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United States Department of State

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Foreign  
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of the  
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1934

Volume V

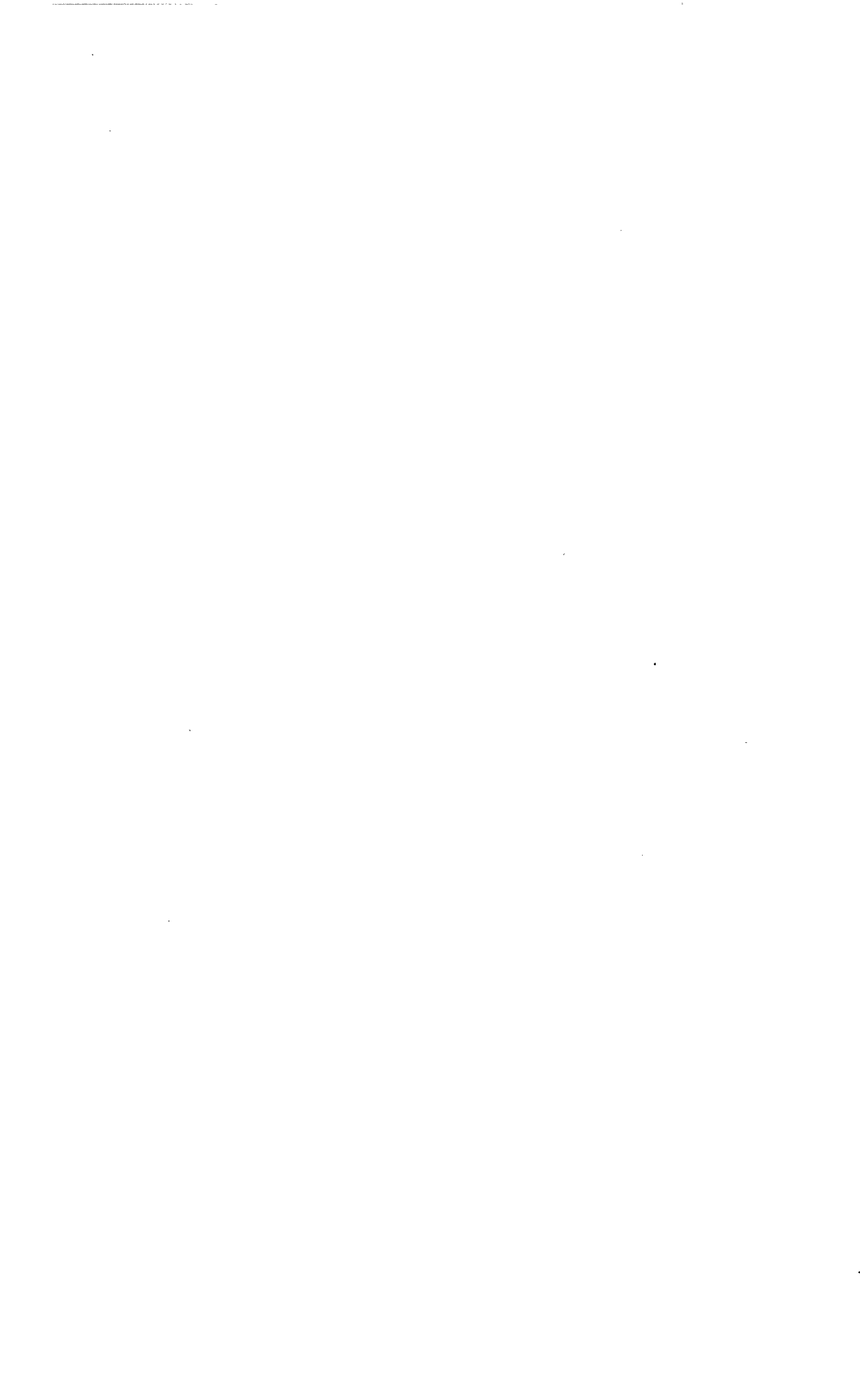
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Foreign Relations  
of the  
United States

Diplomatic Papers

1934

(In Five Volumes)

Volume V  
The American Republics



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## EFFORTS TO STOP ILLEGAL ENTRY OF CHINESE NATIONALS FROM MEXICO INTO THE UNITED STATES

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## PRELIMINARY DISCUSSIONS RESPECTING A TRADE AGREEMENT BETWEEN THE UNITED STATES AND NICARAGUA

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## POLITICAL UNREST IN NICARAGUA; POLICY OF THE UNITED STATES NOT TO INTERFERE IN NICARAGUAN INTERNAL AFFAIRS

1934 Feb. 5 (37)	<i>From the Minister in Nicaragua (tel.)</i> Conversation with the President, who expressed his concern over a letter recently received from bandit leader Sandino, and also over the tactless attitude currently being displayed by the Guardia Nacional. President's intention to send for Sandino for a frank discussion.	526
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Feb. 20 (102)	<i>From the Minister in Nicaragua</i> Prolonged negotiations between Sandino and President Sacasa regarding the situation arising from expiration of the peace pact of February 2, 1933; view of the Guardia that Sandino should turn over all his arms and munitions to the Guardia.	528
Feb. 22 (57)	<i>From the Minister in Nicaragua (tel.)</i> Report of machine gun attack on Sandino and companions by a detachment of the Guardia, and of Sandino's alleged removal to a military prison; concern felt by Presidential circles over the apparent lack of discipline in the Guardia and threat of possible reprisals by Sandino's followers.	529
Feb. 22 (58)	<i>From the Minister in Nicaragua (tel.)</i> Advice that Sandino and several of his companions were killed in the attack reported previously and that relations between the President and Somoza, Jefe Director of the Guardia, have become severely strained.	531
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Feb. 23 (62)	<i>From the Minister in Nicaragua (tel.)</i> Advice that there have been no disorders in Managua following Sandino's death, although situation is still somewhat tense.	533
Feb. 23 (64)	<i>From the Minister in Nicaragua (tel.)</i> Improvement in relations between Somoza and President Sacasa as result of a conference between them, at which it was agreed that the former would conduct an investigation into the Sandino killing.	534
Feb. 23 (65)	<i>From the Minister in Nicaragua (tel.)</i> Request that Department consider releasing a statement of U. S. policy toward nonconstitutional governments, in order to quiet anti-American feeling in Managua and to check any possible military move against the Government.	535
Feb. 24 (67)	<i>From the Minister in Nicaragua (tel.)</i> Further arguments in favor of the issuance of a U. S. policy statement.	536
Feb. 25 (69)	<i>From the Minister in Nicaragua (tel.)</i> Details on the political situation, including evidence of General Somoza's subordination to the President's authority.	537
Feb. 25 (70)	<i>From the Minister in Nicaragua (tel.)</i> Advice that General Somoza, his staff, and other Guardia officers called on the President and reiterated their oath of allegiance to him.	537
Feb. 25 (71)	<i>From the Minister in Nicaragua (tel.)</i> Inquiry by an American aviator as to whether his citizenship would be in jeopardy if he were to pilot a plane, chartered by the Guardia, to drop bombs on the Sandinistas.	538
Feb. 26 (15)	<i>To the Minister in Nicaragua (tel.)</i> Explanation of Department's view on suggestion for a statement on U. S. policy of nonrecognition of revolutionary governments.	538
Feb. 26 (73)	<i>From the Minister in Nicaragua (tel.)</i> Voluntary surrender of many Sandinistas to the Guardia in operation in the vicinity of Wiwili.	539
Feb. [26] (76)	<i>From the Minister in Nicaragua (tel.)</i> Information that the President is taking steps to transform the Casa Presidencial into virtually an armed camp, and that citizens of Managua cannot reconcile his actions with the Guardia's recent oaths of allegiance and Somoza's assurance of loyalty.	540



## NICARAGUA

## POLITICAL UNREST IN NICARAGUA; POLICY OF THE UNITED STATES NOT TO INTERFERE IN NICARAGUAN INTERNAL AFFAIRS—Continued

Date and number	Subject	Page
1934 Feb. 27 (78)	<i>From the Minister in Nicaragua (tel.)</i> Nicaraguan feeling that the United States favors the Guardia as contrasted with the Government.	541
Feb. 28 (79)	<i>From the Minister in Nicaragua (tel.)</i> Provisions of a bill drafted by the Nicaraguan Congress which, if enacted, would give legal status to the Guardia.	542
Mar. 1 (80)	<i>From the Minister in Nicaragua (tel.)</i> Joint efforts of the U. S., Mexican, and Salvadoran Ministers to persuade the President to issue an order to the Guardia along lines of the proposed Congressional bill.	543
Mar. 1 (82)	<i>From the Minister in Nicaragua (tel.)</i> Advice from the President that an order to the Guardia, in substantially the same terms as the draft law, is ready to be signed and has been accepted by General Somoza.	546
Mar. 2 (87)	<i>To the Minister in Nicaragua</i> Department's views relative to the inquiry recently made by an American aviator in Managua as communicated in Minister's telegram No. 71, February 25.	547
Mar. 2 (83)	<i>From the Minister in Nicaragua (tel.)</i> Conversation with the President regarding the general condition of the country.	548
Mar. 5 (85)	<i>From the Minister in Nicaragua (tel.)</i> Advice that the President has reduced some of the defensive measures described in telegram No. 76, February 26.	548
Mar. 21 (99)	<i>From the Minister in Nicaragua (tel.)</i> Foreign Minister's statement that Secretary Hull, while in Montevideo, indicated that the Department would have no objection to reorganization of the Guardia in any manner desired by the Nicaraguan Government; request for Secretary's views thereon.	549
Mar. 22 (27)	<i>To the Minister in Nicaragua (tel.)</i> Expression of position in reply to Minister's telegram No. 99, March 21.	550
Mar. 26 (147)	<i>From the Minister in Nicaragua</i> Support of Department's position with respect to the Guardia.	550
Apr. 9 (106)	<i>From the Minister in Nicaragua (tel.)</i> President's appointment of his brother as Chief of Staff of the Guardia.	551
Apr. 12 (23)	<i>From the Minister in Costa Rica (tel.)</i> Information of Costa Rican press interview with a Sandino aide who alleged that the American Minister in Nicaragua was the true chief of the Guardia and one of the conspirators in the Sandino killing; inquiry as to whether Department plans to refute the allegations. (Footnote: Telegram repeated to Nicaragua.)	551
Apr. 13 (32)	<i>To the Minister in Nicaragua (tel.)</i> Advice that Department has cabled the Minister in Costa Rica, with reference to his No. 23, April 12, that it does not intend to dignify such absurd stories by the issuance of a denial.	551

## NICARAGUA

## POLITICAL UNREST IN NICARAGUA; POLICY OF THE UNITED STATES NOT TO INTERFERE IN NICARAGUAN INTERNAL AFFAIRS—Continued

Date and number	Subject	Page
1934 May 4 (192)	<i>From the Minister in Nicaragua</i> Conversation with ex-President Moncada, during which Department's policy in relation to the forthcoming elections was interpreted to him as being that of absolute noninterference; request for Department's opinion as to correctness of the interpretation.	552
May 21 (78)	<i>To the Minister in Nicaragua</i> Approval of Minister's interpretation of Department's policy.	554
June 14 (273)	<i>From the Minister in Nicaragua</i> Continued circulation of rumors in Nicaragua as to U. S. support of the Guardia and Somoza's political activities.	554
June 19 (130)	<i>From the Minister in Nicaragua (tel.)</i> Press report that Somoza has admitted responsibility for the death of Sandino.	556
June 22 (131)	<i>From the Minister in Nicaragua (tel.)</i> Request for authorization to issue a statement (draft text printed) denying all the rumors which have been circulated regarding U. S. interference in Nicaraguan political affairs.	556
June 23 (37)	<i>To the Minister in Nicaragua (tel.)</i> Authorization to make the suggested statement, with certain modifications.	557
June 24 (133)	<i>From the Minister in Nicaragua (tel.)</i> Suggested amendment to the statement as modified by Department. (Footnote: Department's approval of amendment.)	558
June 25 (134)	<i>From the Minister in Nicaragua (tel.)</i> Advice that statement as approved by Department will be released for publication in the evening press.	558

## EMBARGO ON THE SHIPMENT OF ARMS AND MUNITIONS TO NICARAGUA CONTINUED AT THE REQUEST OF THE NICARAGUAN GOVERNMENT

1934 May 22 (224)	<i>From the Minister in Nicaragua</i> Recommendation, in the light of present circumstances in Nicaragua, that the embargo on exportation of arms and munitions of war be lifted entirely.	559
June 6 (86)	<i>To the Minister in Nicaragua</i> Instructions to inform President Sacasa that Department is contemplating lifting the embargo and hopes that such action will be agreeable to him.	560
July 10 (316)	<i>From the Minister in Nicaragua</i> President Sacasa's desire that embargo not be lifted at the present time; suggestion, therefore, of a procedure whereby shipments of war material be made only when requested through and approved by the Nicaraguan Legation in Washington.	561

## NICARAGUA

EMBARGO ON THE SHIPMENT OF ARMS AND MUNITIONS TO NICARAGUA CONTINUED  
AT THE REQUEST OF THE NICARAGUAN GOVERNMENT—Continued

Date and number	Subject	Page
1934 July 30 (110)	<i>To the Minister in Nicaragua</i> Department's willingness to adopt the procedure suggested, and instructions to notify the Nicaraguan Government accordingly.	563
Aug. 16 (144)	<i>From the Minister in Nicaragua (tel.)</i> Reiteration of recommendation contained in despatch No. 316, July 10, concerning future U. S. policy in regard to shipments of arms and ammunition to Nicaragua.	563
Aug. 17 (50)	<i>To the Minister in Nicaragua (tel.)</i> Advice that U. S. future policy as indicated in instruction No. 110, July 30, will take effect as soon as Department learns of its formal acknowledgment by the Nicaraguan Government.	564
Aug. 25 (148)	<i>From the Chargé in Nicaragua (tel.)</i> Receipt of formal acknowledgment from the Nicaraguan Government.	564

## PROLONGATION OF THE LIFE OF THE NICARAGUAN CLAIMS COMMISSION

1933 June 9 (579)	<i>To the Minister in Nicaragua</i> Instructions to communicate to the Nicaraguan Government the Department's views relative to prolongation of the life of the Claims Commission beyond the end of the year.	565
June 30 (1346)	<i>From the Minister in Nicaragua</i> Transmission of copy of a bill presented to Congress by the Finance Minister providing for continuation of the Claims Commission until not later than June 30, 1934, and for extension of its jurisdiction.	566
July 29 (618)	<i>To the Minister in Nicaragua</i> Department's approval of the bill which has now been enacted into law, except for the time limit for filing claims, and with certain other understandings.	567
Aug. 23 (1429)	<i>From the Minister in Nicaragua</i> Conversation with the British Chargé regarding his Government's probable objections to article 6 of the new law.	568
Sept. 9 (1452)	<i>From the Chargé in Nicaragua</i> Nicaraguan reluctance to accept certain of Department's reservations to the new law.	569
1934 Mar. 10 (96)	<i>From the Minister in Nicaragua (tel.)</i> Information that a new law has been passed extending the time limit for presenting claims to the Commission.	570
June 26 (293)	<i>From the Minister in Nicaragua</i> Opinion of Judge Stanley, President of Claims Commission, relative to cash settlement of Commission's awards, and his suggestion that representations be made to the Nicaraguan Government along these lines.	571

## NICARAGUA

PROLONGATION OF THE LIFE OF THE NICARAGUAN CLAIMS COMMISSION—*Con.*

Date and number	Subject	Page
1934 July 13 (323)	<i>From the Minister in Nicaragua</i> Status of a bill now before Congress providing for extension of the life of the Commission to August 31. (Footnote: Signature of the bill by the President July 17.)	572
July 17 (101)	<i>To the Minister in Nicaragua</i> Expression of belief, in connection with Judge Stanley's suggestion, that formal representations for cash settlement of awards are not warranted in the present circumstances.	572
Aug. 24 (420)	<i>From the Chargé in Nicaragua</i> President Sacasa's opinion that the National Bank of Nicaragua will extend a loan for cash settlement of all pending awards in the Commission; status of a bill before Congress to extend the life of the Commission to December 31.	573
Sept. 13 (468)	<i>From the Chargé in Nicaragua</i> Advice that the National Bank has approved the loan requested by the Nicaraguan Government.	574

## DISCLAIMER BY THE DEPARTMENT OF STATE OF ANY SPECIAL RELATIONSHIP WITH RESPECT TO THE FINANCIAL AFFAIRS OF NICARAGUA

1933 Nov. 14	<i>From the Nicaraguan Minister of Finance</i> Memorandum (text printed) expressing Nicaraguan desire to reduce the expenditures of certain institutions, including the Guardia Nacional and the Customs Collectorship.	575
1934 July 25 (358)	<i>From the Minister in Nicaragua</i> Advice that the Collector General of Customs has been asked to refrain from submitting his annual and monthly reports on funds to the U. S. Secretary of State, as this gives a false impression of present U. S.-Nicaraguan relations; inquiry as to Department's views in the matter.	577
Sept. 27 (134)	<i>To the Chargé in Nicaragua</i> Information that the Department, after an exhaustive study, has concluded that no special relationship with respect to financial affairs of Nicaragua now exists between the United States and Nicaragua; that a note (text printed) has been addressed to the Nicaraguan Chargé in this sense.	579
Sept. 27 (135)	<i>To the Chargé in Nicaragua</i> Authorization to inform Collector General of Customs that the action reported in despatch No. 358, July 25, meets with Department's approval.	579

## PANAMA

## NEGOTIATIONS BETWEEN THE UNITED STATES AND PANAMA FOR THE REVISION OF THE TREATY OF NOVEMBER 18, 1903, AND THE ADOPTION OF A RADIO CONVENTION

Date and number	Subject	Page
1933 Dec. 16	<i>From the Secretary of State to the Acting Secretary of State</i> Receipt of a memorandum from the Panamanian Foreign Minister (text printed) listing certain questions and proposals left pending following the visit of President Arias to President Roosevelt in October 1933. (Footnote: Information that the Secretary was in Montevideo.)	581
1934 Mar. 16	<i>From the Panamanian Minister for Foreign Affairs</i> Request that the United States, in its consideration of pending questions, give preference to those relating to radio communications, commercial activities of the Panama Railroad Company, and building of a trans-Isthmian highway.	584
Apr. 18	<i>From the Panamanian Minister</i> Views relative to Panama's aspirations to establish her own radio telegraph stations and suggested bases upon which an agreement to this end might be reached with the United States.	587
Apr. 24 (71)	<i>From the Minister in Panama (tel.)</i> Advice that the Panamanian Minister in Washington has been instructed to suggest to the Department that minor differences between Panama and the United States be settled by administrative action before discussions are held on the proposed radio communications convention.	590
July 23	<i>To President Roosevelt (tel.)</i> Inquiry as to whether the President has reached any decision, after his talks with President Arias, on Panamanian right to engage in ship to shore radio service and opportunity to furnish food supplies to ships transiting the Canal. (Footnote: Information that President Roosevelt was aboard the U. S. S. <i>Houston</i> on a Caribbean cruise.)	590
Undated	<i>From President Roosevelt (tel.)</i> Advice that no final decision was reached with President Arias on the two points referred to in telegram of July 23.	591
Sept. 22	<i>From the Panamanian Minister</i> Submission of a draft convention on radio communications and a draft article modifying certain provisions of article 2 of the treaty of 1903 between Panama and the United States relative to construction of the Panama Canal.	591
Oct. 4	<i>To the Secretary of War</i> Communication of President's views on extension of U. S. political jurisdiction over New Cristobal and on disposition of certain lands not required by the activities of the Canal and the Panama Railroad Company.	592
Oct. 24	<i>From the Panamanian Minister</i> President Arias' appointment of a Commission for furthering negotiations with the United States leading to the conclusion of treaties for permanent regulation of relations between the two countries.	592
Oct. 25 (179)	<i>To the Minister in Panama</i> Transmission of copies of draft documents submitted by the Panamanian Minister on September 22.	593

## PANAMA

## NEGOTIATIONS BETWEEN THE UNITED STATES AND PANAMA FOR THE REVISION OF THE TREATY OF NOVEMBER 18, 1903, AND THE ADOPTION OF A RADIO CONVENTION—Continued

Date and number	Subject	Page
1934 Oct. 30	<i>To the Panamanian Legation</i> Indication of reasons why the United States cannot accept the Panamanian draft article modifying certain provisions of article 2 of the 1903 treaty.	593
Oct. 31	<i>To the Panamanian Minister</i> Comments on U. S. offer of a basis of agreement on all questions which have given rise to misunderstandings in the past between Panama and the United States.	595
Nov. 5	<i>Press Release Issued by the Department of State</i> Announcement that the first of a series of conferences has been held between U. S. and Panamanian officials looking toward agreements for the removal of differences arising from the construction and operation of the Panama Canal.	595
Nov. 8	<i>From the Panamanian Minister</i> Acknowledgment of Department's memorandum of October 30; detailed considerations in support of the Panamanian position relative to its draft article.	596
Dec. 1	<i>From the Panamanian Legation</i> Discussion of clause in the Panamanian draft article which proposes alleviation of the inequalities in treatment of Panamanian citizens employed by the Canal and the Panama Railway Company.	603
Dec. 4	<i>From the Chief of the Division of Latin American Affairs to the Assistant Secretary of State</i> Transmittal of the Panamanian memorandum of December 1, and suggestion that the Panamanian conferees might be informed of U. S. willingness to cooperate insofar as is feasible in improving employment conditions of Panamanian citizens.	608
Dec. 27 (543)	<i>From the Minister in Panama</i> Account of conversations with the Foreign Minister and the President, both of whom voiced disappointment over the apparent lack of progress in the Washington conversations.	609

## OBJECTIONS BY PANAMA TO RECEIVING PAYMENT OF THE PANAMA CANAL ANNUITY IN DEVALUED DOLLARS

1934 Jan. 17	<i>Memorandum by the Chief of the Division of Latin American Affairs</i> Conversation with the Panamanian Minister, who requested that the Canal annuity of \$250,000 due on February 26, be paid on a gold basis; also that the difference between annuity on a gold basis and annuity in "legal tender" be paid directly to the Panamanian Government rather than to the Fiscal Agent.	612
Jan. 25	<i>From the Chief of the Division of Latin American Affairs to the Assistant Secretary of State</i> Transmittal of memorandum of January 17, and submission of views and recommendations relative to the Panamanian request.	613

## PANAMA

OBJECTIONS BY PANAMA TO RECEIVING PAYMENT OF THE PANAMA CANAL ANNUITY  
IN DEVALUED DOLLARS—Continued

Date and number	Subject	Page
1934 Feb. 21	<i>To President Roosevelt</i> Memorandum (text printed) embodying U. S. views on Panama's request, and suggestion that substance of the memorandum might be orally communicated to the Panamanian Minister by the Chief of the Latin American Division. (Footnote: President's concurrence in suggestion.)	616
Feb. 26	<i>Memorandum by the Chief of the Division of Latin American Affairs</i> Explanation of U. S. views to the Panamanian Minister, who set forth his country's position and requested a conference with U. S. officials to discuss the matter further.	617
Feb. 28	<i>Memorandum by the Chief of the Division of Latin American Affairs</i> Conference between U. S. officials and the Panamanian Minister, who stated that the Fiscal Agent of Panama had been instructed to decline to receive the U. S. payment of \$250,000 made on February 26.	619
Feb. 28	<i>Memorandum by the Panamanian Minister, Handed to the Department of State, March 1, 1934</i> Insistence of Panama on U. S. legal obligation to pay the Canal annuity in gold dollars of the weight and fineness of the year 1904.	620
Mar. 2	<i>Memorandum by the Chief of the Division of Latin American Affairs</i> Telephone conversation with the Panamanian Minister, who reported a Cabinet decision to devote to the service of its loans the additional payment which it expects to receive through payment of the annuity on a gold basis.	623
Mar. 2	<i>From Sullivan &amp; Cromwell</i> Information that Mr. Cromwell, Fiscal Agent of Panama, has deemed it necessary upon advice from the Panamanian Government to return the check tendered by the United States on February 26.	624
Mar. 20	<i>To President Roosevelt</i> Suggested procedure for dealing with the situation which has arisen over U. S. payment of the Canal annuity, and inquiry as to whether procedure meets with President's approval. (Footnote: President's approval of the procedure.)	624
Mar. 31 (29)	<i>To the Minister in Panama (tel.)</i> Advice of procedure decided upon by the United States for dealing with the Canal annuity matter.	625
	(Note: Final settlement of the matter by article 7 of the general treaty of friendship and cooperation between the United States and Panama, signed March 2, 1936.)	626

## PANAMA

## NEGOTIATIONS REGARDING PROPOSED TRANSFER OF TWO RADIO STATIONS BY THE UNITED STATES NAVY TO THE REPUBLIC OF PANAMA

Date and number	Subject	Page
1933 Nov. 13 (160)	<i>From the Minister in Panama (tel.)</i> Advice that U. S. Navy is now prepared to turn over its radio stations at La Palma and Obaldía to the Panamanian Government but suggests certain changes in installations, and wishes Legation to make informal inquiries of the Panamanian Government as to its views.	626
Nov. 21 (105)	<i>To the Minister in Panama (tel.)</i> Information that Department perceives no objection to informal inquiries being made.	627
1934 Jan. 29 (14)	<i>From the Minister in Panama (tel.)</i> Conversation with the Foreign Minister, who stated that Navy's conditions are not acceptable to Panama because of their effect on radio stations' freedom of action.	627
Feb. 4 (19)	<i>From the Minister in Panama (tel.)</i> Submission to Foreign Minister on February 2 of an informal draft agreement covering transfer of radio stations. Comments on opposing views of Navy and Panama regarding ship to shore service.	627
Feb. 4 (106)	<i>From the Minister in Panama</i> Further information regarding Panamanian desire for an ample measure of independence in her radio facilities.	628
Feb. 9 (23)	<i>From the Minister in Panama (tel.)</i> Résumé of Foreign Office memorandum setting forth Panamanian views on the draft agreement submitted on February 2.	629
Mar. 3 (142)	<i>From the Minister in Panama</i> Report on efforts made to reconcile conflicting views of the Navy and the Panamanian Government, and decision that no further approach should be made to Panama pending further instructions from Department.	630
Mar. 10 (146)	<i>From the Minister in Panama</i> Recent informal conversation with President Arias during which he expressed his desire for the use of a broadcasting set in his own office for the delivery of weekly addresses on Government activities.	634
Mar. 23 (25)	<i>To the Minister in Panama (tel.)</i> Decision to wait until agreement has been reached on the general question of radio control in Panama before sending further instructions on the proposed transfer of stations at Obaldía and La Palma.	635
May 2 (213)	<i>From the Minister in Panama</i> Transmission of an amended draft agreement covering transfer of the two radio stations, text of which was agreed upon during a conference held with Naval officials on April 29.	635
July 6 (124)	<i>From the Minister in Panama (tel.)</i> Request for instructions as to presentation to the Panamanian Government of draft agreement transmitted in despatch No. 213, May 2.	637
July 7 (74)	<i>To the Minister in Panama (tel.)</i> Reiteration of Department's position as set forth in telegram No. 25, March 23.	638



## PANAMA

## DISAPPROVAL BY THE SECRETARY OF STATE OF PROTEST BY THE MINISTER IN PANAMA AGAINST SPEECH OF A MUNICIPAL OFFICIAL

Date and number	Subject	Page
1934 Nov. 3 (476)	<i>From the Minister in Panama</i> Note filed with the Foreign Office (text printed) protesting against a speech recently delivered by a public official of Colon which contained slurring remarks against the United States.	638
Nov. 6 (478)	<i>From the Minister in Panama</i> Foreign Office reply dated November 6 (text printed) disclaiming liability or sanction on behalf of the Government for statements of a municipal officer.	639
Nov. 20	<i>To the Minister in Panama</i> Opinion that action of filing a formal protest against the speech of a Panamanian municipal employee was inadvisable in the circumstances.	640

## URUGUAY

## PRELIMINARY DISCUSSIONS RESPECTING A TRADE AGREEMENT BETWEEN THE UNITED STATES AND URUGUAY

1934 Jan. 16 (574)	<i>From the Minister in Uruguay</i> Transmittal of Uruguayan Government's draft text of proposed commercial treaty with the United States, and of a proposal regarding quotas and import restrictions advanced by the Under Secretary of State for Foreign Affairs.	641
Jan. 31	<i>Memorandum by the Secretary of State</i> Conversation with the Uruguayan Chargé, during which the Secretary outlined the general situation of the United States in regard to entrance into reciprocity treaties.	643
July 18	<i>Memorandum by the Secretary of State of a Conversation With the Uruguayan Minister</i> Secretary's explanation of the difficulties which must be overcome before actual development of trade agreements can be considered.	644
Aug. 9 (698)	<i>From the Chargé in Uruguay</i> Information relating to the importance to be attached to exports of meat in any treaty negotiations carried on with Uruguay.	644

## EFFORTS OF THE DEPARTMENT OF STATE TO SECURE EQUITABLE TREATMENT FOR AMERICAN INTERESTS WITH RESPECT TO URUGUAYAN EXCHANGE RESTRICTIONS

1934 Apr. 6 (22)	<i>To the Minister in Uruguay (tel.)</i> Request for opinion as to the advisability of making representations to the Uruguayan Government with reference to discrimination against American trade, allegedly being practiced in the matter of foreign exchange allotment.	647
Apr. 11 (27)	<i>From the Minister in Uruguay (tel.)</i> Opinion that it would be unwise to make any representations before elections take place on April 19.	647

## URUGUAY

## EFFORTS OF THE DEPARTMENT OF STATE TO SECURE EQUITABLE TREATMENT FOR AMERICAN INTERESTS WITH RESPECT TO URUGUAYAN EXCHANGE RESTRICTIONS—Continued

Date and number	Subject	Page
1934 June 1 (501)	<i>From the Consul General at Montevideo</i> Figures on allotments of exchange to American interests for the first four months of 1934, and totals of Uruguayan exports to the United States for the same period for comparison therewith.	648
July 3 (30)	<i>To the Chargé in Uruguay (tel.)</i> Notification of the forthcoming special mission to certain South American countries of John H. Williams, economist of the Federal Reserve Bank of New York, for the purpose of investigating exchange problems, and of possibility of his including Montevideo if time permits.	650
July 10 (31)	<i>To the Chargé in Uruguay (tel.)</i> Press reports from London that American interests in Uruguay are being jeopardized by British-Uruguayan foreign exchange negotiations; instructions to discuss the matter with the Foreign Minister.	650
July 12 (47)	<i>From the Chargé in Uruguay (tel.)</i> Conversation with Foreign Minister, who stated that the Uruguayan Government was insisting upon retaining sufficient exchange for other than British indebtedness.	651
July 13 (48)	<i>From the Chargé in Uruguay (tel.)</i> Foreign Minister's advice that Uruguay is now offering to give Great Britain 90 percent of sterling exchange and to retain the balance of 10 percent for use in allocation of exchange to other countries.	651
July 13 (670)	<i>From the Chargé in Uruguay</i> Further conversations with Foreign Minister, during which he gave the impression of considerable anxiety as to Uruguayan ability to resist British pressure for allocation of all sterling exchange.	652
July 16 (673)	<i>From the Chargé in Uruguay</i> Acknowledgment of telegram No. 30, July 3, relative to the Williams mission, and opinion that Mr. Williams' presence in Montevideo would be of positive importance.	653
July 17 (83)	<i>To the Ambassador in Brazil (tel.)</i> For Williams: Urgent request that time be found for a visit to Montevideo in view of recent developments in the Uruguayan exchange situation.	654
July 19 (32)	<i>To the Chargé in Uruguay (tel.)</i> Opinion that Uruguayan allocation of only 10 percent of sterling exchange, to countries other than Great Britain would constitute discrimination against American interests; instructions to discuss this with the Foreign Minister.	655
July 20 (49)	<i>From the Chargé in Uruguay (tel.)</i> Conversation with the Under Secretary of Foreign Affairs, who advised that no decision has yet been reached in the sterling exchange matter.	655
July 23 (50)	<i>From the Chargé in Uruguay (tel.)</i> Conversation with the Foreign Minister, who stated definitely that equal treatment would be extended to American interests.	655

## URUGUAY

EFFORTS OF THE DEPARTMENT OF STATE TO SECURE EQUITABLE TREATMENT  
FOR AMERICAN INTERESTS WITH RESPECT TO URUGUAYAN EXCHANGE  
RESTRICTIONS—Continued

Date and number	Subject	Page
1934 July 31 (685)	<i>From the Chargé in Uruguay</i> Details of the visit of the Williams mission to Montevideo and the series of conferences held with Uruguayan officials and representatives of American interests.	656
Aug. 8 (54)	<i>From the Chargé in Uruguay (tel.)</i> Advice that a Uruguayan decree for the control of free exchange will become effective on August 15.	659
Oct. 5 (287)	<i>To the Chargé in Uruguay</i> Transmittal of a copy of Williams' report on the Uruguayan exchange situation, and request that an investigation be made in accordance with certain suggestions contained in the report.	660
Oct. 17 (794)	<i>From the Chargé in Uruguay</i> Conversation with the Director of the Bank of the Republic regarding the possibility of a total removal of exchange restrictions in Uruguay.	661
Oct. 20 (802)	<i>From the Chargé in Uruguay</i> Detailed information in answer to Department's request contained in instruction No. 287, October 5.	662
Dec. 11 (871)	<i>From the Chargé in Uruguay</i> Transmittal of report on the balance of payments between the United States and Uruguay.	664

## CHILE

### EFFORTS OF THE DEPARTMENT OF STATE TO SECURE EQUITABLE TREATMENT FOR AMERICAN INTERESTS WITH RESPECT TO CHILEAN EXCHANGE RESTRICTIONS<sup>1</sup>

825.5151/132 : Telegram

*The Ambassador in Chile (Sevier) to the Acting Secretary of State*

SANTIAGO, January 5, 1934—6 p. m.  
[Received 8:20 p. m.]

1. The following was left at the Foreign Office:

“Recently during the course of discussions concerning the question of exchange facilities the Foreign Office made the following tentative suggestions towards according the American Government satisfaction on exchange matters.

The Chilean Government, recognizing that its commerce and [omission] in the United States are not subject to any exchange control restrictions, would undertake to accord reciprocal treatment to the United States by lifting entirely all control or exchange restrictions with reference to genuine American interests in Chile. This would include the removal of these restrictions both as to exchange for the current needs of American commerce and for the repatriation of recognized American funds.

In view of the nature of the retirement funds of Americans the repayment of these funds would be subject to special treatment.

In order that the suggested solution may be placed before the Secretary of State may the Embassy be authorized to present this solution as a concrete proposal on the part of the Chilean Government?”

The Minister of Foreign Affairs authorized me yesterday to present this as a concrete proposal on the part of the Chilean Government.

The plan does not remove entirely the discriminatory effects on our commerce of Chile's compensation agreements. Neither does it grant us the relatively small percentage of exchange at the preferential rate now obtained by countries with blocking agreements, but the door would not be closed to private agreements such as in Brazil.

However, the agreement does have the great merit of asserting the principle of trade free from exchange control and it is believed would constitute an important step towards breaking down compensation and exchange restrictions in Chile. Furthermore, it would eliminate the disadvantage inherent in any blocking arrangement aiming to accord

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<sup>1</sup> Continued from *Foreign Relations*, 1933, vol. v, pp. 103-153. See also section entitled “Special Mission of John H. Williams To Investigate Foreign Exchange Problems in Argentina, Brazil, Chile, and Uruguay,” *ibid.*, 1934, vol. iv, pp. 390 ff.

us preferential exchange which can be obtained only at the expense of other American interests doing business in Chile. The proposed arrangement would be fair to all classes of American interests and would not later prejudice the movement of exchange should a settlement be reached in favor of American holders of Chilean bonds.

I have discussed this proposal with the Secretary. While he does not desire to go into technical details he approves the principle of the proposal as an important step looking towards the removal of trade barriers.

I feel that the proposal represents a sincere and courageous effort to give us satisfaction and that it is about the maximum we can hope to obtain. The advantages towards Chilean-American trade and relations far outweigh, in my opinion, the disadvantages and I recommend that it be accepted as a basis for an agreement.

Please instruct by cable.

SEVIER

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825.5151/132 : Telegram

*The Acting Secretary of State to the Ambassador in Chile (Sevier)*

WASHINGTON, January 6, 1934—3 p. m.

7. Your urgent telegram No. 1, January 5, 6 p. m. The Department is not clear what the scope of the Chilean proposal is and desires further clarification. How would the Chilean proposal affect an importer of American goods who sought foreign exchange to pay for them? What would be the attitude of the Exchange Control Commission toward his request for exchange? Would the exchange be granted to such importers in unlimited amounts and if not upon what principle? Does proposal mean that the Exchange Control Commission will continue arbitrarily to decide what amounts it will grant to American interests? Or does the proposal merely mean free access to the bootleg market, and an opportunity to make private agreements, which is the *de facto* situation at present? What advantage does the Chilean Government allege would be obtained by private agreements? What is meant by "genuine American interests[?]"

PHILLIPS

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825.5151/132½ : Telegram

*The Ambassador in Chile (Sevier) to the Acting Secretary of State*

SANTIAGO, January 9, 1934—5 p. m.

[Received 6 p. m.]

3. Department's telegram No. 7, January 6, 3 p. m. The scope of the proposal contemplates the removal of all control and restrictions

with regard to the purchase of exchange for the needs of American business. This includes current business, frozen credits and other transfers. Exchange for American needs would no longer be subject to the Exchange Control Commission. This means that our commerce would be on a free basis; that an importer of American goods would unrestrictedly purchase the exchange required wherever available and that exchange for American business could be obtained in unlimited amounts subject only to the normal laws of supply and demand. In operation the Chilean Government would need only to be satisfied that transactions under the agreement were not effecting the transfer of non-American funds, hence the insertion of the word "genuine".

While no immediate advantages are apparent in private agreements the proposal does not preclude them later if found desirable.

American interests which have been discreetly sounded on the general principle contained in the proposal view it with favor. Among other reasons they appreciate the great advantage of being able to liquidate their frozen assets legally and as they desire rather than awaiting a possible future liquidation at a preferential rate. Before undertaking to work out the mechanical details the Foreign Office desires to be informed whether principle is acceptable to the United States Government as a basis for negotiations. Please instruct by cable in this respect.

SEVIER

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825.5151/132½ : Telegram

*The Acting Secretary of State to the Ambassador in Chile (Sevier)*

WASHINGTON, January 11, 1934—6 p. m.

10. Your telegram No. 3, January 9, 5 p. m. Does the Chilean proposal mean that the Exchange Control Commission will continue to allot to American interests the same share of available exchange as heretofore and that, in addition, persons desiring to remit funds to the United States will have legal access to other sources of exchange such as the bootleg market? The point of particular importance is whether persons desiring to make remittances to the United States would receive treatment no more unfavorable, at the hands of the Exchange Control Commission, than they have received in the past. Would the Chilean proposal include assurances on this point?

As we see it at present, the Chilean proposal offers merely that in addition to what they now receive from the Exchange Control Commission, persons desiring to remit funds to the United States would have (1) legal access to bootleg market, (2) right to use exchange obtained therein for any purpose desired, that is, for frozen credits or other transfers.

You may say to the Chilean authorities that this Government is not yet in a position either to reject or accept the proposal, but that it will be given sympathetic consideration if formulated in precise language.

Has a similar proposal been made to the British Embassy and, if so, have you any information as to the attitude of the British Government thereto?

PHILLIPS

825.5151/133 : Telegram

*The Ambassador in Chile (Sevier) to the Acting Secretary of State*

SANTIAGO, January 13, 1934—noon.

[Received 2:10 p. m.]

4. Department's telegram No. 10, January 11, 6 p. m. The principle of the proposal is to remove as concerns American interests all exchange control and restriction, thus establishing reciprocal treatment concerning exchange. In other words, the Chilean Government would undertake unequivocally to do away with all exchange control as far as American interests are concerned placing our commerce virtually on the same basis as it was prior to the establishment of exchange control in 1931.

In addition to the advantages set forth in your paragraph 2 there should be added the following which have been confirmed in conversations with the Foreign Office:

(1) The abolishment as concerns American interests of the Exchange Control Commission whose pernicious influence upon Chile-American trade and relations is only too well known to the Department. The exchange requirements of American interests would be subject not to any arbitrary allocation of the present commission but would be obtained for any purpose in the export draft and bootleg markets limited only by the economic law of supply and demand.

(2) The legalizing for our commerce of the favorable *de facto* situation regarding export drafts. At present purchases of these drafts for imports are authorized in unlimited amounts because of an excess supply. This, however, is merely countenanced as a matter of Government convenience and can be restricted at any time.

(3) The legalizing of the transfer of frozen credits. While at present a few big interests have been able to repatriate funds in the export draft market through special confidential and extra legal arrangements with the Government, many concerns and particularly the smaller ones have hesitated to do so fearing subsequent prosecution.

(4) Transfers of frozen funds at the current commercial rates without the premium of about 15 per cent now paid the Government on such transactions.

(5) Most important is the restoration of Chile-American economic relations to a free basis by the removal of the artificial trade barrier of exchange control and restriction.

Your paragraph 3. The Embassy is uncertain whether the Department's apparent reluctance to express its position in regard to the principle of exchange liberalization involved in the Chilean proposal is because of certain considerations of general policy extraneous to Chile or because it was not satisfied as to the full scope of the proposal. I believe that the Chilean Government is disposed to give us, in working out the details, the formal assurances which we may require to put the arrangement successfully in operation but I feel we should decide now whether the general principle involved is acceptable before asking the Chilean Government to elaborate details.

The Chilean Government made subsequently a similar proposal to the British, and the Embassy has recommended its acceptance stating that "the proposal offers a practical basis for a solution to our exchange problems in Chile". The British Foreign Office is now considering the proposal.

SEVIER

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825.5151/133 : Telegram

*The Acting Secretary of State to the Ambassador in Chile (Sevier)*

WASHINGTON, January 16, 1934—6 p. m.

13. Your No. 4, January 13. Department's position as conveyed in previous cables to you is not complicated by any considerations of general policy either related to Chile or extraneous to Chile. It merely still feels unable to measure the meaning of the Chilean proposal.

As we understand it, the Chilean Government offers to permit purchasers of American goods and those who wish to remit frozen funds to the United States freely to do so. But as long as there is an Exchange Commission functioning, and exporters of Chilean products must turn over to that Commission the main proceeds of their foreign sales, how satisfactory an opportunity does this offer to purchasers of American goods? That is the primary question under consideration here.

Is the Department to understand that all exporters to the United States and to all countries other than those with which Chile has compensation agreements will be absolved from turning over their exchange to the Exchange Commission whereby it will become available in the bootleg market for purchase by those who wish to import from the United States or to transfer funds to the United States?

The Department would be inclined to accept the Chilean proposal in principle, subject to agreement on details, provided the answer to the question set forth in the preceding paragraph is in the affirmative and provided that the Chilean Government will undertake not



to diminish the amount of foreign exchange thus available to American interests, by the conclusion of new compensation agreements or otherwise.

Please keep Department informed of British position.

PHILLIPS

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825.5151/134 : Telegram

*The Ambassador in Chile (Sevier) to the Acting Secretary of State*

SANTIAGO, January 19, 1934—4 p. m.

[Received 10 p. m.]

7. To confirm our understanding, the substance of the Department's telegram No. 13, January 16, 6 p. m. was discussed fully at the Foreign Office. The Under Secretary stated that an [*in?*] order legally to permit purchases of American goods and remittances to the United States the Chilean Government would modify either by virtue of an international treaty or appropriate legislation the monetary law under which the Exchange Control Commission now operates. This measure would remove exchange control and import and export restrictions with countries such as the United States, not imposing similar restrictions. However, control would be retained on transactions with countries having compensation agreements or imposing restrictions on Chilean trade.

Your paragraph[s] 2 and 3. The proceeds of sales to countries not imposing restrictions would not be turned over to the Commission but would be available in the free market. Importers of American goods or those transferring funds to the United States would still have free access to any available unblocked exchange arising from transactions with countries imposing restrictions. It is understood that the bank acceptances of the nitrate industry will be practically liquidated by March and it is estimated that \$2,500,000 will be returned to Chile during the present year which will be available in the export draft market. Specifically then the purchaser of American goods would have a legal right without any restriction to make purchases desired. Today they have no right, the recent liberality of the Commission being due exclusively to Government convenience in view of the excess supply of exchange availabilities.

Your paragraph 4. Chile is not in a position to make a formal commitment that the amount of exchange available to American interests as indicated above will not be diminished by new compensation agreements. In order not to lose its European markets it has already been and is still being forced to conclude such arrangements. However, even though Chile should refuse to make any others it would result in no gain to us in current business since the countries denied

such arrangements would undoubtedly prohibit imports from Chile. This would mean not only the reduction of Chile's purchasing power abroad and a direct loss to American copper and nitrate industries but the possible impairment of our enormous stake in Chile. We must therefore take into consideration the special aspects of our problem. Obviously some exchange would be removed from the free market through the conclusion of new compensation treaties. On the other hand as indicated above there will be important new sources of exchange. It is believed that exchange availabilities will be sufficient to cover American goods within Chile's very limited import purchasing power.

Stated in my telegram No. 1, January 5, 6 p. m. is that our frozen commercial assets would not be liquidated at the preferential rate created through blockage arrangements. In this connection it would be pointed out that in the German Treaty about to be signed <sup>2</sup> the term commercial credits has been extended to include unliquidated government and municipal public works contracts.

While the Chilean offer to us on the eve of concluding further compensation agreements would appear paradoxical, in reality it indicates only too clearly the strong pressure being exerted on this country and which the Foreign Office itself admits it is unable to resist. To be effective therefore our attack against compensation systems should be centered even more in Europe than in Chile.

The British Embassy to receive instructions from London next week. In the meantime it is sending copies of its cables to the British Embassy in Washington.

SEVIER

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825.5151/134 : Telegram

*The Secretary of State to the Ambassador in Chile (Sevier)*

WASHINGTON, January 25, 1934—noon.

14. Your No. 7, January 19, 4.00 p. m. Department still does not feel itself in possession of a sufficiently systematic analysis of Chilean trade relationships and commitments to measure the results of the Chilean proposal. Inasmuch as the Chilean Government by its control of foreign exchange is alone in a position to interpret quantitatively its recent proposal you will please request the appropriate Chilean authorities to supply you with official estimates for 1933 of the totals below-mentioned, in order that this Government may be in a position adequately to judge the value of the Chilean proposal to American interests:

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<sup>2</sup> Signed December 26, 1934; Germany, Reichswirtschaftsministerium, *Deutsches Handels-Archiv*, 1935, p. 532.

- (1) Total exchange created by Chile's exports and otherwise, including the total amount segregated for various national interests under compensation agreements;
- (2) Amounts so segregated;
- (3) Amount to which persons desiring to make transfers to the United States would have access on a free competitive basis.

At the same time you may convey the Department's opinion that a solution might be found if Chile would decide to divide foreign countries into two classes: (1) Countries which would look for their exchange solely to compensation agreements; (2) countries which would derive their exchange solely from the free market. In accordance with this idea, would the Chilean Government agree that access to the free exchange market would under its proposal be available only to countries in the second category? Otherwise it would appear that countries having compensation arrangements would not only be definitely assured certain quantities of exchange under those arrangements, but also would be in a position to compete for exchange available in the free market, largely supplied by sales of Chilean goods to the United States. On the other hand those wishing to make transfers to the United States not only would have no definite assurance through compensation agreements but would have to compete even in the free market with countries which do have such agreements. The Department is loath to believe that such can be the intention of the Chilean Government. Please discuss this point further with it.

In the Department's judgment the importance to the American trade interest of the American owned nitrate enterprises in Chile should not be overestimated, since contrary to the usual tendency of such companies to purchase in the United States the proceeds from nitrate sales under the compensation agreements are being used to finance imports from countries other than the United States.

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825.5151/136 : Telegram

*The Ambassador in Chile (Sevier) to the Secretary of State*

SANTIAGO, January 27, 1934—noon.

[Received 1:10 p. m.]

11. Your telegram No. 14, January 25, noon. The Chilean Government has been requested to supply the official estimates for exchange and has promised to do so as soon as possible. In the meantime reference is made to page 2, enclosure 2, despatch No. 25, December 27th,<sup>3</sup> containing estimates of exchange availabilities for 1933. These indicate, in millions gold pesos of 6 pence:

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<sup>3</sup> *Foreign Relations, 1933*, vol. v, p. 151.

1. Total exchange created 181.

2. Segregated through compensation agreements 42, composed of nitrate blockage 18, and blockage other products 24.

3. And foreign amounts available in free market 139. From this must be deducted an estimated 20 representing exchange for Government expenses abroad and for imports of certain non-American prime necessities. Thus there was available in the free market approximately 119.

Your paragraph number 2. The Department's opinion that a solution might be found if accessibility to the free exchange market is limited to countries not having compensation agreements has been conveyed to the Foreign Office which has again expressed satisfactory assurances on this point.

SEVIER

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825.5151/144a : Telegram

*The Secretary of State to the Ambassador in Chile (Sevier)*

WASHINGTON, February 5, 1934—6 p. m.

18. Representatives of Baldwin Locomotive Works called at the Department this afternoon and stated that despite provision of recently concluded German-Chilean compensation treaty stipulating the use of export rate of exchange for new business, Chilean Government may possibly guarantee a lower rate of exchange for the purchase of German locomotives even at a higher price than that offered by the Baldwin people in order to promote nitrate sales to Germany.

Please confer at once with Wessel Duval, representatives of Baldwin, and if in your judgment discrimination seems probable, discuss this matter informally with appropriate Chilean officials and ask that there be no discrimination against American interests which desire to compete on even terms with other foreigners in Chile.

HULL

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825.5151/145 : Telegram

*The Ambassador in Chile (Sevier) to the Secretary of State*

SANTIAGO, February 6, 1934—noon.

[Received 1:10 p. m.]

17. Your telegram No. 18. The question has been discussed with the representatives of Baldwin and an interview with the Foreign Office has been arranged for tomorrow. In the meantime the Baldwin representative[s] believe it will be helpful for the Department to talk to the Chilean Ambassador who was formerly Director General of Railways and who might be disposed to cable his Government recom-

mending the continued use of Baldwin equipment. The contract will probably be awarded shortly after the return of the Minister of Finance from leave on Thursday.

SEVIER

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825.5151/147 : Telegram

*The Ambassador in Chile (Sevier) to the Secretary of State*

SANTIAGO, February 8, 1934—noon.

[Received 12:05 p. m.]

18. I discussed informally the substance of the Department's telegram No. 18, February 8 [5], 6 p. m., with the Minister for Foreign Affairs requesting that there be no discrimination against American interests. The Minister stated that he was not personally familiar with the question but that it would not be Chile's policy to purchase German railway equipment at a higher price if the American equipment were equally satisfactory. He added that he would talk to the Minister of Finance as soon as the latter returned and would inform us further in the premises.

SEVIER

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825.5151/145 : Telegram

*The Secretary of State to the Ambassador in Chile (Sevier)*

WASHINGTON, February 8, 1934—6 p. m.

19. Your telegram No. 17, February 6, noon. The Department informally apprised the Chilean Ambassador of the circumstances surrounding the Baldwin bid and explained this Government's viewpoint that its nationals should be given equal treatment with other foreign competitors for Chilean business. It was made clear to the Ambassador that all we ask is equality of treatment in the exchange matter. The Ambassador said that he would cable his Government immediately, urging that no step be taken which might be construed as discriminatory and that American companies be given equal exchange treatment.

HULL

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825.5151/134 supp. : Telegram

*The Secretary of State to the Ambassador in Chile (Sevier)*

WASHINGTON, February 17, 1934—2 p. m.

21. Department's telegram No. 14, January 25. The Department is prepared to accept for a trial period an undertaking by the Chilean

Government along the lines of its proposal as amended to date. We understand that the Chilean Government is disposed to accord the following:

1. Lifting of all exchange control and trade restrictions with reference to remittances to the United States. This means legal and free access to the unofficial and export draft markets for (a) repatriation of funds; (b) current commercial transactions. As regards (b) requests of persons seeking foreign exchange to pay for current purchases of American goods would be honored by the competent Chilean authorities at most-favored-nation rates to the extent that such foreign exchange is available. (We understand that in your conversations with the Foreign Office, the latter has expressed its willingness to guarantee that there shall be no discrimination in exchange rates applicable to current and future transactions, as between the United States and other countries including those having compensation agreements. This we regard as essential to protect our new business and the least that the Chilean Government can do in view of its unwillingness to bind itself not to conclude additional compensation agreements.)

2. Purchasers of goods from countries having compensation agreements will not be given legal access to the export draft market, outside of the provisions of the respective agreements, nor to the bootleg market.

3. Within the spirit of the foregoing and bearing in mind that the United States does not discriminate against the commerce of Chile the Government of Chile will give sympathetic consideration to any private proposals which subsequently may be made by American commercial interests with a view to concluding an equitable agreement for the liquidation of frozen credits.

4. The Chilean Government will undertake to facilitate the immediate payment of and to grant priority in the allocation of foreign exchange at the legal rate for sums owing to American citizens resulting from deposits in the Chilean Retirement Fund.

In conveying No. 3 to the Chilean Government you will point out that the recent compensation agreement concluded with Germany aggravates the long continued discrimination against American interests in the matter of the rate of conversion of frozen credits, against which the United States, as Chile's best customer, has protested and continues emphatically to protest.

In order that we may be in a position to judge the fairness of these arrangements, would the Chilean Government be prepared to inform the Embassy monthly if practicable as to (1) the total exchange created by Chile's exports and otherwise, (2) the amount segregated for various national interests under compensation agreements, (3) the amounts made available for purchases from the United States or remittances to the United States.

HULL

825.5151/170

*The Ambassador in Chile (Sevier) to the Secretary of State*

No. 54

SANTIAGO, February 21, 1934.

[Received March 1.]

SIR: I have the honor to refer to the Department's telegram No. 21, February 17, 2 p. m., 1934, informing the Embassy that it is prepared to accept for a trial period the proposal made by the Chilean Government to lift exchange control as concerns American commerce. The substance of the Department's telegram was set forth in a Memorandum, a copy of which is enclosed herewith,<sup>4</sup> and left at the Foreign Office to-day. As will be seen, the Memorandum follows closely the wording employed in the telegram except for one or two slight variations.

It was considered essential to change the text of point No. 1 in order to avoid any possibility of an interpretation limiting the scope of the agreement to the remittance of funds to the United States and thus excluding other transactions such as the re-export of consignment merchandise. The Department will recall the tremendous difficulties which the Embassy has had and continues to experience in obtaining the release of such merchandise. Each case has had to be argued separately since the Control Commission has refused to accept the authorization in any one case as the establishment of a precedent. Favorable action has been obtained only by repeatedly bringing pressure through the Foreign Office. It would be a very great benefit to the interested concerns faced with the problem of returning American goods unsaleable in Chile, if it is definitely established that the accord provides for the removal of trade restrictions as well as exchange control.

The phrase "unofficial market" in point No. 2, has been changed to read "other sources of exchange." This was done for the reason that it was not believed that the Chilean Government would be disposed or could recognize in a formal document the existence of the illegal unofficial or bootleg market. Hence, it was thought desirable to avoid the use of this term in an international agreement.

Point No. 4 has been amplified in order to make a more specific statement concerning the rate of exchange. The employees who were obliged by law to contribute to the Retirement Fund Bank had the privilege of electing the currency in which their individual retirement funds would be constituted, that is, dollars or pesos, the dollar accounts, however, being penalized by receiving at first a lower rate of interest and subsequently no interest at all. As these funds were contributed at a time when a parity of exchange existed, a specific

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<sup>4</sup> Not printed.

understanding should be reached, if possible, to provide a satisfactory rate for the repatriation of the peso accounts. It would appear only fair for the Chilean Government to allocate exchange at the official rate for this purpose. Although the total amount involved is relatively small, it may be difficult to obtain from the Chilean Government the full measure of satisfaction desired. In the conversations which the Embassy has had on this point, the Foreign Office has been extremely vague and has indicated very little interest in giving relief to these small and deserving cases.

This afternoon, in the absence of the Minister for Foreign Affairs, I went over the Memorandum with Mr. Ross, the Minister of Hacienda. Mr. Ross expressed himself most emphatically as desiring to give the United States complete satisfaction and to reach an understanding which would place the commercial relations of the two countries on a better basis. He stated that he realized that Chile's future was bound up with that of the United States and that Europe was not interested in doing anything for Chile and in any event that it was too torn up by its continual bickerings and internal turmoils to give any sympathetic consideration to Chilean affairs. Taking up specifically the points in the Memorandum, Mr. Ross made the following comments:

In regard to point No. 1 he stated that Chile was ready to lift immediately all exchange control restrictions as far as our current trade is concerned. It was also willing to lift the exchange restrictions in regard to frozen credits as had been promised, but in order to work out an orderly process for the transfer of these funds without demoralizing the exchange market, it would be necessary for the Minister of Hacienda to know exactly what amount of money American firms or individuals desired to transfer and approximately over what periods of time. In answer to this point I informed the Minister that the Embassy had this information in its records but would of course have to obtain the consent of the firms involved before supplying it to the Chilean Government.

With reference to the question of discrimination in exchange rates as between the United States and countries having compensation agreements, the Minister stated that a decree had been drafted and would be promulgated to-day or to-morrow, definitely fixing the rate of exchange for all countries at the daily commercial rate of exchange based on the pound or the dollar. (This of course would not refer to the rate on frozen credits provided for in compensation agreements). He added that this would definitely preclude any discrimination as concerns current trade.

With regard to point No. 2, the Minister stated there was no difficulty; that nations which had forced compensation agreements on Chile would be held strictly within the limitations of those agreements.



In discussing point No. 3, Mr. Ross stated that there was no objection as far as he could see to a private proposal being subsequently worked out.

Point No. 4, with regard to the payment of American citizens holding retirement funds seemed to present virtually the only real difficulty in the entire proposal. Mr. Ross stated that the Chilean Government was not in a position to repay all of the dollar accounts in their full value in dollars; that the Government would be prepared to repay dollar for dollar the holders of these accounts who had left Chile or depositors who planned to leave Chile immediately upon the withdrawal of their accounts. On the other hand, he felt that because of the great difference of purchasing power of the dollar in Chile and abroad, depositors who were domiciled in Chile should accept a settlement on a lower basis.

With regard to the peso accounts he stated that the Chilean Government would not be prepared to pay these at the old par value but that some arrangement for what he termed a fair rate of exchange would be worked out for the holders of peso accounts who were now living abroad or who would immediately leave the country upon payment of these accounts.

In reply to the Minister's comments on this question I stated that I would of course transmit his proposal to Washington where it would be given sympathetic consideration but that as I knew that the American Government was very interested in these very worthy cases, I could give no assurance that it would be acceptable.

With regard to supplying the Embassy with monthly statistics on exchange matters, the Minister said that the Chilean Government would be perfectly willing to supply all the information which it could on this question. He pointed out, however, that the form in which the Government received its information from the Customs-house and other sources did not lend itself to breaking down into the statistics which we desired. For example, in the case of nitrate, the export statistics received by the Government would indicate on their face exchange created more or less equal to the value of nitrate sold whereas in actual fact, a large part of the proceeds of such sales was used in payment of financing costs and other charges against the industry and did not come back to Chile in the form of free exchange. A somewhat similar situation also existed in regard to the copper companies.

In conclusion the Minister again assured me of the very earnest desire of Chile to give satisfaction to the United States Government. In this connection he stressed the fact that Chile appreciated deeply the treatment which it was receiving at the hands of the American Government in allowing it to sell its products freely in our markets

and that for this very reason it was most anxious that the United States should not obtain the impression that its commerce with Chile could be stimulated by adopting the bullying tactics of the European countries. He added that he felt that the United States had every advantage by accepting a proposal along the lines of the Chilean offer since, when world business increased, American commerce would be in a position immediately to benefit by this change, whereas countries with compensation agreements would be held by Chile strictly within those agreements. The Minister promised that the Chilean Government would reply point by point to the Memorandum which had been submitted.

As a result of my interview I feel encouraged that we will be able to obtain from the Chilean Government an accord on exchange facilities substantially in conformity with the Department's desires. As the form of any agreement which may be entered into has not been discussed with the Chilean Government the Department's instructions or suggestions on this point would be helpful. It is presumed that the simplest and most satisfactory form would be through an exchange of notes.

Respectfully yours,

HAL SEVIER

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825.5151/164 : Telegram

*The Ambassador in Chile (Sevier) to the Secretary of State*

SANTIAGO, February 21, 1934—7 p. m.

[Received 8:50 p. m.]

23. With reference to my telegram February 8, noon. Minister of Hacienda informed me this afternoon that the order for 20 railroad coaches will go to the American Company but that a decision has not been taken concerning locomotives. He added that the German bid is 20,000 pesos lower per locomotive than the American but that the question is still being studied. He gave me definite assurance that decision will be made exclusively on the merits of the offers without taking into consideration the promotion of nitrate sales to Germany.

SEVIER

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825.5151/179

*The Ambassador in Chile (Sevier) to the Secretary of State*

No. 69

SANTIAGO, March 14, 1934.

[Received March 22.]

SIR: With reference to the third point of this Embassy's Memorandum on the granting of exchange facilities to American commerce which was submitted to the Chilean Foreign Office under date of Feb-

ruary 20, 1934,<sup>6</sup> in accordance with the Department's telegram No. 21 of February 17, 2 p. m., 1934, I have the honor to transmit herewith for the information and consideration of the Department, a copy of a report entitled "The Liquidation of American Frozen Credits,"<sup>6</sup> prepared by Merwin L. Bohan, Commercial Attaché, and Edward J. Sparks, III, Secretary of Embassy. This report was prepared with the idea of furnishing the Department with all available information on the frozen credit aspect of the exchange problem and of making concrete suggestions as to possible bases for the negotiation of a private arrangement for a more equitable solution of this particular phase of the general problem.

The report discusses the desirability, as well as the possibility, of negotiating and concluding a private arrangement for the liquidation of American credits frozen in Chile at an agreed rate of exchange more favorable than the rate obtaining in the export draft or unofficial markets. Four possible methods are suggested for providing the necessary foreign exchange. The most acceptable arrangement, however, appears to be the repayment by those holding credits of the peso advances made to the nitrate industry by the Central Bank of Chile, and the deposit to the account of the creditors at fixed intervals by the Nitrate Sales Corporation of the corresponding foreign exchange. The report also discusses the paramount question which would arise in any negotiations of this nature, namely, the rate of exchange at which conversions would be made, and suggests certain bases which might serve for negotiating and determining an equitable rate for conversion. The conclusion is reached that if these negotiations are to be attended with success, they should be initiated immediately and that at least an agreement on principle should be reached before the general arrangement now being discussed by the Embassy with the Chilean authorities is formally concluded.

Respectfully yours,

HAL SEVIER

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825.5151/174 : Telegram

*The Ambassador in Chile (Sevier) to the Secretary of State*

SANTIAGO, March 17, 1934—3 p.m.

[Received 7 p.m.]

33. Referring to my despatch No. 54, February 21st, the text of the Foreign Office reply air mailed today.<sup>7</sup> The following summarizes point by point:

1. Chile will remove as soon as it may be possible existing restrictions on remittances and other transactions with the United States,

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<sup>6</sup> Not printed.

<sup>7</sup> Text of Foreign Office reply not printed.

will grant free access to the export draft market and perceives no objection to the use of new sources of exchange for American commerce. (The Under Secretary explained orally that no mention had been made of the unofficial market since it is believed that it will cease to exist when the free market opens.) In order to prevent discrimination in exchange rates on current business, blocked credits for new business under compensation treaties must be sold with a surcharge of 250 per cent over the official rate thus making these rates virtually equivalent to the export draft rate. The surcharge will be modified as exchange conditions vary. The Government will make every effort to maintain this equivalency but it points out that the moneys withheld under compensation treaties are the property of private individuals and that they, in order to liquidate those credits in the event of an exchange supply, might agree privately to transactions at rates lower than those fixed by the Government. The Government admits its inability to control such transactions.

2. Agreed. Exception made that the purchase can be authorized if the current business blockage is exhausted and it involves a specific article unobtainable elsewhere.

3. Insists upon making it clear that the Chilean Government has no objection whatsoever to concluding an agreement with the United States absolutely and entirely similar in character to the German agreement and that in signing that agreement it was its intention to accord equal treatment to other countries. But if the United States prefers free commercial interchange without restriction or control, Chile is not in a position to grant in addition a fixed rate of exchange for the liquidation of blocked credits. That commitment of this nature would constitute a discrimination against the countries having compensation agreements. That to authorize free unblocking and to fix at the same time a rate therefor would be to accord a privilege which it is not in a position to grant and which it has not granted to any other country.

4. The Government will undertake to obtain from the Caja<sup>s</sup> the return of the dollar funds and the transfer of the peso funds at the export draft rate. It holds that since peso funds were invested under equal conditions with those of other foreigners and Chileans, it is not in a position nor would it be equitable to authorize their transfer at the official rate.

The Control Commission has been instructed to be prepared to furnish the statistical data requested.

The reply concludes with the explanation that only a very small part of the value of Chile's principal exports is available to the country and that from the export of nitrate and copper only the cost of production, representing a very small percentage of the value of the products exported, remains in Chile.

The Under Secretary states that no decision has been taken as yet as to the manner of making effective the facilities which would be granted although he believes that it would be by virtue of a law.

The assurances regarding the maintenance of equivalency in exchange rates on new business are insufficient and unsatisfactory.

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<sup>s</sup> Caja de Previsión de Empleados Particulares.

While the Government is unable to control exchange rates in the smaller transactions, the bulk of the blockages arises from nitrate sales and since the Government exercises complete supervision over that industry it is in a position to guarantee that at least none of these transactions will be effected at a discriminatory rate.

The position taken with respect to point 3 is unacceptable since it tends to preclude the conclusion of a private agreement for the liquidation of frozen credits.

I cannot help but feel that the Minister of Finance believes that he can manipulate exchange to suit Chile's conveniences and that by negotiating separately with the individual creditors he will get for Chile, at the expense of these creditors, appreciable advantages which could not be obtained through a new private agreement. The local representatives of American companies are distrustful of his motives. In this connection I desire to recommend careful consideration of the Embassy's despatch No. 69, due Washington Wednesday, which discusses the desirability of negotiating, simultaneously with the general agreement for exchange facilities, a private arrangement for the liquidation of frozen credits.

SEVIER

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825.5151/183

*The Ambassador in Chile (Sevier) to the Secretary of State*

No. 77

SANTIAGO, March 28, 1934.

[Received April 5.]

SIR: I have the honor to refer to my despatch No. 71 of March 17, 1934,<sup>9</sup> reporting the status of our negotiations concerning the agreement to accord exchange facilities to American commerce. On its face the Memorandum of the Chilean Government setting forth its interpretation and modification of the proposal on exchange, seemed so unsatisfactory and appeared to depart so greatly from the spirit of the original offer that it was felt desirable to arrange for a long conference in an attempt to clear up the points at variance. On Saturday, March 24th, therefore, Mr. Scott, Mr. Sparks and Mr. Bohan had a long conversation with the Under Secretary for Foreign Affairs, Mr. Vergara, a record of which is enclosed.<sup>10</sup>

This conversation brought out the fact that the unsatisfactory nature of the Chilean Government's reply was due in part to a misunderstanding of the significance of the English text of our Memorandum and partly to certain practical and reasonable considerations which became apparent when a closer study of actually putting the

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<sup>9</sup> Not printed; but see telegram No. 33, March 17, 1934, 3 p. m., *supra*.

<sup>10</sup> Not printed.

plan into operation was undertaken. As a result of the conversation referred to above, and a further discussion which took place with Mr. Vergara yesterday, it is felt that the points which presented difficulties have been largely cleared up and that the Chilean Government is in virtual agreement with us as to the substance of our proposal.

Following the discussion on March 24th, in order to advance our negotiations a memorandum dated March 27th (Enclosure No. 2)<sup>11</sup> was prepared at the Embassy embodying the revised ideas which had developed as a result of this discussion. This memorandum was submitted to Mr. Vergara yesterday, who stated that it represented substantially the basis of an exchange agreement satisfactory to Chile. He added that obviously the wording of portions of the memorandum were too discursive and explanatory in nature to be used as the final text of an agreement but that he felt that in substance the two governments were virtually in agreement if the memorandum represented also a basis for an agreement acceptable to the United States Government.

In explanation of the departures in the draft of the Memorandum dated March 27th from the Embassy's Memorandum of March [*February?*] 20th, originally submitted, the following may be stated concerning each point.

1. It will be noticed that the first sentence of point No. 1 has been changed to read that the Chilean Government agrees to lift "as soon as possible" all exchange control, etc. The insertion of this phrase was felt necessary because the Foreign Office feels that enabling legislation will be necessary to put on a strictly legal basis the lifting of the exchange control provided for in the agreement. While at first glance there may appear to be some objection to this, actually it is not believed that the point is of great importance since the Minister of Finance can and will give full effect to the agreement pending the time when the new exchange situation can be regularized through appropriate legislation.

The next change which was made was in the deletion of the second sentence of point No. 1. Our discussions with Mr. Vergara brought out the fact that he entertained surprisingly strong objections to making any reference to sources of exchange other than the export draft market. He insisted that the only source of exchange controlled by the Government is the export draft market and to include reference to other sources would lead to great difficulties both because of internal legal considerations as well as in connection with Chile's relations with other countries on exchange questions. He maintained that from our point of view it is not a practical consideration since if the commerce

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<sup>11</sup> Printed on p. 24.

of the United States and Great Britain are placed on a free exchange basis, the unofficial sources of exchange are thus virtually done away with. The reasons for the strong objections entertained by the Under Secretary are not completely apparent, but it is felt that a satisfactory solution to this point can be reached by omitting the sentence embodying this reference. Such an omission leaves the commitment made by the Chilean Government to give us exchange free of restriction or control, fully as strong and unqualified and there would not appear to be any great loss from our point of view in meeting the Chilean Government's wishes on this point.

Paragraph 2 of point No. 1 of the modified Memorandum is largely explanatory in character and presumably would not appear in this form in the final agreement. It was set forth in this Memorandum following the language employed in the Memorandum from the Chilean Foreign Office in order that there should be no misunderstanding as to the manner in which the rates would be determined. In our discussion of the rates of exchange the Under Secretary pointed out that as the amounts retained in compensation offices for imports into Chile are in effect the property of private individuals, the situation might arise in which these individuals would agree privately to an exchange rate lower than the rate fixed by the Government and that therefore in any agreement which might be reached the Government would have to note this exception, limiting its commitment to this extent. This point, in the Embassy's opinion, is not of great practical importance. It is obvious that a situation, though unlikely, might arise where private transactions would be made at rates different than the official rate. The bulk of exchange, however, arising through compensation agreements, is obtained from the sale of nitrates. As the Chilean Government can fully control the rate of exchange obtained through this source, it is felt that American commerce would be fully protected from discriminatory exchange rates if the Chilean Government would guarantee that any exchange created through the sale of nitrate would not be sold at rates lower than the equivalent of the export draft rate. For this reason a proviso to this effect was inserted as the last sentence of the last paragraph under point No. 1.

2. In discussing point No. 2, Mr. Vergara insisted that it would be unwise to make a reference to the exclusion of purchasers of goods from compensation countries from other sources of exchange. The question involved here is the same point which was discussed under point No. 1, namely the opposition of the Chilean Government to a reference to other sources of exchange. Mr. Vergara again pointed out that the Government can control the export draft market but cannot control these other extra-legal markets. Furthermore, from his knowledge of the attitude of other countries who have negotiated compensation agreements, he stated that he felt sure that a reference of

this sort would provoke retaliatory measures on the part of other countries who would then begin to raise their blockage quotas, perhaps even up to 100%, on Chilean nitrate. In our discussion on this point, it was pointed out that such an attitude on the part of compensation countries would be entirely unreasonable since whatever advantages we might be obtaining under the proposed agreement for free exchange were at the cost of the United States' foregoing the advantages obtained under compensation arrangements, advantages which these nations were now enjoying to our detriment. The Under Secretary did not deny the force of this argument but pointed out that it might be unwise to invite retaliatory measures on the part of compensation countries, which would be very harmful to American commerce as well as Chilean, when the point was of no real practical importance. It was of no practical importance for the reason that even though an attempt were made in an international agreement to dry up extralegal sources of exchange for countries within the compensation system, such attempts would not be effective since experience had proved that legal obstacles notwithstanding, there will always exist a bootleg market when the need for exchange is sufficiently strong. He confirmed our previous understanding that Chile would, however, exclude compensation countries from access to the export draft market.

It is obvious that Chile is very anxious to avoid taking any step which might invite further bullying tactics on the part of European countries. While recognizing the very fair treatment which it is obtaining from the United States in regard to the sale of its nitrate, Chile is fearful of losing any of its European nitrate markets. It is of course perfectly true that no international engagement will serve to eradicate the bootleg market or exchange if a real need exists for such a market and in view of the doubtful practical value of attempting to make reference to markets for exchange which are not controllable by the Chilean Government, it is felt that the reference to other sources of exchange at the end of point No. 2 might be omitted without prejudice to the agreement from the American point of view.

3. Point No. 3 occasioned more discussion than any other point. The Chilean Government apparently read more into the point than had been intended and insisted on drawing the Embassy into discussions of the details of possible arrangements which might be entered into between American holders of frozen credits and the Chilean Government. It was pointed out to the Under Secretary that the primary desire was that an agreement on exchange facilities should not be later on invoked by the Chilean Government as closing the door to advantageous private arrangements on the part of American firms or individuals to liquidate their frozen credits; that it might be possible, for example, for these creditors or groups of them



to work out arrangements on exchange matters over a period of time at rates more advantageous than the prevailing free market rates and that we would wish the Chilean Government to give sympathetic consideration to any such proposals. The Under Secretary appeared to feel that somehow this statement involved a definite commitment as to the point of view of the Chilean Government which might prove embarrassing or untenable later on. After much discussion, however, he finally agreed to accept point No. 3 without change of wording as originally embodied in the Embassy's Memorandum.

4. The Under Secretary had apparently been impressed with the seriousness with which the American Government viewed the question of relief for Americans having deposits in the retirement fund and appeared to view favorably a provision following the lines of point No. 4 in the modified Memorandum. It will be noted that following this provision the Chilean Government would agree to repay Americans having dollar deposits when such payments are due. The reason this language was inserted was because the law governing the repayment of these deposits contains certain conditions governing the time at which they are to be repaid; for example, one provision provides for the repayment of depositors after they have been outside of Chile for a period of one year. It is felt that if the Chilean Government is willing to agree to point No. 4 as now worded, we will obtain a more satisfactory arrangement in regard to these payments than has heretofore seemed possible. It will be noted that the language of the new point No. 4 shifts the burden of payment to a definite obligation on the part of the Government rather than on the part of the Caja which does not have funds available to meet these payments.

There have been indicated above the changes in phraseology of the proposal drafted by the Embassy which the Chilean Government feels are essential to make it acceptable. In my opinion, these changes do not represent an attempt to offer us less than contemplated in the original proposal. Rather they are due to the development of certain practical or legal difficulties in putting the proposal into operation which were not entirely foreseen at the time when the general principle of the granting of exchange free from all control was suggested. It is not believed that in meeting the wishes of the Chilean Government the substance of the agreement, from the American point of view, will be lost. Indeed, in some respects the amended proposal represents a more concrete and satisfactory draft than that of the Embassy Memorandum of February 20th. Therefore, unless the Department perceives objections which are not apparent to the Embassy, it is recommended that the Memorandum of March 27th be accepted as embodying the general terms of a satisfactory proposal following closely the lines of the Department's telegraphic instruc-

tion No. 21 of February 17, 2 p. m., 1934. It should be understood of course, that in tentatively accepting the Memorandum referred to above, the Under Secretary made it clear that for the sake of conciseness, if for no other reason, there would be certain changes in the text and that his Government was not to be considered as accepting absolutely textually the Memorandum as it stands. He added, however, that if the Memorandum were acceptable to the Department, there appeared to be practically no divergence in any essential points between the two governments. On our side it was made clear that no definite assurance could be given as to the Department's viewpoint thereon.

In view of the foregoing I have the honor to request that the Embassy be informed by telegram whether the Department desires it to proceed on the above basis to work out a draft of an exchange of notes, subject to the Department's approval, such an exchange of notes to constitute a *modus vivendi* in regard to exchange matters between the two governments pending the time when a definitive commercial treaty can be concluded.

In recommending the acceptance of the above proposal the Embassy desires to make it clear that it feels the proposal is about the best we can obtain, all conditions being considered. It is believed that it satisfactorily takes care of the requirements for our current trade, certainly within the limited external purchasing power which we may anticipate in Chile for the next few years. We must frankly face the fact, however, that such an agreement does not very satisfactorily solve the problem of American frozen credits which at the best we can anticipate will be transferred at approximately the prevailing export draft rate. Obviously liquidations of frozen accounts at this rate represent an acceptance of a loss on the part of American business firms involved ranging up to 66 $\frac{2}{3}$ %. Local American firms realize that they cannot hope to obtain rates comparable to the official rate of exchange obtaining through compensation agreements. They do feel, however, that in all fairness, they should be able to liquidate their back accounts at rates substantially more favorable than the prevailing export draft rate.

Our discussions with the Foreign Office have made it apparent that the Chilean Government will not be disposed to enter into arrangements with private firms for the transfer of their frozen assets at preferential rates. While the Embassy will of course lend its good offices in any proper way toward assisting American firms in reaching a favorable arrangement, it is not believed that the Chilean Government will grant favorable rates of exchange unless the American Government is disposed to assert very strong pressure.

Respectfully yours,

HAL SEVIER

[Enclosure]

*Memorandum Submitted by the American Embassy to the  
Chilean Foreign Office*

1. The Chilean Government agrees to lift as soon as possible all exchange control and trade restrictions as concerns American commerce and interests. This means that individuals or firms desiring to make remittances or to effect other transactions with the United States would be able to do so freely without restriction or control. The requests of persons seeking foreign exchange to pay for current purchases of American goods would be honored at the most-favored-nation rate of exchange to the extent that such foreign exchange might be available. In this connection the Chilean Government, in conformity with the oral assurances already given, would guarantee that as regards current and future purchases abroad there would be no discrimination in exchange rates as between the United States and other countries, including those having compensation agreements.

In order to prevent the discrimination which would result from the existence of different exchange rates with other countries, arising from the control of commerce which originates the establishment of compensation offices, the Government fixed the rate of exchange at which there must be sold the amounts withheld by the compensation offices and set aside for the import of merchandise into Chile, at 250% of the official rate of exchange; this surcharge will be modified if the present exchange conditions vary. In this matter it equalized all rates of exchange for the amounts subject to compensation, and fixed a surcharge which establishes equivalency between those rates and that which obtains at the present time for the United States in the export draft market.

The Chilean Government points out that the amounts retained in the compensation offices to be used for imports into Chile are the property of private individuals and that it could happen that these individuals might agree privately to exchange transactions at rates lower than those fixed by the Government. However, notwithstanding, the Chilean Government will make every effort to endeavor to maintain equivalency in the rates and it agrees to guarantee that any exchange created through the sale of nitrate or other products by the Nitrate Sales Corporation will not be sold at rates lower than the equivalent of the export draft rate.

2. The Government agrees that purchasers of merchandise from countries having compensation agreements with Chile, shall not be accorded legal access to the export draft market.

3. The Government agrees to give sympathetic consideration, within the spirit of the foregoing and bearing in mind that the United States does not discriminate against the commerce of Chile, to any

private proposals which subsequently may be made by American commercial interests with a view to concluding an equitable agreement for the liquidation of frozen credits.

4. With regard to Americans having dollar deposits in the Caja de Previsión de Empleados Particulares, the Chilean Government agrees to repay such depositors in dollars when payments to them become due. Furthermore, the Government agrees to repay in dollars at the official rate of exchange the American holders of peso accounts residing outside of Chile.

SANTIAGO, March 27, 1934.

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825.5151/188

*The Ambassador in Chile (Sevier) to the Secretary of State*

No. 86

SANTIAGO, April 11, 1934.

[Received April 19.]

SIR: I have the honor to refer to this Embassy's despatch No. 77 of March 28, 1934, reporting the progress of our negotiations concerning an agreement on exchange and to report the situation of the British in regard to their exchange problems.

For the time being the British negotiations have reached somewhat of an impasse due to the fact that, while the British are insisting upon a full acceptance of the general principle of freedom from exchange control, on its side the Chilean Government is unwilling to sign a formal agreement on the principle until it shall have received a detailed statement of the amount of funds which the British desire to transfer and the names of the companies and individuals involved. It appears that the British Embassy, some weeks ago, submitted a global amount representing an estimate of British frozen credits, but the Minister of Finance refused to accept this figure, stating that it was far too large. The real difficulty is due to the fact that the British problem is somewhat different than ours. In our case the frozen credits are represented by actual cash in pesos, by very liquid assets which can be converted quickly into pesos, or by accounts which are owed in dollars but where both the debtor and the creditor are Americans, for example, the dollars owed by American concerns such as the electric light company or the telephone company to pay service charges on their bonded indebtedness or for supplies and other dollar obligations. In addition to these there are dollar accounts which are owed by Chileans, but these are a relatively small percentage of the total. The British, on the other hand, are faced with the problem of repatriating a relatively large amount of sterling obligations which are owed by Chilean debtors. These debtors, shielding themselves behind the text of the mone-

tary law, refuse to settle their sterling accounts except on the basis of supplying pesos to cover at the official rate of exchange, namely, about 50 pesos to the pound, instead of purchasing exchange in the open market at around 120 pesos to the pound. Specifically, the British Embassy estimates British frozen assets as follows:

(a) Sterling obligations owed by Chilean debtors . . . . .	1, 000, 000 Pounds
(b) Bank loans . . . . .	1, 000, 000 "
(c) Peso accounts such as bills of exchange, current accounts due British merchants, bank credits, etc., in liquid form . . . . .	62, 000, 000 Pesos

The Minister of Finance has endeavored to secure from British banks and the British Embassy a list of the funds whose transfer is desired, but it is understood that comparatively few of these transfers have been made, chiefly due to the fact that, unlike American creditors, the British are unwilling to accept a liquidation of their accounts at the current export draft rate.

Although the Foreign Office has been prodding the British Embassy to secure a formal acceptance of the principle of free exchange by the Chilean Government, the Embassy is inclined to be complacent about the present situation. The logic of events here has brought it to virtually the same conclusion which we have also reached, namely that the *de facto* situation is not an unfavorable one, since: (a) current commerce can obtain ample exchange to cover its needs and to take care of any reasonable expansion due to better world conditions; in this respect exchange availabilities being better for us than for countries limited by compensation treaties; (b) frozen assets can be freely repatriated at the current export draft rate, thus providing for a quicker liquidation, though at a much less favorable rate than in the case of compensation countries. Although British creditors appear to be more hopeful of obtaining a better rate than the current market rate for the liquidation of frozen assets, the British Embassy shares this Embassy's view that preferential rates for this purpose could only be obtained should Great Britain decide to enter into compensation or blockage arrangements, a policy which that Government does not care to pursue. As stated above, the most serious problem which the British have is to find a fair solution for the settlement of the million pounds sterling accounts.

This Embassy will of course continue to report any matters of interest developing in the exchange situation, but is not anticipating taking the question up again with the Foreign Office, pending the receipt of the Department's instructions after it has had time to give consideration to the Embassy's despatch No. 77.

Respectfully yours,

HAL SEVIER

825.5151/183 : Telegram

*The Secretary of State to the Ambassador in Chile (Sevier)*

WASHINGTON, April 25, 1934—5 p. m.

35. Your despatch No. 77, March 28. The Department will shortly send you a further instruction on this subject. It desires first to have from you an interpretation of the first sentence in item No. 1 of the memorandum (enclosure No. 2 of despatch referred to). Does this mean in your understanding and in the understanding of the Chilean Government that exporters in Chile who acquire dollars by sales in the United States will be free to dispose of those dollars wherever and however they desire without the intervention of the exchange control? Under this arrangement would the requirement be retained which Department understands exists at present whereunder foreign producers of minerals must remit to the exchange control a certain percentage of the proceeds of all their sales? Also would any percentage of the proceeds of nitrate sales to the United States be blocked for special purposes, thereby preventing their reaching the free market? If these requirements are still to be retained what percentage of proceeds of sales of such producers will be freely disposable? Purpose of this inquiry is to make sure that this Government and the Chilean Government have the same understanding of the terms used in this sentence.

HULL

825.5151/191

*The Ambassador in Chile (Sevier) to the Secretary of State*

No. 95

SANTIAGO, April 25, 1934.

[Received May 3.]

SIR: I have the honor to refer to my despatch No. 86 of April 11, 1934, and to report the following developments.

Continuing its policy of encouraging the transfer of American frozen credits, the Ministry of Hacienda arranged last week with the Control Commission for the transfer of certain American funds on deposit with the National City Bank. These deposits represented accounts with the Bank and drafts which had been collected in pesos which heretofore could not be legally transferred. In all, approximately 470,000 dollars worth of transfers were effected at the rate of 25 pesos to the dollar. It had been expected that about a million dollars would be moved, but the Minister of Finance did not wish to send the rate of exchange too high and therefore closed down on further transfers for the time being. It is planned, however, to continue to effect these transfers as exchange becomes available through the returns made from the sale of nitrate or from other sources.

While the Chilean Government has offered the same facilities to British interests, up to now practically no British funds have been repatriated. As has been pointed out, the difficulty is largely due to the fact that their frozen credits are not in as liquid condition as are the American credits. Furthermore, they represent in great part debts owed by Chileans to British firms and the Chilean debtors are unwilling to purchase the necessary funds at open market rates. The British Embassy states that it is anticipated that about a million pesos will be transferred within the next few days. From the diplomatic angle no progress on the part of the British appears to have been made. They still hope to effect a satisfactory agreement through an exchange of notes which will include provisions offering a solution to their problem of making their Chilean debtors pay sterling debts in effective sterling exchange.

With the exception of obtaining adequate relief for Americans who have retirement funds with the *Caja de Previsión de Empleados Particulares*, the *de facto* situation of exchange seems satisfactory from our point of view. Enough exchange is available to purchase such American goods as can be sold and as long as the present policy of the Chilean Government continues, American frozen credits are being slowly liquidated. At least, if the *de facto* situation is not entirely satisfactory to us neither is it to compensation countries. In a recent conversation, Count de Sartiges, the French Minister here, stated that he was very dissatisfied with the way the French compensation treaty<sup>12</sup> was working out and that he felt that the American approach to the problem was sounder than the French; that the opportunity for the sale of French merchandise to Chile was greatly restricted due to the compensation treaty. As France bullied Chile into the compensation treaty there is a certain poetic justice in laments of the French Minister.

Respectfully yours,

HAL SEVIER

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825.5151/193 : Telegram

*The Ambassador in Chile (Sevier) to the Secretary of State*

SANTIAGO, May 8, 1934—6 p. m.

[Received 6:40 p. m.]

44. Department's telegram No. 35, April 25, 5 p. m. The Chilean Government has replied:

(1) Chilean exporters shall be able to dispose freely of the proceeds of their sales to the United States except to purchase therewith goods from countries imposing restrictions on Chilean exports.

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<sup>12</sup> Signed November 11, 1932, *Journal Officiel de la République Française*, November 22, 1932, p. 12164.

(2) Private agreements with foreign producers of minerals have been and will continue to be made.

(3) Total proceeds of nitrate sales in the United States will be at the free disposition of the exporter.

(4) In view of the statements in numbers (1) and (2) above the Government feels that question (4) needs no further reply.

The Embassy considers the foregoing satisfactory and within the spirit of the arrangement proposed and set forth in its memorandum (enclosure 2, despatch No. 77).

SEVIER

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825.5151/183 : Telegram

*The Secretary of State to the Ambassador in Chile (Sevier)*

WASHINGTON, May 22, 1934—7 p. m.

38. In view of the considerations set forth in your despatch No. 77 of March 28, 1934, and of the interpretation thereof supplied by the Chilean Government in your telegram No. 44, May 8, 6 p. m., this Government is disposed to accept the revised memorandum in substance as a basis for an agreement. Accordingly, you may formulate in consultation with the Chilean authorities a draft text of the proposed agreement, which should be submitted to the Department for approval before signature. Since the arrangement is in a sense experimental it should contain a provision for termination on short notice, either 15 or 30 days.

You should at the same time submit a memorandum to the Chilean Government referring to point 3 defining "an equitable agreement for the liquidation of frozen credits" and stating that this Government desires to make clear that in view of the fact that the United States does not discriminate against Chilean commerce it expects that its nationals will receive, as regards the liquidation of their frozen credits in Chile, treatment no less favorable than that granted to the nationals of any other country.

For your information, the purpose of this statement is to put on record this Government's position regarding the interpretation to be placed upon point 3 of the agreement.

HULL

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825.5151/199 : Telegram

*The Ambassador in Chile (Sevier) to the Secretary of State*

SANTIAGO, May 24, 1934—5 p. m.

[Received 5:30 p. m.]

46. Department's telegram No. 38, May 22, 7 p. m. The Foreign Office has agreed to work out with the Embassy the draft for a suitable



exchange of notes to give effect to a temporary agreement based on this Embassy's memorandum of March 27.<sup>13</sup>

With reference to the memorandum proposed in paragraph 2 the Foreign Office desires that it be made clear therein that the reference to most-favored-nation treatment in the liquidation of American frozen credits applies only to agreements reached outside of compensation treaties.

The Embassy assumes this is also the Department's intention since all our negotiations have been predicated on this basis but to avoid possible misunderstanding please confirm by telegram.

SEVIER

825.5151/199 : Telegram

*The Acting Secretary of State to the Ambassador in Chile (Sevier)*

WASHINGTON, June 1, 1934—7 p. m.

41. Your 46, May 24, 5 p. m. Obviously this Government cannot be a party to any agreement which authorizes either expressly or impliedly discrimination against American nationals. It was precisely for this reason that the Department felt it necessary to place on record with the Chilean Government its position as set out in the memorandum mentioned in Department's 38, May 22, 7 p. m., and consequently the Department cannot modify the memorandum in the sense suggested by the Chilean Foreign Office.

PHILLIPS

825.5151/201 : Telegram

*The Ambassador in Chile (Sevier) to the Secretary of State*

SANTIAGO, June 2, 1934—3 p. m.

[Received 3 : 20 p. m.]

50. Department's No. 41, June 1, 7 p. m. Insistence upon making the memorandum mentioned in the Department's telegram 38, May 22, 7 p. m. part of the agreement of course will result automatically in breaking off negotiations along the present lines since it involves a commitment by the Chilean Government which it is not in a position to make. The liquidation of frozen credits at exchange rates no less favorable than those granted to the nationals of any other country can be obtained only by the conclusion of a compensation treaty which the Chilean Government has always been willing to do.

On the question of discrimination the Chilean position is that the agreement would do away with the *de facto* discrimination which we complain of as resulting from compensation treaties since much greater

<sup>13</sup> *Ante*, p. 24.

exchange would be available for our commerce than for that of countries held strictly within the limits of availabilities obtained through compensation.

As the Department was frankly informed in paragraph 4 my telegram No. 7, January 19, 4 p. m., and subsequent correspondence the proposed arrangement would not in itself provide for the liquidation of frozen credits at preferential rates. No further action will be taken pending receipt of the Department's instructions.

SEVIER

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810.5151 Williams Mission/18

*The Secretary of State to the Ambassador in Chile (Sevier)*

No. 52

WASHINGTON, July 5, 1934.

SIR: The Department has given much thought to the exchange negotiations with the Chilean Government, which are now pending. It has come to the conclusion that in connection therewith, as well as to study the exchange situation in Brazil<sup>14</sup> and Argentina,<sup>15</sup> it would be well to have an expert in international exchange matters visit the three countries concerned in order to discuss the problems with our missions and the Governments in those countries.

Accordingly, as you have already been informed telegraphically,<sup>16</sup> Mr. John H. Williams, Economist of the Federal Reserve Bank of New York, has been released by arrangement with the Federal Reserve authorities, and in company with Mr. Donald R. Heath of the Division of Latin American Affairs of the Department, departed on June 30, last, for Rio de Janeiro on the *Western Prince*.

The present tentative schedule of Messrs. Williams and Heath, subject to possible change through substituting flying for steamship or rail, is as follows:

Leave New York June 30, *Western Prince*.  
 Arrive Rio de Janeiro July 13.  
 Depart from Rio de Janeiro July 28.  
 Arrive Buenos Aires July 31.  
 Depart from Buenos Aires August 5.  
 Arrive Santiago August 5 or 6.  
 Depart from Valparaiso August 10, on the *Santa Maria* of the Grace Line.  
 Arrive New York August 28.

The pertinent portions of Mr. Williams' instructions are as follows:

"In each of these (designated) countries the American diplomatic and commercial missions will be instructed to assist you in obtaining

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<sup>14</sup> See vol. iv, pp. 578 ff.

<sup>15</sup> See *ibid.*, pp. 511 ff.

<sup>16</sup> Telegram No. 50, July 3, 7 p. m., not printed.

the fullest possible understanding of all aspects of the exchange control situation, and to put you in touch with the local government authorities who are concerned in this matter. You in turn are instructed upon your arrival in each of these countries to put yourself at the disposition of the head of the mission for the purpose of assisting him in the consideration of the exchange control situations with which he has been dealing and for the purpose also of working out with him the major lines of policy immediately to be pursued by this Government. You will find that these missions have given very considerable thought to the subject and have kept themselves closely advised."

Messrs. Williams and Heath are fully informed of the course of developments in Chile in connection with the negotiations relative to the exchange problem in that country. The Department trusts that the despatch of this mission will indicate to the Chilean authorities the importance which this Government attaches to the exchange problem, which is an important factor in the trade relationship between it and Chile. The Department will await with interest the receipt of your and Mr. Williams' reports and recommendations in connection with this problem.

Very truly yours,

For the Secretary of State:  
WILBUR J. CARR

825.5151/201 : Telegram

*The Secretary of State to the Ambassador in Chile (Sevier)*

WASHINGTON, July 9, 1934—1 p. m.

51. Your telegram No. 50, June 2, 3 p. m. In view of the visit of Messrs. Williams and Heath of which you were apprised in telegraphic instruction No. 50, July 3, 7 p. m.,<sup>17</sup> you may hold negotiations in abeyance pending an opportunity to discuss the matter with Mr. Williams. Consult the Department before taking further action.

HULL

825.5151/211

*The Ambassador in Chile (Sevier) to the Secretary of State*

No. 152

SANTIAGO, July 18, 1934.

[Received July 26.]

SIR: I have the honor to refer to point 4 on page 8 of this Embassy's despatch No. 77 of March 28, 1934, despatch No. 79 of the same date<sup>18</sup> and previous correspondence concerning the repayment of retirement

<sup>17</sup> Not printed; see instruction No. 52, July 5, 1934, to the Ambassador in Chile, *supra*.

<sup>18</sup> Letter not printed.

funds of American citizens deposited in the Caja de Previsión de Empleados Particulares. I now have the honor to report that under date of May 30, 1934, that Institution informed its depositors holding accounts in sterling of American gold that in exercise of the authority conferred upon it by Article 13 of Law No. 5107 of April 19, 1932,<sup>19</sup> it had converted their deposits into pesos on May 18, 1934, at the rate of exchange, namely 9.60 pesos to the dollar, fixed by the Central Bank of Chile on that day. In view of this arbitrary and unilateral action by the Caja and the fact that this question has been and still is the subject of diplomatic negotiations with the Chilean Government, it was deemed necessary to request the Foreign Office to rescind the action taken by the Caja pending such time as the two governments might reach an agreement. A copy of my note is transmitted herewith.

The Department will observe that the request of the Embassy for the rescission of the measures taken by the Caja to convert these funds without the consent of the depositors is based exclusively on the fact that the question is still the subject of diplomatic negotiations between the two governments. In view of this fact it did not seem wise to complicate the negotiations at this time by entering into a technical discussion of the legal features involved. For the Department's information it may be well, however, to review this phase of the subject. The pertinent Chilean legislation on this question is found in Article 13 of Law No. 5107 of April 19, 1932. In this Embassy's note to the Foreign Office of April 11, 1932 (Enclosure No. 1, Despatch 1141, April 13, 1932)<sup>20</sup> the following reference was made to the article referred to above:

#### "IV.

"Article 13 converts the deposits in foreign money of the Caja de Previsión de Empleados Particulares into Chilean pesos. Many Americans employed in Chile have been required by law to deposit a percentage of their salary in the Caja and some of them have accepted a lower rate of interest in order to have their deposits in foreign currency. For them, therefore, the conversion of these deposits into Chilean pesos is a real hardship, especially in the cases of persons who have left the country."

The foregoing observations were made to the Foreign Office when Law No. 5107 was approved by the Chilean Congress but had not yet been signed by the President. In view of the representations on this point and because of other objectionable features in the proposed law, it was vetoed by the President and returned to Congress (see Enclosure No. 1, Despatch 1144, April 20, 1932).<sup>21</sup> With reference

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<sup>19</sup> *Diario Oficial de la República de Chile*, April 19, 1932, pp. 986, 987.

<sup>20</sup> Not printed.

<sup>21</sup> Despatch and its enclosures not printed.

to Article 13 the President suggested that a paragraph be added which would take into account the situation of foreign employees who had left the country or who for any other reasons preferred to maintain their deposits in the currency in which they had been made. The proposed paragraph was as follows:

"The deposits of foreign employees who do not wish to accept the operations authorized in the preceding paragraph shall not be included in those operations."

The Senate in rejecting this proposed amendment (see Enclosure No. 3, Despatch No. 1144 of April 20, 1932) states:

". . . Furthermore, it is pertinent to recall that the conversion referred to in Article 13 is an authorization which is conferred upon the Caja de Previsión de Empleados Particulares so that this institution may, without any hindrance whatsoever (*sin inconveniente alguno*) exclude from the operation the deposits of the foreign employees to which the Executive refers without the necessity of expressly contemplating this idea in the law . . ."

After overriding the President's veto with respect to the provision of the bill the then Minister of Hacienda published a statement which reads in part as follows:

". . . The second modification (of the President's veto message) refers to foreign employees who have deposited savings in gold at the Caja de Previsión de Empleados Particulares and who, by reason of their having left the country or for any other reason whatsoever, might not find it advantageous to have their deposits converted into local currency. The Senate considers that the exception which the Executive proposed is not necessary and, if it can be achieved without modifying the law, so much the better. . . ."

It will be observed from the foregoing that in 1932 when the monetary bill was first passed by the Chilean Congress, both the Embassy and the Chilean Executive considered that Article 13 as worded could be interpreted as conferring upon the Caja authority to make the conversions with or without the consent of the depositors affected; that in order to dispel any such interpretation the Executive attempted to have the law modified in such a manner as to indicate clearly that the contemplated operation could be effected only with the consent of the interested depositors; and that from the statements made by the Senate and by the then Minister of Hacienda, Article 13 as originally drafted and subsequently passed by the Congress, was apparently intended to grant authority to the Caja to make the conversion only with the consent of the depositors concerned.

This question has been discussed with a prominent Chilean attorney who holds that the deposits of American citizens in dollars with the Caja de Previsión de Empleados Particulares is a bilateral contract.

From this it follows in his opinion that while Article 13 of Law 5107 confers upon the Caja authority to convert such deposits into local currency with the surcharge corresponding to the date on which such conversion is made, the operation itself can be effected only if the depositor consents to the conversion inasmuch as bilateral contracts under Chilean law can be modified only with the agreement of both parties.

Until May 30, 1934, the authority to convert the foreign currency funds had never been availed of. In discussing the problem of the repayment of these funds reference has been made to the authorization contained in the Law and at times there has been a veiled threat that the Caja might carry the provision into effect. On these occasions the attention of the authorities has been invited to the history of the legislation in question from which it would appear to be clearly indicated that the intent of Congress as well as of the Executive at that time was that depositors could not be forced to accept conversions but that such conversions could be made by the Caja with the consent of the depositors.

During the course of the negotiations for an exchange agreement ways and means of effecting such payment have been discussed but at no time did the authorities suggest that the Caja might exercise unilaterally the authority conferred upon it by Article 13 of Law No. 5107. The determination of the Caja as set forth in the copy of its circular enclosed herewith<sup>22</sup> comes, therefore, as a complete surprise and it is the belief of the Embassy that the action was taken without consultation with the Ministry of Foreign Affairs. However, on the other hand, it is obvious that the measure has the approval of Mr. Ross, the Minister of Hacienda, since he is ex officio the President of that institution.

As the Department is aware the Embassy has always felt that the treatment accorded American depositors in the Caja de Previsión de Empleados Particulares has been clearly unjust and that these worthy cases should have the full support of the American Government. It is the Embassy's understanding that the Department fully concurs in this view. The Embassy proposes, therefore, to continue to impress the Foreign Office with the position which has been taken that a satisfactory solution of this question must form an integral part of any general agreement which may be entered into concerning American trade and interests in Chile.

Respectfully yours,

For the Ambassador:  
ROBERT M. SCOTTEN  
*Counselor of Embassy*

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<sup>22</sup> Not printed.

[Enclosure]

*The American Ambassador (Sevier) to the Chilean Minister for  
Foreign Affairs (Cruchaga)*

No. 118

SANTIAGO, July 17, 1934.

EXCELLENCY: I have the honor to inform Your Excellency that I am in receipt of a communication from an American citizen, protesting against the recent action taken by the Caja de Previsión de Empleados Particulares in informing depositors having dollar accounts with that institution that on May 18, 1934, it had converted their deposits into pesos at a rate of 9.60 pesos to the dollar. A copy of the circular issued by the Caja is enclosed.

While it does not appear necessary at this time to enter into a technical discussion of the legal aspects of this unilateral and arbitrary action by the Caja in a matter involving bilateral obligations and rights, I do desire to remind Your Excellency that a satisfactory solution of the problem of American citizens who are depositors in the Caja de Previsión de Empleados Particulares has always formed an integral part of the negotiations which are being carried on between the Government of the United States and the Government of Chile in connection with an exchange agreement.

As Your Excellency will recall it has always been made clear in all our discussions that the American Government considers that any satisfactory agreement concerning American commerce and interests in Chile should include an understanding providing for an effective repayment of the retirement accounts held by American depositors in the Caja de Previsión de Empleados Particulares, such an understanding either to be embodied in the text of an agreement or arrived at by means of separate exchange of notes at the time of reaching a general agreement. That the Chilean Government, being aware of the special interest which this matter holds for the American Government, has been willing to consider negotiations concerning the Caja as an integral part of the general negotiations on exchange matters, is clearly evidenced by the fact that from the earliest stages of the negotiations the question of the Caja has been included in all the conversations which have taken place. This question it will be remembered was the subject of a special paragraph in the Memorandum of January 3, 1934,<sup>23</sup> which was accepted by Your Excellency as setting forth in general terms the proposal of the Chilean Government in regard to an exchange agreement. This paragraph reads as follows:

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<sup>23</sup> See telegram No. 1, January 5, 1934, 6 p. m., from the Ambassador in Chile, p. 1.

“In view of the nature of the retirement funds of Americans deposited in the Caja de Previsión de Empleados Particulares the repayment of these funds would be subject to special treatment.”

Furthermore, Your Excellency will recall that as result of numerous exchanges of views a Memorandum was drawn up on March 27, 1934,<sup>24</sup> which was accepted in principle by Your Excellency's Government as providing an acceptable basis for an exchange agreement. This Memorandum contained the following provision relative to the question of funds in the Caja de Previsión de Empleados Particulares:

“4. With regard to Americans having dollar deposits in the Caja de Previsión de Empleados Particulares, the Chilean Government agrees to repay such depositors in dollars when payments to them become due. Furthermore, the Government agrees to repay in dollars at the official rate of exchange the American holders of peso accounts residing outside of Chile.”

As negotiations looking toward a solution of the question of the repayment of the funds owing American depositors in the Caja de Previsión de Empleados Particulares are still being carried on between the two Governments, I can only conclude that the unilateral action of the Caja to which I have reference was taken without consultation with Your Excellency. I have the honor, therefore, to request that Your Excellency be good enough to insure that the action taken by the Caja in converting the funds of American citizens at a rate of exchange lower than the recognized commercial rate, be rescinded pending such time as an agreement shall have been reached between the two Governments on this subject.

HAL SEVIER

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825.5151/211 : Telegram

*The Secretary of State to the Ambassador in Chile (Sevier)*

WASHINGTON, August 8, 1934—4 p. m.

61. Your despatch No. 152, July 18, 1934. Your action thoroughly approved. Please keep this matter actively before the Chilean government and request the rescission of the arbitrary and unilateral action taken by the Caja, which was contrary not only to the terms of the agreement under which the deposits were made but also to the assurance given by the Minister of Hacienda as well as members of the Senate when law 5107 was passed. You may say that this government hopes that the Chilean Government will make a prompt and generous settlement of this long-standing problem, in view of the humanitarian considerations involved and the relative insignificance

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<sup>24</sup> *Ante*, p. 24.



of the deposits. Press reports that Williams and Heath have arrived at Santiago. Department desires you to discuss this matter thoroughly with them. It would be glad to have the report on the present financial situation of the Caja, so as to be in a position to judge its ability to satisfy the claims of Americans against it.

HULL

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810.5151 Williams Mission/48

*The Ambassador in Chile (Sevier) to the Secretary of State*

No. 167

SANTIAGO, August 14, 1934.

[Received August 27.]

SIR: Referring to the Department's instruction No. 52, July 5, 1934, concerning the visit of Dr. John H. Williams of the New York Federal Reserve Board and Mr. Donald R. Heath of the State Department to study exchange conditions in Chile and other Latin American countries, I have the honor to submit the following report.

The Financial Mission augmented by Mr. Eric Lamb<sup>25</sup> arrived at the airport at 4:30 P. M. on August 4th. The next day, Sunday, was devoted to resting from the trip and studying the memoranda and other material which the Embassy had prepared for use in discussing exchange problems. In view of the extremely limited time which these gentlemen could spend in Santiago, it was deemed desirable first to have a full round-table discussion with the members of the staff in order that the Mission might obtain all possible information from the Embassy; second, to hold interviews with the more important representatives of American business in Santiago including both those individuals who might be expected to favor pushing for special treatment on frozen credits, those who because of the interests of their companies might be expected to oppose such a policy, and those who presumably would have a broad neutral view of the situation. Following the interviews with the Americans it was felt that the Mission should be presented to the Minister for Foreign Affairs, hold an interview with Mr. Ross, the Minister of Hacienda, who is a controlling factor in the Chilean policy of exchange and subsequently as time permitted meet members of the Chilean Foreign Office, officials of the Central Bank and other prominent individuals. Dr. Williams being in entire accord with this procedure, on Monday morning a session took place at the Embassy and in the afternoon discussions were held with Mr. Leo Welch, the manager of the National City Bank in Santiago, and Mr. George S. Laing, manager of the West India Oil Company, a subsidiary of the Standard Oil Company of

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<sup>25</sup> Of the Federal Reserve Bank.

New Jersey. The next day the following individuals were interviewed: Mr. Philip Bonsal of the International Telephone and Telegraph, Mr. J. F. Owens of the Compañía Eléctrica, Mr. Percy Seibert, of the Braden Copper Company and Mr. Edward Craig, of Anaconda Copper Company, Mr. Horace Graham, Director of the Compañía de Ventas de Salitre and Mr. Paul Miller, Controlor of that Company. On Thursday morning a discussion was held with Mr. Arthur J. Pack, the Commercial Secretary of the British Embassy who outlined in some detail the experience of the British in liquidating frozen accounts. At 11 o'clock Dr. Williams accompanied by Mr. Scotten and Mr. Scott of the Embassy had a long interview with the Minister of Hacienda. A memorandum giving a report of the conversation which took place is enclosed. Later in the morning, the members of the Financial Mission were presented to Dr. Cruchaga, the Minister for Foreign Affairs, and subsequently had a conversation with Mr. Germán Vergara, the Under Secretary for Foreign Affairs. On Thursday afternoon, through the kindness of Mr. Bohan, the Commercial Attaché, a reception was given at Mr. Bohan's house where an opportunity was afforded for meeting the following officials of the Central Bank and other important Chileans: Sr. Guillermo Subercaseaux, President of the Central Bank of Chile, Dr. Luis Schmidt, Vice President of the Central Bank of Chile, Sr. Otto Meyerholtz, General Manager of the Central Bank of Chile, Dr. Germán Max, Economist of the Central Bank of Chile, Sr. Fernando Mardones, Director of the Budget, Sr. Anibal Alfaro, Director of Municipal Budgets, Sr. Renato Marquezado, Chief, Comptroller General's office. Friday morning a final discussion and summary of work accomplished occurred at the Embassy in which careful consideration was given to the report of Dr. Williams embodied in the Memorandum dated August 8, a copy of which is enclosed. In view of the very limited time at the disposal of Dr. Williams he was unable to devote any space to the question of the American retirement funds in the Caja de Empleados Particulares. He discussed this problem orally, however, and it will be the subject of a special memorandum.

