

Transit of Vessels Containing High-Level Radioactive Substances through the Panama Canal

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Since 1992, vessels transporting radioactive wastes and mixed plutonium/uranium oxide (MOX) fuel elements between Japan and the U.K./France have utilized several sea routes. The Panama Canal option has been a favorite since 1998, as it is shorter than traversing either the Cape of Good Hope or Cape Horn. Shipments of these radioactive wastes or fuels have drawn strong protests from many of the countries located adjacent to these navigation routes. South Africa, Argentina, Chile, Brazil, Nauru and Kiribati have all prohibited the nuclear cargo ships from entering their Exclusive Economic Zones, for example. Several Caribbean nations have also been vocal in their opposition to the shipments. Curiously, Panama, one nation that shares a risk at least as great as those mentioned above – if not greater – has not opposed the shipments through its waters and national territory.

This presentation focuses on Panama and the debate concerning shipments of high-level radioactive substances through the Panama Canal. The official position of the Panama Canal Authority (ACP), responsible for administration of the Canal, emphasizes the allegedly low risk of the transport, satisfactory security and contingency planning, and freedom of navigation and right of innocent passage in the nation's EEZ and territorial sea. This position has predominated in Panama perhaps because the ACP is autonomous and politically more powerful than other Panamanian institutions; the Canal operations are of great economic importance to Panama; Japanese vessels constitute a significant percentage of Canal transits; and these shipments began prior to the end of 1999 when Panama gained full control of its Canal resource.

Nevertheless, Panamanian officials have strong legal grounds to adopt a different position concerning these radioactive shipments. Panama has ratified UNCLOS and could give a different interpretation to the right of innocent passage than it currently does. Panama considers the Gulf of Panama to be a historic bay and could prohibit dangerous activities in its internal waters. The Panamanian Constitution and national legislation all clearly express the government's duty to protect the environment and public health and prohibit uses of the Canal that cause substantial risk of harm. Panama has a strong basis to oppose these shipments through its Canal. By failing to exercise its opposition, the Panamanian Government is placing an unacceptable risk on the environment, public health, and Canal operations and is, thus, acting irresponsibly to its citizens and natural resources.