

THE WHITE HOUSE
WASHINGTON

Bob Linder

With the exception of one person the staffing is finished on the Panama Canal Toll Rates and almost everyone goes with Option II. We will need the documents prepared for the President to sign. Comments received from Research are attached. Can you have the documents prepared?

Trudy Fry
3/12/76

MEMORANDUM OF CALL

TO:

☐ YOU WERE CALLED BY— ☐ YOU WERE VISITED BY—

Marsh

OF (Organization)

Panama Canal

☐ PLEASE CALL → PHONE NO. CODE/EXT.

☐ WILL CALL AGAIN ☐ IS WAITING TO SEE YOU

☐ RETURNED YOUR CALL ☐ WISHES AN APPOINTMENT

MESSAGE

has question
- will be a
couple of days
per Donna

RECEIVED BY	DATE 3/11	TIME

STANDARD FORM 63 GPO : 1969—648—16—80341-1 332-389 63-108
REVISED AUGUST 1967
GSA FPMR (41 CFR) 101-11.6

MEMORANDUM OF CALL

TO: Mudrey

☐ YOU WERE CALLED BY— ☐ YOU WERE VISITED BY—

Jim Jura

OF (*Organization*)

☐ PLEASE CALL ⟶ PHONE NO. CODE/EXT.

☐ WILL CALL AGAIN ☐ IS WAITING TO SEE YOU

☐ RETURNED YOUR CALL ☐ WISHES AN APPOINTMENT

MESSAGE

re: Panama Canal Toll -- de los a timing problem

RECEIVED BY S. | DATE 3/9 | TIME 11:20

STANDARD FORM 63
REVISED AUGUST 1967
GSA FPMR (41 CFR) 101-11.6

GPO : 1969—o48—[illegible]—80341-1 332-389 63-108

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: March 19 Time:

FOR ACTION: cc (for information):

Brent Scowcroft (Steve Low)

FROM THE STAFF SECRETARY

DUE: Date: As soon as possible Time:

SUBJECT:

James T. Lynn memo (2/24/76) re:
Panama Canal Tolls Rules Changes

ACTION REQUESTED:

____ For Necessary Action

____ Prepare Agenda and Brief

__X__ For Your Comments

__X__ For Your Recommendations

____ Draft Reply

____ Draft Remarks

REMARKS:

WE'LL NEED A QUICK TURN AROUND ON THIS ONE.

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James E. Connor
For the President

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: March 6, 1976 Time:

FOR ACTION: cc (for information):

✓ Phil Buchen
✓ Jim Cannon Jack Marsh
✓ Max Friedersdorf ✓ Bill Seidman
✓ Bob Hartmann ✓ Rogers Morton
FROM THE STAFF SECRETARY

more coming

DUE: Date: Wednesday, March 10 Time: 10 A.M.

SUBJECT:

James T. Lynn memo 2/24/76 re
Panama Canal Tolls Rules Changes

ACTION REQUESTED:

____ For Necessary Action ___X___ For Your Recommendations

____ Prepare Agenda and Brief ____ Draft Reply

___X___ For Your Comments ____ Draft Remarks

REMARKS:

Morton - option 2
Hartmann - option 2 — requested they edit the attachments to be sent by President x

Friedersdorf - option 2
Buchen - option #2 plus comments
Cannon - option #2

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James E. Connor
For the President

THE WHITE HOUSE
WASHINGTON

Bob Linder feels (after talking to Cavanaugh) that this is one that we should staff ---

Is there anything special about Panama Canal rates as far as timing?

3/5/76

THE WHITE HOUSE

WASHINGTON

March 9, 1976

MEMORANDUM FOR: JIM CONNOR

FROM: MAX FRIEDERSDORF M.G.

SUBJECT: James T. Lynn memo 2/24/76 re Panama Canal Tolls Rules Changes

The Office of Legislative Affairs concurs with Option 2.

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: March 6, 1976 Time:

FOR ACTION: cc (for information):
Phil Buchen
Jim Cannon Jack Marsh
Max Friedersdorf Bill Seidman
Bob Hartmann
FROM THE STAFF SECRETARY

DUE: Date: Wednesday, March 10 Time: 10 A.M.

SUBJECT:

James T. Lynn memo 2/24/76 re
Panama Canal Tolls Rules Changes

ACTION REQUESTED:

____ For Necessary Action ____X____ For Your Recommendations

____ Prepare Agenda and Brief ____ Draft Reply

____X____ For Your Comments ____ Draft Remarks

REMARKS:

Counsel's Office supports Option #2 because (1) creating a new toll for on-deck cargo is inconsistent with the principle that tolls are levied on ship capacity without regard to utilization; (2) this proposal has encountered the most serious political opposition; and (3) it has the greatest potential for diverting shipments either to foreign carriers or to alternative ship transportation systems.

Ken Lazarus 3/10/76

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

[redacted]
James E. Connor
For the President

THE WHITE HOUSE

WASHINGTON

March 10, 1976

MEMORANDUM FOR: JIM CONNOR

FROM: JIM CANNON

SUBJECT: Panama Canal Tolls Rules Changes

I would recommend approval of Option #2: "Approve all but the on-deck cargo amendment". The on-deck cargo amendment issue needs more study.

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

= Gorog
= Connor

Date: March 6, 1976 Time:

FOR ACTION:
Phil Buchen
Jim Cannon
Max Friedersdorf
Bob Hartmann

cc (for information):
Jack Marsh
Bill Seidman

FROM THE STAFF SECRETARY

DUE: Date: Wednesday, March 10 Time: 10 A.M.

SUBJECT:

James T. Lynn memo 2/24/76 re
Panama Canal Tolls Rules Changes

ACTION REQUESTED:

____ For Necessary Action
____ Prepare Agenda and Brief
__X__ For Your Comments
__X__ For Your Recommendations
____ Draft Reply
____ Draft Remarks

REMARKS:

Concur
WHG
for LWS
3-9-76

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James E. Connor
For the President