It should be stated that Dr. Williams' report represents the considered views of the Embassy and the Financial Mission arrived at after a complete discussion and debate on each phase of the subject point by point. As it embodies in final form the combined opinions of the Embassy and the Mission after all points of divergence had been eliminated or compromised, the Embassy is not submitting a separate report but recommends to the Department the favorable consideration of Dr. Williams' report with which, as above stated, it is in entire concurrence. Pending the receipt of the Department's instructions after it shall have had an opportunity to study the question with Dr.

Williams in Washington, the Embassy will take no action toward any further negotiations with the Chilean Government on exchange matters.

In conclusion the Embassy desires to take this opportunity of expressing its appreciation of the helpfulness of Dr. Williams, Mr. Heath and Mr. Lamb whose efficient and concentrated efforts in Santiago were of great assistance in clarifying the complex exchange situation and were particularly helpful in drawing forth new information which served to throw additional light on the problem of American frozen credits.

Respectfully yours,

For the Ambassador:  
ROBERT M. SCOTTEN  
*Counselor of Embassy*

[Enclosure 1]

*Memorandum of a Conversation Between the Chilean Minister of Hacienda (Ross) and Dr. John H. Williams, Mr. Scotten, and Mr. Scott*

Dr. Williams opened the interview by alluding in general terms to the economic difficulties which he had found in the Latin-American countries which he had visited and which were due, in his opinion, largely to the drastic decline in prices and consequent falling off of exports and to other causes which were nobody's fault in particular and beyond the control of the countries involved. Mr. Ross at this point interjected the remark that that was true but did not represent the whole picture of Chile's difficulties, one side of which was to find sufficient markets for its exports. The United States, for example, was a creditor country, [and although?] wishing to obtain remittance on its debts in Chile [it?] had shut out one of the chief Chilean products from its markets, namely, copper, and therefore it might be said that it was partly to blame for not securing better remittances from Chile since it itself had destroyed a large source of exchange for American needs. Dr. Williams replied that he was inclined to personally agree with Mr. Ross on this point but that the question of copper tariff represented certain political and other considerations in the United States very difficult to overcome.

Next, in reply to Dr. Williams' inquiry concerning the present economic situation in Chile, and what disposition the Minister of Finance might be contemplating making of the excess exchange availabilities which it was understood were now accruing, Mr. Ross outlined his general policy as follows:

First, he stated that the general position of Chile was better but that in reality appreciable surpluses of exchange were not being created for the reason that Chile had been living off its own fat, so to speak;

that is, it had been eating up stock of merchandise on hand which would need to be replenished. Imports, therefore, would inevitably have to be increased causing a corresponding drain on exchange availabilities. Speaking in general terms about our treatment on exchange, the Minister endeavored to drive home the point that a preponderant share of exchange created by Chile's exports came back to the United States. Copper, for example, sold say at 7 to 8 cents in England and of this price 6 cents returned to the United States.

Dr. Williams pointed out that this was another problem involving the question of exchange used for financing charges, etc.

With regard to his policy concerning the rate at which the peso should be held, the Minister stated that for the time being he would attempt to hold it around its present level of 25 to the dollar; this was necessary because the gold washing industry could not be kept up if the peso appreciated much more than this, nor could agricultural and certain other products be exported at a profit with a higher peso. He added that he was looking toward stabilizing the peso at about this rate with the gold dollar, that is to say, not the old gold dollar but the new gold dollar if or when we went back to a definitely stabilized gold standard.

With regard to the long-term bonds, the Minister of Finance stated that he had not reached a final decision in the matter: that nothing could be done for the moment but that he was absolutely clear on one point, namely, that Chile would not sign any agreement whose complete fulfillment could not be clearly foreseen. Having this principle in mind, therefore, he was looking towards a settlement on the bonds which would be in the form of devoting certain dollar or sterling revenues to supply the service on these obligations. These revenues would be derived from the Nitrate Sales Corporation and the bonds would be placed on an income basis, the bondholders only receiving a fluctuating income from the sources of revenue which had been allocated for that purpose. Were an attempt made to settle the long-term bonds on a fixed charge basis, the basis would be so small as to be ridiculous and unacceptable.

Dr. Williams next attacked the question of our frozen credits calling attention to the fact that in view of our well-known and traditional policy in regard to insisting upon most-favored-nation treatment, the United States Government had not been inclined to look very complacently upon the granting by Chile of special exchange under compensation treaties to certain countries for the liquidation of their frozen credits; that as a result of his investigation in Chile, he had found that the global amount of American credits in Chile which could be classed as frozen was comparatively small and that in view of these facts it would seem that Chile might make some arrange-

ment to supply exchange at a preferential rate for the liquidation of these American credits bearing in mind the fact that Chilean products entered the United States free from control and that Chile had a great stake in maintaining and augmenting its nitrate markets in the United States. Dr. Williams added that obviously as the United States had devalored its dollar by 41% it would not expect liquidation on the basis of the old dollar but that the rate of 16.55 pesos to the dollar would perhaps appear a fair one. The Minister of Finance immediately countered by asking if we wanted a compensation treaty similar to the French one. Dr. Williams answered "no", that such an arrangement tended to canalize trade in narrow channels, would be restrictive and would not be advantageous to either Chile or the United States. "No", Mr. Ross replied, "it would be disadvantageous to Chile but even more so to the United States." Mr. Ross then said unequivocally, "We will give you a compensation treaty if you insist upon it to provide exchange at a special rate but if you do not accept compensation, we will not furnish you exchange at a rate lower than the current market rate. This", he added, "you can accept as a definite decision on my part."

Referring to compensation purely on its own merits the Minister pointed out that were the French scheme adopted it would take years to liquidate American frozen assets. In this connection he referred to the fact that the Germans had become convinced of the disadvantages of the compensation system and had not renewed on June 30th their compensation treaty with Chile. Furthermore, he pointed out the fallacy of the theory that special exchange is paid for by the country in which the frozen credits are held. As it has worked out, the funds that supply the special exchange are actually paid for in the country imposing the compensation due to the fact that nitrate is sold in such countries at an artificial price. For example, nitrate is sold in the United States at \$25.00 a ton, but in Germany it is sold at \$35.00 and in France at \$32.00, and at correspondingly high prices in Belgium and Italy. In receiving nitrate quotas for those countries Chile is obliged to agree to sell at no less than these prices. We might say, therefore, that in France the French farmer is paying the cost of the liquidation of the frozen funds of his compatriots at the preferential rate. (NOTE: The exact reason for this situation was not made quite clear by the Minister and it was decided to obtain more specific information on this point from the Nitrate Sales Corporation.)

Touching for the moment on the relation of the problem of current trade, the Minister points out that exchange availabilities for compensation countries were held down to the amounts created through the compensation agreements. The trade of these countries was correspondingly restricted, therefore, as would be ours were we to insist upon that type of arrangement.

Reverting to the question of our frozen credits, the Minister stated that he felt sure that they were not nearly as large as we had perhaps supposed; that the sum total of these blocked funds had been greatly reduced due to the fact that large amounts had been invested or had been lost; that certain types of funds or investments such as those held by the International Telephone & Telegraph Company and the Compañía Eléctrica, were not properly classifiable as frozen credits. In this connection he referred to his experience with the British; that he had tried to get the British to give him an accurate list of their frozen credits; that the first list supplied had contained enormous sums alleged to be frozen credits; that, however, when it came to the point of finding out exactly how many pesos were in the bank awaiting transfer, the funds had shrunken enormously.

In developing the discussion of the frozen credit problem, Dr. Williams stated that of course he could not say what might be the final position taken by the Department in the matter; that, as the Minister was aware, the Department laid great stress on the principle of most-favored-nation treatment and its deeply rooted philosophy in this question might play a strong part in its final decision. Laying this aside for the moment, however, he invited the Minister to make whatever suggestion he cared to towards a practical solution of the frozen credit problem. Mr. Ross replied that while we had been arguing principles, he had been endeavoring to liquidate funds as much as possible so that if the argument of principles continued for a long enough time, a point might be reached where we might agree on principles whose application however would be unnecessary since the problem would have ceased to exist. Specifically, however, the Minister suggested that we follow the same procedure as the English, namely, make a complete list of our frozen credits and all American funds, in fact, available in a completely liquid form desiring transfer. The Minister could then see his exchange problem as a whole and could make suitable arrangements to supply exchange cover over a certain period of time as exchange became available. Peso accounts would present only an exchange problem but in the case of accounts due in dollars he pointed out that the problem was more complicated and some arrangement would have to be made as to finding a suitable rate. Though not entirely clear, the implication was that it would be difficult to force the Chilean debtor to buy sufficient exchange to meet his dollar credits dollar for dollar but that some compromise perhaps would have to be made between creditor and debtor on some intermediate exchange rate.

The interview was closed by Dr. Williams and the members of the Embassy staff bringing up the question of the retirement funds of Americans in the Caja de Previsión de Empleados Particulares and reminding the Minister that a satisfactory settlement of these cases

was considered indispensable. The Minister stated that he felt it was fair for Chile to pay the funds of Americans residing outside of Chile in full. Americans in Chile, however, he felt could not expect to receive their dollars in full in view of the relative purchasing power of the dollar in Chile to the peso. He asked for a list of depositors and Mr. Scotten showed him a list which he had with him which was transmitted to the Department in despatch No. 78 of March 28, 1934.<sup>26</sup> The Minister was informed that this list had been left months ago at the Foreign Office. Our impression on the Caja matter was that the Minister was disposed to pay the dollar and peso accounts in full to Americans residing outside of Chile but that it would be very difficult to obtain any special treatment for Americans who elected to remain in Chile.

[Enclosure 2]

*Memorandum by Dr. John H. Williams, August 8, 1934*

During our stay in Chile, we have discussed the American exchange problems in considerable detail with the Embassy staff which, in advance of our arrival, had prepared two important memoranda, one on "Exchange Problems in Chile" and one on "Exchange and Compensation Factors affecting American Trade with Chile". We then interviewed at the Embassy in the presence of the Ambassador and the staff, a number of Americans representing a broad variety of American interests in Chilean industry and trade. These men, who were interviewed individually, are:

- Mr. Leo Welch, Manager, National City Bank in Santiago.
- Mr. George S. Laing, Manager, West India Oil Company.
- Mr. Philip Bonsal, International Telephone and Telegraph Company.
- Mr. J. F. Owens, Compañía Eléctrica.
- Mr. Percy Seibert of the Braden Copper Company.
- Mr. Edward Craig of the Anaconda Copper Company.
- Mr. Horace Graham, Director of the Compañía de Ventas de Salitre.
- Mr. Paul Miller, Controlor of the Compañía de Ventas de Salitre.

Accompanied by Mr. Scotten and Mr. Scott, I then had an interview of an hour and a quarter with Sr. Gustavo Ross, the Minister of Finance. As the situation stands here, Mr. Ross is the final authority on all economic and financial questions and is his own director of exchange control.

## I.

There are four possible alternative policies for handling our exchange problems in Chile:

<sup>26</sup> Not printed.

1) By compensation treaty, which would include preferential treatment of frozen credits at the official rate of exchange, which in terms of our old gold dollar would mean 16.55 pesos per U. S. dollar, and in terms of the new gold dollar 9.6 pesos per dollar.

2) A general agreement with Chile, along lines already described in the Embassy's memorandum of March 27, 1934, but including also liquidation of frozen credits on most-favored-nation terms at the official rate of 9.6 to 1. This we understand to have been the State Department's position. This general agreement would give us freedom from exchange control and an exchange rate on current trade equal to that furnished compensation countries. In addition, by this agreement Chile would undertake to repay in dollars those having dollar deposits in the "Caja de Previsión de Empleados Particulares" and to furnish dollars at the official rate of exchange to those having peso deposits in the "Caja".

We understand that the Chilean Government has been willing to accept this agreement, in principle, in all respects except for its frozen credits provision; but that the State Department in view of this exception has not gone forward with the agreement, on the ground that to omit the frozen credit provision would represent acquiescence in less than most-favored-nation treatment with respect to this item.

3) A general agreement on the lines of (2) above as to current trade and the treatment of American depositors in the "Caja de Previsión", but with either (a) an agreement to liquidate frozen credits at some other rate of exchange than the official rate of 9.6 to 1, or (b) an understanding that an equitable settlement along these general lines would be effected privately between the Chilean Government and American holders of frozen credits.

4) Acceptance of the *status quo* as to current trade; a definite agreement on the lines already indicated with respect to deposits in the "Caja de Previsión"; and acceptance of the *status quo* as to frozen credits, but with an understanding to be worked out, either by the State Department or privately, as to the best practical method for resolving this problem.

## II.

In approaching the consideration of these four alternative lines of policy we have borne in mind the long history of negotiations with the Chilean Government concerning our exchange problems, during which time the economic and trade position of Chile has materially changed for the better. This improvement has occurred particularly since the period of active negotiation began last November. Our Government has consistently refused to consider the first plan outlined above, a compensation treaty, on broad grounds of general policy. In pursuing the second alternative, the Department in the



beginning was evidently much concerned with receiving most-favored-nation treatment with respect to current trade. But partly by reason of the pressure exerted through our Embassy, acting on the Department's instructions, and in large part, by reason of the general improvement in Chilean trade, this problem has already been resolved without any formal agreement, so that today we are in fact receiving equal treatment with respect to current trade, exchange being made available to our exporters at the export bill rate of 25 to 1 and to the compensation countries at the official rate plus a premium which equalizes the price of exchange as between such countries and ourselves. A formal agreement, therefore, would accomplish nothing more than legalization of the existing *status quo*.

As the Department has consistently contended, such a formal agreement is unacceptable if not accompanied by an agreement with respect to frozen credits giving us in this respect also most-favored-nation treatment. All of the compensation treaties contain a provision for the liquidation of frozen credits at a rate which is better than the export draft rate now applied to current trade. Our problem has been how to secure equally favorable treatment on frozen credits without consenting to a compensation treaty. If now we should negotiate a general agreement with respect to current trade, and acquiesce in Chile's refusal to include in it most-favored-nation treatment for our frozen credits, we should apparently be relinquishing what has been, from the beginning of the negotiations, a major contention of principle, for the sake of a general agreement which now can give us little more than the treatment we are already receiving.

### III.

Our visit to Chile has impressed us with the complicated character of the frozen credits question. It is not easy to determine what would constitute for us most-favored-nation treatment or how desirable such treatment would be if we could get it. The French and other agreements are based on the official rate of exchange (three pence gold); in terms of our devalued dollar this would be 9.6 pesos for 1 dollar, but in terms of the old dollar it would be 16.55 to 1. It can be argued that Chile was not responsible for our devaluation and is entitled to consider 16.55 to 1 as its official rate. But to get even this rate, which the Finance Minister firmly refuses except as part of a compensation agreement, it would be necessary to consent to a time schedule which might mean only very gradual liquidation. In the French agreement 20 per cent of nitrate sales to France are blocked to provide exchange for frozen credits, so that unless nitrate sales are large liquidation is slow. A number of the Americans interviewed,

when asked whether they preferred slow liquidation at a good rate or faster liquidation at a worse rate put greater stress upon the latter.

To provide exchange at the official rate for frozen credits, Chile compels the Nitrate Sales Corporation to sell exchange at that same rate, instead of at the much more favorable export draft rate. Since the nitrate industry represents largely American capital, such a solution of our frozen credits problem would be at the expense of an American interest. Our nitrate representatives, moreover, point out that since they use a considerable part of their exchange to buy American imports (including oil products, motors, electrical equipment, rubber, etc.), any such attempt to improve the position of American exporters on frozen credits would worsen our position in current trade. It should be pointed out, also, that most of the compensation treaties include only a portion of the frozen credits, so that they do not pretend to provide a complete solution of the problem.

To determine an equitable rate for the liquidation of our frozen credits or the amount that would be liquidated were exchange offered, presents great difficulty. Part were frozen in July, 1931, when exchange control was imposed; and when the rate was about 8 to 1; but in reporting frozen balances creditors include as well the subsequent accumulations, when the rate was fluctuating from 8 to 60 to the dollar. A large portion of the frozen credits, moreover, has been invested in property or in securities, and in some cases large profits have been made. Some credits have been liquidated at the export draft rate, including some 18,000,000 pesos in response to two general offers made by the Finance Minister this year. Some credits are now so tied up that they cannot or will not be liquidated. This part includes 50,000,000 pesos used by Electric Bond and Share to buy up its local 8 per cent debentures, effecting an important saving in interest. It probably should include also 18,000,000 pesos of bank deposits belonging to the Telephone Company, which appear to be destined, according to the local representative for investment in Chile, in lieu of new capital from abroad, to carry out expansion in accordance with the company's contract. Thus of 157,000,000 pesos of "frozen credits" reported to the Commercial Attaché's office in response to his questionnaire, our inquiries would indicate that 18,000,000 pesos have been liquidated and at least 68,000,000 pesos cannot or will not be liquidated, leaving a total of about 72,000,000 pesos, which at the current export draft rate is less than \$3,000,000. What portion of this was blocked prior to July, 1931, and therefore in equity entitled to the official rate, and what part since that time, when the importer was taking his chances, I am not able to determine. In addition, there are some \$4,000,000 of frozen credits in the form of unpaid drafts, receivables, merchandise or other items requiring

payment by the debtor in dollars. All these, presumably, are in a different category, representing sums not yet collected from the debtor (local importers, etc.). What portion of these debts may still be good, and at what rates the debtors should now be required to provide exchange present difficult problems. But in general, it seems clear that the total amount of collectible or transferrable credits is substantially smaller than had previously been supposed. In particular, it should be pointed out that of the total estimated frozen credits (Feb. 21, 1934), only 53,800,000 pesos is represented by deposits in banks, and that from this amount there must be deducted at least 31,000,000 pesos of which 18,000,000 has already been liquidated this year at the export draft rate and 13,000,000 represents the Telephone Company's deposit at that time. These deductions would leave about 22,000,000 pesos, or less than a million dollars at the current export draft rate (or \$1,333,000 at the rate of 16.55 to 1).

#### IV.

Throughout a long interview the Finance Minister discussed freely his present policy, but consistently refused to consider any better rate for frozen credits except in connection with a compensation treaty. I am satisfied that except in response to pressure in the form of some genuine threat to Chile's markets in the United States he cannot be induced to alter this position.

His present policy with respect to exchange is to maintain the export draft rate at 25 to 1, equally for all countries, as to current trade, and to liquidate frozen credits at this rate, except as to the compensation countries. He has induced the British to furnish him a complete list of their frozen credits and has liquidated all but £40,000 of the British credits willing to accept this rate. He realizes fully, and pointed out in some detail, that some of the American frozen credits do not properly belong in that category. He has made two general offers to liquidate our frozen credits at the export draft rate, and is convinced that he will in time succeed in clearing up the problem by this method. He asked us if the Embassy is able and willing to furnish a true list of frozen credits. He dislikes compensation treaties and is convinced that they have worked to the injury of the foreign countries which insisted on them, and have resulted in a scarcity of exchange to finance their exports. He points out that Germany has not renewed the treaty which expired on June 30, 1934. He insists that the compensation countries themselves provide the differential in favor of their frozen credits in the high price for nitrate which prevails in these countries as compared with the price in England and the United States.

## V.

My conclusion is that preferential treatment for frozen credits, whether we mean by that treatment equal to that accorded to France and other compensation countries or merely a preferential rate as compared with current trade, cannot be secured except by a compensation treaty or by some other form of definite commercial pressure; and that in view of the relatively small size of the genuine frozen credits now remaining and the complicated status and character of these credits, making difficult the calculation of an equitable preferential rate, it would be unwise and impolitic to pursue such a course, since by it we would jeopardize the genuine good will which now exists, and might impair a trade position which appears to be distinctly favorable. If the Department should take this view, there would remain the question whether it wished, possibly after discussion with the American interests at home and in Chile, to acquiesce in the Minister's request for a list of American frozen credits, to be provided through the Embassy, as the British have done, or would consider that such a list should be provided by the private interests concerned.

If this policy were pursued with respect to frozen credits, the broader question would be whether it is still advantageous to negotiate a general agreement respecting current trade. My present view, which as yet is merely tentative, is that in view of the fact that we are now receiving without agreement as good treatment on current trade as could be had by means of an agreement, there is little to be gained by a procedure which would involve a formal relinquishment of our contention for the principle of most-favored-nation treatment with respect to frozen credits. I should therefore be inclined to favor the fourth of the alternatives outlined in section I of the present memorandum.

JOHN H. WILLIAMS

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825.5151/217

*The Ambassador in Chile (Sevier) to the Secretary of State*

No. 168

SANTIAGO, August 14, 1934.

[Received August 23.]

SIR: I have the honor to refer to this Embassy's despatch No. 152 of July 18, 1934, transmitting a copy of the Embassy's Note No. 118 of July 17, 1934, which requested that the action taken by the Caja de Previsión de Empleados Particulares in converting the retirement funds of American citizens into pesos at a rate of exchange lower than the recognized commercial rate be rescinded pending such time as an agreement on this subject shall have been reached between the two Governments.

In view of the fact that no action was taken by the Foreign Office notwithstanding the oral inquiries which were subsequently made, it

was deemed necessary to address a further communication to the Chilean Government requesting that the reply to the Embassy's note be expedited. A copy of this communication is enclosed.<sup>27</sup>

On July 31st the Foreign Office replied<sup>27</sup> to the Embassy's Note No. 118 stating that the matter had been referred to the appropriate Ministry. Under date of August 7, 1934, a reply was received<sup>27</sup> to the Embassy's Note No. 123 of July 30th setting forth that the appropriate Ministry had been asked to hasten its decision in the matter and that the Embassy would be informed promptly thereof.

The question has since been taken up orally with the Under Secretary. While he in no way questions the position taken by the Embassy with respect to this problem, he indicated that the Foreign Office was unable to make a suitable reply to our representations until authorized to do so by the Ministry of Hacienda under whose jurisdiction this question falls. It was obvious from a telephone conversation which he had with the Under Secretary for Hacienda, that the latter desires to avoid a decision on the matter at this time. Needless to say, it was pointed out to the Under Secretary that the merits of the case in question are so clear that my Government could not consent to permitting the matter to drag on without a definite decision, and that in view of the fact that the problem was the subject of diplomatic negotiations, we confidently expect that the Chilean Government will rescind the arbitrary action of the Caja in order to permit the resumption of negotiations.

During the visit of Dr. John H. Williams, the question of the repayment of these funds was brought up in a general discussion with the Minister of Hacienda of the pending problems of American interests. In view of many different aspects of the general problem which were discussed at that time it was not possible to enter into a detailed discussion of the Caja. However, it was quite clear that Mr. Ross has some very definite ideas as to how far he is disposed to go in the definitive settlement of this question, and that it would be necessary to devote a special meeting to this question. Accordingly, it is planned to obtain figures on the actual amount of dollars which would be involved in a satisfactory settlement of the repayment of the funds and then to approach Mr. Ross directly. While at the present time Mr. Ross is opposed to a settlement which would be acceptable to this Embassy, it is believed that approaching him on the grounds of the relative insignificance of the deposits, it may be possible to obtain his authorization for settlement in the manner desired.

Respectfully yours,

For the Ambassador :  
ROBERT M. SCOTTEN  
*Counselor of Embassy*

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<sup>27</sup> Not printed.

825.5151/227

*The Ambassador in Chile (Sevier) to the Secretary of State*

[Extracts]

No. 211

SANTIAGO, October 17, 1934.

[Received October 25.]

SIR: I have the honor to refer to this Embassy's despatches Nos. 168 and 169 of August 14, 1934,<sup>28</sup> concerning the repayment of retirement funds of American citizens deposited in the Caja de Previsión de Empleados Particulares. . . .

Under date of October 11, 1934, the proposal was incorporated in the Foreign Office's Note No. 5768, a copy of which with translation is enclosed herewith. The Department will observe that the note is drafted in a very friendly spirit. . . .

The Under Secretary for Foreign Affairs in interpreting this proposal stated that it included the three classes of American depositors: (1) those with deposits in American currency who have left Chile; (2) those with deposits in American currency who are still residing in Chile and whose funds are now payable; and (3) those with deposits in American currency who are still residing in Chile and whose funds are not yet payable. With respect to the first two classes, he stated that the necessary foreign exchange would be provided immediately for the transfer of these funds abroad. With regard to the third group, the exchange would be furnished when repayment of the funds becomes due.

The proposal as it now stands represents a distinct gain from the *status quo* in the sense that up to the present Americans residing outside of Chile have been able to convert their dollar accounts into Chilean pesos only at the rate of 9.60 pesos or less to the dollar and, in order to transfer the proceeds thereof abroad, to reconvert into dollars at the current market or export draft rate of approximately 25 pesos or more to the dollar. This procedure meant a direct loss of 62% of their deposits. The terms of settlement now offered would permit Americans residing outside of Chile to receive in dollars 58% of their original deposits, or a loss of 42%.

The question now arises as to the attitude which the Embassy and the Department should take as regards this proposal. It is the opinion of the Embassy after taking into consideration the financial condition of the Caja, the intransigent attitude of the Minister of Finance

<sup>28</sup> Despatch No. 169 not printed.

and the inability of the Foreign Office to influence effectively the actions of the latter, that there is little use in carrying on further conversations regarding this matter in Santiago unless the American Government is willing to bring some pressure to bear. Should the American Government be willing to adopt any coercive measures it would of course be unwise for the American depositors to avail themselves of the proposal outlined above. However, should the Department be unable to see its way clear to do so two courses of action remain open: First, the Department can accept the proposal officially and consider the negotiations closed; second, the Department can refrain from answering the proposal and thus maintain the principle of insistence upon full repayment of the dollar accounts. However, in this case the Embassy should be permitted to notify individual depositors that they may liquidate their funds in accordance with the above proposal, and to add that if they fail to avail themselves of this opportunity no assurances can be given as to when any better terms might be available.

Considering this whole problem from the realistic rather than the legalistic point of view, it is the Embassy's considered opinion that should our Government be unwilling to bring pressure to bear in order to obtain better terms, the wisest course of procedure for individual depositors to pursue would be to liquidate their accounts as rapidly as possible under the terms now offered.

In view of the fact that the Embassy had suggested to the American depositors concerned who are urgently in need of their funds to withhold settlement with the Caja pending the outcome of the negotiations which have culminated in the present proposal of the Government of Chile, I have the honor to request that the Department communicate by telegraph its instructions in the premises to the end that the Embassy may advise the interested Americans as to what course they should take.

Respectfully yours,

For the Ambassador:  
ROBERT M. SCOTTEN  
*Counselor of Embassy*

[Enclosure—Translation]

*The Chilean Minister for Foreign Affairs (Cruchaga) to the  
American Ambassador (Sevier)*

SANTIAGO, October 11, 1934.

MR. AMBASSADOR: Many months back your Embassy was good enough to submit to the consideration of the Department under my direction the situation in which the American depositors in the Caja

de Previsión de Empleados Particulares find themselves as a result of the legal provisions relating to the conversion of their deposits in American money into local currency.

I have given to the problem the importance which it deserves and I have endeavored to find a just solution for both parties. The position of the Caja de Empleados Particulares, unfortunately, does not permit it to make an extraordinary expenditure which would facilitate a satisfactory solution. The Government has had to take its part, very considerable, of the losses which are presumed indispensable for the settlement and it believes, in this way, it has responded to the always cordial spirit of the relations between Chile and the United States.

The Department does not deem it relevant to analyze again the reasons which determined the enactment of Law No. 5107 authorizing the conversion of the deposits. "Because the national interest requires it," reads the said law, and undoubtedly the supreme necessity of living made indispensable the enactment of afflictive measures which affected nationals as well as foreigners. The economic and financial depression, whose effects Your Excellency is aware of, imposed sacrifices and restrictions of every kind unknown until then.

Therefore, without entering into the discussion of the juridical point of view and confirming what I had the honor of expressing verbally, it is a pleasure for me to inform Your Excellency that the Government is disposed to permit that the American depositors of the Caja who have or may have in the future in their accounts converted into local currency at the rate of exchange of the day on which the operation may be effected the funds which they deposited therein in dollars, transfer those funds abroad and, in order to make that transfer purchase foreign exchange at the same rate of exchange as the Central Bank of Chile acquires such in conformity with the contracts concluded with the copper producing companies.

It would be very pleasing to this Government to know that in this manner and by virtue of an effort which devolves in great part upon the Chilean Government, a problem is solved whose effects touch many American citizens.

Awaiting the reply which Your Excellency may be good enough to forward me, I avail myself [etc.]

MIGUEL CRUCHAGA

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825.5151/227 : Telegram

*The Acting Secretary of State to the Chargé in Chile (Scotten)*

WASHINGTON, November 5, 1934—6 p. m.

78. In view of the considerations set forth in your despatch No. 211, of October 17, the Department agrees that at this time no practical



purpose would be served in further pursuing the negotiations with the Chilean Government in the hope of obtaining better terms for American depositors in the Chilean Retirement Fund.

You may inform the American depositors involved of the opportunity which now offers to liquidate their dollar deposits in the Retirement Fund at the rate of 16.65 pesos to the dollar.

The Department, of course, has no authority to accept, in the name of the interests involved, the proposal now made by the Chilean Government. You are, however, authorized, in your discretion, to apprise the Chilean Government that this Government will make no further representations on this subject if the proposed settlement is effected. The Department hopes that you will be able to obtain the small additional concession of interest payments on these deposits for the past 3 years, but leaves to your judgment how far to press this point.

PHILLIPS

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825.5151/234 : Telegram

*The Chargé in Chile (Scotten) to the Secretary of State*

SANTIAGO, November 21, 1934—noon.

[Received 1:45 p. m.]

108. Reference fourth paragraph Department's telegram No. 78, November 5, 6 p. m.,<sup>29</sup> I am pleased to report that the Chilean Government has acceded to the Embassy's representations relative to interest payments and that the American depositors will now receive approximately 61 cents on the dollar as against 58 cents contemplated in the original offer and as against only 38 cents or less previously obtainable. Arrangements for prompt repayment are being completed and the Embassy will send appropriate notification to depositors within a few days.

SCOTTEN

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825.5151/234 : Telegram

*The Secretary of State to the Chargé in Chile (Scotten)*

WASHINGTON, November 23, 1934—noon.

81. Your 108, November 21, noon. The Department is gratified that the Embassy has succeeded in obtaining more favorable terms for the American interests involved and expresses its appreciation of your efforts.

HULL

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<sup>29</sup> See last sentence of telegram under reference.

828.5151/241

*The Chargé in Chile (Scotten) to the Secretary of State*

No. 240

SANTIAGO, December 4, 1934.

[Received December 15.]

SIR: With reference to the Department's telegram No. 83, December 3, 8 P. M., 1934,<sup>30</sup> authorizing the American Consul to receive and transmit the retirement funds deposited in the Caja de Previsión de Empleados Particulares of those American citizens who have no representative in Santiago and who may care to designate him to act as their attorney for this purpose, I have the honor to inform the Department that the parties concerned are being so advised. Moreover, it has been clearly pointed out that should the Consul perform this service for them, he will do so free of charge but with the definite understanding that he assumes no responsibility beyond that of acting as a mere transmitting agent.

In order to complete the Department's files on this subject, I have the honor to transmit herewith a copy of the Embassy's circular letter of November 23, 1934,<sup>30</sup> informing the depositors of the proposed settlement. This communication has been addressed to all American depositors of which this Embassy has record, as well as to those persons in Chile who hold powers of attorney for Americans who have left this country. A list of the individuals to whom the circular has been sent is also enclosed.<sup>30</sup>

I have the honor to forward at this same time a copy of the Embassy's Note to the Foreign Office<sup>30</sup> acknowledging receipt of its communications of October 11th and November 20th in which the terms of the proposed liquidation of the retirement funds were set forth. The Department will observe that in this reply, I have limited myself to expressing sincere appreciation of the spirit of good will and cooperation which the Foreign Office at all times showed during the lengthy negotiations. Since this acknowledgment met with the approval of the Foreign Office, it was unnecessary to include a statement such as was authorized in the third paragraph of the Department's telegram No. 78, November 5, 6 P. M., 1934.

In conclusion, I would state that no difficulty is anticipated in effecting the prompt settlement of the funds in question. In fact, the Under Secretaries for Foreign Affairs and for Finance, as well as the Manager of the Caja, have assured me of their willingness to cooperate in every possible way to facilitate and expedite the repayment of these deposits.

Respectfully yours,

ROBERT M. SCOTTEN

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<sup>30</sup> Not printed.

PROTEST AGAINST CHILEAN SALES TAX ON FIXED CHARGES AS  
APPLIED TO THE AMERICAN GOVERNMENT AND ITS DIPLOMATIC  
OFFICERS

825.512/45

*The Ambassador in Chile (Culbertson) to the Acting Secretary  
of State*

No. 1487

SANTIAGO, June 21, 1933.

[Received June 29.]

SIR: I have the honor to refer to the Embassy's despatch No. 1427 of April 13, 1933,<sup>32</sup> with which was transmitted a copy of the new Chilean tax law, No. 5154, enacted on April 10, 1933,<sup>33</sup> providing for a general increase of existing taxes. Section 17 of Article 7 of this law amends paragraph 1 of Section 33 of Article 7 of Law No. 4460 of November 13, 1928, first, by establishing a sales tax of 2% in lieu of the former stamp tax on invoices of ten centavos for each 100 pesos which was paid by the seller; and, second, by authorizing the seller to pass on the tax in question directly to the buyer. The pertinent section of the law reads, in translation, as follows:

“. . . Commercial sales, including operations in foreign exchange, 2% of the amount of the transaction.

“Persons or enterprises classified in the third category (commerce and industry) of the Income Tax Law will pay this same tax on the amount received by way of interests, premiums, commissions or other forms of remuneration for business, services or loans of any kind. The said persons or enterprises can require, in all cases, that the interests, premiums, commissions or other forms of remuneration be paid them with a surcharge equivalent to the amount of the tax. . . .”

Since the law authorizes the seller to require the buyer to pay the tax, bills for all purchases and services, including rent, electricity, gas, water, telegraph and telephone bills, etc., carry a separate charge for the 2% tax in addition to the price of the article or service rendered. Under these circumstances the tax might be considered as a direct charge by the Chilean Government against foreign Governments and diplomats.

In answer to inquiries made at the Foreign Office the opinion was expressed that while the law did not specifically exempt foreign diplomatic officers from the payment of the tax, it was not believed that it was the intention of the legislator to place this direct burden upon foreign governments and their officers. In any case, it was added, the matter could be satisfactorily arranged on the grounds of reci-

<sup>32</sup> Not printed.

<sup>33</sup> For text, see Chile, *Diario Oficial*, No. 16,548, April 10, 1933.

procity. With this end in view the Foreign Office suggested that the Embassy bring the question to its attention in an informal memorandum. However, before submitting such a memorandum I desire to know whether the Department is disposed to press for exemption from this tax. Doubt as to what attitude the Department might take with respect to this question has been caused by the statement made in Department's circular instruction of October 24, 1925,<sup>34</sup> concerning exemptions from taxation enjoyed by foreign diplomatic officers within the United States. It will be recalled that in that instruction the question of taxes on the sales of automobiles and jewelry was discussed and it was held that foreign diplomatic officers were not exempted because the Government looked to the manufacturer and the vendor for the payment of the tax and not to the purchaser of the article. It was added that for this reason and the further reason that the price of the articles sold is a matter of negotiation between the vendor and the purchaser, the position was taken that no exemption from the payment of these taxes could be granted to the manufacturer or vendor by reason of the fact that the sale was made to a diplomatic representative of a foreign government.

The sales tax of 2% established by Law No. 5154 is of course much more comprehensive than the luxury tax referred to in the Department's circular instruction above mentioned since it covers every kind of a commercial transaction.

I therefore have the honor to request instructions as to whether the Department wishes the Embassy to protest the tax in general, or to limit the protest to the payment of the tax on fixed charges, such as bills for rent, telephone, electric light, telegraph and other similar services, which do not admit of price negotiation. In view of the fact that I am withholding the payment of bills now due and which should be included in the Embassy's June accounts, I have the honor to request that the Department telegraph its instructions prior to June 30th.

Respectfully yours,

W. S. CULBERTSON

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825.512/46 : Telegram

*The Acting Secretary of State to the Ambassador in Chile  
(Culbertson)*

WASHINGTON, July 29, 1933—2 p. m.

38. Your telegram 86, July 28,<sup>34</sup> and despatch No. 1487, June 21. Follow General Instruction October 24, 1925, particularly fifth para-

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<sup>34</sup> Not printed.

graph.<sup>36</sup> With reference to last paragraph of your despatch, limit your protest to payment of tax on fixed charges. Amount of rental contracted before tax law adopted may be treated as fixed charge.

CARR

825.512/49

*The Chargé in Chile (Norweb) to the Secretary of State*

No. 1551

SANTIAGO, October 3, 1933.

[Received October 12.]

SIR: With reference to this Embassy's despatch No. 1487 of June 21, 1933, concerning the 2% sales tax on services rendered to and articles purchased by the United States Government in Chile, and to the Department's telegram No. 38 of July 29, 2 p. m., 1933, instructing that this Mission limit its protest to the payment of the tax on fixed charges, I have the honor to transmit herewith a copy of the Embassy's Memorandum on this subject left at the Foreign Office on August 17, 1933,<sup>37</sup> and a copy, together with English translation, of a Memorandum of the Chilean Government of September 29, 1933, replying thereto.

It will be observed that the Embassy's Memorandum of August 17, 1933, points out that the pertinent section of Law No. 5154 amends former Law No. 4460 by establishing a sales tax of 2%, and by authorizing the seller to collect the said tax directly from the buyer; that consequently the corresponding invoices carry, in addition to the agreed price, a separate charge of 2%, or the sales tax; and that in view thereof, the charge would appear to be in the nature of a direct tax against the American Government. The Memorandum then sets forth that this practice, in so far as it concerns the payment of the tax on fixed charges not subject to negotiation between the seller and buyer, is contrary to the treatment accorded officers of the Chilean Government in the United States. In consideration thereof and [of?] the view expressed informally by the Foreign Office, that it was not believed to be the intention of the Congress to place a direct burden upon foreign governments, the Memorandum presumes that the Chilean Government does not wish to apply this direct tax.

The Foreign Office, in reply to this memorandum seeks to evade the issue by the specious argument that the tax is not a sales tax, nor even a tax of any kind, but is a surcharge due to the increased cost of living which the Government of Chile itself is obliged to pay.

<sup>36</sup> Not printed. See note to the German Chargé, July 16, 1926, *Foreign Relations*, 1926, vol. I, p. 548; the fifth paragraph mentioned above is identical with the penultimate paragraph, *ibid.*, p. 550.

<sup>37</sup> Not printed.

Such reasoning carries no conviction. Unquestionably, the 2% charge is a direct tax for the benefit of the Government and not simply a legalized surcharge on industrial and commercial operations.

Awaiting further instructions from the Department, the Embassy is declining to pay this tax.

Respectfully yours,

R. HENRY NORWEB

[Enclosure—Translation]

*The Chilean Ministry for Foreign Affairs to the American Embassy*

#### MEMORANDUM

In the Memorandum of August 17, 1933, the Embassy of the United States of America referred to the application of the tax of 2% established by Law No. 5154 on invoices for services rendered or articles sold to the offices of the Government of the United States of America or to the diplomatic or consular officers of that country, and pointed out that it involved a direct tax against the said American Government and its officers.

In this connection, the Ministry of Foreign Affairs points out that Law No. 5154 established the so-called tax "on the total amount of business," which imposes a tax of 2% on the amount received by way of interests, premiums, commissions or other form[s] of remuneration, authorizing the persons or enterprises subject to the said tax to increase their interests, premiums, etc., in a sum equivalent to the amount of the tax. The same law raised the former tax on services and sales which was 1/2% on the value thereof, to 2% and also authorized the persons or enterprises subject thereto to increase their prices in an amount equivalent to the tax.

It does not therefore appear possible to say that the persons who contract with those enterprises which are subject to the tax on the amount involved, pay a fiscal tax. These persons experience only the increased cost of living which all taxes normally cause. It is indispensable to distinguish between the tax provided for commercial or industrial enterprises and the higher price which the enterprises charge or may charge their clients.

In the case to which the Embassy of the United States of America refers, it is necessary to observe finally that it does not involve a tax of 2% but a surcharge authorized by Law 5154. Thus, the Chilean Government itself is obliged to pay its accounts with the said surcharge which would not be the case if the payment of such a surcharge could be construed as the payment of a tax.

SANTIAGO, September 29, 1933.

825.512/52

*The Ambassador in Chile (Sevier) to the Acting Secretary of State*

No. 21

SANTIAGO, December 18, 1933.

[Received December 28.]

SIR: With reference to this Embassy's despatch No. 1551 of October 3, 1933, concerning the application of the Chilean sales tax, I have the honor to transmit herewith a copy of a letter from The Chile Telephone Company,<sup>88</sup> a subsidiary of the International Telephone & Telegraph Company, requesting information as to what decision has been made relative to the payment of the sales tax on telephone services rendered to this Embassy. It will be recalled that in the last paragraph of the despatch under reference, it was stated that the Embassy was declining to pay the tax pending further instructions from the Department. Accordingly, it would be appreciated if the Department would indicate by telegraph what action it desires to take with respect to the principle involved.

Respectfully yours,

HAL SEVIER

825.512/54

*The Acting Secretary of State to the Ambassador in Chile (Sevier)*

No. 8

WASHINGTON, January 10, 1934.

SIR: Reference is made to the Embassy's despatch No. 1551, of October 3, 1933, and preceding correspondence concerning the application of the Chilean sales tax to services rendered to and articles purchased by the diplomatic and consular representatives of the United States Government in Chile.

The action of the Chargé d'Affaires in this matter is approved, except as to certain limitations hereinafter discussed. Reference is made to the Department's telegraphic instruction of July 29, 1933, in which attention was called to the fifth paragraph of the General Instruction of October 24, 1925. It should be noted that while the sales tax referred to in this paragraph was similar to the Chilean sales tax under reference, there are certain differences between the two. The Chilean law authorizes the person or business from whom the tax is collected to pass it on to the consumers. Moreover, there is a difference between a luxury tax on articles like automobiles or jewelry, and a tax on items such as rates for gas, electricity, water, etc., the latter being practically necessities, and the power of the purchaser to negotiate for the price being negligible. There is a further important difference

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<sup>88</sup> Not printed.

between fixed charges such as the Department is concerned with herein, and bargaining sales.

For your information a copy is enclosed of a circular note mailed to foreign diplomatic missions in the United States on October 12, 1932, and to the Chilean Mission in the United States on October 24, 1932. It is suggested that you should call the attention of the Chilean Foreign Office to this circular instruction [*note?*], and point out that in view of the liberal attitude of this Government in regard to taxation as it is set forth in this instruction [*note?*], it would seem that American diplomatic representatives in Chile should be exempted from the application of the Chilean sales tax in so far as it refers to fixed charges.

With respect to the Chargé's protest against the application of the Chilean sales tax to American consular officers, it would appear that under international law consuls do not necessarily enjoy the same exemptions from taxation as diplomatic representatives. There is no consular convention or treaty dealing with this subject between the United States and Chile. In view of these circumstances and considering that the United States did not apply the exemption from the Federal excise taxes in 1932 to consular officers, as set forth in the above-mentioned circular instruction [*note?*] to foreign missions, you are requested to limit your protest against payment of the Chilean sales tax to American diplomatic representatives in Chile.

Very truly yours,

For the Acting Secretary of State:  
WILBUR J. CARR

[Enclosure]

*The Secretary of State to the Chiefs of Foreign Diplomatic Missions  
in the United States*

The Secretary of State presents his compliments to Their Excellencies and Messieurs the Chiefs of Mission and transmits the following information received from the appropriate authority of this Government concerning their exemption from taxes imposed by the Revenue Act of 1932:

Miscellaneous federal excise taxes are imposed by the Revenue Act of 1932 on telegraph, telephone, radio and cable facilities; admission, dues and initiation fees; transfers of stocks and bonds; conveyances; sales of produce for future delivery; passage tickets; foreign insurance policies; safe deposit boxes; checks; electrical energy and use of boats.

Under the application of the principles of international law exempting from taxation ambassadors, ministers and other duly accredited diplomatic representatives of foreign governments, together with the



members of their families living with them and members of their households, including attachés, secretaries, clerks and servants who are not citizens of the United States, all such diplomatic representatives, together with the other personnel above mentioned, are entitled to exemption from the taxes in question.

WASHINGTON, October 12, 1932.

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825.512/55

*The Ambassador in Chile (Sevier) to the Secretary of State*

No. 137

SANTIAGO, July 3, 1934.

[Received July 12.]

SIR: I have the honor to refer to the Department's instruction No. 8 of January 10, 1934, and preceding correspondence concerning the application of the Chilean sales tax to services rendered to and articles purchased by the diplomatic representatives of the United States Government in Chile.

Immediately upon receipt of this instruction a Memorandum, as per copy enclosed,<sup>89</sup> was left with the Foreign Office. On numerous occasions since that time the matter has been discussed informally with the appropriate authorities. Particular stress has been placed on the fact that the United States Government in according exemption from Federal excise taxes to foreign diplomatic officers has done so under the application of the principles of international law exempting from taxation ambassadors, ministers and other duly accredited diplomatic representatives of foreign governments.

At first the Foreign Office endeavored to sustain the position taken in its Memorandum of September 29, 1933, (Enclosure No. 2, despatch No. 1551, October 3, 1933), that the 2% charge is not a government tax but a surcharge authorized by Law No. 5154. Later it advanced the theory that the tax was not imposed upon diplomatic representatives since the Government of Chile looks to the vendor and not to the purchaser for the payment of the charge. In both cases the Embassy was able to point out that the 2% charge is effectively a government tax, which, in view of the manner in which it is itemized in invoices and particularly those for fixed charges, is paid directly by the diplomatic representatives of foreign governments.

During the course of the conversations with the Foreign Office the Under Secretary repeatedly expressed the desire of the Government of Chile to exempt foreign diplomatic representatives from the payment of the 2% sales tax. He explained, however, that since the pertinent law makes no provision for the exemption of such officers, the

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<sup>89</sup> Not printed.

Executive is not authorized, even on the grounds of reciprocity, to waive the imposition. In this connection he stated that under Chilean jurisprudence the municipal law obtains and as provision is not made for general exemption from taxation of foreign diplomatic representatives, Congress must enact special legislation granting the exemption. The Under Secretary added that at the appropriate time the Executive desired to submit to Congress a bill which would exempt foreign diplomats from the payment of the tax in question. However, the Government is confronted with the fact that it considers it politically impossible at this moment to raise with Congress the question of any exemption from this tax. The sales tax has been unpopular from its inception notwithstanding its continuance is considered essential in order to maintain a balanced budget. Furthermore, there is a large group in Congress against it and the Executive hesitates to submit any legislation which will raise the question in any form.

It is apparent that nothing further can be done by the Embassy to obtain a modification of the existing practice in Chile with respect to this tax, especially since the Government attributes to political reasons its inability to correct the *de facto* situation. I would add in this connection that it was explained to the Foreign Office that while the American Government accords its present liberal treatment to foreign diplomatic representatives under the application of the principle of international law, its action is predicated on reciprocal treatment to American diplomatic officers by the accrediting foreign governments. The Under Secretary replied that while he regretted extremely the inability of his Government to accord similar privileges to American diplomatic officers and he realized that the United States might wish to withdraw these privileges now extended to Chilean diplomatic officers in the United States, his Government was not in a position to give any satisfaction at this time.

While it seemed that little could be gained by pursuing the question further, it was pointed out that the principle whereunder foreign governments exempted each other from taxation appears so well established that the decision of the Foreign Office could not be accepted pending instructions from the Department.

In view of the foregoing I have the honor to request that the Department instruct me as to what action should be taken by me with respect to those taxes assessed against the Embassy which I have declined to pay on the grounds of the general exemption from taxation accorded by governments to each other.

Respectfully yours,

For the Ambassador:  
ROBERT M. SCOTTEN  
*Counselor of Embassy*

825.512/56 : Telegram

*The Ambassador in Chile (Sevier) to the Secretary of State*

SANTIAGO, September 26, 1934—noon.

[Received 12:35 p. m.]

92. Embassy's despatch 137, July 3rd. As the Chilean Government has definitely refused to exempt the Embassy from payment of the 2 per cent sales tax I request immediate authorization to settle these overdue accounts with electric light, cable, telephone and other companies. The telephone company has long been pressing us for payment.

SEVIER

825.512/56 : Telegram

*The Secretary of State to the Ambassador in Chile (Sevier)*

WASHINGTON, October 15, 1934—noon.

73. Your telegram No. 92, September 26, 1934. You are authorized to settle the accounts referred to therein, including the payment of tax. With regard to your despatch No. 137, July 3, 1934, you are referred to the Department's instruction No. 8, January 10, 1934, and instructed to renew your protest against the Chilean sales tax in accord with the views set forth in that instruction.

HULL

825.512/59

*The Chargé in Chile (Scotten) to the Secretary of State*

No. 224

SANTIAGO, November 8, 1934.

[Received November 19.]

SIR: I have the honor to refer to the Department's telegram No. 73, October 15, 12 noon, 1934, in which the Embassy was authorized to settle certain pending accounts for the Chilean 2% Sales Tax and instructed to renew its protest against this tax in accordance with the views set forth in the Department's Instruction No. 8 of January 10, 1934. In compliance with the Department's instruction a formal note, a copy of which is enclosed,<sup>40</sup> summarizing the Department's point of view and protesting the payment of this tax was transmitted to the Foreign Office.

As previously stated, the Foreign Office while deploring its inability to exempt the American Government from the payment of this tax and while recognizing that the Chilean Government is being granted

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<sup>40</sup> Not printed.

this courtesy in the United States, has definitely refused to take any affirmative action in the matter. In view of this situation the Embassy feels that no useful purpose can be served by pressing further at this time. The Department of course may wish to consider whether it shall recommend the annulment on the part of the Treasury Department of the tax exemption privileges now being granted the Chilean Government and its representatives in the United States.

Respectfully yours,

ROBERT M. SCOTTEN

## COLOMBIA

### NEGOTIATIONS RESPECTING A NEW TRADE AGREEMENT BETWEEN THE UNITED STATES AND COLOMBIA TO REPLACE THE AGREEMENT OF DECEMBER 15, 1933<sup>1</sup>

611.2131/205b : Telegram

*The Acting Secretary of State to the Chargé in Colombia  
(Washington)*

WASHINGTON, August 28, 1934—6 p.m.

55. Consideration is being given to the means of bringing into force the provisions of the trade agreement signed December 15, 1933.<sup>2</sup> It was contemplated when the agreement was signed that it would be made effective on the part of this Government by special act of Congress. It is now desired to bring the provisions of the agreement into force under the Trade Agreements Act of June 12, 1934,<sup>3</sup> which does not apply to agreements concluded prior thereto. Moreover, Section 4 of the Act requires reasonable public notice of the intention to conclude such agreements, such notice being defined by Executive Order as notice of not less than 30 days.

Please take up the matter with the Colombian Government and ascertain its attitude regarding the signing of a new agreement. It is not anticipated that any important changes of substance in the provisions of the agreement signed December 15, 1933 would be proposed by this Government since the views of domestic interests were received and considered under the informal procedure prevailing when that agreement was negotiated. However, it would not be consistent with the purpose of Section 4 of the Act to give any definite assurance to this effect. In any case some changes of a formal character would probably be appropriate, particularly in Article XI which relates to the method of making the agreement effective.

Consideration must be given at this time to the probable plans of the Colombian Government with respect to obtaining legislative approval of the new agreement as these plans have a bearing on the length of notice to be given by this Government under Section 4 of the Act. If the Colombian Government should desire to obtain

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<sup>1</sup> See *Foreign Relations*, 1933, vol. v, pp. 217 ff.

<sup>2</sup> *Ibid.*, p. 249. For an analysis of the provisions of the agreement, see instruction No. 55, April 5, 1934, to the Minister in Nicaragua, *post*, p. 499.

<sup>3</sup> 48 Stat. 943.

approval of the new agreement at the present regular session of the Colombian Congress the minimum public notice of 30 days would be given. Assuming that this notice were given about September first this Government would be in a position to sign the new agreement about October first, which would leave about 20 days of the regular session in which to obtain approval by the Colombian Congress. On the other hand, if legislative approval in Colombia is to be sought at a later time, 6 weeks' notice would be given here, which would permit signature about the middle of October. Please ascertain and report the probable plans of the Colombian Government in this matter.

For your confidential information this Government desires to bring the new agreement into force simultaneously with a similar agreement with Brazil, negotiations for which are expected to begin shortly.<sup>4</sup> Tentative plans are to complete these negotiations and sign the agreement with Brazil by December first. Present indications are that the Brazilian legislature probably will not adjourn before December 31 and that it could take action on the agreement before that date. It is therefore important that legislative action be taken on the new agreement with Colombia before the end of this year. Please report such information as you may be able to obtain regarding the prospects of such action.

PHILLIPS

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611.2131/207: Telegram

*The Chargé in Colombia (Washington) to the Secretary of State*

Bogotá, September 1, 1934—2 p. m.

[Received 9:04 p. m.]

69. Department's 55, August 28, 6 p. m. Colombian Minister for Foreign Affairs has informed me that his Government agrees to signing a new trade agreement and is cabling its Legation in Washington to that effect. The Colombian Government desires to obtain approval of the new agreement at the present regular session of Congress or during the extraordinary session which will probably follow regular session. (It is customary for the Colombian Congress to extend itself in extraordinary session until November 15th.) The Colombian Government will leave to the United States to decide whether the new agreement be signed the first week in October or later.

I am informed verbally by the Minister that the Foreign Affairs committees of the House and Senate have almost completed their study of the agreement. They have however agreed to the signing of a new one.

WASHINGTON

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<sup>4</sup> See vol. iv, pp. 542 ff.

[For text of public notice of intention to negotiate a trade agreement with Colombia and statistics on trade between the United States and Colombia, issued by the Department of State on September 5, 1934, see Department of State, *Press Releases*, September 8, 1934, pages 160-163.]

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611.2131/207 : Telegram

*The Secretary of State to the Chargé in Colombia (Washington)*

WASHINGTON, September 22, 1934—noon.

58. Your 69, September 1, 2.00 p. m. Please ascertain and report promptly by cable details of the legislative and administrative steps at present necessary to put trade agreement into effect in Colombia. In particular, advise on the following questions:

- (1) Does agreement have to be approved by the House and Senate;
- (2) Is it customary to debate the provisions in open session or in secret;
- (3) Is agreement required to pend before Congress for a specified period;
- (4) Is the President required to proclaim or otherwise officially publish the agreement after approval of the Congress and if so within what time limit;
- (5) Can President proclaim or otherwise put into effect the agreement after Congress adjourns.

For your confidential information this Government prefers that the terms of the trade agreement with Colombia should not be made public until after a trade agreement with Brazil has been signed. Should it appear that negotiations with Brazil cannot be concluded prior to the first week in November, the Department may consider suggesting to the Colombian Government (1) that its Congress be asked to grant extraordinary power to the President specifically to conclude a trade agreement with the United States within his discretion, or (2) that the provisions of Law No. 35 of 1932<sup>5</sup> be reenacted for the duration of a reasonable period. You are requested, if possible, to ascertain discreetly whether if a bill granting the authority mentioned in the first proposition were considered by the Colombian Congress it would be necessary for the Congress openly to discuss the terms of the pending agreement during the debates on such bill.

HULL

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<sup>5</sup> Colombia, *Diario Oficial*, November 5, 1932, p. 417.

611.2131/218 : Telegram

*The Chargé in Colombia (Washington) to the Secretary of State*

Bogotá, September 24, 1934—9 p. m.  
[Received September 25—3: 14 a. m.]

74. Department's 58, September 22, 2 p. m. [*noon.*]

(1) Treaties and conventions must be approved by project of law passed by both Houses of the Colombian Congress.

(2) The Minister for Foreign Affairs may request that provisions of a treaty or convention be debated in secret session. However, debates in open session are customary with regard to treaties and the Colombian Government has on several occasions promised Congress and the public that open discussions of the commercial treaty with the United States will be held before the treaty is ratified. These promises were made to meet the objections of certain national industries, such as the textile industry, which are nervous concerning the effect of the treaty upon them.

(3) The project of law authorizing a treaty or convention must be approved by each of the Houses of Congress in three debates on three different days thus making [it?] possible to pass a project in a total of 6 days, provided the debates are not prolonged.

(4) The President of Colombia must sign or veto a law within 6 days after its passage by Congress or, if Congress adjourns within this period of time, within 10 days of such adjournment. The law is published immediately after he signs it.

(5) If the law of Congress which approves the treaty so authorizes, the President may proclaim the agreement after Congress adjourns.

(6) It is believed unlikely that President Lopez would ask Congress to grant him extraordinary power to conclude a trade agreement with the United States within his discretion or to reenact the provisions of law 35 of 1932, not only because members of his Government have stated on several occasions that an open discussion of the commercial treaty with the United States would be permitted before it is ratified but also because he stated to the Liberal members of Congress several days ago that he would not have signed the Rio de Janeiro protocol<sup>6</sup> before consulting Congress and would promise not to sign any other international agreement before it has [been?] discussed by Congress.

(7) The Government was authorized by law 31 of 1933<sup>7</sup> (see despatch 5968, November 30 [23], 1933<sup>8</sup>) to negotiate a commercial treaty with Venezuela but the terms of the treaty were strictly limited by the law which was thoroughly discussed by Congress.

<sup>6</sup> Vol. iv, p. 361.

<sup>7</sup> Colombia, *Diario Oficial*, November 21, 1933, p. 418.

<sup>8</sup> Not printed.



(8) No official of the Colombian Government with whom I have talked thinks that Congress will adjourn before the early part of 1935. Commercial Attaché and I do not believe that the budget for 1935 can be presented to Congress before the middle of November. It is believed discussions regarding other internal affairs and the Rio de Janeiro Pact will be prolonged so as to force the President to call a special session. It is even believed in some informed circles that the President wishes to keep Congress in session until June in order to place upon it the responsibility for governing. Consequently it is felt that the Department can readily ask the Colombian Government to postpone consideration of the trade agreement by its Congress at least until December, if not later.

WASHINGTON

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611.2131/219: Telegram

*The Chargé in Colombia (Washington) to the Secretary of State*

BOGOTÁ, September 25, 1934—7 p. m.

[Received September 26—8:05 p. m.]

78. My telegram No. 74, September 24, 9 p. m. The Minister for Foreign Affairs informs me that he believes there is no possibility of the adjournment of Congress before the end of the calendar year.

WASHINGTON

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611.2131/253: Telegram

*The Minister in Colombia (Whitehouse) to the Secretary of State*

BOGOTÁ, November 23, 1934—6 p. m.

[Received 9:30 p. m.]

92. All interested Colombian officials whom I have met since my return to Bogotá have inquired about the status of the commercial agreement. They appear to be anxious as the result of reports that the United States will propose important changes in the agreement signed last December. Furthermore, President Lopez apparently intends within a few days to summon Congress to convene in extraordinary session in the month of December for the purpose of considering only the subjects enumerated in the Legation's telegram No. 89, November 17, 10 a. m.,<sup>9</sup> among which is not included the commercial agreement. In view of the above I believe it highly important that the Department immediately give the Colombian Government some indication as to what it will propose regarding the contents of the new agreement and when it may be published and freely discussed.

WHITEHOUSE

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<sup>9</sup> Not printed.

611.2131/253 : Telegram

*The Secretary of State to the Minister in Colombia (Whitehouse)*

WASHINGTON, December 1, 1934—2 p. m.

66. YOUR 92, November 23. Trade Agreement Organization has about completed consideration of changes in agreement to be proposed to Colombia. The proposed changes will be incorporated in a memorandum to be transmitted to Colombian Legation in Washington within the next few days. The substance of the proposed changes will be sent to you by air mail immediately the note is despatched.

HULL

611.2131/2604

*Memorandum of Conversation Between the Assistant Secretary of State (Sayre) and the Colombian Chargé (González-Fernández)*

[WASHINGTON,] December 10, 1934.

Mr. Sayre handed Mr. González an *aide-mémoire*<sup>10</sup> indicating the changes which this Government desires to make in the trade agreement signed December 15, 1933. Mr. Sayre indicated his understanding that discussions of the proposed agreement would take place in Washington. He expressed the hope that the conclusion of the agreement would be expedited as much as possible so that it could be submitted to the Colombian Congress at its extraordinary session.

Mr. González stated that if the agreement could be concluded in time, the Colombian Government would submit it to Congress at its extraordinary session, which, he said, probably would not adjourn until the middle of February.

Mr. Sayre then called attention to the fact that this Government is not proposing any very radical changes in the agreement signed December 15, 1933. The principal changes are those relating to the non-application of the anti-dumping act to coffee, and the provisions regarding internal taxes. Mr. Sayre explained that when the agreement of December 15, 1933, was signed, it was the intention of this Government to request Congress to make it effective by special act which would supersede any conflicting provisions in existing law. Since it is now intended to bring the agreement into force under the authority of the Trade Agreements Act, it is necessary that its provisions come clearly within the authority of that Act. The provision regarding the non-application of the anti-dumping act to coffee and regarding the limitation of the amount of state and municipal taxes, not being authorized by the Trade Agreements Act, it becomes necessary to change them. Mr. González seemed to feel that these changes would not create any serious difficulty.

<sup>10</sup> *Infra.*

Mr. Sayre then called attention to the fact that this Government is offering additional concessions on three products of Colombia involving a 50% reduction in existing duties, these additional concessions being made possible by the fact that the Trade Agreements Act has provided the authorization necessary therefor. He stated that we would appreciate such consideration as Colombia on its part might give to the granting of additional concessions on American products. Mr. González expressed his gratification regarding the proposed additional concessions by the United States. He seemed to feel that there is a possibility of reciprocal action by Colombia, especially since duty reductions are already under consideration in Colombia. He pointed out, however, that the executive branch of the Colombian Government, unlike that of the United States, must submit the agreement to the legislature and this tends to make additional concessions by Colombia more difficult.

Mr. Sayre then called attention to the proposal of this Government, that an exchange of notes be entered into concurrently with the proposed trade agreement, in regard to foreign exchange control. Mr. González stated that the foreign exchange control problem is being cleared up. He said that as regards current business, American interests have no difficulty in getting exchange. With reference to blocked commercial credits, he stated that 40% of the credits blocked as of September, 1931, have been liquidated and referred to the announcement of the Colombian Government, following the inquiry by our Legation at Bogotá, to the effect that the remaining 60% of the blocked credits will be cleared up in three monthly installments, ending February 15, 1935. While he could not speak officially, Mr. González stated that there is a definite trend toward the complete removal of foreign exchange control.

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611.2131/257

*The Department of State to the Colombian Embassy*<sup>11</sup>

MEMORANDUM

The memorandum of the Department of State dated August 28, 1934,<sup>12</sup> indicated that the Government of the United States desired to conclude a new trade agreement with the Republic of Colombia, under the authority of the Trade Agreements Act approved by the President on June 12, 1934, to replace the Agreement signed December 15, 1933. It was explained in the memorandum under reference that the

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<sup>11</sup> Handed to the Colombian Chargé on December 10, 1934, by Francis B. Sayre, Assistant Secretary of State.

<sup>12</sup> Memorandum missing from Department files.

Act of June 12, 1934, authorizes the President to enter into trade agreements with foreign countries and to make them effective by proclamation without the necessity of obtaining a special act of Congress in each case, and requires, among other things, that the intention to negotiate any such agreement must be publicly announced in order that interested persons may have an opportunity to present their views.

These requirements having been complied with, in connection with the proposed new trade agreement with the Republic of Colombia, the Government of the United States is now in a position to proceed with the negotiation of an agreement based upon the provisions of the Agreement signed December 15, 1933, and to indicate the changes in the latter instrument which it suggests be incorporated in the proposed new agreement.

With reference to the text of the Agreement signed December 15, 1933, it is necessary to propose a number of changes. There is attached the text of the proposed new agreement as it would appear if the suggested changes were made. For convenience, there is also attached a comparative text of the Agreement signed December 15, 1933, showing proposed omissions and additions.<sup>13</sup> The changes indicated are in large part only formal and will doubtless in most cases be found to be self-explanatory. However, certain of them seem to require some explanation and comment.

Article III of the Agreement signed December 15, 1933, provided in effect that the provisions regarding the customs treatment to be accorded by each country to the products of the other should not apply to such special duties as are, or may be required to be, imposed by the laws of either country on importations which are not properly marked to indicate their origin, or to anti-dumping duties. With respect to the latter stipulation, however, the article contained an exception to the effect that anti-dumping duties would not be applied to unroasted coffee imported into the United States from Colombia.

When the Agreement of December 15, 1933, was signed, it was the intention to submit it to the Congress of the United States to be enacted into law. Under this procedure the effect of Article III, if approval of the Agreement by the Congress had been obtained, would have been to modify the Anti-dumping Act by statutory enactment. The situation, however, has been altered by the fact that the proposed new agreement will be brought into force on the part of the United States by Executive action, under the authority of the Trade Agreements Act of June 12, 1934. It becomes necessary, therefore, to make certain that the provisions of the proposed agreement come clearly within the authority of that Act. The exception above referred to regarding the non-application of the Anti-dumping Act to coffee imported from

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<sup>13</sup> Not printed.

Colombia has been carefully considered by the competent legal officers of this Government, and they have expressed grave doubt whether the Trade Agreements Act authorizes the inclusion of this provision in the proposed agreement. For this reason it is considered necessary to propose that it be omitted. It may be pointed out, however, that in the thirteen years during which the Anti-dumping Act has been in effect there has been no occasion for the application of that Act to green coffee imported from Colombia.

The Government of the United States also desires further that the whole of Article III of the Agreement signed December 15, 1933, be omitted from the new agreement and that the other matters dealt with in that article be provided for in general terms in Articles I and II, as indicated in the attached draft of the new agreement. It is believed that the provisions in Article III of the Agreement signed December 15, 1933, regarding additional duties on articles not marked to indicate the country of origin and regarding anti-dumping duties are adequately dealt with in the general clause proposed for inclusion in Articles I and II, whereby the duty reductions on products specified in the Schedules are confined to ordinary customs duties, and whereby such products are exempted from any other duties, taxes, fees or charges other or higher "than those imposed or required to be imposed by laws . . . in effect on the date of the signature" of the Agreement.

With reference to Article IV of the Agreement of December 15, 1933, relating to internal taxes, the changes suggested are based on considerations similar to those with respect to the non-application of anti-dumping duties to green coffee imported from Colombia. As in the latter case, there is grave doubt whether the Trade Agreements Act of June 12, 1934, authorizes the inclusion of any provision with regard to the limitation of the amount of state or municipal taxes. For this reason it is necessary to propose that the provisions of the third paragraph of Article IV, whereby such a limitation is imposed, be omitted from the new agreement. It will be observed that in the proposed revision of the text the corresponding obligation on the part of the Republic of Colombia with respect to departmental and municipal taxes has been omitted.

On the other hand, a further study of the legal considerations involved has led to the conclusion that it would be possible, in conformity with constitutional provisions, to include in the proposed new agreement a provision for national and most-favored-nation treatment with respect to state and municipal taxes. The provisions of the second paragraph of the proposed revised text of Article IV have been modified in accordance with the above considerations. The Government of the United States requests that, reciprocally, the provision for national and most-favored-nation treatment in Colombia regarding departmental and municipal taxes likewise be revised so as to be

made applicable to all articles enumerated and described in Schedule I. This would, of course, involve the omission of Schedule III of the Agreement signed December 15, 1933.

Article IV as thus revised would provide (a) for national and most-favored-nation treatment with respect to national or federal internal taxes on all articles, whether or not included in the appended Schedules; (b) a limitation on the absolute amount of national or federal internal taxes on articles enumerated and described in the Schedules; and (c) reciprocal national and most-favored-nation treatment with respect to state or departmental, and municipal taxes on all articles enumerated and described in the Schedules.

With reference to the tariff concessions set forth in Schedule II of the Agreement signed December 15, 1933, the Government of the United States is prepared to add the following articles to the list of products on which customs concessions would be granted by the United States to Colombia:

(1) Paragraph 10 (Tariff Act of 1930<sup>44</sup>)—*Tolu balsam*, natural and uncompounded, not containing alcohol; present duty 10% ad valorem; proposed new duty, 5% ad valorem.

(2) Paragraph 35 (Tariff Act of 1930)—*ipecac*, natural and uncompounded, but advanced in value or condition by any process or treatment whatever beyond that essential to proper packing and the prevention of decay or deterioration pending manufacture, and not containing alcohol; present duty 10% ad valorem; proposed new duty, 5% ad valorem.

(3) Paragraph 762 (Tariff Act of 1930)—*castor beans*; present duty one-half of 1 cent per pound; proposed new duty, one-fourth of 1 cent per pound.

With reference to the proposed tariff concessions by Colombia on products of the United States included in Schedule I of the Agreement signed December 15, 1933, the Government of the United States invites attention to the fact that certain of the rates of duty in the Colombian tariff, particularly those on agricultural products, are extremely high and would remain so even if they were reduced as provided for in Schedule I of the Agreement signed December 15, 1933. Therefore, the Government of the United States would appreciate such consideration as the Government of the Republic of Colombia may be disposed to give to the possibility of granting some further reductions in such duties.

With reference to the matter of foreign exchange control, the Government of the United States proposes that there be included in a separate exchange of notes, to be entered into concurrently with the proposed trade agreement, provisions on this subject designed reciprocally to protect the interests of the two countries.

WASHINGTON, December 10, 1934.

<sup>44</sup> 46 Stat. 590.

## [Enclosure]

*Proposed New Reciprocal Trade Agreement With Colombia*

The President of the United States of America and the President of the Republic of Colombia, desiring to promote trade between the two countries, have arrived at the following reciprocal Agreement.

## ARTICLE I

Articles the growth, produce or manufacture of the United States of America, enumerated and described in Schedule I annexed to this Agreement and made a part thereof, shall, on their importation into the Republic of Colombia, be exempt from customs duties in excess of those set forth in the said Schedule. For purposes of this article the term "customs duties" means the duties set forth in the Tariff Schedule of Colombian law 62 of 1931,<sup>14a</sup> as modified and in effect on the day of the signature of this Agreement.

No other or higher duties, taxes, fees, or charges of whatever denomination, other than customs duties, shall be imposed on or in connection with the importation into the Republic of Colombia of articles the growth, produce or manufacture of the United States of America enumerated and described in Schedule I, than those imposed or required to be imposed by laws of the Republic of Colombia in effect on the day of the signature of this Agreement.

## ARTICLE II

Articles the growth, produce or manufacture of the Republic of Colombia, enumerated and described in Schedule II annexed to this Agreement and made a part thereof, shall, on their importation into the United States of America, be exempt from ordinary customs duties in excess of those set forth in the said Schedule and from all other duties, taxes, fees, charges or exactions, imposed on or in connection with importation, in excess of those imposed or required to be imposed by laws of the United States of America in effect on the day of the signature of this agreement. The provisions of this article shall not apply to coffee imported into Puerto Rico.

## ARTICLE III

All articles the growth, produce or manufacture of the United States of America or the Republic of Colombia, shall, after importation into the other country, be exempt from national or federal internal taxes, fees, charges or exactions other or higher than those payable on

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<sup>14a</sup> Colombia, *Diario Oficial*, May 22, 1931, p. 401.

like articles of national origin or any other foreign origin; and articles the growth, produce or manufacture of the United States of America, or the Republic of Colombia enumerated and described in Schedules I and II, respectively, shall, after importation into the other country, be exempt from all internal taxes, fees, charges or exactions other or higher than those payable on like articles of national origin or any other foreign origin.

Articles the growth, produce or manufacture of the United States of America or the Republic of Colombia enumerated and described in Schedules I and II, respectively, shall, after importation into the other country, be exempt from any national or federal internal taxes, fees, charges or exactions other or higher than those imposed or required to be imposed by laws of the United States of America and the Republic of Colombia, respectively, in effect on the day of the signature of this Agreement.

In so far as rates and charges for transportation services within the United States of America or the Republic of Colombia are imposed or controlled by the Government of the respective country, goods which are grown, produced or manufactured in the territory of either country shall pay within the territory of the other country transportation rates and charges which are not discriminatory as compared with the rates and charges on like goods of domestic origin transported under like circumstances and conditions.

#### ARTICLE IV

No prohibition or restriction on importations shall be imposed by the United States of America or the Republic of Colombia on articles the growth, produce or manufacture of the other country with respect to which obligations have been assumed under Articles I or II of this Agreement: Provided, That the foregoing provision shall not apply to prohibitions or restrictions relating to public security; imposed on moral or humanitarian grounds; designed to protect human, animal, or plant life; applying to prison-made goods; relating to the enforcement of police or revenue laws; or designed to extend to imported products a regime analogous to that affecting like or competing domestic products.

#### ARTICLE V

Laws, regulations of administrative authorities and decisions of administrative or judicial authorities of the United States of America and the Republic of Colombia, respectively, pertaining to the classification of articles for customs purposes or to rates of duty shall be published promptly in such manner as to enable traders to become acquainted with them.



Unless otherwise provided under constitutional requirements, no administrative ruling by the United States of America or the Republic of Colombia effecting advances in duties or charges applicable under an established and uniform practice to imports, from the territory of the other country, or imposing any new requirement with respect to such importations, shall be effective retroactively or with respect to articles either entered for or withdrawn for consumption prior to the expiration of thirty days after the date of publication of notice of such ruling in the usual official manner. The provisions of this paragraph do not apply to administrative orders imposing anti-dumping duties, or relating to sanitation or public safety, or giving effect to judicial decisions or decisions of customs courts.

#### ARTICLE VI

It is agreed that the United States of America and the Republic of Colombia will grant each other unconditional and unrestricted most-favored-nation treatment in all matters concerning customs duties and subsidiary charges of every kind and in the method of levying duties, and, further, in all matters concerning the rules, formalities and charges imposed in connection with the clearing of goods through the customs.

Accordingly, natural or manufactured products having their origin in the United States of America or the Republic of Colombia shall in no case be subject, in the other country in regard to the matters referred to above, to any duties, taxes or charges other or higher, or to any rules or formalities other or more burdensome, than those to which the like products of any third country are or may hereafter be subject.

Similarly, natural or manufactured products exported from the territory of the United States of America or the Republic of Colombia and consigned to the territory of the other country shall in no case be subject with respect to exportation and in regard to the above-mentioned matters, to any duties, taxes or charges other or higher, or to any rules or formalities other or more burdensome, than those to which the like products when consigned to the territory of any third country are or may hereafter be subject.

Any advantage, favor, privilege or immunity which has been or may hereafter be granted by the United States of America or the Republic of Colombia in regard to the above-mentioned matters, to a natural or manufactured product originating in any third country or consigned to the territory of any third country shall be accorded immediately and without compensation to the like product originating in or consigned to the territory of the Republic of Colombia or the United States of America, respectively.

Without prejudice to the provisions of Article IV of this Agreement, neither the United States of America nor the Republic of Colombia shall establish any prohibition or maintain any restriction on imports from the territory of the other country which is not applied to the importation of any like article originating in any third country. Without prejudice to the provisions of Article IV of this Agreement, any abolition of an import prohibition or restriction which may be granted even temporarily by the United States of America or the Republic of Colombia in favor of an article of a third country shall be applied immediately and unconditionally to the like article originating in the territory of the Republic of Colombia or the United States of America, respectively.

In the event of rations or quotas being established by the United States of America or the Republic of Colombia for the importation of any article otherwise restricted or prohibited, it is agreed, without prejudice to the provisions of Article IV, that in the allocation of the quantity of restricted goods which may be authorized for importation, the other country will be granted a share equivalent to the proportion of the trade which it enjoyed in a previous representative period.

Nevertheless, the advantages now accorded or which may hereafter be accorded by the United States of America or the Republic of Colombia to adjacent countries in order to facilitate frontier traffic, and advantages resulting from a customs union to which either country may become a party shall be excepted from the operation of this Agreement; and this Agreement shall not apply to police or sanitary regulations or to the commerce of the United States of America with the Republic of Cuba, or to commerce between the United States of America and the Panama Canal Zone, the Philippine Islands, or any territory or possession of the United States of America or to the commerce of the territories and possessions of the United States of America with one another.

Subject to the reservations set forth in the preceding paragraph, the provisions of this article shall apply to articles the growth, produce or manufacture of any region under the sovereignty or authority of the United States of America or the Republic of Colombia imported from or exported to any region under the sovereignty or authority of the Republic of Colombia or the United States of America, respectively. It is understood, however, that the provisions of this paragraph do not apply to the Panama Canal Zone.

#### ARTICLE VII

In cases in which any penalty or additional duties shall be imposed in the United States of America or the Republic of Colombia in

respect of customs regulations or customs formalities on merchandise arriving from the territory of the other country, a period of at least sixty days will be granted the importer or other party in interest, or the agent of either of them, in which an appeal may be taken to an appropriate authority competent to review the matter: Provided, That in the case of merchandise liable to perish or to waste or to become greatly reduced in value by keeping, or when the expense of preserving the merchandise is out of proportion to the value thereof, such merchandise may be sold, and the net proceeds obtained from such sale shall be considered merchandise within the meaning of this paragraph and shall be accorded all the privileges of appeal as provided herein.

Greater than nominal penalties will not be imposed in the United States of America or the Republic of Colombia upon importations of products or manufactures of the territory of the other country because of errors in documentation obviously clerical in origin or where good faith can be established.

The Government of each country will accord sympathetic consideration to such reasonable representations as the other Government may make regarding the operation of customs regulations, the observance of customs formalities, and the application of sanitary laws and regulations for the protection of human, animal, or plant life.

#### ARTICLE VIII

Except as provided in Article VI the provisions of this Agreement relating to the treatment to be accorded by the United States of America and the Republic of Colombia, respectively, to the commerce of the other country, shall not apply to the Philippine Islands, the Virgin Islands, American Samoa, the Island of Guam, nor to the Panama Canal Zone.

#### ARTICLE IX

On and after the day on which this Agreement comes into force, articles the growth, produce or manufacture of the United States of America and articles the growth, produce or manufacture of the Republic of Colombia previously imported into the other country shall be subject to the provisions of this Agreement, if entry therefor has not been made, or if they have been previously entered without payment of duty and under bond for warehousing, transportation, or any other purpose, and without any permit of delivery to the importer or to his agent having been issued: Provided, That when duties are based upon the weight of merchandise deposited in any public or private warehouse, the said duties shall, except as may be otherwise specially provided in the tariff laws of the respective coun-

tries in force on the day of the signature of this Agreement, be levied and collected upon the weight of such merchandise at the time of its entry.

#### ARTICLE X

The United States of America and the Republic of Colombia retain the right to apply such measures as they respectively may see fit with respect to the control of the export or sale for export of arms, munitions, or implements of war, and in exceptional circumstances of other material needed in war.

#### ARTICLE XI

Nothing in this Agreement shall be construed in any way to affect any of the provisions of the treaty signed at Bogotá, April 6, 1914, by the United States of America and the Republic of Colombia.

#### ARTICLE XII

The Governments of the United States of America and the Republic of Colombia declare that the purpose of this Agreement is to grant mutual and reciprocal concessions and advantages for the promotion of commercial relations between the two countries; and that each and every one of the provisions contained herein shall be complied with and interpreted in accordance with this spirit and intention.

#### ARTICLE XIII

The present Agreement shall come into full force on the thirtieth day following proclamation thereof by the President of the United States of America and the President of the Republic of Colombia, or should the proclamations be issued on different days, on the thirtieth day following the date of the later in time of such proclamations, and shall remain in force for the term of two years thereafter. The Government of each country shall notify the Government of the other country of the date of its proclamation.

Unless at least six months before the expiration of the aforesaid term of two years the Government of either country shall have given to the other Government notice of intention to terminate the Agreement upon the expiration of the aforesaid term, the Agreement shall remain in force thereafter until six months from such time as the Government of either country shall have given notice to the other Government.

In witness whereof the respective Plenipotentiaries have signed this Agreement and have affixed their seals hereto.

Done in duplicate, in the English and Spanish languages, both authentic, at the City of Washington this . . . . day of . . . . ., 193 . . .

For the President of the United States of America ;

For the President of the Republic of Colombia :

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611.2131/257

*The Secretary of State to the Minister in Colombia (Whitehouse)*

No. 106

WASHINGTON, December 10, 1934.

SIR: There is transmitted herewith for your information a copy of an *aide-mémoire* and enclosures which was today transmitted to the Chargé d'Affaires ad interim of Colombia,<sup>14b</sup> in regard to the proposed trade agreement between the United States and Colombia.

Although it is expected that the agreement will be negotiated and signed in Washington, you are nevertheless requested to familiarize yourself with the proposals contained in the *aide-mémoire* and enclosures and to take an early occasion to ascertain the reaction of the Colombian Government with respect to them. This Government is anxious to proceed rapidly with the negotiations in order that, if possible, the agreement may be submitted to the Colombian Congress before the adjournment of the special session.

Very truly yours,

For the Secretary of State :  
FRANCIS B. SAYRE

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611.2131/262 : Telegram

*The Chargé in Colombia (Washington) to the Secretary of State*

BOGOTÁ, December 17, 1934—noon.

[Received 1:40 p.m.]

109. Department's instruction No. 106, December 10th. The controversy over Rio de Janeiro Pact <sup>15</sup> and the disagreements between the Executive and Congress regarding monetary problems for the next fiscal year make it improbable that action will be taken on the commercial treaty before the termination of the present extraordinary session of Congress on December 31st. Nevertheless it is possible that Congress will be called in session during January.

WASHINGTON

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<sup>14b</sup> *Supra*.

<sup>15</sup> For correspondence concerning the Leticia dispute between Colombia and Peru, see vol. iv, pp. 321 ff.

611.2131/263a : Telegram

*The Secretary of State to the Chargé in Colombia (Washington)*

WASHINGTON, December 26, 1934—4 p.m.

72. Have you had an opportunity to obtain the reaction of the Colombian Government with respect to the proposals transmitted with the Department's instruction No. 106 of December 10, 1934.

HULL

611.2131/264 : Telegram

*The Chargé in Colombia (Washington) to the Secretary of State*

BOGOTÁ, December 26, 1934—8 p.m.

[Received 9:47 p.m.]

112. Department's 72, December 26, 4 p.m. Holidays and the pre-occupation of the remaining official with the Rio de Janeiro Pact have apparently caused postponement of serious study of the proposals. The Secretary of the Foreign Office tells me that he is concerned over the changes regarding municipal and state taxes and over article X of the revised proposals. Regarding the latter he asks whether the United States might not apply control measures to the export of implements of war to Colombia which would not be applied to exports destined to an enemy of Colombia.

The Secretary also informs me that President Lopez had stated that he foresaw no difficulty in presenting the commercial treaty to Congress in the near future thereby indicating that he contemplated calling another extra session in the new year.

WASHINGTON

611.2131/264 : Telegram

*The Secretary of State to the Chargé in Colombia (Washington)*

WASHINGTON, December 29, 1934—3 p. m.

74. Your 112, December 26, 1934. For your confidential information trade agreement negotiations with Brazil are nearing completion and it is desired to conclude the Colombian negotiations without delay in order that the two agreements may be brought into force simultaneously. Accordingly, you are requested to urge discreetly that the proposals be acted upon promptly.

It is especially desired that Colombia agree to the proposed changes relating to state and municipal taxes. Since the Secretary of the Foreign Office has expressed an interest therein it is suggested that

you discuss the matter orally and informally with him pointing out that inasmuch as this Government now is offering to accord to the products of Colombia enumerated in Schedule Two unqualified and unrestricted national and most favored nation treatment with respect to such taxes, the request that the same treatment be accorded to all of the products of the United States enumerated in Schedule I is fair and reciprocal. In this connection it will be recalled that in the agreement of December 15, 1933, the pledge on the part of this Government insofar as national treatment relating to state and municipal taxes is concerned is restricted to such taxes "affecting interstate or foreign commerce." Further, the new proposal would place no limitation on the amount of such taxes, whereas the agreement of December 15, 1933, does limit the amount thereof.

Also, it may be said that in the view of this Government the new proposal relating to state and municipal taxes is the only change of importance in the agreement of December 15, 1933, which has been definitely proposed (for this Government does not consider elimination of the provision suspending application of the anti-dumping act to green coffee to be of any practical importance to Colombia).

This Government might have definitely proposed deeper tariff reductions and reductions on additional important American exports to Colombia in view of the fact that many of the rates of duty in the Colombian tariff, particularly those on agricultural products, are extremely high and a number of the tariff concessions accorded by Colombia are little more than nominal. Instead, as regards the tariff concessions accorded by Colombia, this Government has confined itself merely to a statement that it would appreciate such consideration as the Colombian Government may be disposed to give in respect of further tariff reductions.

Concerning Article X, you may inform the Secretary of the Foreign Office that this is a typical article which we plan to include in all our trade agreements. Its purpose is to reserve to each government the unqualified right to apply control measures to the export or sale for export of arms, munitions, or implements of war to any country whether or not such export control measures are applied to any other country. However, you may point out informally that it has not been the policy of this Government, when Latin American countries are at war, to apply control measures to such exports to one belligerent and not to the other.

Please report promptly by cable.

HULL

611.2131/267 : Telegram

*The Chargé in Colombia (Washington) to the Secretary of State*

BOGOTÁ, December 31, 1934—11 a. m.

[Received 12:55 p. m.]

115. Department's 74, December 29, 3 p. m. General confusion existing today in Colombian executive circles makes it advisable to postpone conversations regarding commercial treaty for several days.

For my information in conversations, please inform me whether the Colombian Government was given to understand that United States Federal Government could and would prevent the imposition of municipal sales taxes on coffee under the terms of the agreement of December 15th, 1933.

WASHINGTON

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611.2131/267 : Telegram

*The Secretary of State to the Chargé in Colombia (Washington)*

WASHINGTON, January 9, 1935—6 p. m.

2. Your 115, December 31, 11:00 a. m. There is no provision in the agreement of December 15, 1933, which would prevent, without qualification, the collection of municipal sales taxes in the United States on coffee or any other product imported from Colombia and no assurances have been given to the Colombian Government at any time that the Federal Government of the United States could or would prevent in general the imposition of such taxes under the terms of the agreement or otherwise.

In the course of the negotiations leading to the agreement mentioned, it was fully explained to the Colombian technical experts that the weight of legal authority strongly inclines to the view that, under the constitutional régime in the United States, the Federal Government is without power, whether by treaty or statutory enactment, to prohibit states or municipalities from imposing excise or consumption taxes, including, of course, sales taxes, except with respect to taxes directly affecting interstate or foreign commerce.

Accordingly, it will be noted that the provisions of Article IV of the agreement in question, relating to national treatment and limitations upon the amount of state and municipal taxes in the United States, are limited to excise or consumption taxes which affect interstate or foreign commerce and are or may be subject to statutory control by the Federal Government in the exercise of its constitutional powers.

HULL



## COSTA RICA

### PRELIMINARY DISCUSSIONS RESPECTING A TRADE AGREEMENT BETWEEN THE UNITED STATES AND COSTA RICA

611.1831/11 : Telegram

*The Minister in Costa Rica (Sack) to the Acting Secretary of State*

SAN JOSÉ, December 18, 1933—3 p. m.

[Received 7:50 p. m.]

36. References Montevideo circular telegrams December 12, noon, and December 13, 1 a. m.<sup>1</sup> The Costa Rican Government is anxious to negotiate speedily new commercial treaty with the United States along complete lines of the Hull resolution at Montevideo<sup>2</sup> as a substitute for existing treaty ratified in 1852.<sup>3</sup> At present chief Costa Rican exports to the United States, banana and coffee, admitted duty free but practically all imports from the United States are taxed although not discriminatory with reference to other nations. European nations can not impose tax on Costa Rican products.

Foreign Minister Pacheco told me today that he would like to begin active treaty negotiations here early in January and he suggests reduction of some of present Costa Rican high trade barriers.

In 1932, 42.70 per cent total dollar value of Costa Rican imports came from the United States; 10.93 per cent from Great Britain: 47.8 per cent total exports went to Great Britain and 39.30 per cent went to the United States. Within the last year Costa Rica negotiated new commercial treaties with Great Britain,<sup>4</sup> France,<sup>5</sup> Italy<sup>6</sup> and Germany.<sup>7</sup> China and Japan now seeking new treaties.

Will appreciate by air mail text of specific paragraphs sought in proposed treaty, form desired and any other instructions.

SACK

<sup>1</sup> Not found in Department files.

<sup>2</sup> See *Foreign Relations*, 1933, vol. iv, p. 192.

<sup>3</sup> Treaty signed July 10, 1851, William M. Malloy (ed.), *Treaties, Conventions, etc., Between the United States of America and Other Powers, 1776-1909* (Washington, Government Printing Office, 1910), vol. i, p. 341.

<sup>4</sup> See *British Board of Trade Journal*, May 4, 1933, p. 692.

<sup>5</sup> *Modus vivendi* signed March 1, 1933, *La Gaceta*, March 7, 1933, p. 425.

<sup>6</sup> Treaty of Navigation and Commerce, signed June 14, 1933, Italy, Ministry for Foreign Affairs, *Trattati e convenzioni fra il regno d'Italia e gli altri stati*, 1933, vol. 46, p. 165.

<sup>7</sup> Treaty of Commerce, with protocol, signed October 26, 1932, *British and Foreign State Papers*, vol. cxxxv, p. 470.

611.1831/11

*The Acting Secretary of State to the Minister in Costa Rica (Sack)*

No. 10

WASHINGTON, January 4, 1934.

SIR: Reference is made to your telegram No. 36, December 18, 3:00 p. m., regarding the desire of the Costa Rican Government to negotiate a new commercial treaty with the United States.

Before negotiations are undertaken the basis of the proposed trade agreement should be further explored. You should therefore take up the matter informally with the Foreign Minister and ascertain more specifically the character of the agreement which he has in mind. Over eighty percent of Costa Rica's exports to the United States consist of coffee and bananas. In the proposed agreement, therefore, the United States might undertake that these products should continue to be admitted free of duty in return for reductions in duties by Costa Rica on important products of the United States. It is possible that in the course of the exploratory conversations Costa Rica may wish to bring to the attention of the United States other products in addition to bananas, and coffee, on which concessions would be desired. While sympathetic consideration would be given to any such proposals, it is believed that in view of the importance of coffee and bananas in Costa Rica's trade with the United States a guaranty of continued free entry of these products would be equivalent in value to concessions by Costa Rica on the principal products imported from the United States.

The trade agreement might also contain a provision for unconditional and unrestricted most favored nation treatment, subject to the usual exception regarding Cuba, and other generally recognized exceptions; provision against quantitative restrictions (quotas) on imports of products respecting which tariff concessions are granted by each party under the agreement; provision against increased internal taxes on such products; and national treatment with respect to internal taxes on all products.

If the Foreign Minister is prepared to begin exploratory conversations along the lines above indicated, the Department will send you as soon as possible a statement regarding the concessions which would probably be requested by the United States.

You should make it clear that the intention of this Government is solely to explore the situation with a view to determining whether negotiations if undertaken would be likely to meet with success.

Very truly yours,

For the Acting Secretary of State:  
FRANCIS B. SAYRE

611.1831/14

*The Minister in Costa Rica (Sack) to the Acting Secretary of State*

No. 93

SAN JOSÉ, January 17, 1934.

[Received January 24.]

SIR: With reference to Instruction No. 10 of January 4, 1934, in reply to my telegram No. 36 of December 18, 3 p. m. (1933), concerning the desire of the Costa Rican Government to negotiate a new commercial treaty with the United States, I have the honor to report:—

On yesterday I discussed this matter further at a conference jointly with President Ricardo Jiménez and Foreign Minister Leonidas Pacheco in the office of the President. I explained to both officials that while the United States was willing to give sympathetic consideration to their suggestion for a new treaty, that in view of the fact that the exportation of Costa Rican coffee and bananas to the United States furnishes such a tremendous factor in the total of Costa Rican foreign trade, that the United States sought concessions with reference to American products imported by this country.

I pointed out also that the United States would desire that the proposed treaty contain a provision for unconditional and unrestricted most favored nation treatment; likewise provision against quantitative restriction on imports of products respecting which tariff concessions are granted by each party under the agreement; provision against increased internal taxes on such products, and national treatment in respect to internal taxes on all products.

In the absence of specific instructions from the State Department, I was unable, at their request, to say definitely upon what American products my Government would desire concessions, but I called their attention to the situation now prevailing with reference to the importation of American food products, particularly flour, fats and canned groceries. These are not luxury articles and neither are they competitive with Costa Rican products.

The majority of such foodstuffs imported by Costa Rica come from the United States, but the duties are so high that the prices are almost prohibitive, particularly with reference to vegetable and meat fats and canned foodstuffs.

In connection with the duty on canned foodstuffs, I called the President's attention to a personal observation I made during the present week. On the 9th of January, I received from the United States Navy Commissary Store at the Canal Zone, three small cases of canned foodstuffs which cost \$12.50. As the Department is aware, diplomatic officers in Costa Rica are permitted to receive their personal shipments without payment of duty. It is a custom, however, to return with the bill of lading a cancelled customs receipt. Attached to the bill of

loading for these \$12.50 of groceries was a customs receipt for ₡159.80. At the current rate of exchange of ₡4.50 to \$1, this is a duty of \$35.50 on the \$12.50 shipment.

The President and Foreign Minister Pacheco agreed with me that this duty is so high that the purchase of American canned goods imported into Costa Rica is beyond the means of the ordinary consumer. They also agreed that such an excessive tariff on non-competitive articles defeated the fundamental purpose of the tax because it restricted consumption.

In my conversations I also suggested that perhaps the United States Government might desire certain concessions on textiles which are imported in large quantities from the United States.

The President and the Foreign Minister both expressed a willingness to grant the United States reciprocal advantages in return for the continued assurance of a free of duty market for Costa Rican coffee and bananas. The Costa Rican Government, I should add, is extremely desirous of a perpetuation of this satisfactory arrangement from their standpoint, not only because of the immediate market possibilities but also because there prevails in this country a general desire to greatly increase markets in the United States for Costa Rican coffee, and it is the belief of Government officials that if and when the proposed Inter-American Highway is completed, large undeveloped areas will be made available for coffee which, it is hoped, can be sold in the markets of the United States.

At the moment, neither official was in a position to suggest whether they desired additional tariff favors from the United States, but I was told that the matter would be discussed with Finance Minister Brenes and if there was anything else that he was interested in aside from equal courtesies with other nations on the importation of Costa Rican manufactured liquors, I would be so notified.

For the information of the Department, I am attaching herewith memoranda prepared for me, at my request, by Vice Consul Livingston Satterthwaite,<sup>8</sup> in charge of the American Consulate in San José, with reference to duties on principal American imports. There are on file in the Department at present, detailed reports from the Consulate showing dollar values of American imports by Costa Rica which will be helpful to the Department in preparing, for my guidance, a statement "regarding the concessions which would probably be requested by the United States".

If the State Department desires that I carry on with these conversations with a view of actual conclusion of a treaty, may I repeat my request in my telegram of December 18, 1933, that I be supplied with such textual data as the Department wishes incorporated in the treaty.

Respectfully yours,

LEO R. SACK

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<sup>8</sup> Not printed.

611.1831/14 : Telegram

*The Secretary of State to the Minister in Costa Rica (Sack)*

WASHINGTON, July 17, 1934—8 p. m.

28. Department's instruction No. 10, January 4, 1934. The Department wishes to commence exploratory conversations as soon as possible. It is therefore preparing a study of the trade between the two countries and a list of the concessions which would probably be asked of Costa Rica. This list will be forwarded to you shortly. It is hoped that Costa Rica in turn will be in a position to expedite its own study in order that actual conversations can be initiated in San José not later than September 1. Please ascertain and report whether this is agreeable to the Government of Costa Rica. It is desired that no publicity be given matter for time being.

HULL

611.1831/20 : Telegram

*The Minister in Costa Rica (Sack) to the Secretary of State*

SAN JOSÉ, July 18, 1934—5 p. m.

[Received 9:10 p. m.]

35. Referring to Department's telegram No. 28, July 17, 8 p. m., Foreign Minister informs me today he will expedite Costa Rican studies for purpose of initiating actual conversations for new treaty on September 1st. Foreign Minister, however, apparently is not as enthusiastic now for new treaty as Government was last January because Germany, which buys more from Costa Rica than it sells, is pressing for equitable balancing of trade. Foreign Minister points out that the United States now sells Costa Rica more than it buys and he shows no enthusiasm for reducing any Costa Rican duties in view of Government's need for import revenues. At the same time he desires continuation of free entry into the United States of chief Costa Rican products.

SACK

611.1831/24a : Telegram

*The Acting Secretary of State to the Minister in Costa Rica (Sack)*

WASHINGTON, September 4, 1934—6 p. m.

35. Please inquire of the Costa Rican Government whether it is prepared to initiate at an early date exploratory conversations looking to the negotiation of a commercial agreement. Since this Government is planning to give public notice shortly of the intention to negotiate agreements with other Central American countries it seems

appropriate to inquire as a matter of courtesy whether the Costa Rican Government desires a similar announcement to be made with respect to that country.

Please rush reply.

MOORE

611.1831/25 : Telegram

*The Minister in Costa Rica (Sack) to the Secretary of State*

SAN JOSÉ, September 6, 1934—9 p. m.  
[Received September 7—10 a. m.]

48. Referring to Department's telegram No. 35, September 4, 6 p. m., Foreign Minister in note dated today says that :

"I am pleased to confirm to you what I had the honor to state in my personal letter of the 21st of July last, that is to say, that my Government has no objection to opportunely initiating conversations with that of the United States for the negotiation of a new commercial agreement."

Copy and translation of personal letter referred to form enclosures to my despatch No. 345 of July 23rd.<sup>9</sup> Following receipt of note late today the Foreign Minister called at the Legation to personally assure me that he and his Government are anxious to negotiate treaty which will be of maximum advantage to both nations.

Foreign Minister also states his Government is agreeable to public notice being given of intention to negotiate new agreement.

SACK

611.1831/27a : Telegram

*The Acting Secretary of State to the Minister in Costa Rica (Sack)*

WASHINGTON, September 10, 1934—8 p.m.

37. Public notice of intention to negotiate a foreign trade agreement with Costa Rica was given September 7.<sup>10</sup> Please inform Minister for Foreign Affairs.

PHILLIPS

611.1831/29 : Telegram

*The Minister in Costa Rica (Sack) to the Secretary of State*

SAN JOSÉ, September 29, 1934—3 p. m.  
[Received 5:52 p. m.]

50. Department's telegram No. 58, September 28, 6 p. m., to Managua.<sup>11</sup> Minister for Foreign Affairs assures me that legislative

<sup>9</sup> Not printed.

<sup>10</sup> For text of public notice and statistics on trade between the United States and Costa Rica, issued by the Department of State on September 7, 1934, see Department of State, *Press Releases*, September 8, 1934, pp. 164-166.

<sup>11</sup> *Post*, p. 520.

approval of proposed trade agreement would be necessary. Congress now meeting in extraordinary session of indefinite duration to which President of Costa Rica could submit agreement by special message. Next regular session convenes May 1st.

SACK

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611.1831/39a

*The Secretary of State to the Minister in Costa Rica (Sack)* <sup>12</sup>

[Extract]

No. 120

WASHINGTON, December 21, 1934.

SIR: The Country Committee on Trade Agreements with Central America has finished its work on Schedule I—Guatemala, viz., the concessions that this Government is to ask of Guatemala. This Committee is now preparing a list of concessions to be sought from Honduras and is endeavoring to complete this work by the middle of January. It is then expected that discussion of Costa Rica will be resumed and completed, to be followed by Nicaragua and El Salvador.

Very truly yours,

For the Secretary of State:

FRANCIS B. SAYRE

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<sup>12</sup> The same, December 21, 1934, to El Salvador as instruction No. 58, to Honduras as instruction No. 645, and to Nicaragua as instruction No. 175.

## CUBA

### RECOGNITION OF THE PROVISIONAL GOVERNMENT OF CUBA<sup>1</sup>

837.00/4577a : Telegram

*The Acting Secretary of State to the Personal Representative of the President (Caffery)*

WASHINGTON, January 6, 1934—3 p. m.

5. For Caffery from Welles.<sup>2</sup> Márquez Sterling has been in to see me repeatedly during the past 10 days. He has four times fixed a definite date of departure for Habana, where he intended to take up his duties as Secretary of State. This morning, he came to see me to advise me that last night he had sent his irrevocable resignation to Dr. Grau.<sup>3</sup> The reasons for this, from what he told me, were the refusal of his Government to adjust the indebtedness incurred by Cuban army officers in American military schools and the persistence of Grau in utilizing the services of American confidential agents in the United States who alleged that recognition by this Government could be obtained through their connections.

Márquez Sterling spoke, however, in a very open manner of the situation in Habana and of letters he had recently received from his friends there. The impression he gave me was that he had reached the conclusion that no peaceful adjustment of the problem was now possible. [Welles.]

PHILLIPS

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837.01/59 : Telegram

*The Acting Secretary of State to the Personal Representative of the President (Caffery)*

WASHINGTON, January 8, 1934—4 p. m.

6. Your No. 4, January 6, 2 p. m.<sup>4</sup> For Caffery. The Embassy in London reports under date of January 6<sup>5</sup> a conversation had with the Foreign Office. The latter explained, under instructions from the Acting Secretary of State that British interests in Cuba had made repeated

<sup>1</sup> Continued from *Foreign Relations*, 1933, vol. v, pp. 270-546.

<sup>2</sup> Sumner Welles, Assistant Secretary of State.

<sup>3</sup> Dr. Ramón Grau San Martín, Provisional President of Cuba.

<sup>4</sup> Not printed.

<sup>5</sup> Telegram No. 7, January 6, 6 p. m., not printed.



and increasingly urgent inquiries at the Foreign Office as to British policy, pointing out that they feared the drift of the situation. The Foreign Office stated that recent reports from Habana were more reassuring than the views obtained by the British Ambassador in Washington from the Department of State and that the British Minister in Habana had been instructed to keep in touch with you.

The Foreign Office further stated to the American Chargé d'Affaires in London that they recognized that special considerations were involved in the Cuban situation due to the Platt Amendment,<sup>6</sup> but that had a similar situation existed in some other Latin American country Great Britain would be on the brink of recognizing a regime similar to the Grau San Martín Government. The Foreign Office concluded by referring again to the urgent interests of British capital in Cuba; the friendly nature of their present inquiry regarding the situation and the desire of the British Government to cooperate with the United States in the present situation rather than to take independent action.

The British Ambassador called at the State Department on January 4 and in the course of a conversation with the Acting Secretary on the Cuban situation admitted that the pressure being brought to bear on the British Government to recognize the Grau San Martín regime came from the property owners in Cuba and especially the British-owned railway interests. He was told that in the opinion of this Government recognition of the present regime in Cuba would be a great mistake; that the sentiment of the Latin American Governments in the great majority was against such recognition. The British Ambassador was given the latest picture of conditions in Cuba. There was no indication from the British Ambassador that actual recognition of the Cuban *de facto* government would be accorded by the British Government.

PHILLIPS

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837.00/4591a : Telegram

*The Acting Secretary of State to the Personal Representative of the President (Caffery)*

WASHINGTON, January 10, 1934—6 p. m.

9. For Caffery from Welles. After changing his plans three times within the past week, Márquez Sterling called this morning to tell me that he had withdrawn his resignation and was proceeding to Habana tonight. It is obvious that he is hopeful of his own selection as a compromise candidate for the presidency.

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<sup>6</sup> Popular designation for provisions defining relations of the United States with Cuba, contained in treaty signed May 22, 1903, *Foreign Relations*, 1904, p. 243.

He stated that upon his return to Habana he would request Grau to call a full cabinet meeting at which he would read a declaration of his views as to the policy which should be pursued with regard to the relations between Cuba and the United States; that he would point out that all of the recommendations he has offered Grau in the past four months have been disregarded; and that he would urge upon Grau the necessity of modifying the policy heretofore pursued by his Government with a view to obtaining recognition by the United States and by the other Republics of this hemisphere. He told me that unless Grau and his Government agree to follow his recommendations he would resign his office and return immediately to the United States.

He expressed no faith whatever in the negotiations of the Uruguayan Minister, but stated that he felt that you could be of the utmost assistance in furthering his efforts to solve the present problems.

In reply to an inquiry from him I stated that the policy of this Government with regard to Cuba as announced by the President in his Warm Springs statement<sup>7</sup> had not been and would not be modified. [Welles.]

PHILLIPS

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837.00/4591 : Telegram

*The Personal Representative of the President (Caffery) to the Acting Secretary of State*

HABANA, January 10, 1934—7 p. m.

[Received January 11—1:32 a. m.]

5. The Uruguayan Minister continues his efforts for conciliation. Mendieta's sector is the only opposition group taking part.

In the meantime a number of "solutions" and "plans for conciliation" have been suggested to me. None of these seems feasible at this juncture. The opposition groups have been making demands that the government will not accept; and the *de facto* authorities have been continually asking what they must do to achieve recognition but at the same time making declarations as to their maximum concessions which I know to be unacceptable to the opposition. However, I see a gleam of hope in the fact that while solutions and plans from both sides are still impracticable, the suggestions I have recently received are an improvement over suggestions received formerly.

I agree with former Ambassador Welles as to the inefficiency, ineptitude and unpopularity with all the better classes in the country of the *de facto* government. It is supported only by the army and ignorant masses who have been misled by utopian promises. However,

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<sup>7</sup> Department of State, *Press Releases*, November 25, 1933, p. 294.

unless Dr. Grau decides voluntarily to give up power it is my opinion that he can be forced to do so only by the armed intervention of the United States unless there is a break in the army which is now standing strongly behind the government. The military have plenty of arms and ammunition and realizing that they will be sheep exterminated in a successful revolution, they will be fighting for their lives. The opposition declare that they are organizing a revolution but it will be very difficult for them to overcome the organized military forces. I find in the opposition little tendency to compromise and an insistence that the only way to clear up this situation is for us to intervene. They refuse to believe our insistent declarations against intervention.

On the other hand matters cannot with impunity be allowed to drift interminably in the direction they are now drifting: the *de facto* authorities in view of the fact that they have no support from the better elements of the country are relying more and more on radical and communistic elements and we may soon be faced with the [a?] very grave situation in connection with the protection of our manifold interests on the island.

The opposition groups at this time are not acting in complete harmony. For instance, difference of opinion exists as to whether another revolution should be attempted. The government has been able to draw away a section of the Mendieta group by appointments to office while some in the other groups apprehend that the Mendieta group may make a private deal with the government in order to secure a strategic position for the elections.

In the background there is constantly the distressing economic situation in the interior; much actual hunger, misery and want—all due manifestly to the sugar situation which is so bad at present that some American owned mills do not seem interested in grinding. The recent difficulties at Chaparra and Delicias (in which the Department is taking interest) arise from the fact that the company can pay average field wages of only about 15 cents a day.

As the Department is aware, the government has called for elections April 22 for a Constitutional Assembly to meet May 20 but the opposition groups declare they will not take part asserting that they do not believe the government in spite of its repeated declarations on fair elections. However, they declare that they will participate in the elections if means can be found to provide for fair ones.

I am meeting Grau and Batista again on invitation tonight. I have been told that they will make offer of "changes in the government".

I hope to make definite recommendations to the Department soon.

CAFFERY

837.00/4596 : Telegram

*The Personal Representative of the President (Caffery) to the Acting Secretary of State*

HABANA, January 11, 1934—7 p. m.

[Received 10 p. m.]

7. Next to the last paragraph my telegram No. 5, January 10, 7 p. m. Last night I discussed the situation at some length informally with Grau and Batista. After much hesitation Grau stated that to his mind the important issue of the day is that of fair elections. He then said in effect: "I believe that I can guarantee fair elections if I remain in the Presidency but if the opposition are convinced that I cannot do so I will be willing to give place to a non-political successor to be chosen by me from a panel of three names to be selected by the opposition on condition that one of the names at least must be acceptable to me. I would be willing to consent to a division of the Cabinet between ourselves and the opposition groups."

I thought it best not to pursue this conversation further last night in order to give Grau time to think this over and also because I am not convinced . . . that he would be allowed to resign by his Cabinet or the student leaders in the Palace. I shall wait for further news from Grau.

CAFFERY

837.00/4605 : Telegram

*The Personal Representative of the President (Caffery) to the Acting Secretary of State*

HABANA, January 13, 1934—5 p. m.

[Received 8:50 p. m.]

9. My telegram No. 5, January 10, 7 p. m. and No. 7, January 11, 7 p. m. As the Department is aware it would be a hopeless task to get all of the opposition groups to agree on a program: there are too many differences of opinion among them: for instance the Mendieta group is interested in elections while some of the other groups would rather pin their faith in a revolution or the hope that we will intervene and put them into power; in fact they are very indignant that we have not done so. I have made no attempt at drawing the groups together on a program.

Batista asked me 3 days ago what we wanted done for recognition. I said "I will lay down no specific terms; the matter of your government is a Cuban matter and it is for you to decide what you will do about it". (Having in mind our reiterated declarations as to our position on recognition.)

The night before last Batista had an interview with Mendieta in which they discussed in great secrecy the possibility of Grau's leaving the Presidency and either Dr. Presno or Dr. Costales Latatu assuming that office provisionally. They agreed either of these two men would be acceptable.

Last night Batista decided that things were going so badly that he would force Grau's resignation at once but he was persuaded not to take precipitous action by some of his friends.

Batista is to see Mendieta again this afternoon for the purpose of discussing the possibility of the formation of a new government. They have decided that either Mendieta himself or Costales Latatu should assume the Presidency.

I do not mean the state of any of this is a certainty especially as the attitude of Guiteras and his naval and military adherents is unknown; also in view of what may eventuate out of the troubles of the Electric Light Company this evening or the troubles of the Habana Electric Railway (my telegrams No. 10 and 11, January 13, 6 p. m.;<sup>8</sup>) also in view of the fact that there is a labor congress of 5,000 persons now going on at Habana.

I have taken no part in these conversations but am keeping informed of what is going on.

CAFFERY

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837.00/4606 : Telegram

*The Personal Representative of the President (Caffery) to the Acting Secretary of State*

HABANA, January 14, 1934—3 a. m.

[Received 6:39 a. m.]

12. My 9, January 13, 5 p. m. Situation is very grave. However, Mendieta tells me he is willing to assume the Presidency (provisionally of course) at once but only if he knows in advance that the United States will recognize him. Situation is such that some steps must be taken tonight, Sunday, to secure change in the government very soon thereafter. Batista tells me he will support Mendieta.

I respectfully request at once authority to recognize Mendieta in the Presidency. If this is not done Batista will probably turn definitely to the left with definite disaster for all our interests here (or declare himself military dictator).

Mendieta, of course, would like to unite all the opposition but obviously there is no time to discuss that now.

CAFFERY

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<sup>8</sup> Neither printed.

837.00/4607 : Telegram

*The Personal Representative of the President (Caffery) to the Acting Secretary of State*

HABANA, January 14, 1934—noon.

[Received 1:15 p. m.]

14. My No. 12, January 14, 3 p. m. [*a. m.*] I think it is safe to say that a government headed by Mendieta and supported by Batista will represent a majority of the Cuban people: both of them without question are extremely popular in very different sectors of the public.

I again respectfully urge immediate action in order to avert a catastrophe: the only other section of the public which has any chance of reaching power at this time is the extreme left.

CAFFERY

837.00/4608 : Telegram

*The Personal Representative of the President (Caffery) to the Acting Secretary of State*

HABANA, January 14, 1934—1 p. m.

[Received 1:10 p. m.]

15. Please rush reply to my telegrams 12, January 14, 3 a. m. and 14, January 14, noon, as the situation is very dangerous.

Grau as yet knows nothing of what is planned. He will be asked this evening to appoint Mendieta Secretary of State and transmit power to him.

CAFFERY

837.00/4609 : Telegram

*The Personal Representative of the President (Caffery) to the Acting Secretary of State*

HABANA, January 14, 1934—1 p. m.

[Received 1:13 p. m.]

16. My No. 14, January 14, noon. It is hoped, of course, to include representation of some if not all opposition groups in the Mendieta Cabinet.

CAFFERY

837.00/4610 : Telegram

*The Personal Representative of the President (Caffery) to the Acting Secretary of State*

HABANA, January 14, 1934—1 p. m.

[Received 2:15 p. m.]

17. For Welles. My telegram No. 16, January 14, 1 p. m. Felix Granados says he believes that all the opposition sectors will accept Mendieta as President.

CAFFERY

837.00/4609 : Telegram

*The Acting Secretary of State to the Personal Representative  
of the President (Caffery)*

WASHINGTON, January 14, 1934—4 p. m.

12. Your numbers 8 to 16 inclusive.<sup>10</sup> The following is the President's decision :

"It is of course impossible to pledge recognition of any individual or group before certain conditions are an accomplished fact. The position of the President has been made abundantly clear in previous statements. This Government will recognize a Cuban provisional Government which is substantially supported by the Cuban people and is able to maintain law, order and the normal functions of Government. A reiteration of this to any or all leaders or parties is entirely in order but we cannot be in a position of promising recognition to any individual or group in advance of the fulfillment of the conditions we have consistently set forth."

PHILLIPS

837.00/4611 : Telegram

*The Personal Representative of the President (Caffery) to the  
Acting Secretary of State*

HABANA, January 15, 1934—3 a. m.

[Received 5 : 13 a. m.]

20. Department's 12, January 14, 4 p. m. Of course the President's position is understood. I made the suggestion regarding Mendieta in view of his well-known vacillating tendency and reluctance to assume responsibility.

Batista has been (and still is) holding a junta of officers at Camp Columbia to discuss the situation.

CAFFERY

837.00/4617 : Telegram

*The Personal Representative of the President (Caffery) to the  
Acting Secretary of State*

HABANA, January 15, 1934—1 p. m.

[Received 2 : 45 p. m.]

21. My telegram No. 20, January 15, 3 a. m. Grau last night verbally expressed his willingness to resign. Officers junta adjourned in early hours of the morning but reassembled at 6 a. m. and is still in session. Batista before adjournment still preferred Mendieta but it developed during the meeting that he would probably meet with

<sup>10</sup> Telegrams Nos. 8, 10, 11, and 13 not printed.

armed opposition from the Navy and extreme left if he attempted to put him into office. Notwithstanding that, Batista would probably be prepared to go ahead with Mendieta if I recommend it but I do not feel that I can do so partly because Mendieta desires definite previous assurance from us which we cannot give.

Guiteras<sup>11</sup> is of course a strong candidate.

An attempt has been in the making since yesterday to nominate Hevia<sup>12</sup> as Provisional President with strong Mendieta group participation in his Cabinet and support of Cuban hacienda owners.

CAFFERY

837.00/4616 : Telegram

*The Personal Representative of the President (Caffery) to the Acting Secretary of State*

HABANA, January 15, 1934—2 p. m.

[Received 2:55 p. m.]

22. My telegram No. 21, January 15, 1 p. m. Revolutionary junta has decided to support Hevia for the Presidency. Hevia has secured (I hear) a written promise of support from Mendieta.

CAFFERY

837.00/4619 : Telegram

*The Personal Representative of the President (Caffery) to the Acting Secretary of State*

HABANA, January 15, 1934—7 p. m.

[Received 8:25 p. m.]

24. My telegram No. 22, January 15, 2 p. m. After much delay today Grau finally turned over the office of Provisional President to Hevia at 5 p. m., and proceeded to his private house. (Hevia will take oath of office tomorrow.) I was asked to make a personal visit on Grau at once for protection reasons and have done so (having in mind the attitude of the opposition parties to him of course).

A mob around the Palace was dispersed by the troops shortly after Grau left, with 1 killed and 14 wounded.

There is much nervousness in the city and possible danger of conflict between Batista's forces and those of the Cuban factions.

CAFFERY

<sup>11</sup> Dr. Antonio Guiteras, Secretary of the Interior in the government of President Grau San Martín.

<sup>12</sup> Carlos Hevia, Secretary of Agriculture in the government of President Grau San Martín.



837.00/4622 : Telegram

*The Personal Representative of the President (Caffery) to the Acting Secretary of State*

HABANA, January 16, 1934—1 p. m.

[Received 2:40 p. m.]

26. My telegram No. 24, January 15, 7 p. m. Hevia took oath at noon today. Negotiations are still going on between him and the Mendieta group as to that group's participation in the Cabinet. Casanova, President of the association of Cuban landowners, came to see me yesterday to tell that his association would back Hevia. I heard on very reliable authority that Guiteras passed most of last night telephoning around the island denouncing Batista and making plans to call strikes [of] the telephone and other American-owned public companies. He also spoke of the possibility of a general strike. I am bringing this to the attention of Hevia and Batista.

There has been no disturbance in Habana since yesterday afternoon's shooting and situation remains quiet.

My principal Latin American colleagues inform me that they will maintain an attitude of observation and expectancy in this situation and that they desire to continue to cooperate fully with us.

CAFFERY

837.00/4624 : Telegram

*The Personal Representative of the President (Caffery) to the Acting Secretary of State*

HABANA, January 16, 1934—6 p. m.

[Received 8:53 p. m.]

30. My telegram No. 26, January 16, 1 p. m. The Mendieta group has divided as to whether or not to follow Mendieta's lead in supporting Hevia, the majority of the group this morning being in opposition to their chief. However, Hevia is still making serious efforts to secure the support of the entire group.

CAFFERY

837.00/4625 : Telegram

*The Personal Representative of the President (Caffery) to the Acting Secretary of State*

HABANA, January 17, 1934—2 a. m.

[Received 5:12 a. m.]

31. My telegram No. 26, January 16, 1 p. m., paragraph 2. Admiral Freeman sent a few minutes ago the following memorandum prepared by his flag lieutenant which he considered to be of much

importance in view of the very grave [situation?] facing the American owned public utilities here.

"I have just returned from an interview with President Hevia. He expressed a desire that Mr. Caffery be informed of the following: A general strike affecting public utilities is planned for 6 a. m., 17th January. This strike is engineered by Guiteras. This strike must be settled promptly, and peaceably, if possible.

He greatly desires some expression of confidence, or support, from Mr. Caffery, feeling that such an expression would materially strengthen his hand, and aid him in settling this strike.

When asked what strike 'expression' he wanted, he stated that he meant any communication which could be interpreted as helpful or optimistic.

Respectfully

R. P. Erdman"

I therefore authorized the Admiral's flag lieutenant to convey the following verbal message to Hevia

"Having heard of the threatened public utilities strike planned for tomorrow morning at 6, I have asked Admiral Freeman's flag lieutenant to say to you that I have confidence in the ability of the authorities here to handle this situation in a manner worthy of the best traditions of Cuba."

CAFFERY

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837.00/4626 : Telegram

*The Personal Representative of the President (Caffery) to the Acting Secretary of State*

HABANA, January 17, 1934—2 p. m.

[Received 3:05 p. m.]

36. Batista has just sent me word that in view of the very precarious strike situation (seriously endangering enormous American properties) provoked by Guiteras and also in view of Hevia's inability to secure the full support of Mendieta group he has decided to declare Mendieta President this afternoon. He may meet with armed resistance from the Cuban Navy.

I do not know that this decision is final but he says now that he has decided.

CAFFERY

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837.00/4628 : Telegram

*The Personal Representative of the President (Caffery) to the Acting Secretary of State*

HABANA, January 17, 1934—3 p. m.

[Received 3:35 p. m.]

37. My telegram No. 36, January 17, 2 p. m. Batista now sends me word that he will delay his decision until tonight or even tomorrow in

order to have time to consult Mendieta and also because he is trying very hard to arrange the matter peacefully and avoid bloodshed.

CAFFERY

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837.00/4630 : Telegram

*The Personal Representative of the President (Caffery) to the Acting Secretary of State*

HABANA, January 17, 1934—7 p. m.

[Received January 17—6:44 p. m.]

39. My telegram No. 37, January 17, 3 p. m. Batista sends word that his negotiations with Navy are proceeding favorably. He is optimistic of reaching a peaceful solution.

CAFFERY

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837.00/4631 : Telegram

*The Personal Representative of the President (Caffery) to the Acting Secretary of State*

HABANA, January 17, 1934—7 p. m.

[Received 8:50 p. m.]

40. General strike expected first at 6 this morning, then at 11, then at 6 this evening has thus far been prevented by Batista.

CAFFERY

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837.00/4633 : Telegram

*The Personal Representative of the President (Caffery) to the Acting Secretary of State*

HABANA, January 18, 1934—1 a. m.

[Received 2:44 a. m.]

42. My telegram No. 39, January 17, 7 p. m. Navy has agreed to withdraw opposition to Mendieta. The road is clear for him to the Presidency. However, he as usual is making last minute difficulties. The plan (if he does not back out) is for all matters connected with the transmission of powers to be handled exclusively by civilians, no military to participate. The transmission may take place tonight.

Hevia a few minutes ago was drafting his resignation which he will offer at once to the revolutionary junta.

CAFFERY

837.00/4634 : Telegram

*The Personal Representative of the President (Caffery) to the Acting Secretary of State*

HABANA, January 18, 1934—9 a. m.

[Received 9:45 a. m.]

43. All difficulties with Mendieta finally arranged. Hevia left Palace early this morning leaving Presidency in the hands of the Secretary of State, Doctor Márquez Sterling, who will convoke a meeting of representatives of all the political groups at 10 this morning to elect a new President.

CAFFERY

837.00/4643 : Telegram

*The Personal Representative of the President (Caffery) to the Acting Secretary of State*

HABANA, January 18, 1934—6 p. m.

[Received 8 p. m.]

49. My telegram No. 47, January 18, 1 p. m.<sup>13</sup> I believe that the new government will have large public support. The communistic element will, of course, make every effort to stir up trouble for it and is responsible for the strike of employees of certain government departments and employees of the Electric Company which is now in effect. Nevertheless the Government is dealing firmly with the situation and it is my opinion that it will be capable of maintaining law and order. There is a very evident feeling of relief and enthusiasm throughout the city. I believe that most Latin American representatives here will recommend immediate recognition.

CAFFERY

837.00/4662

*The Chargé in Cuba (Matthews) to the Acting Secretary of State*

No. 370

HABANA, January 19, 1934.

[Received January 22.]

SIR: With reference to my telephone conversation this morning with Mr. Welles, I have the honor to enclose herewith a copy and translation<sup>13</sup> of the official record of the proceedings of the meeting yesterday morning at which Colonel Carlos Mendieta was designated Provisional President of Cuba.

<sup>13</sup> Not printed.

Colonel Mendieta took the oath of office before the Supreme Court at noon yesterday, swearing "faithfully to fulfill the laws of the Republic." He was greeted with great enthusiasm on the part of a large crowd gathered before the Palace, and rejoicing continued in the city throughout the remainder of the day and evening, the press reporting that seven people were injured by "firecrackers, automobiles and stray bullets", participating in the "wild jubilation." A copy of the first two pages of the *Havana Post* of January 19, describing the events of yesterday, is also enclosed as of possible interest to the Department.<sup>14</sup>

Colonel Mendieta is working today on the selection of his Cabinet. It is reported that each of the political groups signing the "acta" will present the names of three candidates, of whom Colonel Mendieta will choose one. It is similarly reported, without official confirmation, that Cosme de la Torriente will be appointed Secretary of State, Dr. Márquez Sterling, Ambassador at Washington, and Carlos Manuel de Céspedes, former Provisional President, Minister to Spain.

Respectfully yours,

H. FREEMAN MATTHEWS

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837.00/4664 : Telegram

*The Personal Representative of the President (Caffery) to the Secretary of State*

HABANA, January 22, 1934—1 p. m.

[Received 1:20 p. m.]

60. The government is maintaining order and is carrying out the normal functions of government.

As the Department is aware, it is supported by all the political groups except those of the extreme left and except possibly the adherents of Machado.<sup>15</sup>

CAFFERY

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837.00/4681

*The Chargé in Cuba (Matthews) to the Secretary of State*

No. 376

HABANA, January 22, 1934.

[Received January 24.]

SIR: With reference to the last sentence of the Embassy's telegram No. 51 of January 19, 10 a. m.,<sup>16</sup> I have the honor to report that Dr. Grau San Martín sailed at noon on January 20 for Mexico, on the

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<sup>14</sup> Not reprinted.

<sup>15</sup> Gerardo Machado y Morales, President of Cuba from May 1925 to August 1933. See *Foreign Relations*, 1933, vol. v, pp. 270 ff.

<sup>16</sup> Not printed.

Ward Line steamer *Oriente*. A large crowd, composed chiefly of the elements which supported Dr. Grau during his ill-fated régime, thronged the Ward Line docks to see him off. He was likewise given further parting cheers by a similar crowd gathered at La Punta as the *Oriente* steamed by Morro Castle.

Before sailing, according to *Alma Mater*, Dr. Grau wrote the following farewell message on board the *Oriente*: "In saying au revoir to the Cuban people, I repeat that I shall continue with unshakeable faith working for the liberty, the dignity and the progress of our country."

Dr. Grau's decision to visit Mexico, where he at present plans to remain for five or six months, was probably due to an invitation from the Mexican Chargé d'Affaires to visit his country. Dr. Reyes Spindola felt that conditions could more easily return to normalcy if Dr. Grau, around whose person agitation might center, were absent from the country. He proposes to suggest that the Mexican Government observe any possible political activities Dr. Grau may engage in while in Mexico. The Mexican Chargé d'Affaires was among those who went to the ship to see Dr. Grau depart.

Respectfully yours,

H. FREEMAN MATTHEWS

837.01/70 : Telegram

*The Secretary of State to the Personal Representative of the President  
(Caffery)*

WASHINGTON, January 23, 1934.

15. Under authorization of the President you will please extend immediately to the Government of Cuba on behalf of the United States a formal and cordial recognition.

HULL

837.01/71 : Telegram

*The Personal Representative of the President (Caffery) to the  
Secretary of State*

HABANA, January 23, 1934—4 p. m.

[Received 5 : 02 p. m.]

68. Department's telegram No. 15, January 23rd. Formal recognition extended at 4 p. m. today.<sup>17</sup>

CAFFERY

<sup>17</sup> Mr. Jefferson Caffery presented his credentials as American Ambassador to Cuba on February 28, 1934. Dr. Márquez Sterling presented his credentials as Cuban Ambassador to the United States on January 31, 1934. (123 C11/400; Department of State, *Press Releases*, February 3, 1934, pp. 69-70.)

RECIPROCAL TRADE AGREEMENT BETWEEN THE UNITED STATES AND  
CUBA, SIGNED AUGUST 24, 1934<sup>18</sup>

611.3731/510

*The Ambassador in Cuba (Caffery) to the Secretary of State*

No. 394

HABANA, January 26, 1934.

[Received January 29.]

SIR: As the time for the resumption of negotiations for a new commercial treaty between Cuba and the United States is approaching with the recognition of the Cuban Government,<sup>19</sup> I have the honor to point out that the question of where these negotiations will take place is one of importance. In this connection, at my request, the Commercial Attaché has prepared a memorandum outlining various substantial reasons why the actual negotiations should continue to be held in Habana rather than in Washington. A copy of this memorandum is transmitted herewith. I desire to state that I concur with the statements contained therein. While, of course, the legal drafting of the final text of the treaty can obviously be handled more satisfactorily in the Department, the detailed negotiations should, in my opinion, continue to be held in Habana.

Respectfully yours,

JEFFERSON CAFFERY

[Enclosure]

*Memorandum Prepared in the Office of the Commercial Attaché*

HABANA, January 20, 1934.

Subject: Revision of the Reciprocity Treaty.

It is our feeling that the proposed revision of the treaty of commercial reciprocity between the United States and Cuba should be negotiated in Habana rather than in Washington; it being understood, however, that the Department of State will be kept informed of developments and that the general provisions will be prepared in the Department of State with the cooperation of the Embassy.

Should negotiations be conducted in Washington, it would be necessary to transfer to the Department of State the vast amount of material available in the Embassy. This includes useful reports based upon conferences with persons engaged in import and export trade, industry and agriculture, letters, special studies, reference books and charts. Moreover, the Cubans would be required to do likewise. So as to

<sup>18</sup> For previous correspondence concerning the negotiation of a trade agreement between the United States and Cuba, see *Foreign Relations*, 1933, vol. v, pp. 278-525 *passim*.

<sup>19</sup> See pp. 93 ff.

insure practical revision of the treaty, it would be essential to send to Washington the four members of the staff in the office of the Commercial Attaché who have specialized in this work, all at considerable expense and impairment of efficient functioning of the Embassy.

The office of the Commercial Attaché of the Embassy has prepared considerable information on the subject, most of which was used as the basis for preliminary discussions with officials of the Cuban government at the meetings which took place last year. Since then, additional data have been compiled, and new ideas have been formulated. This material has guided the sub-committee of the Inter-Departmental Committee in Washington in its study of the proposed revision of the treaty. The findings of the sub-committee are useful, but we do not believe that a duplication of effort would be justified during the actual negotiations. We do feel, however, that the experience of experts on the Inter-Departmental Committee in Washington is such as to more than justify the preparation of the general provisions there, after an exchange of ideas with the Embassy.

It is obvious that the [*sic*] during the negotiations, many problems will arise which will make it necessary for our negotiators to discuss with reliable commercial contacts. This would be very difficult in Washington, but would be relatively simple in Habana in view of the fact that the office of the Commercial Attaché is in touch with practically all the important business men in this country, whether Cubans or foreigners. It is within the realm of possibility that in the course of negotiations price changes, new competition or other disturbing factors may arise, and that there might be some delay in bringing them to the attention of our negotiators in Washington; while in Habana they would be known to our negotiators at once.

While it would be possible for the Embassy to elaborate on the reports on domestic industries, which have been submitted to Washington, from time to time, it is obvious that the negotiators should be men who are thoroughly familiar with conditions of the country. The members of the staff who would be delegated to negotiate the commercial treaty have a full knowledge of conditions in Cuba, and are well qualified to distinguish between natural and artificial industries and the amount of tariff protection which they should enjoy.

It would be more advantageous and economical for the Cuban government to negotiate the commercial treaty in Habana. The latter is very important, in view of the depressed financial condition of the government. Moreover, as the basic data are available here, actual negotiation of the commercial treaty would be expedited.

The staff of the Commercial Attaché has been kept intact in anticipation of the revision of the commercial treaty in Habana. Two members of the staff, who received their notification of separation



from the service last year, have been retained for the express purpose of assisting in revision of the treaty. We believe that their participation in the meetings with the representatives of the Cuban government will be extremely valuable and practical.

In brief, we are confident that if the negotiation [is?] carried on in Habana, that revision of the treaty would be expedited and that it would be more economical and practical for Cuba and the United States.

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611.3731/511 : Telegram

*The Ambassador in Cuba (Caffery) to the Secretary of State*

HABANA, January 31, 1934—6 p. m.

[Received 8 p. m.]

92. Remarking that the negotiation of the new treaty would inevitably take time, Torriente<sup>20</sup> has inquired whether it would be feasible for the President to obtain authority to increase the Cuban preferential on sugar imported into the United States in compensation for a general blanket increased preferential on American imports into Cuba which could be promptly negotiated by means of an exchange of notes. He states that the Cuban Provisional Government has the authority to increase the American preferential.

I understand, of course, that nothing of this kind could be done in any event until the quota matter is disposed of.

CAFFERY

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611.3731/510 : Telegram

*The Secretary of State to the Ambassador in Cuba (Caffery)*

WASHINGTON, February 6, 1934—5 p. m.

43. Your despatch No. 394 of January 26. Your recommendations approved. In accordance therewith please resume negotiations and press them as far as may be possible to the most speedy conclusion. Keep Department currently informed of progress.

HULL

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611.3731/519

*The Ambassador in Cuba (Caffery) to the Secretary of State*

No. 507

HABANA, February 12, 1934.

[Received February 16.]

SIR: Referring to my recent reports concerning the resumption of the negotiations for the revision of the Commercial Convention be-

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<sup>20</sup> Cosme de la Torriente, Cuban Secretary of State.

tween the United States and Cuba, I have the honor to report that the Secretary of the Treasury, Doctor Martinez Saénz, told me on Saturday that the Government would take steps at once to appoint a Commission to represent Cuba in the negotiations, but, however, the Commission would need some time for studying the whole matter and would not be prepared to undertake negotiations with our representatives until they had completed their necessary preliminary studies.

Respectfully yours,

JEFFERSON CAFFERY

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611.3731/521 : Telegram

*The Ambassador in Cuba (Caffery) to the Secretary of State*

HABANA, February 17, 1934—3 p. m.

[Received February 18—4:33 p. m.]

161. I had a preliminary discussion on the commercial treaty revision yesterday with the Secretaries of State, Treasury, and Agriculture, and I am to meet them again Monday.

There are three questions I submit for decision to the Department:

(1) Can we request seasonal reductions in Cuban import duties on potatoes, onions, watermelons, et cetera, without offering reciprocal concessions on Cuban fruits and vegetables? And can we offer such reciprocal concessions?

(2) Are we to assume that article No. I of the present treaty,<sup>21</sup> providing for the free entry into the United States of products on the free list at the time of the promulgation of the treaty, will continue in effect? (The advantages to Cuba of the proposed treaty revision would be nullified to a large extent if the above article were eliminated. Industries in Cuba which have been developed and expanded under the terms of this article include extractive and manufacturing industries chief among which is the mining industry in which American capital estimated at \$20,000,000 is invested.)

(3) Are we to discuss with the Cuban delegation concessions to be granted Cuban products other than sugar entering the United States?

CAFFERY

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611.3731/522 : Telegram

*The Ambassador in Cuba (Caffery) to the Secretary of State*

HABANA, February 19, 1934—5 p. m.

[Received 5:52 p. m.]

166. My telegram No. 161, February 17, 3 p. m. I have just had a further discussion on the commercial treaty revision with the Secre-

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<sup>21</sup> Signed December 11, 1902, *Foreign Relations*, 1903, p. 375.

taries of State, Treasury, and Agriculture, and negotiations between the technical advisers will be commenced immediately and continue constantly. The Cuban technical advisers are Pedro Arango of the Department of Agriculture and Commerce, Roberto Netto of the Treasury, and Angel Solano of State Department.<sup>22</sup>

CAFFERY

611.3731/521 : Telegram

*The Secretary of State to the Ambassador in Cuba (Caffery)*

WASHINGTON, February 21, 1934—1 p. m.

51. Your 161, February 17, 3 p. m.

1. For reasons connected with possible general developments here believe it advisable defer discussions regarding possible reciprocal seasonal reductions fruits and vegetables for the moment, holding for later stage in negotiation.

Meanwhile Department completing study of subject.

2. Articles now free of duty under Article I of existing treaty can be guaranteed continued free entry except that this guarantee might be limited in regard to avocados. Concerning the details of this reservation definite instructions will be sent shortly.

3. You may in a tentative fashion discuss concessions sought by Cuba on products other than sugar, submitting Cuban letters of requests to the Department for consideration before taking position on any of them.

HULL

611.3731/546

*The Ambassador in Cuba (Caffery) to the Secretary of State*

No. 46

HABANA, March 9, 1934.

[Received March 12.]

SIR: With reference to previous correspondence concerning negotiations for a revision of our reciprocity treaty with Cuba, I have the honor to transmit herewith a tentative draft of certain of the general provisions to be included in the treaty, prepared by our technical advisers. I should appreciate receiving the Department's instructions with respect to the enclosed draft articles at an early date.

Respectfully yours,

JEFFERSON CAFFERY

<sup>22</sup> The American technical advisers were Albert F. Nufer, Commercial Attaché at Habana; Walter J. Donnelly, appointed Commercial Attaché at Habana, January 9, 1934; and Harry R. Turkel, of the Treaty Division, Department of State, assigned to the Embassy in Cuba, February-August, 1934.

[Enclosure]

*Proposed General Provisions for the New Commercial Convention  
Between the United States and Cuba*

**ARTICLE I**

During the term of this convention, all articles of merchandise being the product of the soil or industry of the United States which are now imported into the Republic of Cuba free of duty, and all articles of merchandise being the product of the soil or industry of the Republic of Cuba which are now imported into the United States free of duty, shall continue to be so admitted by the respective countries free of duty (except as provided in Article . . of this convention).

**ARTICLE II**

During the term of this convention, the articles of merchandise specified in Schedule 1 annexed to this convention, being the product of the soil or industry of the Republic of Cuba, imported into the United States shall be admitted under the rates of duty and classifications and shall enjoy the preferences therein specified.

During the term of this convention, the articles of merchandise specified in Schedule 2 annexed to this convention, being the product of the soil or industry of the United States, its territories and possessions, imported into the Republic of Cuba, shall be admitted under the rates of duty and classification and shall enjoy the preferences therein specified.

The rates of duty specified in Schedules 1 and 2, whether ad valorem or specific, are understood to be maximum rates of duty, and may not be increased during the life of this convention except as hereinafter provided.

The percentages of preference specified as against the rates of duty on like articles imported from other countries, as in Schedules 1 and 2, are understood to be minimum percentages and may not be decreased during the life of this convention.

The term "like articles", as used in this connection, shall be taken to mean articles similar in material, texture, quality or uses to which applied.

In any subsequent revision of the tariffs of the respective countries the minimum amount of the preferences accorded to each other at the time this convention enters into force may not be decreased during the life of this convention.

In the case of articles subject to specific duties the minimum value of the preferential is understood to mean the difference between the rates of duty established in Schedules 1 and 2 and the general rates

of duty in effect at the time this convention enters into force. In any subsequent reduction of the general rate, this amount must be deducted from the proposed new general rate to arrive at the new rate on any product specified in Schedules 1 and 2.

In the case of articles subject to ad valorem duties, the minimum value of the preferential is understood to mean the amount of the difference between the general ad valorem rates of duty in effect at the time this convention enters into force and the ad valorem rates established in Schedules 1 and 2.

In any subsequent revision of the tariffs of the respective countries the minimum amount of the preferences accorded to each other at the time this convention enters into force may not be decreased during the life of this convention.

### ARTICLE III

With respect to articles not specified in Schedules 1 and 2, duties may be increased or decreased by the respective countries but such changes shall not become operative until at least 30 days after public notice thereof in the usual official manner. The provisions of this paragraph do not apply to administrative orders imposing anti-dumping duties, relating to sanitation or public safety, or giving effect to judicial or customs courts decisions.

However, the percentages of preference of articles not specified in Schedules 1 and 2 as now provided in the Commercial Convention of December 11, 1902 shall continue in force during the term of this convention, and the value thereof as described in Paragraphs 6 and 7 of Article II shall not be decreased.

Rates of duty on articles specified in Schedules 1 and 2 may be increased to a maximum of 50% of these rates only by common agreement between the Presidents of the United States and Cuba on the advice of their respective Tariff Commissions.\*

In the event that these rates are increased, the value of the preferences must be proportionately increased.

The classifications specified in Schedules 1 and 2 may be changed only by common agreement between the Presidents of the United States and Cuba on the advice of their respective Tariff Commissions.

### ARTICLE IV

Duties on articles imported into the United States from Cuba shall be paid in United States legal tender.

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\* The American delegation at Habana desires a certain degree of flexibility in the treaty in order to meet readjustments in economic forces. These powers are in large measure already enjoyed by the Presidents of the respective Republics. [Footnote in the original.]

Duties on articles imported into Cuba from the United States shall be paid in Cuban or United States legal tender.†

#### ARTICLE V

All products of the soil or industry of either High Contracting Power after importation into the territory of the other Party shall be exempt from any national, federal, state, provincial or municipal taxes or charges other or higher than those payable on like articles of national origin.

All products of the soil or industry of one of the High Contracting Powers shall, on their importation into the territories of the other, be exempt from any internal taxes or charges whatsoever, other or higher than those in force on the day of the signature of this convention.

The High Contracting Parties bind themselves not to impose any export duties on any articles exported to the territories of the other.

The High Contracting Parties agree not to impose taxes or restrictions of any nature on the exportation of money or its kind other or higher than those in force on the day of the signature of this convention, insofar as such transactions relate to trade between the two countries.

In order to maintain the reciprocal advantages herein stipulated, the High Contracting Parties agree that in case any such advantage is in fact, or is threatened to be, substantially diminished or nullified by the importation of like articles of trade from a third country with benefit of depreciation of the currency of any such third country, of any bounty, or of any form of dumping such articles, imported directly from any such foreign country or otherwise, such articles shall be subject to a new or additional duty equal to the net amount of any such currency depreciation, bounty, or dumping practice.

#### ARTICLE VI

Insofar as rates and charges for transportation services within either country are imposed or controlled directly or indirectly by the respective Contracting Parties, goods which are the product of the

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† The above wording is probably not adequate to safeguard the purposes we have in mind.

Decree No. . . of . . . . . provided that Cuban consular fees were to be payable on the basis of Cuban gold. Prior to that date they were payable on the basis of either United States currency or Cuban gold. As a result of this decree, Cuban consular officers were instructed to increase Cuban consular fees by 30%. Representations by the American Embassy led to the rescision of this order insofar as consular fees collected in the United States were concerned but it remained in effect with respect to countries other than the United States until the promulgation of Decree No. . . of . . . . .

It is further desired to prevent any possible adoption by Cuba of the Brazilian conversion system in the payment of duties. [Footnote in the original.]

soil or industry of one of the countries shall pay within the territory of the other rates and charges which are not discriminatory as compared with the rates and charges on like goods imported from a third country or of domestic origin transported under like circumstances and conditions.

#### ARTICLE VII

It is agreed that the High Contracting Parties will maintain consular invoice fees on a fixed basis not to exceed \$5.00 each or on an ad valorem basis not to exceed 5% of the value at the point of origin of the shipment. In the event either Party maintains this charge on an ad valorem basis, it shall grant to the other a 50% preferential in such charge.‡

#### ARTICLE VIII

All questions arising with respect to the preservation of the respective rights and advantages accorded to either High Contracting Party under the provisions of this convention shall be submitted for settlement to the Board of Arbitration created as herein provided. The classification, appraisal and assessment of duties under Schedules 1 and 2 shall be accomplished, and protests and appeals relating thereto shall be settled in the ordinary procedure established by the laws, regulations and rules of the respective High Contracting Parties. In the event that either Contracting Party is dissatisfied with the result thereof, or has cause to believe that the procedure and decision relating to protests and appeals is unduly or unreasonably delayed,§ the Secretary of State of such country shall so notify the Secretary of State of the other country and request the creation of a Board of Arbitration to determine and settle the question at issue. The respective Secretaries of State shall thereupon each appoint one Arbitrator and if the two Arbitrators cannot agree they shall appoint a third. The decision of such Board of Arbitration shall be final and conclusive upon the Contracting Parties.

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‡ The American delegation is not unanimous as to this article because it is feared that the granting of the preferential on the consular fees might be interpreted as an admission by the Cuban Government that this fee is tantamount to an additional import duty. The treaties between Cuba and Spain (and other countries) bind the Cuban import duties on specified products so that this admission might justify a claim on the part of these countries for complete exemption from this charge on the commodities so bound.

As an alternative to the above article the delegation recommends:

"It is agreed that the High Contracting Parties will not impose consular invoice fees on an ad valorem basis in excess of 2½% of the value at the point of origin of the shipment." [Footnote in the original.]

§ The American delegation is not in accord as to the removal of causes owing to unreasonable delay and as to the elimination of the present formality of the decisions of the United States Court of Customs and Patent Appeals. [Footnote in the original.]

The High Contracting Parties agree to furnish the Board with all means required for its investigation and report.

The expenses of the Board shall be paid by the two Governments in equal proportions.

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611.003/3047

*Press Release Issued by the Department of State, March 28, 1934*

STATEMENT BY MR. FRANCIS B. SAYRE, ASSISTANT SECRETARY OF STATE

References have been made in the course of the debate on the tariff bill and in the press regarding tariff negotiations with a number of countries. In connection with these negotiations it is stated that the United States is offering reductions in duty on cement, lumber and agricultural products. There is no truth whatsoever in these statements. There are now no negotiations involving tariff reductions in progress with any foreign country except Cuba and in the negotiations with Cuba no offer or commitment of any kind has been made by the United States regarding concessions on products imported from that country.

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611.3731/583

*The Secretary of State to the Ambassador in Cuba (Caffery)*

No. 60

WASHINGTON, April 3, 1934.

SIR: Reference is made to the Department's telegram No. 43 of February 6, 1934, authorizing you to commence negotiations for a revision of the reciprocity treaty with Cuba, to your telegram No. 161 of February 17, and to the Department's telegraphic reply No. 51 of February 21, and to a memorandum of the Commercial Attaché of February 17,<sup>23</sup> citing certain basic questions which will present themselves for decision in the course of the negotiations. With reference to the questions raised by the Commercial Attaché the following considerations are submitted for your information and guidance.

(1) Can increases in duties be requested on certain highly competitive products of foreign countries?

The Department considers that the general rule should be to seek no increases of rates of duty on importations from foreign countries. In this connection, however, the Department is sending you a further instruction making certain observations on this point. (a) It is inconsistent with the general policy of the Administration to encourage the raising of foreign tariff rates, even when the United States would seem to benefit in the short run. We would resent similar action by

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<sup>23</sup> Memorandum not found in Department files.



foreign countries. (b) It is possible that dumping by foreign countries may in some cases be a proper subject of concern from the standpoint of the United States. Such a situation should, however, be met by an application of anti-dumping provisions against the particular importations which have been sold at less than their foreign market value or cost of production, or of provisions designed to offset bounties which particular importations may enjoy, rather than by subjecting all importations of a product to penalties which are justified only with respect to a portion of them.

(2) Is it contrary to the policy set forth under (1) above to request a consolidation of a consumption tax with a duty in order that the preference obtained on the duty would also apply on the tax?

(a) Where there is a genuine consumption tax, that is, one levied on a substantial domestic production at the same rate as upon imports (e. g., our excise tax on cigars), it is not to be consolidated with the duty nor is a preference therein to be sought.

(b) Where the consumption tax is a disguised import duty collected in fact almost entirely upon imports, the American product should get the preference therein, whether or not consolidated with the duty. You are requested to refer to the Department for decision all borderline cases.

(3) Would a request for the application of the maximum rate of duty provided for in the Cuban tariff be considered inconsistent with the principles set forth above?

No proposal should be made by the United States whereby foreign goods which now pay the Cuban general rates would be made subject to the higher "maximum" tariff rates.

(4) Can the United States request seasonal reductions in Cuban import duties on agricultural products without offering reciprocal concessions on such products?

The Department suggests that the discussion of seasonal reductions in duties on fruits and vegetables be deferred until this Government is in a position to indicate what concessions, if any, it will be able to offer in the way of seasonal reductions on Cuban products. Your attention is called, however, to the existence in the present Cuban tariff of provision for seasonal tariffs on potatoes and onions.

(5) Shall the provisions of Article 1 of the present treaty, which provides for free entry into the United States of products on the free list when the treaty was concluded, continue in effect?

The purpose of the negotiations is to improve conditions for trade and the presumption must be that articles now free of duty will be guaranteed free entry. It may be necessary, however, to make an exception to this rule in the case of some products, such as avocados.

As soon as investigations which are being made here regarding this matter have been completed, the Department will instruct you further.

(6) To what extent can the United States appropriately request reductions in existing Cuban internal taxes?

The United States now levies internal taxes on Cuban tobacco. In addition, a bill is now pending in Congress<sup>24</sup> to make Cuba's principal export product, sugar, a basic commodity for the purposes of the Agricultural Adjustment Act,<sup>25</sup> and to make it liable to a processing tax. Thus, if this bill is enacted into law, Cuba's two most important export products would be liable to internal taxes in this country.

It does not follow, however, that this fact should necessarily prevent the United States from requesting reductions in Cuban consumption taxes. The question above propounded can not be dealt with in principle, but only in relation to particular products. Whether a request for a reduction in the internal tax on a product is justified depends upon various factors, including the amount of the customs duties and other charges to which the article is subject and the amount of the reduction in the customs duty which is offered. If, for example, a material increase in the trade in a given product can be effected by a reduction in the import duty only, a reduction in the internal tax may be foregone.

Generally speaking, it would simplify the problem to provide so far as possible for the maintenance of the *status quo* or for the establishment of specified limits with respect to internal taxes on products dealt with in the agreement, and to make the desired trade adjustment through the medium of the import duties. However, there may be instances in which the customs duty on a product is so low and the internal tax on the product is so high that even the complete abolition of the import duty would not give the desired opportunity for trade. In such cases a reduction in the internal tax should, of course, be requested.

(7) May a revision of the consular invoice fee, which in effect amounts to an additional import duty, of five percent ad valorem, be requested?

You may request reduction of the consular fee to a nominal amount, or, if in your opinion it is more desirable, its consolidation with import duties. All charges on imports, other than customs duties, or consular fees, if not reduced by the agreement or consolidated with customs duties should be bound at present levels or within agreed upon limits. The agreement might well contain a general provision whereby, in so far as concerns articles with respect to which customs

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<sup>24</sup> See H. R. 8861, *Congressional Record*, vol. 78, pt. 5, p. 5691.

<sup>25</sup> Approved May 12, 1933; 48 Stat. 31.

concessions or commitments have been made under the agreement, charges of all kinds which have not been specifically provided for shall not be increased, and whereby no new charges of other kinds shall be imposed.

(8) Is it the intention completely to revise the existing treaty and submit the redrafted treaty to Congress for ratification at the present session?

The Department is not in a position to inform you at the present moment of the form that may seem most advisable for the ultimate trade agreement that you are now working on. If the tariff proposal now before Congress should be enacted (H. R. 8687 of which a copy is attached <sup>26</sup>) it might be that the powers conferred upon the Executive by that bill will be sufficient to cover the arrangement with the Cuban Government and that the arrangement could be put into effect at once as an Executive Agreement. However, in the event that the treaty calls for concessions by the American Government not within the range of powers conferred upon the Executive by this bill, or in the event that this bill fails of passage, the arrangement would have to be presented to Congress for ratification.

(9) Shall the concessions to be granted by the United States to Cuba on products other than sugar be discussed with the Cuban delegation?

No decision can now be reached regarding such concessions. You may state to the Cuban authorities, however, that you will receive any requests they may desire to make, and transmit them to the Department for consideration. It is extremely important under present circumstances to avoid any publicity whatever regarding the concessions which might be offered by the United States.

(10) Shall the Embassy prepare a draft of the general provisions of the treaty for submission to the Department for approval?

The Department will prepare and submit to you as soon as possible in outline form a draft of the proposed agreement. The Embassy should prepare the texts of any special provisions which it deems advisable to include therein and submit them to the Department for approval.

It is suggested that for the present the Embassy concentrate on the schedule of concessions to be obtained from Cuba, since this part of the agreement involves the greatest technical difficulties and will consume the greatest amount of time. It is recognized that the inability of this Government to indicate what concessions can be granted to Cuba greatly increases the difficulty of this task. As matters now stand, however, there is no help for it. The Department can only suggest that the discussions proceed on the assumption that concessions will be made by the United States and on the basis that concessions

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<sup>26</sup> For text of law approved June 12, 1934, see 48 Stat. 943.

offered by Cuba at this stage are tentative and subject to the granting of reciprocal concessions by the United States.

In the future the Department desires that all proposals, including counter-proposals, regarding the concessions desired by the United States be submitted to the Department before they are submitted to the Cuban negotiators in order that the views of the Departments of Agriculture and Commerce and of the Tariff Commission may be obtained thereon. Arrangements will be made whereby such proposals will receive prompt consideration here.

In addition to the questions raised by the Commercial Attaché there are certain further principles by which you should be guided in the conduct of the negotiations, as follows:

(11) It must be borne in mind that the United States, and possibly also Cuba, will desire to enter into negotiations for the promotion of trade with other countries. From this standpoint the preferences granted by Cuba and the United States to each other are significant. In this connection consideration must be given both to the form and to the amount of the preference.

The preference may take the form of a percentual reduction in general rates, whatever those rates may be. This is the form employed in the existing treaty. Or it may take the form of an absolute margin of preference expressed as a specified sum per unit of goods, or a specified percentage ad valorem, i. e., a percentage of the value of the goods. This is the form suggested in the draft agreement enclosed with your despatch No. 46 of March 9, 1934. The form of preference provided for in the existing treaty seems preferable for the following reasons.

(a) The preference in its absolute form sets a limit to reduction in rates. The lowest rate that could be imposed on goods of third countries would be the sum per unit or the ad valorem percentage representing the agreed-upon margin of preference. The preference in its relative form (percentual reduction in general rates) on the other hand, would allow complete freedom with respect to reductions in rates. While there may be little likelihood in the immediate future of either country desiring to lower its rates to third countries to the extent that this implies, it is nevertheless desirable in principle that no limit to rate reductions be imposed.

(b) The form of preference provided for in the existing agreement permits some mitigation of the discrimination against third countries. A reduction in the general rate results in a reduction in the absolute margin of preference. It therefore permits the United States or Cuba not only to offer a third country a reduction in the rate payable on imports from that country but at the same time to afford some measure of relief from the discrimination to which its trade is subject. Thus, on the basis of a 20% preference on general rates:

	<i>Present rates</i> ¢ per unit	<i>Rates which might be</i> <i>offered to (e. g.)</i> <i>Mexico</i> ¢ per unit
Mexico (e. g.)-----	3.0	1.5
Cuba -----	2.4	1.2
Margin of preference-----	0.6	0.3

Any such reduction in the margin of preference, however, would tend to be offset by the fact that it would necessarily be accompanied by a reduction in the duties paid by Cuba and by the consequent improvement in the competitive position of Cuban producers as compared with those in the United States.

The size of the percentual preferences granted may likewise be important from the standpoint of negotiations with some third countries. In any such negotiations the third country concerned is likely to demand at least that the absolute margin of preference shall be no greater than that existing before the treaty between the United States and Cuba was revised. A mere reduction in the general rate is not likely to satisfy the third country concerned if the margin of preference to Cuba or the United States, as the case may be, is such that the third country anticipates that it will be unable to compete. The greater the increase in the percentage of preference, the greater must be the reduction in rates in any negotiations with a third country, in order to restore or reduce the absolute margin of preference now existing. If, in the present negotiations, percentages of preference should be materially increased on products which are likely to be important in negotiations with third countries, greater reductions in duty may be demanded by such third countries than budgetary or protective requirements will permit.

In view of the considerations above set forth it seems to the Department advisable (1) to state the preference in the form of a percentual reduction to the United States based on the lowest rate at any time applicable to any other foreign country, and (2) to increase the preference only on articles of which Cuba or the United States, as the case may be, is the chief source or one of the principal sources of imports into the other. There may be some articles of which Cuba or the United States is the chief source or one of the principal sources of imports into the other but which may be an important factor in future negotiations with some third country. Any representations by Cuba or the United States that in such circumstances an increase in preference should be foregone should receive sympathetic consideration.

It is recognized that in the case of some products the observance of these principles may involve a sacrifice of immediate expansion with respect to the trade of Cuba and the United States with each other.

But it would preserve, both for Cuba and the United States, the opportunity to expand their trade in other directions.

(12) It is intended that the new trade agreement will provide not merely for specified minimum percentage preferences to the United States, but that the rates of duty on important specified American products be bound as to maxima by the agreement. It is suggested that rates might be bound on all such important articles except those with respect to which such limitation would clearly be of greater benefit to some foreign country than to the United States.

(13) The emphasis should be on obtaining reductions in duties rather than on obtaining increased preferences. The Department considers that there has been too great a tendency in connection with proposals submitted by the Embassy to seek increased preferences. There is a strong presumption in any case against seeking a preference in excess of 50%. A preference of as much as 50% should be sought only in exceptional cases.

(14) A balance of the advantages offered by the parties to a treaty can seldom be effected by each party granting like concessions on like products. It is the trade importance of the concessions granted, not the kind of concessions, which must be compared in determining the equivalence of the concessions granted by the countries concerned. Cuba exports a relatively few articles of great importance in the economy of that country, while the United States exports to Cuba numerous products none of which, taken alone, represents a large proportion of the trade. A substantial concession by the United States to Cuba on sugar will be equivalent, therefore, when measured in terms of trade advantage, to concessions by Cuba on numerous products of the United States. These considerations should be kept in mind in connection with such questions as that raised under point (4) above, namely, the relation of seasonal reductions in duty by Cuba to seasonal reductions in duty by the United States.

(15) In order to stabilize the production and marketing of sugar in the areas supplying the domestic American market, there has been introduced into the Congress a bill which, in effect, will permit the establishment of quotas for these areas.<sup>27</sup> In his message of February 8 to the Congress,<sup>28</sup> the President indicated that the use of the figures for the last three years as the basis for fixing quotas would result in an approximate balance between supply and consumption. On this basis marketing of Cuban sugar would be 1,944,000 short tons, as compared with 1,608,000 short tons in 1933, an increase of nearly 25 percent. In view, however, of the possibility of change in these figures and of the possibility that the bill might not pass, you should not at this time discuss the matter with the Cuban authorities.

<sup>27</sup> H. R. 8361. For text of law approved May 9, 1934, see 48 Stat. 670.

<sup>28</sup> Department of State, *Press Releases*, February 10, 1934, p. 77.

The bill before Congress concerning sugar makes sugar beets and sugar cane basic agricultural commodities for the purposes of the Agricultural Adjustment Act, thereby making them liable to a processing tax. In order that the levy of this internal tax will not increase prices the pending bill provides that in no event shall the rate of the processing tax exceed the amount by which the tariff on sugar is reduced below the present rate of import duty. In this connection, your attention is called to the preliminary report of the Tariff Commission on sugar, which finds that the tariff on Cuban raw sugar (96°) need be only 1.50 cents per pound, instead of 2.00 cents per pound to equalize production costs.

Very truly yours,

For the Secretary of State:  
FRANCIS B. SAYRE

611.3731/581a

*The Secretary of State to the Ambassador in Cuba (Caffery)*

No. 61

WASHINGTON, April 3, 1934.

SIR: In connection with the general instruction of this date setting forth the general principles to be followed in negotiation of a commercial treaty between this country and Cuba, the Department wishes to transmit one supplementary element. This is in connection with the general principle numbered (1) "The Department considers that the general rule should be to seek no increases of rates of duty on importations from foreign countries".

The above-stated principle is one which the Department wishes strictly to follow in all ordinary circumstances and conditions, and it represents the position which the Department has assumed in regard to trade agreements entered into between third countries. However, a condition extraordinary in some respects is presented by the recent trend of Japanese competition, which it is presumed has also manifested itself in the Cuban market. This Japanese competition is made the more intense and difficult by virtue of the great decline in the value of the Japanese currency; there exists a possibility that within the treaty period this decline may proceed further, thereby accentuating the difficulties of competition and leading to the offer of Japanese goods in the Cuban markets at prices even more markedly low than those at which some Japanese goods are already being offered.

This is a contingency which the Department feels should be guarded against in the drafting of the treaty with Cuba. It would be unfortunate if after a lapse of time it should result that American trade advantages secured in Cuba in return for the advantages given Cuba (in the field of sugar only as the result of a very considerable effort) did not develop as expected because of unusual Japanese competition.

It is therefore suggested that the Embassy make a careful study of the different branches of Cuban trade in which it appears that Japanese sales effort and competition in the Cuban market has grown markedly greater during the past two years, and report back to the Department as regards those items with recommendations. It may be that in regard to some of the items in question it will be found advisable to depart from the general principle laid down above.

Very truly yours,

For the Secretary of State:  
FRANCIS B. SAYRE

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611.3731/598

*The American Technical Advisers (Donnelly and Turkel) to the Ambassador in Cuba (Caffery)*<sup>29</sup>

HABANA, April 11, 1934.

Subject: Comments on the Department's Confidential Instructions Nos. 60 and 61 of April 3, 1934.

At your request we are presenting our comments on the general instruction for the revision of the reciprocity treaty with Cuba as set forth in the confidential instructions from the Department of State of April 3, 1934.

In regard to increases of rates of duty on importations from foreign countries treated with in the supplement of April 3rd, we are including in a separate memorandum our views on Japanese and Belgian competition in products on which we feel that it is desirable to request an increase of the general import duties in order to meet or remove this competition.

In Sub-section A of Section No. 1, the Department treats of the possibility of employing anti-dumping regulations on imports which are sold at less than the foreign market value or cost of production. There is at present provision in the Cuban customs tariff for application of the maximum duties against foreign dumping, but it has never been applied. Our views on anti-dumping provisions to be included in the treaty are set forth in Paragraph 5 of Article V of the draft of March 6, 1934, which presents our proposals for general provisions to be included in the treaty.

We concur with the Department that the treaty should contain anti-dumping provisions, but suggest that the treaty article be limited to the dumping of third countries. However, the Department may desire to add an article similar to Article III of the agreement with Colombia.<sup>30</sup> It is important to remember that the Cuban Government, as

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<sup>29</sup> Copy transmitted to the Department by the Ambassador in Cuba in his despatch No. 244, April 13, 1934; received April 16.

<sup>30</sup> *Foreign Relations*, 1933, vol. v, p. 249.



constituted, is not in a position successfully to administer anti-dumping regulations. The Government lacks facilities for making the necessary investigations in foreign countries and is also hesitant to employ such drastic measures in view of the possibility of antagonizing foreign countries. In the light of this fact it is felt that we should disregard the possibility of anti-dumping regulations being enforced in Cuba and, therefore, we should protect our position as far as possible by increasing the spread between the general duty and the duty to the United States by increasing the preferentials.

We agree with the Department's statement in Section 2 (a) regarding the consolidation of the consumption tax with the import duty whenever the consumption tax is a disguised import duty. There are many instances which are already known to the interdepartmental Committee and therefore it will not be necessary to treat with this subject in detail.

Razor blades are manufactured locally from imported steel. Although the manufacturers are required by law to pay the consumption tax, their prices are such that if they paid the consumption tax to the Government they would operate at a loss. Imported razor blades pay the consumption tax at the time of importation. Consequently they are at a disadvantage in competing with the local products. In this instance we are recommending that the consumption tax be imposed on the raw material at the time of importation. This would yield more revenue to the Government and would place our manufacturers in a better competitive position with the local firms. The same is true of rayon knit goods, hosiery, and similar products. In the report on the revision of the textile schedule, which was submitted on March 23, 1934,<sup>31</sup> we suggested that the consumption tax on the finished goods be imposed on the yarn and collected at the customhouse. Although we do not know of any border line cases, we will bear in mind the instructions of the Department and will refer such cases to the Department for decision.

We agree with the Department's statement in Section 6 that it would be advisable to provide so far as possible for the maintenance of the *status quo* or for the establishment of specified limits of internal taxes with respect to products dealt with in the agreement. However, there are some instances in which internal taxes are discriminatory or serve as an additional burden on imports, and in many instances our end cannot be accomplished through reduction of import duty only. Therefore, it would be desirable to ask for a reduction in particular internal taxes. Some of the outstanding cases are cigarettes, playing cards, meat products, automobiles, and textiles. In a few other instances we should probably request a decrease in certain internal taxes,

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<sup>31</sup> Not printed.

but of course before doing so, the Department would have an opportunity to study our proposals.

With reference to the consular invoice fee, the Department states in Section 7 that the Embassy may "request reduction of the consular fee to a nominal amount, or if in your opinion it is most desirable, the consolidation with import duties". Consolidation of this fee with the import duty would be an admission on the part of the Cuban Government that the consular fee is an import duty and as such it could not be applied to products imported from Spain and France, since it is specifically provided in the treaties with these countries that import duties on products mentioned in the treaties may not be increased.<sup>32</sup> It is our feeling that the most we can expect to obtain is a uniform reduction of the consular fee from 5 per cent to 2½ per cent ad valorem. It seems to us that the question of where and when the fee is imposed is strictly an internal matter and that therefore we should not interfere. Some American interests would prefer to have it levied at the time of importation of the shipment and others at port of shipment. The important thing for us is to secure a reduction of the fee, if possible, to 2½ per cent ad valorem. Although this will represent a reduction of revenue to the Government, we hope to be able to compensate for it in other parts of the treaty.

With reference to Section 9 of the instructions, regarding concessions to be granted by the United States to Cuba on products other than sugar, we have carefully avoided discussion of these products and when the subject has been approached we have told the Cuban delegates that the most we can do is to submit their proposals to Washington for consideration.

In regard to special provisions for the treaty mentioned in Section 10, your attention is invited to the fact that proposed revisions were submitted by us on March 6, 1934.<sup>33</sup> Some of these provisions are very important and if it is at all possible it is our desire that they be retained. It will be very useful for us to receive the Department's draft of the special provisions as soon as possible in order that the treaty may be expedited. In fact, we have made arrangements for special discussions of the treaty draft as soon as we receive suggestions from the Department. Since the negotiation of the treaty articles may require more time than the negotiation of the schedules, the Department will appreciate the importance of sending its draft to us in the very near future.

Needless to say, we are disappointed to learn that the Department disapproves in Section 11, of our principle of the absolute preferential.

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<sup>32</sup> For text of treaty with Spain, signed July 15, 1927, see League of Nations Treaty Series, vol. cxx, p. 251; for text of treaty with France, signed November 6, 1929, see *ibid.*, vol. cxiv, p. 345.

<sup>33</sup> See proposals transmitted with despatch No. 46, March 9, 1934, from the Ambassador in Cuba, p. 112.

It is entirely probable that as the result of the instruction, Cuba will negotiate treaties with other countries and that by reducing the general duty the advantages obtained by the United States in the provisions of the treaty will be lost. While it is not our intention to forestall such negotiations, it is our earnest hope that the treaty will guarantee a definite margin of preference over foreign competition.

In exchange for a known sacrifice of approximately thirty or forty million dollars annually in the duty on sugar, we feel that the United States should accept nothing less than an absolute preference.

Originally we had planned that the general rates would be minimum rates and rates to the United States would be maximum, thus preventing any reduction in the general rates but permitting that possibility with respect to rates to the United States.

However, we have compromised on the absolute preferential plan which would permit reduction in general rates of duty, yet protect the value of the concessions obtained at the time of signature. On this basis Cuba could reduce general duties but the value of the preferential to the United States would be retained as shown in the following table:

<i>Relative Plan</i>	<i>Unit of Duty</i>	<i>Gen'l Tariff</i>	<i>U. S. Prf. %</i>	<i>Tariff for U. S.</i>
Duty on potatoes under United States-Cuban treaty.....	100 Kilos.	\$5. 00	40%	\$3. 00
Duty on potatoes under Canadian-Cuban treaty.....	100 Kilos.	\$3. 00	40%	<u>\$1. 80</u>
<i>Absolute Plan</i>				
Duty on potatoes under United States-Cuban treaty.....	100 Kilos.	\$5. 00	40%	\$3. 00
Duty on potatoes under Canadian-Cuban treaty.....	100 Kilos.	\$3. 00	—	<u>\$1. 00</u>

The objection to the absolute plan on the ground that it sets a limit to the reduction of general rates is true if the plan is driven to its logical extreme. That theoretical objection should not be given such weight as to overturn the absolute preferential plan with its known safeguards to American commerce.

The Department has been informed that the Canadian Government has expressed a desire to the Cuban Government to negotiate a new treaty, but the Cuban Government has stated that it will not do so until the new treaty with the United States has been completed. In the event of a treaty with Canada, it is reasonable to assume that the Canadians will insist upon a lower import duty on potatoes, flour, fresh fruits, and lumber.

As Cuba enjoys a substantial favorable balance of visible trade with Great Britain, it follows that that country will negotiate a treaty to protect the sale of textiles, iron and steel products, machinery, Indian rice, and some foodstuffs.

Although we do not have definite proof, we believe that the Chilean Government will endeavor to negotiate a treaty with Cuba for the reduction of duties on beans, oats, hay, onions, and fruits.

In the second instruction, No. 61, of April 3, 1934, the Department indicates that it may be desirable to seek increased general rates on certain items. Obviously that would be done for the purpose of increasing our margin of preference. Is it not inconsistent to go to the extreme of asking for an increase in general rates in order to widen our margin of preferential and yet leave the way open to a reduction of that margin?

We are in sympathy with the Department's attitude to establish principles to guide in negotiating treaties with other countries, but we believe that our Government should continue to make Cuba the exception to our commercial treaty policy and that therefore our trade with Cuba should receive special consideration.

The Department indicates in Section 12 its intention that the rates of duty on important specified American products be bound as to maxima by the agreement. While the interdepartmental committee made many recommendations as to increasing the preferential without binding the rate, our negotiations have disclosed that the Cuban delegation is prepared to bind all products as to maxima by the agreement. Since this is more advantageous to the United States, it is suggested that all such rates be bound.

The Department states in Section 13 that it considers that there has been too great a tendency in connection with the proposals submitted by the Embassy to seek increased preferences. The Department states that the emphasis should be on obtaining reduction in duty rather than on obtaining increased preferences. The Department is evidently not aware that the Cuban Government is strongly disinclined to reduce general rates of duty, and consequently the only practical way to accomplish reduced duty to the United States is by asking for a sharply increased preferential. The chairman of the Cuban delegation has several times made the definite statement that we are engaged in a revision of the reciprocity treaty, not the Cuban Tariff, and consequently general rates of duty should not be reduced.

611.3731/600

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*The American Technical Advisers (Donnelly and Turkel) to the  
Ambassador in Cuba (Caffery)*<sup>34</sup>

HABANA, April 13, 1934.

Subject: Suggestions for increases in General Rates of Duty.

In response to the Department's instruction No. 61 of April 3, 1934, directing the Embassy to make a careful study of the different branches

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<sup>34</sup> Copy transmitted to the Department by the Ambassador in Cuba in his despatch No. 252, April 14, 1934; received April 17.

of Cuban trade in which it appears that Japanese sales effort and competition in the Cuban market has grown markedly greater in the past two years, there follows a discussion of items in which Japanese products have actually displaced American products. At present there are several representatives of Japanese firms in Habana offering a wide variety of lines competitive with American exports. In addition, Japanese exporters are carrying on extensive correspondence with Cuban and American firms in Cuba, quoting prices far below those of similar American products. Copies of typical letters and quotations are enclosed.<sup>35</sup>

Our trade contacts state that Japanese exporters are constantly increasing their sales activities and extending the variety of their lines. In self defense, some American firms doing business in Cuba have been forced to purchase Japanese products in order to compete. This is especially so in the case of textiles. The most important textile mill in Cuba—American-owned—has been obliged to place large orders for yarn in Japan in order to reduce the price of its finished products to a level competitive with similar Japanese finished products.

In view of the general policy of the Governments both of the United States and Cuba not to increase general rates of duty, our suggestions for increased general rates have been limited to the outstanding cases of actual competition.

#### 1. *Cotton Yarn.*

In the cotton section of the textile schedule we have asked for an increase in the general duty only on cotton yarn, from \$1.50 to \$3.00 per 100 kilograms with a preference of 50 per cent to the United States. While prices of cotton yarn fluctuate considerably, in general, Japanese prices c. i. f. Habana are about 20 per cent below American prices.

No request was made for an increased general duty on cotton textiles since nothing less than the maximum duty with a preference of 60 to 75 per cent would have been satisfactory. Such a request would not only have been deemed excessive by the Cuban delegates but would, if granted, provide so much additional protection as to encourage the establishment of new mills in Cuba.

#### 2. *Rayon Yarn.*

In the rayon sections of the textile schedule, we have asked for an increase in the general duty only on rayon yarn from \$0.20 to \$0.85 per 100 kilograms with a preference of 50 per cent to the United States. In general, Japanese rayon prices c. i. f. Habana are quoted at about 50 per cent of the American yarn.

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<sup>35</sup> Not printed.

The situation in respect of rayon piece goods is similar to that of cotton yard goods. In order to overcome the tremendous difference in price, it would have been necessary to request an increase to the maximum duty and a preference of from 65 per cent to 75 per cent. With such rates of duty, the cost to the Cuban consumer would be greatly increased, and the development of the rayon textile industry in Cuba would be artificially encouraged. Such a development would be as detrimental to American trade as is the Japanese competition and consequently the request is not being made.

In the cases of cotton piece goods, rayon piece goods and tooth-brushes—the three outstanding items of the textile schedule in which Japan has already taken over a large percentage of our trade—we have been repeatedly told by American manufacturers and importers that in their opinion no duty or preferential will be sufficient to offset the price difference on the Japanese goods. As the Department is well aware, these interests have constantly urged the establishment of quotas on these products based on imports from Cuba.

In view of the general antipathy toward the quota system, we felt that the best we could do was to secure as high a preference as possible on the present duties, in the hope that when the general economic condition of Cuba improves, the proximity of the United States and the superior styling of American textiles, coupled with the increased preferentials would enable us to regain some of the former business.

### 3. *Incandescent Bulbs.*

In 1930, the Cuban market consumed 1,840,502 lamps valued at approximately \$247,693, all of which were imported. On the basis of units, the United States supplied 56 per cent of the total during that year and Japan 4 per cent. Japanese competition became well entrenched in 1931 and continued to increase so that by the end of 1933 its participation amounted to 60.7 per cent of total imports of incandescent bulbs, as compared with 17.1 percent for the United States.

This substantial increase in Japan's share of the Cuban market for this product is attributed to dumping at prices which are almost ruinous to American trade. At present the Japanese are quoting a rate of \$2.72 per 100 lamps (40 watts), c. i. f. Habana, as against an American price of \$12.87 per 100 lamps (40 watts), c. i. f. Habana.

This subject has been studied at considerable length by the representatives of the General Electric Company, Westinghouse Company, and the office of the Commercial Attaché. There is in preparation at this time a complete report which will be submitted to the Department within two weeks. In the meantime, Mr. Maurice McGovern, resident manager of the General Electric Company, has left for Washington to place the facts before the Department. His recom-

mendations have been endorsed by the resident manager of the Westinghouse Company.

Representatives of the two above mentioned companies have suggested that the general duty rate be increased to double the present maximum rates which range from \$4.00 to \$24.00 per 100 lamps with a preferential to the United States of 70 per cent. We suggest to the Department that the general duty should be double the present maximum rates with a preferential to the United States of 50 per cent. These rates are essential if we are to recover our former share of the trade in incandescent bulbs and allied electrical lines. Our contacts believe that if we attain our former position in the sale of bulbs that we will also obtain an equal percentage of the imports of other electrical equipment, which has been gradually turning to the Japanese.

#### 4. *Lamp Cord.*

Of a total of \$562,015 worth of insulated copper wire imported into Cuba in 1929, the United States supplied over 95 per cent. By 1932 the share of the United States had declined to 59 per cent. Lamp cord represents one of the principal types of insulated copper wire sold in Cuba. While no statistics are yet available, inquiries among the trade have disclosed that in 1933, Japanese exporters obtained a large share of this business through underquoting all other suppliers.

For example, American lamp cord (size 18½/2) is quoted at \$6.835 per 1,000 feet c. i. f. Habana against a Japanese price of \$4.50 per 1,000 feet c. i. f. Habana. A general duty of \$16.00 per 100 kilograms on Item 64-B, under which lamp cord is classified, is deemed absolutely essential to protect this trade against further diminution.

<i>Present Duty</i>	<i>Maximum Tariff</i>	<i>General Tariff</i>	<i>U. S. Prf. %</i>	<i>Tariff for U. S.</i>
Per 100 Kilos, Item 64-B	\$20. 00	\$10. 00	20%	\$8. 00
<i>Proposed Duty</i>	\$32. 00	\$16. 00	50%	\$8. 00

#### 5. *Cellophane.*

In 1932, the consumption of cellophane in Cuba approximated 20,000 kilograms, of which the United States supplied about 15,000 kilograms and Japan 352 kilograms. In 1933, the consumption increased to 40,000 kilograms, of which 33,000 kilograms were imported from the United States and 4,616 kilograms from Japan.

The advance in imports of cellophane from Japan of 4,264 kilograms in one year indicates that Japan is making a strong bid for this trade. Recent reports show that Japan has further increased her participation during the first quarter of 1934.

At present Japan is quoting at from \$11.00 to \$12.00 per ream c. i. f. Habana, against the lowest American price of \$15.67 per ream c. i. f. Habana. Importers state that the trade is being diverted to Japan and that unless the general import duty is increased Japan will dominate the trade within a short time.

Agents for American manufacturers of cellophane urge that the general duty be increased to 40 cents per kilogram as compared with the present general duty of 10 cents. We feel that our present participation can be maintained by increasing the general duty to 28 cents per kilogram on sheets and 35 cents per kilogram on bags. The higher duty on the bags, pouches, et cetera, is suggested in order to provide protection for the local manufacturers of bags.

Our recommendations are as follows:

<i>Present Duty Per Kilo.</i>	<i>Maximum Tariff</i>	<i>General Tariff</i>	<i>U. S. Prf. %</i>	<i>Tariff for U. S.</i>
Sheets—156-F	\$0. 20	\$0. 10	30%	\$0. 07
Bags—155-M	\$0. 24	\$0. 12	30%	\$0. 084
<i>Proposed Duty Per Kilo</i>				
Sheets—156-F	\$0. 56	\$0. 28	50%	\$0. 14
Bags—155-M	\$0. 70	\$0. 35	50%	\$0. 175

Printed bags are subject to a surcharge of 30 per cent of the duties specified. It is desirable that this note be retained.

#### 6. *Iron and Steel. Belgium*

Although Japanese competition is of paramount interest, we should not overlook the strong competition from Belgium in iron and steel products. The tonnage and value of the trade are very important. So as to enable our manufacturers of these products to be in a more competitive position with Belgium we are suggesting these additional exceptions to the principle of not increasing general duties.

In 1929, of a total trade of \$1,637,895 in bars, plates and shapes, the United States supplied about 30 per cent, while Belgium supplied 58 per cent. Based on imports through Habana for 1933, the share of the United States has declined to 10 per cent while the remainder was supplied almost entirely by Belgium. Belgian exporters are quoting a base price of \$1.40 per 100 pounds c. i. f. Habana against an average price of \$1.85 from the United States.

The attention of the Department is again invited to the fact that in connection with the agreement for the distribution of the international sales of rails and pipes, the continental and British steel producers recognized in principle that the Cuban market should be supplied by the United States.

The following changes are recommended as being necessary to effect a restoration of our former share of this very important branch of trade:

<i>Present Duty Per 100 Kilos.</i>	<i>Maximum Tariff</i>	<i>General Tariff</i>	<i>U. S. Prf. %</i>	<i>Tariff for U. S.</i>
Bars—36-B	\$0. 80	\$0. 40	25%	\$0. 30
Plates—37-A	\$2. 80	\$1. 40	25%	\$1. 05
Shapes—42-A	\$0. 88	\$0. 44	25%	\$0. 33
<i>Proposed Duty Per 100 Kilos</i>				
Bars—36-B	\$1. 50	\$0. 75	50%	\$0. 375
Plates—37-A	\$5. 00	\$2. 50	50%	\$1. 25
Shapes—42-A	\$1. 60	\$0. 80	50%	\$0. 40



In view of the foregoing instances of actual competition from Japan and Belgium, and in view of the threatened competition as evidenced by the following enclosures and information supplied by the trade, we feel that it is imperative to adhere to the principle of maintaining the value of the preferential. We refer again to the arguments advanced on pages 4, 5, and 6 of our memorandum of April 11, 1934, concerning general provisions in the treaty with respect to the value of the preferential.

The attention of the Department is invited to pages 25 and 26 of the publication of the United States Tariff Commission (1929) entitled "Effect[s] of the Cuban Reciprocity Treaty", which reads in part as follows:

"An appraisal leads to the conclusion that the concessions granted by Cuba have exerted an influence upon trade which, even in the years immediately following the treaty, accounted for but a minor part of the expansion of United States exports to that island, and which at present (1929) is not the determining factor in any considerable percentage of the total trade.

"On the whole it appears that the guiding principles of the recent revision of Cuba's tariff have been such as to reduce rather than to increase the value of the preference to the United States."

In large measure, the failure of the old treaty to benefit American trade may be attributed to the incorporation of the relative preferential plan without bound rates of duty. It is sincerely hoped that the same mistake will not be committed in these negotiations because of theoretical objections to the absolute preferential plan.

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611.3731/609a

*The Secretary of State to the Ambassador in Cuba (Caffery)*

No. 97

WASHINGTON, April 23, 1934.

SIR: The Department desires to clarify the general instructions governing the revision of the Reciprocity Treaty with Cuba (instruction No. 60 of April 3, 1934), in so far as they apply to the binding of rates. Point No. 12 of this instruction suggests in part that "the rates of duty on important specified American products be bound as to maxima by the agreement. It is suggested that rates might be bound on all such important articles except those with respect to which such limitation would clearly be of greater benefit to some foreign country than to the United States."

The Department has examined all the proposed schedules transmitted by the Embassy with the above instructions in mind. In all cases where bound rates appeared advisable, it has so stated in its instructions. According to Mr. Nufer, Commercial Attaché at Habana,

the American technical advisers, however, proceeded on the assumption that in the case of all tariff items concerning which the United States was asking for change in preference, in rate or in both preference and rate, the resulting United States rates were to be bound. Since it is the Department's intention that the United States rates only in specified items are to be bound, you are requested to reexamine the schedules submitted, in conjunction with the Department's comments thereon. The Department will, of course, be pleased to give consideration to any suggestions for the binding of rates not specified in its instructions.

The Department would also like to take this opportunity to clarify another point that has arisen with regard to the binding of rates. Apparently the American technical advisers are under the impression that the agreement arrived at with Cuba will bind in each case the "absolute" preference as to minimum, that is to say, that the "dollar spread" between the general rate and the United States rate reached in the new agreement should not be decreased during the life of the agreement. The Department does not believe it advisable to request of Cuba the binding of the "absolute" preference since it is not in a position to make a similar concession to Cuba, which would probably be expected in a reciprocal agreement. The Department believes that only the minimum percentage preference should be determined, which would leave the Government free to raise and lower rates (except where those rates have been expressly bound as to maxima).

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

611.3731/614c

*The Secretary of State to the Ambassador in Cuba (Caffery)*

No. 101

WASHINGTON, April 24, 1934.

SIR: Since it is evident that a favorable revision of the reciprocity treaty will be a stimulant to economic recovery, both here and in Cuba, I am desirous that the negotiations be concluded at as early a date as possible. Considerable delay has resulted, however, from the procedure set forth in the general instructions whereby the Embassy is required to submit to the Department "all proposals, including counter-proposals, regarding the concessions desired by the United States". In order to expedite the revision of the treaty, therefore, you may carry on your negotiations with the Cubans on the basis of the schedules as submitted to and revised by the Department, without referring the counter-proposals made in the course of negotiations to the Department for approval, except cases involving controversial concessions (such as hog lard), increases in general rates, new or reclassifications, and matters of policy of interest to this and other Departments.

The Department has drafted its instructions regarding the proposed schedules with the idea of giving you in the case of each tariff item the United States rate of duty and the preference which it hopes will be arrived at. While you should endeavor to secure the agreement of the Cuban authorities to the proposals as approved by the Department, I realize, of course, that it will not be possible to secure in all cases the exact rates and preferences desired, and therefore authorize you, in your discretion, to propose and accept minor variations. Please continue, however, to keep the Department currently and fully informed of the progress of your negotiations.

I assume that the Cuban authorities have been impressed with the fact that whatever agreements you may reach with them are subject to the review and approval of the Department.

Very truly yours,

For the Secretary of State:

SUMNER WELLES

*Assistant Secretary*

611.3731/620

*The American Technical Advisers (Nufer, Donnelly, and Turkel) to the Ambassador in Cuba (Caffery)*<sup>36</sup>

HABANA, May 2, 1934.

Subject: Form of the Revised Reciprocity Treaty.

When Mr. Nufer was in Washington the question arose as to the form of the revised reciprocity treaty with Cuba. It was suggested that it might be preferable to limit the treaty primarily to changes in duty preferences and to the binding of maximum rates on specified articles, and for the Cuban Government to put into effect, prior to the date of the treaty, a decree-law which would make all the agreed-upon changes in duty rates, classifications and nomenclature.

This decree-law would represent a revision of the present Cuban Customs Tariff, and the tariff as thus revised would be the one on which the treaty would be based. Obviously, this decree-law, or tariff revision, would provide no changes in the present duty preferentials, which would be covered by the revised treaty.

The alternative to this would be to embody in the treaty itself all the changes in duty rates, nomenclature and classification agreed upon in the course of our discussions with the Cuban delegates.

During the discussion in Washington it was suggested to Mr. Nufer that we approach the Cuban delegates informally in this matter in order to ascertain what would be their attitude toward these two methods. The Cuban delegates, speaking informally and unofficially at

<sup>36</sup> Copy transmitted to the Department by the Ambassador in Cuba in his despatch No. 399, May 4, 1934; received May 7.

a conference held on April 30, were unanimously in favor of what may be termed the "Decree-Law" form.

If it is agreed to adopt this form, the treaty would include, as already mentioned, the percentages of duty preference to be accorded to each item, and a list of items on which the rate of duty specified is to be the maximum rate of duty during the life of the treaty.

In our conference with the Cuban delegates we also brought up the subject of binding certain classifications, especially in those instances where changes had been made (which changes would, of course, be incorporated in the Decree-Law) in order to eliminate or prevent future misclassifications. After discussing this at length it was informally and tentatively agreed that the treaty might include a provision to the effect that while the high contracting parties retain complete liberty to alter classifications in the future, no percentage of preferential may be decreased, and, in cases where the rate of duty is specified as a maximum, such rates may not be increased as a result of any future re-classification.

The merits of the Decree-Law form are as follows:

1. Simplicity of appearance, and saving of time in preparing the treaty.
2. The changes in Cuba's tariff structure will appear more as an autonomous act.
3. In the exceptional cases where increases in general duty are made, they would be only indirectly attributable to the United States.

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611.3731/625

*The American Technical Advisers (Nufer, Donnelly, and Turkel) to the Ambassador in Cuba (Caffery)*<sup>37</sup>

HABANA, May 7, 1934.

Subject: Request for Instructions in Cases Involving Reductions in General Duty.

It is respectfully requested that the following be transmitted to the State Department by cable if it meets with your approval:

In our recent discussions with the Cuban delegates they have reiterated their reluctance to reduce general rates of duty, and have repeatedly expressed their preference for accomplishing reductions in rates of duty to the United States by means of higher preferentials. Their reluctance is due to the following points:

- (1) They claim that changes in the tariff structure will result in delaying negotiations, as in every case where a change in the general duty rate is proposed a special investigation as to the possible result of such a change will have to be made.

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<sup>37</sup> Copy transmitted to the Department by the Ambassador in Cuba in his despatch No. 421, May 8, 1934; received May 10.

(2) They have expressed the apprehension that our requests for reductions in general duty rates, in lieu of sharp increases in our preference, may indicate a general policy of our government to reduce general rates of duty on Cuban products, and to grant only slightly increased preferences, rather than to improve Cuba's competitive position as against other foreign suppliers through high preferences. They apparently fear that their compliance with our requests might be construed as an acceptance of such a policy. (This latter argument is undoubtedly the outstanding one in the minds of the Cuban group.)

The Cuban group, however, has gone so far as to admit that the granting of a large number of high preferences to us might cause adverse comment, and hence it is possible that we may be able to convince them of the desirability of reducing general duty rates in exceptional cases.

In those cases, however, where the Cuban delegates insist on maintaining their present position, could we not be authorized to accept the increased preference?

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611.3731/631

*The Secretary of State to the Ambassador in Cuba (Caffery)*

No. 153

WASHINGTON, May 19, 1934.

SIR: With reference to your despatch No. 421 of May 8, 1934,<sup>38</sup> transmitting a memorandum from the American Technical Advisers,<sup>39</sup> requesting that they be authorized to accept increased preferences in those cases where the Cuban authorities are disinclined to reduce general rates, and to your telegram No. 298 of May 18<sup>38</sup> on the same subject, the Department desires to offer the following comments:

1. The trade in each tariff item has been considered individually, and in each case the Department has suggested, after consideration of all factors involved, the treatment best calculated to bring about the desired expansion of trade between the United States and Cuba. In the greater number of cases increased preferences have been suggested, and in only a comparatively few cases decreased general rates. As a general rule the Department has been disinclined to accept increased preferences in cases where the United States enjoys a strong trade position. In such cases, and where the existing duties appear to be excessive, the best approach would seem to lie in decreased general rates.

2. There is attached hereto a copy of the reciprocal trade bill as amended by the Senate Committee on Finance.<sup>38</sup> Your attention is

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<sup>38</sup> Not printed.

<sup>39</sup> *Supra.*

directed to Subsection (b) of Section 350, as amended, reading as follows:

“(b) Nothing in this section shall be construed to prevent the application, with respect to rates of duty established under this section pursuant to agreements with countries other than Cuba, of the provisions of the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, or to preclude giving effect to an exclusive agreement with Cuba concluded under this section, modifying the existing preferential customs treatment of any article the growth, produce, or manufacture of Cuba: Provided, That the duties payable on such an article shall in no case be increased or decreased by more than 50 per centum of the duties now payable thereon.”

This amendment was carefully drafted in order that Cuban products entering the United States might be favored by decreased rates of duty, by increased preferences or by a combination of both. The form of the requested concessions is, of course, for the Cuban authorities themselves to determine. On its part, the Department will examine each request with the criteria previously mentioned in mind. You may find it desirable to call the above quoted provision to the attention of the Cuban authorities, making it clear to them, however, that the bill has not yet received Congressional approval. Once the Cuban authorities understand the Department's approach, they may be more inclined to grant the reduced general rates requested.

As stated in the Department's telegram of today's date,<sup>40</sup> the wisest course of procedure would seem to lie in maintaining our original proposals unchanged, at least until we have ascertained the Cuban reaction to all our requests. If the Cuban authorities remain inflexible in their decision not to grant reduced general rates in certain instances, we shall then have to reconsider our position and make the necessary adjustments.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

611.3731/656 : Telegram

*The Secretary of State to the Ambassador in Cuba (Caffery)*

WASHINGTON, June 12, 1934—5 p. m.

91. Your despatch No. 567, June 2<sup>40</sup> and previous. Have Cuban authorities now presented all their requests for concessions? If not, please secure them at earliest opportunity and forward by air mail.

HULL

<sup>40</sup> Not printed.

611.3731/665 : Telegram

*The Ambassador in Cuba (Caffery) to the Secretary of State*

HABANA, June 13, 1934—11 a. m.

[Received 11:30 a. m.]

319. Department's 91, June 12, 5 p. m. Cuban delegates state that a few final requests for concessions (largely minor ones) will be delivered to us tomorrow.

CAFFERY

611.3731/684

*The Secretary of State to the Ambassador in Cuba (Caffery)*

No. [214?]

WASHINGTON, June 18, 1934.

SIR: Reference is made to your air mail despatch No. 252 of April 14, 1934,<sup>43</sup> transmitting a memorandum on the subject of Japanese and Belgian competition in Cuba,<sup>44</sup> and suggesting that in certain cases requests for increased general rates in the Cuban tariff be made in connection with the revision of the reciprocity treaty with Cuba.

The policy of this Government is to bring about a reduction in trade barriers which will result in an increase in the volume of international trade. This policy, which was enunciated by this Government both at the London Economic Conference<sup>45</sup> and the Inter-American Conference at Montevideo,<sup>46</sup> presupposes an effort to increase international trade, not merely to divert it from one channel to another. The Department cannot, therefore, consistently with this policy, authorize the inclusion in the agreement with Cuba of any provision under which Cuba would be bound to maintain rates of duty on imports from third countries which are higher than the rates now in effect. The most that can be done is to authorize that certain rates in excess of those now applicable be bound as to maxima, and that the percentual margins of preference be increased. If, as is contemplated, the general rates thus derived are embodied in the Cuban tariff law, the immediate effect will be an increase in the present general rates and an increase in the absolute margin of preference, in consequence of which the competitive position of American producers would be materially improved at least for a time. There would, however, be no obligation on the part of Cuba to maintain these increased rates. Cuba would be free at any time to reduce them in consequence of negotiations with third countries, or autonomously.

<sup>43</sup> Not printed.<sup>44</sup> *Ante*, p. 129.<sup>45</sup> See *Foreign Relations*, 1933, vol. I, pp. 452 ff.<sup>46</sup> See *ibid.*, vol. IV, pp. 1 ff.

Such a compromise between the important general policy above set forth and the exigencies of the situation now facing certain of our producers with respect to competition in the Cuban market, seems to the Department to meet the necessities of the situation. On the one hand it is likely to result in the strengthening of the competitive position of American producers at a time when unsettled currency conditions and other abnormal trade conditions are resulting in a loss of trade to their foreign competitors. On the other hand, these measures are not such as to expose this Government to the charge that it disregards in practice the principles to which it professes to adhere. There is nothing in the proposals herein authorized which would estop this Government from objecting to provisions which have been included in agreements between certain foreign governments whereby rates of duty on imports from the United States and other third countries cannot be reduced by negotiations or otherwise as long as those agreements remain in force.

Accordingly, you are authorized to propose the binding as to maxima of certain increased rates on importations from the United States and to propose certain increases in the minimum percentual preferences, as indicated below.

[Here follow suggestions as to rates on cotton and rayon yarn, incandescent bulbs, wire sheathed with pipe and insulating coverings, lamp cord, cellophane, iron bars, iron plates, and iron shapes.]

Decision has been reached on the foregoing cases, after full study of the data submitted by the American technical advisers, and of that in the possession of this Government. In some instances, full information is lacking. The Department will be pleased to reconsider its decisions in any case, upon the submission of more complete data.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

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611.3731/638

*The American Technical Adviser (Turlkel) to the Ambassador in Cuba (Caffery)*<sup>47</sup>

HABANA, June 18, 1934.

Subject: Cuban Suggestions With Reference to General Provisions.

There are herewith transmitted three copies in Spanish, and an English translation, of a memorandum prepared by the Cuban authorities containing certain requests relating to general provisions for the proposed agreement.

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<sup>47</sup> Copy transmitted to the Department by the Ambassador in Cuba in his despatch No. 706, June 22, 1934; received June 23.



While this memorandum was not discussed, the Cuban authorities orally stated that in drawing up the first point, it was not their intention to suggest the binding of the value of the preference.

By way of confirmation of a telegram to the Department drafted today,<sup>48</sup> it is noted that the Cuban authorities have withdrawn their original request in respect of articles admitted under Paragraph 54 and now request only a reduction of 50 per cent in the existing duties levied on Cuban coconut, peanut and sesame oils.

HARRY R. TURKEL

Approved:

ALBERT F. NUFER

WALTER J. DONNELLY

[Enclosure—Translation]

*Memorandum Prepared by the Cuban Authorities*

#### GENERAL REQUESTS

1. We request that the rates fixed in the tariff of the United States at the time of signing the revision of the treaty, be considered as maximum duties with respect to articles and products of the soil or the industry, for which we have requested special treatment; deducting the differential which is accorded to Cuba.

2. Since only a revision of the existing treaty is under consideration, we believe that, in the revision which is being made, Articles 1, 6 and 8 of the existing treaty should be included.

3. The articles or products of the soil or industry of Cuba, for which no special benefits or differentials have been requested, shall be understood to enjoy a preferential of not less than 20 per centum.

4. The products of Cuba, which at present enjoy free entry under the existing treaty as well as those for which identic treatment is provided in the existing tariff of the United States (free list), shall continue to receive free entry, during the life of said treaty.

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[For text of public notice of intention to negotiate a trade agreement with Cuba issued by the Department of State, July 3, 1934, and regulations made public by the Committee for Reciprocity Information, July 3, 1934, see Department of State, *Press Releases*, July 7, 1934, pages 7-9.]

<sup>48</sup> Not printed.

611.3731/841a

*The Secretary of State to the Ambassador in Cuba (Caffery)*

No. 286

WASHINGTON, July 26, 1934.

SIR: The negotiation of the trade agreement with Cuba affords, I believe, significant opportunity for giving practical effect to the policy of this Government towards the nations of this hemisphere. The keystone of this policy must be the development of mutually helpful political understanding and of mutually profitable commercial relationships.

In the case of Cuba the recent signature of the new treaty of relations,<sup>49</sup> eliminating the permissive right of intervention by this Government, has removed a chronic source of friction between our two countries, and has placed our political relations on a basis of true and friendly equality. The trade agreement should, by removing barriers to commerce between the two countries, prove a powerful stimulus to Cuban economic rehabilitation, and at the same time, by increasing Cuba's purchasing power, open new markets for American farm and factory products.

The Cuban agreement will, moreover, be the first to be signed under the tariff bargaining authority conferred upon the President by the last session of Congress. This first trade agreement makes it clear that in order to expand American export trade greater trade opportunities must be afforded foreign products in this market.

With regard to the concessions requested by the Cuban Government (your despatches Nos. 222, 540, 567 [561], 669, 746, 855 [858] and 888, of April 7, May 29, June 2, 16 and 27 and July 10 [11] and 17, 1934, respectively<sup>50</sup>) detailed and painstaking attention has been given to each. The full measure of the desired trade advantages has been accorded wherever these advantages do not involve unwarranted conflicts with American interests or impair our bargaining position with respect to third countries. In many instances the concessions requested by Cuba have been scaled down. In all cases, however, the fullest consideration has been given the Cuban requests. There would consequently appear to be no reason for any further study of these requests by this Government.

I. The attached list covers the concessions this Government is prepared to make (Enclosure 1).<sup>51</sup> The concessions indicated are maximum concessions; prohibitions of the tariff bargaining law or reasons of policy make it impossible to increase them.

<sup>49</sup> Signed at Washington, May 29, 1934; for text, see p. 183.

<sup>50</sup> None printed.

<sup>51</sup> Not printed.

With regard to the concessions requested, whether granted or not, there is enclosed herewith a series of background memoranda (Enclosure 2).<sup>52</sup> In those cases where no concessions have been granted, these memoranda should prove helpful in explaining the reasons for our inability to accede to the requests made.

II. It will be observed that in many cases separate classifications have been established. The exact wording of these new classifications and of other Notes to be inserted in the schedule of Cuban products accorded concessions will be forwarded at an early date.

III. *Sugar.* It is proposed to reduce the duty on imported Cuban sugar (96 degrees) to 90 cents per hundred pounds, and to make proportionate reductions in the other degrees of sugar entering under paragraph 501 of the Tariff Act of 1930.<sup>53</sup> The magnitude of this concession is a further indication of the desire of this Government to assist the Cuban people in regaining an adequate and satisfactory standard of living. In view of the predominance of sugar in Cuban economy, the effects of this concession should be felt throughout the Island, in its industrial as well as its agricultural life.

It is to be expected that the Cuban Government, in return for this concession so vital to its national livelihood, will agree to concessions which will prove equivalent to those now being proposed by this Government. Owing to the drastic decline of Cuban imports of American products, it is essential that effective concessions be obtained for our key export commodities in exchange for our concessions to Cuba. I have no doubt that the Cuban Government appreciates this point of view and will create the desired trade advantages for our goods. Of our exports to Cuba, agricultural commodities have suffered the heaviest declines. If the sugar concession above indicated is to be made effective, it is imperative that greater reductions in rates than those to which the Cuban authorities have agreed to grant up to the present be secured on certain commodities. An air mail instruction will go forward immediately on these points,<sup>52</sup> which instruction does not preclude, of course, the securing of the concessions considered desirable for American industrial products.

It will be necessary to include a Note in the schedule of concessions to Cuba along the lines of the statement appearing under sugar in the list of concessions (See Enclosure 1); namely, that upon the termination of the Costigan-Jones sugar legislation and in the absence of any similar legislation providing for quotas, the duties on all products classified under paragraphs 501 and 502 shall automatically be restored to the rates then prevailing less the preference of twenty percent.

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<sup>52</sup> Not printed.

<sup>53</sup> 46 Stat. 590.

On account of certain unforeseen difficulties that have arisen concerning the extent and nature of the concession on the sugars classified under paragraph 502 of the Tariff Act of 1930, it will be necessary to forward a supplementary instruction about this matter.

IV. *Tobacco*. Owing to the domestic production-control program it will be necessary to establish a quota for Cuban cigar leaf tobacco, if concessions in rate are to be made. The attached memorandum (Enclosure 3)<sup>54</sup> explains the reason necessitating this action, and also describes the basis upon which it is proposed the quota be established. You should strongly impress upon the Cuban authorities the difficulties the domestic producers of tobacco are now encountering and that only upon the basis of the proposed quota is this Government in a position to make any concession on rates for cigar leaf tobacco.

At an appropriate place in the schedule of Cuban products entering the United States a Note will be inserted setting forth the procedure to be followed in establishing the cigar tobacco quota, which will be along the lines of the statement included under tobacco and tobacco products in the list of concessions. (See Enclosure 1.)

It will be observed that this statement provides that if and when the cigar tobacco adjustment program is, in the opinion of the Secretary of Agriculture, abandoned or substantially abandoned, the duties on all forms of Cuban cigar tobacco shall automatically be restored to the rates then prevailing, less the preference of twenty percent. If there is strong opposition by the Cuban authorities to this latter provision, the Department of Agriculture has indicated its readiness to insert in the Note a provision to the effect that this Government agrees to reopen for discussion with the Cuban Government the matter of rates. This latter proposal should be held in reserve, and presented only if it is impossible to overcome the objection of the Cuban delegates.

V. *Avocados*. As I have repeatedly stated, this Government is opposed to the creation of any new barriers to international trade. The tariff bargaining law provides that there shall be no transferring of articles between the dutiable and free lists. Consistent with the declared policy of this Government, therefore, I desire that the general provisions of the tariff agreement include as a first article a restatement of Article I of the Reciprocity Convention of 1902 regarding the free list.

At the same time the Embassy is aware of the objections by the avocado producers to the free entry of avocados from Cuba, and of the pressure brought to secure an amendment to Article I of the Reciprocity Convention of 1902 which would exclude avocados from

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<sup>54</sup> Not printed.

its application. For reasons of policy I believe it important to afford some measure of relief to the avocado producers in this country. Inasmuch as it is proposed to handle the question of perishable fruits and vegetables by means of seasonal tariffs, which will permit the Cuban producers to have unlimited access to this market during the period of least American production, and which will at the same time protect the domestic producers during the months of their greatest production, I believe that some similar arrangement in connection with avocados should be agreed upon. You are requested, therefore, to ask the concurrence of the Cuban Government to the restriction of the exportation of avocados to the United States during the months January to May, and October to December, inclusive, of each year. Under this arrangement Cuban avocados during the months of June to September, inclusive, will have unlimited entry.

Since we are requesting Cuba voluntarily to confine shipments to certain months, and in order not to introduce any limitations into the body of the trade agreement regarding Article I, this understanding should be embodied in an exchange of notes. The enforcement of the restriction will, of course, rest entirely with the Cuban Government. At the same time should the understanding not be rigidly enforced, this Government would be obliged to give consideration to action under authority conferred by existing legislation.

The proposed text of the exchange of notes will be forwarded at the earliest opportunity.

V [VI?]. *Manganese*. Inasmuch as it is proposed that Article I of the Convention of 1902 be restated as Article I of the proposed trade agreement, manganese imported from Cuba will continue to enjoy free entry. However, you should appropriately and explicitly point out to the Cuban authorities that Cuba is not the chief source of supply for manganese imported into this country, and that the United States may at some future time negotiate a trade agreement with some third country, reducing the duty on manganese. Under the tariff bargaining law a reduction in duty of up to fifty percent is permissible. There is enclosed herewith a copy of a memorandum regarding manganese (Enclosure 4).<sup>55</sup>

Very truly yours,

CORDELL HULL

611.3731/794a

*The Secretary of State to the Ambassador in Cuba (Caffery)*

No. 289

WASHINGTON, July 28, 1934.

SIR: There is enclosed herewith a draft of the general provisions of the proposed trade agreement with Cuba. While this draft has not

<sup>55</sup> Not printed.

yet received the formal approval of the interested Government Departments, and although the Department may want to introduce certain refinements in language, I believe that the draft is in a sufficiently advanced form to serve as a basis for discussion with the Cuban authorities. In view of the desirability of concluding the negotiations at the earliest possible moment, please refer to the Department by cable any comments requiring further instructions that the Cuban authorities may have regarding the draft.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

[Enclosure]

*Draft of the General Provisions of the Reciprocal Trade Agreement  
With Cuba*

PREAMBLE

The President of the United States of America and the President of the Republic of Cuba, desirous of strengthening the traditional bonds of friendship and commerce between their respective countries by maintaining as the basis for their commercial relations the granting of reciprocal preferential treatment, in continuation of the policy adopted in the convention of commercial reciprocity of 1902 between the two countries, and taking into consideration that changed conditions have rendered it necessary to modify the provisions of that convention, have arrived at the following agreement:

ARTICLE I

During the term of this Agreement, all articles the growth, produce or manufacture of the United States of America which would have been admitted free of duty if imported into the Republic of Cuba on the day of signature of this Agreement, and all articles the growth, produce or manufacture of the Republic of Cuba which would have been admitted free of duty if imported into the United States of America on the day of signature of this Agreement, shall be so admitted by the respective country free of duty.

ARTICLE II

Articles the growth, produce or manufacture of the United States of America enumerated and described in Schedule I annexed hereto and made a part of this Agreement, shall, on their importation into the Republic of Cuba, be granted exclusive and preferential reductions in duties not less than the percentages specified respectively in Column 1 of the said schedule, such percentages of reduction being applied to the lowest rates of duty, respectively, now or hereafter

payable on like articles the growth, produce or manufacture of any other foreign country.

No article the growth, produce or manufacture of the United States of America enumerated and described in Schedule I annexed hereto, with respect to which a rate of duty is specified in Column 2 of the said schedule, shall in any case, except as provided in Article VIII or XI, be subject to any customs duty in excess of the rate so specified.

Every article the growth, produce or manufacture of the United States of America which is not provided for in Article I, and which is not enumerated and described in Schedule I annexed to this Agreement, shall, on importation into the Republic of Cuba, be granted an exclusive and preferential reduction in duty of not less than 20 per centum, such percentage of reduction being applied to the lowest rate of duty now or hereafter payable on the like article the growth, produce or manufacture of any other foreign country.

#### ARTICLE III

Articles the growth, produce or manufacture of the Republic of Cuba enumerated and described in Schedule II annexed hereto and made a part of this Agreement, shall, on their importation into the United States of America, be granted exclusive and preferential reductions in duties not less than the percentages specified respectively in Column 1 of the said schedule, such percentages of reduction being applied to the lowest rates of duty, respectively, now or hereafter payable on like articles the growth, produce or manufacture of any other foreign country.

No article the growth, produce or manufacture of the Republic of Cuba enumerated and described in Schedule II annexed hereto, with respect to which a rate of duty is specified in Column 2 of the said schedule, shall in any case, except as provided in Article VIII or XI, be subject to any customs duty in excess of the rate so specified.

Every article the growth, produce or manufacture of the Republic of Cuba which is not provided for in Article I, and which is not enumerated and described in Schedule II annexed to this Agreement, shall, on importation into the United States of America, be granted an exclusive and preferential reduction in duty of not less than 20 per centum, such percentage of reduction being applied to the lowest rate of duty now or hereafter payable on the like article the growth, produce or manufacture of any other foreign country.

#### ARTICLE IV

The United States of America and the Republic of Cuba agree that the notes included in Schedules I and II are hereby given force and effect as integral parts of this Agreement.

## ARTICLE V

The Republic of Cuba undertakes that no change will be made in the customs treatment provided for by Decree No. 1660 of November 5, 1927, promulgated in the *Official Gazette* of Cuba, No. 109 of November 7, 1927, affecting any article classified under Items 270 or 271 of the Cuban customs tariff, without prior negotiation with the Government of the United States of America.

The Republic of Cuba further undertakes that no change will be made in the customs treatment or internal taxation of any article classified on the day of the signature of this Agreement under Items 5 to 8 inclusive of the Cuban customs tariff without prior negotiation with the Government of the United States of America.

## ARTICLE VI

The Republic of Cuba undertakes that no reduction will be made in the customs duty or consumption tax in force on the day of the signature of this Agreement on any article classified under Items 101, 102, 239 or 274 (sub-items to be specified) of the Cuban customs tariff, unless simultaneous and proportionate reductions are made in the import duties or consumption taxes on all other articles described in such tariff items.

## ARTICLE VII

Fees, charges or exactions imposed by the United States of America or the Republic of Cuba for consular certification of invoices or for other consular services pertaining to the complete documentation of any shipment of articles the growth, produce or manufacture of the territory of the other country shall not exceed in the aggregate two per centum of the free on board (F. O. B.) invoice value of the merchandise concerned, at the port of exportation, except that this limitation shall apply only where the charges for such services would otherwise be in excess of two dollars and a half on merchandise of Cuban origin or two pesos and a half on merchandise of origin in the United States of America. Such fees, charges or exactions shall not in any case be higher than those imposed by the United States of America or the Republic of Cuba, respectively, upon shipments of like merchandise from any other country. This article, however, shall not be construed to embrace such reasonable fees, charges or exactions pertaining to documentation required by the sanitary laws or regulations of the United States of America or the Republic of Cuba as are commensurate with the services performed.

## ARTICLE VIII

In respect to articles the growth, produce or manufacture of the United States of America or the Republic of Cuba, imported into the



other country, on which ad valorem rates of duty are assessed, it is understood and agreed that the methods of determining dutiable value and of converting currencies shall be no less favorable to importers than the methods prescribed under presently existing laws and regulations of the respective importing country.

#### ARTICLE IX

All articles the growth, produce or manufacture of the United States of America or the Republic of Cuba, shall, after importation into the territory of the other country, be exempt from national or federal internal taxes, fees, charges or exactions, other or higher than those payable on like articles of national or any other foreign origin: *Provided*, That all articles enumerated and described in Schedule I annexed to this Agreement, with respect to which a rate of duty is specified in Column 2 of the said schedule, shall be exempt from all taxes, fees, charges, or exactions, other than customs duties, in excess of those imposed or required to be imposed by laws of the Republic of Cuba in force on the day of the signature of this Agreement; and all articles enumerated and described in Schedule II annexed to this Agreement, with respect to which a rate of duty is specified in Column 2 of the said schedule, shall be exempt from all taxes, fees, charges or exactions, other than customs duties, in excess of those imposed or required to be imposed by laws of the United States of America in force on the day of the signature of this Agreement. The provisions of this Article, insofar as they apply to taxes, fees, charges, or exactions imposed within the United States of America, shall apply only to such taxes, fees, charges, or exactions as are subject to statutory control by the federal government of the United States of America.

#### ARTICLE X

On and after the day on which this Agreement comes into force, articles the growth, produce or manufacture of the United States of America and articles the growth, produce or manufacture of the Republic of Cuba previously imported into the other country shall be subject to the term of this Agreement, if entry therefor has not been made, or if they have been previously entered without payment of duty and under bond for warehousing, transportation, or any other purpose, and without any permit of delivery to the importer or to his agent having been issued; *Provided*, That when duties are based upon the weight of merchandise deposited in any public or private warehouse, the said duties shall, except as may be otherwise specially provided in the tariff laws of the respective countries in force on the day of signature of this Agreement, be levied and collected upon the weight of such merchandise at the time of its entry.

## ARTICLE XI

In respect to articles subject to specific rates of duty, neither the United States of America nor the Republic of Cuba shall impose any additional duty, surtax, or other charge, by reason of any reduction in the value of its coin or currency with reference to the legal gold equivalent thereof as of June 1, 1934: *Provided*, That in the event that any such reduction shall have exceeded ten per centum with reference to the legal gold equivalent of such coin or currency as of June 1, 1934, the rates of duty levied on a specific basis in the country whose coin or currency is so reduced in value on imported articles the growth, produce or manufacture of the other country may be increased to an extent no greater than is necessary to compensate for such reduction on the date of the arrival of the imported merchandise at the port of entry.

## ARTICLE XII

The Customs preferences and other benefits provided for in this Agreement are granted by the United States of America and the Republic of Cuba to each other subject to the condition that the Government of each country will refrain from subjecting payments or the transfer of means of payment or the disposition thereof to any regulation, restriction, charge of exaction, other or higher than was in force on April 1, 1934, which results in (one) impairing or circumventing any provision of this Agreement, (two) placing an undue burden on trade between the nationals or residents of the respective countries, or (three) preventing or hindering nationals of either country residing, doing business, or traveling in the territory of the other country from securing and transferring in or to either country the funds reasonably necessary for, or arising from, such residence, business, or travel. In the event that the Government of either country considers that the other country has failed to comply with the conditions expressed in this article, and the latter country shall not have satisfactorily corrected the regulation, restriction, charge or exaction out of which such failure arises, after formal complaint has been made thereof, the Government of the country so complaining may terminate the Agreement thirty days after giving notice to the other Government.

Nothing in this article shall be construed to prevent the adoption of measures prohibiting or restricting the exportation of gold or silver.

## ARTICLE XIII

The United States of America and the Republic of Cuba retain the right to apply such measures as they respectively may see fit with

respect to the control of the export or sale for export of arms, munitions, or implements of war, and in exceptional circumstances of other material needed in war.

#### ARTICLE XIV

No administrative ruling by the Government of the United States of America or the Government of the Republic of Cuba effecting advances in duties or charges applicable under an established and uniform practice to imports from the territory of the other country shall be effective retroactively or with respect to articles either entered for or withdrawn for consumption prior to the expiration of thirty days after the date of publication of notice of such ruling in the usual official manner. The provisions of this article do not apply to administrative orders imposing anti-dumping duties, relating to sanitation or public safety, or giving effect to judicial decisions.

#### ARTICLE XV

Laws and regulations and decisions of administrative and judicial authorities pertaining to the classification of articles for customs purposes and to rates of duty shall be published promptly in such a manner as to enable traders to become acquainted with them, and shall apply uniformly at all ports of entry.

#### ARTICLE XVI

The provisions of this Agreement shall not apply to the Philippine Islands, the Virgin Islands, American Samoa, the Island of Guam, nor to the Panama Canal Zone.

#### ARTICLE XVII

The operation of the provisions of the Commercial Convention, concluded between the United States of America and the Republic of Cuba on December 11, 1902, shall be suspended on the day on which the present Agreement comes into force. In the event of the expiration or the denunciation of the present Agreement, the provisions of the aforesaid Convention of 1902 shall automatically resume operation and shall continue in full force and effect as provided therein until the expiration of one year from the day on which the Government of either country shall have given notice to the other Government of an intention to terminate it.

#### ARTICLE XVIII

The present Agreement shall come into force on the tenth day following the day of the signature thereof, after proclamation by the President of the United States of America and the President of the

Republic of Cuba, and shall remain in full force for the term of three years thereafter, unless terminated pursuant to the provisions of Article XII. Unless within six months before the expiration of the aforesaid term of three years the Government of either country shall have given to the other Government notice of an intention to terminate the Agreement upon the expiration of the aforesaid term, the Agreement shall remain in full force thereafter until six months from such time as the Government of either country shall have given notice to the other Government.

In witness whereof the respective Plenipotentiaries have signed this Agreement and have affixed their seals hereto.

Done in duplicate, in the English and Spanish languages, both authentic, at the City of Washington, this . . . . day of August, 1934.

For the President of the United States of America

For the President of the Republic of Cuba.

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611.3731/620

*The Secretary of State to the Ambassador in Cuba (Caffery)*

No. 292

WASHINGTON, July 28, 1934.

SIR: Reference is made to your despatch No. 399 of May 4, 1934,<sup>56</sup> enclosing a memorandum from the American technical advisers concerning the form of the proposed trade agreement with Cuba.<sup>57</sup> This memorandum suggests that the new trade agreement be limited primarily to changes in percentages of preference and to the binding of maximum United States rates on specified articles, which would be made possible if the Cuban Government, immediately prior to the signature of the new agreement, should put into effect by Executive decree changes agreed upon in tariff numeral, nomenclature and United States rates of duty.

Since the trade agreement is to be the basic instrument governing the commercial intercourse between the two countries, I believe that the annexed schedules, a draft of the form of which is attached hereto,<sup>56</sup> should be prepared along the following lines.

1. All items having a percentage of preference of 20 percent (unless bound as to rate or involving change in nomenclature) will not appear in the schedules, said items being covered by basket clauses inserted appropriately in the general provisions.

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<sup>56</sup> Not printed.

<sup>57</sup> *Ante*, p. 136.

2. All items having a percentage of preference of more than 20 percent will appear in the schedules, as 20 percent for which bound rates are pledged or whose nomenclature has been amended. The tariff numeral, nomenclature and preference, will be stated for each item. In the case of those items for which bound rates are pledged, such rates will appear in the schedules. Unbound rates will not be listed.

3. The preference and rate columns will be parallel, column 1 showing the percentage of preference, and column 2, the rates which are bound as to maxima.

4. Schedules should be prepared in both English and Spanish.

It is realized that this procedure will necessitate long schedules, but the detail involved seems preferable to misunderstandings and confusion in the future.

At the same time the prior decree law by the Cuban Government is not only desirable but necessary to accomplish the following ends:

1. To put into effect increases in general rates.

2. To secure the elimination of subsection (1) Section (a) and Sections (g) and (h) of Article 7 of the General Provisions of the Cuban Customs Tariff of 1927, which refer to table of valuations.

3. To secure amendments to Rules 1, 6, 7, and 9 of Provision 3 for the application of the Cuban Customs Tariff of 1927 in order specifically to except the application of these rules to containers of all kinds for merchandise subject to ad valorem duties.

4. To secure an amendment to the Cuban Customs Tariff and pertinent laws and regulations providing that import duties shall be quoted and payable only in pesos. This is contingent upon the inclusion in the general provisions of an article regarding compensatory surtaxes offsetting currency depreciation.

5. To secure the inclusion of a note to 260-A providing that all seed potatoes must be imported cut in pieces. It will be recalled that the Cuban authorities have indicated a willingness to do this (your despatch No. 76 of March 14, 1934<sup>58</sup>).

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

611.3731/777

*The Secretary of State to the Ambassador in Cuba (Caffery)*

No. 297

WASHINGTON, July 30, 1934.

SIR: Reference is made to the Department's telegram No. 116 of July 23 and your telegram No. 367 of July 24, 1934,<sup>59</sup> with regard to the Chilean participation in the Cuban import trade of white, and of red and pink beans.

Although obviously the Department desires to secure favorable concessions on all export items of real interest to this country, it does not

<sup>58</sup> Not printed.

<sup>59</sup> Neither printed.

desire to divert the trade between Cuba and a third country, particularly when such trade is largely confined to one item. Chilean exports to Cuba take the form in large part of beans, and principally of red and pink beans. Reconsideration has been given to this matter, with the result that you are requested to recede for item 257-B to a preference of twenty-five percent on the present general rate of \$5.00.

The opportunity has also been taken to restudy the concessions obtained on the other types of beans. Although the Department approved, in instruction No. 104 of April 25, 1934,<sup>60</sup> an increase in the United States rate on item 257-C, covering white beans, the Department's policy has developed since that time to the position that the present trade agreement should result in no increases in United States rates. Therefore, please recede to the existing United States rate of \$2.00, with a preference not to exceed 40 percent. The United States rate should not be bound.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

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611.3731/1185a

*The Department of State to the Cuban Embassy*

MEMORANDUM

The economy of Cuba being based primarily on agriculture, the concessions which the United States is prepared to make to Cuba are largely to agricultural products.

The outstanding concession and of vital importance at this time to the rehabilitation of Cuba's livelihood is regarding sugar, where it is proposed to reduce the rate on Cuban raw sugar (96 degrees) to nine-tenths of a cent per pound, with a preference of twenty percent.

For tobacco, second in importance in Cuban production, it is proposed to reduce the rates on all tobacco products of interest to Cuba, and to subject Cuban tobacco imports to a quota of eighteen percent of the total quantity of tobacco used in the United States in the manufacture of cigars. This proposal is very favorable to Cuba, inasmuch as domestic production has been curtailed to a far greater extent than the decline in imports of Cuban tobacco, and furthermore represents a percentage of participation higher than that enjoyed by Cuba during either of the last two years.

It is proposed to make seasonal concessions for Cuban fresh fruits and vegetables. These concessions should prove of assistance to the Cuban program for crop diversification. Cuba produces many fruits and vegetables that mature earlier in the winter than the similar prod-

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<sup>60</sup> Not printed.

ucts produced in the United States, but has not been able to ship them to the United States in large quantities because of the tariffs. Under the arrangement proposed, the present rates of duty will be lowered during the months of Cuban production. On this basis concessions are proposed for Cuban grapefruit, lima beans, potatoes, tomatoes, cucumbers, eggplant, okra, peppers and squash. In addition to these seasonal rate reductions, year round reductions are proposed for pineapples and limes.

The attached statement<sup>61</sup> sets forth the complete list of maximum concessions which the United States is prepared to make with the exception of those concerning sugar products classified under Paragraph 502 of the Tariff Act of 1930.

WASHINGTON, August 1, 1934.

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611.3731/841a Supp.

*The Secretary of State to the Ambassador in Cuba (Caffery)*

No. 302

WASHINGTON, August 1, 1934.

SIR: With reference to the Department's instruction No. 286 of July 26, 1934, and particularly to the section concerning avocados, there is enclosed herewith a draft of the exchange of notes by which the Cuban Government would agree to restrict the exportation of avocados to the United States during the months January to May and October to December, inclusive, of each year.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

[Enclosure 1]

*Draft Note From the American Secretary of State to the Cuban Secretary of State*

I have the honor to communicate to Your Excellency my understanding of the views developed by the conversations which have recently taken place between the Governments of the United States of America and of the Republic of Cuba at Habana with reference to the exportation of avocados from Cuba to the United States.

The conversations between the two Governments have disclosed a mutual understanding which is that the Government of Cuba agrees to prohibit the exportation of avocados to the United States by any carrier clearing from the final Cuban port or place of call during the months of January to May and October to December, inclusive, of

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<sup>61</sup> Not printed.

each year, and that the Republic of Cuba agrees to promulgate forthwith and enforce the regulations necessary to make this commitment effective.

I shall be glad to have the confirmation of the accord thus reached.  
Accept, Excellency, et cetera.

[Enclosure 2]

*Draft Note From the Cuban Secretary of State to the American Secretary of State*

I have the honor to acknowledge the receipt of Your Excellency's note of today's date, communicating to me your understanding of the views developed by the conversations which have recently taken place between the Governments of the United States of America and the Republic of Cuba at Habana with reference to the exportation of avocados from Cuba to the United States.

I am happy to be able to confirm to you my understanding of the said conversations as set forth in the following terms:

The conversations between the two Governments have disclosed a mutual understanding which is that the Government of Cuba agrees to prohibit the exportation of avocados to the United States by any carrier clearing from the final Cuban port or place of call during the months of January to May and October to December, inclusive, of each year, and that the Republic of Cuba agrees to promulgate forthwith and enforce the regulations necessary to make this commitment effective.

Accept, Excellency, et cetera.

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611.3731/823a : Telegram

*The Secretary of State to the Ambassador in Cuba (Caffery)*

WASHINGTON, August 1, 1934—7 p. m.

121. Since it will require considerable time to prepare trade agreement for signature, please endeavor to reach understanding first on general provisions, next Schedule I, and finally Schedule II, sending completed texts in each case in duplicate, in English and Spanish, and initialed by Dr. Torriente and yourself.

In view of its length Schedule I might be divided into sections, each section being forwarded as completed and initialed.

This procedure will greatly expedite final preparation of agreement but it is absolutely essential that there be no changes in texts as sent to the Department.



Before initialing the general provisions, please send Spanish text, as tentatively agreed upon, for approval by the Department.

HULL

611.8731/814 : Telegram

*The Ambassador in Cuba (Caffery) to the Secretary of State*

HABANA, August 2, 1934—3 a. m.

[Received 3:30 a. m.]

370. "Our concessions" handed to Cuban delegation Tuesday afternoon. They are pleased with sugar, pineapple and rum; do not yet understand tobacco; disappointed with avocado and that they receive no concession on alcohol. However, these are first impressions.

Our requests in regard to hog products are being vigorously attacked.

CAFFERY

611.8731/843

*The Ambassador in Cuba (Caffery) to the Secretary of State*

No. 1032

HABANA, August 4, 1934.

[Received August 6.]

SIR: With reference to previous correspondence concerning negotiations for a trade agreement with Cuba, and especially to my despatches Nos. 1010, of August 2, and 1018, of August 2,<sup>62</sup> I have the honor to report that the Cuban delegates stated yesterday afternoon that they would not be prepared to offer their observations on the General Provisions until Friday or Saturday, August 10 or 11.

Respectfully yours,

JEFFERSON CAFFERY

611.8731/817 : Telegram

*The Secretary of State to the Ambassador in Cuba (Caffery)*

WASHINGTON, August 7, 1934—2 p. m.

123. The following amendments should be incorporated into draft transmitted with instruction No. 289, July 28 (see also your despatch 997 of July 31<sup>63</sup>).

Second paragraph, Article II, and second paragraph, Article III. The exception should refer to Articles IX and XI. The purpose of the phraseology "in excess of those imposed or required to be imposed" in Article IX is to leave the way open, if necessary, for application of laws relating to anti-dumping duties, countervailing duties, et cetera.

<sup>62</sup> Neither printed.

<sup>63</sup> Despatch not printed.

With reference to the suggestion to include existing and unchanged percentages of preference in excess of 20 percent in the basket clause of Article II, the Department would like to see each article in this category fully enumerated and described in Schedule I. The desirability of signing the Agreement at the earliest possible date may preclude the full description in Schedule I of every article with a preference of more than 20 percent. If it is impossible for the Embassy to send up the Schedule piecemeal, but in numerical order, then you may follow the procedure suggested in the memorandum from the American Technical Advisers and substitute the following for the third paragraph of Article II:

“Every article the growth, produce or manufacture of the United States of America which is not provided for in Article I, and which is not enumerated and described in Schedule I annexed to this Agreement, shall, on importation into the Republic of Cuba, be granted an exclusive and preferential reduction in duty not less than the percentage of reduction which would have been accorded if imported into Cuba on the day of the signature of this Agreement, such percentage of reduction being applied to the lowest rate of duty now or hereafter payable on the like article the growth, produce or manufacture of any other foreign country.”

Articles V and VI. In view of the preference of the Cuban authorities to include unilateral commitments in the Schedules, it is agreeable to incorporate Articles V and VI in the appropriate place in Schedule I. In the case of each paragraph the words “the Republic of Cuba undertakes that” should be omitted.

Article VII. The first sentence should read, “Fees, charges or exactions imposed by the United States of America or the Republic of Cuba for consular certification of invoices and for other consular services pertaining to the documentation of any shipment of articles the growth,” et cetera.

Article IX. After the word “origin” in the seventh line change the colon to a period. In the same line delete the words “Provided, that” and begin a new paragraph reading “All articles enumerated and described”, et cetera.

In the eleventh and twelfth, and eighteenth and nineteenth lines delete the phrase “, other than customs duties,”.

The last sentence should start a new paragraph.

Sixth line, Article X. The word “terms” should be changed to “provisions”.

Article XI. After the word “entry” at the end of the fifteenth line, change the period to semicolon, and insert the following:

“except, that any such increase in rates of duty imposed by either country on imported articles the growth, produce or manufacture of

the other country, shall not be greater proportionately than the increase in rates of duty on like articles the growth, produce or manufacture of any other foreign country."

Article XV. Place a period after the word "them" in fifth line, and for what follows substitute this sentence:

"Such laws, regulations, and decisions of the United States of America or the Republic of Cuba shall be applied uniformly at all ports of entry of the country, except as otherwise specifically provided in statutes of the United States of America relating to articles imported into Puerto Rico."

Article XVIII. The second sentence of this article should read "Unless at least six months before the expiration of the aforesaid term of three years", et cetera.

With reference to the final question raised by despatch 997, it is believed that the system at present used in the Cuban customs tariff may be followed in preparing Schedule I; that is, that at the end of the nomenclature the unit of measure will be mentioned and that in the case of tare allowance, simply the word "tare" will appear in the schedule, without further reference to the kind of tare.

HULL

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611.3731/817 supp.: Telegram

*The Secretary of State to the Ambassador in Cuba (Caffery)*

WASHINGTON, August 7, 1934—8 p. m.

124. Refer to Department's telegram No. 123, August 7, 2 p. m. I believe it highly desirable and in conformity with the policy of this Government to secure the agreement of the Cuban authorities to the following article, which should become Article V. This is the last of the Department's amendments to the general provisions.

"No quantitative restriction shall be imposed by the Republic of Cuba on any article the growth, produce or manufacture of the United States of America enumerated and described in Schedule I annexed to this agreement, or by the United States of America on any article the growth, produce or manufacture of the Republic of Cuba enumerated and described in Schedule II other than dutiable sugar or tobacco or dutiable products thereof: *Provided*, that the foregoing provision shall not apply to prohibitions or restrictions relating to public security; imposed on moral or humanitarian grounds; designed to protect human, animal or plant life; relating to prison-made goods or goods the product of forced labor; relating to the enforcement of police or revenue laws; or designed to extend to imported products a regime analogous to that affecting like or competing domestic products, such as restrictions imposed on imported products the production of which is restricted within the importing country."

HULL

611.3731/868

*The American Technical Adviser (Turkel) to the Ambassador in Cuba (Caffery)*<sup>64</sup>

HABANA, August 7, 1934.

Subject: Acceptance by Cuban Authorities of Certain Articles of the General Provisions.

We have the honor to report the oral statement of Mr. Angel Solano, State Department member of the Cuban Delegation, that the Cuban Cabinet has approved without change the preamble, Articles I, II, III, IV, VIII, X, XIII, XIV, XV, XVI, XVII, and XVIII of the draft of general provisions as proposed by the Department. There is herewith enclosed a single copy each of these Articles,<sup>65</sup> the Spanish versions of which have been examined carefully by Mr. Albert F. Nufer and Mr. Walter J. Donnelly and have been found correct. Owing to very inadequate stenographic facilities it is impossible to forward these copies in duplicate as required by the Department's telegram No. 121 of August 1, 7 p. m.

The unofficial opinion was expressed that Articles V and VI with reference to the treatment to be accorded to canned vegetables, fish, petroleum products, and lard and allied fats and oils might more properly be incorporated as notes in Schedule I.

The following articles are still receiving the earnest consideration of the Cuban Cabinet:

Article VII—Reduction of consular invoice fee.

Article IX—Limitation upon internal taxation.

Article XI—Compensatory duties for exchange depreciation.

Article XII—Freedom of exchange.

It is understood that the Cuban observations in respect of the remaining Articles will be presented toward the end of this week. Further developments will be reported immediately.

HARRY R. TURKEL

Approved:

ALBERT F. NUFER

WALTER J. DONNELLY

611.3731/875: Telegram

*The Ambassador in Cuba (Caffery) to the Department of State*

HABANA, August 10, 1934—11 a. m.

[Received 5:45 p. m.]

379. Department's instruction No. 332, August 7 [8], 1934.<sup>65</sup> The Cuban delegation under instructions have informed American techni-

<sup>64</sup> Copy transmitted to the Department by the Ambassador in Cuba in his despatch No. 1044, August 8, 1934; received August 10.

<sup>65</sup> Not printed.

cal advisers that the agreement in its present form will be unacceptable if we insist on retention of the note to the sugar concession and note to the tobacco concession relating to restoration of prevailing rates if adjustment program abandoned. They believe that since we are binding the maximum rates with much higher preferences in the greater part of their tariff they are entitled to guarantee of maintenance of the sugar and tobacco rates throughout the life of the agreement. As they have been told this is not possible they offer alternatively the following proviso at the end of the first sentence of article 18 of the general provisions "or unless the rates of duty on sugar and tobacco pledged in schedule II shall be increased as a result of the termination or modification of the respective acts for the restriction of the production of these commodities in the United States in which case this agreement shall automatically expire."

CAFFERY

611.3731/876 : Telegram

*The Ambassador in Cuba (Caffery) to the Secretary of State*

HABANA, August 10, 1934—noon.

[Received 5:45 p. m.]

380. Department's telegram No. 124, August 7, 7 [8] p. m. Cuban Government accepts all articles of general provisions as amended by above telegram except following: old article 5 (secretaries still studying petroleum note); new article 5 (they desire to except edible fats and oils and cigarettes from the prohibition against quotas but it is my impression that they may yield on fats and oils); old article 7 (they desire to begin "on or after July 1, 1935," however I feel immediate reduction of fee advisable and obtainable).

In schedule 2 Cubans asked for 75 cent rate on sugar (merely as a gesture I assume). They urge a 1.2 rate on tomatoes and 2 dollars on rum. Department's instruction No. 322 [332], August 8, 1934,<sup>87</sup> does not indicate molasses duty and preference.

CAFFERY

611.3731/876 : Telegram

*The Secretary of State to the Ambassador in Cuba (Caffery)*

WASHINGTON, August 11, 1934—6 p. m.

135. Your telegram 380, August 10, noon. Under no condition will the exception of edible fats and oils from the prohibition against quotas be acceptable to this Government.

<sup>87</sup> Not printed.

As regards the exception of cigarettes from the same prohibition, the Department hopes that you will be able to persuade the Cuban authorities that such exception is unnecessary. There would appear to be no real ground for a belief that the Cuban market for cigarettes will be over-run with the American product if the Cuban delegates agree to the \$3.00 United States rate suggested. Our proposal will operate to divert an illicit trade to legal channels, since it is a well-known fact that American cigarettes may now be secured in Cuba at a price of around 25 cents a package. As stated in previous instructions, the Department is prepared to accept a somewhat higher rate if necessary to reach a final agreement.

If the Cuban authorities insist upon some quantitative restriction, you should reach an understanding to the effect that any quota that may be imposed will be on a reasonable basis inasmuch as it is realized that no figures for actual consumption of American cigarettes are obtainable.

With regard to the Cuban counter-proposals mentioned in paragraph 2 of your telegram, the concessions which we proposed were not for bargaining purposes, since they represent the maximum to which this Government can agree.

HULL

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611.3731/985: Telegram

*The Secretary of State to the Ambassador in Cuba (Caffery)*

WASHINGTON, August 11, 1934—8 p. m.

137. Your 379, August 10, 11 a. m. You may agree in principle to Cuban proposal but subject to following modifications:

1. Insert phrase "or of the third paragraph of this article" at the end of the first sentence of Article XVIII.

2. Make new paragraph of what is now the second sentence and insert after the word "term" where it last appears in the present article the phrase "or it shall have been terminated pursuant to the provisions of Article XII or of the third paragraph of this article."

3. Add following new third paragraph: "If, however, the rates of duty on sugar or tobacco specified in column 2 of Schedule II annexed to this agreement shall be increased in accordance with the provisions set forth in the notes to paragraphs 501 or 605 of the said schedule, this agreement may be terminated by the Government of either country by giving notice to the other Government of an intention to terminate it at the expiration of 30 days from the date of such notice".

HULL

611.3731/906: Telegram

*The Ambassador in Cuba (Caffery) to the Secretary of State*

HABANA, August 15, 1934—9 a. m.

[Received 10:30 a. m.]

393. Desire Department's views on immediate reduction consular invoice fee set forth in my telegram No. 380, August 10, noon.

CAFFERY

611.3731/906: Telegram

*The Secretary of State to the Ambassador in Cuba (Caffery)*

WASHINGTON, August 15, 1934.

Your 393, August 15, 9 a. m. Department concurs in your opinion that immediate reduction of consular fee advisable and believes it should be insisted upon.

HULL

611.3731/908: Telegram

*The Ambassador in Cuba (Caffery) to the Secretary of State*

HABANA, August 15, 1934—noon.

[Received 1:10 p. m.]

394. My telegram 380, August 10, noon. Cuban officials state they desire reduction of consular fees "on and after July 1, 1935" since estimated receipts (difference of over one million pesos) included in this year's budget.

CAFFERY

611.3731/910: Telegram

*The Ambassador in Cuba (Caffery) to the Secretary of State*

HABANA, August 15, 1934—3 p. m.

[Received 6:50 p. m.]

396. Cuban authorities now accept all articles of general provisions as amended by the Department except that in new article V they propose elimination of phrase "other than dutiable sugar or tobacco or dutiable products thereof." However, if we insist on retention they propose transferring this phrase introduced by "such as dutiable" to the very end of the article.

This change is desired to make the article appear bilateral in form. They have dropped proposal to except edible fats and cigarettes from the prohibition against quotas.

As the question has arisen I inquire whether "restrictions imposed on imported products the product of which is restricted" means now restricted or means present or future restrictions.

They now accept petroleum note and will be interested in technical assistance for changes.

CAFFERY

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611.3731/908 : Telegram

*The Secretary of State to the Ambassador in Cuba (Caffery)*

WASHINGTON, August 15, 1934—7 p. m.

143. Your 393 and 394, August 15. You are authorized to insert at beginning of new Article VI the phrase "on and after July 1, 1935."

HULL

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611.3731/910 : Telegram

*The Acting Secretary of State to the Ambassador in Cuba (Caffery)*

WASHINGTON, August 16, 1934—9 p. m.

149. Your 396, August 15. Since the last exception in the proviso of new Article V is clearly intended to apply to control programs such as the sugar and tobacco, you may agree to the deletion of the phrase "other than dutiable sugar or tobacco or dutiable products thereof". In order that there may be a clear understanding, however, please present an *aide-mémoire* explicitly stating that the exception covers the import restrictions imposed or to be imposed by this Government on sugar and tobacco.

The word "is" before the word "restricted" should be changed to "may be."

PHILLIPS

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611.3731/974

*The American Technical Adviser (Nufer) to the Ambassador in Cuba (Caffery)*<sup>68</sup>

HABANA, August 18, 1934.

Subject: Scope and Effective Date of Prior Decree Law.

We have discussed at great length with the Cuban authorities the subject of the prior decree law. The preparation and scope of this decree law present certain difficulties arising mainly out of the fact that Cuban decrees and laws effecting tariff changes always show the new maximum and general rates together with the United States preferences and rates. The Cuban authorities are agreed that the

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<sup>68</sup> Copy transmitted to the Department by the Ambassador in Cuba in his despatch No. 1163, August 18, 1934; received August 20.



promulgation of tariff changes in any other form would be unacceptable.

As a result of our discussions the following proposal regarding the decree law is submitted to the Department for approval:

The decree law would contain all changes that have been agreed upon as a result of our negotiations, excepting only those notes which refer solely to agreements between Cuba and the United States. The changes that would appear in the decree law would include:

1. Changes in the numbers and letters of tariff items.
2. Changes in classification and nomenclature.
3. Changes in general rates.
4. Changes in United States preferences.
5. Changes in rates to the United States.
6. All notes except those which refer solely to agreements between the two contracting countries. (These latter notes, as well as those we wish to bind, will appear in Schedule I.)

The decree law in its final form would be submitted to the Department for approval prior to the signature of the agreement. It should be promulgated after the agreement is signed and should become effective shortly before the effective date of the agreement.

In accordance with the Department's instruction No. 292 of July 28, Schedule I of the agreement would contain:

(1) The classification, United States preference and United States rate on all items where the rate is bound—(Columns I and II).

(2) The classification and United States preference only in all items where there has been a change in preference but the rate left unbound—(Column I).

(3) All notes referring to agreements applying only to Cuba and to the United States and those notes the inclusion of which has been requested by the Department for the purpose of binding.

If the above decree law method is not followed, it would be necessary, under the established Cuban legislative procedure, to issue two decree laws. The first would have to be issued prior to the signature of the agreement and would contain the information previously listed, except that the indicated preference to the United States would be that now in effect and the resulting United States rates would have to be shown. This would involve serious problems and would complicate and delay the work. In the case of items involving consolidations of several items there are several cases where as many as three preferences are involved. Not only are the difficulties of drafting serious, but many of the United States rates as published would appear ridiculous, and as this would be the first public information on the agreement, public opinion would in all probability be aroused against the agreement as a result of the inevitable misinterpretations which would result and which would not be dispelled until the agreement is promulgated.

Following the promulgation of the agreement a second Decree-Law would have to be published incorporating the United States preferentials indicated in Schedule I and the resulting United States rates. The first decree would involve innumerable useless calculations and the issuing of two decree laws increases the chances of error. As under the proposed plan of only one decree-law, all changes appearing in Schedule I, with the exception of notes referring to agreements between the two contracting countries would be shown, we feel very strongly that the problem will be simplified and that the plan should by all means be approved by the Department.

However, the Department's attention is invited to the possibility of this proposal conflicting with the terms of the General Provisions. We have in mind particularly the second sentence of Article VIII where reference is made to ". . . in force on the day of signature of this Agreement." If the Department concurs, such conflict may be removed by changing this wording to ". . . in force on the day this Agreement becomes effective."

As work on the preparation of the decree law will be hindered until the Department's instructions are received, it is urgently recommended that they be transmitted by cable at the earliest possible opportunity.

Approved:

WALTER J. DONNELLY  
HARRY R. TURKEL

ALBERT F. NUFER

611.3731/961 : Telegram

*The Ambassador in Cuba (Caffery) to the Secretary of State*

HABANA, August 20, 1934—4 p. m.

[Received 5:27 p. m.]

424. For Welles: Turkel left today by plane with schedules I and II. Solano apparently will be needed here until last minute. He says that he will arrive Friday morning at 1 and will be prepared to go to work at once.

Torriente will be accompanied also by Gabriel de la Campa, formerly Consul General at Montreal, and Rodriguez Capote of the Foreign Office.

CAFFERY

611.3731/970 : Telegram

*The Ambassador in Cuba (Caffery) to the Secretary of State*

HABANA, August 21, 1934—2 p. m.

[Received 2:45 p. m.]

426. Please rush reply to Embassy's despatch 1163, August 18,<sup>69</sup> regarding scope and effective date of prior decree law which is now

<sup>69</sup> Despatch not printed; but see memorandum of August 18, 1934, by the American Technical Adviser, Nufer, p. 165.

being prepared. Cubans have now decided to omit preferences and United States rates from decree law as these are not necessary since they are all provided for in the agreement. This will simplify the work and should enable them to have the decree law printed and ready for promulgation simultaneously with the signing of the agreement.

It is our understanding that the decree law should be promulgated simultaneously with the signature of the agreement but that it should become effective immediately prior to effective date of agreement. The Cubans agree with us that the decree law should become effective at midnight September 1 instead of Sunday, September 2. Will the trade agreement be made public immediately after the signing on Friday?

CAFFERY

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611.3731/974 : Telegram

*The Acting Secretary of State to the Ambassador in Cuba (Caffery)*

WASHINGTON, August 21, 1934—8 p. m.

169. Enclosure your despatch 1163, August 18. The arrangement for a single decree law embodying the changes mentioned in the enclosure as modified by your telegram 426, August 21, 2:00 p. m., is satisfactory, as to form, time of promulgation and effective date. The text of the proposed decree law should be delivered to the Embassy in sufficient time for careful checking. Please inform the Department before Friday whether the proposed decree law is entirely satisfactory.

The necessary minor changes in the General Provisions necessitated by this procedure have been discussed with and approved by Dr. Márquez Sterling.<sup>70</sup>

Department will endeavour to inform you tomorrow as to date and character of publicity.

PHILLIPS

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611.3731/990 : Telegram

*The Chargé in Cuba (Matthews) to the Secretary of State*

HABANA, August 23, 1934—8 p. m.

[Received 8:13 p. m.]

443. Department's telegram No. 175, August 23, 11 a. m. [noon].<sup>71</sup> Cuban authorities do not concur in changes listed in paragraphs 1, 2, 3, 4, 6, 8, 9, and 10, and state that these changes will not therefore appear in the decree law.

The President now proposes to sign the decree law tomorrow morning at 10:30. However, it will be physically impossible to publish

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<sup>70</sup> Cuban Ambassador at Washington.

<sup>71</sup> Not printed; it conveyed proposed changes in the Spanish nomenclature of schedule I (611.3731/986c).

the decree law in the *Official Gazette* before Saturday at the earliest. No decree law is binding until published in the *Official Gazette*.

MATTHEWS

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Executive Agreement Series No. 67

*Reciprocal Trade Agreement Between the United States of America and Cuba, Signed August 24, 1934*<sup>72</sup>

The President of the United States of America and the President of the Republic of Cuba, desirous of strengthening the traditional bonds of friendship and commerce between their respective countries by maintaining as the basis for their commercial relations the granting of reciprocal preferential treatment, in continuation of the policy adopted in the Convention of Commercial Reciprocity of 1902 between the two countries, and taking into consideration that changed conditions have rendered it necessary to modify the provisions of that Convention, have arrived at the following Agreement:

ARTICLE I

During the term of this Agreement, all articles the growth, produce or manufacture of the United States of America which would have been admitted free of duty if imported into the Republic of Cuba on the day of signature of this Agreement, and all articles the growth, produce or manufacture of the Republic of Cuba which would have been admitted free of duty if imported into the United States of America on the day of signature of this Agreement, shall be so admitted by the respective country free of duty.

ARTICLE II

Articles the growth, produce or manufacture of the United States of America enumerated and described in Schedule I annexed hereto and made a part of this Agreement, shall, on their importation into the Republic of Cuba, be granted exclusive and preferential reductions in duties not less than the percentages specified respectively in Column 1 of the said Schedule, such percentages of reduction being applied to the lowest rates of duty, respectively, now or hereafter payable on like articles the growth, produce or manufacture of any other foreign country.

No article the growth, produce or manufacture of the United States of America enumerated and described in Schedule I annexed hereto, with respect to which a rate of duty is specified in Column 2 of the

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<sup>72</sup> In English and Spanish; Spanish text not printed. Proclaimed by the President of the United States August 24, 1934; proclaimed by the President of Cuba August 30, 1934; effective September 3, 1934.

For texts of the schedules attached to the agreement, see 49 Stat. 3559.

said Schedule, shall in any case, except as provided in Article VIII or X, be subject to any customs duty in excess of the rate so specified.

Every article the growth, produce or manufacture of the United States of America which is not provided for in Article I, and which is not enumerated and described in Schedule I annexed to this Agreement, shall, on importation into the Republic of Cuba, be granted an exclusive and preferential reduction in duty of not less than the percentage of reduction which would have been accorded if imported into Cuba on the day of the signature of this Agreement, such percentage of reduction being applied to the lowest rate of duty now or hereafter payable on the like article the growth, produce or manufacture of any other foreign country.

#### ARTICLE III

Articles the growth, produce or manufacture of the Republic of Cuba enumerated and described in Schedule II annexed hereto and made a part of this Agreement, shall, on their importation into the United States of America, be granted exclusive and preferential reductions in duties not less than the percentages specified respectively in Column 1 of the said Schedule, such percentages of reduction being applied to the lowest rates of duty, respectively, now or hereafter payable on like articles the growth, produce or manufacture of any other foreign country.

No article the growth, produce or manufacture of the Republic of Cuba enumerated and described in Schedule II annexed hereto with respect to which a rate of duty is specified in Column 2 of the said Schedule shall in any case except as provided in Article VIII or X be subject to any customs duty in excess of the rate so specified.

Every article the growth, produce or manufacture of the Republic of Cuba which is not provided for in Article I, and which is not enumerated and described in Schedule II annexed to this Agreement, shall, on importation into the United States of America, be granted an exclusive and preferential reduction in duty of not less than 20 per centum, such percentage of reduction being applied to the lowest rate of duty now or hereafter payable on the like article the growth, produce or manufacture of any other foreign country.

#### ARTICLE IV

The United States of America and the Republic of Cuba agree that the notes included in the Schedules I and II are hereby given force and effect as integral parts of this Agreement.

#### ARTICLE V

No quantitative restriction shall be imposed by the Republic of Cuba on any article the growth, produce or manufacture of the United

States of America enumerated and described in Schedule I annexed to this Agreement, nor by the United States of America on any article the growth, produce or manufacture of the Republic of Cuba enumerated and described in Schedule II: Provided, That the foregoing provision shall not apply to prohibitions or restrictions relating to public security; imposed on moral or humanitarian grounds; designed to protect human, animal or plant life; relating to prison-made goods or goods the product of forced labor; relating to the enforcement of police or revenue laws; or designed to extend to imported products a regime analogous to that affecting like or competing domestic products, such as restrictions imposed on imported products the production of which may be restricted within the importing country.

With respect to the allotment of quotas by the United States of America or the Republic of Cuba for any article on which quantitative restrictions are not prohibited by this Agreement, there shall be no discrimination against any person or company importing or exporting such articles between the two countries.

#### ARTICLE VI

On and after July 1, 1935, fees charges or exactions imposed by the United States of America or the Republic of Cuba for consular certification of invoices and for other consular services pertaining to the documentation of any shipment of articles the growth, produce or manufacture of the territory of the other country shall not exceed in the aggregate 2 per centum of the free on board (F. O. B.) invoice value of the merchandise concerned, at the port of exportation, except that this limitation shall apply only when the charges for such services would otherwise be in excess of two dollars and a half on merchandise of Cuban origin or two pesos and a half on merchandise of origin in the United States of America. Such fees, charges or exactions shall not in any case be higher than those imposed by the United States of America or the Republic of Cuba, respectively, upon shipments of like merchandise from any other country. This article, however, shall not be construed to embrace such reasonable fees, charges or exactions pertaining to documentation required by the sanitary laws or regulations of the United States of America or the Republic of Cuba as are commensurate with the services performed.

#### ARTICLE VII

In respect to articles the growth, produce or manufacture of the United States of America or the Republic of Cuba, imported into the other country, on which ad valorem rates of duty may be assessed, it is understood and agreed that the methods of determining dutiable value and of converting currencies shall be no less favorable to im-

porters than the methods prescribed under presently existing laws and regulations of the respective importing country.

#### ARTICLE VIII

All articles the growth, produce or manufacture of the United States of America or the Republic of Cuba, shall, after importation into the territory of the other country, be exempt from national or federal internal taxes, fees, charges or exactions, other or higher than those payable on like articles of national or any other foreign origin.

All articles enumerated and described in Schedule I annexed to this Agreement, with respect to which a rate of duty is specified in Column 2 of the said Schedule, shall be exempt from all taxes, fees, charges, or exactions, in excess of those imposed or required to be imposed by laws of the Republic of Cuba in effect on the day on which this Agreement comes into force; and all articles enumerated and described in Schedule II annexed to this Agreement, with respect to which a rate of duty is specified in Column 2 of the said Schedule, shall be exempt from all taxes, fees, charges or exactions, in excess of those imposed or required to be imposed by laws of the United States of America in effect on the day on which this Agreement comes into force.

The provisions of this Article, insofar as they apply to taxes, fees, charges, or exactions imposed within the United States of America, shall apply only to such taxes, fees, charges, or exactions as are subject to statutory control by the Federal Government of the United States of America.

#### ARTICLE IX

On and after the day on which this Agreement comes into force, articles the growth, produce or manufacture of the United States of America and articles the growth, produce or manufacture of the Republic of Cuba previously imported into the other country shall be subject to the provisions of this Agreement, if entry therefor has not been made, or if they have been previously entered without payment of duty and under bond for warehousing, transportation, or any other purpose, and without any permit of delivery to the importer or to his agent having been issued: Provided, That when duties are based upon the weight of merchandise deposited in any public or private warehouse, the said duties shall, except as may be otherwise specially provided in the tariff laws of the respective countries in force on the day of signature of this Agreement, be levied and collected upon the weight of such merchandise at the time of its entry.

#### ARTICLE X

In respect to articles subject to specific rates of duty, neither the United States of America nor the Republic of Cuba shall impose any

additional duty, surtax, or other charge, by reason of any reduction in the value of its coin or currency with reference to the legal gold equivalent thereof as of June 1, 1934: Provided, That in the event that any such reduction shall have exceeded 10 per centum with reference to the legal gold equivalent of such coin or currency as of June 1, 1934, the rates of duty levied on a specific basis in the country whose coin or currency is so reduced in value on imported articles the growth, produce or manufacture of the other country may be increased to an extent no greater than is necessary to compensate for such reduction on the date of the arrival of the imported merchandise at the port of entry; except that any such increase in rates of duty imposed by either country on imported articles the growth, produce or manufacture of the other country, shall not be greater proportionately than the increase in rates of duty on like articles the growth, produce or manufacture of any other foreign country.

#### ARTICLE XI

The customs preferences and other benefits provided for in this Agreement are granted by the United States of America and the Republic of Cuba to each other subject to the condition that the Government of each country will refrain from subjecting payments or the transfer of means of payment or the disposition thereof to any regulation, striction, charge or exaction, other or higher than was in force on April 1, 1934, which results in (one) impairing or circumventing any provision of this Agreement, (two) placing an undue burden on trade between the nationals or residents of the respective countries, or (three) preventing or hindering nationals of either country residing, doing business, or traveling in the territory of the other country from securing and transferring in or to either country the funds reasonably necessary for, or arising from, such residence, business, or travel. In the event that the Government of either country considers that the other country has failed to comply with the conditions expressed in this Article, and the latter country shall not have satisfactorily corrected the regulation, restriction, charge or exaction out of which such failure arose, after formal complaint has been made thereof, the Government of the country so complaining may terminate the Agreement thirty days after giving notice to the other Government.

Nothing in this Article shall be construed to prevent the adoption of measures prohibiting or restricting the exportation of gold or silver.

#### ARTICLE XII

The United States of America and the Republic of Cuba retain the right to apply such measures as they respectively may see fit with



respect to the control of the export or sale for export of arms, munitions, or implements of war, and in exceptional circumstances of other material needed in war.

#### ARTICLE XIII

No administrative ruling by the United States of America or the Republic of Cuba effecting advances in duties or charges applicable under an established and uniform practice to imports from the territory of the other country shall be effective retroactively or with respect to articles either entered for or withdrawn for consumption prior to the expiration of thirty days after the date of publication of notice of such ruling in the usual official manner. The provisions of this Article do not apply to administrative orders imposing anti-dumping duties, nor relating to sanitation or public safety, nor giving effect to judicial decisions.

#### ARTICLE XIV

Laws, regulations of administrative authorities, and decisions of administrative or judicial authorities, pertaining to the classification of articles for customs purposes and to rates of duty shall be published promptly in such a manner as to enable traders to become acquainted with them. Such laws, regulations, and decisions of the United States of America or the Republic of Cuba shall be applied uniformly at all ports of entry of the country, except as otherwise specifically provided in statutes of the United States of America relating to articles imported into Puerto Rico.

#### ARTICLE XV

The provisions of this Agreement shall not apply to the Philippine Islands, the Virgin Islands, American Samoa, the Island of Guam, nor to the Panama Canal Zone.

#### ARTICLE XVI

The operation of the provisions of the Commercial Convention, concluded between the United States of America and the Republic of Cuba on December 11, 1902, shall be suspended on the day on which the present Agreement comes into force. In the event of the expiration or the denunciation of the present Agreement, the provisions of the aforesaid Convention of 1902 shall automatically resume operation and shall continue in full force and effect as provided therein until the expiration of one year from the day on which the Government of either country shall have given notice to the other Government of an intention to terminate it.

## ARTICLE XVII

The present Agreement shall come into force on the tenth day following the day of the signature thereof, after proclamation by the President of the United States of America and the President of the Republic of Cuba, and shall remain in full force for the term of three years thereafter, unless terminated pursuant to the provisions of Article XI or of the third paragraph of this Article.

Unless at least six months before the expiration of the aforesaid term of three years the Government of either country shall have given to the other Government notice of an intention to terminate the Agreement upon the expiration of the aforesaid term or it shall have been terminated pursuant to the provisions of Article XI or of the third paragraph of this Article, the Agreement shall remain in full force thereafter until six months from such time as the Government of either country shall have given notice to the other Government.

If, however, the rates of duty on sugar or tobacco specified in Column 2 of Schedule II annexed to this Agreement shall be increased in accordance with the provisions set forth in the notes to paragraphs 501 or 605 of the said Schedule, this Agreement may be terminated by the Government of either country by giving notice to the other Government of an intention to terminate it at the expiration of thirty days from the date of such notice.

IN WITNESS WHEREOF, the respective Plenipotentiaries have signed this Agreement and have affixed their seals hereto.

DONE in duplicate, in the English and Spanish languages, both authentic, at the city of Washington, this 24th day of August, 1934.

For the President of the United States of America :

[SEAL] CORDELL HULL

*Secretary of State.*

[SEAL] JEFFERSON CAFFERY

*Ambassador Extraordinary and Plenipotentiary to the Republic of Cuba.*

[SEAL] SUMNER WELLES

*Assistant Secretary of State.*

For the President of the Republic of Cuba :

[SEAL] COSME DE LA TORRIENTE

*Secretary of State.*

[SEAL] M. MÁRQUEZ STERLING

*Ambassador Extraordinary and Plenipotentiary to the United States of America.*

Executive Agreement Series No. 67  
611.3731/1015c

*The American Secretary of State to the Cuban Secretary of State  
(Torriente)*

WASHINGTON, August 24, 1934.

EXCELLENCY: I have the honor to confirm my understanding of the views developed by the conversations which have recently taken place at Habana between the Government of the United States of America and the Government of the Republic of Cuba with reference to the exportation of avocados and pineapple slips from Cuba to the United States of America, its territories and possessions, as follows:

The conversations between the two Governments have resulted in a mutual understanding that the Government of Cuba agrees not to permit the exportation of avocados to the United States of America by any carrier clearing from the final Cuban port or place of call except during the period from June 1 to September 30, inclusive, of each year, beginning with the calendar year 1935, and that the Government of Cuba will promulgate forthwith and enforce the regulations necessary to make this commitment effective.

These conversations between the two Governments have also developed a further understanding that the Cuban Government will permit the exportation of pineapple slips to the United States of America, its territories and possessions, subject to such regulations as the Cuban Department of Agriculture may establish. I shall be obliged if I may receive your confirmation of the correctness of this understanding.

I am [etc.]

CORDELL HULL

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Executive Agreement Series No. 67  
611.3731/1016½

*The Cuban Secretary of State (Torriente) to the American Secretary  
of State*

[Translation]

WASHINGTON, August 24, 1934.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of today's date, communicating to me your understanding of the views developed by the conversations which have recently taken place at Habana between the Government of the United States of America and the Government of the Republic of Cuba with reference to the exportation of avocados and pineapple slips from Cuba to the United States of America, its territories and possessions.

Your Excellency's understanding is in exact accord with my own. The conversations between the two Governments have resulted in a

mutual understanding that the Government of Cuba agrees not to permit the exportation of avocados to the United States of America by any carrier clearing from the final Cuban port or place of call, except during the period from June 1 to September 30, inclusive, of each year, beginning with the calendar year 1935, and that the Government of Cuba will promulgate forthwith and enforce the regulations necessary to make this commitment effective.

These conversations between the two Governments have also developed the further understanding that the Cuban Government will permit the exportation of pineapple slips to the United States of America, its territories and possessions, subject to such regulations as the Cuban Department of Agriculture may establish.

I avail myself [etc.]

COSME DE LA TORRIENTE

611.3731/1015

*Press Release Issued by the Department of State, August 24, 1934*

STATEMENT BY MR. CORDELL HULL, SECRETARY OF STATE

At the time of the signing of the Trade Agreements Act, I stated that the authority under this new act of Congress would be exercised with the utmost care, fairness, and intelligence; that the primary object of the Administration's tariff policy would be to benefit every important American interest; that nothing would be done blindly or recklessly; that the fullest possible information would be first assembled and the needs of business studied; and that the negotiations for the conclusion of reciprocal trade agreements under this Act would be conducted step by step in the light of the information obtained. Today, after more than twelve months' painstaking and expert study, the United States and Cuba have signed a Trade Agreement calculated to restore the once flourishing trade between the two countries, now reduced to a fraction of its former amount. The agreement is mutually advantageous to the United States and to Cuba. Recognizing that the movement of goods has been seriously handicapped by the tariff barriers which each of the two countries has erected, they have agreed, in this instrument, to make substantial adjustments, which, with equal profit and without dislocating productive forces, will facilitate the sale of more American goods in Cuba and of more Cuban commodities in the United States.

In 1924, the total value of our own exports to Cuba amounted to almost \$200,000,000; last year, our exports to Cuba were barely one-tenth of that amount. We have every hope that the conclusion of this Agreement today will rapidly restore to the American farmer, to the American wage-earner, and to the American manufacturer, the benefits of the important market in Cuba which they formerly enjoyed.

611.3731/1066

*Press Release Issued by the Department of State, August 24, 1934*

STATEMENT BY HIS EXCELLENCY DR. COSME DE LA TORRIENTE, SECRETARY  
OF STATE OF CUBA

Many years before Cuba gained her Independence from Spain, her commercial relations with the United States of America were already great and her prosperity or poverty on many occasions depended upon the American tariffs.

When Cuba, with the assistance of the United States, gained her independence, the Government at Washington became aware of the fact that there should exist a commercial Treaty between the two countries which would guarantee preferential rates to the products of the people and industry of the two nations, and this led to the negotiation of the Treaty of December 11, 1902, which is still in force at the present time and which has proved to be highly useful in furthering the commercial relations of Cuba and the United States, although its modification has for some time been considered necessary for the mutual protection of the interests of both peoples.

In order that a new Treaty might be negotiated as early as possible, two things were necessary: 1. A Government such as that of President Roosevelt, which would appreciate the great need and convenience of such negotiation, and 2. an American Congress capable of facilitating the negotiation of treaties like the one which has just been signed by their Excellencies Secretary of State Hull, Assistant Secretary of State Welles, Ambassadors Caffery and Márquez Sterling, and by myself as Secretary of State of Cuba.

I wish to honestly say that although the new Treaty is of mutual benefit to the two countries, it represents a substantial help for Cuba, a country which has so greatly suffered during the last few years owing to the high tariffs which have been applied by the United States to the products of the soil and industry of our Island.

And for that noble act, in the name of the Cuban people, and at the special request of President Mendieta and of his Government, I express our sincere gratitude to President Roosevelt and to the American people.

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611.3731/1036 : Telegram

*The President of Cuba (Mendieta) to President Roosevelt*

HABANA, August 24, 1934.

[Received August 25.]

On the signature today of the new treaty of reciprocity between our two countries, the Government of Cuba expresses to the Government

of the United States its affectionate gratitude and expresses its wishes for the happiness of your great people and the personal felicity of its illustrious President. May the great friend of Cuba accept the thanks of her people who intend to open an era of rehabilitation and peace consonant with the benefits obtained. May he also accept the assurance of my high personal consideration.

CARLOS MENDIETA

611.3731/1024

*Memorandum by the Chief of the Division of Western European Affairs (Moffat)*

[WASHINGTON,] August 24, 1934.

With reference to the Swiss Chargé d'Affaires's call of August 22, I ascertained that the position of this Government would be that our treaty relations with Cuba were on a special footing specifically recognized in all our unconditional most favored nation treaties. Accordingly, no third country would benefit by reductions granted to Cuba.

I also ascertained that the Department of Agriculture had not yet completed its regulations governing the admission of foodstuffs from abroad as a result of the drought and attendant speculation.

I informed Mr. Micheli on both these questions Thursday, August 23.

PIERREPONT MOFFAT

611.3731/1000 : Telegram

*The Chargé in Cuba (Matthews) to the Secretary of State*

HABANA, August 25, 1934—10 a. m.

[Received 11:45 a. m.]

447. While the public has not as yet had time to grasp the full significance of the trade agreement, its importance is appreciated and the general first reaction is very favorable. The press this morning treats of little else and carries the full text of the general provisions and of schedule 2, a full summary of schedule 1, Washington despatches concerning the signature and contents, and enthusiastic declarations by President Mendieta and Dr. Torriente.

The general local American reaction is likewise favorable and the President of the American Chamber of Commerce is enthusiastic.

President Mendieta declared in part

"It is with satisfaction that the Government of Cuba has concluded with the Government of the United States the reciprocity treaty which has been happily consummated through its signature this afternoon

in the City of Washington. In view of the advantages which this country receives in that treaty there are reasons to feel optimistic concerning Cuba's economic future.

Both contracting countries during the days of preparation of the whole most important agreement, have shown the good-will and mutual friendship animating them until its culmination in the act today which makes unbreakable the ties uniting the great American people with our republic."

Full press clippings going forward by air.

MATTHEWS

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611.3731/1008a : Telegram

*The Acting Secretary of State to the Chargé in Cuba (Matthews)*

WASHINGTON, August 25, 1934—3 p. m.

181. Upon the trade agreement becoming effective, it will then be the controlling basis for the trade relations between the United States and Cuba. While it is not necessary that the decree law correspond exactly with the text of the agreement, in so far as detailed nomenclature is concerned, it is essential that the two instruments be in substantial agreement.<sup>73</sup>

Inasmuch as the exchange of notes on pineapple slips took place yesterday, in order to make effective the lifting of the embargo, it would appear to be necessary for a decree law to revoke or amend the present export prohibition, contained in item 7, provision 5, for the application of the tariff.<sup>74</sup>

MOORE

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611.3731/1019 : Telegram

*The President of Cuba (Mendieta) to the Secretary of State*

[Translation]

HABANA, August 25, 1934—3 : 35 p. m.

[Received August 27.]

This Government will not forget the good intentions you have manifested in the Treaty of Reciprocity in favor of our people. So high and significant has your labor been and so generous the facilities that you have granted us that you deserve as the illustrious collaborator of His Excellency, President Roosevelt, the gratitude with which this people greet you, to which I unite my own with the expression of my highest personal consideration.

CARLOS MENDIETA

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<sup>73</sup> For text of decree law No. 440, August 24, 1934, see *Gaceta Oficial de la República de Cuba*, August 24, 1934, Extraordinary Edition No. 76.

<sup>74</sup> For text of decree law No. 453, August 28, 1934, lifting the embargo on pineapple slips, see *Gaceta Oficial*, August 29, 1934.

611.3731/1019 : Telegram

*The Secretary of State to the President of Cuba (Mendieta)*

WASHINGTON, August 27, 1934.

I am deeply appreciative of Your Excellency's kind message, and in reciprocating the cordial personal sentiments expressed therein, I assure you that it has been a source of particular gratification to me to have been privileged to participate in the negotiation of an agreement which holds such great promise of immediate substantial contribution to the welfare of our respective countries through renaissance of trade upon a sound economic basis of natural exchange.

CORDELL HULL

611.3731/1036 : Telegram

*President Roosevelt to the President of Cuba (Mendieta)*

WASHINGTON, August 29, 1934.

Personally and on behalf of the people and Government of the United States I desire warmly to reciprocate the cordial sentiments expressed in Your Excellency's message on the occasion of the signing of the trade agreement between the United States and Cuba.

This readjustment of the basis upon which the commercial relations between our respective countries have rested since the Convention of 1902 to meet the necessities of present-day conditions has been achieved in an exemplary spirit of amity and close cooperation.

It is my conviction, not only that the United States and Cuba will immediately feel the beneficial effects of this agreement in increased exchange of products to their mutual general advantage, but that the conclusion of this agreement may serve to initiate a widespread movement toward general reduction of those artificial barriers which have so largely contributed to stagnation of international trade.

I am particularly happy to have been associated with Your Excellency in this achievement.

FRANKLIN D. ROOSEVELT

611.3731/1030a : Telegram

*The Acting Secretary of State to the Ambassador in Cuba (Caffery)*

WASHINGTON, August 29, 1934—8 p. m.

184. Inter-Departmental Committee for Foreign Trade desires frequent progressive reports evidencing concrete results of trade agreement in increased orders for products of the United States.<sup>75</sup>

PHILLIPS

<sup>75</sup> For summaries of reports, see Department of State, *Press Releases*, September 8, 1934, pp. 180-181; and November 17, 1934, pp. 297-298.



APPEAL OF PRESIDENT MENDIETA TO PRESIDENT ROOSEVELT FOR  
ASSISTANCE IN SOLVING THE CUBAN SUGAR PROBLEM

811.6135/105 : Telegram

*The President of Cuba (Mendieta) to President Roosevelt*

HABANA, February 5, 1934.

I wish to again ask for assistance in our very difficult situation in consideration of your kindness and good will. Our labor problems are most serious and increasing because of delay in starting the crop. As sugar is our main industry we need a very substantial raw sugar quota which I have anticipated to my people would probably not be less than 2,000,000 long tons and a reduction in the duty. These concessions obtained quickly would give the mill owners incentive to pay higher wages and start work. Many thanks with my expression of high regard.

CARLOS MENDIETA

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811.6135/105 : Telegram

*President Roosevelt to the President of Cuba (Mendieta)*

WASHINGTON, February 8, 1934.

Your cable, received last night, has had, of course, my most earnest attention. The economic conditions unfortunately existing in Cuba are well known to me and I fully appreciate the preponderant effect which the situation of the Cuban sugar industry has had in creating these difficulties. It is my intention to recommend immediate remedial action by this Government, which, while not contributing to higher prices to the American consumer of sugar, may yet at the same time increase returns to our own producers and likewise contribute to the economic rehabilitation of Cuba. I earnestly trust that the action proposed will alleviate the distressing conditions to which you refer.

Please accept the assurances of my highest consideration.

FRANKLIN D. ROOSEVELT

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811.6135/108

*The Cuban Ambassador (Márquez Sterling) to the Secretary  
of State*

WASHINGTON, February 12, 1934.

EXCELLENCY: I have the honor to inform Your Excellency that my Government has instructed me to transmit its expression of gratitude

for the part of the message of President Roosevelt to the United States Congress regarding sugar,<sup>76</sup> with relation to Cuba. This message has conveyed to the distressed people of Cuba the hopes of a prosperous future.

I avail myself [etc.]

M. MÁRQUEZ STERLING

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TREATY OF RELATIONS BETWEEN THE UNITED STATES AND CUBA,  
SIGNED MAY 29, 1934

Treaty Series No. 866

*Treaty of Relations Between the United States of America and the Republic of Cuba, Signed at Washington, May 29, 1934*<sup>77</sup>

The United States of America and the Republic of Cuba, being animated by the desire to fortify the relations of friendship between the two countries and to modify, with this purpose, the relations established between them by the Treaty of Relations signed at Habana, May 22, 1903,<sup>78</sup> have appointed, with this intention, as their Plenipotentiaries:

The President of the United States of America; Mr. Cordell Hull, Secretary of State of the United States of America, and Mr. Sumner Welles, Assistant Secretary of State of the United States of America; and

The Provisional President of the Republic of Cuba, Señor Dr. Manuel Márquez Sterling, Ambassador Extraordinary and Plenipotentiary of the Republic of Cuba to the United States of America;

Who, after having communicated to each other their full powers which were found to be in good and due form, have agreed upon the following articles:

ARTICLE I

The Treaty of Relations which was concluded between the two contracting parties on May 22, 1903, shall cease to be in force, and is abrogated, from the date on which the present Treaty goes into effect.

ARTICLE II

All the acts effected in Cuba by the United States of America during its military occupation of the island, up to May 20, 1902, the date on which the Republic of Cuba was established, have been ratified and

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<sup>76</sup> See *Congressional Record*, vol. 78, pt. 2, p. 2176.

<sup>77</sup> In English and Spanish; Spanish text not printed. Ratification advised by the Senate, May 31, 1934; ratified by the President, June 5, 1934; ratified by Cuba, June 4, 1934; ratifications exchanged at Washington, June 9, 1934; proclaimed by the President of the United States, June 9, 1934.

<sup>78</sup> *Foreign Relations*, 1904, p. 243.

held as valid; and all the rights legally acquired by virtue of those acts shall be maintained and protected.

#### ARTICLE III

Until the two contracting parties agree to the modification or abrogation of the stipulations of the agreement in regard to the lease to the United States of America of lands in Cuba for coaling and naval stations signed by the President of the Republic of Cuba on February 16, 1903,<sup>79</sup> and by the President of the United States of America on the 23d day of the same month and year, the stipulations of that agreement with regard to the naval station of Guantánamo shall continue in effect. The supplementary agreement in regard to naval or coaling stations signed between the two Governments on July 2, 1903,<sup>80</sup> also shall continue in effect in the same form and on the same conditions with respect to the naval station at Guantánamo. So long as the United States of America shall not abandon the said naval station of Guantánamo or the two Governments shall not agree to a modification of its present limits, the station shall continue to have the territorial area that it now has, with the limits that it has on the date of the signature of the present Treaty.

#### ARTICLE IV

If at any time in the future a situation should arise that appears to point to an outbreak of contagious disease in the territory of either of the contracting parties, either of the two Governments shall, for its own protection, and without its act being considered unfriendly, exercise freely and at its discretion the right to suspend communications between those of its ports that it may designate and all or part of the territory of the other party, and for the period that it may consider to be advisable.

#### ARTICLE V

The present Treaty shall be ratified by the contracting parties in accordance with their respective constitutional methods; and shall go into effect on the date of the exchange of their ratifications, which shall take place in the city of Washington as soon as possible.

IN FAITH WHEREOF, the respective Plenipotentiaries have signed the present Treaty and have affixed their seals hereto.

DONE in duplicate, in the English and Spanish languages, at Washington on the twenty-ninth day of May, one thousand nine hundred and thirty-four.

[SEAL]	CORDELL HULL
[SEAL]	SUMNER WELLES
[SEAL]	M. MÁRQUEZ STERLING

<sup>79</sup> *Foreign Relations*, 1903, p. 350.

<sup>80</sup> *Ibid.*, p. 351.

[The records in the files of the Department of State regarding the negotiation of this treaty are fragmentary. In reply to an inquiry, Mr. Sumner Welles, who was Assistant Secretary of State in 1934, wrote on March 1, 1948, to Mr. Robert A. Lovett, Under Secretary of State, a letter containing the following statement:

"It is, however, hardly a matter of surprise to me that the Departmental files should contain little documentation with regard to the Treaty of 1934. When the President sent me to Cuba as Ambassador in the spring of 1933, it was agreed between us that one of the major objectives of my mission should be to prepare the way for the negotiation of a new treaty between Cuba and the United States by which the Platt Amendment might be abrogated. During the months I was in Cuba I discussed this objective with certain Cuban leaders, among them Dr. Cosme de la Torriente, who later became Secretary of State in the Mendieta Government and under whose direction the negotiations on the part of the Cuban Government for the Treaty of 1934 were carried on. There was no difference of opinion between the Cuban Government and ourselves at that time as to what the Treaty should contain, and there was actually very little disagreement as to the provisions to be included therein. I have a very clear recollection that Dr. Márquez Sterling, then Cuban Ambassador in Washington, and I sat down together in my office in the Department of State and agreed upon a text which later, with slight amendment, became the definitive text. I recollect further that the President approved without change the text agreed upon by the Cuban Ambassador and myself." (711.37/3-148)]

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**RESTRICTIONS ON THE EXPORTATION OF ARMS AND MUNITIONS OF WAR TO CUBA**

837.113/540

*The Secretary of State to President Roosevelt*

WASHINGTON, June 29, 1934.

MY DEAR MR. PRESIDENT: I submit herewith for your consideration and, if you approve, your signature, a draft of a Proclamation designed to place this Government in a position to supervise and control the exportation of arms and munitions of war from the United States to Cuba, with a view to enabling the Cuban Government to maintain peace and tranquillity in that country.

I respectfully invite your attention to Article II of the Convention between the United States and Cuba to Suppress Smuggling, signed at Habana March 11, 1926,<sup>21</sup> which reads in part as follows:

"The High Contracting Parties agree that clearance of shipments of merchandise by water, air, or land, from any of the ports of either country to a port of entry of the other country, shall be denied when

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<sup>21</sup> *Foreign Relations, 1926*, vol. II, p. 23.

such shipment comprises articles the importation of which is prohibited or restricted in the country to which such shipment is destined, unless in this last case there has been a compliance with the requisites demanded by the laws of both countries. [7"]

The laws of Cuba restrict the importation of arms and munitions of all kinds by requiring an import permit for each shipment.

There would not appear to be any legal means by which this Government can effectively carry out its treaty obligations with respect to the traffic in arms and munitions between the United States and Cuba, unless a proclamation is issued pursuant to the Joint Resolution of Congress of January 31, 1922.<sup>83</sup>

The Cuban Government, through its Ambassador in Washington, has expressed to this Government its approval of this action.

I feel that, in conformity with our policy of the good neighbor, we should proceed accordingly.

The action which I recommend is by no means novel or unprecedented, as is indicated by the following table of Proclamations which have been issued by your predecessors, pursuant to the Joint Resolution of Congress of January 31, 1922, and the similar Joint Resolution of March 14, 1912<sup>84</sup> which it superseded.

<b>Brazil :</b>	Proclamation October 22, 1930. <sup>85</sup> Revoked March 2, 1931.
<b>China :</b>	Proclamation March 4, 1922. <sup>86</sup> Still in effect.
<b>Cuba :</b>	Proclamation May 2, 1924. <sup>87</sup> Revoked August 29, 1924.
<b>Honduras :</b>	Proclamation March 22, 1924. <sup>88</sup> Still in effect.
<b>Mexico :</b>	Proclamation March 14, 1912. <sup>89</sup> Revoked February 3, 1914. Proclamation October 19, 1915. <sup>90</sup> Revoked January 31, 1922. Proclamation January 7, 1924. <sup>91</sup> Revoked July 18, 1929.
<b>Nicaragua :</b>	Proclamation September 15, 1926. <sup>92</sup> Still in effect.

If this Proclamation meets with your approval, I shall, as soon as it is promulgated, issue regulations prescribing that shipments of

<sup>83</sup> 42 Stat. 361.

<sup>84</sup> 37 Stat. 630.

<sup>85</sup> 46 Stat. 3036.

<sup>86</sup> 42 Stat. 2264; see also *Foreign Relations*, 1922, vol. I, pp. 725 ff.

<sup>87</sup> 43 Stat. 1946.

<sup>88</sup> 43 Stat. 1942; see also *Foreign Relations*, 1924, vol. II, pp. 321 ff.

<sup>89</sup> 37 Stat. 1733; *Foreign Relations*, 1912, p. 745.

<sup>90</sup> 39 Stat. 1756; see also *Foreign Relations*, 1915, pp. 780 ff.

<sup>91</sup> 43 Stat. 1934; see also *Foreign Relations*, 1924, vol. II, pp. 428 ff.

<sup>92</sup> 44 Stat. 2625.

arms and munitions to Cuba shall be limited to those for which a license has been issued by the Department of State and that such licenses shall not be issued except upon the request of the Cuban Ambassador in Washington.

I am, my dear Mr. President,

Faithfully yours,

CORDELL HULL

837.113/540

*The Secretary of State to the Cuban Ambassador (Márquez Sterling)*

WASHINGTON, July 7, 1934.

EXCELLENCY: I have the honor to enclose, for Your Excellency's information, two copies of a Press Release of June 29, 1934,<sup>93</sup> containing the text of a letter<sup>94</sup> on the restriction of the exportation of arms and munitions of war to Cuba which I addressed to the President on that date, the text of the President's Proclamation<sup>95</sup> making such restrictions effective, and the text of the regulations which I have prescribed to govern the issuance of export licenses.

I invite your attention particularly to the first paragraph of these regulations which appears on page three of the Press Release. You will note that the Department will not issue a license for the export of arms and munitions of war unless it has been informed by your Embassy that it is the desire of the Cuban Government that a particular shipment be authorized. Several manufacturers and exporters have already made application for licenses in accordance with the terms of these regulations, and I presume that if they have not already done so they will communicate with you in the near future.

Accept [etc.]

For the Secretary of State:  
WILLIAM PHILLIPS

837.113/546

*The Cuban Ambassador (Márquez Sterling) to the Secretary of State*

[Translation]

No. 131

WASHINGTON, July 12, 1934.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's kind note of July 7, 1934, with which you were good enough to send me two copies of the Press Release of June 29, which contains the text of the letter on the restriction of exports of arms and

<sup>93</sup> Department of State, *Press Releases*, June 30, 1934, p. 454.

<sup>94</sup> *Supra.*

<sup>95</sup> 49 Stat. 3399.

munitions of war to Cuba addressed by Your Excellency to His Excellency the President on that date, the text of the President's Proclamation making such restriction effective, and the text of the rules prescribed by Your Excellency governing the issuance of export permits.

Your Excellency calls attention particularly to the first paragraph of the said rules, which appears on page 3 of the Press Release, whereby it is provided that the Department will not issue permits for the exportation of arms and munitions of war unless it has been advised by this Embassy that it is the desire of the Government of Cuba that their shipment be authorized.

This Embassy has requested its Government to be good enough to give it direct and specific instructions on each case when it desires the shipment of arms and munitions of war, and it is now receiving them, having accordingly transmitted some applications for shipping authorizations to Your Excellency recently.

I thank Your Excellency, in the name of my Government, for the interest that has been taken in this matter, as you note in your letter to His Excellency the President, on behalf of the maintenance of peace and tranquility in Cuba.

I avail myself [etc.]

M. MÁRQUEZ STERLING

## DOMINICAN REPUBLIC

### AGREEMENT BETWEEN THE REPRESENTATIVES OF THE FOREIGN BONDHOLDERS PROTECTIVE COUNCIL, INC., AND THE DOMINICAN REPUBLIC REGARDING THE EXTERNAL DEBTS OF THE DOMINICAN REPUBLIC<sup>1</sup>

839.51/4039

*The Minister in the Dominican Republic (Schoenfeld) to the Acting Secretary of State*

No. 1375

SANTO DOMINGO, January 3, 1934.

[Received January 8.]

SIR: Referring to my despatch No. 1360 of December 27, 1933,<sup>2</sup> in which I reported that I had urged upon the Minister of Foreign Affairs the desirability of making a further remittance at the year-end from the surplus in the Emergency Fund for amortization of the external debt, and with reference particularly to the statement of the Minister of Foreign Affairs that he would discuss the matter with President Trujillo, I have the honor to report that I inquired of the Minister of Foreign Affairs this morning as to the President's views on the subject.

Ledo. Logroño told me that he had discussed my suggestion with the President but that the latter was not inclined to take any action until the return of the Secretary of State to Washington, in view of the understanding stated to have been reached between Dr. Cestero, the Dominican Delegate at the recent Pan-American Conference at Montevideo, and Secretary Hull, to the effect that this whole matter was to be deferred pending the return of the Secretary to the United States.

The Minister of Foreign Affairs said that the President readily admitted the wholesome effect which would be produced in interested quarters by strict compliance on the part of the Dominican Government with the Emergency Law, including that article of the Law providing for the remittance of surplus accumulated in the Emergency Fund to the General Receiver for amortization of Dominican bonds. At the same time, the Minister said, the President was sanguine as to the possibility of reaching an agreement with the bondholders that would enable the Government to use this surplus for other purposes.

<sup>1</sup>For previous correspondence regarding the Dominican external debt, see *Foreign Relations*, 1933, vol. v, pp. 589 ff.

<sup>2</sup>*Ibid.*, p. 668.



As the Department is aware, the purpose which the President has in mind is the application of the surplus, or as much of it as possible, to carrying out the public works program of the Administration.

The Minister said the President was anxious also to hold the surplus as a bargaining element that might be useful in negotiating the desired debt readjustment, intimating that the depletion of the surplus by making further remittance for amortization would weaken the argument that the Dominican Government requires these funds for other purposes because of decreased revenue. I said I thought the President might be mistaken as to the value of this argument in the forthcoming negotiations, the course of which would probably be determined rather by thorough analysis of the actual financial and fiscal condition of the Dominican Government on the part of the negotiators for the bondholders than by a general assertion on the part of the Government that the funds were needed, it being known that they were to be used for public works. I added that while the President's wish to use the money for this purpose was understandable, he should not lose sight of the express terms of the Emergency Law as to disposition of these funds, nor of the obligation to comply with the Law in this respect. I did not remind the Minister that the Law itself was in admitted violation of solemn international obligations.

I pointed out to the Minister that in view of present prices of the 1942 bonds, the discreet application of say, two hundred thousand dollars of the year-end surplus in the Emergency Fund to the purchase of these bonds would make it possible to reduce the debt substantially, so that the Dominican Government would benefit not only through the saving thus effected in subsequent interest payments, but through an exceptionally large decrease in the nominal value of the debt outstanding. I called the Minister's attention to the fact that, meanwhile, only a relatively small part of the surplus had been drawing any interest from the bank in which the funds are deposited, and that consequently the funds were practically idle. I added that while the purchase of bonds at present market prices could hardly be said to be in the best interest of bondholders who might sell at prevailing prices, it would certainly be in the interest of the Dominican Government as a matter of business only, quite aside from the moral effect of having it understood that the Dominican Government was disposed strictly to comply with the Emergency Law. The Minister was quick to see this point but repeated that the President expected to take no further action in the premises until Secretary Hull returns to Washington and resumes his personal participation in the proposed negotiations.

In this relation, I beg leave to advise the Department that in conversation some days ago with Mr. Fred Q. Rickards, Internal Revenue Adviser of the Dominican Government, I learned that the unapplied

surplus in the Emergency Fund at the end of December, 1933, amounted to not less than \$424,000. When I mentioned to Mr. Rickards that I had discussed with the Minister of Foreign Affairs the possibility of a year-end remittance from the surplus for amortization, Mr. Rickards informed me that it had been "more or less understood" between the Department of State and the unofficial agents of the Dominican Government during the recent conversations in Washington, that no further remittances for amortization would be made until the entire debt question should be settled, presumably with the Central Bondholders Committee or the holders of the Dominican external debt.

As, up to the present time, the Department has not advised me of the existence of any such understanding, I have been guided with regard to this question by the Department's instruction No. 199 of August 25, 1933<sup>3</sup> (without file number), in which I was directed to bring to the attention of the Dominican Government the situation arising from the accumulation of a considerable surplus in the Emergency Fund, and the pertinent provision of the Emergency Laws, namely, Article 6 (*d*) thereof. It will be recalled from my telegram No. 35 of September 6, 1933,<sup>4</sup> and from the enclosure to my despatch No. 1263 of November 4, 1933<sup>5</sup> (p. 19, *et seq.*) that I made no formal representations to the Dominican Government in pursuance of that instruction for the reason that it seemed likely at that time that the Dominican Government would make a remittance from the surplus for amortization, as indeed was done on September 14 last, when \$100,000 was remitted for this purpose.

In view, however, of the present attitude of the Dominican Government, as reported in my despatch above cited and in the present despatch; in view of the fact that I am skeptical as to the accuracy of the Dominican Government's impression that further negotiations for the readjustment of the external debt service are being deferred at the personal request of the Secretary of State of the United States; in view of the very large surplus now accumulated and unapplied in the Emergency Fund; and in view of the recent indefinite extension of the Emergency Law, with every probability of the steady accumulation of an increasing surplus through steadily increasing customs collections from the low point in 1932, I believe that it would be prudent to make a point of keeping clear the record of the American Government's treatment of this matter, by authorizing me to deliver to the Dominican Government a note expressed substantially in the terms of the enclosed draft.<sup>6</sup>

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<sup>3</sup> *Foreign Relations*, 1933, vol. v, p. 643.

<sup>4</sup> *Ibid.*, p. 645.

<sup>5</sup> *Ibid.*, p. 655; enclosure not printed.

<sup>6</sup> Not printed.

I would recommend that I be authorized to deliver this note to the Dominican Government at the earliest date possible and preferably during the current month, for the reason, among others, that until the end of this month the note would have reference only to the surplus accumulated in the Emergency Fund during the life of the original Emergency Law. It appears desirable to make a communication to the Dominican Government in the sense of the enclosed draft note (which is in pursuance of the Department's instruction No. 199 above mentioned) for the further reason that my note of December 12, 1933, to the Minister of Foreign Affairs (copy of which was enclosed with my despatch No. 1343 of December 13),<sup>7</sup> leaves the way open for the expression of the Department's hope that the Dominican Government will comply with the Emergency Law in respect of the application of the surplus now accumulated in the Emergency Fund. The statement made on behalf of the Department in my note of December 12, with special reference to the application of the surplus, is of a strictly limited nature, in that it does not, and perhaps could not at that time, express the Department's desire that the surplus should be applied as stipulated in the Emergency Law. It now appears, however, that the Dominican Government is under the impression that the remittance of the surplus is a matter of indifference to our Government. Such a misunderstanding on the part of the Dominican Government ought, I think, to be cleared up by a more definite statement of the Department's wishes. The enclosed draft note may serve that purpose. If the Department approves this line of thought and the terms of the proposed note, I shall be glad to be so instructed by telegraph in time to deliver the note as early in the current month as possible.

Respectfully yours,

H. F. ARTHUR SCHOENFELD

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839.51/4040 : Telegram

*The Acting Secretary of State to the Minister in the Dominican Republic (Schoenfeld)*

WASHINGTON, January 13, 1934—4 p. m.

2. With reference to your despatches No. 1360 of December 27, 1933, and 1375 of January 3, 1934, we are now in position to say that the Secretary advises that he was inaccurately quoted in the statement attributed to him by Mr. Cestero. What he did state, was that he could not discuss the matter while away from the records in Washington and that on his return here he would carefully examine the

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<sup>7</sup> *Foreign Relations*, 1933, vol. v, p. 667.

memorandum handed him. You are authorized to communicate this informally to the Foreign Minister and also in the same manner make him understand that our attitude as indicated in the letters to Mr. Davies<sup>8</sup> and the Minister, copies of which you have received, remains unchanged, namely, that it is expected and assumed that they will promptly communicate with the Foreign Bondholders Protective Council relative to the matter in question. Furthermore, you can let it be understood that we will hold entirely aloof from any conferences that may be had beyond supplying any data from the Department's records that may be desired.

You may also add that we are at a loss to understand why the Dominican Government has failed to comply with the terms of Article 6 (*d*) of the Emergency Law of October 23, 1931.

PHILLIPS

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839.51/4042 : Telegram

*The Minister in the Dominican Republic (Schoenfeld) to the Acting Secretary of State*

SANTO DOMINGO, January 16, 1934—noon.

[Received 3:20 p. m.]

2. I spoke to the Minister of Foreign Affairs this morning in the sense of the Department's telegram No. 2, January 13, 4 p. m., and left with him a memorandum of my oral statement. Minister of Foreign Affairs informed me that Dominican Government would probably send to the United States in the near future Undersecretary of Finance Nicolas Vega and Fred Q. Rickard, internal revenue adviser, to begin negotiations with the Foreign Bondholders Protective Council. The Minister indicated also that the Executive power would probably remit to receiver for amortization under article 6-D of the Emergency Law at least substantial portion of the surplus in Emergency Fund. The Minister said he would probably send me a note in the near future clarifying the position of the Dominican Government in order that all concerned might be reassured of the Government's good intentions. He concluded by assuring me that none of the statements made to him on behalf of the Department this morning were "disagreeable" to the Dominican Government and said he would lose no time in communicating the substance of my informal representation to the President of the Dominican Republic who is now at Santiago.

I believe the informal statements which were made to the Minister this morning will have a very wholesome effect upon the Dominican

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<sup>8</sup> Joseph E. Davies, counsel for the Dominican Republic. Correspondence with Mr. Davies not printed.

Government's policy hereafter in that the position of our Government in relation to the financial situation here will be more precisely understood than it seems recently to have been.

SCHOENFELD

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839.51/4047 : Telegram

*The Minister in the Dominican Republic (Schoenfeld) to the Secretary of State*

SANTO DOMINGO, January 23, 1934—6 p. m.

[Received 11:27 p. m.]

3. My telegram No. 2, January 16, noon. In response to my inquiry Minister of Foreign Affairs informed me this afternoon that Dominican Government was awaiting advice from Washington as to appointment of subcommittee of Foreign Bondholders Protective Council before sending representatives to begin negotiations on Dominican debt problem and that it was anxious to begin these negotiations as soon as possible.

With reference to remittance of surplus in Emergency Fund for amortization, however, Minister of Foreign Affairs informed me that the President of the Dominican Republic intended to "fight this matter to the last" making it clear that no remittance will be made pending the result of negotiations above mentioned. This disavowal by the President of the assurances of the Minister of Foreign Affairs as reported in my telegram cited was foreshadowed especially in my despatch No. 1375, January 3 and previous correspondence.

Minister of Foreign Affairs informed me also that the President had disapproved his suggestion of sending me a clarifying note on the ground that what is now needed on the part of the Dominican Government is "Action" rather than diplomatic correspondence. He added that the President and the Dominican Government had taken my oral statement and memorandum of January 16 as a friendly intimation that action was desired. I assured the Minister that this understanding was quite correct and that it seemed to me highly desirable for the Dominican Government to expedite their proposed action in respect of the negotiations.

I did not, however, press the Minister further on the subject of remittance from surplus for amortization. Does the Department desire me to press further for this remittance? I consider it desirable to do so and in more positive terms than have been employed thus far.

SCHOENFELD

839.51/4051 : Telegram

*The Minister in the Dominican Republic (Schoenfeld) to the Secretary of State*

SANTO DOMINGO, January 25, 1934—4 p. m.

[Received 9:03 p. m.]

5. My telegram No. 3, January 25, 6 p. m. As bearing upon the Department's consideration of its policy with regard to compliance by Dominican Government with article 6 (*d*) of Emergency Law and generally in the matter of Dominican financial situation . . . informs me today in absolute confidence that President Trujillo has from time to time for some months received through Messrs. Davies or Newman,<sup>9</sup> or both, reports of oral but allegedly specific commitments taken in Washington on behalf of our Government on this subject which were evidently at variance with Department's official instructions to me. I understand, for instance, that it was reported to President Trujillo by them that specific assurances had been given them on behalf of the Department last fall that, provided Dominican Government should undertake negotiations for general settlement of debt problem "within 6 months", the American Government would not bring up the matter of further remittances for amortization pending conclusion of negotiations. I understand from . . . also that when I made to President Trujillo last September informal suggestion that remittance of \$400,000 from surplus in the Emergency Fund seemed appropriate at that time, the President consulted Messrs. Davies and Newman who reported that the American Government would consider remittance of \$100,000 satisfactory. Remittance of this amount only was accordingly made.

SCHOENFELD

839.51/4051 : Telegram

*The Secretary of State to the Minister in the Dominican Republic (Schoenfeld)*

WASHINGTON, January 27, 1934—3 p. m.

3. Reference your No. 5, January 25, 4 p. m. You are again assured that no committal of any character at variance with information and instructions furnished you has been made to Davies or Newman or to any other person by this Department or any of its officials and you have full authority to state this very emphatically whenever in your opinion occasion requires.

<sup>9</sup> Oliver Peck Newman, Financial Adviser and Special Emergency Agent for the Dominican Republic.

Mr. Newman may have gained the impression that the remittance of \$100,000 made last September was sufficient to comply with my suggestion to him as set forth in my strictly confidential telegram No. 25 of September 15th, 1933.<sup>11</sup> However, in view of the Dominican Government's determination to get in touch with the Bondholders Council as soon as possible and the representations already made by you, I do not desire you to make any further statement to the Dominican authorities with respect to the surplus in the Emergency fund unless or until otherwise instructed.

HULL

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839.51/4060 : Telegram

*The Minister in the Dominican Republic (Schoenfeld) to the Secretary of State*

SANTO DOMINGO, February 5, 1934—4 p. m.

[Received 5 : 34 p. m.]

7. My despatch No. 1419, February 1.<sup>12</sup> Rickard informs me he is leaving for Washington by air tomorrow via Miami under instructions of the President to endeavor to expedite negotiations with Foreign Bondholders Protective Council regarding Dominican debt question.

SCHOENFELD

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839.51/4105 : Telegram

*The Minister in the Dominican Republic (Schoenfeld) to the Secretary of State*

SANTO DOMINGO, April 21, 1934—3 p. m.

[Received 7 : 42 p. m.]

10. See my despatch No. 1529, April 4.<sup>12</sup> My despatch No. 1553 today<sup>12</sup> which goes forward by airmail April 23 reports information, unofficial but believed authentic, that (a) determined efforts have lately been made by the Dominican Government to enlist cooperation of American sugar interests operating in this country in endeavoring to expedite Dominican debt negotiations in the United States by giving companies assurance that proposed levy of export tax on sugar will not be effective if they will so cooperate; (b) that Mr. E. I. Kilbourne of West Indies Sugar Company left this morning for the United States by air to urge agreement as to Dominican debt service on basis desired by Dominican Government; and that (c) the President of the Republic would consider favorably suggestion by the Department

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<sup>11</sup> *Foreign Relations*, 1933, vol. v, p. 646.

<sup>12</sup> Not printed.

or by Foreign Bondholders Protective Council that expert be sent here to investigate financial and fiscal condition of Dominican Government, though the President feels he cannot make this suggestion himself.

See also last sentence, page 6, my despatch 1263, November 4, 1933.<sup>13</sup>

SCHOENFELD

839.51/4111

*The Minister in the Dominican Republic (Schoenfeld) to the Secretary of State*

No. 1565

SANTO DOMINGO, April 26, 1934.

[Received April 30.]

SIR: I have the honor to report that, in response to my inquiry as to what news the Dominican Government had of the status of the financial negotiations in the United States, the Minister of Foreign Affairs informed me this morning that President Trujillo had just received from Mr. Joseph E. Davies a copy of a pamphlet prepared by Mr. Davies setting forth the Dominican case in these negotiations.<sup>14</sup> The Minister said that the Government was much impressed with the completeness of this work.

A report had also been received, signed by the Dominican Minister at Washington and by Messrs. Davies and Newman, to the effect that they were hopeful of a successful outcome of the negotiations, although these had not been proceeding very actively in the recent past. The report, according to the Minister of Foreign Affairs, expressed gratification at the courteous attention which the Dominican negotiators had received from Mr. J. Reuben Clark, Jr., acting president of the Foreign Bondholders Protective Council, and other officials of that organization.

Respectfully yours,

H. F. ARTHUR SCHOENFELD

839.51/4141

*Memorandum by the Minister in the Dominican Republic (Schoenfeld)*<sup>15</sup>

[SANTO DOMINGO,] June 18, 1934.

I had a conversation with the Secretary of Finance, Señor Rafael Brache, on the night of June 16 in the course of which he asked me

<sup>13</sup> *Foreign Relations*, 1933, vol. v, p. 655; reference is to the sentence on p. 658 beginning "For this purpose . . .".

<sup>14</sup> Copy of the memorial dated March 23, 1934, was transmitted to the Department by Mr. Davies in a letter dated April 13, 1934; not printed (839.51/4104).

<sup>15</sup> Copy transmitted to the Department by the Minister in his despatch No. 1674, June 18, 1934; received June 25.



whether I had any news as to the progress of the Dominican external debt negotiations in the United States. When I told him that I had no recent information as to progress, he mentioned that some opposition had developed on the part of some bondholders, especially Mr. Frank H. Vedder, to the proposition of the Dominican Government for a four year moratorium in the sinking fund payments. He said he was acquainted with Mr. Vedder who had been in business in this country. The Minister said that in his opinion it was desirable in the interests of the bondholders themselves to place no obstacle in the way of the reconstruction of the Republic and to facilitate this reconstruction by President Trujillo's administration. I said to the Minister that I was confident the Bondholders Protective Council would consider this aspect of the matter in a spirit of entire fairness, although I would not advise the Government to count on the Council's sanctioning a complete suspension of sinking fund for four years. I added that the basic question seemed to be whether such a complete suspension of the sinking fund was necessary or whether, on the other hand, a rate of sinking fund payments should not be agreed on which would permit the development of the reconstruction program while at the same time providing for regular reduction of the external funded debt at a reasonable rate. The Minister thereupon said that, in his personal opinion, the continuance of some sinking fund payments might be beneficial to the Government in providing an element of financial stability and maintaining the Government's credit.

The Minister alluded to the recent protest of the sugar industry against the proposed levy of export taxes and said that he did not believe the "alarm" of the industry was justified, inasmuch as the Government had merely taken "precautionary" measures in causing the Constitution to be amended as it was recently by the Constituent Assembly. The Minister said that President Trujillo throughout his Administration had been very "fortunate" in all his measures. The Minister evidently desired me to understand that while the recent protest of the sugar industry had been a somewhat unpleasant surprise for the Government, the matter was not deemed serious in view of the assurances given by the President to the sugar companies on June 14. I said that the recent amendments to the Constitution appeared to have caused considerable repercussion in the business community, both here and in the United States, and that the situation might be thought to illustrate the wisdom of keeping in mind in matters of public policy the timeliness of any measures proposed. I said it was my impression that the Government's recent action in amending the Constitution was regarded in some quarters as having the aspect of a kind of pressure to facilitate the debt negotiations pending in the United States. The Minister pointed out that there

was no direct connection between holders of Dominican bonds, many of whom were not American citizens, and the business interests whose fears had been aroused by the Government's recent action in amending the Constitution. I asked the Minister whether information was now available as to the number and identity of individual holdings of Dominican bonds. The Minister seemed to be uninformed on this point.

The Minister said he was now studying the contract recently signed by the Haitian Government and the National City Bank of New York for the transfer to that Government of the National Bank of Haiti.<sup>16</sup> He felt there was a possibility that some similar arrangement might be made in the Dominican Republic to set up a national bank of issue and turn over certain fiscal duties and the functions of the General Receivership of Dominican Customs to it, though he said, of course, it would be expected that the present General Receiver, Mr. Pulliam, would continue to function in that capacity under any such arrangement.

I gained the distinct impression from my conversation with the Minister of Finance that the recent protest of the sugar industry against the possible imposition of export taxes and the attitude of other companies that may be affected by the newly instituted policy regarding contractual tax exemptions, were giving the Government concern and causing it at least to pause momentarily in the execution of its program. Incidentally, the Minister said that some measures had been suggested that he himself had undertaken to stop on the ground that they would cause too much alarm in the business world. He did not indicate what these measures were but, judging from rumors current here, it seems possible that they have to do with the possible establishment of certain Government monopolies under some of the newly amended provisions of the Constitution.

H. F. A[RTHUR] S[CHOENFELD]

839.51/4195

*The Dominican Minister (Despradel) to the Secretary of State*

WASHINGTON, August 7, 1934.

EXCELLENCY: Upon the direction of my government I have the honor to advise your Excellency as follows:

There has been filed with you heretofore the Memorial of the Dominican Republic presented to the Foreign Bondholders Protective Council, Inc.,<sup>17</sup> in the matter of Dominican bonds, which matter is now pending before such council.

<sup>16</sup> For the plan for the transfer of the National Bank of Haiti, see pp. 339 ff.

<sup>17</sup> Not printed.

Enclosed herewith I have the honor to hand you a copy of letter addressed by my government to the Foreign Bondholders Protective Council, Inc., together with a copy of their reply thereto.<sup>18</sup>

The proposal as made by the Dominican Republic to the Foreign Bondholders Protective Council, Inc., was prompted by an earnest desire to preserve the credit of the Dominican Republic and to preserve compliance with its obligations to foreign bondholders to the utmost degree, consistent only with its paramount duty to preserve the functions of government under the unprecedented conditions of the worldwide depression from which my government and people have suffered.

You will note that this agreement reached by the representatives of the Dominican Republic and the Foreign Bondholders Protective Council, Inc., contemplates the complete restoration of conditions existing under the outstanding bond contracts, and the present convention between my government and the government of the United States, except only as is therein provided, for the extension of the time for ultimate payment of the loan and a reduction of the percentage of the loan to be applied annually through sinking funds for the amortization of the debt. It necessarily involves the complete restoration of the operation of the customs receivership under the treaty with the United States;<sup>19</sup> the collection of customs revenues by such receivership; the payment of the sums agreed upon therein for the purposes of interest and amortization; and the turning over of the remainder each year to the Dominican Government pursuant to the original contracts.

My government also desires to give to your government the definite further assurance that it does not now nor will it at any time in the future contend that any act of forbearance heretofore done or exercised by the government of the United States in relation to the convention between the two countries or in connection with the foreign bond contracts, up to and including the present, has been in fact, or shall be in any manner construed by my government to be, a waiver by the government of the United States of any of the terms or obligations of the convention between the two governments.

My government also desires to assure you that immediately upon receipt of advices that the Department of State of the United States concurs in the judgment of the Foreign Bondholders Protective Council, Inc.; that the proposal made is in the interest of the bondholders and fair to the Dominican Republic, it will immediately repeal the emergency legislation heretofore enacted in connection with collection of customs revenues, and the appropriation thereof for the preservation of government functions.

I take [etc.]

ROBERTO DESPRADEL

<sup>18</sup> See letters exchanged August 10 and 11, 1934, Foreign Bondholders Protective Council, Inc., *Annual Report*, 1934, pp. 59-62.

<sup>19</sup> Convention of December 27, 1924, *Foreign Relations*, 1924, vol. I, p. 662.

839.51/4195

*The Acting Secretary of State to the Dominican Minister (Despradel)*

WASHINGTON, August 16, 1934.

SIR: I have the honor to acknowledge the receipt of your note dated August 7, 1934, in which you advise me that after full consultation and discussion with the Foreign Bondholders Protective Council, Incorporated, the Government of the Dominican Republic will voluntarily make to the holders of its foreign dollar bonds a proposal for the future settlement thereof which involves the reestablishment of the full treaty situation under the Convention between the two Governments of December 27, 1924, the payment of the full interest on the outstanding bonds, the making of amortization payments for the current and future years so as to provide a definite plan for the complete amortization of both bond issues, and other undertakings set out in the proposal.

It is with particular pleasure and approval that I have observed your statement that the Government of the Dominican Republic has determined, subject to the terms of the new proposal, immediately to reestablish the full treaty situation, which it modified in 1931; that it will at once repeal the Dominican legislation known as the Emergency Laws inconsistent therewith; and that these measures will bring about the immediate and complete restoration to the general receiver of customs of his full treaty functions in accordance with such proposal. I also observe with satisfaction that the Dominican Government will at no time in the future contend that any act of forbearance heretofore done or exercised by the Government of the United States in relation to the convention between the two countries in connection with the foreign bond control, up to and including the present, has been in fact or shall be in any manner construed by your government to be a waiver by the Government of the United States of any of the terms or obligations of the said convention between the two governments.

I have been much gratified to receive from the Foreign Bondholders Protective Council, Incorporated, a letter<sup>20</sup> stating that the Council has carefully studied the proposal of your Government and that it "has reached the conclusion that considering all the facts and circumstances involved, the proposal of the Dominican Government seems to the Council fair to the Dominican Republic and its people and consistent with the broad equities and long-view interests of the bondholders, being indeed, in some respects, distinctly advantageous to them over their present situation". It is with especial pleasure that I

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<sup>20</sup> For text of letter dated August 15, 1934, see Foreign Bondholders Protective Council, Inc., *Annual Report*, 1934, p. 62.

observe this favorable conclusion of the negotiations in which you have engaged.

It seems to me that it should be a matter of great satisfaction and pride to the Dominican people and to your Government that during this period of world depression your Government has maintained prompt payment of full interest on its foreign obligations, and that it now demonstrates its purpose to comply with amortization requirements on bond contracts by making such provision therefor as it feels it is able to make for the protection of the holders of its foreign bonds. In the substantial effort which the Dominican Government is thus making to meet, as far as it feels able, its pledged faith on its financial obligations, the Dominican Government has set an example worthy of emulation.

Accept [etc.]

WILLIAM PHILLIPS

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[For texts of statements issued August 16, 1934, by Mr. Davies and by the Department of State, see Foreign Bondholders Protective Council, Inc., *Annual Report*, 1934, pages 66-67. For text of statement issued August 17, 1934, by the Bondholders Council, see *ibid.*, page 57. The Dominican law No. 742, August 23, 1934, repealed the emergency legislation; for text of law, see Dominican Republic, *Gaceta Oficial*, August 25, 1934, page 3.]

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**SETTLEMENT BY DOMINICAN GOVERNMENT OF CLAIM FOR MURDER OF EDUARDO COLOM Y PIRIS, AN AMERICAN CITIZEN, WITHOUT REGARD TO LEGAL LIABILITY**

439.11c Colom, Eduardo/27

*The Secretary of State to the Minister in the Dominican Republic (Schoenfeld)*

No. 241

WASHINGTON, March 27, 1934.

SIR: Reference is made to despatch No. 1142 of September 5, 1933,<sup>21</sup> and to previous correspondence from your Legation, regarding the murder in the Dominican Republic of Eduardo Colom y Piris, an American citizen.

It appears from the record in this case that Colom was arrested on April 29, 1933, while in the Duarte Park in San Pedro de Macorís, on account of certain alleged remarks concerning the President of the Dominican Republic, which remarks, if made, and if they could be construed as an offense under the laws of the Dominican Republic, must have constituted a minor offense. It further appears that, while

<sup>21</sup> Not printed.

Colom was being held in jail awaiting investigation or trial he was secretly removed therefrom by Lieutenant Sindulfo Benavides Minaya, an officer of the Corps of Aides to the President of the Dominican Republic, and was summarily executed by such officer without any pretense of legal justification therefor, except alleged statements derogatory to the President. Sindulfo Benavides Minaya must have been in charge of the jail or have been assisted in obtaining custody of the victim by the official who was in charge of it. In these circumstances, this Government has no other alternative than to hold the Dominican Government responsible for the death of the American citizen in question. This fact is not modified, in any way, by the circumstance of the killing of Minaya during an alleged attempt to escape while under arrest awaiting trial for the murder of Colom.

In this connection, special reference is made to the decisions of the General Claims Commission, United States and Mexico, in the not entirely dissimilar cases of Francisco Quintanilla *et al.*, and of Thomas H. Youmans.<sup>22</sup>

In the Quintanilla case, a Mexican citizen had been taken into custody by an American deputy sheriff and later found murdered. Although there was no evidence to indicate that the murder had been committed by the deputy sheriff, the Commission held that:

“under international law these circumstances present a case for which a Government must be held liable. . . .<sup>23</sup> The Government can be held liable if it is proven that it has treated him [the foreigner]<sup>24</sup> cruelly, harshly, unlawfully; so much the more it is liable if it can say only that it took him into custody—either in jail or in some other place and form—and that it ignores what happened to him.”

The circumstances in the Youmans case were briefly as follows:

Youmans and his companions had been attacked by a mob of Mexicans who had surrounded a house in which they had sought refuge. After endeavoring unsuccessfully to quiet the mob, the mayor of the municipality had ordered that state troops proceed to the scene of the disturbance to quell the riot. Upon arriving at the scene of the riot, the troops, instead of dispersing the mob, opened fire on the house, causing the death of one of the Americans. Several members of the mob approached the house from the rear and set fire to the roof. Youmans and his remaining companions were forced to leave the house and, as they did so, were killed by the troops and members of the mob. In holding the Mexican Government responsible in damages for the deaths resulting from failure to provide adequate

<sup>22</sup> General Claims Commission, United States and Mexico, 1923, *Opinions of Commissioners* (1927), p. 136, docket 532, and p. 150, docket 271.

<sup>23</sup> Omission indicated in the original instruction.

<sup>24</sup> Brackets appear in the original instruction.

protection to the murdered men and for the action of the troops in participating in the murder, the Commission said:

“Evidence before the Commission does not disclose whose weapons killed the Americans, but the participation of soldiers with members of the mob is established. It cannot properly be said that adequate protection is afforded to foreigners in a case in which the proper agencies of the law to afford protection participate in murder.”

These are but two of many available evidences of the applicable principle of international law which establish the existence of liability for wrongful death of foreigners at the hands of officials, under such circumstances as obtained in this case.

Whereas, in the two cases just mentioned, there was no evidence to show that the deaths in question resulted from the acts of the respective officials involved, it seems to be clearly established in the present case, by the confession of the murderer as well as by other evidence, that the murder was the act of an official of the Government of the Dominican Republic who was charged by that Government with the duty of protecting the life which he destroyed.

You will, therefore, present to the Foreign Office a formal claim for the death of Colom in the sum of \$5,000 and give expression to this Government's hope and expectation that this most revolting murder will be properly disavowed and requited by the prompt payment of the indemnity so clearly owing to the heirs of the deceased.

Very truly yours,

For the Secretary of State:  
R. WALTON MOORE

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439.11c Colom, Eduardo/32

*The Minister in the Dominican Republic (Schoenfeld) to the  
Secretary of State*

No. 1531

SANTO DOMINGO, April 5, 1934.

[Received April 9.]

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 241 of March 27, 1934 (File No. 439.11[c] Colom, Eduardo/25 [27]), and its two enclosures, regarding the murder in the Dominican Republic of Eduardo Colom y Piris, an American citizen, and instructing the Legation to present to the Foreign Office a formal claim for the death of Colom in the sum of \$5,000.

In accordance with the Department's instruction, I have transmitted a note, No. 162 of April 4, 1934, to the Minister of Foreign Affairs, together with copies of the two enclosures to the Department's instruction. A copy of that note is enclosed herewith,<sup>26</sup> but without its enclosures since they are in the files of the Department.

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<sup>26</sup> Not printed.

When I discussed with the Minister of Foreign Affairs yesterday the matter of the presentation of a formal diplomatic claim in this case, Lcdo. Logroño showed great concern. In referring to my instructions to present the claim, I told the Minister that it was a source of personal regret to me to be obliged, for the first time during my service at this post, to make such a demand upon the Dominican Government, intimating at the same time that the necessity for doing so was the more deplorable in view of the circumstances in which Colom was murdered. The Minister's concern seemed to have reference, however, rather to the general moral effect of this incident upon the prestige of General Trujillo's administration and upon its credit in pending financial negotiations in the United States, than to contrition for the inherent brutality of the crime itself and the possibility of its constituting a revelation of the methods sometimes said to be used here in suppressing what is deemed to be political opposition either in act or speech.

Respectfully yours,

H. F. ARTHUR SCHOENFELD

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439.11c Colom, Eduardo/33

*The Secretary of State to the Minister in the Dominican Republic  
(Schoenfeld)*

No. 249

WASHINGTON, April 18, 1934.

SIR: The receipt is acknowledged of your confidential despatch, No. 1531 of April 5, 1934, with which you enclose a copy of your note, No. 162 of April 4, 1934,<sup>27</sup> to the Dominican Minister of Foreign Affairs, in which you present to his Government a formal claim for the murder in the Dominican Republic of Eduardo Colom y Piris, an American citizen, in the sum of \$5,000. The Department notes your statements as to the attitude of the Minister of Foreign Affairs at the time you discussed this case with him on April 4 last.

As you are aware, the purpose of demanding indemnity in this class of cases is not only that of recovering damages for the injured nationals, but also that of indirectly extending protection to other nationals by way of impressing upon the delinquent governments the seriousness of permitting to exist conditions which place in jeopardy the lives and fortunes of foreign nationals. From the standpoint of both of these objectives, it is desired that you keep this case before the attention of the Foreign Office in the sense of the instruction No. 241 of March 27, 1934, and that you press for a settlement thereof.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

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<sup>27</sup> Note No. 162 not printed.



439.11c Colom, Eduardo/35

*The Minister in the Dominican Republic (Schoenfeld) to the Secretary of State*

No. 1622

SANTO DOMINGO, May 23, 1934.

[Received May 28.]

SIR: I have the honor to refer to the Department's instruction No. 249 of April 18, 1934, (File No. 439.11 C Colom, Eduardo/32 [33]), and to previous correspondence with regard to the presentation to the Dominican Government of a formal claim for the murder in the Dominican Republic of Eduardo Colom y Piris, an American citizen, and to inform the Department that since the presentation of this claim by means of my note of April 4 I have had several conversations with the Minister of Foreign Affairs on the subject.

The Minister of Foreign Affairs has repeatedly informed me orally that the Dominican Government's action in this case would be favorable. On one occasion, in discussing the case on April 26 last he stated that, although the Dominican Government's view of the question was that it had no liability, he believed that in view of the relatively small indemnity demanded and the desire of the Dominican Government to have no question outstanding with our Government that might impede the settlement of other important matters pending with the United States, it was nevertheless likely that the indemnity demanded would be paid.

Today, the Minister of Foreign Affairs told me that he had prepared his recommendations on the subject and submitted them to the President some time ago. I assume that his recommendations were in line with his oral statements above reported. Lcdo. Logroño added that the President had turned over to the Legal Adviser of the Executive Power the file in this case in order to obtain that official's opinion. The Minister expected, however, that the Legal Adviser's opinion would be rendered very shortly and he intended as soon as that opinion was available to send an official reply to my note of April 4.

Respectfully yours,

H. F. ARTHUR SCHOENFELD

439.11c Colom, Eduardo/41

*The Minister in the Dominican Republic (Schoenfeld) to the Secretary of State*

No. 1807

SANTO DOMINGO, August 8, 1934.

[Received August 13.]

SIR: Referring to my despatch No. 1749 of July 19, 1934,<sup>28</sup> and previous correspondence, regarding a claim in the amount of \$5,000

<sup>28</sup> Not printed.

against the Dominican Government for the murder last year of Eduardo Colom y Piris, an American citizen, I have the honor to report that in conversation with the Minister of Foreign Affairs today I referred, as reported in greater detail in my despatch No. 1803 of today,<sup>28a</sup> to the number of cases affecting the personal rights of American citizens, which had not been satisfactorily settled by the Foreign Office. The Colom y Piris case was mentioned incidentally in this connection. The Minister of Foreign Affairs, without referring explicitly to this case, intimated that he was encountering difficulty in formulating the position of the Dominican Government as to it. He gave me quite clearly to understand that the difficulties in question were related to the attitude of President Trujillo himself, though the Minister did not say so, and assured me that he would do his best to bring this matter to a satisfactory conclusion.

Respectfully yours,

H. F. ARTHUR SCHOENFELD

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439.11c Colom, Eduardo/46

*The Secretary of State to the Chargé in the Dominican Republic  
(Brown)*

No. 272

WASHINGTON, September 8, 1934.

SIR: The receipt is acknowledged of the Legation's confidential despatch No. 1807 of August 8, 1934, with further reference to a claim in the amount of \$5,000 against the Dominican Government for the murder of Eduardo Colom y Piris. Note is made of the statement regarding the difficulties that have been encountered in obtaining a settlement of this case.

Without in anywise compromising the Minister of Foreign Affairs, would it be possible for you discreetly to ascertain the basis for the supposed attitude of President Trujillo in regard to this case, in order that consideration might be given to a practicable means of meeting the situation. In the meantime, it would seem desirable to press for a settlement of the claim upon every favorable opportunity.

In this relation reference is made to a conversation between Assistant Secretary Welles and Señor Don Rafael Brache, Minister of Finance, at the time of his visit to the Department a few weeks ago, in which Señor Brache assured Mr. Welles that immediate and favorable action would be taken on this claim by the Dominican Government, and you might discreetly mention this to the Minister of Foreign Affairs when discussing this case.

Very truly yours,

For the Secretary of State :  
SUMNER WELLES

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<sup>28a</sup> Not printed.

439.11c Colom, Eduardo/49

*The Chargé in the Dominican Republic (Brown) to the Secretary of State*

No. 1916

SANTO DOMINGO, September 26, 1934.

[Received October 1.]

SIR: With further reference to the Department's confidential instruction No. 272 of September 8, 1934, file No. 439.11-C. Colom, Eduardo/41 [46], and to the Legation's despatch No. 1902 of September 19, 1934,<sup>29</sup> in regard to the claim against the Dominican Government for the murder of Eduardo Colom y Piris, I have the honor to report that I again spoke to the Minister of Foreign Affairs today in regard to the case.

Lcdo. Logroño stated that he was preparing a draft of a note in the matter for submission to the President for the latter's approval and that he believed the note would be transmitted to the Legation before October 3 next. It will be recalled that Lcdo. Logroño has made similar promises on several previous occasions.

He indicated that the note would probably be brief and would only contain an acknowledgment of the Legation's note of April 4 and a statement to the effect that the Dominican Government, in paying the indemnity, did so to comply with what might be considered international obligations, although the Government would admit no responsibility in the matter. He added that in his opinion the responsibility of the Dominican Government in this case was not of greater import than would be the responsibility of a householder whose servant broke a window in a neighboring house. He stated that he had discussed the matter with the President on the evening of September 20 and that the President's views concurred with what he had just told me. It would appear that the Dominican Government may be having difficulty in expressing an admission, and at the same time a denial, of responsibility in the matter.

In a general way, I gathered that the difficulty encountered by the Minister of Foreign Affairs in formulating a note to the Legation may also be concerned with the fear that, in answering the Legation's note of April 4, the Dominican Government might imply complicity of the higher authorities in the death of Colom y Piris, a serious matter, whereas the Dominican Government apparently considers the killing of Colom y Piris as an unauthorized act of a subordinate official of the Government, and therefore, a minor matter, not involving the responsibility of the higher authorities to an appreciably greater extent than the killing of Colom y Piris by a private person would have involved their responsibility.

<sup>29</sup> Despatch No. 1902 not printed.

The Minister of Foreign Affairs went on to say, with general reference to the Colom y Piris case, that a matter of major importance to the Dominican Government, that of its funded debt, which had been pending, he said, for a year and a half, had necessarily influenced the Government's attitude toward other matters which he classed as of secondary importance. This rather frank statement on the part of Lcdo. Logroño again confirms previous reports by the Legation that action was intentionally delayed on matters pending between our Government and the Dominican Government, owing to the presumed lack of attention on the part of our Government, which the Dominican Government appears to have believed should have been given by our Government, to expediting the negotiations concerning the Dominican funded debt.

While what I have been able to learn would not appear to be conclusive, the supposed attitude of President Trujillo in regard to the Colom y Piris case has probably been of a two-fold nature. It was probably based in part, until the termination of the debt negotiations,<sup>30</sup> on his unfavorable general attitude toward matters pending between our Government and the Dominican Government because of the delay in obtaining a re-adjustment of the service of the funded debt, satisfactory to the Dominican Government. In addition, however, his supposed attitude in regard to the case, from the beginning of it, has probably been based in large part on his desire not to acknowledge the responsibility of the Dominican Government.

Respectfully yours,

JAMES E. BROWN, JR.

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439.11c Colom, Eduardo/59

*The Secretary of State to the Chargé in the Dominican Republic  
(Brown)*

No. 278

WASHINGTON, October 24, 1934.

SIR: The receipt is acknowledged of your confidential despatch No. 1916 of September 26, 1934, with further reference to the claim against the Dominican Republic for the murder of Eduardo Colom y Piris.

Since it appears from your despatch that the Dominican Government might pay the claim if it could be done without an admission of legal liability on its part, you are requested informally to advise the Minister for Foreign Affairs that the Department would be disposed to consider the matter concluded by payment of \$5,000 as a solatium and without regard to the question of legal liability.

Very truly yours,

For the Secretary of State:

SUMNER WELLES

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<sup>30</sup> See pp. 189 ff.

439.11c Colom, Eduardo/63

*The Chargé in the Dominican Republic (Brown) to the Secretary of State*

No. 2008

SANTO DOMINGO, November 17, 1934.

[Received November 26.]

SIR: With reference to the Department's confidential instruction No. 278 of October 24, 1934, (File No. 439.11 C Colom, Eduardo/52 [59]), and to the Legation's confidential despatch No. 1976 of October 31, 1934,<sup>31</sup> concerning the claim against the Dominican Republic for the murder of Eduardo Colom y Piris and concerning the Department's instruction to me to advise the Minister of Foreign Affairs informally that our Government would be disposed to consider the matter concluded by payment of \$5,000 as a solatium and without regard to the question of legal liability, I have the honor to enclose a copy with translation of a note from the Minister of Foreign Affairs, dated November 17, 1934, with which was transmitted a New York draft, also enclosed, in the amount of \$5,000 payable to the order of the Secretary of State of the United States of America. There is enclosed, in addition, a copy of the Legation's note of November 17, 1934,<sup>32</sup> in acknowledgment of the note from the Minister of Foreign Affairs.

The attention of the Department is respectfully called to the second paragraph of the note from the Minister of Foreign Affairs.

For the Department's information, I beg leave to report that on November 12 I spoke about this matter to the Minister of Foreign Affairs and advised him informally, as I had previously advised the Under Secretary of Foreign Affairs on October 31, of our Government's disposition toward the case, in accordance with the Department's instruction under reference. The Minister of Foreign Affairs stated that he had been informed of the matter by the Under Secretary and that he would speak to the President about it at once. He added that he would let the Legation have an answer within a few days, as has been done.

Respectfully yours,

JAMES E. BROWN, JR.

[Enclosure—Translation]

*The Dominican Minister for Foreign Affairs (Logroño) to the American Chargé (Brown)*

SANTO DOMINGO, November 17, 1934.

MR. CHARGÉ D'AFFAIRES: I am pleased to enclose check number 42347, of The National City Bank of New York, of November 17, in the

<sup>31</sup> Latter not printed.<sup>32</sup> Not printed.

amount of \$5,000.00, issued to the order of the Honorable the Secretary of State of the United States.

Said sum is to be furnished, in accordance with our conversations concerning the matter, as a generous aid of my Government to the legal representatives of the family of Mr. Eduardo Colom [y] Piris, of North American nationality, murdered at the city of San Pedro de Macorís in April of 1933 by a Dominican, a crime which the Government of the Republic was most prompt in lamenting and prosecuting and for which it has repudiated liability of any sort on every occasion.

I am [etc.]

ARTURO LOGROÑO

## ECUADOR

### DISINCLINATION OF THE DEPARTMENT OF STATE TO AUTHORIZE REPRESENTATIONS ON BEHALF OF MISSIONARIES DENIED PERMISSION TO TAKE UP RESIDENCE IN ECUADOR

322.1163/1

*The Minister in Ecuador (Dawson) to the Secretary of State*

No. 1621

QUITO, November 12, 1934.

[Received November 22.]

SIR: I have the honor to advise the Department that Mr. George Kinkel, an American missionary residing in Guayaquil, has through the Consulate General inquired if the Legation can use its good offices with the Ecuadoran Government with a view to obtaining permission for three missionaries to reside in Ecuador. The circumstances as submitted to the Legation are as follows:

Mr. Kinkel represents an organization known in Guayaquil as the Unión Misionera Evangélica and which, according to my information, is maintained by the Gospel Missionary Union with headquarters in Kansas City. This organization desires to send to Ecuador as missionaries Miss Edith Kruse, Miss Mabel Alton, and Miss Alice Schlueter. The Ecuadoran Consulate General in New York, to which application was made for visas, stated that special permission would have to be obtained from the Ecuadoran Minister of Government. On October 19, 1934, Mr. Kinkel applied to the Minister of Government for the necessary permission in a communication in which he stated that, while his organization calls its representatives missionaries, they are not "religiosos" (members of any religious order); and that they teach the poor to read, etc., giving them spiritual instruction concerning a better life. Under date of October 25, the Minister of Government informed Mr. Kinkel that he had telegraphed the Governor of Guayas authorizing the entrance of the three ladies in question for a period of forty days.

Mr. Kinkel has requested the Consulate General to bring the matter to the attention of the Legation in the hope that authorization for a longer residence can be obtained.

In reply, I have informed the Consulate General that the Legation is unable to take any action without instructions from the Department and that the circumstances are being brought to the Department's attention.

*Ecuadoran Legislation.*

It is presumed that the action of the Minister of Government in granting permission for only forty days was taken under a decree of September 22, 1927,<sup>1</sup> which reads in translation as follows:

Art. 1. It is declared that by Art. 5 of the Law of Worship (*Ley de Cultos*) there is definitively prohibited the immigration, individual or collective, of foreign religious persons (*religiosos*), whatever may be the Religious Community, Order, or Congregation to which they belong.

Art. 2. It is likewise declared that the prohibition set forth in Art. 6 of the said Law refers also to the foundation or establishment of Religious Communities, Orders, or Congregations and Novitiates in the towns where they did not formerly exist.

Art. 3. The Minister of the Interior and Police, who is charged with the execution of the present Decree, may, in exceptional cases, permit the entrance of a foreign religious person (*religioso*) into the country for a period which shall not exceed forty days.

The foregoing decree was issued for the purpose of clarifying Articles 5 and 6 of the Law of Worship of October 13, 1904, which read as follows:

Art. 5. In conformity with the Constitution, the immigration of religious communities is prohibited.

Art. 6. The foundation of new religious orders is likewise prohibited as is also the novitiate for the future in convents providing for perpetual retirement or a contemplative life.

As will be observed, Articles 5 and 6 of the Law of Worship refer specifically to religious communities or orders. Art. 1 of the decree of September 22, 1927, prohibits the immigration of "religiosos", a word which in its broader sense may mean a "religious person" and is used more specifically as designating members of religious orders. That the decree is directed primarily against members of religious orders would seem to be indicated by the phrase "whatever may be the Religious Community, Order, or Congregation to which they belong" as well as by the text of Art. 5 of the Law of Worship. However this may be, it appears that in practice the Ecuadoran Government has interpreted the decree of September 22, 1927, as prohibiting the immigration of clerical persons, both regular and secular, and that the decree has been rather strictly enforced against the clergy of the Catholic Church. On the other hand, it seems that for many years Protestant missionaries have experienced little or no difficulty in entering Ecuador for residence.

<sup>1</sup> Ecuador, *Registro Oficial*, September 24, 1927, p. 4366.



*Attitude Towards Protestant Missionaries.*

The recent action of the Minister of Government in reply to Mr. Kinkel's application would seem to indicate a change in the official attitude towards Protestant missionaries.

I have discussed the matter with Mr. John D. Clark, a British subject, who has resided in Ecuador for a number of years on behalf of the Christian and Missionary Alliance, of New York City. This is the most important of the Protestant missionary organizations represented in Ecuador. Mr. Clark informs me that up to very recently persons sent to Ecuador for missionary work by his organization experienced no difficulty in obtaining visas from Ecuadoran consular officers in the United States and were admitted without question on arrival. He states, however, that in August of this year the local authorities in Guayaquil were criticized for having admitted without special permission Mr. Robert B. Brown, a member of the New York Board of the Alliance, who visited Ecuador temporarily, and whose admission as a tourist was subsequently authorized by the Minister of Government. Early in September, the Guayaquil authorities detained pending authorization of the Minister a missionary, Mr. D. F. Siemens, who had previously resided in Ecuador and was returning from a vacation in the United States. Mr. Siemens had been granted a visa by the Ecuadoran consular representative in Los Angeles and his readmission was eventually authorized by the Minister of Government.

Mr. Clark believes that there is a tendency on the part of the authorities to interpret and apply existing legislation more strictly as respects Protestant missionaries. He said that this might be due to opposition to their activities on the part of either Catholics or Socialists.

In discussing the matter with Mr. Clark, I made it very plain that I was merely seeking information and that he must not assume that the Legation would be in a position to take the matter up with the Ecuadoran Government.

*Conclusion.*

While it might appear that there is some room for argument as to whether Protestant missionaries are "religiosos" within the meaning of the decree of September 22, 1927, it is probable that the Ecuadoran Government will hold that the interpretation of Ecuadoran legislation is a question for its decision and that, if it chooses to place restrictions on the entrance of Protestant missionaries, it has the right to do so provided there is no discrimination as respects nationals of different countries.

I am inclined to doubt if it would be advisable or serve any useful purpose for the Legation to make any representations, informal or

otherwise, in behalf of Mr. Kinkel or in any other similar cases in which Protestant missionaries may be denied permission to reside in Ecuador.

In this connection, it may be recalled that, although a liberal, the present President of Ecuador was elected with the support of the Conservative Party which is ardent in its attachment to the Catholic Church.

Respectfully yours,

WILLIAM DAWSON

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322.1163/1

*The Secretary of State to the Minister in Ecuador (Dawson)*

No. 309

WASHINGTON, December 8, 1934.

SIR: The receipt is acknowledged of your despatch No. 1621 of November 12, 1934, relative to the request for assistance from Mr. George Kinkel, an American missionary residing in Guayaquil, in obtaining permission for three missionaries to reside in Ecuador.

In reply, you are advised that the Department is entirely in accord with your views that the interpretation of Ecuadoran legislation is a question for the decision of the Government of Ecuador and that, if the latter chooses to place restrictions upon the entrance of Protestant missionaries, it has the right to do so, provided there is no discrimination as among the nationals of different countries, and that it would be inadvisable for the Legation to make any representations in behalf of Mr. Kinkel or in any other similar cases in which missionaries may be denied permission to take up residence in Ecuador.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

## EL SALVADOR

### RECOGNITION OF THE MARTÍNEZ GOVERNMENT OF EL SALVADOR BY GUATEMALA, HONDURAS, AND NICARAGUA, AND BY THE UNITED STATES<sup>1</sup>

816.01/344a : Telegram

*The Acting Secretary of State to the Secretary of State*<sup>2</sup>

WASHINGTON, January 3, 1934—2 p. m.

2. We have in mind a plan for dealing with the abnormal situation in Central America arising out of non-recognition of the Martínez regime which we would like to submit for your comment and suggestions in the light of any talks you may have had at Montevideo. If you approve we will take it up with the President and, subject to his authorization, broach it in Central America.

As you will recall, Martínez came into power in December, 1931, following a revolution. Having been Minister of War at the time of the revolution he was clearly barred from recognition under the terms of the Central American 1923 General Treaty of Peace and Amity.<sup>3</sup> The other four Central American states declined to recognize him, and the United States, while of course not a party to the Treaty, nevertheless declined recognition, in line with our policy of supporting the efforts of the Central American states to discourage revolution in their countries. Salvador and Costa Rica both denounced the Treaty, their denunciation taking effect January 1 of this year. The Treaty, under its terms, remains in effect among the other three states. We are now advised that Costa Rica has recognized Martínez as of January 1.

The plan we have in mind to deal with this situation is as follows: That agreement be reached between the Presidents of Guatemala, Honduras and Nicaragua providing in effect that, in view of the denunciation by Costa Rica and Salvador of the Treaty, and pending a revision of that Treaty, the three Presidents declare that their Govern-

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<sup>1</sup> For previous correspondence, see section entitled "Refusal of the United States To Recognize the Martínez Regime in El Salvador," *Foreign Relations*, 1933, vol. v, pp. 678 ff.

<sup>2</sup> The Secretary of State was at Santiago, Chile, returning from Montevideo, Uruguay, where he had served as Chairman of the American delegation to the Seventh International Conference of American States, December 3-26, 1933.

<sup>3</sup> *Conference on Central American Affairs, Washington, December 4, 1922-February 7, 1923* (Washington, Government Printing Office, 1923), p. 287.

ments, while regarding the Treaty as being in force with respect to the relations maintained by the three states with each other, do not regard it as being in force with respect to the relations of those states with Costa Rica and Salvador. Following the signature of such an agreement, the three Governments in question would extend recognition to the Martínez Government; the United States would extend recognition simultaneously. The agreement between the three Presidents would also provide for the calling at a later date of another Conference of the Central American states to consider a revision of the General Treaty of Peace and Amity and such action relating to the other treaties signed in 1923 as might appear appropriate. It is our idea that this subsequent Conference should not be held in Washington. If the Central American states desired us to be present unofficially as observers, we would of course be willing to do this and to assist in any way we appropriately could.

Our thought is to broach this plan informally to President Sacasa of Nicaragua through Minister Lane, with the suggestion that Sacasa, if the idea appeals to him, either might put it forward as his own initiative with the Presidents of Guatemala and Honduras; or, if Sacasa preferred, Mr. Lane could visit Guatemala (Minister Hanna is absent) and suggest to President Ubico that he take the initiative in the matter.

It would be our consistent purpose throughout the suggested negotiation to have the initiative taken by the Central American States and to have any suggestions emanating from us regarded as strictly confidential. Our participation in the matter, consequently, would be strictly behind the scenes. If the plan is carried out, the obvious advantages are the possibility of immediate recognition of the Government of Salvador by our own Government after such action had been taken by the other Central American Governments and subsequently the amendment of the principal treaties and conventions of 1923 in such a manner as experience has shown to be desirable to those of the Central American Governments as wish their continuance.

Please cable your views.

PHILLIPS

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816.01/347 : Telegram

*The Secretary of State to the Acting Secretary of State*

SANTIAGO, January 5, 1934—4 p. m.

[Received 4:26 p. m.]

For Phillips from Hull. Your January 3, 5 [2] p. m. I am interested in proposed Salvadoran recognition plans. There was no definite effort to bring out this matter at Montevideo. The Central

American delegations did not undertake to discuss it with me to this end. The Salvadoran delegate did urge recognition and I indicated kind feelings toward his government but offered no definite comment on recognition. Sorry cannot offer any light. However, from this distance I can see no objection to submitting this to the President for his approval.

Sailing from Valparaiso Saturday 8 p. m.

HULL

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816.01/348

*The Assistant Secretary of State (Welles) to President Roosevelt*<sup>4</sup>

WASHINGTON, January 8, 1934.

MY DEAR MR. PRESIDENT: I am submitting for your consideration, with the approval of the Secretary of State, who has been consulted by cable, a suggested procedure for arriving at the recognition of the present government of El Salvador by the United States.

The Central American countries, meeting in Washington, in 1923, at the invitation of the Government of the United States, signed a Treaty of Peace and Amity, intended principally to discourage revolution, in which, among other things, they agreed not to recognize as president, in the case of a Central American Government coming into power through a revolution or *coup d'état*, anyone who had been a leader of the revolution or *coup d'état* or who had held a cabinet office in the six months preceding the revolution or *coup d'état*.

In December, 1931, a military revolt in El Salvador resulted in the elevation to the presidency of General Maximiliano Hernández Martínez. Since General Martínez had been Minister of War until within two or three days prior to the revolution, the other Central American Republics declined to recognize him as President. In accordance with a policy, already announced and well established, of supporting the Treaty, the United States also declined to recognize General Martínez.

Subsequently, however, both El Salvador and Costa Rica denounced the Treaty in accordance with provisions contained therein, to take effect as of January 1, 1934, and on that date Costa Rica extended recognition to the government of General Martínez. His government is still unrecognized by Guatemala, Honduras, Nicaragua, and by the United States.

In view of the denunciation of the Treaty by El Salvador and Costa Rica, it is suggested that the three remaining Central American

<sup>4</sup>A photostatic copy of this letter, filed under 816.01/350, bears the notation, "OK FDR."

countries, to which the Treaty still applies, Guatemala, Honduras and Nicaragua, might agree among themselves to regard the Treaty as being in force with respect to the relations maintained by said three States with each other, but not in force with respect to the relations of those States with Costa Rica and El Salvador. Since the Treaty is the only obstacle to recognition of El Salvador, the agreement not to apply its terms to countries that have denounced it would be followed by the recognition of the present government of El Salvador by the three Central American countries mentioned, and by the United States.

The agreement would also contemplate the calling, at some future date, of another conference of the Central American States to consider a revision of the General Treaty of Peace and Amity and such action relating to the other treaties signed in 1923 as might appear appropriate. It is believed that such a conference should be held in some other place than Washington; and that the United States should take no active or leading part in the proceedings, while holding itself ready to lend unofficial aid or counsel, in the role of an observer, if requested to do so by the Central American States.

It is the intention, if the present plan meets your approval, to instruct Minister Lane, in Nicaragua, to suggest it informally to President Sacasa with the suggestion that the latter, if the idea appeals to him, put it forward as his own initiative with the Presidents of Guatemala and Honduras.

It would be our purpose throughout the suggested negotiation to have the initiative taken by the Central American States and to have any suggestions emanating from this country regarded as strictly confidential.

Reports from El Salvador indicate that General Martínez has given his country a relatively efficient government and is strongly supported by public opinion. His government has been recognized by a majority of the principal nations of the world. There are indications that the three Central American Governments which have not recognized El Salvador would be glad to extend recognition if they could do so consistently with their treaty obligations. The procedure suggested herein, by leading to the recognition of El Salvador by the three Republics of Central America which have withheld recognition, and by the United States, would constitute another and important step in the establishment of normal, friendly relations among all the nations of America.

Faithfully yours,

SUMNER WELLES

713.1311/190 : Telegram

*The Minister in Nicaragua (Lane) to the Acting Secretary of State*

MANAGUA, January 8, 1934—8 p. m.

[Received January 9—12:56 a. m.]

2. Chargé d'Affaires of Honduras informed me confidentially this morning that he had been instructed by his Government to ascertain the point of view of Nicaraguan Government regarding Costa Rican denunciation of Central American treaty of 1923 and also to obtain the opinion of this Legation. Dr. Gomez Osorio added that he had conferred with President Sacasa and that both had the following impression:

1. As under article 18 of treaty denunciations would not appear possible until January 1, 1934, no denunciation can take effect until one year after that date (January 1, 1935).

2. Treaty is thereby violated by Costa Rican action but is not broken. I told Chargé d'Affaires that the interpretation of the terms of a treaty is outside of the province of this Legation.

Prior to Chargé's call I had made appointment to see President Sacasa on another matter at noon. He referred to having received telegram from Mrs. Sacasa, who flew to Tegucigalpa on Friday at the invitation of President of Honduras, stating that she had just received an invitation to visit San Salvador on her return trip and proposed to do so. The President said that her telegram did not indicate whether invitation had been extended by President Martínez but that in any case visit would be purely private and should not be given any further significance. He said he did not propose to recognize the present government of El Salvador. (He said he had no official notification that Costa Rica had recognized General Martínez government.) He stated he considers that treaty is an assurance against revolutions and particularly against military *coups d'état* and as such should be kept in force, perhaps with such modifications as would enable all Central American countries to adhere in harmony with their respective constitutional provisions. He added that he is certain Guatemala and Honduras will act with Nicaragua in supporting treaty. He expressed his regret that all Central American governments had not acted in identical manner, concerted action among them being in his opinion essential to their good relations with one another. The President's statement regarding Nicaraguan attitude was voluntary on his part, I not wishing, in the absence of instructions to the contrary, to have him infer from any question on my part that we expected Nicaragua to adopt any attitude different from that which has been maintained here. I did not mention to the President my visit from Honduran Chargé d'Affaires.

Foregoing repeated to other missions in Central America.

With respect to reports regarding friction between Nicaragua and Honduras, Chargé told me he had given statement this morning to Associated Press that such reports are unfounded. The President likewise said that one reason for Mrs. Sacasa's trip to Honduras was to give evidence of good relations existing. As Sandino's so-called representative Dr. Zepeda has told me of possibility of armed conflict between the two countries it is possible that such a condition may be a pretext for his having requested 20,000 rounds of ammunition from the Government (General Somoza told me that he had learned confidentially that Sandino<sup>5</sup> would refuse to turn over any arms to Government on February 2, 1934).

Foregoing paragraph repeated to Tegucigalpa.

LANE

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816.01/349: Telegram

*The Acting Secretary of State to the Minister in Nicaragua (Lane)*

WASHINGTON, January 9, 1934—2 p. m.

2. Your 2, January 8, 8 p. m. It has come to our attention that the three Central American Governments which have not recognized the government of General Martínez in El Salvador would in fact be glad to extend recognition if they could do so consistently with their treaty obligations, thereby clearing up the anomalous situation which has so long existed in Central America and constituting another important step in the establishment of normal friendly relations among all the nations of America.

With the foregoing in mind you are instructed to approach President Sacasa in strict confidence with the suggestion that he and the Presidents of Honduras and Guatemala might desire to reach an agreement more or less in the following terms: "In view of the denunciation by Costa Rica and El Salvador of the General Treaty of Peace and Amity signed at Washington by the five republics of Central America on February 7, 1923, and pending a revision of that Treaty, the three Presidents signing this agreement declare that the Governments of the three States over which they respectively preside shall regard that Treaty as being in force with respect to the relations maintained by said three States, with each other, but not in force with respect to the relations of those States with Costa Rica and El Salvador."

You may suggest to President Sacasa that if the plan appeals to him, he may wish to put it forward as his own initiative with the Presidents of Guatemala and Honduras.

<sup>5</sup> See pp. 526 ff.



It is contemplated that such an agreement between the three Presidents would clear the way for and be followed immediately by the recognition of the present government of El Salvador by the three Central American Governments and the United States acting independently.

The agreement as indicated would contemplate the calling at some early date of another conference of the Central American States to consider a revision of the General Treaty of Peace and Amity and such action relating to the other treaties signed in 1923 as might appear appropriate, as well as such other matters as might seem of common advantage. It is our thought that such a conference should be held in some place other than Washington and that the United States should take no active or leading part in the proceedings, while holding itself ready to lend unofficial aid or counsel in the role of an observer if requested to do so by the Central American States.

In your conversations with President Sacasa, you should bear in mind that it would be our purpose throughout the suggested negotiation to have the initiative taken by the Central American States and to have any suggestions emanating from us regarded as strictly confidential.

A strictly confidential intimation has been made to this Government by the Government of El Salvador of its desire to have a new Central American Conference called. We are likewise given to understand that the Government of Costa Rica would not actively oppose the holding of such a conference. In our judgment, should the present abnormal situation which exists with regard to the Government of El Salvador be terminated, the holding of the suggested Central American Conference in the manner above described would be of decided usefulness both to the Central American nations themselves and to the relations between the Central American nations and this Government.

Please confer with President Sacasa at the earliest opportunity and report in full by cable.

PHILLIPS

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816.01/354 : Telegram

*The Minister in Nicaragua (Lane) to the Acting Secretary of State*

MANAGUA, January 10, 1934—5 p. m.

[Received January 11—2:30 a. m.]

4. I took up with President Sacasa today the subject contained in the Department's telegram 2, January 9, 2 p. m., and emphasized the desirability of the action being initiated by him. He said that the proposal had his enthusiastic approval and that he would immediately consult a few close advisers to make certain that there would be no

legal objections and then inform me as to the specific steps he would propose to take. His present intention would be, he said, to send personal representatives, one to Tegucigalpa and the other to Guatemala, to obtain the reaction of the respective Presidents and if favorable then to make public a telegram to those Presidents setting forth the proposal. He stated that he is certain that the President of Guatemala will agree and is fairly confident that President of Honduras will concur.

He made, however, the following suggestions:

(1) That following phrase be amended "but not in force with respect to the relations of those states with Costa Rica and El Salvador" as he appears to feel that the specific reference to Costa Rica and El Salvador might cause unnecessary irritation and thus serve to hinder successful culmination of plan. He likewise suggested that something to the following effect be added "they propose the calling at some early date of another Conference of the Central American States to consider a revision of the General Treaty of Peace and Amity and such action relating to the other treaties signed in 1923 as might appear appropriate, as well as such other matters as might seem of common advantage".

(2) That he be authorized to have his representatives orally inform the Presidents of Guatemala and Honduras that his proposal has been discussed with me and that I have given him to understand that it meets with the Department's approval and that our Government will, acting independently, recognize the present Government of El Salvador immediately following or simultaneously with the recognition by Nicaragua, Honduras and Guatemala. He states, I think with reason, that Honduras and Guatemala will immediately wish to know our attitude and that much time will be gained by his being able to give that assurance at the start. Because of discussion which has already begun in the press of possible recognition of El Salvador by the three Governments concerned and by the United States, he stated he considers the element of time to be essential; otherwise the negotiations may be seriously jeopardized by editorial comment. I concur. The press of today contains despatches from Panama indicating possibility of Conference of Central American countries there. As Panama is in public mind generally identified with United States influence, I think that perhaps an unfavorable impression would be created were conference to be held there. I respectfully suggest Mexico City would be an admirable meeting place. Such a choice would serve to disarm the suspicions which have existed there regarding our aims in Central America and might tend to bring about closer cooperation with Mexico on matters affecting this continent.

I should be grateful to have at the earliest possible moment an expression of the Department's views of the President's suggestions (1) and (2). The President assured me that he appreciates the confidential nature of this matter.

LANE

816.01/355 : Telegram

*The Minister in Nicaragua (Lane) to the Acting Secretary of State*

MANAGUA, January 11, 1934—10 p. m.

[Received January 12—11 : 25 a. m.]

6. My 4, January 10, 5 p. m. When I called on the President this morning he showed me a rough draft of an agreement, a protocol which he proposed to submit through a confidential representative first to the President of Salvador and then to Presidents of Honduras and Guatemala. Costa Rica having recognized Salvador and having officially since confirmed a letter of December 23, 1932, from Minister of Foreign Affairs to Minister of Foreign Affairs of Nicaragua, that it favored the calling of a conference for revision of treaty of 1923, the approval of the Government of Costa Rica would not in President Sacasa's opinion seem necessary at the outset although he stated he would advise that Government later as a matter of courtesy.

This evening subsequent to my telephone conversation with Assistant Secretary Welles I had a further conference with the President and told him that his proposed agreement with certain changes (to which he acquiesced) met with our approval in principle and that his representative was at liberty to advise the other interested Governments, orally and confidentially, that President Sacasa's proposal has our approval and that we are prepared to recognize present Government of Salvador as soon as recognition is accorded by Guatemala, Honduras and Nicaragua.

The President's proposed agreement, as amended at an interview this evening, which he emphasized was roughly drawn is substantially as follows (obviously the language is imperfect in several instances from a legal point of view but I considered it wise to refrain from objecting as long as the principle were obtained) :

"In view of the fact that the General Treaty of Peace and Amity is in full force with respect to Guatemala, Honduras and Nicaragua and that having been denounced by El Salvador and Costa Rica has ceased to be in effect with respect to relations between the first three and the last two, and it being of the greatest importance for the peace of Central America that the Treaty be revised, the following is agreed upon to be published :

1. The Governments of Guatemala, Honduras and Nicaragua shall immediately recognize the Government of El Salvador over which General Martínez presides.

2. The Governments of Central America shall accredit representatives to the conference which will take place for the purpose indicated."

The President said that his present intention would be to send as his representative his cousin Senator Crisanto Sacasa Saturday morning by airplane to San Salvador and thence to Guatemala and Tegucigalpa. He promised to keep me advised of developments.

LANE

816.01/355 : Telegram

*The Acting Secretary of State to the Minister in Nicaragua (Lane)*

WASHINGTON, January 12, 1934—5 p. m.

4. Your 6, January 11, 10 p. m. The Department is deeply gratified by the approval by President Sacasa of the friendly suggestion offered.

The form of the agreement as proposed by President Sacasa appears satisfactorily to provide for the desired objectives.

In view, however, of the fact that the Governments of Guatemala and Honduras, together with the Government of Nicaragua, are the participants in the proposed agreement, it would seem to the Department better policy for the representative of President Sacasa first to visit the President of Guatemala and the President of Honduras before discussing the question at issue with President Martínez. It is feared that possible friction might develop if Senator Sacasa entered into his proposed conversation with President Ubico after discussion with President Martínez. Please convey this suggestion tonight to President Sacasa informally and explain to him fully the reasons behind it.

Please express to President Sacasa the Department's appreciation of his offer to keep you advised of developments and advise him of the interest with which we shall follow the course of the negotiations.

PHILLIPS

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816.01/355 : Telegram

*The Acting Secretary of State to the Chargé in Guatemala (Lawton)<sup>6</sup>*

WASHINGTON, January 12, 1934—5 p. m.

1. President Sacasa has undertaken as of his own initiative to suggest that he and the Presidents of Honduras and Guatemala reach an agreement substantially as follows:

“In view of the fact that the General Treaty of Peace and Amity is in full force with respect to Guatemala, Honduras and Nicaragua and that having been denounced by El Salvador and Costa Rica has ceased to be in effect with respect to relations between the first three and the last two, and it being of the greatest importance for the peace of Central America that the Treaty be revised, the following is agreed upon to be published:

1. The Governments of Guatemala, Honduras and Nicaragua shall immediately recognize the Government of El Salvador over which General Martínez presides.

2. The Governments of Central America shall accredit representatives to the conference which will take place for the purpose indicated.”

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<sup>6</sup> The same telegram was sent, January 12, 5 p. m., to the Minister in Honduras, as telegram No. 1, and to the Minister in Costa Rica, as telegram No. 1.

Announcement of this agreement would be followed immediately by the recognition of the present Government of El Salvador by the three Central American Governments and by the United States acting independently. The proposed agreement also contemplates the calling at an early date of a conference of the Central American States to consider matters of common interest.

President Sacasa intends sending as his representative his cousin, Senator Crisanto Sacasa Saturday morning by airplane to Guatemala, Tegucigalpa, and San Salvador. He has been authorized through the American Minister in Managua to permit his representative to advise the other interested Governments, orally and confidentially, that his proposal meets with the approval of this Government and that the United States is prepared to recognize the present Government of Salvador as soon as recognition is accorded by Guatemala, Honduras and Nicaragua. You may confirm this understanding if you are approached by the President or Minister of Foreign Affairs in the matter.

In the opinion of President Sacasa, since Costa Rica has recognized Salvador and has since officially confirmed a letter of December 23, 1933, from her Minister of Foreign Affairs to the Minister of Foreign Affairs of Nicaragua, that it favored the calling of a conference for a revision of the Treaty of 1923, the approval of the Government of Costa Rica would not seem necessary at the outset, although President Sacasa intends to advise the Costa Rican Government later as a matter of courtesy.

PHILLIPS

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816.01/358 : Telegram

*The Minister in Nicaragua (Lane) to the Acting Secretary of State*

MANAGUA, January 13, 1934—1 p. m.

[Received 5 : 20 p. m.]

8. Following is translation of proposed protocol to which I am referring in my 9, January 13, 3 [2?] p. m.<sup>7</sup>

“The undersigned Presidents of the Republics of Central America in view of the fact that, although the General Treaty of Peace and Amity signed in Washington on February 7, 1923, is still in effect with respect to the Republics of Guatemala, Honduras and Nicaragua, the Republics of Costa Rica and El Salvador which have denounced it are freed from the obligations contracted in (adhering to) it, and

WHEREAS: In this situation it is of obvious importance to remove every obstacle which might obstruct the cultivation of the frankest and most cordial relations between the Governments of the five Republics, traditionally united by indissoluble bonds of confraternity, and it is

<sup>7</sup> *Infra.*

likewise necessary to conclude, in place of said Treaty of Peace and Amity, another of similar character in which there may be eliminated the inconveniences which experience has brought to light in the former, therefore, agree to the following:

1. The Governments of Guatemala, Honduras and Nicaragua, shall simultaneously grant recognition to the Government in the Republic of El Salvador presided over by General Maximiliano Hernández Martínez, once this agreement has been signed by the five Presidents.

2. With the purpose of agreeing upon a new General Treaty of Peace and Amity between the five Republics of Central America, there shall be held a conference of delegates of their respective Governments, with full powers, which shall meet in the City of (blank) and inaugurate its sessions in the month of (blank) next.

3. It is understood that so long as the new treaty does not enter into effect, Guatemala, Honduras and Nicaragua shall continue to be bound by the above-mentioned Treaty of Peace and Amity concluded in Washington.

Signed, in five originals, as follows:

In Guatemala, January (blank), 1934, (space for signature) President of the Republic of Guatemala (space); in Tegucigalpa, January (blank), 1934, (space for signature) President of the Republic of Honduras (space); in Managua, January (blank), 1934, (space for signature) President of the Republic of Nicaragua (space); in San Salvador, January (blank), 1934, (space for signature) President of the Republic of El Salvador (space); in San José de Costa Rica, January (blank), 1934, (space for signature) President of the Republic of Costa Rica."

LANE

816.01/356: Telegram

*The Minister in Nicaragua (Lane) to the Acting Secretary of State*

MANAGUA, January 13, 1934—2 p. m.

[Received 10:37 p. m.]

9. Department's 4, January 12, 5 p. m., does not appear to have been filed until 11:09 last night and was consequently not received here until this morning.

The President whom I left just before noon told me that the procedure contemplated is as follows:

1. Senator Sacasa was to leave for San Salvador about noon (have ascertained from Pan American Airways that he actually did leave). Senator is to thank General Martínez for kindness to Mrs. Sacasa on her recent trip and to say that he is also proceeding to Guatemala and Honduras to confer with respective Presidents with a view to obtaining closer cooperation among Central American states having in mind revision of general treaty of 1923 and that he will confer further with General Martínez on his return trip. (Protocol to be signed is not to be shown to anybody in El Salvador until it has been signed by Presidents of Guatemala and Honduras).

3. [*sic*] Senator is to proceed from San Salvador to Guatemala tomorrow morning by plane and submit unsigned copy of protocol to President Ubico (translation of text as signed by President Sacasa yesterday has been transmitted in my 8, January 13, 1 p. m.). If Ubico approves the text, signed original is then to be offered him for his signature (since seeing the President he has sent me word that President Ubico has telegraphed he will be glad to receive the Senator tomorrow morning).

4. If signed in Guatemala similar procedure is then to be followed in Tegucigalpa, San Salvador and San José in that order.

As the procedure outlined does not envisage the discussion of the question at issue with President Martínez until Senator Sacasa has interviewed Presidents Ubico and Cárías it would seem that the suggestion made in the Department's telegram under acknowledgment is to be followed. President Sacasa told me, however, that he is fully alive to the danger of the agreement being frustrated because of friction between President Ubico and General Martínez and that he accordingly had instructed his cousin to deal with each in the most tactful manner so as to avoid injuring their susceptibilities.

The President suggested that it would be helpful if our representatives in Guatemala exert informal good offices with the respective Governments explaining our position in order to facilitate the mission of Senator Sacasa. I told him I would transmit his suggestion to the Department.

In regard to my inquiry as to whether it would be legally possible for the five "Presidents of the Republics of Central America" to sign, as such, an agreement prior to the recognition of General Martínez by Nicaragua, Guatemala and Honduras, the President said that the protocol is intended to be a private arrangement between the five.

LANE

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816.01/359 : Telegram

*The Minister in Nicaragua (Lane) to the Acting Secretary of State*

MANAGUA, January 14, 1934—midnight.

[Received January 15—10:10 a. m.]

11. My 9, January 13, 3 [2?] p. m. At President Sacasa's request I called on him at 10 o'clock tonight. He showed me what purported to be true reading of cipher message from Crisanto Sacasa in Guatemala stating that "President Ubico desires a direct suggestion from the Department of State and is ready to consult". The President said that he had instructed Senator Sacasa in reply to await in Guatemala the result of the suggestions which he hoped the Department would make. He said that he considers it essential to the successful conclusion of the project that some word be sent by the Department to President Ubico

immediately to the effect that the Department has learned of President Sacasa's plan and that the Department is in sympathy with it and hopes that General Ubico will agree thereto. (The President said that the foregoing telegram from Guatemala is the first word he has had from Senator Sacasa since his departure and accordingly does not know whether the document, translation of which was sent in my telegram 8,<sup>8</sup> has yet been shown to General Ubico. For that reason the President expressed the belief that it would be advisable for the time being not to mention that document in any suggestion which the Department might see fit to make to Guatemala).

The President said that the Congress of El Salvador sent to Nicaraguan Congress on Friday a message requesting that latter exert influence on Nicaraguan Government to recognize General Martínez and that unless prompt action be taken by Guatemala, it may be thought that steps towards recognition will be as a result of congressional pressure. He said he wished to avoid this impression being created. He expressed the hope that it might be possible for the Department to talk by telephone to President Ubico tomorrow (Monday) thus enabling Senator Sacasa to proceed to Tegucigalpa Tuesday. If it would be impracticable to talk directly with General Ubico he suggested that American Chargé d'Affaires at Guatemala be instructed to acquaint the President at once with our attitude.

The President repeated the suggestion made to me Saturday, as reported in my 9, January 13, 3 p. m., that Minister Lay be apprised of our attitude so as to be in a position to advise President Carías.

LANE

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816.01/355 : Telegram

*The Acting Secretary of State to the Chargé in Guatemala (Lawton)*

WASHINGTON, January 15, 1934—1 p. m.

3. Department's telegram No. 1, January 12, 5 p. m. Please inform President Ubico immediately that the Department is informed concerning President Sacasa's plan, is in sympathy with it, and hopes that President Ubico will agree to it.

PHILLIPS

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816.01/356 : Telegram

*The Acting Secretary of State to the Minister in Nicaragua (Lane)*

WASHINGTON, January 15, 1934—1 p. m.

5. Legation's telegram, No. 9, January 13, 2 p. m. The Department on January 12 authorized the Legations at Guatemala City, Tegucigalpa and San José, in the event they were approached in the matter,

<sup>8</sup> January 13, 1 p. m., p. 226.



to confirm the understanding that you have authorized President Sacasa to permit his representatives to advise the other interested Governments, orally and confidentially, that his proposal meets with the approval of this Government, and that the United States is prepared to recognize the present Government of El Salvador as soon as recognition is accorded by Guatemala, Honduras and Nicaragua.

PHILLIPS

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816.01/359 : Telegram

*The Acting Secretary of State to the Minister in Nicaragua (Lane)*

WASHINGTON, January 15, 1934—2 p. m.

6. Your 11, January 14, midnight, first paragraph. Legation in Guatemala City has been instructed to communicate with President Ubico in the sense suggested.

PHILLIPS

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816.01/360 : Telegram

*The Chargé in Guatemala (Lawton) to the Acting Secretary of State*

GUATEMALA, January 15, 1934—6 p. m.

[Received January 16—12:10 a. m.]

1. Your 1, January 12, 5 p. m., and 3, January 15, 2 [1] p. m. Acting Foreign Minister has just informed me that President Ubico is notifying President Sacasa at once that he agrees to his plan and will be glad to fix date for recognition announcement. Apparently Crisanto Sacasa gave President Ubico the impression that the plan was suggested to President Sacasa by the American Government which at first caused unfavorable reaction as President Ubico felt that if the suggestion came from Washington it should have been made to him rather than to President Sacasa. However, I feel that I have corrected that impression by assurances that the plan was wholly initiated by Nicaraguan Government. Acting Foreign Minister made clear that Guatemalan agreement was chiefly due to the Department's sympathetic attitude toward plan.

Repeated to Central American Missions.

LAWTON

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816.01/363 : Telegram

*The Minister in Costa Rica (Sack) to the Acting Secretary of State*

SAN JOSÉ, January 16, 1934—2 p. m.

[Received 4:47 p. m.]

3. In accordance with suggestions contained in your telegram No. 1, January 12, 5 p. m.,<sup>9</sup> I had occasion today to informally discuss Central

<sup>9</sup> See footnote 6, p. 225.

American developments with President Jiménez and Foreign Minister Pacheco. Both expressed delight at President Sacasa's activities and promised fullest Costa Rican cooperation.

Repeated to Managua.

SACK

816.01/362 : Telegram

*The Chargé in El Salvador (McCafferty) to the Acting Secretary of State*

SAN SALVADOR, January 16, 1934—3 p. m.

[Received 6 p. m.]

2. I would appreciate information concerning the plan of the President of Nicaragua for Salvadorean recognition mentioned in the telegram of January 15th 6 p. m., from the Legation in Guatemala to the Department.<sup>10</sup>

McCAFFERTY

816.01/365 : Telegram

*The Minister in Nicaragua (Lane) to the Acting Secretary of State*

MANAGUA, January 16, 1934—5 p. m.

[Received 10:36 p. m.]

12. Information contained in Department's telegrams 5, January 15, 1 p. m., and 6, January 15, 2 p. m., was orally communicated to President Sacasa yesterday afternoon. This morning on receipt of Lawton's January 15, 6 p. m., to the Department I called on the President who said he was asked to send for me with regard to developments in Guatemala. He referred to report from Guatemala published in press this morning to the effect that in political circles there it is considered that Guatemala will be an important factor in the problem of the recognition of El Salvador by the rest of Central America. I said that I had learned that apparently Crisanto Sacasa had given President Ubico the impression that the plan for the recognition of El Salvador had been suggested to the Nicaraguan Government by the United States Government. I urged that he instruct Crisanto Sacasa in the latter's negotiations with the President of Honduras to be careful to prevent this impression from being created. The President said he would telegraph his cousin substantially as follows:

"In your conversations with President Carías remember that the plan which was proposed by me and was then discussed with American Minister here, has the approval of the United States Government."

<sup>10</sup> See last sentence of telegram No. 1, p. 230.

I pointed out to the President that his plan, being different in various aspects from that suggested by the Department, may with truth be stated as being his. The President said he felt sure that his cousin did not give the impression, as reported in Lawton's January 15, 6 p. m., but that Ubico wished to take the credit for the proposal as the above-mentioned press report indicates.

The President said that his cousin following the despatch of his telegram of January 14 (quoted in my 11, January 14, midnight) had apparently awaited the result of expected conversation between Ubico and the Department's representative and had not as yet shown Ubico the draft protocol, although his instructions were to stress three points to Presidents Ubico and Carias, (1) joint resolution [*recognition?*] of El Salvador by Nicaragua, Honduras and Guatemala, (2) revision of treaty by all Central American countries, (3) maintenance of treaty by Guatemala, Honduras and Nicaragua until revised.

Foregoing not repeated to Guatemala.

Am sending supplementary telegram which am repeating to Guatemala.

LANE

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816.01/366 : Telegram

*The Minister in Nicaragua (Lane) to the Acting Secretary of State*

MANAGUA, January 16, 1934—5 p.m.

[Received 9 : 50 p. m.]

13. With reference to telegram of January 15, 6 p. m. from Chargé d'Affaires at Guatemala,<sup>11</sup> President Sacasa showed me this morning what purported to be true readings of three code telegrams transmitted.

1. From President Ubico dated January 15 stating that he had received Crisanto Sacasa and that in the interest of peace and in view of sympathy of Department of State with the project he would be glad to act with Honduras and Nicaragua in recognizing Government of El Salvador; and requesting President Sacasa to fix a date for the recognition.

2. To President Ubico dated today in reply to his telegram stating that Crisanto Sacasa was authorized to submit to him a draft of a private protocol and to reach a definite agreement with him.

3. To Crisanto Sacasa dated today instructing him to submit draft protocol to Ubico.

Repeated to Guatemala.

LANE

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<sup>11</sup> See last sentence of telegram No. 1, p. 230.

816.01/364 : Telegram

*The Minister in Nicaragua (Lane) to the Acting Secretary of State*

MANAGUA, January 16, 1934—6 p. m.

[Received 10 p. m.]

14. Informed by Nicaraguan Government officials that Honduran Chargé d'Affaires left for Tegucigalpa this morning by plane to set forth to his Government the views of President Sacasa in connection with the proposed recognition of El Salvador.

With the exception of a talk which I had with him when I returned on January 9 his call of January 8 I have had no further conversation with Gomez Osorio subsequent to that mentioned in my 2, January 8, 8 p. m. President Sacasa tells me that he has discussed his plan with him only in a general way, it being his idea that details shall be taken up with President Carías by his cousin, Senator Crisanto Sacasa, who has been discussing matters with President [of] Guatemala.

Repeated to Tegucigalpa.

LANE

816.01/361 : Telegram

*The Secretary of State to the Acting Secretary of State (Phillips)*

S. S. "SANTA BARBARA," January 16, 1934—7 p. m.

[Received January 17—3:30 a. m.]

98. I questioned Whitehouse<sup>12</sup> at Buenaventura about Salvadoran situation. He expressed the positive opinion that existing non-recognition policy had good effect in keeping down revolutions and should be preserved. He also stated that the present President of Salvador had no right to reelection under the Constitution without being out of office 6 months. He then suggested that if he were content to go out for 6 months and allow his successor under law to act in the meantime and then secure his own election to the presidency our Government could properly recognize him and his Government. This for whatever it may be worth. Skinner Klee of Guatemala, Foreign Minister, strongly supports present non-recognition policy.

HULL

<sup>12</sup> Sheldon Whitehouse, American Minister in Colombia.

816.01/366 : Telegram

*The Acting Secretary of State to the Chargé in El Salvador  
(McCafferty)*

WASHINGTON, January 17, 1934—11 a. m.

1. President Sacasa has undertaken as of his own initiative to suggest that he and the Presidents of Honduras, Guatemala and Costa Rica and the *de facto* President of El Salvador reached an agreement substantially as follows:

[Here follows text of draft agreement quoted in telegram No. 8, January 13, 1 p. m., from the Minister in Nicaragua, page 226.]

President Sacasa has sent his cousin, Crisanto Sacasa, as his representative to present the foregoing suggestion to the other Presidents of Central America. His plan is understood to be to visit Guatemala, Tegucigalpa, San Salvador and San José in the order named. The American Minister in Managua has authorized President Sacasa to permit his representative to advise the other interested governments orally and confidentially that his proposal meets with the approval of this Government and that the United States is prepared to recognize the present government of El Salvador as soon as recognition is accorded by Guatemala, Honduras and Nicaragua. You may confirm this understanding if you are approached by the *de facto* President or Minister of Foreign Affairs in the matter during or subsequent to the visit of Dr. Sacasa's representative to San Salvador.

PHILLIPS

816.01/414

*Memorandum by the Assistant Secretary of State (Welles)*

[WASHINGTON,] January 17, 1934.

The Minister of Guatemala called to see me this morning. He stated that he had just received a cable from his Government instructing him to confirm the statements made to President Ubico both by Senator Sacasa, the emissary of the President of Nicaragua, and by the American Chargé d'Affaires in Guatemala that the United States Government favored the suggested proposal of the President of Nicaragua looking towards recognition of the Government of Salvador by the Governments of Guatemala, Honduras and Nicaragua, and subsequently by the Government of the United States.

I told the Minister that the attitude of the Government of the United States towards the initiative taken by President Sacasa was that indicated and that this Government strongly favored the proposal if it met with the common agreement of the Governments of

Guatemala, Honduras, and Nicaragua as a means of normalizing conditions in Central America and avoiding a continuation of an abnormal situation which might tend to create misunderstanding in Central America and which at the same time prevented a resumption of normal and friendly relations between Salvador and the United States.

The Guatemalan Minister stated that President Ubico had informed him that he was entirely in accord with the idea of an agreement between the three republics for recognition of Salvador provided the United States in fact approved the proposal. The Minister stated that in his opinion this was merely a first step and that this first step could be advantageous only if the five governments joined immediately thereafter in a Central American conference to agree upon the contractual relations which should exist between the five republics and to take the place of the relations entered into in 1923 which had now been seriously modified by the fact that Costa Rica and Salvador are no longer parties to the 1923 treaty.

The Minister spoke at some length regarding the satisfactory manner in which President Martínez had maintained order in Salvador and the manner in which he had at the same time provided for a very great measure of liberty of speech and of the press. He was insistent that the relations between his country and Salvador were entirely satisfactory and that the step which it was now proposed to take to enter once more into formal official relations was eminently desirable.

He expressed his personal hearty approval of the proposal emanating from President Sacasa and of his complete identification with the point of view adopted by the Department of State.

S[UMNER] W[ELLES]

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816.01/368 : Telegram

*The Chargé in Guatemala (Lawton) to the Acting Secretary of State*

GUATEMALA, January 17, 1934—5 p. m.

[Received 8 p. m.]

2. Referring to telegram from Minister at Managua January 16, 5 p. m.<sup>13</sup> Acting Foreign Minister has just informed me that President Ubico and Crisanto Sacasa have agreed on January 25 for simultaneous recognition. Minister likewise stated that he understands President Cárrias is in agreement with the plan but that he has not

<sup>13</sup> See last sentence of telegram No. 13, p. 232.

heard so officially. President Ubico and Crisanto Sacasa have not yet determined method of recognition nor have they agreed upon draft of protocol regarding Central American conference and treaty revision. Minister says this last may not be concluded before January 25 and that Senator Sacasa may proceed to Tegucigalpa and return here later although date of departure has not yet been decided.

Repeated to Central American Missions.

LAWTON

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816.01/371 : Telegram

*The Minister in Nicaragua (Lane) to the Acting Secretary of State*

MANAGUA, January 17, 1934—10 p. m.

[Received January 18—5:20 a. m.]

15. At the request of the President I called on him this evening. He showed me two messages dated today from Guatemala, (1) from President Ubico stating that Crisanto Sacasa and he had agreed that recognition of El Salvador by Nicaragua, Guatemala and Honduras be made on January 25 and proposing that after recognition representatives of Nicaragua and Guatemala should confer in Guatemala to fix date for inviting to a conference delegates of those parties interested in Central American treaties; (2) from Crisanto Sacasa confirming agreement with Ubico as to January 25; stating that Ubico has discussed project with President Carías and that everything is arranged between them except fixing the date of recognition; suggesting that President Sacasa send a radio telegram to Carías immediately; stating that Ubico thinks the suggested protocol unnecessary as the questions covered therein can be discussed by Nicaragua and Guatemala as soon as recognition is extended.

The President in expressing his disapproval of the proposed modification of his plan stated that the Ubico project would entail a violation of the general treaty on the part of the three countries; that the recognition would have no purpose unless it be shown that the treaty remains in force between the three; and that the action proposed would destroy the idealism in the treaty. He expressed his fear lest Guatemala, once the recognition were granted, would not agree to the calling of a conference. The President said that he proposed tomorrow morning early to telegraph to (1) President Carías to await the arrival of Crisanto Sacasa, regarding whose trip he has been informed, before definitely committing himself, (2) President Ubico that the date proposed is entirely agreeable but requesting him earnestly to reconsider the Sacasa proposal because of the importance

of the maintenance of the spirit of the treaty in keeping peace in Central America.

President Sacasa requested me to suggest to the Department that telegraphic instructions be sent to our representatives in Guatemala and Tegucigalpa to express to the respective Governments the hope that they will support his proposal, providing for the maintenance of the treaty as between the three and for the calling of a conference of the five countries. I told him that I would be glad to transmit his request.

Assuming that Crisanto Sacasa's telegram correctly sets forth Ubico's views (Ubico's telegram appears to be silent as to the protocol and it is not clear, from what Lawton in his January 17, 5 p. m.<sup>14</sup> reports the Guatemalan Foreign Office as having said to him, whether the Guatemalan Government objects to the terms of the protocol) it would seem unwise (1) not to include Honduras in the proposed preliminary talks regarding conference to discuss treaty and (2) for the three countries to grant recognition without appropriate reference to treaty of 1923.

Repeated to Guatemala and Tegucigalpa.

Sacasa appears to feel that he is entitled to Department's full support in sustaining his point of view with Honduran and Nicaraguan [*Guatemalan?*] Governments because of suggestion made in Department's 2, January 9, 2 p. m., and because of Department's approval of his plan. Department's telegram of January 12 to other Central American missions<sup>15</sup> indicating approval could obviously not have referred to Sacasa's final plan which was first shown to me in completed form on January 13 and transmitted [in] telegram No. 8.<sup>16</sup>

LANE

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816.01/380 : Telegram

*The Chargé in Guatemala (Lawton) to the Acting Secretary of State*

GUATEMALA, January 18, 1934—noon.

[Received 4:30 p. m.]

3. Telegram from Minister at Managua January 17, 10 p. m.<sup>17</sup> I inquired of Foreign Office this morning as to whether President Ubico objected to first part of Sacasa plan, namely, that immediately prior to recognition the three Presidents should announce their agreement on continued validity of Treaty as between themselves and on

<sup>14</sup> See last sentence of telegram No. 2, p. 235.

<sup>15</sup> See footnote 6, p. 225.

<sup>16</sup> January 13, 1 p. m., from the Minister in Nicaragua, p. 226.

<sup>17</sup> See penultimate paragraph of telegram No. 15, *supra*.



calling a conference of the five countries. I pointed out that, although I had as yet received no instructions as to how the Department would view recognition if this first step were omitted, the Department had expressed its sympathy with the plan as originally proposed by President Sacasa and not with recognition alone. Acting Minister frankly admitted his Government was none too enthusiastic about the proposal but said President Ubico had agreed to recognition because he did not desire to stand out alone against the other Central American States and the United States. Once recognition was agreed upon Ubico had little interest in the other features of plan although he is willing to participate in Central American conference. He feels the spirit and principle of treaty are necessarily lost by recognition and that it is useless to try to justify it by an explanation beforehand. Although agreeing the treaty remains in force between Guatemala, Nicaragua and Honduras, since none of them have denounced it, he feels it is useless to pretend that recognition of Martínez is not a violation of its terms. Finally, although willing enough to participate in a conference, it is evident that Guatemalan Government would not take a new or modified treaty very seriously. Notwithstanding these views Acting Foreign Minister promised to point out to the President the fact that a preliminary announcement in the sense indicated above was an essential feature of the Sacasa plan and to see if he would approve it. Decision on this point may not be reached until late this evening or tomorrow.

Repeated to Managua.

LAWTON

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816.01/371 : Telegram

*The Acting Secretary of State to the Chargé in Guatemala (Lawton)*

WASHINGTON, January 18, 1934—2 p. m.

4. Reference Lane's telegram to Department No. 15, January 17, 10 p. m. Please see President Ubico immediately and say that the Department very much hopes that he will support Sacasa's proposal as set out in Sacasa's draft protocol.

For your information, Sacasa's draft protocol reads as follows:

[Here follows text of draft protocol as quoted in telegram No. 8, January 13, 1 p. m., from the Minister in Nicaragua, printed on page 226.]

We agree with Lane's reasons as set out in last paragraph of his No. 15. Moreover, we feel it highly advisable, for the best interests of the Central American states themselves, that the agreement between the Presidents should provide definitely for the calling of a conference. For your information, Lane has reported that President

Sacasa considers his protocol as a private arrangement between the five presidents.

Please cable result of your talk with Ubico. If he has any objections of substance to Sacasa's protocol cable them in detail.

PHILLIPS

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816.01/371 : Telegram

*The Acting Secretary of State to the Minister in Nicaragua (Lane)*

WASHINGTON, January 18, 1934—2 p. m.

8. Your 15, January 17, 10 p. m. We have instructed Lawton to see Ubico at once and to say that we very much hope he will support Sacasa's proposal as set out in the draft protocol. We stated that we agreed with your views as expressed in the fourth paragraph of your telegram under acknowledgment, and moreover thought it highly advisable in the interests of the Central American countries themselves that the agreement between the Presidents should provide definitely for the calling of a conference.

After hearing from Lawton we will consider appropriate instructions to Tegucigalpa.

Please telegraph immediately to Legation at Tegucigalpa text of draft protocol as given in your No. 8, January 13, 1 p. m., explaining that this is the form which Sacasa has given to his proposal as outlined in the Department's telegram to Tegucigalpa No. 1, January 12, 5 p. m.<sup>18</sup> and which the Department supports. We have repeated the text of the draft protocol to Guatemala.

PHILLIPS

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816.01/379 : Telegram

*The Minister in Nicaragua (Lane) to the Acting Secretary of State*

MANAGUA, January 18, 1934—3 p. m.

[Received 6 : 11 p. m.]

16. My 15, January 17, 10 p. m. The President having left suddenly this morning for León to attend a funeral I called on his private secretary and on his brother Federico Sacasa jointly to ascertain latest developments and to acquaint them with the substance of Lawton's January 17, 5 p. m. They showed me paragraph 1 (telegram sent last night by President Sacasa to President Carías) stating that Crisanto Sacasa who had been unexpectedly delayed in Guatemala would soon proceed to Tegucigalpa to submit protocol to Carías and urging Carías to postpone definitive action on Ubico's suggestion until he had had an opportunity to consult with Crisanto Sacasa.

<sup>18</sup> See footnote 6, p. 225.

2. Copy of air mail letter sent this morning by President Sacasa to President Carías enclosing copy of proposed protocol and urging necessity of Nicaragua, Honduras and Guatemala upholding principles of treaty and of agreeing to calling of conference to be attended by five Central American countries.

Repeated to Tegucigalpa.

LANE

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816.01/376 : Telegram

*The Minister in Honduras (Lay) to the Acting Secretary of State*

TEGUCIGALPA, January 18, 1934—6 p. m.

[Received 11:55 p. m.]

2. Referring to Department's telegram No. 1, January 12, 5 p. m.<sup>19</sup> and to telegram from American Legation at Managua to the Department January 17, 10 p. m.

The private secretary of President Carías called at the Legation today to inquire on behalf of the President as to the attitude of the United States Government toward recognition of the present government of Salvador in accordance with the plan proposed by President Sacasa. I told him I was authorized to tell the President that my Government was prepared to recognize the present government of Salvador as soon as recognition is accorded by Guatemala, Nicaragua and Honduras. President Carías told me later that Crisanto Sacasa was expected here from Guatemala on January 20th and that while he (Carías) has agreed with President Ubico upon recognition of Salvador he will await arrival of Sacasa before deciding whether the Honduran Government would recommend according recognition before or after holding a conference to draft the proposed protocol. He seemed, however, to favor President Sacasa's plan rather than the modification proposed by President Ubico.

Repeated to Legations Guatemala and Nicaragua.

LAY

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816.01/378 : Telegram

*The Minister in Nicaragua (Lane) to the Acting Secretary of State*

MANAGUA, January 18, 1934—7 p. m.

[Received 9 p. m.]

17. I have not communicated to Nicaraguan Government information contained in Lawton's January 18, noon.<sup>20</sup>

LANE

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<sup>19</sup> See footnote 6, p. 225.

<sup>20</sup> See last sentence of telegram No. 3, p. 237.

816.01/377 : Telegram

*The Minister in Nicaragua (Lane) to the Acting Secretary of State*

MANAGUA, January 18, 1934—8 p. m.

[Received 10:30 p. m.]

18. My 16, January 18, 3 p. m. Private secretary to the President has just shown me decode of telegram from President Carías stating:

1. He is awaiting arrival of Crisanto Sacasa to fix form of recognition and to learn President Sacasa's plan (this telegram apparently crossed Sacasa's letter to Carías of this morning).

2. Ubico believes recognition should be made simultaneously January 25.

3. American Legation states that Washington will grant recognition immediately thereafter.

4. Awaiting President Sacasa's reply.

Repeated to Tegucigalpa.

LANE

816.01/381 : Telegram

*The Minister in Nicaragua (Lane) to the Acting Secretary of State*

MANAGUA, January 18, 1934—midnight.

[Received January 19—3:16 a. m.]

19. Department's telegram No. 8, January 18, 2 p. m. In accordance with instructions have telegraphed [draft protocol?] to Legation at Tegucigalpa in my January 18, midnight.

LANE

816.01/384 : Telegram

*The Chargé in Guatemala (Lawton) to the Acting Secretary of State*

GUATEMALA, January 19, 1934—1 a. m.

[Received 9:10 p. m.]

6. Your 4, Urgent, January 18, 2 p. m., received in its entirety January 19, 8 a. m. Have just had a long talk with President Ubico. Although personally against recognition he is willing to carry out the agreement to recognize Martínez January 25 and to join with President Sacasa after recognition in inviting the five Central American Presidents to a conference to be held in Guatemala in February for the purpose of drawing up new treaties. He will not agree to enter into a private arrangement in the sense proposed by President Sacasa before recognition because he is afraid one or more of the Presidents parties to the agreement would, once recognition was accorded Martínez, go back on their word and refuse to participate in the confer-

ence. I asked him what difference there would be between that and a refusal by one or more Governments of the invitation to a conference issued after recognition. He replied that in the latter case it would not matter as, if Martínez declined to participate, he would lose the sympathy of the other republics and become isolated. In other words, President Ubico does not want to bargain with Martínez about recognition.

As to the necessity of referring to the 1923 treaty at the time of or prior to recognition, he feels that such reference is useless in so far as justifying the step in the light of the treaty is concerned. He does not understand how President Sacasa or the Department can feel that the treaty is not being violated. His position is that Salvador has not denounced the treaty and that it is still in force with respect to Salvador for all states that continue to be parties. He points out that the Salvadorean denunciation was effected by a government which, by the terms of the treaty itself, could not be recognized and that consequently such denunciation could not be valid for the other contracting states. Holding this view, he feels that any reference to the treaty in connection with the recognition of Martínez would be merely "eye wash" and would impress no one. However, he agrees that the treaty continues in force for Guatemala, Honduras and Nicaragua and he has no objection to the various Foreign Ministers pointing out that fact to the press at the time recognition is announced. Beyond that he will not go.

President Ubico is definitely of the opinion that a new treaty is necessary to the peace of Central America; but he feels that in order to be effective such a treaty should provide sanctions in the form of collective investigation and, if necessary, force. He says that a treaty without such sanctions would be no more than a "scrap of paper". Incidentally that term has been used in the past few days by several Guatemalan officials all of whom are convinced, despite every explanation of the contrary view, that recognition of Martínez is a flagrant violation of the 1923 treaty. This attitude unfortunately carries with it a somewhat cynical conception of the American Government's regard for international conventions and will inevitably lessen the respect in which any future Central American treaty of peace and amity is held, unless such treaty provides sanctions. Although many Guatemalan officials (not including the President or Acting Foreign Minister) feel that Martínez has done a good job and that it would be well to regularize relations with him, none of them feel that, in order to do so, it is worth while to violate as important an instrument for peace as the 1923 treaty. President Ubico, on the other hand, contends that Martínez actually is weaker today than formerly and he insists there is real danger of trouble in Salvador, especially if he is

recognized. In answer to my inquiry as to whether, since he did not favor recognition of Martínez (although willing to accord it), he had any alternative suggestion, the President said that if it were up to him he would leave matters as they are.

Of course it is evident that personal and political prejudices have much to do with the Guatemalan attitude; yet I feel certain there exists a real disillusionment over what is considered the sudden and somewhat casual manner in which it is proposed to break the terms of the 1923 treaty. It has been pointed out to me both by the President and the Acting Foreign Minister that the United States played a leading part in obtaining acceptance of the treaty and that the course pursued by the various republics with respect to Martínez was mainly due to its strong urging.

Repeated to Managua.

LAWTON

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816.01/354 : Telegram

*The Acting Secretary of State to the Minister in Nicaragua (Lane)*

WASHINGTON, January 19, 1934—5 p. m.

9. Your 4, January 10, 5 p. m., penultimate paragraph. We strongly doubt the advisability of Mexico City as meeting place. As long as Mexico adheres strictly to the Estrada Doctrine (and there is no indication she will do otherwise) the holding of the Conference in Mexico would be tantamount to abandoning the principle (which the Central American states themselves are understood to be desirous of continuing in workable form) of discouraging revolutionary movements through the non-recognition of Governments coming into power by revolution. Moreover, Ubico's antipathy for Mexico would raise a difficulty.

As regards Panama, if the Central American states should agree on that city for a meeting place, we would not perceive any objection.

PHILLIPS

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816.01/385 : Telegram

*The Minister in Nicaragua (Lane) to the Acting Secretary of State*

MANAGUA, January 19, 1934—8 p. m.

[Received January 20 (?)—12: 12 a. m.]

20. The following telegram has been sent to the Department :

20, January 19, 8 p. m. After his return from León this afternoon the President showed me true readings of telegrams substantially as follows :

1. From President Ubico filed at Guatemala at 8: 26 this morning, stating he considers it unwise to insist upon preliminary protocol and

that it is better to be "correct and loyal" and even more important to treat one another as brother countries.

2. To Ubico from President Sacasa, dated this evening in reply stating that he does not consider his plan indicates lack of correctness and loyalty nor that it implies conditional recognition of Martínez but rather that it tends to justify step without releasing parties concerned from terms of treaty. Telegram adds that Sacasa earnestly hopes that Ubico and he will adopt a concerted attitude together with Honduras and the Department.

3. From Crisanto Sacasa from Guatemala saying that he fears failure due to lack of penetration there and because of desire on part of Guatemala "to maneuver cleverly" and not obtain anything in return for recognition.

I have an appointment to see the President again tomorrow morning. Lawton's January 19, 1 a. m.,<sup>21</sup> which was received at 5 o'clock p. m. had not been deciphered as I called on Sacasa this evening.

Repeated to Guatemala.

LANE

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816.01/385 : Telegram

*The Acting Secretary of State to the Minister in Nicaragua (Lane)*

WASHINGTON, January 20, 1934—3 p. m.

10. Your 20, January 19, 8 p. m., and Lawton's January 19, 1 a. m. In view of apparent impasse reached by Crisanto Sacasa with Ubico please see President Sacasa and say that, in view of this and of the desirability of avoiding development of a situation which might imperil the realization of President Sacasa's plan, we suggest it would be advisable for President Sacasa to revert to the procedure originally in mind. This procedure, which involves an understanding between the Presidents of Nicaragua, Guatemala and Honduras that pending a revision of the 1923 Treaty they will regard it as being in force among each other but not in force with respect to the relations of those three states with Costa Rica and El Salvador, is apparently acceptable to Ubico. For instance, it is noted from Lawton's January 19, 1 a. m., that Ubico has "no objection" to the foreign ministers of the three states pointing out that the treaty continues in force for their states at the time recognition of El Salvador is announced. Ubico is willing to agree to recognize Martínez and after recognition to join in inviting the five states to a Conference.

This procedure would safeguard the essential points of President Sacasa's proposal, namely, maintenance of the treaty as between the three states and the calling of a conference of the five countries.

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<sup>21</sup> See last sentence of telegram No. 6, p. 241.

Of course the invitation to the Conference could appropriately be issued by the three states (including Honduras) who would reach agreement as to the meeting place.

Apparently Ubico's main difficulty is his unwillingness to join in an agreement signed by Martínez prior to extending recognition to the Martínez regime. It seems to us unwise to press him further on this point.

PHILLIPS

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816.01/387 : Telegram

*The Minister in Nicaragua (Lane) to the Acting Secretary of State*

MANAGUA, January 20, 1934—midnight.

[Received January 21—7:28 a. m.]

21. Prior to the receipt of the Department's 10, January 20, 3 p. m., I called on the President at 3 p. m., today and discussed with him the situation which has arisen as a result of the reported attitude of President Ubico. President Sacasa stated that he is willing to make any reasonable concessions in order to satisfy Ubico provided that the principles contained in his proposal are not abandoned. President Sacasa is willing to meet Ubico's views as follows:

1. The Presidents of the three countries will agree to recognize Salvador simultaneously. President Sacasa suggests, however, that the date of recognition be delayed a week, as the time pending before January 25 is very short and negotiation over some point may cause unexpected further delay.

2. Simultaneous with recognition, the Foreign Ministers of the three countries would make a statement to the effect that the treaty until revised continues in force for those states. (President Sacasa said that he would prefer it if the Presidents themselves should make the declaration but that he does not desire to make an issue on this point. A declaration by the Presidents would, in his opinion, have a stronger popular effect).

3. The three Presidents will agree to the calling of a conference, to revise the treaty, to which Costa Rica and El Salvador will likewise be invited. (President Sacasa said that he would have no objection to the conference being held in Guatemala if that should be the feeling of the majority).

I showed this telegram to President Sacasa at 10 p. m., who authorizes me to say that it correctly represents his views. The President would be grateful if the Minister at Tegucigalpa would show it only to Crisanto Sacasa who is due at Tegucigalpa Sunday noon.

Repeated to Tegucigalpa and Guatemala.

LANE



816.01/388 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, January 21, 1934—3 a. m.

[Received 11:45 a. m.]

23. In my conversation with the President this afternoon prior to the receipt of the Department's 10, January 20, 3 p. m., I expressed my personal view, pointing out that I had no authorization from the Department to say so, that Ubico's objections seemed to me to be merely objections as to the form of the Sacasa plan. . . . I told him that I thought he could, without sacrificing the principles of his plan, grant concessions to Ubico. . . . On his agreeing to what I suggested personally, I told him I would submit to him this evening (when he had an engagement to dine with us at the Legation) a draft of a telegram to the Department, I wishing to make certain that I would correctly represent his views.

In the meantime the Department's telegram 10, January 20, 3 p. m., arrived.

Tonight my telegram No. 21, January 20, midnight, was shown to President and Federico Sacasa both of whom said that it represented President's views and that it was substantially similar to instructions sent to Crisanto Sacasa today.

I have emphasized to the Department the point, which may appear insignificant, that Sacasa agreed to accept Ubico's reported views in principle prior to receipt of suggestions from Department (tonight I acquainted President with views contained in Department's 10, January 20, 3 p. m.). I had in mind that Ubico would be flattered to think that he had compelled Sacasa to accept his point of view and that, on the other hand, Sacasa could feel with truth that he had generously granted concessions to Ubico.

LANE

816.01/389 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, January 21, 1934—11 p. m.

[Received January 22 (9)—12:40 p. m.]

24. Having in mind the very limited period of time prior to the proposed date of recognition (January 25), I spoke to the President this morning with a view to encouraging acceleration of negotiations. This afternoon the President showed me true reading of telegram sent this afternoon to Crisanto Sacasa in Tegucigalpa urging him that agreement be reached with President Carias today so that Crisanto

Sacasa might then return to Guatemala to endeavor to consummate matter with President Ubico prior to January 25.

Repeated to Guatemala and Tegucigalpa.

LANE

816.01/391 : Telegram

*The Chargé in Guatemala (Lawton) to the Secretary of State*

GUATEMALA, January 22, 1934—1 p. m.

[Received 5:35 p. m.]

8. This morning President Ubico showed me copies of telegrams he had sent to the Presidents of Nicaragua and Honduras indicating his agreement to the following procedure:

1. Recognition on a day to be agreed upon;
2. At the time of recognition the Foreign Ministers of the three countries to announce that the treaties remain in force for Guatemala, Honduras and Nicaragua; and
3. In February the three republics together to invite Salvador and Costa Rica to attend a conference to revise the treaties of peace and friendship.

In these telegrams President Ubico suggested postponing recognition for one week in view of the recent disturbances in Salvador; but he did not propose another date. He informed me that, in view of the developments in Salvador, it might be better to wait a few days before fixing another date.

Repeated to Honduras and Nicaragua.

LAWTON

816.01/390 : Telegram

*The Minister in Costa Rica (Sack) to the Secretary of State*

SAN JOSÉ, January 22, 1934—2 p. m.

[Received 3:45 p. m.]

4. Costa Rican Government has invited Trueblood<sup>22</sup> and myself to official dinner Tuesday night, January 23rd, in honor Salvadoran special mission. In light of telegram No. 1 of January 12, 5 p. m.,<sup>23</sup> signed Phillips, information requested immediately as to whether desirable we should accept.

SACK

<sup>22</sup> Edward G. Trueblood, Third Secretary of Legation.

<sup>23</sup> See footnote 6, p. 225.

816.01/392: Telegram

*The Minister in Honduras (Lay) to the Secretary of State*

TEGUCIGALPA, January 22, 1934—2 p. m.

[Received 9:11 p. m.]

3. The following telegram has been sent to the Legation at Managua.

"January 22, 11 a. m. I showed your telegram of January 20, 12 p. m.,<sup>26</sup> to Crisanto Sacasa last night after he had a preliminary talk with President Carías.

Senator Sacasa says that Ubico is in entire accord with President Sacasa; that a conference should be called to modify treaty, but Ubico believes that any statement to this effect made previous to or simultaneous with recognition might give impression that recognition was being made contingent upon the calling of a conference to which Ubico was opposed.

General Carías sent a telegram yesterday to President Ubico with a view to reconciling differences in methods.

Senator Sacasa feels that if date for recognition January 25 is postponed suspicions will be aroused and discussions drawn out for a long time.

I suggest that President Sacasa redraft his proposed plan quoted in your telegram of January 18, 12 p. m.,<sup>27</sup> to conform with his concessions to Ubico mentioned in your telegram of January 20, 12 p. m.,<sup>26</sup> and any further ones to meet Ubico's views on above point without abandoning the principles contained in his proposal, and telegraph this plan modified as to methods to President Ubico and through Crisanto Sacasa to President Carías.

Repeated to Department."

LAY

816.01/366: Telegram

*The Secretary of State to the Chargé in El Salvador (McCafferty)<sup>28</sup>*

WASHINGTON, January 22, 1934—4 p. m.

2. Department's No. 1, January 17, 11 a. m. It now appears possible that the form of agreement looking to the recognition of Martínez will be altered. Do not discuss the protocol transmitted in the Department's telegram quoted above with anyone and do not discuss the plan for recognition until the Department communicates to you the agreement finally reached.

HULL

<sup>26</sup> See last sentence of telegram No. 21, January 20, midnight, from the Minister in Nicaragua, p. 245.

<sup>27</sup> See telegram No. 19, January 18, midnight, from the Minister in Nicaragua, p. 241.

<sup>28</sup> The same telegram on the same date to the Minister in Costa Rica, except that reference is to Department's telegram No. 1, January 12, 5 p. m.

816.01/390 : Telegram

*The Secretary of State to the Minister in Costa Rica (Sack)*

WASHINGTON, January 22, 1934—5 p. m.

3. Your 4, January 22, 2 p. m. Inasmuch as we have not recognized the Salvadoran Government it would not be appropriate for you to accept.

HULL

816.01/395 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, January 23, 1934—2 p. m.

[Received 6:52 p. m.]

25. I called on President Sacasa this morning and showed him telegrams of January 22, 11 a. m., from Tegucigalpa<sup>29</sup> and January 22, 1 p. m., from Guatemala.<sup>30</sup> He showed me (1) telegram from President Ubico referred to in Lawton's January 22, 1 p. m., (2) telegram sent by President Sacasa yesterday to Crisanto Sacasa in Tegucigalpa requesting latter to telegraph reaction of Carías as to procedure to be followed in order that telegram of Ubico might be answered, and (3) letter from Crisanto Sacasa dated January 22nd urging that there be no postponement of date of recognition.

I pointed out that the telegrams which I had received indicated that Presidents Ubico and Carías are now in agreement with the procedure outlined in President Sacasa's talk with me on January 20 (as transmitted in my 21, January 20, midnight) but that question of date of recognition appeared to be unsettled. On this point he said that while he would greatly prefer to adhere to date already suggested (January 25) he would be willing to abide by the wishes of Presidents Ubico and Carías. (Crisanto Sacasa in his letter of January 22, strongly urged the President not to permit anyone to influence him to delay recognition.)

In the strictest confidence the President showed me a letter dated January 20 from General Martínez thanking him for sending Crisanto Sacasa to Guatemala and stating that recognition would be accorded January 25. In view of this apparent understanding on the part of Martínez, a postponement might be difficult to explain to him.

Am repeating above to the Legations at Tegucigalpa and Guatemala with the request that they telegraph me the date agreed upon.

LANE

<sup>29</sup> See telegram No. 3, January 22, 2 p. m., from the Minister in Honduras, p. 248.

<sup>30</sup> See last sentence of telegram No. 8, January 22, 1 p. m., from the Chargé in Guatemala, p. 247.

816.01/396 : Telegram

*The Chargé in Guatemala (Lawton) to the Secretary of State*

GUATEMALA, January 23, 1934—5 p. m.

[Received 8:18 p. m.]

9. The following telegram has been sent to the Legation in Managua :

“January 23, 5 p. m. Your January 23, 3 [2<sup>o</sup>] p. m.<sup>31</sup> Foreign Office has just notified me that President Ubico agrees to recognition on January 25 in manner outlined in my 7 [8<sup>o</sup>], January 22, 1 p. m. to the Department.

Repeated to Department and Tegucigalpa.”

LAWTON

816.01/398 : Telegram

*The Minister in Honduras (Lay) to the Secretary of State*

TEGUCIGALPA, January 24, 1934—10 a. m.

[Received 2:20 p. m.]

4. President Carías has just informed me that he has agreed with President Ubico to recognize January 25 in manner outlined in Lawton's telegram No. 7 [8<sup>o</sup>] of January 22, 1 p. m.<sup>32</sup>

I understand from President Carías and Senator Sacasa that announcements explaining why recognition is accorded may be made separately by each of the three countries as mentioned in the preamble in President Sacasa's originally proposed protocol and Department's telegram to me No. 1 of January 12, 5 p. m.,<sup>33</sup> in such form and manner as each consider suitable.

Repeated to Managua and Guatemala.

LAY

816.01/399 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, January 24, 1934—noon.

[Received 3 p. m.]

26. My 25, January 23, 2 p. m. Minister for Foreign Affairs Arguello who returned yesterday from Montevideo informed me this morning that arrangements had been definitely made with Governments of Honduras and Guatemala for recognition by the three Governments of El Salvador tomorrow morning, January 25. He said that to give the recognition “a more solemn character” President Sa-

<sup>31</sup> See last paragraph of telegram *supra*.

<sup>32</sup> See *supra*.

<sup>33</sup> See footnote 6, p. 225.

casa will, apart from sending telegram to General Martínez, issue a formal decree announcing recognition and referring to adherence of Nicaragua to the principles of treaty of 1923.

Dr. Arguello stated that it is probable that conference to discuss revision of treaty will probably meet in Guatemala.

Repeated to Guatemala and Tegucigalpa.

LANE

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816.01/400 : Telegram

*The Chargé in Guatemala (Lawton) to the Secretary of State*

GUATEMALA, January 24, 1934—4 p. m.

[Received 7:05 p. m.]

10. Foreign Office informs me that everything is arranged for recognition of Martínez by the three republics tomorrow morning. The Guatemalan Foreign Minister will telegraph the Salvadoran Foreign Minister that recognition is accorded and the Foreign Office will at the same time give out a statement to the press. This last will point out that the 1923 treaty has been denounced by Costa Rica and Salvador but that it remains in force for Guatemala, Honduras and Nicaragua. President Ubico himself will make no statement.

Repeated to Central American Missions.

LAWTON

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816.01/401 : Telegram

*The Minister in Honduras (Lay) to the Secretary of State*

TEGUCIGALPA, January 24, 1934—4 p. m.

[Received 7:25 p. m.]

6. My telegram No. 4, January 24, 10 a. m. President Carías has informed me that besides sending telegram to Martínez he will tomorrow issue formal decree announcing recognition substance of which I will telegraph Department. Silverio Lainez now confidential agent will be accredited as Honduran Envoy Extraordinary and Minister Plenipotentiary to the present Government of Salvador.

Repeated to Guatemala and Nicaragua.

LAY

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816.01/402 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, January 24, 1934—10 p. m.

[Received January 25—1:40 a. m.]

27. The President has just sent me draft of decree reading substantially as follows:

1. Nicaraguan Government recognizes Martínez.
2. Spirit of 1923 treaty maintained.
3. Nicaraguan Government shall associate itself with Guatemala and Honduras in inviting other Central American republics to a meeting to revise 1923 treaty.
4. Minister of Foreign Affairs shall immediately notify other Central American Foreign Offices of this decree.

He proposes to present this to Cabinet tomorrow morning with the addition of several introductory clauses which point out that denunciation of treaty has created abnormal situation which it is desired to remedy and that treaty remains in force between Nicaragua, Honduras and Guatemala until revised.

He showed me copy of private letter today sent to General Martínez in reply to latter's letter of January 20th (reported in my 25, January 23, 2 p. m.) which he said would take the place of telegram from him to Martínez regarding recognition. Telegram according recognition is to be sent by Minister of Gobernación here to Minister of Gobernación San Salvador.

Repeated to Central American Missions.

LANE

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816.01/404 : Telegram

*The Chargé in Guatemala (Lawton) to the Secretary of State*

GUATEMALA, January 25, 1934—10 a. m.

[Received 1:50 p. m.]

12. The Foreign Office has just sent me copies of the following:

1. Telegram which was sent early this morning by Guatemalan Minister for Foreign Affairs to Salvadoran Minister for Foreign Affairs notifying him that Guatemalan Government has today recognized government headed by General Martínez and expressing the hope that this step will strengthen the cordial ties between the governments and peoples. The telegram contains no reference to treaties, Central American relations or the forthcoming conference.

2. Statement already given to the press by the Foreign Office to the effect that Guatemala, Honduras and Nicaragua through a desire to normalize the situation in Central America and insure peace have determined to recognize the Martínez Government and reestablish diplomatic relations with Salvador. The statement further announces that the Governments of Guatemala, Honduras and Nicaragua will invite the Governments of Salvador and Costa Rica to participate in a conference to be held in February for the revision of the Treaty of Peace and Amity but it points out that the recognition of Martínez does not mean that the three Governments are withdrawing from the Washington treaties which they will maintain in effect until they are modified or broadened at the forthcoming conference.

The telegram referred to in paragraph 1 was also made public.

Repeated to Central American Missions.

LAWTON

816.01/405 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, January 25, 1934—1 p. m.

[Received 3:15 p. m.]

28. My 27, January 24, 10 p. m. The President has just shown me telegram sent by him to General Martínez this morning according recognition to the latter's Government.

Am telegraphing translation of decree as finally approved by Cabinet this morning. Only change in decree which appears of any importance is in paragraph 2, words "spirit of" now omitted and "in force" added after "maintained".

Repeated to Central American Missions.

LANE

816.01/409 : Telegram

*The Minister in Honduras (Lay) to the Secretary of State*

TEGUCIGALPA, January 25, 1934—1 p. m.

[Received 5 p. m.]

7. My telegram No. 6, January 24, 4 p. m. President this morning showed me copy of resolution (*acuerdo*) issued today in which he announces substantially as follows:

That in consideration of the fact that it is the obligation of Central Americanism to facilitate all measures in order that the five countries of the Isthmus may enjoy the most complete development of their internal political aspirations and occupy the international position to which they are entitled, he, President Carías, resolves to authorize the recognition of General Martínez and that in view of the treaty of 1923 having been denounced by Costa Rica and El Salvador and in view of the fact that it is best for the interests of Honduras to adjust its relations with the other states which were bound by this treaty, Carías further resolves to declare the treaty as continuing in force between Honduras and Nicaragua and Guatemala until a new convention is agreed upon between the five states of Central America; the Minister for Foreign Affairs being charged with making this resolution known to the other interested parties.

This resolution will be telegraphed by the Honduran Minister for Foreign Affairs to the Minister of Foreign Affairs of Salvador and to Silverio Lainez, Honduran confidential agent in San Salvador, with instructions to the latter to express to General Martínez on behalf of President Carías and Señor Bermudez their sincere conviction that the reestablishment of diplomatic relations will insure a more effective cooperation in favor of their common interests.

President Carías has sent also a very sympathetic personal telegram direct to President Martínez of Salvador.

Repeated to Central American Missions.

LAY



816.01/408 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, January 25, 1934—2 p. m.

[Received 5 : 23 p. m.]

29. My 28, January 25, 1 p. m. Following is translation of the text of the decree issued this morning according recognition to present Government of Salvador:

“The President of the Republic, Whereas

The aim of the General Treaty of Peace and Amity signed in Washington, February 7, 1923, was to maintain between the different sections of Central America normal and harmonious relations which it is of importance to reestablish; Whereas,

With this end in view he has agreed with the Presidents of Guatemala and Honduras to recognize the present Government of El Salvador, without this signifying for the three republics an abandonment or non-recognition of the force of the above-mentioned treaty, the provisions of which continue to be maintained in force so long as a new general treaty of peace may not have been concluded between the five republics of Central America; therefore decrees in Council of Ministries:

1. The Government of Nicaragua recognizes the Government in the Republic of El Salvador presided over by His Excellency General Don Maximiliano H. Martínez.

2. Maintains in force the General Treaty of Peace and Amity signed in Washington February 7, 1923.

3. The Government of Nicaragua jointly with the Governments of Guatemala and Honduras shall invite the Republics of Costa Rica and El Salvador to [reach] an agreement which may lead to the revision of the treaty under reference, in harmony with the aspirations and sentiments of the five Central American countries united by a common destiny.

4. The Ministry of Foreign Affairs shall immediately make this decree known to the Salvadoran Government and to the other Foreign Offices of Central America.”

Copy and translation by air mail. Repeated to Central American Missions.

LANE

816.01/407 : Telegram

*The Chargé in El Salvador (McCafferty) to the Secretary of State*

SAN SALVADOR, January 25, 1934—3 p. m.

[Received 7 : 20 p. m.]

4. The Foreign Office informed me that the Governments of Guatemala, Honduras, and Nicaragua have recognized the present regime in Salvador today. The recognitions were granted by telegrams from the Foreign Ministers of those countries to the Salvadoran Minister for Foreign Affairs.

MCCAFFERTY

816.01/405

*The Assistant Secretary of State (Welles) to President Roosevelt*<sup>24</sup>

WASHINGTON, January 25, 1934.

MY DEAR MR. PRESIDENT: In my letter to you of January 8th last, the Department submitted for your approval a suggested procedure for arriving at the recognition of the present government of El Salvador by the United States. The course as suggested was approved by you.

I am glad to say that the negotiations undertaken were carried out successfully and that the Governments of Guatemala, Nicaragua, and Honduras, as the result of the initiative taken by President Sacasa of Nicaragua, have today accorded formal recognition to the Government of El Salvador. The foreign ministers of the three Governments mentioned have at the same time announced that the provisions of the Treaty of Peace and Amity of 1923 are still binding in so far as their own Governments are concerned. The three Governments have likewise agreed upon, and will in the immediate future make public, an invitation to the Governments of El Salvador and Costa Rica which have denounced the Treaty of 1923 to join with them in a new Central American conference for the purpose of revising the 1923 treaty and of negotiating such other common agreements as may seem desirable.

The Government of the United States has not recognized the Martínez government in El Salvador, as you will recall, because of the fact that so long as the provisions of the Central American Treaty of Peace and Amity of 1923 remained binding upon the Central American governments, the republics of Central America could not themselves extend recognition and it was believed that since the Central American republics had entered into that treaty for the announced purpose of discouraging revolutions in Central America, the Government of the United States should cooperate with them in that effort. Now, however, since the Government of Costa Rica is no longer bound by the provisions of that treaty in view of its denouncement thereof and in view of the announcement by the Governments of Guatemala, Nicaragua, and Honduras that the provisions of the treaty are no longer binding upon El Salvador and Costa Rica, and since all of the governments of Central America have accorded official recognition to the Martínez government in El Salvador, there would seem to be every reason why this Government without delay should resume official relations with the Government of El Salvador and accord formal recognition to President Martínez.

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<sup>24</sup> A photostatic copy of this letter, filed under 816.01/412, bears the following notation: "Approved, Jan. 26, '34, Franklin D. Roosevelt."

If this proposed step meets with your approval, will you authorize us to instruct the American Legation in San Salvador to extend official recognition to the Government of President Martínez in your name.

I suggest that the actual recognition by the United States, should it meet with your approval, should be postponed until tomorrow in order that it may be made perfectly obvious that the United States is acting independently in the matter and not conjointly with the three Central American governments which have recognized President Martínez today.

Faithfully yours,

SUMNER WELLES

816.01/410 : Telegram

*The Minister in Costa Rica (Sack) to the Secretary of State*

SAN JOSÉ, January 26, 1934—11 a. m.

[Received 1:30 p. m.]

5. Referring to telegrams various Central American Missions on recognition of El Salvador by Guatemala, Nicaragua, and Honduras. Costa Rican Government today in receipt of official telegram from Nicaragua containing text of resolution of recognition and plan for new treaty conference. Foreign Minister tells me Costa Rica will gladly attend such conference.

President Jiménez and Foreign Minister Pacheco say that action of the other countries is "vindication of Costa Rican policy". Minister Pacheco adds "This is happiest day of my life because plan I originally recommended 14 months ago now being accepted".

Repeated to Managua.

SACK

816.01/412 : Telegram

*The Secretary of State to the Chargé in El Salvador (McCafferty)*

WASHINGTON, January 26, 1934—1 p. m.

4. Under authorization of the President please extend on behalf of the United States a formal and cordial recognition to the Government of El Salvador.<sup>35</sup>

HULL

816.01/411 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, January 26, 1934—5 p. m.

[Received 8:32 p. m.]

30. My 28, January 25, 1 p. m. The President informed me this morning that in his opinion no further steps will be taken in connection

<sup>35</sup> The Chargé extended recognition late in the afternoon of January 26, in a note which he delivered personally to the Minister of Foreign Affairs (816.01/425).

with proposed conference to be held in February until Government of El Salvador is recognized by Government of the United States. As soon as El Salvador is recognized by us he expects that President Ubico will make the move. He said that he personally hopes that conference will be held in "neutral" place and specifically mentioned Panama as desirable, particularly he said because of the possibility that Panama might be included within the terms of the new treaty which it is proposed should be concluded. While he said that the agenda for the proposed conference had not been officially discussed he expressed the belief that the question of the political union of the Central American states (including Panama) might be brought up. He expressed himself as being strongly in favor of such a union because of the economies which could thereby be effected by all the countries and said that the attitude of the United States Government towards such a proposal would have an important effect.

Repeated to Central American Missions and Panama.

LANE

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[For correspondence relating to the Conference of Central American States, see volume IV, pages 423 ff.]

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**PRELIMINARY DISCUSSIONS RESPECTING A TRADE AGREEMENT  
BETWEEN THE UNITED STATES AND EL SALVADOR**

611.1631/70a

*The Secretary of State to the Minister in El Salvador (Corrigan)*

No. 21

WASHINGTON, July 20, 1934.

SIR: With a view to improving the opportunities for trade between the United States and El Salvador, consideration is being given to the possibility of concluding a mutually advantageous trade agreement between the two countries. Some seventy-five per cent of El Salvador's exports to the United States consist of coffee. In the proposed agreement, therefore, the United States might undertake that this product should continue to be admitted free of duty in return for reductions in duties by El Salvador on important products of the United States. It is possible that in the course of exploratory conversations El Salvador might wish to bring to the attention of the United States other products, in addition to coffee, on which concessions would be desired. Sympathetic consideration would be given to any such proposals, although it is believed that in view of the importance of coffee in El Salvador's trade with the United States a guarantee of continued free entry of this product would be equivalent in value to concessions by El Salvador on the principal products imported from the United States.

The trade agreement might also contain a provision for unconditional and unrestricted most-favored-nation treatment, subject to the usual exception regarding Cuba, and other generally recognized exceptions; provision against quantitative restrictions (quotas) on imports of products respecting which tariff concessions are granted by each party under the agreement; provision against increased internal taxes on such products; and national treatment with respect to internal taxes on all products.

Please communicate the above to the Government of El Salvador and inform it that if it is prepared to begin exploratory conversations along the lines above indicated the Department will send you very shortly a statement regarding the concessions which would probably be requested by the United States.

You should make it clear that the intention of this Government is solely to explore the situation with a view to determining whether negotiations, if undertaken, would be likely to meet with success.

It is desired that no publicity be given this matter for the time being.

Very truly yours,

For the Secretary of State:  
FRANCIS B. SAYRE

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611.1631/72a : Telegram

*The Acting Secretary of State to the Minister in El Salvador  
(Corrigan)*

WASHINGTON, August 30, 1934—7 p. m.

32. Department's instruction No. 21, July 20, 1934. Please inquire of the Salvadoran Government whether it is prepared to initiate exploratory conversations at an early date. Since this Government is planning to give public notice shortly of the intention to negotiate agreements with other Central American countries it seems appropriate to inquire as a matter of courtesy whether the Salvadoran Government desires a similar announcement to be made with respect to that country.

PHILLIPS

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611.1631/73 : Telegram

*The Minister in El Salvador (Corrigan) to the Secretary of State*

SAN SALVADOR, August 31, 1934—5 p. m.  
[Received 8 p. m.]

48. Referring to your telegram No. 32, August 30, 7 p. m., sometime ago I made inquiry of the Foreign Minister whether the Salvadoran Government was prepared to initiate exploratory conversations at an early date regarding the possibility of concluding a trade agreement between the two countries. He agreed in principle with the plan but

said he would have to consult the Minister of Finance. Yesterday I received a note from the Foreign Minister in which he stated that the matter had been referred to the Minister of Finance for his consideration and opinion and he would advise me as soon as he had his reply.

The Foreign Office feels that for the present it would appear preferable not to give public notice of the intention to negotiate the agreement with Salvador until after the Finance Minister has had an opportunity to study the matter and give his ideas.

CORRIGAN

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611.1631/74a : Telegram

*The Acting Secretary of State to the Minister in El Salvador  
(Corrigan)*

WASHINGTON, September 10, 1934—8 p. m.

33. Public notice of intention to negotiate a foreign trade agreement with El Salvador was given September 7.<sup>36</sup> Please inform Minister for Foreign Affairs.

PHILLIPS

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611.1631/76 : Telegram

*The Minister in El Salvador (Corrigan) to the Secretary of State*

SAN SALVADOR, September 14, 1934—4 p. m.

[Received 6:06 p. m.]

49. Referring to my telegram No. 48 of August 31, 5 p. m., the Minister of Foreign Affairs has informed me that the Minister of Hacienda, in order to be able to study the matter more intelligently, desires to have the statement of concessions mentioned in paragraph 3 of the Department's instruction No. 21 of July 20, 1934, before inaugurating the exploratory conversations for the proposal [*proposed?*] trade agreement.

CORRIGAN

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611.1631/76

*The Secretary of State to the Minister in El Salvador (Corrigan)*

No. 32

WASHINGTON, September 20, 1934.

SIR: The receipt is acknowledged of your cablegram No. 49 of September 14, 4 p. m., stating that the Salvadoran Minister of Hacienda, in order to be able to study more intelligently the possibility of a trade agreement with the United States, desires to have a statement of the concessions which would probably be requested by the United States.

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<sup>36</sup> For text of public notice and statistics on trade between the United States and El Salvador, issued by the Department of State on September 7, 1934, see Department of State, *Press Releases*, September 8, 1934, pp. 166-170.

In reply, you may inform the Minister for Foreign Affairs, for communication to the Minister of Hacienda, that the matter of the concessions to be asked by the United States Government is being studied, and that it is expected that a list of them will be ready for presentation to the Salvadoran Government within a few weeks.

Very truly yours,

For the Secretary of State:  
FRANCIS B. SAYRE

611.1631/82: Telegram

*The Minister in El Salvador (Corrigan) to the Secretary of State*

SAN SALVADOR, September 29, 1934—noon.  
[Received 1:50 p. m.]

52. Your telegram No. 58, September 28, 6 p. m. to the Legation in Managua.<sup>37</sup> Proposed trade agreement will require ratification by the Salvadoran Legislature. Its next session will be inaugurated early next February and will last for several months.

CORRIGAN

616.003/371

*The Secretary of State to the Minister in El Salvador (Corrigan)*

No. 42

WASHINGTON, October 26, 1934.

SIR: Reference is made to despatch No. 620 of October 13, 1934, from the American Vice Consul in San Salvador,<sup>38</sup> reporting the official publication on October 10, 1934, of Decree No. 131 greatly increasing the tariff on cotton imported into El Salvador.

Inasmuch as El Salvador has expressed its desire to negotiate a commercial agreement with the United States, the general purpose of which it is clearly understood will be to remove or reduce existing barriers to trade, including import tariffs, the Department believes it has a right to expect that the Government of El Salvador, pending the completion of the negotiation, should refrain from increasing its import duties on products which are principally of American origin. It is desired that you point this out informally to the Minister for Foreign Affairs and report the result of your representations.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

<sup>37</sup> *Post*, p. 520.

<sup>38</sup> Not printed.

611.1631/87

*The Minister in El Salvador (Corrigan) to the Secretary of State*

No. 93

SAN SALVADOR, November 2, 1934.

[Received November 7.]

SIR: With reference to Department's airmail instruction No. 42 of October 26, 1934 regarding the increased tariff on cotton imported into El Salvador, I have the honor to report that this matter had already been touched upon in my despatch No. 90 of October 23, 1934.<sup>39</sup>

The Department's attention is invited to the fact that El Salvador has not yet expressed the desire to negotiate a Trade Agreement with the United States. This Legation reported in despatch No. 65 of August 31, 1934<sup>39</sup> that the Minister for Foreign Affairs, Doctor Miguel Angel Araujo, informally and orally agreed in principle but his note of August 28, 1934 said that the matter had been referred to the Finance Minister. Legation's telegram No. 48 of August 31, (5 p. m.) in reply to Department's telegram No. 32 of August 30, (7 p. m.) informed the Department that the Foreign Office felt that for the present it would be preferable not to give public notice of intention to negotiate an agreement with El Salvador until after the Finance Minister had had an opportunity to study the subject. Apparently overlooking the information furnished in this telegram, announcement was made that El Salvador had agreed to undertake conversations looking to a trade agreement. Inasmuch as this publication appeared simultaneously with like publications regarding other Latin American countries, it produced no reaction here. El Salvador therefore is not yet in the position of having expressed a desire to negotiate a commercial agreement.<sup>40</sup>

This cotton tariff law is purely nationalistic in its motivation and does not represent an attempt to raise a duty before starting to negotiate a treaty in order to be in position to make an apparent concession later which would not be a concession in fact but a return to *status quo ante*.

I have already called the attention of the Minister of Foreign Relations to the fact that this legislation was directly contrary to the attempt now being made to break down trade barriers. The Minister of Foreign Affairs agreed with my opinion, but expressed inability to do anything about this law which had been passed by the Legislative Assembly to encourage cotton growing in the country.

Considering the above facts, does the Department still desire me to

<sup>39</sup> Not printed.

<sup>40</sup> For information that El Salvador was ready to enter into conversations regarding a new trade agreement, see despatch No. 107, November 30, 1934, from the Minister in El Salvador, p. 277.



again point this out informally to the Minister of Foreign Affairs before he has had the report of the Finance Minister on the whole subject of the trade agreement conversations?

Respectfully yours,

FRANK P. CORRIGAN

611.1631/87

*The Secretary of State to the Minister in El Salvador (Corrigan)*

No. 49

WASHINGTON, November 23, 1934.

SIR: The receipt is acknowledged of your despatch No. 93 of November 2, 1934, in regard to a recent increase in the tariff on cotton imported into El Salvador.

With reference to the first paragraph on page 2 of your despatch, wherein it is stated that in giving public notice of intention to negotiate a trade agreement with El Salvador the Department apparently overlooked information furnished by you to the effect that the Salvadoran Foreign Office felt that for the time being it would be preferable not to give such notice, you are informed that before the public notice was given the Minister of El Salvador, in conversation with Assistant Secretary Welles, stated that he had been instructed by his Government to state that the Government of El Salvador desired to negotiate a trade agreement with the United States. Upon being told by Mr. Welles that public notice of the negotiation would be given simultaneously with notices regarding negotiations with the other Central American republics, the Minister said that he appreciated this courtesy on the part of the Department and was entirely in accord with the public notice being given.

In view of the above, the Department is of the opinion that its attitude with respect to the raising of tariff rates at the present time on commodities imported principally from the United States, as set forth in its instruction No. 42 of October 26, 1934, is well taken. It is suggested, therefore, that, unless you perceive objections other than those raised in your despatch under acknowledgment, you bring the Department's view of the increase in tariff on imported cotton informally to the attention of the Minister of Foreign Affairs.

Very truly yours,

For the Secretary of State:

SUMNER WELLES

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[See also extract from instruction No. 120, December 21, 1934, to the Minister in Costa Rica, printed on page 92.]

INFORMAL ASSISTANCE BY THE DEPARTMENT OF STATE TO REPRESENTATIVES OF THE HOLDERS OF SALVADORAN BONDS UNDER THE LOAN CONTRACT OF JUNE 24, 1922<sup>41</sup>

816.51c39/266

*The Manufacturers Trust Company to the Secretary of State*

NEW YORK, N. Y., January 26, 1934.

[Received January 27.]

Re: Loan Contract between the Republic of El Salvador and Minor C. Keith, dated June 24, 1922, and Supplemental Contracts dated January 5, 1923 and September 28, 1923.

HONORABLE SIR: We are the successor Fiscal Agent under the above Loan Contract executed and delivered by the Republic of El Salvador under which there are now issued and outstanding bonds of Series A of the aggregate principal amount of \$3,609,000., bonds of Series B of the aggregate principal amount of £893,830. sterling, and bonds of Series C in the aggregate principal amount of \$9,010,300.

We understand that your Department is preparing to recognize the Martínez Government of the Republic of El Salvador.<sup>42</sup> In this connection may we respectfully call your attention to our previous letters and formal notices to your Department, in particular those dated March 16, 1932, August 16, 1933 and September 21, 1933,<sup>43</sup> relative to defaults made by the Republic of El Salvador in the fulfilment of its obligations contained in Articles III, IV, VII and VIII of the Loan Contract in that, among other things, the Republic had not paid or caused to be remitted the funds required for the service of the Loan. These defaults have continued since February, 1932, and additional defaults have since occurred. The latest defaults consist of the failure to remit or pay or cause to be remitted or paid the funds required for the service of the Loan on January 1, 1934.

We wish to invite your special attention to Articles IX and XIX of the Loan Contract of June 24, 1922 in which your Department is specifically mentioned.

At this time we, as Fiscal Agent under this Loan Contract, believe it our duty to request you to be kind enough to review the defaults under the Loan Contract and to take such steps as may be necessary to secure the observance of this Loan Contract and the preservation

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<sup>41</sup> For previous correspondence, see *Foreign Relations*, 1921, vol. II, pp. 843 ff.; *ibid.*, 1922, vol. II, pp. 885 ff.; and *ibid.*, 1923, vol. II, pp. 823 ff.

<sup>42</sup> See pp. 216 ff.

<sup>43</sup> None printed.

of the lien and charge created thereby upon the customs revenues pledged under the Loan Contract.

Very respectfully yours,

MANUFACTURERS TRUST COMPANY  
as Successor to Chatham Phenix  
National Bank and Trust Company,  
as Fiscal Agent under said Loan  
Contract dated June 24, 1922

By J. LAWRENCE GILSON  
Vice President

816.51c39/278

*The Bondholders Protective Committee for the Republic of  
El Salvador to the Secretary of State*

[NEW YORK,] March 16, 1934.

[Received March 17.]

SIR: As you have been previously advised, under date of February 10, 1933,<sup>44</sup> this Committee was formed, pursuant to Deposit Agreements dated March 24, 1932 and March 28, 1932, for the Bonds of the Republic of El Salvador issued in 1922 under a loan contract made by said Republic in said year.

This Committee is informed by the Fiscal Agent for the El Salvador Loan that, on the announcement by President Roosevelt of the recognition of President Martínez of El Salvador, they formally notified the Department of State of the existing default in this loan.

This Committee has been in existence for over two years and represents over 85% of the outstanding dollar bonds of the said Republic, substantially all of which are held in the United States of America by over 4,000 individual bondholders resident in practically every State in the Union. The Committee has negotiated agreements with the Republic of El Salvador during said period,<sup>45</sup> and has obtained substantial payments for the bondholders, of all of which the Department of State has been duly informed. There are, however, certain circumstances surrounding this loan of special interest and which clearly distinguish the present situation from most of those with which the State Department is concerned.

We refer especially to the exchange of Notes between the Government of the United States and that of El Salvador connected with the making of this loan in 1922, and especially to the Note of the American

<sup>44</sup> Letter not printed.

<sup>45</sup> An agreement dated August 1, 1932, was rejected by the Legislature of El Salvador (816.51c39/212). On May 5, 1933, a temporary agreement for the partial service of the 1922 loan was signed; for text, see *Diario Oficial*, May 20, 1933, p. 1021.

Minister to the Government of El Salvador, dated July 21, 1922, which is as follows:—

“July 21, 1922

Sir: My Government having now taken cognizance of the loan contract signed on June 24th, 1922, between the Government of Salvador and Mr. Minor C. Keith, and approved by the Assembly of Salvador on July 12th, instructs me to acknowledge your note of July 17th, and to state that the Government of the United States is gratified to receive the assurances therein contained and that the Secretary of State on his part is prepared to carry out the stipulations with reference to him in your note of October 20th, 1921,<sup>46</sup> and in Articles 9, 19 and 21 of the loan contract in the event that it should be necessary to do so. This Government instructs me to repeat, however, that it must reserve entire liberty of action with regard to any diplomatic representations which it may feel it advisable to make with regard to the conduct of the office of the Collector General of Customs or with regard to the removal of that official in the event that he should prove incompetent or conduct his office in an improper manner.

I take this occasion to renew to Your Excellency the assurance of my highest consideration.

‘(Signed)’ Montgomery Schuyler

His Excellency

Doctor Arturo R. Avila

Acting Minister for Foreign Affairs

San Salvador.”

The same assurance was repeated in the letter from the Department of State, dated July 15, 1922, addressed to Messrs. Lansing and Woolsey, 8 Jackson Place, Washington, D. C.<sup>47</sup>

We feel that this situation is so different and so special that it requires recognition by the State Department of the peculiar circumstances thereof and of the responsibility of the State Department to the thousands of American citizens who have acquired the Bonds in question on the basis of the understanding that, due to the position taken by the State Department, their interests would be more adequately protected.

The Committee would appreciate receiving from you some statement of your position in this matter, and would like to have the assurance that it will have the support of the Department of State to the end that the interests of the Bondholders may be duly and adequately protected.

The Chairman of the Committee would like very much to discuss this matter with you, personally, at your earliest convenience, and

<sup>46</sup> *Foreign Relations*, 1921, vol. II, p. 852.

<sup>47</sup> Not printed.

respectfully requests that you grant him an interview, if possible, on March 21st or as soon thereafter as it meets with your convenience.<sup>48</sup>

Very respectfully,

Protective Committee for the  
External Bonds of the Republic  
of El Salvador Issued under Loan  
Contract of 1922. Constituted  
under the Deposits Agreements  
dated March 24 and March 28, 1932.

By J. LAWRENCE GILSON  
Chairman

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816.51c39/284

*Memorandum by the Chief of the Division of Latin American Affairs  
(Wilson)*

[WASHINGTON,] March 21, 1934.

Mr. J. Lawrence Gilson, Chairman of the Bondholders Protective Committee for the External Bonds of the Republic of El Salvador, called on Mr. Welles; Mr. Wilson was present. Mr. Gilson stated that his Committee was concerned over the failure of Salvador to make any remittances so far this year under the temporary agreement for servicing the bonds. He said that the Committee expected that nothing would be received for the next few months and that by next May, when the payment on the coupons was due, no funds would be available.

Mr. Gilson said that he had carried on considerable correspondence with President Martínez and the Finance Minister of Salvador. The Salvadoran Government took the position that in view of the "trend of the times", lack of funds on the part of the Government, onerous provisions of the loan contract, et cetera, interest on the bonds should be cut about fifty per cent. In this connection Mr. Gilson referred to an "understanding" reached by the Government of Salvador with the bankers at the time the loan was floated that if the Republic carried out its obligations under the contract over a period of eight or ten years, the bankers would endeavor to refund the outstanding balance and have the interest rate reduced. (So far as I know this is the first we have heard of such an "understanding", and as Salvador met her obligations from the time of the loan in 1922 down to February 1932, it may be that President Martínez is seeking some relief on the basis of this arrangement.)

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<sup>48</sup> Mr. Gilson was informed by telegram March 19, 1934, that Assistant Secretary of State Welles would be glad to see him on March 21st (816.51c39/279).

Mr. Gilson referred to the defaults which took place in February 1932 and said that he considered the Department's position as "entirely correct" in declining to take up with Salvador, as provided in the loan contract, the question of a collectorship of customs, in view of the fact that there was no recognized government to deal with. Mr. Gilson referred to the fact that the situation was perhaps different now that we had recognized the Martínez government, but he made no request for any action looking to the establishment of a collectorship; on the contrary, he said that in his view he did not think it necessary to have a customs collectorship installed in Salvador since the Government had ample funds to pay on the basis of the present temporary agreement, and the bondholders would be willing to agree to an extension of this temporary agreement on reasonable terms. Mr. Gilson said that the purpose of his visit was to request the Department to instruct Dr. Corrigan, the new Minister, to say to the Salvadoran Government on his arrival that we felt that Salvador should continue its payments under the terms of the temporary agreement.

Mr. Welles said that this was the first information we had received that the remittances were not being made currently under the temporary arrangement. He said that we would instruct the Chargé d'Affaires at San Salvador to look into the situation and give us full information. Mr. Gilson said that he would be glad to send a memorandum to the Department giving all the information which his Committee possessed, and which we could send to the Chargé d'Affaires for his information. Mr. Welles suggested that Mr. Gilson get in touch with the Foreign Bondholders Protective Council, since this Salvadoran situation would fall within the field of the Council. Mr. Gilson said that his Committee was a going concern, that it had taken effective action in behalf of the holders of Salvadoran bonds, and that he was not sure there was anything the Foreign Bondholders Protective Council could do in the matter, but that he would be glad to get in touch with that organization and talk over the situation.

During the conversation Mr. Gilson mentioned that the Committee had had some difficulties with the Salvadoran Government over the question of payment of the expenses of the Committee, particularly legal expenses, which Mr. Gilson said had been heavy. The Salvadoran Government had refused to contribute to the Committee's expenses, which necessarily had become a charge on the bondholders. Mr. Gilson said the bondholders had "agreed" that 15% of the coupons should be deducted for the Committee's expenses; he mentioned that the members of the Committee received remuneration in the sum of \$3,000 annually each.

EDWIN C. WILSON

816.51c39/281

*The Vice President of the Manufacturers Trust Company  
(J. Lawrence Gilson) to the Secretary of State*

NEW YORK, N. Y., April 3, 1934.

[Received April 4.]

DEAR MR. SECRETARY: AS promised you, I am attaching herewith Memorandum of Facts<sup>50</sup> in connection with the Republic of El Salvador Customs Lien Sinking Fund Bonds of 1922, Series A, B and C.

I regret the delay in forwarding this information to you, but its compilation has taken more time than I anticipated and I wished to have it as complete as possible when it reached your hands.

I believe that you will find this information of interest, and I feel confident that you will reach the conclusion that the Republic of El Salvador is financially able to meet its external obligations.

We have, as yet, received no remittances this year from the Republic on account of service of this loan, and I am fearful that the bondholders will not receive the full interest due on July 1st. It is very evident that funds which should accrue to the bondholders are being diverted by the Republic for purposes directly contrary to the terms of the Loan Contract.

I will appreciate very much your consideration of this matter and would respectfully suggest that the Department of State is now in a position where it can be of material assistance to a large number of citizens of this country who are owners of these bonds and are dependent upon them for a large part of their income.

Should you desire more copies of this Memorandum I will be very glad to forward them to you at any time.

With very kind personal regards, I am

Yours very respectfully,

J. LAWRENCE GILSON

816.51c39/282

*The Secretary of State to the Chargé in El Salvador (McCafferty)*

No. 165

WASHINGTON, April 11, 1934.

SIR: There is transmitted herewith a "Memorandum of Facts in connection with the Republic of El Salvador Customs Lien Sinking Fund Bonds of 1922, Series A, B and C",<sup>50</sup> together with a copy of its covering letter of April 3, 1934, received from Mr. J. Lawrence Gilson, Vice President of the Manufacturers Trust Company of New York City,<sup>51</sup> which is the Fiscal Agent of the 1922 Loan. Mr. Gilson

<sup>50</sup> Not printed.

<sup>51</sup> *Supra.*

is also Chairman of a "Bondholders Protective Committee for Republic of El Salvador".

There is also enclosed a copy of a memorandum of a conversation of March 21, 1934, between Mr. Gilson and the Assistant Secretary of State,<sup>52</sup> with respect to the Loan. The Department desires that you make a study of the situation regarding the service of the Loan and report thereon, with particular reference to Mr. Gilson's contention "that the Republic of El Salvador is financially able to meet its external obligations" but "that funds which should accrue to the bondholders are being diverted by the Republic for purposes directly contrary to the terms of the Loan Contract".

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

816.51c39/289

*Memorandum by the Assistant Secretary of State (Welles)*

[WASHINGTON,] May 18, 1934.

Mr. Gilson called to see me two days ago and in his conversation said that he felt it was desirable not to suggest any change in the existing arrangement between the Government of Salvador and the bondholders until after the next Presidential elections had taken place. I said that, in general, I concurred in his opinion, but stated that I did not wish to make any definite statement in the matter until after receipt of the requested report from the American Legation in San Salvador. I further said that I would let him know when the report had been received and have a further conference with him.

S[UMNER] W[ELLES]

816.51c39/292

*Memorandum by the Chief of the Division of Latin American Affairs (Wilson)*

[WASHINGTON,] May 25, 1934.

Mr. J. Lawrence Gilson, Chairman of the Bondholders Protective Committee for the External Bonds of the Republic of Salvador, telephoned me from New York. He referred to his recent conversation with Mr. Welles, and said that day before yesterday he had received a cable from the Finance Minister of Salvador reading in translation as follows:

"Government resolved to pay coupon up to June. We request designation of representative to urgently take up modification of interest and to calculate amount to be set aside in budget of next fiscal year."

<sup>52</sup> *Ante*, p. 266.



Mr. Gilson said that it appeared that President Martínez wanted to reduce the bond interest by about 50%, and that this was evidently a move to initiate discussions with this object in view. He said that the attitude of the Committee had been to do nothing to disturb the present arrangement, to endeavor to extend the present arrangement for another year and then, following the election and inauguration of a new President early in 1935, to take up the matter of a revision of the 1922 loan contract on an equitable basis. He said that the Committee had not yet replied to the recent cable from the Finance Minister and did not wish to do so until it had an expression of our views in the matter.

I said that I did not see how we could advise his Committee as to the attitude it should take in this matter. I said that once the Committee had determined upon the course of action it thought well to pursue we would of course be interested in being advised thereof. Mr. Gilson then said that the Committee would take the matter under consideration and would write us a letter indicating what it proposed to do and probably inquiring whether we had any comments to make.<sup>53</sup>

EDWIN C. WILSON

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816.51c39/303

*The Minister in El Salvador (Corrigan) to the Secretary of State*

No. 67

SAN SALVADOR, September 8, 1934.

[Received September 19.]

SIR: I have the honor to refer to the Department's instruction No. 165 of April 11, 1934 and No. 28 of August 30, 1934,<sup>54</sup> and to report that this study was begun immediately upon my arrival here. I had before sailing from New York a conference with Mr. Gilson the Chairman of the Bondholders Protective Committee, who gave me a complete summary of the salient facts in connection with the history of the loan and its present status. I have been in close touch with Mr. William Renwick, Fiscal Agent for the Loan, and have had several conferences with him and members of his staff. Mr. Renwick brought in Mr. John Armstrong, representing the British Bondholders, last month and the matter was also discussed from their point of view.

With particular reference to Mr. Gilson's contention "that the Republic of El Salvador is financially able to meet its external obligations" but "that funds which should accrue to the bondholders are being diverted by the Republic for purposes directly contrary to the terms of the Loan Contract" I beg to report that the first part of Mr. Gilson's contention is probably true. The second part "that funds which should

<sup>53</sup> Letter dated May 25, 1934, confirming this conversation, not printed.

<sup>54</sup> Instruction No. 28 not printed.

accrue to the bondholders are being diverted by the Republic for purposes directly contrary to the terms of the Loan Contract" is open to question and has an important bearing on the first. About twenty-five per cent of the total revenue is devoted to the military expense, maintenance of National Guard and Police. Under the circumstances now obtaining and for a time at least a large part of this expenditure might fairly be charged against the maintenance of public order. There is a strong undercurrent of unrest fomented by communistic indoctrination which would become immediately manifest at any sign of weakness in the government either moral or physical. The authorities here recognize this quiescent but powerful opposition and it is their first consideration. Therefore, a considerable portion of this expenditure might be justified even from the bondholders point of view because a successful subversive movement would certainly imperil their investment.

Mr. Renwick and Mr. Armstrong both agree with me that the first consideration is that the face value of these bonds be safeguarded and the conservation of their validity as an obligation of this Salvadoran government be maintained so that the investors may sometime get back their principal.

The actual facts that confront the bondholders is not what the Republic of El Salvador is financially able to do under normal circumstances but what the Government of El Salvador will do under the special set of circumstances which govern. In this connection the position of the Department is important.

In order that the Department may be informed as to all phases of the Salvadoran Government's attitude, I relate a conversation with . . . He told me that this as well as other Latin-American governments are inclined to construe the "good neighbor" policy into a license to do as they please with regard to financial obligations owed to foreigners. He cynically observed that the only reason that they had respected their obligations formerly was through fear of the State Department and that this fear was now removed. I felt that he over-drew the picture but I was compelled to give some weight to his opinion because it is confirmed in some degree by Mr. Renwick's reports to me of his visits with the Minister of Hacienda. His mental attitude, according to this informant, is not such as to inspire a feeling of confidence that he wants to make a bona-fide effort to do all that is reasonably possible under the Loan Contract. It is characterized rather by an effort to postpone or evade its fulfillment.

With reference to such an attitude I told Mr. Renwick that the "good neighbor" policy did not imply lack of interest in the rights and interests of our citizens but only the belief that moral pressure was superior to physical force in protecting those interests. I was careful

to keep within the meaning of public statements which have been made by the Secretary on these points in order to remain in line with the Department's policy.

The Minister of Hacienda is demanding a flat fifty per cent reduction in interest rate on the A, B and C bonds with no amortization for two or three years. "B" bonds are the British owned issue. Mr. Renwick informs me that there is a wide difference between the "A" and "C" bonds which might warrant separate treatment on the part of the government. The holders of the "A" bonds invested actual money in good faith and are entitled to the most favorable treatment possible. The "B" bonds were issued against claims many of them exaggerated or of doubtful validity. The Salvadoran Government did not receive anything like one hundred per cent value for these bonds and might justly request a readjustment as regards this issue. Of course most of them were sold by the original holders and are now in the hands of people who bought them in good faith. All issues are now in default and I fear will remain so until a new agreement is reached. The Minister of Hacienda is not disposed to renew the temporary agreement. He wishes to proceed at once to a reconsideration of the 1922 contract and a new deal. Mr. Renwick would like to have these conversations take place in Washington. All that I have said here about the position of the Minister of Hacienda is from information furnished me by the Fiscal Representative or members of his staff.

The position taken by the Legation in these conversations is comprised in and did not go beyond what I have expressed in a letter on the subject addressed to Mr. Renwick, copy of which is appended.<sup>55</sup> I sent this letter in order that Mr. Renwick might make what use he could of the fact that he had a communication from me which would indicate that the watchful interest and moral forces of the Government are still active in protecting and aiding American interests.

I am enclosing with this despatch a memorandum from Mr. William Renwick<sup>55</sup> giving his view point of the present status of the loan negotiations.

Respectfully yours,

FRANK P. CORRIGAN

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816.51c39/310

*Memorandum by the Chief of the Division of Latin American Affairs (Wilson)*

[WASHINGTON,] October 16, 1934.

Mr. F. J. Lisman, of the Bondholders Protective Committee for Republic of El Salvador External Bonds, called on Mr. Welles. He stated that Mr. Gilson, Chairman of the Committee, had died about

<sup>55</sup> Not printed.

ten days ago, following a rather prolonged illness; that the Committee had elected a Mr. Lowber, Trust Officer of the Manufacturers' Trust Company, to succeed Mr. Gilson as a member of the Committee. It has not yet been decided, according to Mr. Lisman, whether the Chairman of the Committee will be Mr. Lavis or Mr. Lisman.

Mr. Lisman said that the Committee was receiving remittances regularly, and that the money was now in the bank to pay interest on the A and B bonds due January 1, 1935. In this connection he left the attached letter from Mr. Bradford, Secretary of the Committee,<sup>56</sup> setting out the increase in customs revenues for July and August over the respective months of last year. Mr. Lisman said that since last March the Committee had been endeavoring to obtain a reply from the Salvadoran Finance Minister on the Committee's proposal that the existing temporary agreement should be extended to be in effect during the calendar year 1935. He said that the Finance Minister had sent mere acknowledgments but had expressed no views on the proposal. The time is now getting short, and the Committee hopes to avoid the unpleasant situation which would result if by January 1, 1935, when the present agreement expires, there has been no agreement negotiated to cover the immediate future. He said that the Committee felt that it would be impossible to negotiate a permanent arrangement before January 1, 1935, and that in any case it would be preferable to extend the temporary agreement so as to afford sufficient time to negotiate the permanent agreement after the new administration comes into office in Salvador next March. In this connection Mr. Lisman handed Mr. Welles the attached copy of a letter which the Committee proposes to send to the Finance Minister.<sup>56</sup>

Mr. Welles said that this was in effect the position indicated by Mr. Gilson some time ago. He said that it was obviously in the best interests of all concerned to avoid an embarrassing situation next January. He said that in view of the efforts made by the Bondholders Committee since last March to obtain some indication of the opinion of the Salvadoran Government on the proposal for an extension of the temporary agreement, he would be prepared to send an instruction to Dr. Corrigan to inquire, orally and informally, what the intentions of the Salvadoran Government were in the matter. He said that he felt this was all that the Department could do under existing circumstances. Mr. Lisman said that he would appreciate this action very much and thought it would be decidedly helpful.

Mr. Lisman added, in the course of the conversation, that the Committee hoped the negotiations for the extension of the agreement might take place with the Salvadoran Minister in Washington; otherwise

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<sup>56</sup> Not printed.

the Committee would have to send someone to Salvador as it had been very careful to keep Mr. Renwick out of any of these negotiations, feeling that otherwise his cordial relations with the Salvadoran Government might be prejudiced.

EDWIN C. WILSON

816.51c39/311

*The Secretary of State to the Minister in El Salvador (Corrigan)*

No. 39

WASHINGTON, October 19, 1934.

SIR: There is transmitted herewith for your information a copy of a memorandum of a conversation held on October 16, 1934, between Mr. F. J. Lisman, of the Bondholders Protective Committee for Republic of El Salvador Bonds, and Assistant Secretary Welles,<sup>58</sup> as well as a copy of a communication which Mr. Lisman stated is being forwarded by air mail by the Bondholders Protective Committee to the Minister of Finance of El Salvador.<sup>59</sup>

You will please inquire, orally and informally, of the Minister for Foreign Affairs what the views of his Government may be as regards the proposal of the Bondholders Protective Committee that in the best interests of El Salvador and of the bondholders an extension of the existing Agreement of May 5, 1933, be effected to cover the calendar year 1935.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

816.51c39/312

*The Minister in El Salvador (Corrigan) to the Secretary of State*

No. 91

SAN SALVADOR, October 25, 1934.

[Received October 31.]

SIR: I have the honor to refer to the Department's airmail instruction No. 39 of October 19, 1934, with which was transmitted a copy of a memorandum of a conversation held on October 16, 1934, between Mr. F. J. Lisman, of the Bondholders' Protective Committee for the Republic of El Salvador Bonds, and Assistant Secretary Welles, as well as a copy of a communication which Mr. Lisman stated was being forwarded by airmail by the Bondholders' Protective Committee to the Minister of Finance of El Salvador.

In accordance with the Department's instructions, I called yesterday on the Minister of Foreign Affairs and inquired, orally and informally, what the views of his Government were as regards the proposal of the Bondholders' Protective Committee that in the best interests of

<sup>58</sup> *Supra.*

<sup>59</sup> Not printed.

El Salvador and of the bondholders an extension of the existing Agreement of May 5, 1933, be effected to cover the calendar year 1935.

Minister Araujo agreed that some definite policy should be established for the future of this loan contract, but that in view of the short time between now and the expiration of the temporary agreement of May 5, 1933 and in consideration of the present internal political situation with a presidential campaign in progress, probably the most feasible thing would be an extension of the present temporary contract. He further informed me that he would discuss that matter with the President and also with the Minister of Finance and would let me know their views within a short time.

Respectfully yours,

FRANK P. CORRIGAN

816.51c39/316

*Memorandum by the Chief of the Division of Latin American Affairs  
(Wilson)*

[WASHINGTON,] November 20, 1934.

Mr. F. J. Lisman and Mr. Fred Lavis, of the Bondholders Protective Committee for El Salvador Bonds, called on Mr. Welles. Mr. Wilson was present. Mr. Lisman referred to a telephone conversation he had had with Mr. Wilson on November 13, (see memo. of that date)<sup>60</sup> said that the Committee had held its meeting on November 16, and that as yet no reply had come from the Salvadoran Finance Minister to the Committee's letter of last October.

Mr. Lavis said that reports from Mr. Renwick were to the effect that the Salvadoran Finance Minister maintained that Salvador could not continue, in an extension of the present temporary agreement, to make the same interest payments, and that some reduction in interest would have to be effected. The Minister's reason for this was the difficulty Salvador was meeting in marketing its coffee crop, due to restrictions on imports in Germany. Mr. Renwick had advised Mr. Lavis that in his own opinion it would probably be impossible for Salvador, because of the coffee difficulties, to continue the present interest rates; Mr. Lavis, however, stated that he doubted whether this represented a considered view on Mr. Renwick's part . . .

Mr. Lavis said that he felt the Salvadoran Finance Minister was probably confusing two matters: one, his natural desire to obtain a reduction in interest on any definitive settlement; and, two, the matter of a mere extension for one year of the existing temporary arrangement. Mr. Lavis said that the members of the Committee felt that they owed it to the bondholders to do everything possible to obtain an extension of the present temporary arrangement for one year in

<sup>60</sup> Not printed.

order to have an opportunity to work out with the new Administration, which would come into office next March, a definitive settlement. The Committee had, therefore, determined to send a representative to Salvador to discuss the matter with the Government, and Mr. Lavis would be the representative; he plans to leave by Grace Line steamer on November 24.

Mr. Lavis said that he would not desire to go to Salvador if there was any objection on the part of the Department. Mr. Welles said that, on the contrary, he thought it was a wise move and that Mr. Lavis's visit should be of assistance to the bondholders. Mr. Lavis then said that he hoped he could count upon the support of Dr. Corrigan in his negotiations. Mr. Welles said that, as Mr. Lavis knows, Dr. Corrigan was fully informed in the matter and had recently expressed interest to the Foreign Minister in this matter through his inquiry as to the views of the Salvadoran Government on the Committee's proposal for an extension of the present agreement. Mr. Welles said that, while he was sure Dr. Corrigan would be glad to discuss the situation fully with Mr. Lavis, he thought it would be unwise for Dr. Corrigan to associate himself with Mr. Lavis in any way in the latter's negotiations, or to accompany him in his visits to the Salvadoran authorities. Mr. Lavis stated that he shared this view.

EDWIN C. WILSON

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816.51c39/317

*The Secretary of State to the Minister in El Salvador (Corrigan)*

No. 47

WASHINGTON, November 22, 1934.

SIR: With reference to previous correspondence concerning the Salvadoran external loan matter, there is enclosed herewith for your information a copy of a memorandum of a conversation held in the Department on November 20, 1934, with Messrs. Lisman and Lavis of the Bondholders Protective Committee for El Salvador Bonds.<sup>61</sup>

When Mr. Lavis calls upon you you are authorized to discuss the situation with him and, in your discretion, to afford him the benefit of your information in the matter. The Department does not, however, desire you to accompany Mr. Lavis in his visits to the Salvadoran authorities nor to associate yourself in any way with his negotiations. The Department will appreciate being informed promptly of such information as Mr. Lavis may furnish you concerning the course of his discussions.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

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<sup>61</sup> *Supra.*

816.51c32/318

*The Minister in El Salvador (Corrigan) to the Secretary of State*  
No. 107

SAN SALVADOR, November 30, 1934.

[Received December 5.]

SIR: I have the honor to report that Doctor Miguel Araujo, Minister for Foreign Affairs, called on me this afternoon and reported the action of the Council of Ministers on the two questions I had discussed with him informally earlier in the week.

First, he stated that his Government was now ready to enter into conversations with reference to a new Trade Agreement with the United States.<sup>62</sup>

Second, in answer to my question with reference to an agreement on the Foreign Loan Contract, (Department's instruction No. 39 of October 19, 1934) he said that inasmuch as a representative of the Bondholders Protective Committee was coming to Salvador early in December, (Department's instruction No. 47 of November 22, 1934) the Council of Ministers has decided that they would like to conclude an entirely new and permanent agreement while he is here instead of extending the present temporary arrangement and that they would like to have my assistance in working out this new agreement.

I informed him that it was not a matter in which my Government was directly concerned but because citizens of the United States were holders of the bonds we would like to see their interests protected. In view of this, I told him that the negotiations should be carried on between his Government and the Bondholders representative and that I would remain outside. On his insistence that I lend my aid to the discussion, I assured him in very general terms that I was always ready to be helpful in any way possible and that my informal opinions would always be available.

In conclusion, I may say that this Government had practically agreed to extend the present temporary agreement for a year with the idea of postponing the discussions until after the inauguration of the new administration in March but the arrival of Mr. Lavis has caused them to change their minds.

Respectfully yours,

FRANK P. CORRIGAN

816.51c39/321

*The Minister in El Salvador (Corrigan) to the Secretary of State*  
No. 126

SAN SALVADOR, December 22, 1934.

[Received December 26.]

SIR: With reference to Department's instruction No. 47 dated November 22, 1934 and Legation's despatch No. 107 of November 30,

<sup>62</sup> For correspondence concerning the trade agreement, see pp. 257 ff.



1934, I have the honor to report that Mr. Fred Lavis called on me on December 4th to inform me of his arrival. He stated that he held power of attorney from the Bondholders Protective Committee for El Salvador bonds. He informed me of his intention to begin negotiations with Salvadoran Government either to extend the present temporary agreement which expires December 31, 1934 or to make a new agreement for payment of service on the loan. I discussed the situation with him as directed by the Department and gave him the benefit of the Legation's information in the matter. Mr. Lavis called frequently after that and kept the Legation informed as to the status of his negotiations. He told me that Mr. Armstrong representing the British Bondholders had come over from Guatemala to aid him in the negotiations. He also furnished copies of his correspondence with the Government, which copies are on file in the Legation.

On Monday December 17th Mr. Lavis called on me to inform me that his various conversations with the Minister of Hacienda of El Salvador had produced no results, and that Mr. Armstrong had gone back to Guatemala leaving in his hands the representation of the British interests. He had made various propositions none of which had been either accepted or refused. He stated that he was leaving by Grace Line Steamer on Saturday December 22nd without having accomplished his objective. I told him I would consider whether another informal approach by me to Minister Araujo could be of any help and if I decided that it might, I would call upon him. After careful consideration I felt that another call upon the Minister for Foreign Affairs would be compatible with the Department's instruction No. 39 of October 19, 1934.

The following morning I made an appointment with the Minister for Foreign Affairs, Doctor Araujo. When I arrived for the interview Subsecretary Doctor Arturo Avila was also present. I emphasized the fact that my visit was a friendly one and in no sense official but I felt that it might be worthwhile to discuss some features of the failure to reach an agreement about the loan contract. I pointed out the undesirability of the publicity that would undoubtedly be given to Mr. Lavis' failure to reach an understanding and the prejudicial effect that it would have upon Salvadoran credit.

I discussed some provisions of the offer which Mr. Lavis had indicated would be satisfactory and pointed out the advantages which might accrue to Salvador by taking advantage of them.

Doctor Araujo then asked me if I would mind going with them to the President so that they might put the matter before him in the same light. I consented, insisting upon the entirely informal and unofficial status of our visit. The matter was then laid before President Menendez [*Martínez*] by Doctor Araujo in substantially

the manner detailed above. The President listened and without making any commitments said that he would call in the Minister of Hacienda and take the matter up with him.

Doctor Araujo and Doctor Avila both assured me after we left the President that they were quite sure that the matter would be arranged.

The following morning the Minister of Hacienda, Doctor Menéndez Castro, called upon me at the Legation and gave me a long explanation of his position, the great losses from the recent hurricane, the necessity for heavy expenditures in the interest of public order, etc. I expressed my regrets at his failure or inability to reach an agreement with Mr. Lavis and tried to turn his mind toward the advantage that would accrue to Salvadoran credit by coming to an understanding with Mr. Lavis, now representing both British and American Bondholders.

I apprised Mr. Lavis and Mr. Renwick, the local representative of the loan, of these informal conversations with Government officials. They then decided to re-open negotiations in the hope that Mr. Lavis would not have to go home without having reached an agreement.

I am pleased to report that the later negotiations were successful. Mr. Lavis called at the Legation this morning on his way to the boat and informed me that after considerable discussion and some minor changes the final draft of an agreement between the Government and himself for the Bondholders Protective Committee was signed this morning.

The new agreement is also temporary. It provides for a complete discussion of the entire Contract beginning in March of 1935. It also states that a concession in interest rates will be part of the new agreement and that its provision will be retroactive and effective from December 31, 1934, the date of expiration of the present agreement. A copy and translation will be forwarded by next airmail.<sup>68</sup>

Respectfully yours,

FRANK P. CORRIGAN

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<sup>68</sup> Not printed.

## GUATEMALA

### PRELIMINARY DISCUSSIONS RESPECTING A TRADE AGREEMENT BETWEEN THE UNITED STATES AND GUATEMALA

611.1481/45

*The Acting Secretary of State to the Chargé in Guatemala (Lawton)*

No. 9

WASHINGTON, January 4, 1934.

SIR: Reference is made to your despatch 1024, September 9, and the Department's instruction 303, September 26, 1933,<sup>1</sup> regarding the desire of Guatemala to open conversations with the United States with a view to concluding a commercial treaty.

This Government is now prepared to enter into exploratory conversations regarding the possibility of negotiating a reciprocal trade agreement. The Department desires that these conversations take place at Guatemala and accordingly you are requested to take up the matter with the Minister of Foreign Affairs. You may suggest to him that these conversations might proceed on the following basis:

Since over 90 percent of the imports into the United States from Guatemala consist of coffee and bananas, which are admitted free of duty, the agreement might fairly provide that this Government would continue to accord free entry to these products in return for concessions by Guatemala on products imported from the United States. It is possible that in the course of the exploratory conversations Guatemala may wish to bring to the attention of the United States other products in addition to bananas and coffee on which concessions would be desired. While sympathetic consideration would be given to any such proposals, it is believed that in view of the importance of coffee and bananas in Guatemala's trade with the United States a guaranty of continued free entry of these products would be equivalent in value to concessions by Guatemala on the principal products imported from the United States.

With reference to the Foreign Minister's suggestion regarding sugar this Government is not at this time in a position to indicate whether any provision could be made regarding the treatment of this product. In regard to his suggestion concerning a loan or credit facilities as a *quid pro quo* by the United States, this Government could not entertain any proposals of this kind.

<sup>1</sup> Neither printed.

In addition to provisions of the character indicated above, the trade agreement might provide for unconditional and unrestricted most favored nation treatment, subject to the usual exception regarding Cuba, and other generally recognized exceptions; provision against quantitative restrictions (quotas) on imports of products respecting which tariff concessions are granted by each party under the agreement; provision against increased internal taxes on such products; and national treatment with respect to internal taxes on all products.

If the Foreign Minister is prepared to begin exploratory conversations along the general lines indicated the Department will send you as soon as possible a statement regarding the concessions which would probably be requested by the United States.

You should make it perfectly clear that the intention of this Government is solely to explore the situation to determine whether negotiations, if undertaken, would be likely to meet with success.

Very truly yours,

For the Acting Secretary of State:  
FRANCIS B. SAYRE

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611.1431/46

*The Chargé in Guatemala (Lawton) to the Acting Secretary of State*

No. 52

GUATEMALA, January 16, 1934.

[Received January 22.]

SIR: I have the honor to acknowledge the receipt of the Department's airmail instruction No. 9 of January 4, 1934 (received January 15th subsequent to the receipt of the confirmation copy by regular pouch) regarding the possible opening of conversations between the United States and Guatemala with a view to concluding a commercial treaty. I took up the question of the possibility of opening such conversations with the Acting Minister of Foreign Affairs, who stated that he would be glad to go into the matter further upon the receipt of a memorandum listing the concessions which would probably be requested by the United States side by side with those which might be offered to Guatemala. He added that in his opinion President Ubico would be interested in the possibility of a commercial treaty, but that he preferred not to take the matter up with the President until he could present him a memorandum along the lines indicated. I conveyed to him the Department's suggestions as to the basis on which the conversations could proceed; and he indicated his interest in the concessions which might be proposed by the United States for Guatemalan products. He mentioned particularly his Government's interest in possible better treatment on sugar; but I explained that the United States Government was not at this time in a position to indicate whether any provision could be made as to that product. In any case, the Minister preferred not to express any definite opinion

as to the specific suggestions, since he is anxious first to know what concessions would be requested by the United States.

I assured Licenciado Saenz de Tejada that I would communicate at once with the Department, and that I hoped in a short time to be able to provide him with a statement such as he desired.

Respectfully yours,

EDWARD P. LAWTON

611.1431/53

*The Minister in Guatemala (Hanna) to the Secretary of State*

No. 247

GUATEMALA, July 16, 1934.

[Received July 25.]

SIR: I have the honor to refer to the Department's instruction No. 9 of January 4, 1934, and the Legation's despatch No. 52 of January 16, 1934, with reference to the opening of conversations with the Government of Guatemala, having in mind the possible conclusion of a commercial treaty, as well as the Legation's despatch No. 232 of June 27, 1934,<sup>2</sup> in connection with the imposition of a German quota on imports of Guatemalan coffee.

I have just been informed by Licenciado Skinner Klee, Guatemalan Foreign Minister, that in addition to the concern which the Government is feeling with regard to the threatened imposition of a German quota it has just been learned that France has placed a quota on banana imports and has fixed the amount at approximately five thousand tons for the last half of the present calendar year. This amount is about one ship load for the larger vessels of the United Fruit Company. Further, since the restriction provides that the entire quota may be taken at any one time, Dr. Skinner Klee felt that the shipment would in all probability be made from Santa Marta in Colombia and this would mean no further banana sales for Guatemala to France. However, since such exports have previously been slight and the greater part of the income therefrom derives to the United Fruit Company, it would appear that the Foreign Minister is needlessly worried.

The developments reported by Dr. Skinner Klee have increased the desire of his Government to negotiate a trade arrangement with the United States which would open up a broader market for Guatemalan products, especially for a larger percentage of Guatemalan coffee which has heretofore been shipped to Germany. In a number of conversations which I have had recently with the Minister for Foreign Affairs he has manifested his interest as well as his anxiety in this connection. He appears to be a strong advocate for the increase

<sup>2</sup> Not printed.

of trade between Guatemala and the United States even to the extent of making the latter the exclusive market for Guatemalan sales. Should this eventuate he advocates greatly increased imports from the United States to the extent of making us the sole source of supply for such products as we are able to furnish.

Dr. Skinner Klee brought up the subject again only this morning, when I called upon him in connection with another matter, and told me that he proposed to request formal authority of President Ubico to enter into negotiations for a trade agreement with the United States which might accomplish what he has in mind. It was not indicated, however, whether, in preliminary conversation with regard thereto, the Guatemalan Government would endeavor to insist upon a preferential rate on sugar exports, as was indicated in the Legation's despatch first mentioned.

Respectfully yours,

MATTHEW E. HANNA

611.1431/45 : Telegram

*The Secretary of State to the Minister in Guatemala (Hanna)*

WASHINGTON, July 17, 1934—8 p. m.

24. Department's instruction No. 9, January 4, 1934. The Department wishes to commence exploratory conversations as soon as possible. It is therefore preparing a study of the trade between the two countries and a list of the concessions which would probably be asked of Guatemala. This list will be forwarded to you shortly. It is hoped that Guatemala in turn will be in a position to expedite its own study in order that actual conversations can be initiated in Guatemala not later than September 1. Please ascertain and report whether this is agreeable to the Government of Guatemala. It is desired that no publicity be given matter for time being.

HULL

611.1431/52 : Telegram

*The Minister in Guatemala (Hanna) to the Secretary of State*

GUATEMALA, July 18, 1934—10 a. m.

[Received 12:15 p. m.]

47. Department's 24, July 17, 8 p. m., concerning trade agreement with Government of Guatemala. I judge from recent conversations with the Minister of Foreign Affairs of Guatemala that it would now be agreeable to this Government to begin exploratory conversations for a reciprocal trade agreement.

HANNA

611.1431/54

*The Minister in Guatemala (Hanna) to the Secretary of State*

No. 258

GUATEMALA, July 24, 1934.

[Received July 30.]

SIR: With reference to the Department's telegram No. 24 of July 17 expressing its desire to begin exploratory conversations with regard to the conclusion of a reciprocal trade agreement between the United States and Guatemala, I have the honor to report that the Minister for Foreign Affairs in conversation with me this morning confirmed my previous impression reported in my telegram No. 47 of July 18, 10 a. m., and my despatch No. 247 of July 16, 1934, that it would be agreeable to this Government to begin such conversations.

I informed Licenciado Skinner Klee of the Department's readiness to enter into exploratory conversations and its desire that they should commence not later than September 1st. The Minister expressed himself as being heartily in favor of opening such conversations and informed me that he is only waiting some more definite advice concerning the real intentions of Germany relative to the threatened imposition of a coffee quota before committing his Government to a definite date for the opening of conversations. He added, however, that in all probability September 1st would be a satisfactory date.

In the course of our conversation, Dr. Skinner Klee stated that he felt that regardless of the difficulties which had arisen recently with Germany and France as well as other trade complications to the disadvantage of Guatemala, he was strongly of the opinion that Guatemala should have a special trade agreement with the United States which would intensify their commerce and especially give to Guatemala a larger market for its products in the United States. He said that Guatemalan imports from Japan were now at the rate of approximately \$70,000 per month and that Japan purchased practically nothing of Guatemala. He said this was a condition which should not be permitted to continue indefinitely. He added that the merchandise being imported from Japan is of decidedly inferior quality but that it would take Guatemalan consumers sometime to learn this and that the absurdly low prices for this merchandise are a tremendous inducement to the purchaser.

The Minister then went on to observe that Guatemalan coffee, bananas and chicle enter the United States free of duty and he seemed to think that there is not much probability that a duty will be imposed on them. At the same time he appeared to recognize that an assurance that these products would continue to enter the American market free of duty would furnish a guarantee for the future which would be of value to Guatemala. I told him that it is to be presumed

that my Government would endeavor to negotiate trade agreements with the other Latin American countries and that, although it may not be probable, it is possible that circumstances would arise in such negotiations which would make it desirable for my Government to offer special inducements to some other coffee producing country for the importation of its coffee into the United States. I told him that I was saying this without any information from my Government to that effect, and that I was sure he would understand that I was not implying anything in the nature of a threat but was merely pointing out a common sense view of the matter which Guatemala should not overlook. I told him that I felt confident that it is the desire of my Government, and that certainly it is my own, that any special trade arrangement with Guatemala should be for the mutual benefit of both countries, and that he could count on our effort to make the arrangement of benefit to Guatemala.

In connection with the foregoing Dr. Skinner Klee told me that Dr. López<sup>3</sup> when here had not seemed to be pleased with the proposed trade arrangement between the United States and Colombia<sup>4</sup> and had expressed doubt as to whether it would be acceptable to his Government when it is inaugurated.

The Minister, as on former occasions recently, expressed himself as being unqualifiedly of the opinion that a special trade agreement should be and can be made between Guatemala and the United States which would be to their mutual advantage. As heretofore, he expressed himself as strongly of the opinion that Guatemala should broaden the market for its products in the United States and should purchase a greater percentage of its importations in the market of the United States.

Respectfully yours,

MATTHEW E. HANNA

611.1431/57: Telegram

*The Minister in Guatemala (Hanna) to the Secretary of State*

GUATEMALA, August 3, 1934—6 p. m.  
[Received 10:05 p. m.]

51. My despatch No. 258, July 24. Minister for Foreign Affairs told me this morning that under existing circumstances he could hardly expect in near future a definition of Germany's attitude on trade matters with Guatemala but that regardless of Germany's attitude his Government expects to give consideration to any proposals the Government of the United States might care to make when the prospective conversations are opened about September 1st.

HANNA

<sup>3</sup> President of Colombia.

<sup>4</sup> See pp. 66 ff.



611.1431/58 : Telegram

*The Minister in Guatemala (Hanna) to the Secretary of State*

GUATEMALA, August 7, 1934—6 p. m.  
[Received 7:48 p. m.]

52. My 51, August 3, 6 p. m. Minister of Foreign Affairs has just told me that President Ubico is prepared now to begin conversations on proposed treaty and I gathered that he will be pleased if they can begin before September 1.

HANNA

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611.1431/54 : Telegram

*The Acting Secretary of State to the Minister in Guatemala (Hanna)*

WASHINGTON, August 30, 1934—7 p. m.

28. Legation's despatch No. 258, July 24, 1934. You may inform the Guatemalan Government that the Department expects within a few days to give public notice of this Government's intention to negotiate a foreign trade agreement with Guatemala. You will be informed by telegraph as soon as the notice is given.

PHILLIPS

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611.1431/67 : Telegram

*The Minister in Guatemala (Hanna) to the Secretary of State*

GUATEMALA, August 31, 1934—noon.  
[Received 2:25 p. m.]

55. I have just complied with the Department's telegram No. 28, August 30, 7 p. m., and the Minister for Foreign Affairs told me this Government is prepared to begin negotiations.

HANNA

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611.1431/70

*The Minister in Guatemala (Hanna) to the Secretary of State*

No. 332

GUATEMALA, September 5, 1934.  
[Received September 12.]

SIR: With reference to my recent despatches in connection with the proposed commercial agreement between the United States and Guatemala, I have the honor to report that in conversation with the Minister for Foreign Affairs this morning he mentioned the following matter to me.

He stated that a concession which the United States might make and which would be of material benefit to Guatemala would be to impose a

duty on chicle imported into the United States, and then exempt Guatemala from the payment of the duty. Dr. Skinner Klee said this arrangement would tend to correct the contraband traffic in chicle originating in Guatemala and exported to the United States through Belize and Mexico as being of origin in British Honduras and Mexican territory. He was of the opinion that thirty thousand quintals yearly would be a conservative estimate of the quantity of such chicle on which this Government is losing the export tax of \$5.00 per quintal. The Minister added that there was an even greater loss to Guatemala arising from the much lower wages paid for gathering this contraband chicle and the further fact that these wages are paid with merchandise furnished by merchants in British Honduras and Mexico. He estimated that the total loss might be reasonably fixed at somewhere between \$300,000 and \$400,000 annually.

In discussing the foregoing Dr. Skinner Klee suggested that, if this arrangement could be made, this Government might forbid the shipment of alcoholic and spirituous liquors in transit through Guatemalan ports, and thus extend its assistance in preventing the contraband shipment of such liquors to the United States. He recalled in this connection the shipment of liquor which was recently landed at Puerto Barrios in bond (See my despatch No. 324 of August 31, 1934<sup>5</sup>) and immediately trans-shipped to other ports, probably with the United States as its ultimate destination.

Respectfully yours,

MATTHEW E. HANNA

611.1431/70a : Telegram

*The Acting Secretary of State to the Minister in Guatemala (Hanna)*

WASHINGTON, September 10, 1934—8 p. m.

30. Public notice of intention to negotiate a foreign trade agreement with Guatemala was given September 7.<sup>6</sup> Please inform Minister for Foreign Affairs.

PHILLIPS

614.003/80 : Telegram

*The Secretary of State to the Minister in Guatemala (Hanna)*

WASHINGTON, September 25, 1934—5 p. m.

31. Reference despatch No. 46 of September 12, 1934,<sup>7</sup> from Consulate General reporting an increase in the import tariff on automobiles.

<sup>5</sup> Not printed.

<sup>6</sup> For text of public notice and statistics on trade between the United States and Guatemala, issued by the Department of State on September 7, 1934, see Department of State, *Press Releases*, September 8, 1934, pp. 170-173.

<sup>7</sup> Not printed; it transmitted a copy of decree No. 1577, issued on September 10, 1934, by the President of Guatemala.

Inasmuch as Guatemala has expressed its desire to negotiate a commercial agreement with the United States, the general purpose of which it is clearly understood will be to remove or reduce existing barriers to trade, including import tariffs, the Department believes it has a right to expect that the Government of Guatemala, pending the completion of the negotiation, should refrain from increasing its import duties on products which are principally of American origin. It is desired that you point this out informally to the Minister for Foreign Affairs and report the result of your representations.

HULL

614.003/82

*The Minister in Guatemala (Hanna) to the Secretary of State*

No. 360

GUATEMALA, September 28, 1934.

[Received October 3.]

SIR: I have the honor to refer to Consul General Marsh's despatch No. 53 of September 25, 1934,<sup>8</sup> reporting certain changes in the Guatemalan Customs Tariff and to the Department's telegram No. 31 of September 25, 5 p. m.

I have consulted with Mr. Marsh in this connection and he has informed me that the Customs duty, Index No. 484-1-08-05 referred to in the enclosure to the despatch under reference, is a new item, while the remaining items on which duty is to be collected at the rate of 15 centavos per kilo have all been reduced from 30 centavos per kilo.

Mr. Marsh assures me that the changes will not affect American imports to any appreciable degree and I am not, therefore, communicating with the Minister for Foreign Affairs in the premises.

Respectfully yours,

MATTHEW E. HANNA

611.1431/76: Telegram

*The Minister in Guatemala (Hanna) to the Secretary of State*

GUATEMALA, September 29, 1934—noon.

[Received 2:45 p. m.]

62. Department's telegram No. 58, September 28, 6 p. m.<sup>9</sup> The Minister for Foreign Affairs has just told me that the agreement will go into effect immediately on signature by President Ubico acting under his extraordinary powers but must be submitted to the Legislative Assembly for ratification when it convenes next March.

HANNA

<sup>8</sup> Not printed.<sup>9</sup> *Post*, p. 520.

611.1431/70

*The Secretary of State to the Minister in Guatemala (Hanna)*

No. 90

WASHINGTON, October 2, 1934.

SIR: The receipt is acknowledged of your despatch No. 332 of September 5, 1934, reporting that the Guatemalan Minister for Foreign Affairs, in discussing with you the proposed trade agreement between the United States and Guatemala, stated that a concession which the United States might make would be to impose a duty on chicle and exempt Guatemala from its effect.

In its negotiation of trade agreements under the Trade Agreements Act of June 12, 1934,<sup>10</sup> the Department does not contemplate departing from its policy of unconditional and unrestricted most favored nation treatment, subject to the usual exception regarding Cuba, and other generally recognized exceptions. Moreover, the authority conferred upon the Executive by the Trade Agreements Act does not extend to transferring tariff items from the free to the dutiable list, nor to effecting any tariff reductions on dutiable items in excess of fifty per cent. Inasmuch as chicle in its natural state is on the free list, it is evident that the only concession that could be granted would be one providing that this product should continue to be admitted free of duty. Furthermore, under the policy of most favored nation treatment this Government would not discriminate in favor of the product of one country as against the product of another unless the latter discriminated against the trade of the United States or unless the acts or policies of such country were such as to defeat the purposes of the Act.

In your conversations with officials of the Guatemalan Government on the subject of the proposed trade agreement you may make such use of the foregoing information as you may consider desirable.

Very truly yours,

For the Secretary of State:  
FRANCIS B. SAYRE

611.1431/77

*The Minister in Guatemala (Hanna) to the Secretary of State*

No. 381

GUATEMALA, October 10, 1934.

[Received October 17.]

SIR: I have the honor to refer to my despatch No. 332 of September 5, 1934, with regard to the proposed commercial agreement between the United States and Guatemala and to report that when I called on the Minister for Foreign Affairs this morning he again brought up the matter of contraband shipments of chicle from Guatemala

<sup>10</sup> 48 Stat. 943.

with relation to contraband shipments of alcohol from Puerto Barrios. I thereupon communicated to the Minister the essence of the Department's instruction No. 90 of October 2, 1934, which was in reply to the despatch under reference.

In subsequent discussion the Minister inquired if it might not be practicable to include in the prospective trade agreement an obligation on the part of Guatemala to prevent contraband shipments of alcohol and liquor from Guatemalan ports in return for an obligation on the part of our Government to prevent the entry into the United States of contraband shipments of chicle. He added in this connection that much chicle originating in Guatemala is now being shipped to the United States through Belize. I inquired of him how the American authorities would be able to determine whether the chicle reaching the United States was of contraband origin and he replied that the object he had in view might be attained if the United States should require all shipments of chicle from Belize to be accompanied by documents showing that the chicle originated in British Honduras.

The Minister stated that he would like me to present the foregoing idea for consideration in Washington.

Respectfully yours,

MATTHEW E. HANNA

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611.1431/77

*The Secretary of State to the Minister in Guatemala (Hanna)*

No. 101

WASHINGTON, October 24, 1934.

SIR: The receipt is acknowledged of your despatch No. 381 of October 10, 1934, reporting the desire of the Guatemalan Minister for Foreign Affairs to have included in the proposed trade agreement between the United States and Guatemala provision for the assistance of the United States Government in suppressing the entry into the United States of contraband chicle.

In this regard, the Department is giving consideration to the possibility of meeting the wishes of the Guatemalan Government in this matter by means of certificates of origin on chicle imported into this country. You will be notified in due course as to whether or not it is found possible to agree to an arrangement along these lines. Meanwhile, you may wish to suggest informally to the Foreign Minister that he include this proposal on the list of desired concessions which it is presumed the Guatemalan Government is preparing for submission to this Government as a preliminary to the negotiations for a trade agreement.

Very truly yours,

For the Secretary of State:  
FRANCIS B. SAYRE

611.1431/83

*The Minister in Guatemala (Hanna) to the Secretary of State*

No. 453

GUATEMALA, December 7, 1934.

[Received December 12.]

SIR: With reference to previous reports concerning the proposed trade agreement with Guatemala, I have the honor to transmit herewith a copy and translation of a letter which the Minister for Foreign Affairs here addressed to the Minister of Hacienda on November 21, 1934.<sup>11</sup> A copy of the letter was given to me informally and in confidence by Dr. Skinner Klee. It appears that the Minister of Hacienda is seeking some plan to restrict imports from countries, such as Japan, with which Guatemala has an unfavorable balance of trade, and has requested the advice of the Minister for Foreign Affairs. Dr. Skinner Klee proposes to solve this problem by establishing a differential tariff which will impose a surtax on imports from countries with which Guatemala has an unfavorable balance of trade, the amount of the surtax to be based on a comparison of imports and exports of such countries by semesters.

The Minister for Foreign Affairs seemed to think that there is good prospect for some such solution as this to be adopted. The Executive has ample authority under its extraordinary powers to cover this matter by executive decree.<sup>12</sup>

Respectfully yours,

MATTHEW E. HANNA

611.1431/84

*The Minister in Guatemala (Hanna) to the Secretary of State*

No. 473

GUATEMALA, December 22, 1934.

[Received December 26.]

SIR: With reference to the Department's instruction No. 106 of November 10, 1934,<sup>11</sup> in connection with the consideration which the Inter-Departmental Committee was giving to the possibility of meeting the wishes of the Guatemalan Government in suppressing the entry into the United States of contraband chicle by the requirement of certificates of origin, I have the honor to report that on November 19, I informed the Minister for Foreign Affairs of the study being made by the Committee as well as of the doubt expressed as to whether

<sup>11</sup> Not printed.<sup>12</sup> By telegram No. 4, January 29, 1935, 3 p. m., from the Minister in Guatemala, the Department was informed that an Executive decree had been issued January 26, 1935, increasing import duties 100% on all merchandise from countries whose exports to Guatemala during the calendar year 1934 increased 100% in volume, and stating that its purpose was to conserve the Guatemalan market for countries which purchase Guatemalan products (611.1431/86).

the adoption of a requirement for certificates of origin would be sufficient in itself to reduce substantially shipments of contraband chicle out of Guatemala. I also advised the Minister for Foreign Affairs that it would be of assistance to the Inter-Departmental Committee if it could be provided with a definite suggestion from this Government as to the nature of the assistance by means of documentary requirements that is desired by this Government.

In reply to my note I have now received a note dated December 20, 1934, from the Minister for Foreign Affairs, a copy and translation<sup>13</sup> of which is transmitted herewith. It will be observed that the Minister of Finance and Public Credit states that the procedure of requiring certificates of origin would be absolutely useless in attempting to shut off the contraband trade in chicle. It will be noted also that the note makes no definite suggestion in response to the invitation set forth above.

Respectfully yours,

MATTHEW E. HANNA

611.1431/84

*The Secretary of State to the Minister in Guatemala (Hanna)*

No. 132

WASHINGTON, January 11, 1935.

SIR: Referring to your despatch No. 473, of December 22, 1934, concerning trade in contraband chicle, the Department observes that the Guatemalan Foreign Minister's reply to your note No. 76, of November 19, 1934, merely states that if the United States should require certificates of origin on chicle, that measure would be "completely useless" in aiding the Guatemalan Government to suppress contraband traffic in chicle.

In view of the negative nature of this reply, the Department will not give any further attention to this subject unless the Guatemalan Government, on its own initiative, sees fit to pursue it further.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

<sup>13</sup> Not printed.

## HAITI

### WITHDRAWAL OF AMERICAN MARINES FROM HAITI AND TRANSFER TO THE HAITIAN GOVERNMENT BY THE UNITED STATES OF CERTAIN PROPERTY IN HAITI

838.00/3182

*The Minister in Haiti (Armour) to the Acting Secretary of State*

No. 196

PORT-AU-PRINCE, November 28, 1933.

[Received December 2.]

SIR: I have the honor to submit herewith a memorandum on the general subject of the disposition of United States Government property in Haiti,<sup>1</sup> in connection with the withdrawal of the United States Marine forces in October 1934, as provided by the Accord of August 7, 1933.<sup>2</sup>

There are a great many aspects of this question which, I feel, should receive the early attention of the Department. During the eighteen years [in] which United States military forces have been present in Haiti, large stocks of military and nonmilitary material have accumulated and numerous buildings, both temporary and permanent, have been erected on Government or privately owned land. It is believed that these structures and a part of the stock of supplies on hand are not of sufficient value to justify the expense of transportation to the United States, either for sale or for use by the American Government there. It would seem that in the disposition of this property our Government is offered an excellent opportunity to make a generous gesture to the Haitian Government which, properly handled, would have an excellent effect both here and throughout Latin-America. Conversely, I feel that if our Government should pursue a commercial dollars and cents policy, in disposing of this property, the amount of money actually to be saved to the Treasury could in no way compensate for the good will which might otherwise be obtained. If existing statutes conflict with such a course, the Department may wish to consider the advisability of having appropriate legislation introduced at the next session of the United States Congress.

The Garde d'Haiti, which has been built up to its present state of efficiency through the efforts of American Marine Corps officers, is now to be placed on its own resources with the sole assistance of a small American Military Mission. The Garde d'Haiti has never owned its

<sup>1</sup> Not printed.

<sup>2</sup> *Foreign Relations*, 1933, vol. v, p. 755.



own rifles and the enclosed letter<sup>4</sup> from General Clayton B. Vogel, Commandant of the Garde, shows that the Marine Corps proposes to sell the rifles, bayonets and scabbards now used by it for the total amount of \$36,645.00. While it is not questioned that this is a reasonable price, if account be taken of the use they have had of them, it is suggested that the interested departments of our Government might be consulted with the object of materially reducing this figure. It would of course be made clear to the Haitian Government that this action was being taken as an expression of our good will. In addition to these articles, the Garde d'Haiti is undoubtedly in need of other equipment now carried by the First Brigade in Haiti which could be transferred to it at a small, if not nominal, cost.

It is brought out in the attached memorandum that the Haitian Government has, at various times, advanced the claim that American military forces seized arms and equipment of the Haitian army at the time of the original occupation and, furthermore, that buildings of the Haitian Government, notably the barracks occupied by the Second Regiment, have not been adequately paid for. While it was clearly brought out in the letter of the Navy Department, dated February 6, 1933, to the Department of State, a copy of which was forwarded to this Legation with Instruction No. 28 of February 21, 1933,<sup>4</sup> that this claim is without any serious foundation, it occurs to me that an arrangement might advantageously be made with the Haitian Government by which the latter would agree to withdraw any claim for damages which it might have against the United States in return for such generous treatment as we might be able to accord to it in connection with the disposition of Government property.

The enclosed memorandum also raises the question of claims of private citizens against the American Government for both official and unofficial acts of the Marine forces in Haiti. It is my opinion that this question is one which should receive very careful consideration at this time. If we disregard it, we shall undoubtedly be plagued for a long time after the withdrawal of our forces with many claims for damages suffered by individual Haitians at our hands, claims which, regardless of their frivolous nature, will be a source of constant embarrassment. It would appear that this would be an advantageous moment to work out, together with the Haitian Government if need be, some program which will forestall future difficulties.

In connection with the settlement of claims, the services of a competent Haitian lawyer will be required and I particularly invite the Department's attention to the recommendation in the enclosed memorandum that an appropriation be made available to the Legation to employ such services.

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<sup>4</sup> Not printed.

While I realize that many of the question[s] raised in this despatch and the enclosed memorandum will have to be settled by the people here on the ground, nevertheless I consider that before any final decisions can be made here it will be necessary to have a general statement of policy from the interested departments in Washington, together with precise information as to the legal position which will be taken by the Comptroller General in connection with the disposal of Government property.

It is believed that the Department will have available information concerning the manner of withdrawal of our forces from Santo Domingo and Nicaragua which will be of assistance in determining the best course of action in the present case. It is probable that the Comptroller General has, in the past, rendered decisions concerning the sale of Government property to foreign governments under similar circumstances. It is requested that any of this information which might be of use to the Legation be forwarded to Port-au-Prince.

Despite the fact that almost a year remains before the withdrawal of the Marine forces from Haiti, it is urgently recommended that the questions raised herein, concerning the sale of rifles and other equipment to the Garde d'Haiti, and the disposal of Marine Corps property, be given the Department's early consideration.

Respectfully yours,

NORMAN ARMOUR

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838.00/3199 : Telegram

*The Acting Secretary of State to the Minister in Haiti (Armour)*

WASHINGTON, June 5, 1934—8 p. m.

44. Your 57, June 5, 10 a. m.<sup>5</sup> The President today sent a special message to the Congress<sup>6</sup> requesting legislative authorization to give to the Haitian Government a portion of Marine Corps material and a bill will be introduced in both Houses of Congress within the next few days to authorize the President to make the gift.<sup>7</sup>

You will be advised immediately the bill is enacted into law.

PHILLIPS

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838.00/3201a : Telegram

*The Secretary of State to the Minister in Haiti (Armour)*

WASHINGTON, June 21, 1934—2 p. m.

49. Department is favorably inclined to suggestion contained in your personal letter June 11th.<sup>8</sup> Navy Department informs us that

<sup>5</sup> *Post*, p. 366.

<sup>6</sup> Department of State, *Press Releases*, June 9, 1934, p. 362.

<sup>7</sup> For agreement by President Roosevelt with President Vincent of Haiti to request this authority, see joint statement quoted in telegram No. 18, April 18, to the Minister in Haiti, p. 352.

<sup>8</sup> Letter not found in Department files.

complete withdrawal can be made effective by August 15th if instructions are given in the immediate future. The matter will be presented to the President for his decision immediately upon his return to Washington June 26th and you will be notified of such decision by cable immediately thereafter.

HULL

838.00/3201 : Telegram

*The Secretary of State to the Minister in Haiti (Armour)*

WASHINGTON, June 21, 1934—7 p. m.

51. The following law has been enacted:<sup>9</sup>

"That the President of the United States is hereby authorized, in his discretion, to transfer permanently and deliver to the Government of Haiti, without charge against that Government, all right, title, and interest of the Government of the United States in such hereinafter-named property, now in Haiti, as may appear appropriate to the President of the United States:

(a) Equipment, supplies, materials; (b) buildings on land belonging to the Government of Haiti and land leased from private owners; and (c) three emphyteutic leases and one permanent easement covering four parcels of land used by the United States as a radio station at Port-au-Prince, Haiti.

SEC. 2. The Government of Haiti shall assume all obligations of the Government of the United States under said leases and easements."

You are authorized to confer with the Brigade Commander and the appropriate Haitian authorities with a view to determining the matériel to be turned over when the evacuation takes place. In this connection reference is made to lists numbered 1 to 6, inclusive, used in your recent conversations here and copies of which you carried with you. It is of course understood that the machine guns and the Stokes mortar equipment on List No. 4 will not be turned over.

In addition there is understood to be a good deal of medical equipment and supplies which the Navy has agreed to turn over to Haiti.

HULL

838.00/3204 : Telegram

*The Minister in Haiti (Armour) to the Secretary of State*

PORT-AU-PRINCE, July 2, 1934—1 p. m.

[Received 3:08 p. m.]

71. Department's telegram No. 49 of June 21, 2 p. m. Could Department inform me whether any decision has been reached and if so whether the announcement is to be made following the meeting of the two Presidents.

ARMOUR

<sup>9</sup> Law approved June 19, 1934; 48 Stat. 1117.

838.00/3204 : Telegram

*The Secretary of State to the Minister in Haiti (Armour)*

WASHINGTON, July 2, 1934—7 p. m.

59. Your 71, July 2, 1 p. m. The President has decided to accede to the request of the President of Haiti that complete withdrawal be effected by August 15th, but he does not desire that this decision be made public until subsequent to his conference with President Vincent on July 5th.

The Navy Department has been confidentially informed and has advised this Department that withdrawal can be completed by the date indicated.

HULL

811.001 Roosevelt Visit/58 : Telegram

*The Minister in Haiti (Armour) to the Secretary of State*

U. S. S. "JACOB JONES", July 5, 1934—8 p. m.

[Received July 6—6:18 a. m.]

72. The President landed at Cape Haitien at 9:30 this morning.<sup>10</sup> He was greeted at the landing by President Vincent and members of the Cabinet. Due to an attack of dengue fever I was unable to reach Cape Haitien in time to accompany the President ashore. Drew,<sup>11</sup> however, together with General Little<sup>12</sup> accompanied the President. The President and his party were driven through the streets of the city to the temporary presidential palace where approximately three hundred persons including Haitian and American officials and citizens had gathered to greet him. Brief speeches were made by both Presidents following which a private conversation was held the subject and communiqué of which is to be announced in a communiqué issued by the Haitian Government. Text of speeches and communiqué will be forwarded to the Department by air mail. The main points to be referred to in the communiqué are: (1) announcement of complete Haitianization of the Garde on August 1st and withdrawal of Marine forces during the fortnight following—the President referred to this in his speech; (2) announcement of the action of the Congress authorizing the President to give a portion of Marine Corps equipment in Haiti to the Haitian Government; and (3) announcement that negotiations would shortly be undertaken for conclusion of a commercial treaty.

Following reception the President returned to the *Houston* receiving President Vincent on board about noon. I was able to be present

<sup>10</sup> President Roosevelt made this visit to Haiti while on a cruise to the Canal Zone.

<sup>11</sup> Gerald A. Drew, Third Secretary of Legation at Port-au-Prince.

<sup>12</sup> General Louis McCarty Little, commanding officer of the First Brigade of U. S. Marines in Haiti.

at this meeting. The visit of the President was an unqualified success from every point of view. The President expressed himself to me as being greatly pleased with the visit. While, of course, full reports have been forwarded by the press the President felt that an official report should be sent to the Department for such use as it may wish to make of it.

ARMOUR

838.00/3213

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*The Third Secretary of Legation in Haiti (Drew) to the Secretary of State*

No. 352

PORT-AU-PRINCE, July 9, 1934.

[Received July 12.]

SIR: I have the honor to enclose herewith copies and translations of a draft note from the Haitian Foreign Office forwarding to the Legation the proposed text of a note modifying the provisions of Articles I, II and V of the Accord of August 7, 1933.

The proposed note will have the effect of placing into force the informal agreement reached between President Roosevelt and President Vincent in their conversations at Cape Haitian on July 5 for the complete Haitianization of the Garde d'Haiti on August 1, 1934, and the withdrawal of the Marine Forces now in Haiti within the following fortnight.

The text of the Haitian Government's note has been submitted to the Commandant of the Garde d'Haiti and the Director of the American Scientific Mission and meets with their approval. M. Laleau,<sup>13</sup> in handing the draft note to me this morning, expressed the hope that a prompt reply could be received from the Department so as to permit the proposed exchange of notes to be effected at as early a date as possible. It is respectfully requested that the Department telegraph the Legation authorization for the exchange of notes together with any changes in the text thereof which may be necessary.

For the information of the Department, I have the honor to enclose copies of the communiqué issued by the Haitian Government following the conversations of July 5 at Cape Haitian. While the communiqué was originally drafted by the Foreign Office, certain necessary changes in the text thereof were made by the Legation prior to submitting it to the President. The President personally inserted the words appearing at the end of the second paragraph, "a fortnight later," instead of, "on August 15, 1934," as originally provided, with the understanding that this expression when rendered into French would furnish a certain latitude with regard to the date of final evacuation. The revised communiqué proved acceptable to President

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<sup>13</sup> Léon Laleau, Haitian Secretary of State for Foreign Relations.

Vincent and was published by the Government in the form of a communiqué in the semi official *Haiti-Journal* with the English text appearing as the original and the French text given as a translation.

The Commandant of the Garde d'Haiti informs the Legation that plans are being completed for the carrying out of the new arrangement and the Director of the American Scientific Mission has indicated his intention of turning over his service to the Haitian Government as of the same date, August 1. It has been learned informally that the First Brigade has received no information from the Navy Department concerning the date when transports or other vessels will be furnished to evacuate the members of that organization.

Respectfully yours,

GERALD A. DREW

[Enclosure 1—Translation]

*Draft Note From the Haitian Foreign Office*

PORT-AU-PRINCE, July , 1934.

MR. MINISTER: AS Your Excellency is aware, in the course of the conversations which were held in Cape Haitian on July 5 between His Excellency, President Vincent, and His Excellency, President Roosevelt, it was agreed, on the request of the Haitian Government and because of the rapid progress of the Garde d'Haiti, to terminate on August 1, 1934, the services of the American officers in that organization and in the following fortnight to effect withdrawal of the Marine Brigade.

Giving effect to this understanding, I have the honor to communicate to Your Excellency in the name of my Government a draft accord for that object. I am most anxious to receive in the shortest possible time a communication from your Government concerning this draft, in order that we can fix an early date for the signature of the accord which is to be concluded between our two Governments.

Once again rendering due homage to the friendly disposition shown by the Honorable President of the United States toward the Haitian people and Government, I take this occasion to reiterate to you, Mr. Minister, the assurance of my high consideration.

[Enclosure 2—Translation]

*Draft Agreement Between the United States and Haiti,  
Modifying the Agreement of August 7, 1933*

The undersigned Plenipotentiaries, duly authorized by their respective Governments,

Whereas the President of the Republic of Haiti and the President of the United States of America, in the course of their conversation at Cape Haitian on July 5, 1934, reached the agreement, because of the

rapid progress made by the Garde d'Haiti, to terminate completely the services of the American officers in that organization on August 1 of this year,

Whereas the President of the Republic of Haiti and the President of the United States of America, on the request of the Haitian Government, have furthermore agreed on the withdrawal of the Marine forces of the United States of America in the fortnight following August 1, 1934;

Have agreed to the following arrangement:

#### ARTICLE I

On August 1, 1934, the service of the American officers in the Garde d'Haiti shall terminate. On the said date the Garde, under complete command of Haitian officers, will be turned over to a colonel in active service whom the President of Haiti shall designate as Commandant.

#### ARTICLE II

The withdrawal of the Marine Brigade of the United States and the American Scientific Mission, established by the Accord of August 5, 1931,<sup>14</sup> shall be effected in the shortest period possible in such a manner as to be complete in the fortnight following the termination of the services of the American officers in the Garde.

#### ARTICLE III

The provisions of the present arrangement modify those of previous treaties and agreements between the contracting parties which may be contrary thereto, notably, the stipulations contained in Articles I, II and V of the Accord of August 7, 1933.

Signed at Port au Prince in duplicate in the French and English languages this . . . . day of July, 1934.

[Enclosure 3—Translation]

*Communiqué Issued by the Haitian Government, July 5, 1934*

During the conversation held today, July fifth, in Cape Haitian, between President Roosevelt and President Vincent, the following conclusions were reached:

1. In view of the rapid progress made by the Garde d'Haiti, and upon the request of the Haitian Government, it has been agreed that the Garde d'Haiti will be turned over to complete Haitian command on August 1, 1934. All American Marine forces now in Haiti will be withdrawn a fortnight later.

<sup>14</sup> *Foreign Relations*, 1931, vol. II, p. 505.

2. President Roosevelt informed President Vincent of the action of the Congress of United States which authorized him to present to the Haitian Government a portion of the equipment belonging to the American Government, now in use by the Garde d'Haiti and Marine forces in Haiti.

3. Negotiations will be begun shortly between the two governments for the conclusion of a commercial treaty the underlying principles of which have been under discussion for some time.<sup>15</sup>

It is hoped that such a treaty will result in a mutually profitable increase in the commerce between the two countries.

The conversations held between the two Presidents at Cape Haitian have served to reaffirm the feeling of friendship and cordiality existing between the United States and Haiti, a feeling which was signally marked in the course of their conversations held last April in the city of Washington, D. C.

PRESIDENTIAL PALACE, CAPE HAITIAN, July 5, 1934.

838.00/3212

*The Secretary of State to the Minister in Haiti (Armour)*

No. 186

WASHINGTON, July 12, 1934.

SIR: There is transmitted herewith a copy of a letter dated July 10, 1934, from the Acting Secretary of the Navy,<sup>16</sup> relating to the transfer to the Haitian Government of certain leases, buildings, equipment, supplies and matériel, the property of the United States located in Haiti.

It will be noted that the list of property set forth in the Navy Department's letter is somewhat smaller than that contained in the lists referred to in the Department's telegraphic instruction No. 51 of June 21, 1934. After checking these lists with the Navy Department's letter, you will please report by telegraph whether in your judgment the property as listed in the Navy Department's letter is adequate to cover the commitment made by President Roosevelt to President Vincent, and authorized in the law mentioned in the Department's telegraphic instruction referred to above. It is noted in this connection that the three 37 mm saluting guns are not included in matériel listed in the Navy Department's letter. Please discuss this with the Brigade Commander and submit, in the telegraphic report requested above, your recommendations with respect to including these three guns in the matériel to be transferred.

With reference to the last paragraph of the Navy Department's letter, the Department is of the opinion that it should be possible to

<sup>15</sup> See pp. 308 ff.

<sup>16</sup> Not printed.



effect the transfer of the property and the assumption by the Haitian Government of the leases and easement mentioned by means of an exchange of notes between the Legation and the Haitian Government. Please discuss this immediately with the Haitian Government and advise by telegraph whether the suggested procedure is agreeable to that Government.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

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838.00/3216 : Telegram

*The Minister in Haiti (Armour) to the Secretary of State*

PORT-AU-PRINCE, July 17, 1934—4 p. m.  
[Received 8 p. m.]

78. Department's instruction No. 186, July 12, with reference to lists contained in Navy Department's letter of June 10.

While quantities of individual items now on hand have in certain instances decreased since the original lists were prepared it is believed that transfer of such property in addition to transfer of additional property as set forth below will nevertheless comply with both spirit and letter of commitments made by our Government vis-à-vis the Haitian Government. General Little concurs in this view and General Vogel has expressed satisfaction with property on lists which will presumably be turned over by the Haitian Government to the Garde d'Haiti.

It is understood that proper authorization has now been received for transfer of following: (1) radio station complete, (2) one hangar, (3) all telephone wire, (4) all buildings and appurtenances on land owned by the Haitian Government or held under leases or easements, (5) certain surveyed hospital equipment, (6) items as included on list in Navy Department's letter referred to with differences explained above. All classes of property which have previously been directed by headquarters United States Marine Corps to be surveyed and sold in Haiti are at present being prepared for delivery to the Haitian Government. We all agree that no property should be sold under any circumstances.

With reference to three 37 mm guns Generals Little, Vogel, and I agree that for various reasons it will not be desirable to transfer such equipment. I do not believe that the Haitian Government expects to receive the guns referred to.

Reference last paragraph Department's instruction, Minister for Foreign Affairs has informally agreed to effect exchange of notes as suggested in Department's instruction in which the Haitian Government will assume all obligations under existing leases and easements

and to which notes will be attached final lists of property transferred duly certified by the officials of the Haitian Government who will be appointed by it to receive the property.

Prompt telegraphic approval of proposed course of action outlined above is requested.<sup>17</sup>

ARMOUR

838.00/3213

*The Secretary of State to the Minister in Haiti (Armour)*

No. 189

WASHINGTON, July 17, 1934.

SIR: The receipt is acknowledged of your despatch No. 352 of July 9, 1934, enclosing a draft of a note from the Haitian Government, together with a draft of an agreement to modify the agreement of August 7, 1933, relating to the withdrawal of the marine forces in Haiti.

The Department has duly noted your reference to the change made personally by President Roosevelt with respect to the wording "a fortnight later" instead of "on August 15, 1934", as submitted in the Haitian draft enclosed with your despatch under acknowledgment. The Department has accordingly changed the wording at the end of the first paragraph in the draft note and redrafted the draft agreement to conform with the wording used by President Roosevelt, as well as eliminating any reference to treaties in Article III, as treaties cannot be modified by executive agreement.

You will please submit the redrafted note to the Haitian Government, together with the redrafted form of agreement and state that it is not the desire of this Government in any way to retard the withdrawal of the marine forces, but in view of the fact that President Roosevelt himself desired a change in the wording in the communiqué, it is highly desirable that the President's wording be used. If the Haitian Government agrees to substitute the redrafted note and agreement for its original drafts, you may proceed to exchange notes and to sign the agreement immediately, using the principle of the *alternat* in the order of precedence in the texts and when signing.<sup>18</sup>

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

<sup>17</sup> By telegram No. 65, July 18, 1934, 3 p. m., the Department informed the Minister in Haiti that his course of action was entirely approved.

<sup>18</sup> The changes incorporated in the redrafted note and agreement transmitted with this despatch were accepted by the Haitian Government. See signed texts, *infra*.

838.00/3220

*The Haitian Secretary of State for Foreign Relations (Laleau) to the American Minister in Haiti (Armour)*<sup>20</sup>

[Translation]

PORT-AU-PRINCE, July 21, 1934.

MR. MINISTER: AS YOUR Excellency is aware, in the course of the conversations which were held in Cap Haitien on July 5 between His Excellency, President Vincent, and His Excellency, President Roosevelt, it was agreed, on the request of the Haitian Government and because of the rapid progress of the Garde d'Haiti, to terminate on August 1, 1934, the services of the American officers in that organization and that the Marine Brigade will be withdrawn a fortnight later.

Giving effect to this understanding, I have the honor to communicate to Your Excellency in the name of my Government a draft accord for that object. I am most anxious to receive in the shortest possible time a communication from your Government concerning this draft, in order that we can fix an early date for the signature of the accord which is to be concluded between our two Governments.

Once again rendering due homage to the friendly disposition shown by the Honorable President of the United States toward the Haitian people and Government, I take [etc.]

LÉON LALEAU

838.00/3220

*The American Minister in Haiti (Armour) to the Haitian Secretary of State for Foreign Relations (Laleau)*<sup>20</sup>

No. 121

PORT-AU-PRINCE, July 23, 1934.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note of July 21, 1934, in which you state that, during the conversations held at Cape Haitian on July 5 last between His Excellency, President Vincent, and His Excellency, President Roosevelt, at the request of the Haitian Government and in view of the rapid progress of the Garde d'Haiti, an understanding was reached to terminate on August 1, 1934, the services of the American officers in that organization and that, a fortnight later, the Marine Brigade will be withdrawn.

With a view to giving effect to this understanding, Your Excellency has communicated to me, on behalf of Your Government, a draft accord with the request that I communicate to you, with the least possible delay, the views of my Government with regard to it in order that a date in the near future may be fixed for the signature of the accord to be reached by our two Governments.

<sup>20</sup> Copy transmitted to the Department by the Minister in Haiti in his despatch No. 364, July 25, 1934; received July 30.

I am now requested by my Government to inform Your Excellency that the draft of the accord transmitted by you meets with its approval. It is proposed, therefore, that, if convenient to you, July 24 next be set for the date of signature.

In conclusion, permit me to express the deep appreciation of my Government of the reference made to the President of the United States in Your Excellency's note. It is needless to assure Your Excellency that the friendly disposition shown by the President of the United States is prompted by the desire, as he himself said in his address at Cape Haitian on July 5 last, to see the spirit of friendship and understanding that exists between the Governments and peoples of Haiti and the United States continue and become even stronger as the years go on.

Accept [etc.]

NORMAN ARMOUR

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Executive Agreement Series No. 68

*Agreement Between the United States and Haiti for the Withdrawal of Military Forces From Haiti, Signed July 24, 1934*<sup>21</sup>

Whereas the President of the United States of America and the President of the Republic of Haiti, in the course of their conversation at Cape Haitian on July 5, 1934, reached the agreement, because of the rapid progress made by the Garde d'Haiti, to terminate completely the services of the American officers in that organization on August 1 of this year, and

Whereas the President of the United States of America and the President of the Republic of Haiti, on the request of the Haitian Government, have furthermore agreed that the Marine forces of the United States of America will be withdrawn a fortnight later,

The undersigned Plenipotentiaries, duly authorized by their respective Governments, have agreed to the following arrangement:

ARTICLE I

On August 1, 1934, the service of the American officers in the Garde d'Haiti shall terminate. On the said date the Garde, under complete command of Haitian Officers, will be turned over to a colonel in active service whom the President of Haiti shall designate as Commandant.

ARTICLE II

The Marine Brigade of the United States and the American Scientific Mission, established by the Accord of August 5, 1931, will be withdrawn a fortnight later.

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<sup>21</sup> In French and English; French text not printed.

## ARTICLE III

The provisions of the present arrangement modify the stipulations contained in Articles 1, II and V of the accord of August 7, 1933.

Signed at Port-au-Prince in duplicate in the English and French languages this twenty-fourth day of July, 1934.

NORMAN ARMOUR

[SEAL]

LÉON LALEAU

[SEAL]

838.00/3228

*The Minister in Haiti (Armour) to the Secretary of State*

No. 376

PORT-AU-PRINCE, August 8, 1934.

[Received August 14.]

SIR: I have the honor to refer to the Department's Instruction No. 186 of July 12, 1934, and to my telegram No. 78 of July 17, 4 P. M., relating to the transfer to the Haitian Government of certain leases, buildings, equipment, supplies and material, the property of the United States located in Haiti.

The transfer of the leases and easement mentioned in the Navy Department's enclosure to the instruction mentioned above has been effected through an exchange of notes, as suggested in the Department's instruction, by which the Haitian Government assumes all obligations under the said leases and easement.

I enclose copies of my note to the Secretary of Foreign Relations<sup>22</sup> setting forth the leases and easement in question and requesting a confirmation of the assumption by the Haitian Government of the obligations relating thereto, and copies of the reply of the Foreign Office<sup>22</sup> officially confirming the acceptance of all obligations of the United States Government under the leases and easement, and any or all claims that may arise therefrom.

Respectfully yours,

NORMAN ARMOUR

838.00/3233

*The Secretary of State to the Minister in Haiti (Armour)*

No. 206

WASHINGTON, August 14, 1934.

SIR: I am transmitting herewith a letter addressed by the President to the President of Haiti in connection with the official celebration to be held by the Government of Haiti on August 21 next.

You are instructed to deliver the President's letter to President Vincent in such a manner and at such opportunity as may be agreeable to the President of Haiti.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

<sup>22</sup> Not printed.

[Enclosure]

*President Franklin D. Roosevelt to President Stenio Vincent*

MY DEAR MR. PRESIDENT: I understand that August 21 next has been set aside as the day to celebrate the beginning of a new era in Haiti and as one who has worked consistently to bring about that which you will celebrate on that day I wish to be one of the first to extend to you, and through you, to the people of Haiti, my heartiest congratulations and good wishes for the future of the next oldest republic of our hemisphere.

Since my visit to Haiti in 1917, I have followed developments in your country with the greatest interest and it has been my sincere desire to see relations between our two countries placed on the friendliest possible footing. To this end, since my coming into office, the Government of the United States has sought to withdraw from all participation in Haitian internal affairs.

The Haitianization of the Garde and the withdrawal of the American Marines have been accomplished at a date earlier than was thought possible largely through the close cooperation and good will existing between the Haitian and American officers and men which has made possible rapid progress in the handing over to Haitian officers of the high commands. But the wise administration of Your Excellency, and the sense of responsibility and sincere desire of those in Haiti charged with the Executive, Legislative and Judicial functions of the Government, to see a Haiti united to meet the problems confronting all nations today, have also, I feel, been important factors in bringing about this happy solution which we all join you in celebrating.

Finally, it is my earnest hope that the plan now under consideration by the Haitian Government providing for the complete withdrawal of the Government of the United States from all participation in the administration of Haitian finance, which I feel represents the limit to which my Government can properly go, and yet remain faithful to its obligations, may prove acceptable, and that following the conclusion of a new treaty putting an end to those now in existence, we may in the future be bound only by those ties of friendship and mutual beneficial economic intercourse which should unite friendly and neighboring republics.

I have but recently returned to Washington after the conclusion of my long voyage to Hawaii, but the memory of my delightful visit to Cape Haitian and the warm and friendly reception accorded me by Your Excellency and all officials of the Haitian Government is still fresh in my mind.

I avail myself [etc.]

FRANKLIN D. ROOSEVELT

WASHINGTON, August 13, 1934.

[For texts of additional papers concerning the withdrawal of the marine and naval forces from Haiti on August 15, 1934, see: (1) telegram of August 14, 1934, from the Minister in Haiti, (2) statement by the Secretary of State issued August 15, 1934, and (3) telegrams exchanged by President Roosevelt and President Vincent on August 15, 1934, Department of State, *Press Releases*, August 18, 1934, pages 103-104.]

838.00/3237 : Telegram

*The Acting Secretary of State to the Haitian Secretary of State for Foreign Relations (Laleau)*

WASHINGTON, August 18, 1934.

I have the honor to advise you that the President of the United States of America has named the Honorable Norman Armour as his special representative with the rank of Ambassador Extraordinary and Plenipotentiary at the ceremonies at Port-au-Prince on August 21.

As special letters of credence cannot reach Minister Armour in time, I have the honor to request that Your Excellency will kindly arrange to have this notification of his designation accepted in order that he may be recognized as a special representative of the President at the ceremonies.

WILLIAM PHILLIPS

838.00/3239 : Telegram

*The Minister in Haiti (Armour) to the Secretary of State*

PORT-AU-PRINCE, August 21, 1934—2 p. m.  
[Received 2:30 p. m.]

91. Department's telegram of August 14, 1 p. m.<sup>24</sup> Ceremonies this morning passed off very satisfactorily. I read President Roosevelt's letter at the Palace to which President Vincent replied in similar spirit.

ARMOUR

NEGOTIATIONS RESPECTING A TRADE AGREEMENT BETWEEN THE  
UNITED STATES AND HAITI

611.3831/44

*The Haitian Minister (Blanchet) to the Acting Secretary of State*

[Translation]

WASHINGTON, January 13, 1934.

MR. SECRETARY OF STATE: I am not bringing any new thing to Your Excellency's attention when I point out that, without need of going

<sup>24</sup> Not printed, but see instruction No. 206, August 14, 1934, to the Minister in Haiti, p. 308.

farther back, from 1926-1927 to 1930-1931, the Republic of Haiti received from the United States 72.60 per cent of its total imports, while the United States, for the same period, absorbed only 8.21 per cent of Haitian exports. Your Excellency is familiar with the situation which these figures reveal.

I must add that, in 1931-1932, out of a total of 37,305,551 gourdes imports, Haiti purchased from the United States the amount of 25,-212,282 gourdes, while, for the same year, the United States bought from Haiti only in the amount of 2,925,762 gourdes out of total exports 36,106,394 gourdes.

My Government thinks, and rightly, that certain Haitian products, sugar, alcohol, rum, fig-bananas, for example, might find an advantageous market in the United States, which is the more desirable because this flow of trade would permit us, as much as possible, as it developed, to equalize the direct balance of payments between our two countries. My Government, also, believes that the best means of assuring this happy result, would be to establish between the two countries a New Commercial Treaty which would favor and encourage, by way of reciprocity, the flow of imports from Haiti into the United States.

Accordingly, I have the honor to inform Your Excellency that I have been charged to begin, without any unnecessary delay, negotiations to these ends, if the Department of State deems such negotiations opportune, as does the Government of Haiti, and values as it does the efficaciousness of such a treaty and the reciprocal advantages which will result from it for Haitian-American trade.

Meanwhile, it gives me pleasure to avail myself [etc.]

A. BLANCHET

611.3831/44

*Memorandum by the Acting Secretary of State of a Conversation  
With the Haitian Minister (Blanchet), January 15, 1934*

[WASHINGTON,] January 15, 1934.

The Haitian Minister left with me the accompanying note<sup>25</sup> and went into the question at considerable length of reciprocal trade relations between Haiti and the United States; he spoke of the great good which would come to Haiti if a better market could be found in the United States for certain Haitian products which were not in competition with those produced in the United States; he mentioned Haitian coffee, which 100 years ago went exclusively to the United States; he also mentioned Haitian rum, which was a specialty of its own, different from that of Cuban or any other type of rum; he hoped

<sup>25</sup> *Supra.*



very much that something could be done to equalize or at least bring into a closer equalization the imports and exports of the two countries.

I said that this was a matter of great interest to the Department and that we would give the matter most careful consideration.

WILLIAM PHILLIPS

611.3831/44

*The Department of State to the Haitian Legation*

MEMORANDUM

Reference is made to the note of January 13, 1934, from the Minister of Haiti expressing the interest of his Government in the negotiation of a new commercial treaty for the promotion of trade between the United States and Haiti.

The Government of the United States is prepared at once to institute a study of the trade relations between the two countries with a view to determining the possibility of concluding a mutually profitable agreement, and is instructing the Minister of the United States at Port au Prince to explore the situation in consultation with the authorities of the Haitian Government with a view to submitting recommendations regarding the terms of such an agreement. If, as a result of these studies, both Governments consider that a mutually advantageous agreement might be concluded this Government, for its part, will be happy to proceed with negotiations to this end.

WASHINGTON, February 20, 1934.

611.3831/44

*The Secretary of State to the Minister in Haiti (Armour)*

No. 142

WASHINGTON, February 20, 1934.

SIR: There is enclosed a copy of a memorandum which was today handed to the Minister of Haiti,<sup>26</sup> in regard to the exploration of the possibility of concluding a mutually advantageous trade agreement between the two countries. In accordance therewith you are instructed to explore the situation in consultation with the Haitian authorities with a view to submitting recommendations regarding the terms of such an agreement.

In considering the terms of a reciprocal trade agreement with Haiti it is necessary to keep in mind the relation of such negotiations to similar negotiations between the United States and other countries. In conformity with the principle of unconditional most favored nation treatment a concession by the United States on any given prod-

<sup>26</sup> *Supra.*

uct of one country must be extended freely to the like product of other countries. Consequently it is necessary as a general rule in carrying out a reciprocity program to confine the concessions made to each country to products of which that country is an important source of imports into the United States. It is evident that if a concession were granted to one country on a product which is of outstanding importance to another, and if the latter by virtue of the most favored nation principle obtained the benefit of the concession freely, the basis for later negotiations with such other country would be impaired. Normally in such negotiations concessions will be confined to products of which each country is the chief source of imports into the United States. Statistical studies indicate that under such a plan an ample basis for bargaining with the most of the important countries of the world could be maintained.

However, a preliminary survey indicates that the only important product of which Haiti is the chief source of imports into the United States is logwood, which is at present free of duty. This Government might therefore undertake in the proposed agreement that no duty shall be imposed on this product. With respect to such products as coffee and bananas on the other hand, the situation is different. Other countries are far more important as sources of imports of these products than is Haiti and if the United States undertook in an agreement with Haiti that coffee and bananas should continue to be free of duty the basis for bargaining with Brazil, Honduras and other countries might be impaired. Consequently if such products as coffee and bananas were dealt with in the proposed agreement it would probably be necessary to postpone actually bringing the agreement into force until agreements have been negotiated with other countries interested in these products.

In view of the foregoing considerations two alternatives present themselves as follows:

- 1) The proposed agreement might contain commitments by the United States respecting only those products of which Haiti is the chief source of importations into the United States. Such an agreement could be brought into force independently of agreements to be negotiated between the United States and other countries. If an agreement along these lines were decided upon a careful study should be made of Haiti's production and trade with a view to determining whether there are any special products, other than logwood, of which Haiti is, or is likely to be, the chief foreign source of importations into the United States. While such an agreement would probably directly benefit only one Haitian product this Government would be prepared to renew in the proposed agreement the provision for general unconditional most favored nation treatment contained in the Executive Agreement signed July 8, 1926.<sup>27</sup> Thus, Haiti would be assured

<sup>27</sup> By exchange of notes, *Foreign Relations*, 1926, vol. II, pp. 403-406.

of the benefit of concessions or commitments on other products of interest to Haiti which the United States may make under agreements negotiated with other countries (other than Cuba).

2) The proposed agreement might contain provisions of the kind indicated under 1) above and also provision for the continued free entry of coffee, bananas and possibly concessions on certain other products. Such an agreement could not be brought into force until agreements had been negotiated by the United States with certain other countries which are more important as a source of such imports into the United States than is Haiti.

In considering the concessions to be granted by Haiti to the commerce of the United States due regard must be had for the value of the concessions which the United States is likely to be in a position to offer in return; and for the effect of any concessions by Haiti on the revenues of that country. Any concessions or commitments requested of Haiti should be confined to products of which the United States is clearly the chief source of imports into that country. This is desirable because, if a concession were made by Haiti to the United States on a product of which another country is the chief source of Haiti's imports and to which Haiti accords most favored nation treatment, such other country would be the principal beneficiary of any such concession and Haiti's bargaining position in any negotiations which might later be entered into with the country concerned would be unnecessarily impaired.

Very truly yours,

For the Secretary of State:  
FRANCIS B. SAYRE

611.3831/52

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*Memorandum by the Secretary of State*

[WASHINGTON,] April 3, 1934.

The Haitian Minister accompanied by the Haitian Minister of Finance<sup>28</sup> called to pay respects and to become acquainted. The conversation commenced in a rather general way about business and economic conditions in Haiti. The Minister of Finance then gradually proceeded to refer to conditions and to the trade relations between his country and the United States and also his country and France. He pointed out that Haiti bought from the United States far more than she sold; that she sold most of her coffee to France and this trade with France would be increased under the comparatively recent trade agreement entered into between the two governments.<sup>29</sup> He expressed an earnest desire for an early reciprocity trade agreement between our

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<sup>28</sup> Lucien Hibbert, the Haitian Minister of Finance to May 1934, had accompanied the President of Haiti on his visit to the United States in March-April, 1934. See pp. 348-352, *passim*.

<sup>29</sup> Supplementary commercial agreement signed March 10, 1934, *Le Moniteur*, April 23, 1934, p. 255. See also *post*, pp. 333 ff.

two governments which would increase the volume of mutually reciprocal and profitable trade between the two countries. He stressed different phases of these possibilities, including such items as bananas and sugar especially, and he stated he wanted his country to sell 30,000 tons of sugar to us. His plea was that these expanded trade relations between our two countries would be extremely helpful to Haiti just now in the way of improved business conditions, improved living standards, and improved government credit, both internal and external. He did not press, on the occasion of this visit of himself and the President of Haiti, the question of dealing anew and finally with the external debt of Haiti and United States supervision of the fiscal affairs of his government. I inferred that they had in mind the idea of completing a suitable commercial treaty arrangement at the earliest possible date—presenting much data, memoranda, etc., as a basis while they were here on this visit and otherwise laying all the foundations for speedy negotiation and completion of the commercial agreement proposed. He stated that business was fairly good in his country and that there was and had been comparatively little unemployment.

I replied to the Minister of Finance by offering the usual expressions of welcome and of the warm friendship for the officials of his government and the people of his country on the part of the officials and people of my country. At the outset I had assured the Finance Minister of the keen interest of my government in the progress and welfare of his people, and I stated that we would be only too glad to proceed to the extent of receiving from him and his President any and all facts, data, and memoranda, for purposes of trade agreement negotiations at the earliest possible date; that until Congress passed the pending measure providing the Executive branch of the government with authority to negotiate such arrangements in the manner and to the extent provided for in the bill, we would not be in a position to enter upon formal negotiations nor to make public the preliminary conversations in connection with such planned negotiations. I assured the Minister of Finance and his associates present that I was opposed to driving any hard bargains with his government in the present circumstances at least; that I much preferred to meet his government a full half way and in fact to be really liberal in entering into the proposed reciprocal trade arrangements; that I might repeat what I had said to the Haitian Delegation to Montevideo,<sup>30</sup> to the effect that my government was three times as anxious to clear up any complicated relationships with the Haitian Government pertaining to financial phases and get them behind us for all time, than even the Haitian Delegation could possibly be; that I could reiterate this in stronger terms if possible. I stated gen-

<sup>30</sup> See *Foreign Relations*, 1933, vol. v, pp. 764-778.

erally that my government desired to enter into more satisfactory trade relations with many other countries—all of them based upon the principle of equal and mutual profit; that in some instances steps towards ironing out, improving and clearing up any existing economic or financial relationships with his or other countries, might call for patience and a greater length of time than might be expected, or, on the other hand, such objective might be brought about within a short period of time; that this observation was not intended for his government any more than any and all others, but was a precautionary remark. I reminded him that the United States purchased more from Latin America as a whole than it sold to that region, just as it bought more from the Orient than it sold to it; that these triangular trade conditions did really exist, and that while every two nations should exhaust all reasonable efforts to expand as fully as possible their trade relations to the extent mutually profitable, there were in fact numerous instances where this would not be possible—as in the case of Brazil and the United States in which the United States purchased only the amount of coffee it needed and Brazil had to sell the balance in other parts of the world, or in the case of Chile with her nitrates, or the Argentine with her wheat and meats, etc., etc. I referred to the proximity of Haiti to the United States and to the special connections by steamship and aeroplane lines with the consequent convenience to both nations which should make possible a steady increase in commerce, and I stated that apart from our friendly interest in the people of Haiti and our desire to aid them in every feasible way, we could well join in their view about agreements to improve their business relations.

C[ORDELL] H[ULL]

611.3831/59a : Telegram

*The Secretary of State to the Minister in Haiti (Armour)*

WASHINGTON, July 17, 1934—8 p. m.

64. Reference Department's instruction No. 142 of February 20, 1934. The Department desires to begin at an early date exploratory conversations with the Haitian Government looking toward the conclusion of a commercial agreement. Before taking up the matter with the Haitian Government, the Department desires you to consult with De la Rue<sup>31</sup> and cable your views regarding the desirability of conducting the exploratory conversations in Haiti or whether it would be desirable to have De la Rue proceed to the United States to assist the Haitian Minister here in such conversations. It is desired that no publicity be given matter for time being.

HULL

<sup>31</sup> Sidney de la Rue, Fiscal Representative of the Republic of Haiti.

611.3831/60 : Telegram

*The Minister in Haiti (Armour) to the Secretary of State*

PORT-AU-PRINCE, July 21, 1934—11 a. m.

[Received 12:34 p. m.]

79. Department's telegram No. 64, July 17, 8 p. m. I feel very strongly that it would be advisable to have the conversations conducted in Washington. I also consider that De la Rue's presence there to assist the Haitian Minister would be advisable. May I suggest to the Haitian Government that his departure about August 2 after the return of Pixley<sup>32</sup> would in the opinion of our Government facilitate negotiations in connection with a commercial treaty. I have every reason to believe that the suggestion will be well received.

ARMOUR

611.3831/60 : Telegram

*The Secretary of State to the Minister in Haiti (Armour)*

WASHINGTON, July 26, 1934—3 p. m.

68. Your No. 79, July 21, 11 a. m. It is not now possible to estimate exactly when Inter-Departmental Committee for Haiti will be ready to begin preliminary conversations. As soon as this is ascertained you will be instructed to notify the Haitian Government. Meanwhile, please keep matter confidential.

HULL

611.3831/61 : Telegram

*The Minister in Haiti (Armour) to the Secretary of State*

PORT-AU-PRINCE, July 27, 1934—2 p. m.

[Received 2:45 p. m.]

81. Department's telegram No. 68, July 26, 3 p. m. My idea in having De la Rue proceed August 2 was not only for commercial treaty negotiations but the importance of having him available during August for possible conference with National City Bank<sup>33</sup> particularly during absence of Perkins<sup>34</sup> and Lancaster<sup>35</sup> in Europe. I have spoken to the Haitian Government on this latter phase and both the President and the Minister of Foreign Affairs feel he should be available for any discussion with bankers that may arise as a result of possible modifications in contract as well as to assist Blanchet later when our Government is ready to begin preliminary conversations looking towards com-

<sup>32</sup> Rex A. Pixley, Deputy Fiscal Representative of the Republic of Haiti.

<sup>33</sup> See pp. 339 ff.

<sup>34</sup> J. H. Perkins, Chairman of the Board of the National City Bank.

<sup>35</sup> William W. Lancaster, Counsel for the National City Bank.

mercial treaty. I hope the Department will therefore have no objection to his proceeding August 2. Please instruct.

ARMOUR

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611.3831/61 : Telegram

*The Secretary of State to the Minister in Haiti (Armour)*

WASHINGTON, July 28, 1934—3 p. m.

70. Your 81, July 27, 2 p. m. The Department of course has no objection but as pointed out in the Department's No. 68, July 26, 3 p. m. we are not yet in a position to say when we will be ready to begin exploratory conversations.

HULL

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611.3831/63 : Telegram

*The Minister in Haiti (Armour) to the Secretary of State*

PORT-AU-PRINCE, August 4, 1934—10 a. m.

[Received 11:10 a. m.]

84. With reference to the Department's telegram 70 of July 28, 3 p. m., De la Rue left for United States August 2, under instructions of Haitian Government to cooperate with Blanchet on commercial treaty and bank negotiations.

ARMOUR

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611.3831/52

*The Department of State to the Haitian Legation*

MEMORANDUM

Reference is made to the note of January 13, 1934, from the Minister of Haiti, expressing the interest of his Government in the negotiation of a new commercial treaty for the promotion of trade between the United States and Haiti, and to the memorandum of February 20, 1934, which was handed to the Minister of Haiti, in regard to the exploration of the possibilities of concluding a mutually advantageous trade agreement between the two countries.

On June 12, 1934, the President of the United States of America approved an act of Congress authorizing the President to enter into foreign trade agreements with foreign governments or instrumentalities thereof.<sup>36</sup> Pursuant to this act, the Government of the United States is making preliminary studies of the possibilities of concluding such trade agreements, on a reciprocal and mutually beneficial basis, with various foreign countries.

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<sup>36</sup> 48 Stat. 943.

An inter-Departmental committee, composed of representatives of the Departments interested, has been set up to explore such possibilities in the case of the Republic of Haiti. This committee will be pleased to receive at any time such proposals as the Haitian Government may deem it expedient to lay before this Government.

WASHINGTON, August 15, 1934.

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611.3831/68

*The Haitian Legation to the Department of State*

[Translation]

MEMORANDUM

Referring to the memorandum of the 15th of August, current, by which the Department of State was good enough to inform the Minister of Haiti that an inter-Departmental Committee, composed of officers of the various interested Departments, has been charged to study the possibility of concluding, between the United States and Haiti, a commercial Agreement which would be mutually advantageous and that this Committee is ready to receive the proposals of the Haitian Government, the Minister of Haiti has the honor to make known to the United States the views of his own Government, as follows:

In the first place, it gives great satisfaction to the Haitian Government to render homage to the alert and decisive spirit of the United States Government which, in the persistent crisis in world commerce—a commerce the contraction of which has already caused so serious a prejudice to all—has resolutely undertaken to reestablish the currents of interchange which have been broken by irritated nationalisms or to strengthen the currents weakened by too long a stagnation, or to excite new currents by bilateral arrangements, based on equity, good sense, and reciprocity of advantage.

It also gives great satisfaction to the Haitian Republic to contemplate on this solid basis a useful commercial treaty with the United States according to the promise of His Excellency President Roosevelt, the realization of which promise will mark the new era which is beginning in the relations of the two countries.

Furthermore, the Haitian Republic has always been one of the most faithful customers of the United States. She is a faithful customer today as yesterday. And there was a time when the United States appeared among the best customers of Haiti.

A hundred years ago the excellent coffee of Haiti was consumed in the United States almost to the exclusion of any other coffee. At that far-off period the United States consumed twenty-seven million pounds of coffee, of which some twenty-five to twenty-six millions of



pounds came from the Haitian Republic. Haitian coffee is no longer consumed here, except by a very few persons who prefer it; unfortunately, this has been the case for a long time past.

On the other hand, Haitian coffee is much sought after in Europe. It is in constant demand, particularly in France, in Italy, and in the Scandinavian countries which absorb, every year, all of the insufficient crop of Haiti.

Today—and for a long time past—the United States furnishes the Haitian Republic with the greater part of her imports, while taking only an insignificant portion of her exports.

Official statistics show that for the years 1929–1934 Haiti has bought from the United States twelve times more than the United States has bought in Haiti: while seventy-two percent of Haitian imports come from the United States, only six percent of Haitian exports go to the United States. Such a situation is tolerable in normal times. Haitian sales, principally in Europe, cover Haitian purchases from the United States, although the commercial balance between Haiti and the United States is favorable to the United States in the proportion of sixty-six percent.

But in abnormal times, in the crisis which still rages and which has caused almost all the national economies to withdraw into themselves under the protection of forced quotas, this situation imperils Haitian economy which rests precariously on the sale of its principal exportable produce and a purely fiscal customs régime.

The only theoretical means of reducing, for the Haitian Republic, the risks inherent in this situation, is to seek to establish a certain equilibrium in foreign purchases and sales by the application of the "give and take" which others do not hesitate to apply against Haiti.

It is neither the intention nor the desire of the Haitian Government to apply, in the commercial relations between Haiti and the United States, this rule which France and Italy, finding themselves, with respect to Haiti, in a position similar to that of Haiti with respect to the United States, have applied against Haiti for the legitimate defense of their respective economies.

Haiti would not think of having recourse to it except at the last extremity, that is to say, if she should be in the position of being forced to do so in order to subsist. But she well realizes that other things being equal, and even when conditions are more or less slightly different, the United States market, because of its nearness and its enormous productive capacity, is for her a natural market of supply, quite as it ought to be or to become for Haiti an enormous natural outlet for the sale of her own products.

In order to allow the Haitian Republic in her present situation—which is so manifestly disadvantageous with respect to the United

States—to maintain her purchases here at their present level and to increase the volume, as it is desirable to do, it seems to be extremely necessary that the United States Government, acting with perfect awareness of the situation, should aid her to increase her power to purchase from the United States by according to her a treatment facilitating the entry into the United States market and the sale therein of the products of her soil and her industry.

It is for this reason, which is at the same time so simple and so reasonable, that the Haitian Government proposes, with all confidence, that the United States Government should consent to the broadest possible special treatment in favor of the following Haitian products:

Rum made from pure sugar-cane juice, sugar, coffee, cacao, long-staple cotton, pita, logwood, cachou nuts, goat skins, fig bananas, and other fresh and preserved fruits, Haitian pulse, as well as embroidery work and hand-made lingerie, etc., etc.

Some of the articles mentioned above are already carried on the free list of the United States tariff. The Haitian Government thinks that, in the interest of the economic development of the country, it would be well to assure the maintenance of such exemptions.

WASHINGTON, August 27, 1934.

611.3831/64a : Telegram

*The Acting Secretary of State to the Minister in Haiti (Armour)*

WASHINGTON, August 29, 1934—7 p. m.

76. Please inform Haitian Government that the Department intends to give public notice shortly of this Government's intention to negotiate a Reciprocal Foreign Trade Agreement with the Government of Haiti.<sup>37</sup>

PHILLIPS

611.3831/91

*The Department of State to the Haitian Legation*

MEMORANDUM

There is attached hereto a list of certain commodities<sup>38</sup> exported by the United States of America to Haiti on which tariff concessions are being sought by the United States in the proposed trade agreement between the two countries.

The majority of the concessions requested are only for reductions

<sup>37</sup> For text of public notice and statistics on trade between the United States and Haiti, issued by the Department of State on August 31, 1934, see Department of State, *Press Releases*, September 1, 1934, pp. 144-150.

<sup>38</sup> Not printed.

in the duties now being imposed on the corresponding commodities in the Haitian tariff. In two instances, however, reclassification and duty reductions are requested. Moreover, with respect to paper and cardboard commercial advertisements, as well as cardboard containers of imported articles, the requested duty-free entry of these articles is merely for the sake of the removal of barriers to trade. In no case has preferential treatment been requested for products of the United States of America as compared with similar products from any third country. For the sake of convenience, opposite each of the items listed there are indicated the paragraph number in the Haitian tariff, the rate of duty now required to be imposed, and the proposed duty to be provided for in the trade agreement.

At a later date it is planned to submit to the Haitian Government a draft of the text of the proposed trade agreement for study by the Haitian Government prior to reaching a common agreement and understanding as to the terms and provisions to be contained therein. In order to save time, however, it is deemed advisable to submit at present the list of specific tariff concessions being sought by this Government, referred to as Schedule I, with a view to affording the Haitian Government ample time to study these proposals. The United States Government in submitting the attached list of desired concessions reserves the right to request, in the course of subsequent negotiations, the modification of certain burdensome regulations affecting imports in general that would not call for reductions in duty but that would tend toward the removal of restrictions on trade.

The Government of the United States is prepared to receive and give serious consideration to any proposals which the Haitian Government may choose to present in connection with the general terms and provisions of the proposed trade agreement.

WASHINGTON, November 10, 1934.

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611.3831/91a

*The Secretary of State to the Minister in Haiti (Armour)*

No. 238

WASHINGTON, November 17, 1934.

SIR: In connection with the proposed trade agreement between the United States and Haiti, you are informed that a list of specific concessions has not been officially requested of the Department by the Haitian Government. Both the Haitian Minister and Mr. de la Rue have, however, made known in a general way the nature of the concessions being sought by Haiti, and the Department has deemed it expedient to indicate informally to them the extent to which this Government will probably be able to meet the wishes of the Haitian Government.

On one commodity, rum, it is likely that a reduction in duty of

from \$5.00 to \$2.50 per gallon can be granted, although the Haitian desire for a separate classification of sugar-cane rum is considered impracticable on grounds of policy and administration. On fresh pineapples we will probably be able to reduce the tariff from \$0.50 to \$0.35 per crate and from 1 $\frac{1}{6}$  cents to  $\frac{9}{10}$  cents each in bulk. In addition, this Government is prepared to agree to maintain sisal and logwood on the free list for the life of the agreement. With respect to coffee, cocoa-beans, bananas and goatskins, the fact that Haiti is a very minor supplier makes it impossible, under our most-favored-nation policy, to give Haiti a guaranty of continued free entry without seriously impairing our bargaining position with other more important suppliers. In connection with these products, however, the Department will be pleased to give Haiti an undertaking in the form of an unconditional most-favored nation provision, which will assure her continued free entry on an equality with any major suppliers that may be guaranteed such treatment in later trade agreements.

By virtue of this suggested unconditional most-favored nation provision, Haiti could expect in all probability to receive the benefits of tariff reductions on such commodities as long-staple cotton, cashew nuts, orange peel, hand embroidery, limes, and logwood extract if, as is considered likely, such reductions are agreed to in trade agreements with the major suppliers of these products in the course of the next few months. As in the case of binding on the free list commodities of which Haiti is a minor supplier, the granting of tariff reductions on these products to Haiti at the present time would seriously impair the position of the United States in its negotiation of agreements with the leading suppliers.

The Department is of the opinion that the possible concessions indicated above fully meet the desires of the Haitian Government as made known to the Department with the exception of one requested concession on sugar. The request of Haiti that she be granted a quota substantially greater than the one prescribed for 1934 cannot be acceded to because of the discrimination that it would involve. However, it has been brought to the attention of the Haitian Minister and of Mr. de la Rue that Haiti continues to enjoy the right to export unlimited quantities of "draw-back" sugar to the United States; and it is believed that the problem of disposing of the Haitian export sugar crop might well be taken care of through that means.

The above is for your strictly confidential information and to serve you as background in case the subject of the proposed trade agreement is brought up in any conversations you may have either with President Vincent or with Monsieur Blanchet, who is now on his way to Port-au-Prince.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

611.3831/95a : Telegram

*The Secretary of State to the Minister in Haiti (Armour)*

WASHINGTON, November 24, 1934—3 p. m.

94. Department's instruction No. 238, November 17, 1934. In any conversations you may have with President Vincent or other Haitian officials regarding the proposed trade agreement please impress upon them the great importance of not disclosing any of the suggested concessions to Haiti which would be contingent upon the success of trade agreement negotiations with other countries.

HULL

611.3831/100½

*The Haitian Legation to the Department of State*

[Translation]

## MEMORANDUM

On the subject of the contemplated commercial treaty between the United States and Haiti, it is necessary not to lose sight of the fact that it ought to be a mutually advantageous treaty as President Roosevelt has promised, as President Vincent has announced and as the special situation of Haiti with respect to the United States gives reason to hope.

Haiti purchases from the United States ten times more than the United States purchases in Haiti.

Haiti desires to increase as much as possible the volume of her purchases in the United States and it goes without saying that this result cannot be obtained except on condition of increasing in some way Haiti's power to purchase in the United States, for, in the last analysis, domestic and international commerce is nothing but an exchange of commodities and of services.

It follows that the best and perhaps the only practical means of increasing such purchasing power is to facilitate the entry and distribution of Haitian products in the United States market.

It is hardly necessary to point out that the whole production of Haiti—whether the present production or an increased production—could be easily absorbed by the enormous consumption of the United States market without its being even noticed and therefore without the slightest disturbance to the economy of the United States.

The Haitian Government is in accord with the United States Government in recognizing and taking note of the fact that the great obstacle to commerce and to the reestablishment of normal conditions of international exchange comes from the high tariffs and the restrictions which almost everywhere constitute real barriers.

In this connection, it must be admitted that the Haitian customs tariff which was recast in 1926, and has not been modified since 1926, is not at all a prohibitive or a restrictive tariff; it only contains some duties which constitute protection for some industries of the country.

And it is important to note that Haiti is, first of all, a small agricultural country for which it is materially impossible to purchase without selling abroad and which, furthermore, is afflicted with a customs régime which is almost exclusively fiscal; its budget is supplied by the export and import duties raised in accordance with the tariff in force, which duties constitute its principal revenues.

Hence arises the almost insurmountable difficulty of lowering the custom charges without reducing the vital resources of the country, which resources are, furthermore, pledged.

Having no customs barrier of her own, the Haitian Republic cordially desires to contribute in her modest way, and in harmony with the United States Government, to the general lowering of customs barriers which interfere with international commerce; but she cannot and she ought not to expose herself, by undertaking engagements without an assured equivalent, to losing, in the conflict of exasperated nationalisms, the outlets which are already precarious and which she has only been able to retain until now by special arrangements and at the price of sacrifices.

For the foregoing reasons, the Haitian Government is under the necessity of insisting on proposing that there be accorded to the Haitian products previously designated a treatment which would facilitate their entry into the American market, and that the Agreement be so drawn up that a really practical, useful and mutually advantageous commercial agreement may be concluded between the United States and Haiti.

WASHINGTON, December 18, 1934.

611.3831/99

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*The Department of State to the Haitian Legation*

MEMORANDUM

With reference to the memorandum handed the Haitian Minister on November 10, 1934, by Mr. Welles,<sup>39</sup> enclosing a list of the concessions being sought by the United States in the proposed trade agreement between the United States and Haiti, there is enclosed for the consideration of the Haitian Government a draft of the proposed agreement which includes a revised list of concessions proposed to be granted to the United States as well as those proposed to be granted

<sup>39</sup> *Ante*, p. 319.

to Haiti by the United States, the two lists being entitled, respectively, Schedule I and Schedule II.<sup>40</sup>

It is desired to point out that the concessions included under Schedule I differ in several instances from those on the list attached to the State Department's memorandum of November 10, last. The modifications of this Schedule have been made as a result of informal exchanges of views on the subject between Mr. de la Rue and officials of the Department of State.

The attached Schedule II draft has been drawn up in accordance with the views on the concessions which might be granted Haiti, as already made known informally to the Haitian Minister and Mr. de la Rue by Mr. Welles.

The general provisions of the attached draft agreement represent the views of the United States Government on matters affecting trade in general between the United States and Haiti. Their aim is to reduce or eliminate wherever possible such barriers as may exist, or as might be likely to arise, to the trade between the two countries. It is understood that the Government of the United States reserves the privilege of suggesting such changes in these provisions as may on further consideration seem desirable, prior to their final approval by both Governments.

The Government of the United States will be pleased to receive the views of the Government of Haiti concerning the attached draft agreement and the two Schedules included therein.

WASHINGTON, December 20, 1934.

[Enclosure]

*Draft Reciprocal Trade Agreement With the Republic of Haiti*

PREAMBLE

The President of the United States of America and the President of the Republic of Haiti, being desirous of strengthening the traditional bonds of friendship between the two countries by maintaining the principle of equality of treatment as the basis of commercial relations and by granting mutual and reciprocal concessions and advantages for the promotion of trade, have arrived at the following agreement:

ARTICLE I

Articles the growth, produce or manufacture of the United States of America, enumerated and described in Schedule I annexed to this Agreement and made a part thereof, shall, on their importation into

<sup>40</sup> The schedules are not printed.

the Republic of Haiti, be exempt from ordinary customs duties in excess of those set forth in the said schedule and from all other duties, taxes, fees, charges or exactions, imposed on or in connection with importation, in excess of those imposed or required to be imposed by laws of the Republic of Haiti in effect on the day of the signature of this Agreement.

#### ARTICLE II

Articles the growth, produce or manufacture of the Republic of Haiti, enumerated and described in Schedule II annexed to this Agreement and made a part thereof, shall, on their importation into the United States of America, be exempt from ordinary customs duties in excess of those set forth in the said Schedule, and from all other duties, taxes, fees, charges, or exactions, imposed on or in connection with importation, in excess of those imposed or required to be imposed by laws of the United States of America in effect on the day of the signature of this Agreement.

#### ARTICLE III

The United States of America and the Republic of Haiti agree that the notes included in Schedules I and II are hereby given force and effect as integral parts of this Agreement.

#### ARTICLE IV

All articles the growth, produce or manufacture of the United States of America or the Republic of Haiti shall, after importation into the other country, be exempt from all internal taxes, fees, charges or exactions other or higher than those payable on like articles of national origin or any other foreign origin.

Articles the growth, produce or manufacture of the United States of America or the Republic of Haiti enumerated and described in Schedules I and II, respectively, shall, after importation into the other country, be exempt from any national or federal internal taxes, fees, charges or exactions other or higher than those imposed or required to be imposed by laws of the Republic of Haiti and the United States of America, respectively, in effect on the day of the signature of this Agreement.

#### ARTICLE V

In respect of articles the growth, produce or manufacture of the United States of America or the Republic of Haiti enumerated and described in Schedules I and II, respectively, imported into the other country, on which ad valorem rates of duty may be assessed, it is understood and agreed that the bases and methods of determining dutiable value and of converting currencies shall be no less favorable to importers than the bases and methods prescribed under presently existing laws and regulations of the respective importing country.



## ARTICLE VI

No prohibition or restriction on importations shall be imposed by the United States of America or the Republic of Haiti on articles the growth, produce or manufacture of the other country with respect to which obligations have been assumed under Articles I or II of this Agreement: Provided, That the foregoing provision shall not apply to prohibitions or restrictions relating to public security; imposed on moral or humanitarian grounds; designed to protect human, animal, or plant life; applying to prison-made goods; relating to the enforcement of police or revenue laws; or designed to extend to imported products a regime analogous to that affecting like or competing domestic products.

## ARTICLE VII

With respect to customs duties or charges of any kind imposed on or in connection with importation or exportation, and with respect to the method of levying such duties or charges, and with respect to all rules and formalities in connection with importation or exportation, any advantage, favor, privilege or immunity which has been or may hereafter be granted by the United States of America or the Republic of Haiti to any article originating in or destined for any third country, shall be accorded immediately and unconditionally to the like article originating in or destined for the Republic of Haiti or the United States of America, respectively.

Without prejudice to the provisions of Article VI of this Agreement, neither the United States of America nor the Republic of Haiti shall establish any prohibition or maintain any restriction on imports from the territory of the other country which is not applied to the importation of any like article originating in any third country. Without prejudice to the provisions of Article VI of this Agreement, any abolition of an import prohibition or restriction which may be granted even temporarily by the United States of America or the Republic of Haiti in favor of an article of a third country shall be applied immediately and unconditionally to the like article originating in the territory of the Republic of Haiti or the United States of America, respectively.

In the event of rations or quotas being established by the United States of America or the Republic of Haiti for the importation of any article otherwise restricted or prohibited, it is agreed, without prejudice to the provisions of Article VI, that in the allocation of the quantity of restricted goods which may be authorized for importation, the other country will be granted a share equivalent to the proportion of the trade which it enjoyed in a previous representative period.

If either the United States of America or the Republic of Haiti establishes or maintains any system of control of foreign exchange or enters directly or indirectly into any arrangement which affects in fact the provision of foreign exchange or the regulation or control of the transfer or disposition of means of payment, or employs any other system of control or any other arrangement with respect to the settlement of international obligations, any advantage, favor, privilege, or immunity which may be granted in connection with any such system or arrangement or the administration thereof to the nationals or commerce of any third country shall be accorded immediately and unconditionally to the nationals or commerce of the Republic of Haiti or the United States of America, respectively.

Nevertheless, the advantages now accorded or which may hereafter be accorded by the United States of America or the Republic of Haiti to adjacent countries in order to facilitate frontier traffic, and advantages resulting from a customs union to which the United States of America or the Republic of Haiti may become a party shall be excepted from the operation of this Agreement; and this Agreement shall not apply to police or sanitary regulations or to the commerce of the United States of America with the Republic of Cuba, or to commerce between the United States of America and the Panama Canal Zone, the Philippine Islands, or any territory or possession of the United States of America or to the commerce of the territories and possessions of the United States of America with one another.

#### ARTICLE VIII

Laws, regulations of administrative authorities and decisions of administrative or judicial authorities of the United States of America and the Republic of Haiti, respectively, pertaining to the classification of articles for customs purposes or to rates of duty shall be published promptly in such a manner as to enable traders to become acquainted with them. Such laws, regulations and decisions shall be applied uniformly at all ports of the respective country, except as otherwise specifically provided in statutes of the United States of America relating to articles imported into Puerto Rico.

No administrative ruling by the United States of America or the Republic of Haiti effecting advances in rates of duties or charges applicable under an established and uniform practice to imports originating in the territory of the other country, or imposing any new requirement with respect to such importations, shall be effective retroactively or with respect to articles either entered for or withdrawn for consumption prior to the expiration of thirty days after the date of publication of notice of such ruling in the usual official manner. The provisions of this paragraph do not apply to administrative orders imposing anti-dumping duties, or relating to regulations for

the protection of human, animal or plant life, or relating to public safety, or giving effect to judicial decisions.

#### ARTICLE IX

The United States of America and the Republic of Haiti retain the right to apply such measures as they respectively may see fit with respect to the control of the export or sale for export of arms, munitions, or implements of war, and, in exceptional circumstances, of other material needed in war.

#### ARTICLE X

Greater than nominal penalties will not be imposed in the United States of America or in the Republic of Haiti upon importations of products or manufactures of the territory of the other country because of errors in documentation obviously clerical in origin or where good faith can be established.

The Government of each country will accord sympathetic consideration to such reasonable representations as the other Government may make regarding the operation of customs regulations, the observance of customs formalities, and the application of sanitary laws and regulations for the protection of human, animal, or plant life.

#### ARTICLE XI

Except as otherwise provided in the second paragraph of this Article, the provisions of this Agreement relating to the treatment to be accorded by the United States of America and the Republic of Haiti, respectively, to the commerce of the other country, shall not apply to the Philippine Islands, the Virgin Islands, American Samoa, the Island of Guam, or to the Panama Canal Zone.

Subject to the reservations set forth in the last paragraph of Article VII, the provisions of Article VII shall apply to articles the growth, produce or manufacture of any area under the sovereignty or authority of the United States of America or the Republic of Haiti imported from or exported to any area under the sovereignty or authority of the other country. It is understood, however, that the provisions of this paragraph do not apply to the Panama Canal Zone.

#### ARTICLE XII

The present Agreement shall, from the date on which it comes into force, supplant the agreement by exchange of notes signed by the United States of America and the Republic of Haiti on July 8, 1926.

#### ARTICLE XIII

On and after the day on which this Agreement comes into force, articles the growth, produce or manufacture of the United States of

America and articles the growth, produce or manufacture of the Republic of Haiti previously imported into the other country shall be subject to the provisions of this Agreement, if entry therefor has not been made, or if they have been entered previously without payment of duty and under bond for warehousing, transportation, or any other purpose, and without any permit of delivery to the importer or to his agent having been issued: Provided, That when duties are based upon the weight of merchandise deposited in any public or private warehouse, the said duties shall, except as otherwise may specially be provided in the tariff laws of the respective countries in force on the day of signature of this Agreement, be levied and collected upon the weight of such merchandise at the time of its entry.

ARTICLE XIV

The present Agreement shall come into full force on the thirtieth day following proclamation thereof by the President of the United States of America and the President of the Republic of Haiti, or should the proclamations be issued on different days, on the thirtieth day following the date of the later in time of such proclamations, and shall remain in force for the term of three years thereafter. The Government of each country shall notify the Government of the other country of the date of its proclamation.

Unless at least six months before the expiration of the aforesaid term of three years the Government of either country shall have given to the other Government notice of intention to terminate the Agreement upon the expiration of the aforesaid term, the Agreement shall remain in force thereafter until six months from such time as the Government of either country shall have given notice to the other.

In witness whereof the respective Plenipotentiaries have signed this Agreement and have affixed their seals hereto.

Done in duplicate, in the English and French languages, both authentic, at the City of Washington, this . . . . .

For the President of the United States of America :

For the President of the Republic of Haiti :

611.3831/99

*The Secretary of State to the Minister in Haiti (Armour)*

No. 247

WASHINGTON, December 21, 1934.

SIR: Reference is made to the Department's instructions Nos. 237 and 238, both of November 17, 1934,<sup>41</sup> in regard to the reciprocal con-

<sup>41</sup> No. 237 not printed.

cessions that might be provided for in the proposed trade agreement between the United States and Haiti. In this connection, there is enclosed a copy of a draft trade agreement,<sup>42</sup> containing Schedules I and II,<sup>42a</sup> which has been transmitted to the Haitian Minister here for the consideration of his Government. This draft is for your confidential information. Further negotiations in regard to the proposed agreement will presumably take place in Washington; and it is understood that Mr. de la Rue will remain here for the time being to continue to advise the Haitian Minister in the matter.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

611.3831/100 : Telegram

*The Minister in Haiti (Armour) to the Secretary of State*

PORT-AU-PRINCE, December 28, 1934—2 p. m.

[Received 5 : 45 p. m.]

133. For Welles. Hibbert<sup>43</sup> has just informed me that he does not see how Haiti can sign the trade agreement; that as drafted, Haiti makes concessions that will entail a loss estimated at 2 percent of their total revenues in return for possible future benefits, the amount of which cannot now be determined, and a reduction of 50 percent duty on rum of which all other rum producing countries will benefit.

The whole basis of the treaty, he feels, is entirely contrary to the ideas underlying the Washington conversations when it was decided that an attempt must be made to even the present unfavorable trade balance between the two countries. The agreement proposed would give the impression to any impartial observer, he thinks, that it is the United States that has been buying 60 percent of Haitian exports and furnishing only 6 percent of Haitian imports instead of the contrary being the case. The Government could not, in the circumstances, go before the legislature with such an agreement without subjecting itself to severe criticism.

I told Hibbert that I thought the Haitian Government might have reached this conclusion earlier, for example when Blanchet was here. He pointed out that he took office only last Monday and admits that he has had little time as yet to study the question but hopes to have certain counterproposals to make at an early date. My own impression is that lard is the real point at issue. De la Rue will explain its peculiar significance here economically as well as politically. I shall cable you further tomorrow. Please inform De la Rue.

ARMOUR

<sup>42</sup> *Supra.*

<sup>42a</sup> Neither schedule printed.

<sup>43</sup> Lucien Hibbert was appointed Haitian Secretary of State for Foreign Relations on December 24, 1934.

611.3831/101 : Telegram

*The Minister in Haiti (Armour) to the Secretary of State*

PORT-AU-PRINCE, December 29, 1934—2 p. m.

[Received 3:25 p. m.]

134. Legation's telegram number 133, December 28, 2 p. m. for Welles. I have just come from the Minister for Foreign Affairs who desires to submit informally the following proposals with regard to the trade agreement. His memorandum contains two propositions:

"1. Whenever the laws of the United States shall authorize the extension to Haiti of an annual quota of 10,000 tons of sugar the reductions in duties envisaged in articles 11033, 12420, 12423, 13007 shall become immediately effective.

2. From the date when the exportation to the United States of rum, sugar, bananas, and other Haitian products shall represent 40 percent of the Haitian exports during any Haitian fiscal year the reduction in duty envisaged in article 12011 shall immediately enter into force."

The Minister added that the treaty was acceptable with the exceptions named above.

It is my impression that the figures mentioned in Hibbert's memorandum if not acceptable might be subject to downward revision.

Hibbert further authorized me to state that his Government had studied the situation resulting from Japanese dumping and that they are preparing legislation for submission to the next session of the Legislature which would enable the textile and other industries of the United States, Great Britain and France to regain the Haitian markets.

The Minister concluded by saying that he was equally anxious with the Department to see trade agreement concluded as soon as possible.

Pixley was present at the interview. Please show the above to De la Rue.

ARMOUR

611.3831/103a : Telegram

*The Secretary of State to the Minister in Haiti (Armour)*

WASHINGTON, December 29, 1934—4 p. m.

99. Your 133, December 28, 2 p. m. Following for your information and guidance. We had conference with Blanchet this morning (De la Rue present) in which Blanchet read instructions from Hibbert expressing the viewpoint set out in your telegram.

We said to Blanchet frankly that we were astonished that after these months of negotiations and after the 3 weeks he had recently spent in Haiti for the purpose of discussing the proposed trade agree-

ment personally with President Vincent we should now receive such a message from the Haitian Government. We stated, as we had explained to him carefully throughout the negotiations, that the benefits which Haiti will receive under the most-favored-nation clause are not as Hibbert seems to feel "indefinite" and "uncertain", but on the contrary definite and certain and will accrue to Haiti within a relatively short time as the result of negotiation of trade agreements between the United States and other countries. We said that the point of view expressed in Hibbert's telegram appeared to be the familiar narrow one of seeking immediate small advantages, whereas, from the outset of our negotiations with Haiti we had stressed, with the entire approval of the Haitian Government, the necessity of putting into effect the broad liberal program approved by both Haiti and the United States at the Montevideo Conference of reducing tariff barriers and thus bringing about a general increase in international trade, which would be mutually beneficial to the two countries. We said that the only possible explanation we could find for the instructions from Hibbert were that the latter, having just assumed office, had obviously not had an opportunity to familiarize himself with the many reports made by Blanchet during this long period of negotiation. We said that if the Haitian Government desires to submit counter proposals we hope that they will do so at the earliest possible moment, and that we shall, of course, be glad to give them favorable consideration. On the other hand, if the Haitian Government feels that it cannot conclude a trade agreement on the bases which we have for so long discussed then we trust that the Haitian Government will so advise us immediately in order that we can abandon these negotiations and proceed with negotiations with other countries which have been pressing us to enter into trade agreements. We asked Blanchet to cable the foregoing to his Government.

HULL

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611.3831/101: Telegram

*The Secretary of State to the Minister in Haiti (Armour)*

WASHINGTON, December 31, 1934—3 p. m.

100. Reference your 134, December 29, 2 p. m., which crossed Department's 99, December 29, 4 p. m. Please say to the Minister for Foreign Affairs

(1) As regards his first proposition no authority of law exists for its acceptance and there is no expectation of change in the law;

(2) His second proposition is based on a policy of seeking immediate advantages through bilateral balancing of trade and is directly contrary to the broad policy of reduction of tariff barriers and increase in general world trade approved at the Montevideo Confer-

ence and being followed by this Government in all its trade agreement negotiations. You will please say to the Minister that neither of his propositions is acceptable to this Government.

On the other hand, as stated in our 99, if the Haitian Government will submit counter proposals on specific items within the spirit of the broad trade policy which both Haiti and the United States had agreed to follow on entering into these negotiations, we shall be glad to give them immediate and favorable consideration.

HULL

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APPROVAL BY THE DEPARTMENT OF STATE, UNDER ARTICLE IX OF THE TREATY OF SEPTEMBER 16, 1915,<sup>44</sup> OF HAITI'S AGREEMENT WITH FRANCE AND PROPOSED AGREEMENT WITH ITALY FOR REDUCTION OF TARIFF RATES

638.5131/30 : Telegram

*The Minister in Haiti (Armour) to the Secretary of State*

PORT-AU-PRINCE, November 1, 1933—noon.

[Received 4:20 p. m.]

115. Pixley<sup>45</sup> informs me that the Ministers of Foreign Affairs and Finance agreed informally yesterday at a conference with the French Minister to propose to General Receiver a plan initiated by local French Chamber of Commerce to convert value of French imports into gourdes at gold parity for the purpose of computing ad valorem duties rather than at current exchange rates as at present in order to remove handicap on imports from France due to decreased exchange value of gourde. The French Minister recognized that the plan would have to be extended [to] all gold countries. The French Minister stated that his Government is about to negotiate a new commercial treaty with Haiti and unless present trade handicap is relieved France will eliminate most-favored-nation clause.

The plan fails to take into account recent price increases in American merchandise against which the French frankly admitted their plan is directed. The plan actually would reduce customs duties requiring action under Article 9 of the Treaty of 1915. Pixley feels considerable pressure will be exerted on his office by the Government during the next few days to force adoption of the plan. For this reason it is hoped that the Department will give the matter its immediate attention and let the Legation have its decision on what answer should be made. As it is understood that De la Rue<sup>46</sup> is now in Washington the Department probably will wish to consult him.

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<sup>44</sup> For text of treaty, see *Foreign Relations*, 1916, p. 328.

<sup>45</sup> Rex A. Pixley, Deputy Fiscal Representative of the Republic of Haiti.

<sup>46</sup> Sidney de la Rue, Fiscal Representative of the Republic of Haiti.



Pixley feels that while this last French proposal is of local origin and does not emanate from the French Foreign Office, nevertheless, the danger presented by the French threat to bar Haitian coffee unless its demands are met is sufficiently serious to justify a careful examination as to possibilities offered by the American market for Haitian coffee; that full information on this question at any rate would be required during discussions with the French.

ARMOUR

638.5131/31 : Telegram

*The Minister in Haiti (Armour) to the Secretary of State*

PORT-AU-PRINCE, November 2, 1933—2 p. m.

[Received 3:50 p. m.]

118. Reference my telegram No. 115, November 1, noon. To complete paragraph 1, I wish to advise that the procedure for fixing exchange rates at the customs houses is prescribed by article 38 of the Customs Law of July 26, 1926,<sup>47</sup> and changes in procedure would therefore require new legislation.

In spite of the above I would appreciate the Department's opinion on the matter presented, as Pixley feels that the Government here may desire to introduce [apparent omission] to permit adoption of the plan.

ARMOUR

638.5131/30 : Telegram

*The Secretary of State to the Minister in Haiti (Armour)*

WASHINGTON, November 2, 1933—5 p. m.

79. Your 115, November 1, noon. Please consult Pixley and report by telegraph (1) how much would acceptance of the plan reduce customs revenues on imports from all gold basis countries and consequently to what extent require a reduction of the budget; (2) is the French Government prepared to maintain equivalent to last year's coffee quota in exchange.

HULL

638.5131/32 : Telegram

*The Minister in Haiti (Armour) to the Secretary of State*

PORT-AU-PRINCE, November 4, 1933—11 a. m.

[Received 2:40 p. m.]

119. Reference to Department's telegram No. 79, November 2, 5 p. m., the following information has been obtained from Pixley:

<sup>47</sup> *Le Moniteur*, August 9, 1926, p. 369.

1. Using the present exchange rates it is estimated that the operation of the French plan would have reduced last year's revenues by 200,000 gourdes. Further decline in the gold value of the dollar will increase the reduction and might also induce larger shipments from gold countries thus accelerating the loss. Uncertainties are too great to permit an estimate of the probable loss of revenue under the plan.

2. In the conference the French Minister made no reference to last year's coffee quota. His threats were indefinite, although he specifically mentioned withdrawal of most-favored-nation treatment of Haitian coffee. As stated in the last paragraph of the Legation's telegram No. 115, of November 1, noon, Pixley believes that this is a strictly local matter at present. No compensation was offered by the French for acceptance of the plan.

ARMOUR

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638.5131/35

*Memorandum by the Chief of the Division of Latin American  
Affairs (Wilson)*

[WASHINGTON,] November 7, 1933.

Mr. de la Rue, Financial Adviser to Haiti, telephoned from New York. He said he had just held a conference with the French Ambassador and the French Commercial Attaché regarding the commercial relations between France and Haiti. He found the attitude of the Ambassador most sympathetic. The Ambassador had said that the recent suggestion of the French Chamber of Commerce in Haiti to calculate duties on imports from France on a gold basis had come from the French Commercial Attaché in Habana. The Ambassador felt that this Commercial Attaché had gone too far in the matter.

The Ambassador said that he would send to his Government a memorandum recommending that France should maintain the *status quo* as regards coffee quotas for Haiti. Also, that France should work out a plan with Haiti which would define articles of specific French origin and of which France furnishes the major part of Haiti's imports and endeavor to obtain tariff reductions on such articles from Haiti, which Haiti could generalize to other countries under the most-favored-nation clause. Mr. de la Rue said that he thought the French Ambassador was taking a broad gauge and friendly attitude towards the relations between Haiti and France and that his recommendations to the French Government would be extremely helpful from the point of view of Haiti without prejudicing the normal trade interests of the United States in Haiti.

EDWIN C. WILSON

638.5131/32 : Telegram

*The Secretary of State to the Minister in Haiti (Armour)*

WASHINGTON, November 8, 1933—8 p. m.

81. Your No. 115, November 1; No. 118, November 2, and No. 119, November 4. We have discussed the matter with De la Rue and desire you to instruct Pixley to inform the Minister of Finance that (1) any such arrangement if agreed to would unbalance the budget to the extent that customs receipts would be reduced; furthermore such an arrangement would have to apply equally to all gold countries enjoying most-favored-nation treatment. An unbalanced budget would require a corresponding increase in revenues from other sources. (2) It would also seem unwise to make any arrangement in advance of proposed commercial treaty negotiations with France without assurance of an adequate coffee quota. (3) The present law prohibits any such arrangement unless modified by the Legislature.

HULL

638.5131/37 : Telegram

*The Minister in Haiti (Armour) to the Secretary of State*

PORT-AU-PRINCE, February 20, 1934—1 p. m.

[Received 9 : 33 p. m.]

13. As a result of insistent demands by the French Government that Haiti do something to concentrate [*compensate?*] the present unfavorable trade balance (the French [Government?] has even threatened to place a quota on Haitian coffee unless these demands are met), the Haitian Government has agreed to conclude a new commercial convention between the two countries whereby in exchange for a minimum tariff on Haitian coffee and a quota of 30,000,000 kilograms per annum the Haitian Government agrees to apply the rates in effect prior to 1926 on the following importations from France: wines in barrels gourdes .073, wines in bottles gourdes .432, sparkling wines gourdes 1.00, champagne gourdes 1.885, vermouth and aperitifs of specified brands gourdes 1.32, cognacs, armagnacs and liqueurs of specified brands gourdes 2.171. All taxes per liter.

Medicinal and mineral waters are to enter without duty. Perfumes, toilet waters, lotions and dentifrices of specified brands will pay 10 per cent ad valorem. Pharmaceutical products of specified brands 18 per cent ad valorem. The loss in revenue to the Haitian State if these duties had been in effect last year would have been approximately gourdes 140,000. With the view not to affect the most-favored-nation treatment principle the document has been so worded as to apply only to named specialties of French origin. In view of

the fact that Haiti sells practically its entire coffee crop to France and will by the above convention be able to insure this market at such little loss to its customs revenues, which may even be compensated in part by increased importations of the articles affected, I have informed the Fiscal Representative of my approval of the reduced rates. I have done so without referring the matter to the Department. As stated, question is an urgent one and in such talks which only Fiscal Representative and I have had with officials in the Department we have received the distinct impression that the Department was in agreement that Haiti must be prepared to defend itself against this very real threat to its economic existence by making the best bargain it could. All things considered I feel that the terms by which it has been able to secure continuance of its coffee exports to France are reasonable.

There is the further question that the legal adviser to the Fiscal Representative does not consider that this agreement can legally be put into effect until ratified by the Legislature unless an emergency can be shown to exist. The Ministers for Foreign Affairs and Finance, however, insist that it must be made effective immediately, as otherwise there is a grave danger that the French will make further demands or retaliate with a coffee quota. The Fiscal Representative is, however, reluctant to put the new rates into effect without authorization from the Legation. I have told him that I will grant such authorization if or when the Minister for Foreign Affairs informs me that in the opinion of the Haitian Government an emergency exists such as to justify the immediate putting into effect of the tariff reductions pending ratification by the Legislature, and that the Legation will submit the agreement for approval by the Legislature immediately upon its convening in April.

ARMOUR

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638.5131/37: Telegram

*The Secretary of State to the Minister in Haiti (Armour)*

WASHINGTON, February 24, 1934—10 a. m.

9. Your No. 13 of February 20, 1 p. m. Second paragraph. Your action is approved. Is there anything in the Treaty to prevent like treatment for similar American products under terms of *modus vivendi*.

With reference to the question of the legality of putting into effect the tariff reductions before ratification by the legislature, mentioned in the third paragraph, this would appear to be a question for determination by the Haitian Government.

HULL

638.5131/38 : Telegram

*The Minister in Haiti (Armour) to the Secretary of State*

PORT-AU-PRINCE, February 26, 1934—1 p. m.

[Received 8:45 p. m.]

15. Department's telegram No. 9, February 24, 10 a. m., regarding the Franco-Haitian commercial agreement.<sup>48</sup> The agreement being a true "avenant", the commercial convention of April 12, 1930 between France and Haiti<sup>49</sup> continues in effect except where it is in conflict with the terms of the "avenant". Furthermore, the fact that the French products benefiting by the terms of the convention are definitely specified by name would seem to preclude like treatment for similar American products. However, as Mr. De la Rue will be in Washington about March 1, the Department may wish to discuss this matter with him.

ARMOUR

638.6531/12 : Telegram

*The Chargé in Haiti (Woodward) to the Secretary of State*

PORT-AU-PRINCE, September 14, 1934—2 p. m.

[Received 6 p. m.]

100. The Italian Government has for some time past insisted that Haiti take steps to compensate its unfavorable trade balance and has recently acted to prevent Haitian coffee from selling in Italy as freely as in the past. According to available figures for the current fiscal year Haiti has purchased from Italy 600,000 lire worth of goods and has sold to Italy an amount worth 12,000,000 lire.

The Haitian Government has decided to treat the matter as an urgent one as Italy is its market for quality coffee and has agreed to add a new protocol to the commercial convention already existing between the two countries<sup>50</sup> whereby in exchange for a minimum tariff for an annual quota of 5,000,000 kilograms of Haitian coffee Haiti will apply a reduction of 33 $\frac{1}{3}$  percent on existing tariff rates on the following importations from Italy: Marble, alabaster, olive oil, vermouth, cheese, canned tomatoes, buttons, umbrellas, hats, and caps.

The loss in revenue to the Haitian state if these duties had been in effect last year would have been approximately \$8000.

The wording of the present draft of agreement, which I am sending to the Department by air mail tomorrow, would seem to me to afford most-favored-nation treatment to those countries, including the United States, which are already entitled to such treatment.

<sup>48</sup> Signed March 10, 1934, *Le Moniteur*, April 23, 1934, p. 255.

<sup>49</sup> *Le Moniteur*, August 7, 1930, p. 245.

<sup>50</sup> Convention signed January 3, 1927, League of Nations Treaty Series, vol. LXXI, p. 405.

Pixley, the Acting Fiscal Representative, agrees with me in this interpretation; but, as the intention of the Italian Government is presumably to favor its trade, the wording of the final text may be so changed as to make the one-third rate reduction apply only to named specialties of Italian origin.

Acting on the precedent established by the Department's approval of the Haitian-French agreement of last February (the Legation's telegram No. 13, February 20, 1 p. m., and the Department's No. 10 [9], February 24, 10 a. m.), and in view of the fact that Haiti sells 10 percent of its coffee crop to Italy and will by the above agreement be able to insure this market at such little loss to its customs revenues, I have informed the Acting Fiscal Representative of the Legation's approval of the reduced rates.

WOODWARD

638.6531/12 : Telegram

*The Secretary of State to the Chargé in Haiti (Woodward)*

WASHINGTON, September 21, 1934—5 p. m.

79. Your 100, September 14, 2 p. m. Your actions approved. However, you should make it perfectly clear that this Government expects any reduction on any Italian product to be extended to the like product of the United States.<sup>51</sup>

HULL

NEGOTIATIONS RESPECTING THE TERMINATION OF FINANCIAL CONTROL EXERCISED IN HAITI UNDER THE AGREEMENT OF AUGUST 7, 1933; <sup>52</sup> PROPOSED TREATY OF RELATIONS

838.51/2793

*The Haitian Minister (Blanchet) to the Acting Secretary of State*

[Translation <sup>53</sup>]

WASHINGTON, January 12, 1934.

MR. SECRETARY OF STATE: I have the honor to advise Your Excellency that, following the private correspondence exchanged during November last between President Roosevelt and President Vincent <sup>54</sup> and the official statements of the Head of the United States delegation to the Montevideo Conference, <sup>55</sup> and with a view to realizing our great and

<sup>51</sup> However, the negotiations did not result in the signature of a commercial arrangement between Haiti and Italy at this time.

<sup>52</sup> For text of the agreement, see *Foreign Relations*, 1933, vol. v, p. 755.

<sup>53</sup> File translation revised by the editors.

<sup>54</sup> Letter of November 16, 1933, from President Vincent and reply of President Roosevelt, November 29, 1933, *Foreign Relations*, 1933, vol. v, pp. 764 and 767.

<sup>55</sup> See telegram No. 83, December 1, 1933, 4 p. m., to the Minister in Haiti, *ibid.*, p. 770.

common desire to terminate promptly the financial control exercised in Haiti, my Government has given me special instructions to negotiate with the Department of State a definitive arrangement capable of relieving at the same time, if such condition is deemed necessary, the Government of the United States from the obligations that it has assumed with respect to the holders of bonds of the Loan of 1922.

Hoping that a friendly understanding between our two Governments with respect to this important question will permit them to reach the desired result as soon as possible, I take [etc.]

A. BLANCHET

838.51/2794

*The Minister in Haiti (Armour) to the Acting Secretary of State*

No. 238

PORT-AU-PRINCE, January 16, 1934.

[Received January 22.]

SIR: I have the honor to inform the Department that, at the President's request, I called on him at the Palace this morning. He told me that his attention had been called to a report appearing in one of the Dominican papers to the effect that the Secretary of State would probably return from Panama to New York by way of the Antilles, his boat probably touching at Haiti. The President asked me whether I had any confirmation of this report and I told him that I had not but that I had rather assumed that the Secretary would remain on board the same ship until his arrival in New York and that I understood that the ship's schedule did not call for a stop at Haiti. However, I told the President that I would be glad to communicate with the Department and ascertain whether there was any foundation in the report.

The President then went on to say that he had been thinking over the matter of a refunding loan for some time and that he expected, after the Secretary's return, to take up the matter in Washington with a view to seeing what could be done in this respect. He made the observation that Mr. Spruille Braden, a member of the American delegation to the Pan American Conference who, he understood, was the member of the delegation primarily interested in financial matters, had assured members of the Haitian delegation that a refunding loan for an amount sufficient to take care of the present situation here should not be difficult to secure. The President said that what he would like to do would be to obtain a refunding loan sufficient to yield \$3,000,000 over the amount actually required for refunding purposes, this surplus to be devoted to public works and other necessary projects, a detailed list of which would be drawn up and presented to the bankers before the loan was made. This would enable the Haitian Government to devote its entire revenues to regular budgetary pur-

poses including service on such a loan. The President felt that, if a fairly long term loan could be secured, the amortization payments could be kept low enough not to have the loan service a drain on the public treasury. With the development of the various projects now under study, notably the banana scheme, he felt that the economic stability of the country would be assured. Furthermore, he realized more and more that the economic and financial future of Haiti lay in the direction of the United States and he was most anxious that the refunding operation should be put through in the United States. If this could be done, he proposed himself to visit the United States to complete the final negotiations and at that time would like to visit the President. He felt that such a meeting, which could be accompanied by a statement announcing the application of the doctrine of the "good neighbor" to Haiti, would have an extremely good effect not only on relations between the two countries but throughout Latin America, particularly if, at the same time, the announcement could be made that Haiti and the United States were prepared to enter into a treaty of amity and commerce based upon the new spirit which animated President Roosevelt's administration.

While I did not commit myself other than to say that I knew that our Government would be very glad to lend its good offices, as stated by President Roosevelt, I must confess that I feel that if a refunding loan could be secured in the United States, particularly through the good offices of our Government, some such procedure as that suggested by President Vincent might be used with telling effect in following up the excellent impression that seems everywhere to have been created by the attitude shown by our delegation at Montevideo. As to the feasibility of a refunding loan at the present time, the Department is, of course, in a better position than the Legation to judge.

Before leaving, I took the occasion to say to the President that, without wishing to seem to offer gratuitous advice, there were two points which I should like very much to stress to him. First, with regard to the Garde, I had noticed an increasing tendency, both in the press and among individuals with whom I had spoken, to stress the necessity of a largely increased Garde and the purchase of equipment for it. I said that if he really hoped to secure a refunding loan along the lines suggested he must convince American bankers of the soundness of Haiti as a financial investment and that I could think of no worse way to go about this than to give the impression that, once American influence was withdrawn, the Government would divert the revenues, which were badly needed in developing the economic resources of the country, into military channels. What Haiti needed, in my opinion, was a police force adequate to maintain law and order in the country and that anything that went beyond that point



could only be interpreted abroad as indicating an attitude of nervousness and apprehension on the part of the Government which apprehension would be certain to be communicated to those abroad whom they were seeking to convince as to the stability of the country. Secondly, while I naturally had no information as to what guaranties would be required by any banking group, should a refunding loan be seriously considered, I felt that if the Haitian Government could introduce the "douzième" principle into its budget structure this would be one of the most constructive and reassuring evidences of financial responsibility that they could give. I pointed out that, while on paper, perhaps, the plan he had so often suggested to me, by which his government would give irrevocable instructions to the National Bank with regard to payments under the loan service, seemed perfectly secure, nevertheless, we had seen both in Salvador and the Dominican Republic how, even though perhaps acting in perfectly good faith, a Government might get itself into financial difficulties through a faulty budget structure and I ventured to suggest that, if the Haitian Government would take such a step, this would do more than any one thing to create a feeling of confidence in Haiti's financial future.

The President took my remarks in very good part and with every evidence of sincerity assured me that he could see no reason why both these suggestions should not be carried out. With regard to the Garde he said that they had every intention of maintaining the Garde at its present approximate strength although it would be necessary to purchase a certain amount of equipment at the time the Haitianization was completed as they had hitherto been dependent on the equipment loaned by the American Government.

The Fiscal Representative, Mr. de la Rue, told me this morning of a talk which he had had with the Minister of Finance, M. Hibbert, which followed very much the same lines as the President's talk with me. M. Hibbert, however, was more specific in giving the details as to the procedure which the Haitian Government proposed to follow in securing a refunding loan. One of these details of some importance which the President had not mentioned to me was that the Haitian Government would accept the offer of the National City Bank and would itself take over the National Bank but would keep it under the management of the bank or consortium through which the refunding loan might be made. I am enclosing a copy of a memorandum prepared for me by Mr. de la Rue<sup>56</sup> covering his talk with M. Hibbert.

It will be noted that, in his letter to me, Mr. de la Rue states that M. Hibbert told him the President would like to have him, Mr. de la Rue, go up to the United States in connection not only with preliminary

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<sup>56</sup> Not printed.

work looking toward a loan but also with certain other problems, notably, the commercial treaty,<sup>57</sup> the freight rate situation, et cetera. Mr. de la Rue replied that a request to this effect would have to be made by the Minister for Foreign Affairs to the Legation to which M. Hibbert replied he would see that this was done.

In order to avoid possible delay I should appreciate hearing from the Department what its views with regard to this proposal may be. Personally, I am of the opinion that Mr. de la Rue's presence in the United States at this time might be very useful and I earnestly request that every consideration be given to this suggestion.

There is nothing that has occurred recently to change the opinion I have expressed in previous despatches that, after October next,<sup>58</sup> it will become more and more difficult to secure Haitian cooperation in executing the financial clauses contained in the Accord of August 7 and, if there is any possibility that our Government's participation in Haitian financial matters could be terminated prior to that time through a refunding loan, I feel that every effort should be made to this end.

I shall not fail to keep the Department fully informed regarding further developments along these lines.

Respectfully yours,

NORMAN ARMOUR

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838.516/277

*Memorandum by the Chief of the Division of Latin American Affairs  
(Wilson)*

[WASHINGTON,] January 22, 1934.

Mr. W. W. Lancaster, representing the National City Bank of New York, came in and handed me the attached copies of correspondence<sup>59</sup>—a letter from President Vincent dated November 23, 1933, to the National City Bank acknowledging the Bank's letter of November 8, 1933, offering to sell the Banque Nationale de la République d'Haiti to the Haitian Government, in which President Vincent expresses thanks for the offer and asks for a period of one year for its consideration; and a letter from the National City Bank to President Vincent dated December 29, 1933, extending the offer to sell the Banque Nationale until December 1, 1934, subject to the withdrawal of this option on ninety days notice.

Mr. Lancaster said that the Bank had recently received a request from the Haitian Government to explore the possibilities of a refund-

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<sup>57</sup> See pp. 308 ff.

<sup>58</sup> The agreement of August 7, 1933, provided that the withdrawal of the Marine Brigade of the United States would commence October 1, 1934, and was to be completed within 30 days.

<sup>59</sup> None printed.

ing operation to retire the outstanding bonds. Mr. Lancaster said that the Bank had "circularized" this request but had not yet received any replies. He said, in effect: "I do not think there is much likelihood of doing anything under present conditions."

EDWIN C. WILSON

838.51/2798

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*Memorandum by the Secretary of State*

[WASHINGTON,] January 27, 1934.

The Minister of Haiti called and stated that some of the officials in his country had represented that I had told the Haitian Delegation in Montevideo that just as soon as I returned to Washington I would take up and remove the conditions which entangled the United States Government with the Haitian Government financially and otherwise. I told the Minister that in the first place I had suggested and urged upon the Haitian Delegation that if their government would be disposed to do some new financing, so as to take up the present outstanding securities against Haiti, I and other United States officials would lend all moral support to this new financing just so we did not involve ourselves or our government. I stated that this would settle the matter and enable the United States Government to withdraw entirely from Haiti. I added that the Haitian Government now only had an external debt of 11 million dollars, while it had annual receipts of 6½ million dollars, and, therefore, that it should be able to do this financing which would solve this entire entanglement matter which I deplored as much as anybody and from which my government was extremely anxious to release itself.

The Haitian Delegation at Montevideo went away apparently pleased with this suggestion, but a few days later they returned and wanted to know if some other method of disentanglement could not be arrived at. I again repeated the anxious desire of my government to get released from this special relationship with Haiti which arose many years ago, and that in every possible way at the earliest possible date the United States Government would take steps to disentangle itself. I then added that, of course, at that time being many thousand miles away from the records in the matter, I could not possibly know what contractual obligations had been entered into by the United States Government and Haiti which might hinder and delay the removal of these involvements by any other method than that of new financing, but that as soon as I returned to Washington I would undertake to go over the entire records and see what the contractual obligations were and in any event would work out and develop every possible step that could now be taken without violating our solemn contractual obligations, and that we were as anxious as they to take such steps.

C[ORDELL] H[ULL]

838.51/2803

*The Minister in Haiti (Armour) to the Secretary of State*

No. 253

PORT-AU-PRINCE, February 2, 1934.

[Received February 6.]

SIR: I have the honor to inform the Department that the Fiscal Representative, Mr. de la Rue, informed me this morning that, from recent conversations he has had with M. Hibbert, the Minister of Finance, Mr. Laleau, the Minister for Foreign Affairs, and others, he understands that the President will probably shortly take up with me the possibility of having Mr. de la Rue proceed to the United States in connection with negotiations looking toward a bilateral commercial treaty between Haiti and the United States along the lines of those recently concluded by the United States with Colombia and certain other countries.

As I have pointed out to the Department in previous despatches, I feel that Mr. de la Rue's presence in the United States, both in connection with such a commercial treaty and, even more particularly, in connection with a possible refunding loan along the lines suggested in the President's letter to President Vincent, might be very useful. In fact, I have every reason to believe that one of the principal purposes the Haitian Government would have in mind in sending him to the United States would be in connection with a refunding loan along the lines recently set forth by M. Hibbert, the Minister of Finance, to Mr. de la Rue. (See enclosure <sup>60</sup> to the Legation's despatch No. 238 of January 16, 1934.)

The Haitian delegation to the Pan American Conference has now returned and the press has announced that its report will shortly be published but, from what I have been told by the President and the Minister for Foreign Affairs, I judge that there has been little change in the situation since that described in previous despatches and that the Haitian Government is still counting upon the good offices of the American Government in helping it to secure a refunding loan.

With a somewhat uncertain internal political situation resulting from a recrudescence—or perhaps it would be more accurate to say continuation—of the ill feeling between the President and the majority of the Senate, I am afraid that the next regular session of the Legislature in April will bring matters to a head and the more that can be done before that time to establish a definite policy with regard to future financial control the better. Just two months remain before the opening of this session and I feel very strongly that the sooner the possibilities of a refunding loan can be thoroughly explored, or any other new mechanism tending to clarify the situation considered, the better.

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<sup>60</sup> Not printed.

I should therefore appreciate receiving by telegraph an indication of the Department's views with regard to having Mr. de la Rue proceed to the United States should the Haitian Government indicate a desire to have him do so.

Respectfully yours,

NORMAN ARMOUR

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838.51/2804 : Telegram

*The Minister in Haiti (Armour) to the Secretary of State*

PORT-AU-PRINCE, February 13, 1934—11 a. m.

[Received 12:10 p. m.]

11. The President called for me this morning and told me that he was most anxious to begin exploring the possibilities of a refunding loan. He said that Blanchet has instructions to take up the matter with the President but asked me to stress the importance he attached to an early decision as to what course to pursue. He added that as soon as things seemed to be under way he would like to come up himself to the United States quite informally for a talk with the President as he felt that through such personal contacts with him and with the Secretary all existing difficulties could be ironed out. If a refunding loan proved possible and the withdrawal of financial control within sight then he felt that the occasion of his visit could be used to announce the opening of negotiations looking towards a treaty of amity and commerce. His reply to my question as to when he would wish to make such a visit was somewhat vague but I judge he would plan to leave in time to return to Haiti for the opening of the regular session of the Legislature, April 2nd.

ARMOUR

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838.51/2789

*The Secretary of State to the Haitian Minister (Blanchet)*

WASHINGTON, February 14, 1934.

SIR: I have to acknowledge the receipt of your note of January 12, 1934, informing me that you had been instructed by your Government to negotiate an arrangement with a view to terminating the financial administration now exercised in Haiti under the provisions of the Agreement of August 7, 1933.

In the statement which I made to the Haitian Delegation on board the S. S. *American Legion* on November 27, 1933, I stated that the American Government would agree to and would welcome an arrangement which would result in withdrawal of American governmental action in financial control in Haiti, and that the American Government would be ready to accept an arrangement along such lines if worked out

in agreement with the present bondholders. I said that it would be preferable for the Haitian Government to approach the Fiscal Agents in regard to putting such a plan in effect, rather than for the American Government to take the initiative to that end. I added that the American Government would be glad to lend its good offices in the matter in any way that would not involve it in any further responsibilities in Haiti. Furthermore, in the letter addressed to President Vincent on November 29, 1933, President Roosevelt said that

“Under Article XXVI of the Agreement of August 7 last, Haiti, with the approval of the United States, reserved the right to retire the bonds before their due date provided she could make an arrangement for this purpose satisfactory to the holders of the bonds. The United States Government would be glad to lend its good offices in the matter in any way which would not involve it in any further responsibilities in Haiti.”

As I explained to the Haitian Delegation, a refunding operation which would retire the present bonds in agreement with the bondholders, and which would not involve the American Government in any further responsibilities in Haiti, would appear to be the first and most logical move for the solution so much desired by both the Haitian and the American Governments, namely, the withdrawal of American financial control in Haiti. In this connection, I should be pleased to learn what steps your Government is taking to explore the possibility of a refunding operation. This Government will, as already stated, be glad to lend its good offices in the matter in any way that will not involve it in any further responsibilities in Haiti.

Accept [etc.]

CORDELL HULL

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838.51/2804 : Telegram

*The Secretary of State to the Minister in Haiti (Armour)*

WASHINGTON, February 14, 1934—5 p. m.

6. Your 11, February 13, 11 a. m. On January 12 Blanchet sent a note to the Department stating that he had been instructed by his Government to negotiate an arrangement with a view to terminating the financial administration now exercised in Haiti under the provisions of the Agreement of August 7, 1933.

The Department is today replying to Blanchet [here follows substance of note of February 14, 1934, to the Haitian Minister, printed *supra*].

Your despatch 253 of February 2, 1934. Should the Haitian Government take up with you the question of having Mr. de la Rue proceed to the United States in connection with a refunding loan operation you will please inform the Haitian Government that the

Department would prefer that a Haitian citizen be delegated to carry out such negotiations, although there would be no objection to Mr. de la Rue acting in the capacity of technical adviser to whomever the Haitian Government may delegate.

Respecting negotiations for a commercial treaty, the Department is contemplating instructing you to begin exploratory conversations with Haitian Government with a view to submitting recommendations regarding the terms of such agreement. You will be advised of the Department's decision shortly.<sup>61</sup>

HULL

838.51/2805 : Telegram

*The Minister in Haiti (Armour) to the Secretary of State*

PORT-AU-PRINCE, February 19, 1934—noon.

[Received 8:03 p. m.]

12. Department's telegram No. 6, February 14, 5 p. m. As stated in the Legation's air mail despatch No. 261 of February 14<sup>62</sup> the present arrangement of the Haitian Government is to have De la Rue sail for the United States February 22 to explore the possibilities of a refunding loan. He will, however, proceed directly to Washington and put himself in touch with the Haitian Minister to whom instructions have been sent and who will be prepared to open negotiations with the fiscal agents if and when matters have reached that stage.

I now feel, and hope the Department will agree, that this procedure represents the most practicable one, as it would seem essential for the best interests of all concerned that someone with De la Rue's knowledge should be on hand to advise Blanchet who will, however, be in a position to make clear the desires of the Haitian Government with regard to a refunding loan and the terms which they are prepared to offer to obtain it.

ARMOUR

838.51/2813 : Telegram

*The Minister in Haiti (Armour) to the Secretary of State*

PORT-AU-PRINCE, March 12, 1934—1 p. m.

[Received 4:55 p. m.]

19. The President told me this morning that he has heard from Blanchet that President Roosevelt will see him any time during the

<sup>61</sup> Instruction No. 142, February 20, 1934, to the Minister in Haiti, p. 310.

<sup>62</sup> Not printed.

week beginning April 8th next. He asked me to express his appreciation.

He tells me that he is planning to sail from here if he can obtain accommodations on the *Haiti* of the Colombian Line, March 22, reaching New York March 26 and remaining there quite unofficially with his brother the Consul until his visit to Washington.<sup>63</sup> This will enable him after ascertaining from Blanchet and De la Rue the status of their negotiations to discuss the question of a refunding loan with the bankers and ascertain at first hand just what the difficulties are. He also desires to discuss banana possibilities with officers of the Standard Fruit Company.

He tells me that he will be accompanied by Hibbert, the Minister of Finance, and possibly one other subordinate official.

I am leaving by plane tomorrow but Woodward will keep the Department informed of any changes that may occur in the plans as outlined. Please communicate the above to De la Rue.

ARMOUR

838.51/2828½

*Memorandum of Plan for Dealing With the Question of Financial Control, Drawn Up by the Haitian Minister for Finance (Hibbert) and the Fiscal Representative of the Republic of Haiti (De la Rue)*

[WASHINGTON,] April 3, 1934.

(1) Creation by the Government of the United States of an Export-Import Bank, having for its object the increase in commerce between Haiti and the United States of America.

(2) Creation by the Republic of Haiti of a Haitian Trade Corporation, which would be also a branch of the National Bank of Haiti.

(3) Purchase of the Banque Nationale de la République d'Haiti.

(4) The entering into of a new commercial treaty between the United States and Haiti, which would have for its object the increase in Haitian purchasing power in the United States.

(5) Loan from the Export-Import Bank to the Haitian Trade Corporation of \$3,000,000 needed to permit the taking over and operating of the Banque Nationale by the Government.

(6) Security to be offered is the credit of the Republic of Haiti and the stock of the Banque Nationale:

(a) \$3,000,000 was advanced to be reimbursed by terms to be agreed upon;

(b) Amount of interest to be agreed upon.

<sup>63</sup> For additional information regarding the visit of President Vincent to the United States, see Department of State, *Press Releases*, March 24, 1934, p. 159; April 7, 1934, p. 187; April 14, 1934, p. 199; and April 21, 1934, p. 216.



(7) The Banque Nationale, upon its being purchased, shall be controlled by a Board of Governors consisting of six members, one of whom shall be the Secretary of the Treasury. All other members shall be nominated by the President of Haiti for a period of service of ten years. The Secretary of the Treasury and one other Haitian shall be selected by the President of Haiti, and the Secretary of the Treasury will be the President of the Board of Governors. Four experts shall be recommended to the President of Haiti by the Director of the Export-Import Bank and by the Fiscal Agent of the 1922 Loan. Of these experts each shall be competent and experienced in his particular field. They shall constitute the other members of the Board of Governors.

Of the four experts—

One shall be designated as the Governor of the National Bank;

One shall be Director of commercial business of the Bank;

One shall be Director of the services of the Bank having to do with the Treasury; and

One shall be Inspector General of all of the affairs of the Bank and its branches.

The purpose of the above arrangement is to establish a complete independence of the Bank from political control and this plan is to continue until the complete liquidation of the Loan of 1922.

(8) The powers of the Bank briefly shall be as follows:

- (a) Control of all commercial exchange documents between Haiti and foreign countries, however, taking account of the vested rights of the Royal Bank of Canada in Port-au-Prince;
- (b) Control of monetary policy of the Government;
- (c) Maintenance of the privileges now provided by the contract between the Bank and the Government, except as otherwise herein specified;
- (d) Taking over by the Bank of the present powers of the Fiscal Representative.

Transferring to the banking service of payments of the Comptroller's Office, as provided by the Accord of the 7th of August, 1933,<sup>64</sup> and the 5th of August, 1931.<sup>65</sup>

The carrying on by the Bank of the service control of customs audit and of contributions audit (Controle des Bordereaux). The bank shall demand within a period of thirty days after receipt of any Bordereaux that any supplementary charge shall be made by the Chief of the Service of the Customs, or that any internal revenue tax bill found incorrect shall be corrected by demand to the Chief of the Internal Revenue Service within a like period of time.

<sup>64</sup> *Foreign Relations*, 1933, vol. v, p. 755.

<sup>65</sup> *Ibid.*, 1931, vol. II, p. 505.

In case of disaccord between the Bank and the Chief of Customs or Internal Revenue Service with reference to supplemental tax bills, the Secretary of the State of Finance will decide.

(9) Engagements of the Haitian Government to safeguard the interests of the bondholders of the 1922 Loan.

To fix no later than the 31st of January each year an estimate of the total receipts of the Republic for the following fiscal year in collaboration with the Secretary of the Treasury and the Board of Governors of the Bank.

To maintain the budget within the limits of this estimate.

To maintain the expenses within the total of the receipts or in case of a probable deficit to cover the same by the creation of new revenues or by the reduction of expenditures to the amount of the receipts, or by both means at once.

Not to increase the public debt except by refunding operation.

Not to create supplementary or extraordinary credits unless there are funds available over and above budget requirements.

Not to pass one-twelfth of the total expenditures provided in the budget for recurring monthly expenses except as provided by the present law of finance.

To establish civil service in the customs and internal revenue.

(10) Bank shall make monthly and annual reports.

(11) Series B and C of the Loan of 1922 are to be exchanged for bonds of Series A as rapidly as this can be accomplished for the purpose of reducing the budget requirements by the amount now being budgeted for these two loans.

(12) The Government will agree to contract to pay to the Banque Nationale an allowance equal to 2½ per cent of the customs receipts and three per cent of the internal revenue receipts to permit the bank to cover the new expenses contemplated and perform the services required, these amounts being tentatively suggested at this time. In case they are not sufficient they will be increased.

The Board of Governors of the Bank will arrive at an agreement with the Conseil des Secretaires d'Etat as to the maximum number of foreigners to be employed by the Bank outside of the four members of the Board of Governors, it being understood that the necessary men to carry on the work contemplated are to be employed.

The Bank will, of course, no longer receive the one per cent on the receipts because this amount has been increased as above.

(13) For the service of the 1922 Loan there will be irrevocably assigned to the Bank the right to deduct from the receipts of the Government on deposit the necessary monies for the service of the debt.

The Government will irrevocably agree during the continuation of this plan to continue the Bank as its sole depositary and bank of issue.

Until the total amount of the advance for the purchase of the Bank has been repaid the Government will contract to maintain its ordinary operating budget at 32,000,000 gourdes.

838.00/3193b : Telegram

*The Secretary of State to the Minister in Haiti (Armour)*

WASHINGTON, April 18, 1934.

18. Following is the text of joint statement by President Roosevelt and President Vincent issued April 17 to the Press after their meeting at the White House:

"We have had an opportunity to discuss in the most friendly and cordial manner the different problems arising in the relations between the Governments of the United States and of Haiti.

"In connection with the departure of the United States Marines from Haiti during the month of October, next, as already provided in the Agreement of August 7, 1933, President Roosevelt intends to request authority from the Congress of the United States to make a gift to Haiti of a portion of the Marine Corps material which the Haitian Government feels would be useful to it.<sup>66</sup>

"We have exchanged views regarding the possibility of a commercial agreement which would increase the flow of goods between the two countries; and finally we have discussed a new form of financial administration which is satisfactory to our two Governments and which should be equally satisfactory to the holders of the bonds of the 1922 loan.

"We are both inclined to the belief that the policy of the good neighbor which the Government of the United States is endeavoring to apply in its relations with the other American Republics will be signally manifested in the results which will be obtained from this exchange of views and from negotiations which are now taking place with a view to the practical application of the decisions reached in principle during our present conversations.

"Certainly Haiti will now be in a position to look forward to her future with the greatest confidence."

HULL

838.516/278a : Telegram

*The Secretary of State to the Minister in Haiti (Armour)*

WASHINGTON, April 28, 1934—3 p. m.

21. Hibbert left here this morning by airplane for Miami and Port au Prince.

We understand that agreement has practically been reached on the terms of the contract for purchase of Bank satisfactory to the Haitian Government.

The procedure contemplated at the time you left Washington has been modified in view of Hibbert's opinion that it would run counter

<sup>66</sup> See pp. 293 ff.

to Haitian constitutional provisions, which Hibbert will doubtless explain to you.

The procedure now tentatively contemplated is the following:

1) Passage by Haitian legislature of a Law of Sanctions approving the contract under which the Haitian Government acquires ownership of the Bank;

2) Letter from Haitian Government to American Legation reciting passage of this Law of Sanctions; that it is intention of Haitian Government to confer upon the Bank following powers and duties in order to insure service of 1922 loan and to maintain in force without modification these measures of security until the bonds of the 1922 loan are paid or retired; that in view of the foregoing the Haitian Government proposes the conclusion of a treaty, a draft of which would be enclosed, to which treaty this letter would be annexed as a part thereof. The measures of security described in appropriate language in the letter would be: (a) provisions regarding designation of members of the Board of Directors of the Bank; (b) that all revenues and receipts of the Haitian Government shall be deposited in the Bank; (c) irrevocable instructions as to prior payment out of such revenues and receipts in favor of the service of the loan contracts; (d) authority to the Bank to control and inspect the application of the customs law and customs regulations.

3) The proposed treaty would make reference to the purchase of the Bank by the Haitian Government and to the annexed letter as described above, and would then provide simply that upon notification from the Haitian Government to the American Legation of the enactment of whatever legislative or executive measures might be required to place in effect the provisions set out in the letter of the Haitian Government, the treaty of 1915<sup>67</sup> would cease to have effect.

The Haitian Government would also address a second letter to the American Legation, which would not be annexed to the treaty or referred to in the treaty, which would constitute a unilateral declaration of the Haitian Government regarding the financial policy which it proposes to follow in order further to insure the service of the 1922 loan, and would cover such matters as maintenance of a balanced budget, the *douzième* system, and other matters mentioned in Hibbert's memorandum.

HULL

838.516/280 : Telegram

*The Minister in Haiti (Armour) to the Secretary of State*

PORT-AU-PRINCE, May 5, 1934—1 p. m.

[Received May 6—6:23 a. m.<sup>68</sup>]

41. Department's telegram No. 21, April 28, 3 p. m. and 22, April 30, 1 p. m.<sup>69</sup> The Foreign Minister last night handed me drafts of

<sup>67</sup> *Foreign Relations*, 1916, p. 328.

<sup>68</sup> Telegram in two sections.

<sup>69</sup> Telegram No. 22 not printed.

the two letters referred to in Department's telegram No. 21 together with an additional memorandum summarizing steps they propose to take to protect the bondholders, which memorandum will also be sent to the Fiscal Agents. I have forwarded these documents by air mail this morning and they should reach the Department Monday morning. It will be noted that the letter (marked A) which is the one to be referred to in the treaty, does not set forth specifically the powers listed in paragraph 2 of Department's No. 21. Hibbert explains that these powers are contained in the bank contract (a procedure not perhaps envisaged by the Department at the time telegram No. 21 was sent) which contract as stated in Department's telegram No. 22, April 30, 1 p. m., with the bank's concession and contracts will constitute the new organic bank law as the letter engages the Haitian Government not to change the terms of the contract. Hibbert does not see the need of having these powers again set forth in the letter but both he and Laleau have assured me that if the Department prefers that this be done they will be glad to make the necessary alterations.

Lancaster<sup>70</sup> is arriving with De la Rue on May 7th and they hope here to have the contract signed immediately and sent with the Law of Sanction to the Legislature for enactment if possible before the end of next week. In the meantime, if the Department will cable me its decision with regard to the draft letters and memorandum we can then be prepared to proceed with the exchange of notes and signing of the treaty as soon as the Legislature has passed the latter. It might be well to send me by air mail drafts of replies which will be made to Haitian notes when approved.

ARMOUR

838.516/280 : Telegram

*The Secretary of State to the Minister in Haiti (Armour)*

WASHINGTON, May 7, 1934—5 p. m.

25. Your 42 [41], May 5, 1 p. m. and letter with enclosures to Wilson dated May 5.<sup>71</sup> We explained carefully to Hibbert that the American Government could not base a treaty with the Haitian Government upon a contract between the latter Government and an American banking house. We thought it was clearly understood by Hibbert and De la Rue that the procedure should be as set out in our 21, April 28, 3 p. m., and we feel it important that this procedure be followed.

Letter "A" from the Haitian Government should set out in detail the four measures of security for the bondholders mentioned in paragraph numbered 2 of our 21, April 28, 3 p. m., with the statement that

<sup>70</sup> William W. Lancaster, Counsel for the National City Bank.

<sup>71</sup> Letter of May 5 with its enclosures not found in Department files.

such measures will be maintained in force without modification until the bonds of the 1922 loan are paid or retired; measure (a) should re-cite the provisions regarding designation and appointment of members of the Board of Directors in much the same terms as those employed in the Sales Contract; measures (b) and (c) should comprise the pertinent provisions of Article XV of the Sales Contract and of the penultimate paragraph of the draft letter marked "B" enclosed with your letter under acknowledgment; measure (d) should contain provisions which in your judgment and that of De la Rue are satisfactory as to the necessary authority to the Bank to control and inspect the application of the customs law and customs regulations; apparently such provisions are suggested in the third and fifth paragraphs of the letter marked "B" enclosed with your letter under acknowledgment.

The definitive letter "B" from the Haitian Government should comprise the second, fourth, sixth and eighth paragraphs of the draft letter "B" enclosed with your letter under acknowledgment (De la Rue should be consulted as to the satisfactory form of these paragraphs) as well as the statement of financial policy embodied in the memorandum enclosed with your letter under acknowledgment. There would seem to be no reason for sending a separate memorandum to this Government, although we agree that the separate memorandum should be transmitted by the Haitian Government to the Fiscal Agents and to the Foreign Bondholders Protective Council.

We do not desire any phraseology used in letter "B" such as is contained in the Haitian draft with reference to "permitting the United States Government to be relieved of obligations assumed towards the bondholders" nor any reference to the prospectus of the loan.

HULL

838.516/282: Telegram

*The Minister in Haiti (Armour) to the Secretary of State*

PORT-AU-PRINCE, May 11, 1934—1 p. m.

[Received May 12—1:10 a. m.]

42. With reference to the Department's telegram[s] No. 21, April 28, 3 p. m. and 25, May 7, 5 p. m. I sent to the Department yesterday by air mail under cover of a personal letter to Wilson<sup>72</sup> new drafts prepared by the Haitian Government of letters "A" and "B" ("A" the letter to be referred to in the treaty; "B" the definitive letter comprising unilateral declaration of the Haitian Government). There is also enclosed (document "C") a draft treaty prepared by the Haitian Government.

<sup>72</sup> Letter dated May 10, 1934, not printed. There are no enclosures attached to the original in the Department files.

The sales contract and law of sanction are now virtually ready for signature but the President desires to discuss the questions from all its angles with individual Senators and Deputies before presenting it formally to the Legislature which will probably be done next Monday, May 14.

When he presents the contract he would like to have it accompanied unofficially and for background purposes only by the two letters and draft treaty in order that the Legislature may have the plan in its entirety before it when it considers the contract.

The President would not wish to do this however until being assured that we are in virtual agreement on the terms of both letters and if possible on the text of the treaty as well. Both De la Rue and I feel that letters "A" and "B" as now drafted (the Haitian Government has followed closely the points set forth in the Department's telegrams 21 and 25) are satisfactory; the only change we have suggested being the raising of the percentage allowed the bank for expenses in the financial administration from 2 per cent to 3 per cent (see letter "A" page 2 paragraph 2).

In order to expedite matters, I hope that the Department will telegraph (by cable) as soon as conveniently possible any comment or changes it desires made together with its views as to the proposed procedure. Personally, I feel that it is most important that the Legislature have the entire plan before it in considering the contract.

In general, things are progressing as satisfactorily as could be expected.

ARMOUR

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838.516/283 : Telegram

*The Minister in Haiti (Armour) to the Secretary of State*

PORT-AU-PRINCE, May 12, 1934—1 p. m.  
[Received 2:30 p. m.]

44. Legation's May 11, 1 p. m. Bank contract signed this morning.

ARMOUR

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838.516/284 : Telegram

*The Minister in Haiti (Armour) to the Secretary of State*

PORT-AU-PRINCE, May 15, 1934—noon.  
[Received 12:45 p. m.]

47. My telegram No. 42, May 11, 1 p. m. Could a reply be expedited as the President is sending the contract to the Legislature tomorrow and would like to have it accompanied by the draft notes and draft treaty.

ARMOUR

838.516/282 : Telegram

*The Secretary of State to the Minister in Haiti (Armour)*

WASHINGTON, May 15, 1934—4 p. m.

28. Your 42, May 11, 1 p. m., and letter to Wilson of May 10, with enclosures.<sup>73</sup>

1. In paragraph "d" of letter "A" the following changes should be made: In the fourth line of the paragraph the phrase "the Director of the Bank" should be replaced by "the Board of Directors of the Bank". The same change should be made in lines 10 and 12 of paragraph "D" and appropriate changes in line 13. Otherwise, letter "A" is satisfactory.

2. Letter "B" with memorandum satisfactory.

3. The proposed draft of treaty seems to us unsatisfactory and we suggest a treaty in following terms:

**"TREATY OF RELATIONS BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF HAITI**

WHEREAS the Haitian Legislature has voted the Law of Sanctions dated May      , 1934, approving the acquisition of ownership and the organization by the Government of Haiti of the National Bank of the Republic of Haiti; and

WHEREAS the Government of Haiti has communicated by letter of its Minister of Foreign Affairs dated May      , 1934, to the American Minister at Port-au-Prince, copy of which letter is appended hereto as an integral part of this treaty, the intention of the Government of Haiti to confer upon the National Bank of the Republic of Haiti certain powers and duties and to maintain them in full force and effect, without modification, for the purpose of assuring the service of the loan of 1922 as set forth in the aforementioned letter of May      , 1934, until such time as all bonds issued under the loan contracts of 1922 shall have been amortized or repaid; and

WHEREAS the President of the United States of America and the President of the Republic of Haiti being desirous of strengthening the relations of friendship existing between their two countries and to that end of concluding a convention maintaining those relations upon a basis of mutual understanding and cooperation have named as their respective plenipotentiaries, that is to say:

The President of the United States of America;

The Honorable Norman Armour, Envoy Extraordinary and Minister Plenipotentiary of the United States of America at Port-au-Prince; and

The President of the Republic of Haiti,

Who, after having communicated to each other their respective full powers found in good and due form, have agreed upon the following Articles:

ARTICLE I

When the Government of Haiti shall have enacted the necessary measures to place in full force and effect the provisions set forth in

<sup>73</sup> Letter of May 10, 1934, not printed.



the aforementioned letter of May , 1934, the Treaty of September 16, 1915, and the Protocol of October 3, 1919,<sup>74</sup> shall cease to have effect. Notice of such enactment shall be given in writing by the Government of Haiti to the American Minister at Port-au-Prince.

## ARTICLE II

The present treaty shall be ratified by the Government of the United States of America and by the Government of Haiti in conformity with their respective laws and the ratifications shall be exchanged in the City of Washington as soon as may be possible.

IN WITNESS WHEREOF, the respective plenipotentiaries have signed the present treaty and have affixed thereto their seals.

DONE at Port-au-Prince, in duplicate, in the English and French languages, on the day of May, in the year nineteen hundred and thirty-four."

4. We also suggest an exchange of notes providing that upon entrance into effect of the new treaty, the Haitianization Agreement of August 5, 1931, and Section II of the Agreement of August 7, 1933, shall cease to have effect.

HULL

838.516/286

*The Minister in Haiti (Armour) to the Secretary of State*

No. 312

PORT-AU-PRINCE, May 16, 1934.

[Received May 22.]

SIR: Confirming my telegram No. 44 of May 12, 1 p. m., I have the honor to inform the Department that the contract for the sale of the Banque Nationale de la République d'Haiti to the Haitian Government was signed on May 12. The contract, together with the law of sanction, is being presented to the Chamber of Deputies by the Minister of Foreign Affairs, M. Laleau, today.

M. Laleau informed me that he intended to present the contract in a vigorous speech calling the attention of the Deputies to the fact that the plan proposed was one which they had all on many occasions insisted was the one they wanted and that now to reject it would be to subject themselves to the accusation of hypocrisy and bad faith.

I have called M. Laleau's attention to the correction in letter "A" mentioned in paragraph 1 of the Department's telegram No. 28 of May 15, 4 p. m., regarding the substitution of the phrase, "Board of Directors of the Bank," for, "The Director of the Bank." I have also handed him the text of the proposed treaty set forth in the same tele-

<sup>74</sup> *Foreign Relations*, 1919, vol. II, p. 347.

gram. He will, I understand, use these documents in informal discussions with the Deputies in order that they may have the whole plan before them when they come to consider and vote on the bank contract and the law of sanction.

In the meantime, the resignation of two members of the Cabinet, MM. Lescot and Hibbert, has been announced. As I have reported to the Department, M. Hibbert is to be replaced by M. Christian Laporte while Titus, the former Minister of Commerce and Justice, is replacing M. Lescot as Minister of Interior and M. Brutus, former Chief of the President's private Cabinet, is to take over the portfolios of Commerce and Public Works. (M. Hibbert held the combined portfolios of Finance and Public Works.)

While it is hoped that this concession by the President to the opposition forces will perhaps have the effect of winning them over, a strong subterranean attack against the purchase of the bank, and in fact the whole plan as explained to the public through the press, has developed. Curiously enough, the Chamber of Deputies, which has hitherto supported the President, seems to be even stronger in its opposition to the bank purchase than the Senate. The Deputies, in particular, have been open in charges of venality against the Government and the usual group of sordid rumors that seem always ready to be launched at a time like this are once more circulating. . . .

There is little doubt in my mind that the early opposition to the bank sale was based upon a very real fear among the more seriously inclined that the bank, once purchased, would become a prey to local politics but the publication of the contract and the restrictions imposed therein, as well as the announcement that the present personnel of the bank is to continue, with the possible exception of the Director, has reassured those who were honestly apprehensive.

I shall not fail to keep you fully informed of developments. In the meantime, however, I fear that I must warn the Department that the situation, as it appears today, is by no means settled and that there is a possibility that the plan which has been evolved with so much care and effort and that represents all that the most exigent Haitian could ever have desired may, after all, be rejected through the selfish attitude of a small group who really do not wish to see a solution to the present problem. I hope that my fears may not prove justified but I feel it my duty to mention this possibility in order that the Department may not be taken by surprise should such an unfortunate eventuality occur.

Respectfully yours,

NORMAN ARMOUR

838.516/285 : Telegram

*The Minister in Haiti (Armour) to the Secretary of State*

PORT-AU-PRINCE, May 19, 1934—2 p. m.

[Received 3 : 15 p. m.]

51. Department's telegram No. 28, May 15, 4 p. m. Haitian Government agrees with preamble to our draft treaty, also article II; but suggests that article I is unnecessarily redundant and prefers its text as given in enclosure to my letter to Wilson of May 10.<sup>75</sup>

As letter "A" becomes party to treaty by incorporation through reference in treaty, the provisions of the letter become supreme law of land and no further measures necessary to make them so. When, therefore, the letter is sent and treaty is signed and ratified everything necessary will have been completed. In view of this they ask whether we will not consider simplification of article I along the lines of article I of their draft. Please instruct.

ARMOUR

838.516/285 : Telegram

*The Secretary of State to the Minister in Haiti (Armour)*

WASHINGTON, May 21, 1934—4 p. m.

32. Your 51, May 19, 2 p. m.

1) In order to meet Haitian views we propose that Article I of the treaty should read as follows:

"Upon entrance into force of the present treaty, of which the provisions of the aforementioned letter of May , 1934, are an integral part, the Treaty of September 16, 1915, and the Protocol of October 3, 1919, shall cease to have effect".

2) Our 28, May 15, 4 p. m. In the second "Whereas" clause of the preamble of the treaty the phrase "the intention of the Government of Haiti" should be made to read "the decision of the Government of Haiti". This change is in order to make the phraseology conform to the first paragraph of letter "A".

3) In paragraph (d) of letter "A" the phrase "for the service of the foreign loans of Haiti" (line 5 French text) should be made to read "for the service of the 1922 Haitian loans".

4) Full powers for you to sign the proposed treaty, and instructions regarding replies to letters "A" and "B" will be forwarded by airmail shortly.

HULL

<sup>75</sup> Text not attached to letter of May 10, 1934, in Department files.

838.516/287 : Telegram

*The Minister in Haiti (Armour) to the Secretary of State*

PORT-AU-PRINCE, May 22, 1934—1 p. m.

[Received 2 : 30 p. m.]

52. Department's telegram No. 32, May 21, 4 p. m.

1. Secretary of State for Foreign Affairs approves new text of article 1 and other changes suggested. He feels however that second "whereas" clause of preamble is unnecessarily long and suggests omission of words "copy of which letter is appended hereto as an integral part of this treaty" in view of same language appearing in new text of article 1.

2. Please instruct if you approve suggestion, in which case text of treaty may now be considered as agreed upon.

3. Suggest that full powers and instructions regarding replies referred to in paragraph 4 Department's telegram be sent by Thursday's plane from Miami as there is just a possibility that legislative action may be expedited and exchange of notes and signing of treaty set for end of week.

ARMOUR

838.516/287 : Telegram

*The Secretary of State to the Minister in Haiti (Armour)*

WASHINGTON, May 22, 1934—6 p. m.

33. Your 52, May 22 1 p. m. We agree to omit from the second "whereas" clause of preamble the phrase mentioned in your paragraph 1.

We will make every effort to see that full powers and instructions are sent by Thursday's plane from Miami.

HULL

838.51/2837a

*The Secretary of State to the Minister in Haiti (Armour)*

No. 171

WASHINGTON, May 23, 1934.

SIR: There is transmitted herewith the President's authorization<sup>76</sup> empowering you to negotiate, conclude and sign the proposed Treaty of Relations between the United States and the Republic of Haiti, transmitted in the Department's telegraphic instruction No. 28 of May 15, 1934, as modified by the Department's telegraphic instructions No. 32 of May 21, 1934, and No. 33, May 22, 6 p. m.

<sup>76</sup> Not printed.

Upon the enactment of the law of sanctions governing the sale of the bank and the receipt of letters "A" and "B" from the Haitian Government, drafts of which were enclosed with your letter of May 10, 1934, to Mr. Wilson, with the modifications in letter "A" set forth in the Department's telegraphic instructions Nos. 28 of May 15 and 32 of May 21, 1934, you may transmit the attached replies to the Haitian Government and immediately thereafter sign the treaty.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

[Enclosure 1]

*Draft Reply to Letter "A" From the Haitian Government*

EXCELLENCY: Acting under instructions of my Government, I have the honor to acknowledge the receipt of Your Excellency's note No. . . . , dated . . . . . , stating that Your Excellency's Government, with a view to concluding with the Government of the United States a treaty abrogating the treaty of September 16, 1915, and the agreements made thereunder, has determined to maintain the organization of the National Bank of the Republic of Haiti, as set forth in the contract of sale of this bank, which contract was sanctioned by the Haitian Chambers by law of May, 1934, and to entrust to this bank all the powers necessary to assure the service of the loan and to change nothing either in the organization of the bank or in the powers granted to it, until such time as the bonds of the 1922 Haitian loan shall have been completely amortized or refunded.

Specifically, Your Excellency's note under acknowledgment sets forth:

"(a) The Bank shall be directed by a Board of Directors of six members named by the President of the Republic of Haiti. Of these six members, two, one of whom shall be the Secretary of State for Finance, shall be named directly by the President of Haiti. Two shall be chosen from a list of five names presented by the Fiscal Agency of record of the Series A, and two from a list of five names presented by the Foreign Bondholders Protective Council, Incorporated.

"(b) The Bank, as the sole depository of all of the funds whatsoever of the Government of Haiti, shall have the power and the duty to receive all of the receipts of the Government and all payments made in favor thereof, to set aside in preference to any other expenditure, the sums necessary for the service of the 1922 Haitian loan and, as the duly constituted Agent of the Government, to make all the payments required by the loan contracts.

"On the First of October, 1934, the Bank shall take from the funds of the Government the sum necessary for the service of the month of October, and in the course of this same month of October, it shall set aside, in preference to any other levy, the amounts required for

the service of the month of November and so on, the service of any month whatever being assured by the levies made during the preceding month.

"For the service of the treasury and for all the administrative services that it may render with a view to assuring the complete protection of the interests of the holders of the loan, the Bank shall levy two per cent on all the gross receipts of the Government.

"(c) The Government shall give irrevocable instructions to the Bank, specifying that the payments for the service of the loan shall enjoy a special privilege with respect to any other payment to be made from its funds.

"(d) On October 1, 1934, a service shall be established in the National Bank of the Republic of Haiti, charged with the examination of the *bordereaux* issued by the various customs houses of the Republic and by the Service des Contributions. The Board of Directors of the Bank, within thirty days of the issuance of any customs *bordereaux* or internal revenue *bordereaux* shall have the right to request the issuance of a supplementary *bordereaux* by the Haitian Director General of Customs, who, in order to facilitate the application of the measures contemplated in this paragraph, shall have jurisdiction over the Administration Générale des Contributions. In case of disagreement between the Board of Directors of the Bank and the Director General of Customs, the matter shall be adjusted by the Secretary of State for Finance.

"Every facility shall be afforded to the Board of Directors of the Bank to ascertain directly or by its qualified representative whether the customs laws, the customs regulations and the fiscal laws in general are strictly applied, in order to make a report thereof to the Secretary of State for Finance."

In view of the added assurance of Your Excellency's Government that the National Bank of the Republic of Haiti, with the organization and powers set forth above, will adequately ensure the service of the loan of 1922 and protect the interests of the holders of the bonds, I am further instructed to state that I am authorized to sign the draft treaty which you were good enough to enclose with the note under acknowledgment, it being understood that the note under acknowledgment shall be attached to the treaty so that after approval by the Haitian National Assembly it shall form an integral part thereof.

Accept, Excellency, etc., etc.

[Enclosure 2]

*Draft Reply to Letter "B" From the Haitian Government*

EXCELLENCY: Acting under instructions of my Government, I have the honor to acknowledge the receipt of Your Excellency's note No. . . . , dated . . . . . , enclosing a memorandum setting forth the principal provisions of the fiscal policy which Your Excellency's

Government pledges itself to follow until the complete amortization or prior refunding of the Haitian loan of 1922.

My Government has taken due note of the content of the memorandum in question, an English translation of which is attached hereto, Accept, Excellency, etc., etc.

[Subenclosure]

*Memorandum*

to be communicated by the Haitian Government to the Fiscal Agency of Loans A, B, C and to the Foreign Bondholders Protective Council, specifying the financial policy which the Haitian Government pledges itself to follow until the Loan of 1922 has been completely amortized or refunded.

I. BUDGETARY BALANCE

(a) Not later than January 31 of each fiscal year to request the Board of Directors of the National Bank of the Republic of Haiti for a scientific estimate of the receipts for the next fiscal year.

(b) To maintain the annual budget of expenditures within the limits of the estimate made.

II. DEFICITS

To bring the receipts to the level of the expenditures, in case of a probable deficit, either by the creation of new receipts or by the reduction of the expenditures to the level of the receipts, or by both methods at once.

III. PUBLIC DEBT

Not to increase the public debt except on the occasion of a refunding operation of the 1922 loan.

IV. SUPPLEMENTARY AND EXTRAORDINARY CREDITS

Not to pass supplementary or extraordinary credits unless there are funds available to cover them.

V. THE DOUZIÈME

Not to exceed the monthly *douzième* except in case of *force majeure*, and with the approval of the Council of Secretaries of State.

VI. SERVICE OF PAYMENTS

To transfer to the National Bank of the Republic of Haiti the service of the issue of checks, as now organized. All checks issued shall be in the name only of the Haitian Government and shall be signed

by a special employee designated by the President of Haiti. The Bank shall continue the publication of the monthly Bulletin and in an appropriate form of the annual Bulletin now prepared by the services of the Fiscal Agent; it shall also have the duty of indicating to the Secretary of State for Finance any error which may be found in orders addressed to it for payment, or in the vouchers which accompany such orders.

#### VII. HAITIAN CUSTOMS SERVICE AND INTERNAL REVENUE SERVICE

(a) To organize the customs and internal revenue services according to rules of recruitment and career so as to insure the stability of said services and to provide for promotion according to competence, length of service and quality of work furnished.

(b) To operate the customs service on two per cent. of the custom receipts and the internal revenue service on twelve per cent. of the internal revenue receipts.

(c) To give the Haitian Director General of Customs jurisdiction over the internal revenue service (Service des Contributions).

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838.516/291 : Telegram

*The Minister in Haiti (Armour) to the Secretary of State*

PORT-AU-PRINCE, May 25, 1934—2 p. m.  
[Received 4:05 p. m.]

55. My telegram No. 52, May 22, 1 p. m. Haitian Government now desires to insert in article I of the treaty immediately following the words "the Protocol of October 3, 1919" the following phrase: "and the financial arrangement contained in the agreement of August 7, 1933, resulting from the above-mentioned protocol", the article thereby being amended to read "upon the entrance into force of the present treaty of which the provisions of the aforementioned letter of May , 1934 are an integral part of the Treaty of September 16, 1915, and the Protocol of October 3, 1919, and the financial arrangement contained in the Agreement of August 7, 1933, resulting from the above-mentioned protocol shall cease to have effect".

I conveyed to the Minister for Foreign Affairs the Department's suggestion contained in paragraph 4 of your telegram 28, May 15, 4 p. m., adding that I felt sure your suggestion that the matter be handled in this way was to obviate possible legislative criticism that they had never approved or taken official cognizance of the accord. The Minister for Foreign Affairs, however, assures me that they can handle such criticism and insists that Haitian Government would prefer to have the phrase referred to included in the treaty. Please instruct,

ARMOUR



838.516/291 : Telegram

*The Secretary of State to the Minister in Haiti (Armour)*

WASHINGTON, May 26, 1934—1 p. m.

37. Your 55, May 25, 2 p. m. We agree to insertion in article I of the treaty of the phrase requested by the Haitian Government.

HULL

838.516/293a : Telegram

*The Acting Secretary of State to the Minister in Haiti (Armour)*

WASHINGTON, June 4, 1934—7 p. m.

41. Please cable present status of bank sales contract and proposed treaty.

PHILLIPS

838.516/294 : Telegram

*The Minister in Haiti (Armour) to the Secretary of State*

PORT-AU-PRINCE, June 5, 1934—10 a. m.

[Received 2:10 p. m.]

57. Department's telegram No. 41, June 7 [4], 4 [7] p. m.; and Legation's despatches numbers 312, May 16, and 321, May 30.<sup>77</sup> Committee of Chamber of Deputies appointed to examine project has decided unanimously in favor of principle of contract but is still discussing its terms. Just when committee will make its report to Chamber and the debate on the floor will begin is not yet certain. After action by Chamber project must go to Senate.

Bank here recently received telegram from Lancaster indicating that if Haitian Government made request for reasonable extension of time (contract calls for approval by the legislature before June 1) he thought request would probably be granted although he could not say so definitely until matter had been submitted to proper officials.

President Vincent informed me yesterday that Haitian Government is asking the bank for 3 months' extension of time in which to enable the Legislature to finish discussion and he hopes vote contract.

There now seems to be little likelihood of favorable action by the Legislature prior to adjournment of our Congress. I presume, however, that our offer to conclude a treaty will hold good if the Haitian Legislature eventually passes the law of sanction although of course no action could be taken under the treaty until our Senate took action. I should, however, appreciate Department's views on this point.<sup>78</sup>

<sup>77</sup> Despatch No. 321 not printed.

<sup>78</sup> In reply, telegram No. 43, June 5, 1934, 7 p. m., to the Minister in Haiti, stated: "Your 57, June 5, 10 a. m., penultimate paragraph. Your understanding is correct."

The President also expressed the hope that in spite of inexcusable delay in approving bank contract, which no one regretted more than himself, our Government would nevertheless still be willing to dispose of Marine Corps material as might be expected. Could the Department inform me of status of this question and what if any reply it desires made to the President.<sup>79</sup>

ARMOUR

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838.516/294a : Telegram

*The Secretary of State to the Minister in Haiti (Armour)*

WASHINGTON, June 6, 1934—4 p. m.

45. Lancaster advises us that the National City Bank is prepared to accede to the request which it has received from Haiti to extend option for purchase of National Bank of Haiti beyond June 1, but is cabling De la Rue to ask his opinion whether as a matter of tactics it would not be advisable to limit such extension at this time to 30 days.

Please cable your views on this point.

HULL

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838.516/295 : Telegram

*The Minister in Haiti (Armour) to the Secretary of State*

PORT-AU-PRINCE, June 7, 1934—noon.

[Received 4:16 p. m.<sup>80</sup>]

59. Department's telegram No. 45. De la Rue consulted me before replying to Lancaster's request for his opinion and I concur in views set forth in the following telegram sent by De la Rue yesterday:

"Personal. Lancaster. Referring to your telegram of the 5th all of us have consulted together this morning. We think 60 days should be sufficient but may not be and in view of complications changing fixed date all recommend 90 days extension.<sup>81</sup> I suggest that difficulty in making audit, preparing transfer, et cetera, if passage delayed in September, justifies strong representation in communicating accord agreeing to 90 days urging passage at earliest date possible. Government's position has improved although opinions still very mixed as to chance of ratification but believe that every assistance should be given Executive. S. de la Rue."

ARMOUR

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<sup>79</sup> See telegram No. 44, June 5, 8 p. m., to the Minister in Haiti, p. 295.

<sup>80</sup> Telegram in two sections.

<sup>81</sup> The bank approved an extension not to exceed 90 days from June 1, 1934 (838.516/298).

838.516/302

*The Minister in Haiti (Armour) to the Secretary of State*

No. 344

PORT-AU-PRINCE, June 25, 1934.

[Received July 2.]

SIR: I have the honor to forward herewith a single copy of the report of the Committee of the Chamber of Deputies<sup>82</sup> appointed to study the contract for the purchase of the National Bank of Haiti.

The report, which was submitted to the Chamber on June 22, contains a recommendation that the principle of the contract be adopted, although three of the five members signed the report with reservations. The first three pages are devoted to a general discussion of the desirability of state ownership of banking institutions and the remainder to enumeration of the various changes in the terms of the contract which the committee recommends. It is understood that these changes represent substantially those included in the modified contract, a copy of which was forwarded to the Department with the Legation's despatch No. 340 of June 20,<sup>82</sup> with the principal exception that the committee has recommended that under Article 5 the Government will designate three directors rather than two. However, I have been informed personally by the President that he will not consent to this change as he recognizes that it would constitute a change in the substance of the contract. The Department will note that this change was not incorporated in the text of the modified contract which was forwarded with the despatch referred to.

Respectfully yours,

NORMAN ARMOUR

838.516/310 : Telegram

*The Minister in Haiti (Armour) to the Secretary of State*

PORT-AU-PRINCE, September 6, 1934—noon.

[Received 4:07 p. m.]

96. Regular session of the Legislature adjourned at midnight last night without the Senate having reported the bank contract out of the committee appointed to consider it. The pretext given for refusal to vote even on the principle of the contract as the Government had hoped they would do was that they must await the meeting of the stockholders September 9 to ratify the sale of the bank.

Just what will be the next step is somewhat uncertain. In a talk with the President he told me that he was still undecided as to whether to call special session in late October or to have the matter put up to the nation as a whole through a plebiscite. I have urged him against this second course as outlined in my despatch 403 of August 29.<sup>82</sup> The

<sup>82</sup> Not printed.

Minister for Foreign Affairs tells me today that he feels reasonably certain the President will put the contract up squarely to the Legislature in a special session called for that purpose in late October. Whether the President will present the contract as signed with the bank or will ask the bank to agree to reasonable modifications that he, the President, feels will make it more acceptable to the Legislature has not, I think, been decided upon.

I shall be in Washington Tuesday morning September 10. Please repeat the substance of the above to De la Rue.

ARMOUR

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838.516/311 : Telegram

*The Chargé in Haiti (Woodward) to the Secretary of State*

PORT-AU-PRINCE, September 7, 1934—1 p. m.

[Received 2:45 p. m.]

97. Referring to the Legation's telegram No. 96, September 6, noon, Laleau informed me this morning that President Vincent is sending to Blanchet by air mail tomorrow for consideration at stockholders meeting next week the text of the bank contract as he hopes to submit it to Parliament when reconvened probably late in October.

WOODWARD

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838.516/312 : Telegram

*The Chargé in Haiti (Woodward) to the Secretary of State*

PORT-AU-PRINCE, September 10, 1934—2 p. m.

[Received 3 p. m.]

98. My telegram No. 97 September 7, 1 p. m. President Vincent has decided not to send Blanchet an amended text for consideration at Wednesday meeting owing to inability to obtain assurances from Senators as to desired modifications.

WOODWARD

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838.516/313

*The Chargé in Haiti (Woodward) to the Secretary of State*

No. 421

PORT-AU-PRINCE, September 19, 1934.

[Received September 21.]

SIR: I have the honor to report that in a conversation yesterday with M. Laleau, Minister of Foreign Affairs, I asked whether there was any news concerning an extra session of the legislature for the consideration of the bank sale contract, to which he replied in the negative. He added that the Government was waiting until hearing more from Washington and New York before taking a decision, and that

in his opinion the best thing to do would be to let the whole question drop until next April, the date of the opening of the regular session of Parliament.

I told him that in my personal opinion such a long delay seemed unnecessary, although I agreed with him that judging by the recent turn of events a rest seemed to be needed for awhile. We discussed the article which appeared in the *Matin* of September 17th, reading in part as follows:

“Information from private sources which has come to us leads us to believe that the American Government during the first half of October will take a decision concerning its financial control in Haiti, in a sense favorable to our dignity and interest,”

and the answer in an editorial of the *Novelliste* of the same afternoon, refuting the *Matin* and referring to President Roosevelt's message read during the celebration on August 21st by his special Ambassador,<sup>84</sup> the American Minister to Haiti, in which it is specifically stated that,

“Finally, it is my earnest hope that the plan now under consideration by the Haitian Government providing for the complete withdrawal of the Government of the United States from all participation in the administration of Haitian finance, which I feel represents the limit to which my Government can properly go, and yet remain faithful to its obligations, may prove acceptable, and that following the conclusion of a new treaty putting an end to those now in existence, we may in the future be bound only by those ties of friendship and mutual beneficial economic intercourse which should unite friendly and neighboring republics.”

It seems difficult to believe that after all that has been said and done, the attitude reflected in the *Matin* could still exist, but such is unfortunately the case.

M. Laleau touched upon a condition which undoubtedly has some bearing on the matter, namely, that politicians and others who oppose the President are too often credited with a “corner” on honesty, while those who are friendly are generally looked upon with suspicion, as it is thought that they adopt this friendly attitude for favors received. This is perhaps the inevitable boomerang when money plays such an important part in forming public opinion.

If the termination of American financial control is to be pursued on present lines, I believe that our Government could not do better than to encourage the Haitian legislature to take a breathing spell, at least until the return of Minister Armour and Mr. de la Rue, to give time for those who still hold the opinion reflected in the article of the *Matin* quoted above, to see that no “coup de théâtre” is in prospect. If the Minister and the Fiscal Representative could, on their return,

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<sup>84</sup> *Ante*, p. 307.

give assurances along the lines of those already laid down by President Roosevelt, and if a special session of the legislature were then to be called, the bank contract, would, I believe, stand its best chance of passage.

Respectfully yours,

STANLEY WOODWARD

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838.51/2865 : Telegram

*The Chargé in Haiti (Woodward) to the Secretary of State*

PORT-AU-PRINCE, October 3, 1934—11 a. m.

[Received 1:15 p. m.]

107. Leading article in today's *Matin* refers to the recent departure for the United States of Haitian Government officials now in New York and goes on to say in effect that the adjournment of the bank question by the Senate is leading to new and favorable consideration on the part of the American Government concerning financial control "which may even bring about the withdrawal of the Fiscal Representative shortly".

President Vincent is greatly annoyed by the article and has asked me to issue a denial if possible. If the Department has no objection I will issue a statement to the effect that the *Matin* article is without foundation.<sup>85</sup>

WOODWARD

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<sup>85</sup> By telegram No. 82, October 3, 1934, 6 p. m., the Department authorized the Chargé in Haiti to make the statement.

## HONDURAS

### PRELIMINARY DISCUSSIONS RESPECTING A TRADE AGREEMENT BETWEEN THE UNITED STATES AND HONDURAS

611.1531/8a

*The Secretary of State to the Minister in Honduras (Lay)*

No. 592

WASHINGTON, July 20, 1934.

SIR: With a view to improving the opportunities for trade between the United States and Honduras, consideration is being given to the possibility of concluding a mutually advantageous trade agreement between the two countries. Some seventy-five per cent of Honduran exports to the United States consist of bananas. In the proposed agreement, therefore, the United States might undertake that this product should continue to be admitted free of duty in return for reductions in duties by Honduras on important products of the United States. It is possible that in the course of exploratory conversations Honduras might wish to bring to the attention of the United States other products, in addition to bananas, on which concessions would be desired. Sympathetic consideration would be given to any such proposals, although it is believed that in view of the importance of bananas in Honduran trade with the United States a guarantee of continued free entry of this product would be equivalent in value to concessions by Honduras on the principal products imported from the United States.

The trade agreement might also contain a provision for unconditional and unrestricted most-favored-nation treatment, subject to the usual exception regarding Cuba, and other generally recognized exceptions; provision against quantitative restrictions (quotas) on imports of products respecting which tariff concessions are granted by each party under the agreement; provision against increased internal taxes on such products; and national treatment with respect to internal taxes on all products.

Please communicate the above to the Government of Honduras and inform it that if it is prepared to begin exploratory conversations along the lines above indicated the Department will send you very shortly a statement regarding the concessions which would probably be requested by the United States.

You should make it clear that the intention of this Government is solely to explore the situation with a view to determining whether negotiations, if undertaken, would be likely to meet with success.

It is desired that no publicity be given this matter for the time being.

Very truly yours,

For the Secretary of State:  
FRANCIS B. SAYRE

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611.1531/10

*The Minister in Honduras (Lay) to the Secretary of State*

No. 1172

TEGUCIGALPA, August 10, 1934.  
[Received August 15.]

SIR: In accordance with the Department's instruction No. 592, of July 20, 1934, the Legation has inquired, in a note to the Foreign Office, whether the Honduran Government is prepared to begin exploratory conversations as to the possibility of concluding a mutually advantageous trade agreement between the two countries along the lines indicated in the Department's instructions.

The Foreign Minister, Doctor Bermúdez, is in the United States and will be away for possibly two months, but I have had a talk about this matter with Señor Julio Lozano, the Honduran Finance Minister, who is more familiar with tariff and international trade matters than anyone in the Government.

Señor Lozano, while doubtful that a trade agreement between the two countries could be negotiated that would accomplish much toward increasing the market for United States products in this country, or that there are any other products in addition to bananas that would find a substantial market in the United States if granted concessions, is open to conviction, as he expressed it, and would recommend to his Government that it accept our suggestion that exploratory conversations be commenced, with a view to determining whether negotiations, if undertaken, would be likely to meet with success.

During our conversation Doctor Lozano pointed out that until Japan displaced us in the cotton goods market in Honduras, we enjoyed between 70% and 80% of the total Honduran import trade, and since we left the gold standard, we have supplied goods to this market that were formerly imported from Great Britain and Germany. He gave me to understand that Honduras would be unwilling to make any bilateral agreement that might cause restrictions of her valuable banana markets in such countries as Germany, which has a treaty with Honduras with provision for most-favored-nation treatment.<sup>1</sup>

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<sup>1</sup> Treaty signed March 4, 1926, Martens, *Recueil des Traités*, 3d series, vol. xxvi, p. 560.



I have not mentioned the subject to Señor Lozano or anyone else but from a cursory study of the different ramifications of the international trade, tariff and treaty situation here, I believe that we could recover our substantial American market in cotton goods in Honduras, which has been captured almost entirely by Japanese low-priced goods, by inducing Honduras to enact a bargaining maximum-minimum tariff law similar to the one recently passed by El Salvador,<sup>2</sup> more easily and more effectively than by the negotiation of a trade agreement. Japan is also underselling American exporters to a small extent in electrical goods in this market but the serious menace to our trade here is in cotton goods. From January to July, 1934, out of a total importation of cotton goods of 1913 bales, Japan supplied 1180, the United States 499, and England 234. As yet figures for values are not available. Formerly the United States supplied over 80% of this trade but now the bulk of the orders are going to Japan. I understand that the new tariff of El Salvador has already started the recovery of our cotton goods market in that country. There seems to be no reason why a similar bargaining tariff here would not accomplish the same results.

For the above reasons I beg to inquire whether the Department does not deem it advisable for me to inquire, before discussing the question of a trade agreement, whether the Honduran Government would consider the enactment of a bargaining tariff on the Salvador model. Such a tariff would not only benefit us but also Honduras.

Honduras could probably increase her exports to the United States in the following articles which are dutiable: cocoanuts, Panama hats, copra and coconut lard, now shipped in small quantities, provided a preferential concession over other countries producing these articles is granted.

For a more comprehensive review of the new Salvador tariff act, the despatches from our Legation in that country should be consulted. The enclosed extracts from a letter<sup>3</sup> written by a traveling representative of Bruner Pottsberg and Company, large exporters of cotton piece goods, 35 Worth Street, New York, to his firm in New York will give the Department an idea of the seriousness of Japanese competition to our cotton goods trade in this country.

Respectfully yours,

JULIUS G. LAY

611.1531/11 : Telegram

*The Minister in Honduras (Lay) to the Secretary of State*

TEGUCIGALPA, August 16, 1934—6 p. m.

[Received 8:50 p. m.]

65. Referring to my despatch No. 1172, August 10, 1934, Minister of Finance states that he desires some idea regarding concessions prob-

<sup>2</sup> Decree No. 67, June 23, 1934, El Salvador, *Diario Oficial*, July 3, 1934, p. 1451.

<sup>3</sup> Not printed.

ably requested by United States before he can begin exploratory conversations. I do not believe he will agree with belief expressed in instruction No. 592, July 20, first paragraph last sentence if equivalent means substantial preferential reduction in duties on principal products imported from the United States. There are no other products in addition to bananas on which Honduras could obtain concessions. Value of Honduran bananas to Germany six times value of German exports to Honduras; England four times and to United States twice the value.

Please reply by telegraph, as I am leaving end of August, whether the Department approves my stating to Minister of Finance, if he is definitely opposed to granting preferential reduced duties on our principal products, that we expect Honduras to accord us some other concession such as preferential treatment under a tariff law on the Salvador model, in return for a guarantee of continued free entry on bananas.

LAY

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 611.1531/12: Telegram

*The Minister in Honduras (Lay) to the Secretary of State*

TEGUCIGALPA, August 17, 1934—5 p. m.

[Received 8 p. m.]

66. My telegram No. 65 of August 16. Please mail by next pouch all data concerning preferential tariff concessions awarded by Brazil some years ago on several United States products,<sup>4</sup> why these concessions were withdrawn, and if reinstatement these or others being considered. Might use some of these data as background since United States purchases about same proportion total exports Honduran bananas as coffee from Brazil.

LAY

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 611.1531/11: Telegram

*The Acting Secretary of State to the Minister in Honduras (Lay)*

WASHINGTON, August 18, 1934—3 p. m.

41. Your telegram 65, August 16, 6 p. m. Reductions in duties which the United States might agree to make in an agreement with Honduras would apply equally to all countries except Cuba, with which the United States has a special treaty relationship under which the percentage of preference accorded to Cuban products must be maintained. The United States would perceive no objection, therefore, if concessions by Honduras to the United States should be generalized to other countries. Such general reduction<sup>r</sup> would be con-

<sup>4</sup> See *Foreign Relations*, 1923, vol. I, pp. 453 ff.

sonant with our policy, which is to seek an increase in the total volume of international trade, rather than the diversion of such trade.

PHILLIPS

611.1531/13

*The Minister in Honduras (Lay) to the Secretary of State*

No. 1184

TEGUCIGALPA, August 24, 1934.

[Received August 29.]

SIR: Referring to Department's instruction No. 592<sup>6</sup> and subsequent correspondence I have the honor to enclose herewith copy and translation of a note dated August 22, 1934, from the Honduran Foreign Office,<sup>7</sup> expressing the hope that "at your convenience there will be transmitted for submission to study those concessions which your Government will request and, if in agreement, to begin conversations directed toward the termination proposed in your note referred to above."

When I saw Doctor Lozano, the Finance Minister, yesterday, he expressed doubt that concessions to American products in the form of reduced duties would materially increase their sale here and stated that Honduras had reached for the present the limit of its purchasing power for foreign products. He seems inclined to favor securing from the next Congress authority for the Executive to impose a super-tax on products from countries that import only small amounts of or no Honduran bananas. I did not discuss this phase of the question with him but later the Department may deem it advisable to consider accepting concessions in this or some other form in lieu of reductions in duties on specific products or general reductions to all countries.

This Legation believes that the market for Honduran products in the United States could be slightly increased by better marketing organization but not by reduced duties.

It should be borne in mind that any general concessions by Honduras on the products from all countries will not prevent Japan from displacing us in the valuable cotton goods market in this country, which has been worth to American manufacturers on the average during the past three years about \$800,000 a year. I understand that Central America purchased before we were replaced by Japan about 20% of our total of exports in cotton goods, and that Honduras imported as much and higher grades as any one of these republics. A copy of a report on this subject dated August 23, 1934, from the Vice Consul at Tegucigalpa, is enclosed herewith.<sup>7</sup> Any small increases

<sup>6</sup> Dated July 20, p. 372.

<sup>7</sup> Not printed.

in our trade with Honduras that we might effect by a general reduction in duties would not offset the loss now sustained by the competition from Japan.

I shall be in Washington on leave about the middle of next month and will be available to discuss this subject with a member of the "Committee on Foreign Trade Agreements" if so desired.

Respectfully yours,

JULIUS G. LAY

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615.003/123

*The Minister in Honduras (Lay) to the Secretary of State*

No. 1189

TEGUCIGALPA, August 27, 1934.

[Received September 5.]

SIR: I have the honor to refer to despatch No. 107 of March 7, 1934, from the Consulate in this city,<sup>8</sup> enclosing a copy and translation of Decree No. 84 of the Honduran Congress, passed on February 17, 1934, and published on March 3, 1934, in which special municipal taxes were imposed upon certain articles of importation to Honduras.

Although the provisions of the Decree applied to all countries, it was considered to be primarily aimed at Nicaragua and El Salvador, whose imports, particularly in cattle, cheese, lard, butter and rice, admitted without duty under the free trade treaties between Honduras and those countries were constituting a serious menace to the Honduran producers of these commodities. As was pointed out in the Consulate's despatch, while the amounts were termed "municipal taxes" they were in reality import duties and were merely given another name for the purpose of evading the obligations of the free trade treaties. This was the view taken of the Decree by Nicaragua and Salvador, since both of these Governments immediately made strong protests to the Government of Honduras against the imposition of these taxes upon imports from their respective countries. As a result of these representations the Council of Ministers finally suspended the provisions of the Decree with respect to importations from Nicaragua and Salvador, although they remained in effect concerning other countries. In view of the provision in the last paragraph in Article VII of the Treaty of Friendship, Commerce and Consular Rights with Honduras,<sup>9</sup> it is felt that the action of the Council of Ministers, however detrimental its effect may be upon American trade, cannot be regarded as a contravention of this treaty.

The Vice Consul at La Ceiba has reported to the Legation that local merchants in that city have been informed that they are required to

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<sup>8</sup> Not printed.

<sup>9</sup> Signed December 7, 1927, *Foreign Relations*, 1927, vol. III, p. 101.

pay the taxes prescribed in Decree No. 84 on all importations of shoes (listed under "leather goods" and "sole leather") as of March 8, 1934, the date upon which the Decree entered into effect. The Vice Consul also pointed out that since importations in shoes have already been paid for to the American exporting houses and the shoes sold, the local merchants stand to lose a considerable amount by being obliged to pay this tax retroactively and in consequence future importations of shoes from the United States will be adversely affected. In the despatch from the Consulate in this city referred to above it was also indicated that American trade might likewise be affected so far as lard and butter were concerned.

In an interview which I had yesterday with the President of the Chamber of Commerce of San Pedro Sula he pointed out that the above facts had the practical, if not legal, effect of imposing upon certain American imports to Honduras, so far as the North Coast was concerned, additional duties which were not shared by other countries.

It is felt therefore that in view of the Department's instruction No. 592 of July 20, 1934, with respect to the possibility of concluding a mutually advantageous trade agreement with Honduras, the present application of Decree No. 84 would appear to possess particular significance and is in consequence brought to the attention of the Department for its consideration.

Respectfully yours,

JULIUS G. LAY

611.1531/12

*The Secretary of State to the Minister in Honduras (Lay)*

No. 614

WASHINGTON, August 30, 1934.

SIR: In reply to your telegram No. 66, of August 17, 1934, it is believed that the contents of the Department's telegram No. 41 of August 18, 1934, explained the Department's position in regard to the points raised in your inquiry. The United States is not seeking preferential tariff treatment in the proposed negotiation of reciprocal trade agreements, but its policy is directed toward a general lowering of the barriers to international trade. The preferential tariff treatment previously accorded certain American exports by Brazil was discontinued about the beginning of 1923 as a result of the decision of the United States Government no longer to ask for such preferential tariff treatment, except in the case of Cuba, with which the United States has a special treaty relationship. Such reductions in tariffs as may result from the reciprocal trade agreements now being considered might therefore, without objection by the United States, be generalized to apply to other countries. In seeking tariff concessions

from Honduras, or any other nation, the United States would, of course, be primarily interested in commodities of which the United States is an important source of supply.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

611.1531/13a : Telegram

*The Acting Secretary of State to the Minister in Honduras (Lay)*

WASHINGTON, August 30, 1934—7 p. m.

43. Department's telegram 41, August 18, 3 p. m. Please inquire of the Honduran Government whether it is prepared to initiate exploratory conversations at an early date. Since this Government is planning to give public notice shortly of the intention to negotiate agreements with other Central American countries it seems appropriate to inquire as a matter of courtesy whether the Honduran Government desires a similar announcement to be made with respect to that country.

PHILLIPS

611.1531/14 : Telegram

*The Minister in Honduras (Lay) to the Secretary of State*

TEGUCIGALPA, August 31, 1934—5 p. m.

[Received 9 p. m.]

70. Department's telegram No. 43 of August 30, 7 p. m. Acting Minister of Foreign Affairs and Finance Minister told me today that Honduran Government is prepared to commence exploratory conversations here at an early date. They desire more specific statement regarding the concessions which would probably be requested by United States than mentioned in Department's telegram No. 41 of August 18, 3 p. m. They desire similar public announcement given with respect to Honduras as the one given of intention to negotiate agreements with other Central American countries.

LAY

611.1531/17

*The Minister in Honduras (Lay) to the Secretary of State*

No. 1204

TEGUCIGALPA, September 7, 1934.

[Received September 12.]

SIR: Referring to my telegram No. 70, of August 31, 4:30 [5?] P. M., regarding the forthcoming exploratory discussions here regarding the proposed trade agreement between the United States and Honduras, I have the honor to make the following observations for the consideration of the Department.

The Honduran Minister of Finance, who will conduct these conversations on behalf of this Government, will probably be unwilling to grant us tariff reductions on many of the principal United States products exported to Honduras, since such a wide range of reductions would substantially reduce the revenue from customs upon which the maintenance of the Government of the country is largely dependent and which cannot be replaced with other taxes. Any slight advantage that might be gained by an increase in exports of a few Honduran products to the United States created by lower United States duties would not compensate Honduras indirectly for this loss in customs revenue. There may be a few products, however, imported mostly from the United States, now subject to prohibitive duties, the importation of which in larger quantities would increase the revenue without affecting the sale of similar local manufactures, that might form bases for conversations. The American Consulate at Tegucigalpa is making an effort to ascertain what products would meet these conditions and report them to the Department.

Another concession that we might request is the abrogation of a law which at present levies municipal taxes on certain products but amounts in effect to an additional import duty on important American products, as explained in the Legation's despatch No. 1189 of August 27, 1934.

We could furthermore request that assurances be given that during the term of the agreement neither these municipal taxes nor any other internal taxes would be levied on products imported from the United States.

In addition to the above Honduras might not object to giving us assurances that it would continue to impose no restrictions on importations of our products through exchange control.

Respectfully yours,

JULIUS G. LAY

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611.1531/17a : Telegram

*The Acting Secretary of State to the Minister in Honduras (Lay)*

WASHINGTON, September 10, 1934—8 p. m.

46. Public notice of intention to negotiate a foreign trade agreement with Honduras was given September 7.<sup>10</sup> Please inform Minister for Foreign Affairs.

PHILLIPS

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<sup>10</sup> For text of public notice and statistics on trade between the United States and Honduras, issued by the Department of State on September 7, 1934, see Department of State, *Press Releases*, September 8, 1934, pp. 173-176.

611.1531/16

*The Secretary of State to the Minister in Honduras (Lay)*

No. 627

WASHINGTON, September 29, 1934.

SIR: Reference is made to your despatch No. 1189 of August 27, 1934, and to despatch No. 107 of March 7, 1934, from the American Vice Consul at Tegucigalpa<sup>11</sup> in regard to certain so-called "municipal" taxes in Honduras against which the Governments of El Salvador and Nicaragua protested on the ground that they were in effect import duties and as such were contrary to the provisions of existing free trade treaties between Honduras and the Republics of El Salvador and Nicaragua.

In this regard, the Department concurs in your view that the action of the Honduran Government in yielding to the protests of the Governments of El Salvador and Nicaragua and suspending the application of these "municipal" taxes to importations from those countries while permitting them to remain in effect for importations from elsewhere would not appear to contravene the 1927 Treaty of Friendship, Commerce and Consular Rights between the United States and Honduras. Under Article VII of that Treaty, although American imports into Honduras are generally accorded most-favored-nation treatment, an exception is made in favor of imports into Honduras from other countries of Central America and from Panama. Accordingly, unless exemption from payment of these "municipal" taxes is accorded importations from a country other than the Republics of Central America and Panama, there would not appear to exist any motive for protest by this Government.

However, in order that the Department may determine conclusively whether or not grounds exist for a claim of exemption from these taxes, you are directed to ascertain and report whether there are any treaties in force between Honduras and foreign countries other than the Central American States and Panama which contain an unconditional most-favored-nation clause or which are sufficiently broad in their terms to assure to the merchandise from those countries the same treatment accorded merchandise from Nicaragua and El Salvador. If any such treaties are found to exist, you are requested to forward copies and translations to the Department.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

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<sup>11</sup> Latter despatch not printed.



611.1581/21 : Telegram

*The Chargé in Honduras (Gibson) to the Secretary of State*

TEGUCIGALPA, September 29, 1934—1 p. m.

[Received 5:20 p. m.]

77. Reference Department's circular telegram No. 58, September 28, 6 p. m.<sup>12</sup> Foreign Office informed the Legation that proposed trade agreement would require ratification by Legislature, which meets on January 1st, 1935, and is in session usually 4 months.

GIBSON

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[See also extract from instruction No. 120, December 21, 1934, to the Minister in Costa Rica, printed on page 92.]

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**EMBARGO ON THE SHIPMENT OF ARMS AND MUNITIONS TO HONDURAS CONTINUED AT THE REQUEST OF THE HONDURAN GOVERNMENT**

815.113/492

*The Secretary of State to the Minister in Honduras (Lay)*

No. 576

WASHINGTON, June 6, 1934.

SIR: The Department is contemplating recommending that the embargo on the export of arms and munitions of war from the United States to Honduras<sup>13</sup> be lifted, provided such action would not be displeasing to President Carías or be likely to prejudice his Government. For your information the Department has informed the Legation at Managua that it is prepared to take similar action in the case of Nicaragua.<sup>14</sup>

If you see no objection, therefore, you are authorized to inform President Carías that the United States Government, in view of the circumstance that Honduras is tranquil and the conditions which gave rise to the embargo have ceased to exist, is contemplating lifting the embargo on shipments of arms and munitions of war to Honduras. You may express to President Carías the hope that the removal of the embargo will be agreeable to him.

The Department will await your reply before taking further action in this case.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES<sup>12</sup> *Post*, p. 520.<sup>13</sup> See *Foreign Relations*, 1924, vol. II, pp. 321 ff.<sup>14</sup> See pp. 559 ff.

815.113/494

*The Minister in Honduras (Lay) to the Secretary of State*

No. 1139

TEGUCIGALPA, July 5, 1934.

[Received July 11.]

SIR: Referring to the Department's instruction No. 576 of June 6, 1934, stating that the Department contemplates recommending that the embargo on the export of arms and munitions of war from the United States to Honduras be lifted and authorizing me to so inform President Carías and to express the hope that the removal of the embargo would be agreeable to him, I have the honor to quote a part of a note received from the Foreign Office on the subject under date of June 30, 1934, which expresses the official view of the Honduran Government and is as follows:

"In reply, I have the honor to inform Your Excellency that my Government, except for (*fuera de*) munitions and long range arms (*per trechos y armas de largo alcance*), has no objection to make to the lifting of the embargo on arms and munitions for this Republic; and that it, therefore, desires the continuance (*desea continue*) of the restriction on long range arms (rifles) and their ammunition."

Respectfully yours,

JULIUS G. LAY

815.113/494

*The Secretary of State to the Minister in Honduras (Lay)*

No. 598

WASHINGTON, July 30, 1934.

SIR: The Department has received your despatch No. 1139 of July 5, 1934, reporting the desire of the Government of Honduras that the present embargo on the export of arms and munitions of war from the United States to Honduras remain in effect as concerns rifles and ammunition therefor.

In the light of the information contained in your despatch, this Government will continue the embargo as at present, except that licenses for the exportation of arms and munitions will be issued in the future only after the Department has been informed by the Honduran Legation in Washington that the prospective shipment has the approval of the Honduran Government. This practice will be followed regardless of whether the consignee in Honduras is the Government, an agency of the Government, a firm, or an individual; and it will apply to arms and munitions of all classes, including arms and their ammunition ordinarily used for sporting purposes.

Thus, in the case of each shipment of arms and munitions, the Department will require, not only that an application for an export

license be made by the shipper as heretofore, but also that the Honduran Legation in Washington advise the Department that the shipment has the approval of the Honduran Government, it being understood that in no case will the Department of State take the initiative in seeking such an expression of approval from the Honduran Legation. The question of bringing about such notification to the Department through the Honduran Legation is a matter with regard to which the initiative and responsibility will lie with the Honduran Government and the potential shipper or consignee.

With reference to dynamite, blasting powder, and like materials, intended for industrial use, the Department will continue to issue licenses in its own discretion.

You will please inform the Honduran Government of the foregoing and notify the Department as soon as acknowledgment of your communication is made.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

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815.113/497

*The Minister in Honduras (Lay) to the Secretary of State*

No. 1183

TEGUCIGALPA, August 24, 1934.  
[Received August 29.]

SIR: I have the honor to acknowledge the receipt of the Department's instruction of July 30, 1934 (File No. 815.113/494), relative to the embargo on the exportation of arms and munitions of war from the United States to Honduras, the complete text of which was transmitted almost verbatim to the Foreign Office by the Legation, in a note of August 6, 1934.

There has now been received an acknowledgment from the Foreign Office dated August 22, 1934, in which the statements made in the Department's instruction and transmitted by the Legation concerning the future policy of the United States Government with respect to the embargo are reviewed and it is declared that the Honduran Government has noted these statements and that the Foreign Office extends its thanks in the matter.

Respectfully yours,

JULIUS G. LAY

## MEXICO

### PRELIMINARY DISCUSSIONS REGARDING POSSIBLE NEGOTIATION OF A TRADE AGREEMENT BETWEEN THE UNITED STATES AND MEXICO

611.1231/88 : Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, January 25, 1934—5 p. m.

[Received 7:55 p. m.]

3. When I called on Minister Puig<sup>1</sup> today he asked whether the Department wished the negotiations relating to tariff reciprocity agreements to be completed here or at Washington, and the time of such conversations. Please furnish information. He hopes within a week to enter into full discussion of the claims.<sup>2</sup> He has directed his assistants, lately returned from Montevideo, and his legal staff to make a study of the suggested protocol and all phases of the general and special claims.

DANIELS

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611.1231/88 : Telegram

*The Secretary of State to the Ambassador in Mexico (Daniels)*

WASHINGTON, January 26, 1934—6 p. m.

10. Your No. 3, January 25, 5 p. m. Studies relating to agreement with Mexico have been going on here for some time and are nearing completion. I hope to be able to inform you shortly when this Government will be able to proceed with the discussions with the representatives of Mexico. If agreeable to the Mexican authorities it is desired that the discussions take place in Washington.

HULL

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611.1231/90

*The Ambassador in Mexico (Daniels) to the Secretary of State*

No. 1046

MEXICO, January 29, 1934.

[Received February 5.]

SIR: With reference to the Department's telegram No. 10 of January 26, 1934, concerning the negotiations for a reciprocal tariff agree-

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<sup>1</sup> José M. Puig Casauranc, Mexican Minister for Foreign Affairs.

<sup>2</sup> See pp. 398 ff.

ment between the United States and Mexico, wherein was expressed the desirability of having the discussions relating to such agreement take place in Washington, I have the honor to enclose herewith the copy of an informal note in the premises which I addressed to the Minister for Foreign Affairs on January 27, 1934,<sup>3</sup> and the copy, together with its translation, of an informal note in reply which Doctor Puig addressed to me today.<sup>3</sup> From the latter, the Department will note that the Mexican Government is most favorably inclined to pursuing the discussions in Washington, and that the Mexican Embassy at Washington will be prepared in the near future to initiate these discussions at a time convenient for the Government of the United States.

Respectfully yours,

JOSEPHUS DANIELS

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611.1231/110 : Telegram

*The Chargé in Mexico (Norweb) to the Secretary of State*

MEXICO, June 7, 1934—4 p. m.

[Received 6 : 55 p. m.]

81. Minister of Foreign Affairs advised me this morning that the Mexican Embassy in Washington is fully prepared to discuss immediately details of a reciprocal tariff agreement and that he hoped the Department would initiate negotiations at an early date.

NORWEB

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611.1231/110 : Telegram

*The Secretary of State to the Chargé in Mexico (Norweb)*

WASHINGTON, June 12, 1934—8 p. m.

95. Your 81, June 7, 1934. Advise Foreign Minister informally that organization for carrying out program of trade agreement negotiations under the recently enacted enabling legislation has not yet been developed and no decision has been reached with respect to the order in which discussions with various governments will be initiated. Also express my appreciation of his government's desire that discussions be begun and say the matter will be given careful consideration.

HULL

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611.1231/116

*The Chargé in Mexico (Norweb) to the Secretary of State*

No. 1507

MEXICO, June 15, 1934.

[Received June 19.]

SIR: In compliance with the Department's telegram No. 95 of June 12, 8 p. m., 1934, concerning the proposed negotiations for a reciprocal

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<sup>3</sup> Not printed.

tariff agreement between the United States and Mexico, I have the honor to inform the Department that I addressed an informal letter to Doctor José Manuel Puig Casauranc, the Minister for Foreign Affairs, transmitting the information contained in the telegram under reference.

Doctor Puig has informed me verbally that he appreciated exceedingly the message on this subject from the Secretary of State and that he had instructed the Mexican Ambassador at Washington, Licenciado Fernando González Roa, not to take any initiative in this matter with the Department of State but to await the action of the latter. Doctor Puig stated that Licenciado González Roa was fully informed on this subject and prepared to take it up at any time and that he (Doctor Puig) hoped that it would be possible to begin these negotiations in the near future, in view of their importance to Mexico.

Respectfully yours,

R. HENRY NORWEB

611.1231/133

*The Ambassador in Mexico (Daniels) to the Secretary of State*

No. 1729

MEXICO, August 31, 1934.

[Received September 5.]

SIR: With reference to my despatch number 1679 of August 10, 1934,<sup>4</sup> in which I reported a conversation with the Minister for Foreign Affairs regarding the pressure that is being brought to bear on the President and on the Foreign Office for the conclusion of a reciprocal tariff agreement on winter vegetables, I have the honor to report that the recent signing of the reciprocal tariff agreement between the United States and Cuba<sup>5</sup> has, according to Doctor Puig, precipitated further pressure on the Government from the interests in the northwestern part of the Republic.

Doctor Puig told me yesterday that the growers of tomatoes and winter vegetables in that section of Mexico were writing to the Foreign Office urging that the matter of reciprocity between Mexico and the United States be pressed, so that the Mexican growers could receive the same treatment for their products, which would be on the market next winter, as has been accorded to Cuba. I judged, more from the way he talked than from his words, that the growers in the northwestern part of Mexico were pressing his Ministry for action.

Respectfully yours,

JOSEPHUS DANIELS

<sup>4</sup> Not printed.

<sup>5</sup> For text of agreement, see p. 169.

611.1231/135

*Memorandum by the Assistant Chief of the Division of Mexican Affairs (Tanis)*

[WASHINGTON,] August 31, 1934.

Dr. Campos-Ortíz, Counselor of the Mexico Embassy, called at the Division this morning and inquired whether I had any information for him regarding the probable date for beginning reciprocal trade negotiations with Mexico. I told him that I was still awaiting word on the subject.

He then referred to the concessions granted Cuba by this Government in the matter of certain vegetables and asked whether in the event that negotiations for a trade agreement with Mexico can not be initiated before December or January next, it would be possible to negotiate a *modus vivendi* covering Mexican green vegetables from Sonora and Sinaloa to be in effect pending the completion of an agreement at a later date. His idea seemed to be that this Government might be willing to agree to a *modus vivendi* of this character which would enable Mexican vegetable growers to enter our market on a favorable basis comparable with those of Cuba. He stated that his inquiry was entirely on his own initiative and that he wished to obtain information on the subject merely to enable the Embassy to reply to any inquiries which it may receive from the Mexican Foreign Office. This being the case he stated that he was unable to go into the matter in any further detail. I told him that I would advise him later.

R. C. TANIS

611.1231/136

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*Memorandum by the Assistant Chief of the Division of Mexican Affairs (Tanis)*

[WASHINGTON,] September 5, 1934.

Dr. Campos-Ortíz, Counselor of the Mexican Embassy, called on me this morning in regard to his recent inquiry concerning the time of negotiation of a reciprocal trade agreement between the United States and Mexico. I told him that according to the present schedule for negotiations, Mexico will probably be reached towards the end of the coming winter, although it is not absolutely certain that this will be so. I added that since the Department desires to meet the apparent desire of Mexico that negotiations begin as soon as practicable it will be pleased to take up the matter with Mexico sooner, if possible.

Dr. Campos-Ortíz then asked whether I had any word for him respecting the *modus vivendi*. I advised him that upon the receipt from him of a personal or other unofficial communication containing data

of the character above outlined, the matter would be given further attention. Respecting the suggestion that we would be more likely to be interested in the proposal were Mexico to offer concessions on certain of our important agricultural products, Dr. Campos-Ortíz asked whether I could mention some such products. In reply I suggested, as examples, that an offer of concession on lard, ham and canned milk would perhaps be appropriate. I then told him that even in the negotiation of a *modus vivendi* it would be necessary to have hearings as provided in the Tariff Bargaining Act,<sup>6</sup> and that consequently it would not be probable that a *modus vivendi* could be signed before about December 15, should it be decided to follow that course. Finally I told him that in view of the pressure of work resulting from other projected negotiations no assurance could be given that we would be in a position to proceed with the *modus vivendi* even though it were considered desirable as a matter of policy.

Dr. Campos-Ortíz pointed out that a new administration will take office in Mexico on December 1, 1934, and that it would be extremely desirable that the *modus vivendi*, if negotiated, be signed before the new administration assumes office. He then stated that the Embassy would report to the Mexican Foreign Office and that pending a reply, he would be unable to say what would be done in the matter.

R. C. T[ANIS]

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611.1231/141

*Memorandum by the Chief of the Division of Mexican Affairs (Reed) of a Conversation With the Mexican Ambassador (González Roa) and the Counselor of the Mexican Embassy (Campos-Ortíz), September 11, 1934*

[WASHINGTON, undated.]

The Ambassador stated that he wished to eliminate any possibility of a misunderstanding as the result of certain recent informal conversations between Dr. Campos-Ortiz and Mr. Tanis concerning the initiation of negotiations looking to a trade agreement between the United States and Mexico.

He referred to advices which he had received from his Government to the effect that the Mexican Minister for Foreign Affairs had addressed to Ambassador Daniels a communication containing proposals for a *modus vivendi* to establish reciprocal most favored nation treatment for the products of both countries pending the conclusion of a formal trade convention. He said he understood that these proposals had been made to Ambassador Daniels on September 6 and that he wished the Department to know he realized that they must neces-

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<sup>6</sup> Act approved June 12, 1934; 48 Stat. 943.



sarily take precedence over any informal suggestions that might have been made by anyone attached to his Embassy. There could not, in his opinion, be two separate sets of conversations on the subject, one conducted by his Embassy with the Department, and the other carried on by his Foreign Office through the American Embassy in Mexico City. He desired therefore to have it on record that for the present he would confine his interposition to requesting that he be advised as soon as his Government's proposals had been received by the Department from the Embassy in Mexico City and, if possible and convenient, that he be kept informed of any developments resulting from the Department's consideration of them.

Mr. Reed replied that as soon as the Mexican Government's communication was received he would be glad so to advise the Ambassador and that the latter could rest assured that the proposals it might contain would receive the Department's most careful and attentive consideration.

EDWARD L. REED

611.123 Vegetables/51

*The Ambassador in Mexico (Daniels) to the Secretary of State*

No. 1771

MEXICO, September 11, 1934.

[Received September 15.]

SIR: I have the honor to refer to the Embassy's despatch No. 1729 of August 31, 1934, and to previous correspondence concerning a reciprocal tariff agreement between the United States and Mexico with respect to winter vegetables grown on the West Coast of Mexico and to transmit herewith a copy and translation of a letter dated September 7, 1934,<sup>7</sup> from the Minister for Foreign Affairs, Doctor José Manuel Puig Casauranc, together with a copy and translation of his note No. 575 of September 6, 1934, enclosed therewith, transcribing a draft of a *modus vivendi* covering this subject, which he proposes concluding by means of an exchange of notes between the two countries.

[Here follow summaries of the notes attached.]

Mexico now has most favored nation agreements with the Governments of Japan,<sup>8</sup> Italy,<sup>9</sup> Ecuador<sup>10</sup> and Santo Domingo.<sup>11</sup> It is my

<sup>7</sup> Not printed.

<sup>8</sup> Treaty signed October 8, 1924, League of Nations Treaty Series, vol. xxxvi, p. 259.

<sup>9</sup> Notes exchanged July 31, 1934, Mexico, *Tratados y Convenciones Vigentes entre los Estados Unidos Mexicanos y Otros Paises, 1930-1938*, vol. vi, p. 151.

<sup>10</sup> Treaty signed July 10, 1888, *British and Foreign State Papers*, vol. lxxxix, p. 144; modified by convention signed May 4, 1934, *Tratados y Convenciones*, vol. vi, p. 65.

<sup>11</sup> Treaty signed March 29, 1890, *British and Foreign State Papers*, vol. lxxxii, p. 689; modified by notes exchanged February 15, 1934, and May 5, 1934, *Tratados y Convenciones*, vol. vi, p. 61.

understanding that the Government of the United States has most favored nation agreements with many more countries than these four. Due to the imports which Mexico receives from these four countries, it would appear that under the proposed *modus vivendi* the United States would not gain anything but recognition of the most favored nation clause and a promise of a permanent treaty, while on the other hand Mexico would not only gain the reduced tariff granted to Cuba on imports into the United States of winter vegetables, but also might very possibly receive other tangible advantages not only through the recent agreement made with Cuba by the United States but also due to our most favored nation agreements now in force between the United States and other countries, this, too, without giving to the United States a substantial *quid pro quo*. Doctor Puig mentions that he has followed the wording of the *modus vivendi* entered into with Italy. The situation which existed between Italy and Mexico does not seem to be analogous to that which exists between the United States and Mexico.

As has been reported in the past, Doctor Puig has stated to me that he has been under considerable pressure from the growers on the West Coast of Mexico to obtain some reduction on the United States tariff on their products. As the Department knows, he has been endeavoring to have the Department begin negotiations for a reciprocal tariff agreement. Now that there does not appear to be any chance of this being done until the end of the winter, he has proposed a *modus vivendi* which can be entered into by an exchange of notes which will redound to Mexico's advantage in the question of winter vegetables and which would, therefore, satisfy the demands of the growers on the West Coast.

As of possible interest to the Department, the following is the approximate value of the importations into the United States from Mexico of tomatoes and of the total of all winter vegetables for the last three seasons:

<i>Seasons</i>	<i>Tomatoes</i>	<i>Total of all Winter Vegetables</i>
1931-1932	\$6, 273, 400.	\$8, 891, 700.
1932-1933	2, 188, 200.	4, 555, 800.
1933-1934	1, 171, 800.	1, 807, 100.

Yesterday afternoon, September 10th, when I called at the Foreign Office and discussed this matter with Doctor Puig, he said that the growers of Yucatan have been making appeals to the Minister of Hacienda to secure the same treatment for sisal grown in that part of this country as their competitors in Cuba receive under the new reciprocity treaty with Cuba. They were quite as insistent as the people of Northwestern Mexico are as to prompt action to give

markets for tomatoes and early vegetables, and as the cattle raisers in Northern Mexico for a reduction of the tariff on cattle weighing less than 700 pounds.

In a despatch, dated September 4, 1934, to the State Department,<sup>12</sup> the American Consul at Guaymas quoted Governor Calles of Sonora as saying that he believed there ought to be no difficulty in finding commodities for reciprocal agreements, mentioning specifically that the State of Sonora was concerned particularly with winter vegetables and cattle. The Governor says that tomatoes are produced for export from the Yaqui Valley in January and even as early as December, and adds: "They would not be in serious competition with growers of that vegetable in the United States". He says that the same is true of green peas. He argued that it would be mutually advantageous if the United States would abolish the duty on cattle under 700 pounds, or at least make some concessions. If Secretary Sayre has not had this letter from the Consul at Guaymas brought to his attention, I commend it to his consideration.

In my conversation yesterday with Dr. Puig I asked him what Mexico would be ready to offer to the United States in return for the request for reciprocal duties on tomatoes, sisal, etc. He said they would grant reductions on iron pipe, eighty-five per cent of which comes to Mexico from the United States, and on lard and its products. I asked: "How about automobiles?" He thought something might be done for automobiles in the agreement, and would speak to the Minister of Hacienda about that. I called to his attention a conversation I had, upon the occasion of my trip to Ciudad Juarez and El Paso, with the Mexican Collector of Customs at Ciudad Juarez. The Collector said that Mexico could well afford to abolish the tariff on automobiles, so that many more Mexicans could buy them from the United States, adding: "The Mexican Government would derive more revenue from the larger purchases of gasoline by the increased owners of cars than is now derived from the automobile tax". In order to secure the proposed *modus vivendi* at an early date, Doctor Puig said the Mexican Government would naturally be willing to meet the United States upon equal terms in the tariff reductions. It was clear that Doctor Puig, due to pressure from the growers of the West Coast of Mexico, and also perhaps due to pressure from other sources, is doing his utmost to have negotiations opened at the earliest possible moment, to the end that winter vegetables grown in Mexico can secure markets in the United States in December of this year and January of 1935. If the negotiations are delayed, the growers of Mexico will feel that their competitors in Cuba have an advantage which is denied them. An early agreement would greatly gratify the Mexican Government

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<sup>12</sup> Not printed.

and the growers. They feel that if there is to be a reciprocity treaty between this country and Mexico it should take effect by December. Undoubtedly they would be willing to make more concessions now than if negotiations are postponed and the barter deferred until after the winter vegetable season has passed.

Respectfully yours,

JOSEPHUS DANIELS

[Enclosure—Translation <sup>13</sup>]

*The Mexican Minister for Foreign Affairs (Puig) to the American Ambassador (Daniels)*

No. 575

MEXICO, September 6, 1934.

MR. AMBASSADOR: Through our Embassy in Washington we have learned that the Department of State of the United States has advised that in accordance with the program in relation to trade agreements which the American Administration has outlined for itself, the negotiations for a trade agreement with Mexico could begin about the end of the coming winter.

In view of the above and in order to secure a procedure that will permit the exportation of our fresh vegetables during the coming winter, under conditions similar to those adopted for Cuba, our Embassy approached the Department of State with respect to the possibility of concluding a provisional *modus vivendi* to cover the exports of such products and which would remain in force until the conclusion of the principal convention.

Our Ambassador advises us that information that he has obtained from the Department in question appears to him to indicate that the Government of the United States would be disposed to consider the possibility of a *modus vivendi*, and that the question would resolve itself as soon as we submitted, even though informally, the respective proposal (*consulta respectiva*), since the suggestion made by Ambassador González Roa did not appear as yet to be based upon specific instructions from this Ministry.

Wishing to hasten the conclusion of the *modus vivendi* referred to above, I have the honor to present to Your Excellency the formal request of Mexico for the establishment of that *modus vivendi* by means of an exchange of notes between that Embassy and this Ministry, and I am taking the liberty of suggesting, for the consideration of the Department of State, the following wording, similar in sense to that of the notes exchanged with the Government of Italy for the establishment of a similar *modus vivendi*, with the sole exclusion from the document now proposed of the paragraph which in the case of

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<sup>13</sup> File translation revised by the editors.

Italy excepts from most-favored-nation treatment the system of customs duties and customs formalities in general in so far as facilities now accorded or which may be accorded by either of the parties (Mexico and Italy) to contiguous States in order to facilitate frontier traffic, as well as those deriving from a customs union, are concerned :

“With a view to favoring and developing the economic relations between our two countries, I have the honor to inform Your Excellency, duly authorized by my Government, that in consideration of the circumstance that at the present time there does not exist between Mexico and the United States a Treaty of Commerce and Navigation, which Treaty the two parties bind themselves to conclude as soon as possible, the Mexican Government is in agreement with the American Government in the sense that each of the two countries shall concede most-favored-nation treatment to the vessels and the raw or manufactured products of the other.

“This agreement, effective for one year, shall become operative after one month from the date of the present note and may be extended by tacit renewal.

“In the event of tacit renewal, this agreement may be denounced at any time by either of the contracting parties, with three months’ advance notice.”

Of course, any editing of the *modus vivendi* that would lead to the end sought by my Government would be acceptable to us, and in order to save time it could be discussed, if so desired, with our Embassy in Washington which now has instructions for this purpose.

I avail myself [etc.]

PUIG

611.1231/139

*The Ambassador in Mexico (Daniels) to the Secretary of State*

No. 1778

MEXICO, September 13, 1934.

[Received September 17.]

SIR: I have the honor to refer to the Embassy’s airmail despatch number 1771 of September 11, 1934, with which was transmitted a copy and translation of a note from the Foreign Office, number 575 of September 6th, transcribing a draft of a *modus vivendi* under which would be established most-favored-nation treatment between the United States and Mexico; and, with particular regard to the paragraph beginning at the bottom of page 5 and continuing on page 6 of this despatch,<sup>14</sup> in which the Minister for Foreign Affairs, Doctor José M. Puig Casauranc, is quoted as saying that the Mexican Government would be ready to grant reductions in the tariff on importation into Mexico from the United States of iron pipe and of lard and its

<sup>14</sup> i. e., the last paragraph of the despatch under reference.

products,—I now have the honor to report that Doctor Puig has just informed the Embassy orally that the Mexican Government is ready, in connection with the signing of this *modus vivendi*, to grant tariff reductions on iron pipe, lard and its products, and automobiles. He stated that he was not yet informed as to the exact percentage of reduction which the Mexican Government would be ready to grant on these products.

Respectfully yours,

JOSEPHUS DANIELS

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611.123 Vegetables/54 : Telegram

*The Secretary of State to the Ambassador in Mexico (Daniels)*

WASHINGTON, September 29, 1934—3 p. m.

144. Your despatch No. 1771, September 11. Import duty on Cuban tomatoes is established by agreement with that country at one and eight-tenths cents per pound during months of December, January and February and it is further provided in the agreement that the tariff rate accorded Cuba shall be at least twenty per cent. lower than that applying to tomatoes from any other country. Consequently the minimum rate that could be accorded Mexican tomatoes would under existing conditions be two and one-quarter cents per pound for the same months unless a further reduction is granted Cuba which probably is impossible at this time.

Reductions are granted Cuba on lima beans, cucumbers, okra, and eggplant but it is not believed Mexico is particularly interested in these. No reduction has been granted Cuba on peas.

Please bring foregoing to the attention of Foreign Office and state that before giving further consideration to the matter of entering into negotiation of a limited tariff agreement with Mexico as proposed by the Foreign Minister the Department desires to be informed whether the Mexican Government understands the situation with respect to Cuba and is sufficiently interested in the above mentioned maximum possible reduction on tomatoes to proceed with discussions.

It should be made clear to the Mexican authorities that provisions of agreement with Cuba prevent extending to any other country rates of duty as low as those applicable to Cuban products and that no agreement with Mexico could be made by this Government except in full compliance with the procedural and substantive provisions of the Trade Agreements Act of 1934.

Report by telegraph.

HULL

611.123 Vegetables/60

*The Assistant Secretary of State (Sayre) to the Ambassador in Mexico (Daniels)*

WASHINGTON, October 2, 1934.

MY DEAR MR. DANIELS: Thank you for your letter of September eighteenth<sup>15</sup> with regard to the possibility of making a provisional arrangement with Mexico prior to the coming into force of a definitive trade agreement, so as to make possible the shipment by Mexico of vegetables this coming winter.

Before receiving your letter, I had been studying the two despatches which you mention,<sup>16</sup> and our Trade Agreements Section is giving serious consideration to the suggestion contained in the despatches. I have been somewhat concerned, however, lest there be a misunderstanding on the part of the Mexican Government. The terms of our Cuban Trade Agreement are such that we could not give to a third country the same rates that we have given to Cuba on certain Cuban products, Cuba being especially exempt from our most-favored-nation obligations. I sent a telegram to you last week<sup>17</sup> explaining this situation.

If Mexico is interested in such a reduction as we can make on tomatoes and fresh vegetables, however, and will grant us concessions in return which are substantial ones to make possible our exportation into Mexico of increased agricultural products, such as lard, I feel that we should give the Mexican proposal the most serious consideration; and, in the event that such an agreement seems desirable, I think it might be possible to push the arrangement through before the making of a more definitive trade agreement in time to take care of the vegetable trade during the coming winter.

I hope all goes well with you and Mrs. Daniels. It is always a delight to hear from you.

With warmest wishes [etc.]

FRANCIS B. SAYRE

611.123 Vegetables/58

*The Ambassador in Mexico (Daniels) to the Secretary of State*

No. 1823

MEXICO, October 2, 1934.

[Received October 8.]

SIR: I have the honor to refer to the Department's telegram No. 144 of September 29, 1934, 3 p. m. and to confirm my telegram No. 131 of

<sup>15</sup> Not printed.

<sup>16</sup> Despatches No. 1771, September 11, and No. 1778, September 13, from the Ambassador in Mexico, pp. 390 and 394.

<sup>17</sup> *Supra*.

October 2, 1934, 11 a. m.,<sup>18</sup> concerning a proposed *modus vivendi* under which the Government of the United States and the Government of Mexico would grant reciprocally to each other most favored nation treatment in regard to the vessels and the raw and manufactured products of the other. There is transmitted herewith a copy of my letter of October 1, 1934<sup>19</sup> to the Minister for Foreign Affairs, Doctor José Manuel Puig Casauranc, in which I summarize the information contained in the Department's telegram above referred to.

Upon receiving my letter Doctor Puig stated that the possibility of Mexico receiving a tariff of 2¼¢ per pound on tomatoes imported into the United States from Mexico in place of the present duty of 3¢ per pound seemed well worth discussing. He also referred to that portion of my letter which stated that the Government of the United States could make no agreement with Mexico except in full compliance with the procedural and substantive provisions of the trade agreement acts of 1934, and said that this would appear to indicate that the negotiation of a *modus vivendi* covering this matter would have to be carried on under practically the same conditions as the negotiation of a reciprocal trade agreement between the two countries.

As reported in my telegram above referred to, Doctor Puig stated that he was sending by air mail this morning a translation of my letter of October 1, 1934 to Minister of Hacienda Marte R. Gómez, now in New York, and to Ambassador González Roa, with the suggestion that they take up the matter directly with the Department.

Respectfully yours,

JOSEPHUS DANIELS

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611.123 Vegetables/69

*The Assistant Secretary of State (Sayre) to the Ambassador in Mexico (Daniels)*

WASHINGTON, November 15, 1934.

MY DEAR MR. DANIELS: Thank you for your letter of November third<sup>19</sup> enclosing a copy of the letter from Mr. Thomas H. Lockett, Commercial Attaché, to yourself dated October 30, 1934,<sup>19</sup> concerning the negotiation of a limited trade agreement with the Mexican Government. When I wrote you on October 2 I felt that there still might be time to meet the Mexican desire to negotiate a limited trade agreement covering the importation of tomatoes and fresh vegetables from Mexico during the coming winter. Since I wrote that letter, six weeks have passed, and we have not as yet had any direct word from the representatives of Mexico concerning the negotiation of such an

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<sup>18</sup> Telegram No. 131 not printed.

<sup>19</sup> Not printed.



agreement. In view of the necessity under the law of holding public hearings and giving sufficient notice in advance of these, it would seem that the possibility of negotiating such a limited trade agreement to cover the shipment of tomatoes and fresh vegetables during the coming winter has now passed and that we must turn our attention instead to the possibility of a more comprehensive trade agreement between the two Governments. Inasmuch as our hands are already more than full with the negotiation of such agreements as have already been publicly announced, I think we will have to wait now and let Mexico take a normal place on the schedule of our trade agreements program.

With warmest wishes [etc.]

FRANCIS B. SAYRE

CONVENTION BETWEEN THE UNITED STATES AND MEXICO FOR AN EN BLOC SETTLEMENT OF SPECIAL CLAIMS, AND PROTOCOL REGARDING GENERAL CLAIMS, SIGNED APRIL 24, 1934<sup>21</sup>

411.12/1736

*The Ambassador in Mexico (Daniels) to the Secretary of State*

No. 1031

MEXICO, January 26, 1934.

[Received January 29.]

SIR: In the Embassy's telegram number 3 of January 25, 1934, 5 p. m.,<sup>22</sup> I stated that Minister Puig had informed me that he had not discussed the Department's proposals on claims with Ambassador González Roa and experts in the Ministry for Foreign Affairs. He added that he would also give the whole matter serious consideration and ask for another conference in about a week.

Upon receipt of the Department's instruction number 214 of December 16, 1933,<sup>23</sup> on December 28th I presented the plan to Ambassador González Roa and pointed out that the Mexican proposals were unacceptable, both as to the amount and terms of payment. I gave him a copy of the proposed protocol as to General Claims and told him that if it was acceptable to Mexico and put in operation, the Government of the United States would then be willing, after evaluation, to consider a reasonable en bloc settlement. The Mexican officials clearly understand that the Department wishes a full exploration of General Claims before taking up the suggestion of an en bloc settlement either of General or Special Claims.

While Mexican officials are making up their minds as to what answer they will make to the Department's proposal, I feel it my duty to state plainly the conclusions I have reached after eight months

<sup>21</sup> For previous correspondence, see *Foreign Relations*, 1933, vol. v, pp. 798 ff.

<sup>22</sup> *Ante*, p. 385.

<sup>23</sup> *Foreign Relations*, 1933, vol. v, p. 814.

of study and consideration of the whole matter. In coming to the recommendation I am hereby proposing, I have had no thought except to try to ascertain, not what technically or legally we have a right to insist upon, but to strip the whole controversy of everything else and get down to the basic principle of what in equity and justice we ought to insist upon. In other words, I have tried to go beneath pleadings and agreements, forced or voluntary, and ask what we would expect Mexico to demand of our country if conditions were reversed.

As to the Special Claims, arising between 1910 and 1920, I agree with the conclusions of the Commissions between Mexico and several European Governments, that Mexico should not be required to pay for acts by revolutionists and bandits unless there is shown negligence on the part of responsible governmental authorities. We must take into consideration that for many years there was no stable government in Mexico. To be sure, I recognize that Carranza pledged payments for such acts and that later Obregón made like promises, and promises to pay for losses and damages were incorporated in the Warren-Payne treaty<sup>24</sup> which Mexico accepted in order to secure recognition. However, I also am aware that a large number of these claims are made by Americans residing here who preferred to run all risks rather than accept the advice of President Wilson, who offered them safe transportation into the United States in the hectic days of revolution. Instead of accepting his urgent pleas, they elected to remain. Some of them hoped and worked for American intervention and, in lieu of that, demanded that American warships remain in Mexican waters and that American troops be dispatched into the interior of Mexico to protect their property. Inasmuch as I was a part of the administration in that period, those conditions and the serious situation is fresh in my mind. Though Mexico promised to pay damages, many of the claims have no merit. Very few Special Claims have been adjudicated.

In view of the situation thus sketched, I have come to the conclusion that we are justified by the plainest equity to make these proposals to the Mexican Government :

(1) With reference to Special Claims, present at the earliest opportunity to the Mexican Government a counter proposal, which the Department has in mind, providing for an en bloc settlement on a basis of 2.65%. This is the average recovery in the settlement of claims of Belgium, France, Germany, Great Britain, Italy and Spain against Mexico for losses or damages during the revolutionary period of 1910-1920. The claims of those countries are similar to our Special Claims.

This suggestion makes no distinction between memorialized and unmemorialized cases. Ambassador González Roa based his argument

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<sup>24</sup> General Claims Convention, signed September 8, 1923, *Foreign Relations*, 1923, vol. II, p. 555.

for such distinction (proposing 1.25% for unmemorialized claims) upon the statement that under the terms of the 1839 and 1868 Claims Conventions<sup>25</sup> the average recovery was 1.25% for American claims. The weakness in his contention is that, in the agreements with the European Governments, no distinction was made between the memorialized and the unmemorialized claims. If we accept the figure agreed upon in the Conventions by those six countries, it seems that the contention that distinction be made between memorialized and unmemorialized claims, which Ambassador González Roa urged, lacks foundation.

If Mexico paid 2.65% on all Special Claims, the sum it would pay would be about seven and three quarter million dollars. In my judgment effort should be made to adjust the Special Claims before pressing the suggested protocol on General Claims, particularly in view of the settlements made by Mexico with European countries having similar claims. Such precedents might serve as a guide to any domestic commission appointed to adjudicate the claims and to pro-rate the amount received from Mexico.

(2) With reference to General Claims, my suggestion is that our Government offer to settle on a basis of 8%. The figure of 8% is the average recovery under the decisions rendered so far by the General Claims Commission, exclusive of the claims of the Illinois Central Railway, which the Mexican Government contends, and with reason, should be eliminated from consideration in fixing the average recovery percentage because liability was admitted by the Government which was ready to settle out of court. Acceptance of 8% for General Claims would amount to about eleven million dollars, exclusive of awards heretofore rendered by the General Claims Commission of about two and a half million dollars, and of interest on awards of about \$836,000.

As I understand it, if the protocol suggested by the Department is not agreed to by the Mexican Government, in order to reconstitute the General Claims Commission, it would be necessary only to exchange ratifications of the Convention signed June 18, 1932,<sup>26</sup> and to secure an agreement from the Mexican Government regarding the appointment of a Neutral Presiding Commissioner. This sounds easy, but past experience in selecting a Presiding Commissioner, or one who will give his whole time to the duty, does not justify expectation of easy and prompt action in this regard. The Department's proposal embodied in the suggested protocol is an improvement upon the protocol<sup>27</sup> which is part of the Convention of June 18, 1932. However, even with that better plan looking to expedition, it is by no means certain that the pleadings and conclusions could be completed within two years. It is more probable that the delays experienced by

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<sup>25</sup> William M. Malloy (ed.), *Treaties, Conventions, etc., Between the United States of America and Other Powers, 1776-1909* (Washington, Government Printing Office, 1910), vol. I, pp. 1101 and 1128.

<sup>26</sup> *Foreign Relations, 1932*, vol. V, p. 740.

<sup>27</sup> *Ibid.*, p. 742.

the old Commission would be repeated, with the continued expense and no assurance that claimants would get anything in their lifetime.

As I understand it, while the General Claims Commission can carry on by an exchange of ratifications, the Department has held that as regards the Special Commission, the Senate must ratify the protocol, signed by Ambassador Clark and Minister Téllez<sup>28</sup> before there can be a reconstitution. While the ratification of the new treaty of the Special Claims Convention was pending, Senator King, in a public statement, objected to its ratification in view of the fact that the change made to the existing Convention would lessen the rights of claimants in the United States, saying that "the present treaty does not exclude from this jurisdiction of the Convention the claims originating from the acts of the Huerta forces or claims originating through the circulation or acceptance, voluntary or forced, of paper money". He objected to giving consideration to the policy pursued by Germany, Spain, France, Italy, England and Belgium in reaching an agreement with Mexico for claims originating between 1910-1920, the period for which the Special Claims Commission was set up.

Inasmuch as the new treaty to reconstitute the Special Claims Commission had not been acted upon by the Senate, pending negotiations looking to an en bloc settlement, it may be that Senator King would again object to ratification. I judge from the suggestion of the Department, that, after the acceptance of the proposed protocol by Mexico, it would consider an en bloc settlement for Special Claims.

I have kept in mind that my predecessor, Mr. Clark, and Mr. Téllez, former Minister for Foreign Affairs, conducted negotiations looking to an en bloc settlement. The amount the United States representative suggested for a settlement of claims under both the General and Special Claims was fifty million dollars. That figure was reached by applying a percentage basis of 11.5 to the net American claims, after deducting the value of the Mexican claims. That percentage is the average recovery in claims adjustments between Governments covering a period of 140 years. That proposal for Mexico to pay the United States the sum of fifty million dollars was not entertained by Minister Téllez because he regarded it as too large a sum.

If the Department agrees with these recommendations, I would suggest that the United States, instead of pressing for the protocol proposed to the Mexican Government, if Dr. Puig's answer should be unfavorable, offer a counter proposal for about twenty-two million dollars as a settlement of both General and Special Claims, based on the use of 8% for General Claims and 2.65% for Special Claims, without making any distinction between memorialized and unmemorialized claims.

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<sup>28</sup> *Foreign Relations*, 1932, vol. v, p. 746.

I sincerely believe, everything considered, including our inability at this time to collect debts due by European countries directly to the Federal Treasury, and the impossibility of our nationals to collect on moneys loaned by them, either with or without governmental quasi-approval, to governments in South America and Europe, that we should substitute an equitable for a strictly legal liability with reference to claims by our nationals against Mexico. The history of claims controversies between the United States and Mexico is a sad, long story of disagreements, mainly growing out of the claims of our nationals, some of whom came into this country seeking concessions and large returns upon their money, rather than to accept the less speculative returns promised at home. Pursuing such course, they have lived in Mexico many years, all the while holding on to their American citizenship in the belief that our country would enforce their claims against the country of their residence.

It is of the highest importance if possible to reach an agreement which will put ancient and revolutionary claims behind us, and seek, in accordance with the Claims Conventions of 1923, to secure something for our nationals who have just claims rather than continue hearings which may not be finished in our day.

I am not unmindful of the disappointment which would be experienced by our nationals following any settlement of their claims on a less basis than they think is their just due. Equally I recognize, if an en bloc sum is accepted, that there are troubles in store for a domestic commission which would be constituted to apportion whatever amount Mexico would pay. There is no escape from difficulties no matter what policy is adopted.

My theory in the present situation is that our Government is in the strongest position when it meets Mexico in a spirit of large liberality and generosity, confident it is demanding nothing more from Mexico than we would expect Mexico to pay us if conditions were reversed.

Of course I have no information as to what Mexico's response would be to the proposal outlined above, or as to what answer it will make with regard to the proposed protocol. No intimation has come to me since Ambassador González Roa's proposal of a payment of \$13,500,000 in thirty annual installments, and our declination of that proposal. In talking with Minister Puig yesterday, he said that he thought it was a mistake to incorporate thirty years for payment in the González Roa proposition. "It was too long a term", he said, "and Mexico ought to pay at the rate of a million dollars a year". Beyond that he volunteered nothing.

As stated above, whether the proposal set forth here would be accepted or rejected by Mexico, I have no means of knowing. One thing I do feel, and feel strongly, is that in submitting it we would

be proposing what is manifestly fair and just in view of Mexican pledges and all the present day conditions. I do not hesitate to say that, if there had been no 1923 treaty, I would not feel we should hold the Mexican Government of 1934 responsible for the acts that occurred during the periods of revolution, beginning with the murder of Madero and continuing for years. It is "nominated in the bond", however, that they shall pay to us as they have agreed to pay to European nations. Therefore, our Government is committed to press for such payment as other enlightened nations will receive for like injuries and damages in the same period. Beyond that, my judgment does not dictate our Government should go in seeking payment to claimants.

I will promptly report the response to the proposition for the proposed protocol and await your further instructions.

Respectfully yours,

JOSEPHUS DANIELS

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411.12/1736 : Telegram

*The Secretary of State to the Ambassador in Mexico (Daniels)*

WASHINGTON, February 3, 1934—3 p. m.

15. Your despatch No. 1031, January 26. Lump sum offer proposed by you contemplates allowance to Mexico of more than \$15,000,000 on ancient claims to land in Texas and California, in support of which Mexico has filed no evidence and which claims were for several reasons considered by the American Agency, after an elaborate investigation, to be worthless. Such a settlement would also create the obligation upon Congress to appropriate corresponding sum to make good to American citizens the amount of national liability thus theoretically avoided by offset of the claims of American citizens. Court of Claims long since held that such national obligation is created in that manner and Congress has in the past recognized such obligation by appropriation of large sums.

In view of these facts and the other considerations outlined on pages 26 to 51 of enclosure with instruction No. 214 of December 16,<sup>29</sup> and annexes 10 to 14 therewith, the Department considers it highly desirable to press for a favorable decision on the proposed protocol and would prefer not to consider the alternative of a lump sum settlement until it has been clearly demonstrated that such a protocol cannot be concluded. Department's views will be amplified by mail.

HULL

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<sup>29</sup> For instruction No. 214 and its enclosed draft protocol regarding general claims, see *Foreign Relations*, 1933, vol. v, p. 814; enclosure and annexes under reference not printed.

411.12/1736

*The Secretary of State to the Ambassador in Mexico (Daniels)*

No. 261

WASHINGTON, February 10, 1934.

SIR: Conformably to the last sentence of the Department's cable No. 15 of February 3, 1934, an effort is herein made to give you, in general but brief outline, the views of the Department with respect to the advantages and disadvantages of the two methods of settling the outstanding claims now under consideration, and the reasons for believing that the question of a lump sum settlement should be held in abeyance until it has been clearly demonstrated that such a protocol as is now under consideration cannot be concluded.

The Department is not unmindful that an immediate lump sum settlement in which the Mexican Government would agree to pay this Government the sum of \$22,000,000 would have advantages. On analysis, however, the advantages are perhaps somewhat more apparent than real.

In order to determine what amount the Mexican Government would pay on the unadjudicated general claims of the United States totalling \$384,400,000 (after deductions for duplicate filings and adjudications), it is necessary, in the first instance, to deduct from the amount of \$22,000,000 the amount which would be paid on special claims, and also the amount already awarded by the General Claims Commission. The special claims, after deductions, amount, in round figures, to \$291,300,000. The liability of the Mexican Government on these claims, calculated on the lowest possible basis, namely, that representing the average recovery of all European Governments in the same class of cases, would be about \$7,700,000. In this connection it is to be borne in mind, however, that under the special claims conventions heretofore concluded, there is a wider basis of liability than that upon which the European claims have been decided, and that, since the Senate has not agreed to any curtailment of this basis of liability, there might be opposition in the Senate to a lump sum settlement of special claims on the basis of the European average percentage of recovery. The amount of awards by the General Claims Commission, including interest, is about \$3,432,000. The sum of these awards and the amount to cover special claims, on the basis of the European average recovery, would total about \$11,150,000, leaving from the \$22,000,000 to be paid by Mexico to be applied on the unadjudicated general claims the sum of only about \$10,850,000. The general claims over which this \$10,850,000 would be distributed (in the absence of any contribution by this Government) amount, after deductions, to \$380,400,000. Therefore, the amount of indemnity to be paid by the Mexican Government on the unadjudicated general claims would amount to approximately

2.8 per cent, or a slight fraction over the amount which, it appears, the Mexican Government is willing to concede on the special claims. The Department is not aware that it has ever been seriously contended by the Mexican Government that its actual liability on general claims would amount to such a small percentage.

In the event that a lump sum settlement involving the payment of \$22,000,000 were made, this \$22,000,000 would then be distributed approximately as follows:

Special claims . . . . .	\$7, 711, 000
General claims awards . . . . .	3, 432, 000
For distribution on unadjudicated general claims . . . . .	<u>10, 857, 000</u>
Total	\$22, 000, 000

As was indicated in the enclosure with the Department's instruction No. 214 of December 16, last, there are reasons to believe that the awards of a domestic commission before which both the general and special claims would have to go for adjudication, in the event of a lump sum settlement, would be larger than those of an international commission. The probabilities are, therefore, that the awards of the domestic commission would far exceed the amount of the lump sum settlement. The result would be a strong demand that this Government make good the deficit. Claimants would have as a basis for their claim of obligation on the part of this Government to appropriate the difference, decisions of the Court of Claims holding that such lump sum settlements, which involve a set-off of American claims against claims of a foreign government or its nationals, create such an obligation toward the American claimants. (In this connection see the decisions in 21 Court of Claims, 340, 390; 22, *ibid.*, 408, and 457; and 46, *ibid.*, 214, 224.) It is not unlikely, therefore, that, with this method of settlement, this Government would ultimately be compelled to appropriate many millions of dollars to settle the claims of American citizens against Mexico.

It is believed that a large part of this liability on the part of the United States could be avoided, without injury to the rights of American citizens and without great loss of time in settling the claims, by the procedure outlined in the proposed protocol now under consideration. The reasons for this conclusion are in brief as follows:

The unadjudicated general claims of the Mexican Government which, under the \$22,000,000 lump sum proposal, would be evaluated at 8 per cent, amount, after deductions, to approximately \$245,000,000. For the purpose of the lump sum settlement, these claims would be appraised at 8 per cent or \$19,600,000 which amount would, in effect, be paid by this Government to Mexico, since, to arrive at the \$22,000,000 lump sum basis, that amount would be deducted from the actual



liability on American claims of approximately \$41,400,000. This would not be of great moment if the Mexican claims were of a general diversified type of mixed claims such as our own. But quite the contrary is true. Approximately 95 per cent of the claims of the Mexican Government are based upon alleged illegal deprivations of title to real estate in Texas and California nearly 100 years ago. The Mexican Government has up to the present time put in no material evidence to support these claims. The American Agency, it is understood, made a somewhat extensive investigation of the circumstances of the claims, having sent an attorney to Texas to study the claims on the ground, and reached the conclusion that the claims were, for several reasons, entirely unfounded. There might, therefore, be basis for considerable criticism of the Department if it recommended a lump sum settlement which would contemplate giving Mexico credit for any such sum as, say \$18,000,000 for these claims, and then ask Congress to make good to American citizens the difference between the amount of the awards of a domestic commission and the amount of recovery from Mexico under the lump sum agreement. On the other hand, it is believed that, if the claims were passed upon by appraisers and an umpire as contemplated in the proposed protocol, several more satisfactory results would follow, namely:

*First*, the Mexican land claims would be found to be invalid, thus reducing from \$19,600,000 to perhaps one million the amount of proper deductions from Mexico's liability towards this Government.

*Second*, the liability of this Government toward American claimants would be proportionately reduced. This might result in the saving of many millions of dollars to this Government.

*Third*, as was indicated to you in the enclosure with instruction No. 214 of December 16, the adjudication of international claims by a domestic commission is attended with many embarrassing and expensive circumstances. In the first instance, the expense of a domestic commission would be much greater than the informal proceedings contemplated by the pending protocol. Then, the proceedings before a domestic commission are made infinitely more difficult, protracted and expensive because of the fact that the evidence bearing upon one side of the case is scattered throughout Mexico and, in order to provide for proper adjudication of the case, it would probably be necessary to maintain in Mexico for a period of several years a Commissioner to take testimony. In the most recent instance of such a lump sum settlement, namely that relating to claims against Spain at the termination of the Spanish-American War, the claims numbered about 500 and amounted to about \$2,000,000. The domestic adjudication proceedings continued over a period of approximately eight years and the cost thereof, including the expense of a Commissioner in Cuba to take testimony, amounted to approximately \$1,200,000. There is no reason to expect more expeditious or less expensive proceedings in the case of a domestic adjudication of the special and general claims against Mexico.

*Fourth*, at the present time, in common with the rest of the world, Mexico is in a state of economic depression. The general attitude of many world powers at the present time with respect to international obligation is not a wholesome one. In the event of a lump sum settlement with Mexico there might be considered to be more reason for expecting leniency toward a failure to meet an international obligation arbitrarily arrived at than if such obligation were based upon definite judicial determinations. In connection with a lump sum settlement there must be considered, of course, not only the amount of liability but the terms under which it will be paid. It is the hope of all, of course, that financial conditions throughout the world will have considerably improved within the next two or three years. It would seem, therefore, that the end of that period might be a more propitious one for determining the manner in which the amount of liability to this Government could be met without serious embarrassment to the Mexican Government.

Since it is the belief of the Department that the appraisal of the claims under the proposed protocol could be completed within three years at the most, including the umpire proceedings, and since the fixation of the liability of the Mexican Government and the conditions for the liquidation thereof, at the end of that period, might be more advantageous to American claimants, and much more advantageous to this Government than the arbitrary fixation of that liability and the terms of payment at the present time, there would seem to be no compelling reasons why the lump sum settlement should be concluded at present. Of course, such a lump sum settlement at present would, in effect, remove these international claims from the field of diplomatic discussion. On the other hand, it is believed that the conclusion of the protocol would have virtually the same effect. As you are aware, it is the general thought underlying the protocol that the exchange of pleadings and the appraisal of the claims would be conducted in a quite unostentatious manner, without the establishment of a Commission and without direct contact of any kind between the Foreign Offices of the two Governments.

Therefore, aside from the fact that a lump sum settlement would immediately remove claims settlements from the field of international discussion, practically all of the advantages are on the side of the informal proceedings provided for in the draft protocol. It was these and other related reasons which prompted the Department's cable No. 15 of February 3, which was despatched in advance of this instruction.

From the foregoing you will appreciate the fact that this whole matter is being considered from the practical, rather than from the purely legalistic, standpoint with a view to avoiding the creation of a basis for large liability on the part of this Government toward American claimants.

Very truly yours,

For the Secretary of State:  
R. WALTON MOORE

411.12/1749

*The Ambassador in Mexico (Daniels) to the Secretary of State*

No. 1094

MEXICO, February 10, 1934.

[Received February 13.]

SIR: I have the honor to refer to the Embassy's telegram number 10 of February 10, 3 p. m., 1934,<sup>30</sup> informing the Department of the receipt from the Foreign Office of a communication regarding en bloc and the protocol for the evaluation of General Claims, heretofore suggested by the Department.

The communication in question comprises three memoranda:

Memorandum A which gives the views of the Mexican Government regarding en bloc. It concludes with the statement that in suggesting changes to the Protocol, which is accepted simultaneously with the en bloc settlement, the Government of Mexico is always ready to undertake en bloc negotiations of both Commissions along the general principles heretofore discussed, and would receive any reasonable and equitable proposal from the Government of the United States for an en bloc settlement of all claims.

Memorandum B which is a proposal for the en bloc settlement of Special Claims on the basis of 2.60%; payments, without interest, to be extended over a period of 15 years.

Memorandum C<sup>31</sup> which contains suggested amendments to the Department's protocol for the evaluation of General Claims.

The principal change suggested in the protocol is the incorporation of the provisions of the protocol attached to the General Claims Convention signed June 18, 1932, for the handling of agrarian claims through diplomatic discussions. This change appears as Article First. The remaining Articles are re-numbered accordingly.

Under new Article Fifth (formerly Fourth), provisions are made for the empire to render his decisions within two years; the President of the High Court of Justice of Uruguay is substituted for the President of the Supreme Court of the Federation of Switzerland.

Under new Article Sixth (formerly Fifth), sub-paragraph "d", the following words are omitted: "Such evidence with the brief, as rebuts evidence filed with the Answer"; under sub-paragraph "e" the last sentence, reading as follows, is omitted:

"In cases in which Answers already filed or hereafter filed do not sufficiently meet this provision so as to afford the plaintiff Government an adequate basis for preparing its legal Brief with full general knowledge of the factual and legal defenses of the defendant Government, it shall have the right to file a Counter Brief within thirty days following the date of filing the Reply Brief."

<sup>30</sup> Not printed.

<sup>31</sup> Not printed; but see third paragraph of instruction No. 283, March 9, to the Ambassador in Mexico, p. 421, and redraft of proposed protocol enclosed with that instruction, p. 430.

However at a conference held this morning it was agreed that the above paragraph should stand as in the original proposal of the Department.

Sub-paragraph "f". Add at the end the words: "except in those cases specifically modified by this Protocol".

Sub-paragraph "m" omitted.

Sub-paragraph "n" becomes "m". Omits second sentence reading as follows:

"The complete original of any document filed, either in whole or in part, shall be retained in the Agency filing the document and shall be made available for inspection by any authorized representative of the Agent of the other side and, at the request and expense of the latter, a photostat copy of such document shall be provided for use in connection with the next pleadings in the particular case, but not otherwise."

Substitutes therefor the following sentence:

"Where the original of any document or other proof is filed at any Government office on either side, and can not be conveniently withdrawn, and no copy of such document is in the possession of the agent of the Government desiring to present the same to the Commissioners in support of the allegations set out in his pleadings, he shall notify the agent of the other Government in writing of his desire to inspect such document. Should such inspection be refused, then the action taken in response to the request to inspect, together with such reasons as may be assigned for the action taken, shall be reported to the Commissioners, and in turn to the Umpire mentioned in article 5 of this Protocol, so that due notice thereof may be taken."

I saw Dr. Puig this morning and I brought up the point that the period of fifteen years for the payment of Special Claims might be considered too long, calling his attention to the fact that when we had talked about this matter some weeks ago, he had stated that he hoped an en bloc settlement could be reached on both General and Special Claims and that he hoped the Government could pay the total amount at the rate of a million dollars a year. Dr. Puig replied that if we settle only the Special Claims, the Mexican Government could not pay so much a year, in view of other obligations and the fact that in the future they would have to arrange for whatever was awarded in the General Claims. He said that when he had said a million dollars a year it would have been a great strain on the resources of the Treasury. Also he said that if an en bloc settlement is reached for Special Claims on the same basis that Mexico will pay Spain, France, England and other European countries, Mexico would have to meet the obligations due those countries at the same time that it paid the United States on Special Claims.

I hope the Department will find it practicable to agree to the proposal of Dr. Puig. It is not likely that our nationals who have filed

Special Claims will ever receive a larger amount than is now proposed. Inasmuch as the average settlement of the European claims is 2.6%, claims that are practically identical with those of Americans, I do not see how we could insist upon a larger percentage of recovery.

The en bloc settlement of Special Claims will put an end to international controversies growing out of the revolutionary period 1910-1920, during part of which time many revolutionary factions attempted to carry on the functions of government. The details connected with the final figures to be used in the en bloc settlement of Special Claims and the points to be covered in a convention will be submitted later to the Department, after I have had further exchanges of views with the Foreign Office and in the light of any instructions deemed desirable.

Respectfully yours,

JOSEPHUS DANIELS

[Enclosure 1—Translation]

*The Mexican Ministry for Foreign Affairs to the American Embassy*

MEMORANDUM A

FEBRUARY 9, 1934.

Subject: Observations on an En Bloc Agreement, General and Special Claims Commissions.

On his return from Montevideo, and on inquiring about various matters pending with the Government of the United States, Puig has learned with real regret that the question of an en bloc settlement of claims could not, as he had hoped, be decided during his absence.

Believing it his duty to state sincerely, as he has done ever since the announcement of the appointment of Ambassador Daniels, that the lack of an agreement in this matter is the greatest obstacle toward the best development of the excellent relations of friendship and of the marked spirit of coöperation which exist between the Governments and peoples of the United States and Mexico; and making bold to point out the inconveniences and risks of friction which the Claims Commissions have meant for Mexico and the United States, circumstances carefully analyzed in Puig's memorandum to Ambassador Daniels<sup>22</sup> (submitted) even before the presentation of the latter's credentials; and in the fullest spirit of coöperation and cordiality, it is agreed to consider the new plan formulated by Ambassador Daniels, which may be stated as follows:

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<sup>22</sup> Not printed.

a) The signing of a Protocol which, (while) preserving the *status quo* of the General Claims Convention of 1923, and that established in the Extension Convention of 1932 and in the additional Protocol of the same date covering General Claims, shall set a procedure which is deemed more simple and effective than the former one.

b) Once such a protocol is signed, to proceed to an immediate en bloc settlement of the claims included under the Special Convention, and

c) To leave the door open for the possible en bloc settlement, at a later date, of the cases covered by the General Convention.

It is a source of satisfaction to the Government of Mexico that, if only as regards the Special Commission, there now appears to be an agreement of opinion which, although not yet stipulated, may nevertheless be perceived in the conversations and negotiations carried on; and it is also a source of satisfaction that there appears to exist an intention to reach a similar agreement with respect to General Claims,—seeking by the new proposed Protocol, and in view of the lack of lump sum totals (*coincidencias totales*), solely the means which would permit a mutually satisfactory en bloc agreement in the future.

The Government of Mexico can not, however, fail to stress the fundamental importance which a speedy settlement of claims matters has for the desired degree of friendship and closely-knit interests.

The constant state of controversy carries dangerous seed, and at the outset presents obstacles to the nobly ambitious policy of perfecting our international ties, in which (aim) the peoples, the Presidents, and the Secretaries of State of both countries especially concur.

Wherefore, it is desired even at this moment to invoke anew the spirit of conciliation, concord, and active coöperation which animates President Roosevelt, Secretary Hull, and Ambassador Daniels, in order, if possible, and over and above the positions invariably maintained by the experts, that this matter may be considered from the broad view of statesmen, and that its definitive influence on the relations of our peoples and governments may be weighed, in a new attempt to renew conversations in regard to an en bloc settlement of both Claims Commissions.

To the consideration—which, according to the verbal statement of Ambassador Daniels, appears to be paramount in the mind of the Department of State—that all the General Claims should be decided judicially, or the parties given a hearing, which view has led to the presentation of a new Protocol, there could be opposed the indisputable fact that the practice of extending or transforming the Commissions, leaving the judicial system operative, is now condemned by

experience, which has shown the inexpediency of a procedure which invokes the perils of discussion, the prolonged life of the Commissions, and the useless disbursement of considerable sums.

The observation—very reasonable from the point of view of the convenience and domestic political exigencies of the United States—(that it would be well) to retain for the General Claims the possibility, though not immediate, of arbitration, because the Foreign Relations Committee of the Senate appears to believe that a judicial trial of the pending claims is necessary—might be countered on the ground that perhaps there is no reason for making such a distinction between the two Commissions, because what occurs in the General takes place in the Special.

The explanation of the Ambassador that the main reason for his desire, accepted in principle by the Department of State, to liquidate the Special Claims en bloc was that he believed that it behoved the two Governments to avoid political discussions such as those revolving around the Huerta Government, might apply with the same validity to the General Claims, which touch on constitutional matters in some cases and on serious political questions in others, some, like the agrarian claims, being of a nature both political and constitutional; all of which seems to counsel an attempt at a complete en bloc settlement (of all claims).

Having stated the foregoing, the Government of Mexico, prior to indicating, as it will do in Memorandum "B" of even date, the conditions which have now appeared to be acceptable in general to the American Government for the en bloc settlement of the Special Claims, and prior to setting forth, in Memorandum "C", its counter-proposal of Protocol, which it is agreed will be simultaneous with the en bloc agreement, wishes to state that it is willing at any time to negotiate for an en bloc agreement covering both Commissions on the general bases of the Memorandum of September 21, 1933, signed by Puig, and of the memorandum presented by the Oficial Mayor, Jimenez Dominguez, dated October 17, 1933,<sup>33</sup> with the amendments and new positions which may have ensued in the negotiations from September to date; and that the Mexican Government will not refuse to consider any reasonable or equitable suggestion (*solicitud*) of the Government of the United States in the matter of a complete en bloc settlement.

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<sup>33</sup> Neither printed.

[Enclosure 2—Translation]

*The Mexican Ministry for Foreign Affairs to the American Embassy*

## MEMORANDUM B

FEBRUARY 9, 1934.

Subject: Bases for an En Bloc Settlement of Claims Covered by the Special Convention of 1923.

To be deducted from the amount recorded:

1.—

- a) Claims duplicated in the same Commission.
- b) Claims withdrawn and claims decided.
- c) 50% of the claims filed with (*duplicados en*) both Commissions.

2.—

Calculate 2.60% of the net result.

The term of payment to be fifteen years, without interest.

411.12/1754

*The Ambassador in Mexico (Daniels) to the Secretary of State*

No. 1127

MEXICO, February 16, 1934.

[Received February 21.]

SIR: I have the honor to acknowledge the receipt of the Department's instruction number 261 of February 10, 1934, amplifying the views of the Department as contained in its telegram number 15 of February 3, 1934, 3 p. m. that in connection with en bloc negotiations it was considered highly desirable to press for a favorable decision on the protocol suggested by the Department.

The recommendation for an en bloc settlement of both General and Special Claims, which I made in my despatch number 1031 of January 26, 1934, was to offer a suggestion in the event that Minister Puig might decline to agree to the protocol.

Since the above date the situation has changed. Minister Puig's counter proposal involves for General Claims an agreement, with some changes, to the terms of the protocol suggested by the Department, and for Special Claims en bloc settlement on a basis of 2.6%. The counter proposal and my recommendation are discussed at length in the Embassy's despatch number 1094 of February 10, 1934.

Respectfully yours,

JOSEPHUS DANIELS



411.12/1761b

*The Secretary of State to the Ambassador in Mexico (Daniels)*

No. 282

WASHINGTON, March 9, 1934.

SIR: Referring to this Department's instruction of this date<sup>34</sup> concerning the proposed general claims protocol, there is enclosed herewith for your use the draft of a convention providing for a lump sum settlement of the special claims. This convention follows the general lines indicated in Memorandum B, with your despatch No. 1094 of February 10, with, of course, some essential variations.

Several points are involved in this convention which require comment.

*First. The basic amount of claims upon which to compute liability.* This involves several somewhat difficult points. In the first place, it is to be understood, of course, that the basic figure from which to begin the calculation, by the deductions indicated in Article IV of the convention, shall be all claims filed by the United States before the Special Claims Convention. The question as to which of these claims were unnecessarily or improperly filed before the Special Claims Commission because of the fact that the General Claims Commission had jurisdiction over them is, of course, a technical and difficult question. It is not necessary, however, that this question be determined at the present time. It is conceded, of course, that, on the basis of admitted liability, a sufficient amount is owing by the Mexican Government to consume the annual payments, at the rate provided for in the convention, for a considerable number of years. It is only necessary, therefore, to determine at this time the manner in which the net liability is to be determined, leaving to a more propitious occasion the definite determination of that amount. Provision is made in Article V of the convention for such definite determination by the joint action of representatives of the two Governments. This procedure applies alike in the matter of determining the net amount of the claims upon which to compute the liability and the actual percentage of liability to be computed thereupon. It is not, of course, supposed that there has been any error on the part of the Mexican Government in computing the average percentage of liability on the European claims (resulting in the figure of 2.65%). Nevertheless the basic amount of claims to which such percentage is to be applied is so large that even so small an error as one-half of one percent would amount to a difference of approximately \$1,500,000 in the amount of the total liability. Therefore, while the Department is willing to accept the proposal of the Mexican Government that American claims shall be settled by the payment of the average amount found to be due on all similar Euro-

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<sup>34</sup> *Infra.*

pean claims, it does not feel that it could justify before the Senate the application of the percentage indicated by the Mexican Government without making provision in the convention for a careful verification of the percentage calculation by some such method as that provided in Article V. In the matter of determining the basic amount of the special claims and the deductions provided for in Article IV of the convention, it is believed that the results of the adjudications under the proposed general claims protocol and by the Domestic Commission which will distribute the amount to be received from Mexico under the proposed convention will afford very helpful guides, and that, therefore, the appointment by the two Governments of the representatives provided for in Article V of the convention might well be deferred several years, without, however, interfering with the annual payments to be made by the Mexican Government as provided in Article II of the convention.

With reference to the deductions provided for in Article IV, it is to be understood that the subparagraphs in this article have the following meanings:

*"First. Claims heretofore withdrawn, in the amount of \$ . . . . ."* This figure represents only claims withdrawn by the American agents because they had been filed too late and not claims withdrawn by the claimants themselves because of independent settlements with the Mexican Government or for other reasons.

*"Second. Claims decided, in the amount of \$ . . . . ."* The amount represented under this item should be the total amount of claims decided, less the Santa Isabel claims. As you are aware, this Government feels very strongly that at least some indemnity should be paid by the Government of Mexico for the atrocious murders committed in the Santa Isabel case by the agents of Pancho Villa,<sup>35</sup> who was not only treated with great lenity but, in fact, with great consideration after the commission of these atrocities. This Government would feel less keenly on the subject were it not for the fact that the Mexican Government has agreed to pay the British Government on account of the death of certain British subjects which resulted from the same incident appropriate indemnities without regard to the matter of legal liability. Whereas the decision of the Special Claims Commission, United States and Mexico, to which reservation was made by the Agent of the United States, stated there was no legal liability on the part of the Mexican Government in connection with these cases, it is felt that a gross discrimination would be made by the Government of Mexico were it not to concede the same treatment to American citizens in this case as to British nationals, at least in principle. It is not necessary to raise any difficult or embarrassing

<sup>35</sup> See *Foreign Relations*, 1916, pp. 650-683, *passim*.

questions in this connection nor to ask that the Mexican Government take any commitments other than by the stipulation, in this provision of the convention, of the amount of deduction which shall exclude the total amount claimed in the Santa Isabel cases. The result of such fixation of amount of deduction would be simply the payment, by Mexico, on the Santa Isabel cases of the average percentage of liability or the extremely conservative amount of approximately \$32,000, for the deaths of seventeen American citizens whereas the Mexican Government agreed to pay, without regard to the question of legal liability, 39,000 pesos on account of the deaths of but two British nationals. In view of the fact that the Mexican Government did agree so to pay the British Government without regard to the question of legal liability and in view of the fact that this Government has recently paid the Mexican Government liberal indemnity on account of the loss of the lives of two Mexican nationals in the United States,<sup>36</sup> regardless of the fact that there still remain unsatisfied a large number of equally aggravated cases of the deaths of American citizens at the hands of Mexican nationals, it is not believed that the Mexican Government can, with any degree of reason, object to this simple act of justice.

*Third.* One-half of the amount represented by the total claimed in all cases in which the same claim has been filed twice, either for the same or for different amounts, with the Special Claims Commission." This provision seems to be clear as indicating that if, for instance, a claim has been filed twice, once for \$10,000 and once for \$15,000, the amount to be included for the purpose of the lump sum computation shall be one-half of the sum of these two amounts or \$12,500. In case the claim were filed twice for the same amount, it would be included in the lump sum computation at the amount stipulated in each of these pleadings.

*Fourth.* The total of all claims which were improperly filed before the Special Claims Commission, that is to say, those over which the General Claims Commission was given jurisdiction by the General Claims Convention of September 8, 1923." As indicated above, the ascertainment of the exact amount to be deducted for this item is a difficult one and should be deferred for action by a joint committee of the two Governments, as provided by Article V of the convention.

*Interest.* The Department is not unaware of the fact that the Mexican Government has insisted that deferred payments on its special claims liability shall not bear interest and that it will probably object that if interest is included on the deferred payments owing to the United States the European governments will consider they are en-

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<sup>36</sup> See *Foreign Relations*, 1931, vol. II, pp. 708 ff.

titled to equal treatment. This is to be conceded. On the other hand, it is felt that the agreement must include some strong incentive to make payment of the instalments as they become due. The Department has, therefore, suggested, in the enclosed draft of convention, the payment of interest at the rate of one-fourth of one percent for the first year with an increase of one-fourth of one percent for each year thereafter. The net result of that provision, in the event of payment of instalments on due dates, would be the following:

<i>Year</i>	<i>Principal</i>	<i>Rate</i>	<i>Interest Payments</i>
1935	\$500, 000	0	—
1936	500, 000	$\frac{1}{4}$	\$1, 250
1937	500, 000	$\frac{1}{2}$	2, 500
1938	500, 000	$\frac{3}{4}$	3, 750
1939	500, 000	1	5, 000
1940	500, 000	$1\frac{1}{4}$	6, 250
1941	500, 000	$1\frac{1}{2}$	7, 500
1942	500, 000	$1\frac{3}{4}$	8, 750
1943	500, 000	2	10, 000
1944	500, 000	$2\frac{1}{4}$	11, 250
1945	500, 000	$2\frac{1}{2}$	12, 500
1946	500, 000	$2\frac{3}{4}$	13, 750
1947	500, 000	3	15, 000
1948	500, 000	$3\frac{1}{4}$	16, 250
1949	500, 000	$3\frac{1}{2}$	17, 500
Total	\$7, 500, 000	Average 1.8%	\$131, 250

As will be observed, the average percent of interest contemplated by this provision is only 1.8 percent, which rate cannot be objected to by the Mexican Government by any sound reasoning. There are several very good reasons why this interest provision should be included, namely:

*First.* The question as to the advisability of such a provision has been discussed with Senator Pittman, Chairman of the Foreign Relations Committee, who expressed the view that the Convention would be much more likely to be accepted by the Senate with such a provision.

*Second.* In the event of default, the interest obligation would gradually increase not only in amount but in the applicable rate of interest, which fact should afford an important counter-balance to any local influence which might council default or delay of the payments when they become due. Such a counter-balance may prove advantageous alike to both Governments.

*Third.* It is not desired to establish a precedent for the waiving of interest in this class of settlements. An examination of the records with respect to such settlements in the past discloses the fact that this Government has been a party to several lump sum settlements, in each

of which interest was provided for. The rates usually stipulated in those cases were four, five, or six percent. The agreements in question were the following:

1. Brazilian indemnity under the Convention of January 24 [27], 1849,<sup>37</sup> interest at 6 percent.
2. Danish indemnity under Convention of March 28, 1830,<sup>38</sup> interest at 4 percent.
3. French indemnity under Convention of July 4, 1831,<sup>39</sup> interest at 4 percent.
4. Neapolitan indemnity under Convention of October 14, 1832,<sup>40</sup> interest at 4 percent.
5. Spanish indemnity under Convention of February 17, 1834,<sup>41</sup> interest at 5 percent.
6. Peruvian indemnity under Convention of March 17, 1841,<sup>42</sup> interest at 4 percent.
7. Chinese indemnity under Convention of September 7, 1901,<sup>43</sup> interest at 4 percent.
8. In the case of the Chinese indemnity under the Convention of November 8, 1858,<sup>44</sup> the amount distributed to the claimants included interest at the rate of 12 percent for a definite period determined by the Claims Board.

The Convention of 1876 between the United States and Mexico<sup>45</sup> (which, it is understood, the Mexican Government considers a precedent for the elimination of interest in the present instance—see enclosure to your despatch No. 809 of November 17, 1933<sup>46</sup>) does not, in fact, constitute such a precedent since that convention provided for the payment of awards which already included allowances of interest in appropriate cases.

You will appreciate, of course, that any agreement by this Government at this time to the total elimination of interest in such international obligations might be misinterpreted and cause embarrassment in a much broader field. The application of the interest rates mentioned above to the obligations of the Mexican Government to both the United States and the European countries concerned would involve total interest payments of but approximately \$280,000 over a period of fifteen years, or less than an average of \$20,000 per year. While it is believed that it would not be unreasonable to expect this obligation to be paid over a period of ten years, it has been thought more in harmony with

<sup>37</sup> Hunter Miller (ed.), *Treaties and Other International Acts of the United States of America*, vol. 5, p. 507.

<sup>38</sup> *Ibid.*, vol. 3, p. 531.

<sup>39</sup> *Ibid.*, p. 641.

<sup>40</sup> *Ibid.*, p. 711.

<sup>41</sup> *Ibid.*, p. 811.

<sup>42</sup> *Ibid.*, vol. 4, p. 329.

<sup>43</sup> *Foreign Relations*, 1901, Appendix (Affairs in China), p. 312.

<sup>44</sup> Malloy, *Treaties, 1776-1909*, vol. 1, p. 232.

<sup>45</sup> *Ibid.*, p. 1138.

<sup>46</sup> Not printed.

the spirit prompting the present proposal with respect to the settlement of both special and general claims, to concede the full period suggested by the Mexican Government and to insist upon only such a nominal rate of interest as will preserve the principle and serve the purposes indicated in paragraphs "*First*" and "*Second*" last above.

*Evidence.* As has already been indicated in the enclosure with instruction No. 214 of December 16, (See pp. 26-30 and enclosures 6 and 10-1 to 10-14)<sup>47</sup> one of the outstanding disadvantages of en bloc settlements is the difficulty in obtaining the necessary evidence from the foreign country in question to make possible reasonably satisfactory adjudications by domestic tribunals of the claims covered by such settlements. It is felt that it is reasonable to expect and that the Mexican Government will readily agree to provide this Government with all evidence in its possession or obtainable by it to facilitate the proper adjudication of the claims covered by this convention as provided in Article VII thereof.

The Department will be glad to receive and consider such reasonable amendments to this form of convention as the Mexican Government may feel it necessary to propose.

Very truly yours,

For the Secretary of State:  
R. WALTON MOORE

[Enclosure]

*Draft Convention for a Lump Sum Settlement of the Special Claims*

The United States of America and the United Mexican States, desiring to settle and adjust amicably the claims comprehended by the terms of the Special Claims Convention concluded by the two Governments on the 10th day of September, 1923, without resort to the method of international adjudication provided by the said agreement, have decided to enter into a Convention for that purpose, and to this end have nominated as their Plenipotentiaries:

The President of the United States;

The Honorable Josephus Daniels, Ambassador Extraordinary and Plenipotentiary of the United States of America in Mexico, and

The President of the United Mexican States;

The Honorable José Manuel Puig Casauranc, Secretary of State for Foreign Affairs,

Who, after having communicated to each other their respective full powers, found to be in due and proper form, have agreed upon the following articles:

<sup>47</sup> For instruction No. 214 and its enclosed draft protocol regarding general claims, see *Foreign Relations*, 1923, vol. v, p. 814; enclosures under reference not printed.

## ARTICLE I

The special claims of the United States shall be adjusted, settled and forever thereafter barred from further consideration, by the payment by the Government of Mexico to the Government of the United States of a sum of money which shall equal the same proportion of the total amount claimed in all such cases (after the deductions provided for in Article IV hereof), as the total amount found to be due from the Government of Mexico in settlement of all similar claims filed by the Governments of Belgium, France, Germany, Great Britain, Italy and Spain, corresponds to the total amounts claimed by those Governments or their nationals under the terms of similar conventions concluded by the respective Governments and the Government of Mexico during the years . . . . ., that is to say, the amount to be paid by the Mexican Government to the Government of the United States shall be the same percentage of the total amount of the claims filed as the average percentage found to be due on all of the claims filed by the European Governments above mentioned.

## ARTICLE II

The amount provided for in Article I above shall be paid at Washington, in dollars of the United States, at the rate of \$500,000 per annum, beginning January 1, 1935, and continuing until the whole amount thereof shall have been paid.

## ARTICLE III

Deferred payments, by which term is meant all payments made after January 1, 1935, shall bear interest at the rate of one-fourth of one percent per annum for the first year counting from January 1, 1935, and an additional one-fourth of one percent for each additional year thereafter until final payment.

## ARTICLE IV

In computing the total amount of claims mentioned in Article I above, there shall be deducted from the total amount of all special claims filed by the United States under the terms of the Special Claims Convention of September 10, 1923, the following items:

*First.* Claims heretofore withdrawn, in the amount of \$ . . . . .

*Second.* Claims decided, in the amount of \$ . . . . .

*Third.* One-half of the amount represented by the total claimed in all cases in which the same claim has been filed twice, either for the same or for different amounts, with the Special Claims Commission.

*Fourth.* The total of all claims which were improperly filed before the Special Claims Commission, that is to say, those over which the General Claims Commission was given jurisdiction by the General Claims Convention of September 8, 1923.

#### ARTICLE V

For the purpose of determining precisely the proportionate amount of total claims to be paid under this Convention, as provided by Article I above, and the total amount of the claims upon which to compute the obligation, as provided in Article IV above, each Government shall appoint a representative whose joint report, to be made after due conference and consideration, shall be accepted as final.

#### ARTICLE VI

It is agreed that, for the purpose of facilitating a proper distribution by the United States to the respective claimants of the amount to be paid as provided for herein, the Mexican Government shall deliver to the United States, upon request, all evidence in its possession bearing upon the merits of particular claims and to procure, at the cost of the United States, such additional evidence as may be available in Mexico and as may be indicated by the Government of the United States to be necessary to the proper adjudication of particular claims.

#### ARTICLE VII

The present Convention shall be ratified by the High Contracting Parties in accordance with their respective Constitutions, such ratifications being exchanged in Mexico City as soon as practicable and the Convention shall take effect on the date of the exchange of ratifications.

In witness whereof, the respective Plenipotentiaries have signed and affixed their seals to this Convention.

Done in duplicate at Mexico City this . . . . . day of . . . . .  
 . . . . .

411.12/1761a

*The Secretary of State to the Ambassador in Mexico (Daniels)*

No. 283

WASHINGTON, March 9, 1934.

SIR: Referring to your despatch No. 1094 of February 10, 1934, there is enclosed herewith as a basis for your further negotiations with the Mexican Government, a redraft of the proposed protocol with respect to general claims in which are embodied most of the changes suggested by the Mexican Government. The Department's position with respect to all these points is fully explained below.



Before proceeding to comment on this protocol, it is desired to emphasize the facts first, that in order to proceed to the appraisals contemplated by the general claims protocol it is necessary first to obtain an appropriation from Congress; second, that, pursuant to general policy, such appropriation can not properly be requested by the President until the agreement has become definite; third, that it is the hope of the President and the Congress that the latter will be able to adjourn at an early date not to meet again until January, 1935; and, fourth, that consequently, unless the protocol can be signed within the next few weeks, it will probably be impossible to take advantage of its provisions until the middle or latter part of next year, which would be very regrettable. It is desired, therefore, that if any further exchanges of views with respect to the terms of this protocol are necessary before the signature thereof, the cable be used in that connection rather than the mails.

With the urgency of the situation in mind, the protocol was originally drafted with the object of including nothing therein to which the Mexican Government could reasonably object, while at the same time complying substantially with every reasonable desire of that Government, as expressed in the past, for a rapid, simple, inexpensive disposition of the general claims. The protocol has now been rewritten mainly as suggested by the Mexican Government. The changes from the Mexican Government's redrafted copy are shown on enclosure one herewith as follows: Those portions of the Mexican draft which it is desired to omit are included *in brackets*, and those portions which it is desired to substitute therefor or to add are included *in parentheses*. Enclosure two <sup>48</sup> is a redraft of the protocol in final form with these changes made. The following additional comments may prove helpful in making the necessary explanations to the Mexican Foreign Office as to the reasons for these changes:

*Preamble*

*Third paragraph.* Omit the following words: "even in the case that the other claims may at some time be subject to formal arbitration". These words appear to be unnecessary inasmuch as by the preceding words, which were added by the Mexican Government, the agrarian claims are left in the identical status determined by the General Claims protocol of July 18, 1932, and the Mexican Government's position on that matter is made absolutely clear. These additional and somewhat ambiguous words might prove troublesome in connection with those future negotiations regarding the agrarian claims which are contemplated by the protocol of June 18, 1932. If, therefore, these words were added for the purpose of clarity, they are unnecessary. If, on the other

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<sup>48</sup> Not printed.

hand, they were added for the purpose of amplifying the reservation with respect to agrarian claims, it would be necessary to object to them because it is believed that all reasonable concessions have already been made on that point. The paragraph has otherwise been rewritten as suggested by the Mexican Government.

*Protocol proper*

*Section "first", 1st paragraph.* This paragraph remains as rewritten by the Mexican Government except that the words "as provided by the General Claims protocol of June 18, 1932", are inserted in order to make perfectly clear that the reservation made with respect to agrarian claims is exactly that provided by the protocol in question.

*Section "first", 2d paragraph.* The only change made in this paragraph is a typographical correction in the interest of clarity of expression—the word "as" having been substituted for "which is".

*Section "second".* This section has been rewritten exactly as desired by the Mexican Government with the exception of the omission of the words "such of", which are stricken out in order to make the text correspond to the Mexican Government's elimination of the last clause of the original proposal.

*Section "third".* This has been left entirely as approved by the Mexican Government.

*Section "fourth".* This has been left entirely as approved by the Mexican Government.

*Section "fifth".* The Department concurs in the view of the Mexican Government that a limitation of time should be put upon the Umpire for the completion of his work and, therefore, agrees in principle to the change proposed by the Mexican Government. Inasmuch, however, as only the most difficult cases would be referred to the Umpire, and it is impossible to know in advance what number of cases it might be necessary to refer to him, it is thought possible that a provision allowing two years for his work might lead to undue delay if the number of cases referred to him were small, whereas, if the number so referred were large a definite fixation of the period in advance might bring about the necessity for further extension conventions with all the difficulty entailed in such procedure. Moreover, it is believed that if the Umpire were to be required formally to assume in advance an obligation to act with reasonable expedition, the result, both practical and psychological, would be much better. The following substitution is, therefore, strongly recommended:

"The Umpire shall be required to assume the obligation to decide the cases referred to him at the rate of not less than one each week and to suspend his work not more than four weeks in any one calendar year."

This substitution embodies the principles of the Mexican Government's proposed amendment, but, it is believed, in a more practical and more effective manner. Probably not more than one hundred cases would be referred to the Umpire for decision, in which event his whole work would be completed within about the two year period contemplated by the Mexican Government's suggested amendment.

*Section "fifth", last sentence.* The Department notes the substitution suggested by the Mexican Government, but considers that, under the present circumstances, it would be more advisable to eliminate this provision entirely from the protocol. It involves a question which the Department would desire to consider with more deliberation than present circumstances will permit if the protocol is to become effective this year and, since the protocol contemplates a possible en bloc settlement, after the work of the two Commissioners shall have been completed, the question as to the proper procedure for the selection of an Umpire is one which may be avoided entirely by such an en bloc settlement. Should such settlement then prove impossible, however, the two Governments would, at that time, be able to consider the matter in the light of much more definite information concerning the agencies which would be agreed upon to make the selection of the Umpire than at present, since, in the intervening period, there would be the possibility of a complete change of personnel in the agencies heretofore mentioned in this connection.

In other words, the present protocol requires the conclusion of a Convention after the work of the Commissioners provided for therein shall have been completed. If that Convention takes the form contemplated by the first alternative mentioned in the first paragraph of section "*Fifth*" of the protocol, namely, of an en bloc settlement, this question will not arise. If, on the other hand, that Convention takes the form contemplated by the second alternative mentioned in the same paragraph, the proper procedure for selecting the Umpire could be considered more appropriately and more deliberately at that time.

*Section "sixth", subparagraph (a).* There is added at the end of this subparagraph the following words: "which shall not be later than November 1, 1934". Unless this provision is added, the signature of the protocol will still leave the date of its coming into effect entirely indefinite, as a consequence of which fact it would, in any event, be impossible for the agencies to proceed to the organization of their work with any definite schedule of accomplishment in mind. It is believed, therefore, that the Mexican Government will readily agree that this provision should be added. For your confidential information, it may be stated that this provision is considered necessary to give the protocol a sufficient degree of definiteness, after signature, to warrant a request to Congress for an appropriation with which to

initiate the necessary preliminary work on the general claims to make possible a compliance with the protocol within two years after it becomes effective. It is probably inadvisable to explain this latter point to the Mexican Government. It is desired, however, that you insist upon the inclusion of this provision.

*Section "sixth", subparagraphs (b) and (c)* remain as left by the Mexican Government.

*Section "sixth", subparagraph (d)*. The following substitute has been included as subparagraph (d) :

"With the Memorial the claimant Government shall file all the evidence on which it intends to rely. With the Answer the respondent Government shall file all the evidence on which it intends to rely. No further evidence shall be filed by either side except such evidence, with the Brief, as rebuts evidence filed with the Answer. Such evidence shall be strictly limited to evidence in rebuttal and there shall be explained at the beginning of the Brief the alleged justification for the filing thereof. If the other side desires to object to such filing, its views may be set forth in the beginning of the Reply Brief, and the Commissioners, or the Umpire, as the case may require, shall decide the point, and if it is decided that the evidence is not in rebuttal to evidence filed with the Answer, the additional evidence shall be entirely disregarded in considering the merits of the claim.

"The two Commissioners, or the Umpire, may at any time order the production of further evidence."

It is noted that the Mexican Government has suggested the elimination of a provision for the filing of rebuttal evidence with the Brief of the claimant Government on the ground that this provision makes possible the presentation of evidence over an "indefinite period". The draft protocol submitted by the United States contemplated a reduction in the number of pleadings by eliminating the presentation of Replies and providing for the filing, with the claimant's next succeeding document, rebuttal evidence which has ordinarily accompanied Replies. This procedure was followed with satisfactory results in the recent arbitration between the United States and Panama, was not found objectionable by either side, and tended to expedite the completion of cases for hearing.

It would seem fundamental that the issues of fact should be clarified as much as possible in order that the Commissioners, or the Umpire, may find it possible to reach a just appraisal of the rights of both Governments. The Department is impressed by the fact that, in the arbitral proceedings thus far conducted, both Governments have found it imperative, in certain cases, to submit evidence after all pleadings and briefs had been completed. And despite the liberality of the practice heretofore followed in this regard, it is significant that the Commission frequently found it necessary to order the production of still further evidence to clarify important questions of fact in dispute between the parties.

Aside from the fact that the procedure suggested by the United States does not, as alleged by Mexico, provide an indefinite period for the filing of evidence, it is believed that the inclusion of a provision for the filing of rebuttal evidence is necessary to safeguard the rights of both Governments. As a practical example of the necessity for such a provision, attention may be invited to a case which arose in a recent arbitration to which the United States was a party. The point at issue was that as to whether the claimant had been permitted to withdraw funds on deposit to his credit in a banking institution. The respondent Government submitted in evidence a document, duly executed by the appropriate officials of the bank in question, certifying that the claimant had withdrawn the funds in the year 1922. The claimant was able to submit, in rebuttal, evidence in the nature of monthly statements of account issued to him by the same bank over a period of years after 1922, showing that the funds in question had not been paid to him but had, according to the bank's records, remained in his account. It was clear that the bank had simply made an error. The provision for the filing of rebuttal evidence in that case prevented the perpetration of a gross injustice as the result of that error. In the present arbitration either government might present a claim, for example, on behalf of one Jorge González, as a citizen, and the respondent Government might submit with its answer a certificate showing that one Jorge González had long since been naturalized as a citizen of the respondent Government. Under the procedure suggested by Mexico, the claim must be disallowed on jurisdictional grounds even though the claimant Government may possess conclusive evidence that Jorge González, the claimant, and the Jorge González who was naturalized, are entirely different persons.

The United States proposed that no evidence be submitted with the Brief except evidence strictly in rebuttal to evidence filed with the Answer, and, with a view to assuring compliance with this limitation, the original draft has been amended to provide for the rejection by the Commissioners, or the Umpire, of any evidence not so strictly limited in character. It may be observed that in the practice heretofore followed cases were frequently briefed and submitted for hearing in which the right granted by the rules to file evidence with the Reply was not exercised. The United States does not anticipate that the limited right herein proposed shall be exercised with frequency in the future, especially in the cases in which Memorials and Answers are prepared and submitted under the procedure provided for in the proposed protocol. However, it regards the maintenance of the right, in appropriate cases, a matter of importance, not only to the United States but to Mexico as well.

It will be noted that there has been added an additional provision authorizing the two Commissioners, or the Umpire, to order the pro-

duction of additional evidence at any time. It is not anticipated that the Mexican Government will interpose any serious objection to the addition of this proposal which is designed to assist the Commissioners, or Umpire, in reaching a just appraisal of the claims.

*Section "sixth", Subparagraph (e)* remains as left by the Mexican Government.

*Section "sixth", subparagraph (f)*. The Department agrees in principle to the addition made by the Mexican Government. It is believed, however, that, in order to remove any possibility of a criticism to the effect that the substance of the general claims convention has been changed by the protocol, it is preferable to express the desired addition of the Mexican Government in the following language: "except in so far as concerns the matter of procedure, which shall be that provided for herein". It is to be observed in this connection that the comments of the Mexican Government on this change indicate clearly that what was in contemplation in making the change was the procedure provided for by the protocol. This substitution of language to express the wishes of the Mexican Government will, therefore, doubtless be found acceptable.

*Section "sixth", subparagraph (g)* left in the form accepted by the Mexican Government.

*Section "sixth", subparagraph (h)*. It is noted that the Mexican Government desires to eliminate the ten percent flexibility in the matter of filing claims on the basis of the Agents' advance notice with respect to the claims to be filed by them. It is not believed desirable, however, to make this change. While it should not occasion either Agency any difficulty, six months after the initiation of the pleading work to indicate rather definitely the total number of claims to be filed by its Government, it is almost inevitable that unforeseen contingencies will arise to make impossible an absolutely accurate statement on this point one year or more before the expiration of the period for filing memorials. Unless, therefore, some relaxation is made from this provision to cover such contingencies, it is not improbable that the Agents might undertake to provide against such contingency by notifying more claims than they really intend to plead which would destroy the real purpose intended to be served by this provision. The only other alternative would probably be a further international agreement, the necessity for which it is desirable to avoid, if possible. The very contemplation by the protocol of such a possible future agreement might lead to laxity on the part of the Agencies in the matter of giving advance notification. It is upon the relative accuracy of such advance notifications that the systematic and successful operation of the present plan largely depends.

*Section "sixth", subparagraphs (i), (j), (k) and (l)* left as changed by the Mexican Government.

*Section "sixth", original subparagraph (m).* The Department feels that the Mexican Government may have made a fundamental change in this respect without due reflection as to the possibilities to result therefrom. It is the almost uniform experience of this Government that, in the general working of agencies in connection with the pleading of large numbers of cases, there is an inclination somewhat to disregard prescribed periods for the filing of pleadings. It is believed that it is reasonable to expect that, in the stress of the work which will necessarily attend the pleading of all the remaining general claims within a period of two years, it will be found difficult, in many cases, strictly to comply, within a few days, with the periods prescribed in the protocol as originally drafted, namely, seventy days in each case. It would be most unfortunate to permit the filing periods prescribed by the protocol to remain absolutely rigid without any provision to care for emergencies and yet, at the same time, to provide sufficient sanctions to impel the Agents to advance the work in a systematic and orderly fashion. It is to be borne in mind that there is to be no Commission to issue orders or enforce the terms of the protocol and that, therefore, in the absence of such sanctions in the protocol, the inevitable result of inability or refusal to comply with the protocol by filing pleadings within the periods prescribed would be just that kind of friction and paralysis of the work which obtained in the past and which it is the whole purpose of this protocol to make impossible in future. It is, therefore, desired to insert as paragraph "m" of the protocol, the following provision to which, it is strongly felt, the Mexican Government cannot, with good reason, object:

"(m). In view of the herein prescribed limitations upon the time allowed for the completion of the work of the Agencies and the Commissioners, it is recognized that the success of this simplified plan of procedure depends fundamentally upon the prompt and regular filing of pleadings in accordance with the provisions of this section. It is agreed, therefore, that any pleading which shall be filed more than thirty days after the due date for the filing thereof, shall be disregarded by the Commissioners and the Umpire and that the respective case shall be considered by them upon the pleadings preceding the tardy pleading unless, by agreement of the two Governments, the continued pleading of the respective case shall be resumed."

It is believed that you will have no difficulty in explaining to the Mexican Government that the clear purpose of this provision is, not to prescribe any unreasonable requirement, or any requirement differing in principle from those found in the rules under which most of the municipal courts of the world operate, but to place upon the respective Agents only a sufficient degree of responsibility for efficiently progressing the work as to insure compliance with the provisions of the

protocol, which appears to be the only possible method by which a continuation of the friction and fruitless efforts of the past can be avoided.

*Section "sixth", original subparagraph (n).* The following is a proposed substitute to reconcile the wishes of both sides:

"It shall not be necessary to attach original evidence to the pleadings but all documents hereafter submitted as evidence shall be certified as true and complete copies of the original, if they be such. In the event that any particular document filed is not a true and complete copy of the original that fact shall be so stated in the certificate. The complete original of any document filed, either in whole or in part, shall be retained in the Agency filing the document and shall be made available for inspection by any authorized representative of the Agent of the other side.

"Where the original of any document or other proof is filed at any Government office on either side, and cannot be conveniently withdrawn, and no copy of such document is in the possession of the Agent of the Government desiring to present the same to the Commissioners in support of the allegations set out in his pleadings, he shall notify the Agent of the other Government in writing of his desire to inspect such document. Should such inspection be refused, then the action taken in response to the request to inspect, together with such reasons as may be assigned for the action taken, shall be reported to the Commissioners and, in turn, to the Umpire mentioned in article 5 of this Protocol, so that due notice thereof may be taken."

The first sentence of the above has been amended to meet the objection interposed by the Mexican Government. The last paragraph above, as proposed by Mexico, does not appear to cover the situation contemplated by the second sentence of this section as contained in the original draft. That original proposal was designed to provide for the inspection by one party of the originals of documents submitted, in whole or in part, by the other party, while the proposal submitted by Mexico appears to relate to a situation in which one party desires to present in evidence documents in the possession of the other party, but not introduced into evidence.

The addition proposed by Mexico appears unobjectionable and has been incorporated in toto in the above provision. However, the original proposal of the United States, covering a different situation, has been reincorporated in an amended form but omitting provision for the making of photostat copies, in order to comply with the apparent wishes of the Mexican Government. Since, the Department understands, the procedure contemplated by this proposal has, to a certain extent, been heretofore observed by both agencies, it is not believed that the Mexican Government will object to its inclusion.

The above suggestions and changes in the protocol represent a most liberal attitude on the part of this Government in order to meet the wishes of the Mexican Government in every reasonable respect so that



the protocol may be promptly signed and put into effect. It is to be understood, and should be so explained to the Mexican Government, that in the event that that Government shall not promptly agree to the protocol in its present form, or to such minor changes as can promptly be arranged by cable, and a consequent delay results which makes it impossible to obtain from Congress, during the present session, the necessary appropriation with which to initiate the work on general claims this year, the Department reserves the right to reconsider the protocol in its entirety in a more detailed and more deliberate manner or to proceed to the adjudication of the claims under the existing Convention extending the duration of the General Claims Convention. It is felt that altogether too much valuable time has already elapsed without sufficiently substantial accomplishments in this matter and that, consequently, the present situation is one which requires the prompt subordination of unessential details to the essential conclusion of the work.

There is being transmitted to you under separate cover a draft of a convention for a lump sum settlement of special claims,<sup>49</sup> as proposed by the Mexican Government. You may advise the Foreign Office that the Department agrees in principle to the conclusion of such a Convention, providing for the settlement of American special claims by the payment by Mexico of a percentage of American claims equal to the average percentage found to be due by Mexico on the special claims presented by the six European Governments. It may, however, require several exchanges of views, by mail, to arrive at complete understanding with respect to the terms of such a convention. Meanwhile, it is desired to sign the general claims protocol in order that the necessary appropriation to permit initiation of the general claims work may be promptly requested from Congress. The Department desires, therefore, that you exert every effort possible to insure the signature of the general claims protocol at once and without waiting the signature of the special claims convention.

Very truly yours,

For the Secretary of State:  
R. WALTON MOORE

[Enclosure]

*Redraft of Proposed Protocol With Respect to General Claims*

Josephus Daniels, Ambassador Extraordinary and Plenipotentiary of the United States of America to the Government of Mexico, and . . . . . Secretary for Foreign Affairs of the Republic of Mexico, having communicated to each other their respective full powers, found in good and due form, have agreed on behalf of their two Governments to conclude the following protocol:

<sup>49</sup> *Supra.*

WHEREAS, It is the desire of the two Governments to settle and liquidate as promptly as possible those claims of each Government against the other which are comprehended by, and which have been filed in pursuance of, the General Claims Convention between the two Governments, concluded on September 8, 1923;

WHEREAS, It is not considered expedient to proceed, at the present time, to the formal arbitration of the said claims in the manner provided in that Convention;

WHEREAS, It is considered to be conducive to the best interests of the two Governments, to preserve the *status quo* of the General Claims Convention above mentioned and the Convention extending the duration thereof, which latter was concluded on June 18, 1932, as well as the agreement relating to agrarian claims under Article I of the additional Protocol of June 18, 1932, [even in the case that the other claims may, at some time, be subject to formal arbitration];

WHEREAS, It is advisable to endeavor to effect a more expeditious and more economical disposition of the claims, either by means of an en bloc settlement or a more simplified method of adjudication, and

WHEREAS, In the present state of development of the numerous claims the available information is not such as to permit the two Governments to appraise their true value with sufficient accuracy to permit of the successful negotiation of an en bloc settlement thereof at the present time;

THEREFORE, It is agreed that:

*First*—the two governments will proceed to an informal discussion of the agrarian claims now pending before the General Claims Commission, with a view to making an adjustment thereof that shall be consistent with the rights and equities of the claimants and the rights and obligations of the Mexican Government, (as provided by the general claims protocol of June 18, 1932). Pending such discussion no agrarian claims will be presented to the Commissioners referred to in article 3 nor, in turn, to the Umpire referred to in article 5 of this Protocol; but memorials of cases not yet memorialized may be filed in order to regularize the awards made upon the agreed adjustments.

Consequently, the subsequent provisions of this Protocol shall apply to agrarian claims only insofar as they do not conflict with the status thereof, [which is] (as) exclusively fixed by the terms of the agreed article of the additional protocol to the extension of the General Claims Convention, signed in 1932.

*Second*, the two Governments shall proceed, in accordance with the provisions of paragraph "*Sixth*" below, promptly to complete the written pleadings in [such of] the remaining unpleaded and incompletely pleaded cases.

*Third*, each Government shall promptly designate, from among its own nationals, a Commissioner, who shall be an outstanding jurist

and whose function it shall be to appraise, on their merits, as rapidly as possible, the claims of both Governments which have already been fully pleaded and those in which the pleadings shall be completed in accordance herewith.

*Fourth*, six months before the termination of the period herein agreed upon for the completion of the pleadings referred to in Article six or at an earlier time should they so agree, the said Commissioners shall meet, at a place to be agreed upon by them, for the purpose of reconciling their appraisals. They shall, as soon as possible, and not later than six months from the date of the completion of the pleadings, submit to the two Governments a joint report of the results of their conferences, indicating those cases in which agreement has been reached by them with respect to the merits and the amount of liability, if any, in the individual cases and also those cases in which they shall have been unable to agree with respect to the merits or the amount of liability, or both.

*Fifth*, the two Governments shall, upon the basis of such joint report, and with the least possible delay, conclude a convention for the final disposition of the claims, which convention shall take one or the other of the two following forms, namely, first, an agreement for an en bloc settlement of the claims wherein there shall be stipulated the net amount to be paid by either Government and the terms upon which payment shall be made; or, second, an agreement for the disposition of the claims upon their individual merits. In this latter event, the two above-mentioned Commissioners shall be required to record their agreements with respect to individual claims and the bases upon which their conclusions shall have been reached, in the respective cases.

The report shall be accepted, by the convention to be concluded by the two Governments, as final and conclusive dispositions of those cases. With respect to those cases in which the Commissioners shall not have been able to reach agreements, the two Governments shall, by the said convention, agree that the pleadings in such cases, together with the written views of the two Commissioners concerning the merits of the respective claims, be referred to an Umpire, [whose written decisions thereon shall be rendered within two years from the date they are submitted]. (The Umpire shall be required to assume the obligation to decide the cases referred to him at the rate of not less than one each week and to suspend his work not more than four weeks in any one calendar year.) These decisions shall also be accepted by the two Governments as final and binding. [The Umpire shall be chosen by joint action of the President of the Permanent Administrative Council of the Permanent Court of Arbitration at The Hague, the President of the Permanent Court of International Justice and the President of the High Court of Justice of Uruguay.]

*Sixth*, the procedure to be followed in the development of the pleadings, which procedure shall be scrupulously observed by the Agents of the two Governments, shall be the following:

(a) The time allowed for the completion of the pleadings shall be two years counting from a date hereafter to be agreed upon by the two Governments by an exchange of notes, (which shall not be later than November 1, 1934).

(b) The pleadings of each Government shall be filed at the Embassy of the other Government.

(c) The pleadings to be filed shall be limited in number to four, namely, Memorial, Answer, Brief and Reply Brief. Only three copies of each need be presented to the other Agent, but four additional copies shall be retained by the filing Agency for possible use in future adjudication. Each copy of Memorial, Answer and Brief shall be accompanied by a copy of all evidence filed with the original thereof. The pleadings, which may be in either language at the option of the filing Government, shall be signed by the respective Agents or properly designated substitutes.

(d) With the Memorial the claimant Government shall file all the evidence on which it intends to rely. With the Answer the respondent Government shall file all the evidence upon which it intends to rely. No further evidence shall be filed by either side (except such evidence, with the Brief, as rebuts evidence filed with the Answer. Such evidence shall be strictly limited to evidence in rebuttal and there shall be explained at the beginning of the Brief the alleged justification for the filing thereof. If the other side desires to object to such filing, its views may be set forth in the beginning of the Reply Brief, and the Commissioners, or the Umpire, as the case may require, shall decide the point, and if it is decided that the evidence is not in rebuttal to evidence filed with the Answer, the additional evidence shall be entirely disregarded in considering the merits of the claim.)

(The two Commissioners, or Umpire, may at any time order the production of further evidence.)

(e) In view of the desire to reduce the number of pleadings to a minimum in the interest of economy of time and expense, it shall be the obligation of both Agents fully and clearly to state in their Memorials the contention of the claimant Government with respect to both the factual bases of the claims in question and the legal principles upon which the claims are predicated and, in the Answer, the contentions of the respondent Government with regard to the existence and significance of the facts which it considers to be established by the evidence and the principles of law upon which the defense of the case rests. In cases in which Answers already filed or hereafter filed do not sufficiently meet this provision so as to afford the claimant

Government an adequate basis for preparing its legal Brief with full general knowledge of the factual and legal defenses of the respondent Government, it shall have the right to file a Counter Brief within thirty days following the date of filing the Reply Brief.

(*f*) For the purposes of the above pleadings, as well as the appraisals and decisions of the two Commissioners and the decisions of the Umpire, above mentioned, the provisions of the General Claims Convention of September 8, 1923, shall be considered as fully effective and binding upon the two Governments, [except in those cases specifically modified by this protocol.] (except insofar as concerns the matter of procedure, which shall be that provided for herein.)

(*g*) Whenever practicable, cases of a particular class shall be grouped for memorializing and/or for briefing.

(*h*) In order that the two Agents may organize their work in the most advantageous manner possible and in order that the two-year period allowed for pleadings may be utilized in a manner which shall be most equitable to both sides, each Agent shall, within thirty days from the beginning of the two-year pleading period, submit to the other Agent a tentative statement showing the total number of Memorials and Briefs such Agent intends to file. Six months after the beginning of the two-year pleading period, the two Agents shall respectively submit in the same manner statements setting out definitely by name and docket number the claims in which it is proposed to complete the pleadings, indicating those in which they intend to combine cases in the manner indicated in paragraph (*g*) above. The number of pleadings so indicated shall not, except by later agreement between the two Governments, be exceeded by more than ten percent.

(*i*) In order to enable the Agencies to distribute their work equally over the two-year pleading period, each Agency shall be under the obligation to file its Memorials at approximately equal intervals during the first seventeen months of the two-year period, thus allowing the remaining seven months of the period for the completion of the pleadings in the last case memorialized.

The same obligation shall attach with respect to the filing of the pleadings referred to in paragraph (*k*) below.

(*j*) The time to be allowed for filing Answers shall be seventy days from the date of filing Memorials. The time to be allowed for filing Briefs shall be seventy days from the date of filing the Answers. The time to be allowed for filing Reply Briefs shall be seventy days from the date of filing the Briefs.

(*k*) In those cases in which some pleadings were filed with the General Claims Commission before the date of signature hereof, the Agency which has the right to file the next pleading shall be allowed

to determine when that pleading shall be filed, taking into consideration the necessity of complying with the provisions of paragraph (i) above.

(l) In counting the seventy-day periods mentioned in paragraph (j) above, no deductions shall be made for either Sundays or holidays. The date of filing the above described pleadings shall be considered to be the date upon which they shall be delivered at the Embassy of the other Government. If the due date shall fall on Sunday or a legal holiday, the pleading shall be filed upon the next succeeding business day. The two Governments shall, for this purpose, instruct their respective Embassies to receive and give receipts for such pleadings any week-day between the hours of 10 and 16 (4 p. m.) except on the following legal holidays:

<i>In Mexico</i>	<i>In the United States</i>
January 1	January 1
February 5	February 22
May 1	May 30
May 5	July 4
September 14	The first Monday in September
September 15	
September 16	The last Thursday in November
October 12	
November 20	December 25
December 25	
December 31	

((m) In view of the herein prescribed limitations upon the time allowed for the completion of the work of the Agencies and the Commissioners, it is recognized that the success of this simplified plan of procedure depends fundamentally upon the prompt and regular filing of the pleadings in accordance with the provisions of this section. It is agreed, therefore, that any pleading which shall be filed more than thirty days after the due date for the filing thereof, shall be disregarded by the Commissioners and the Umpire, and that the respective case shall be considered by them upon the pleadings preceding the tardy pleadings, unless, by agreement of the two Governments, the continued pleading of the respective case shall be resumed.)

[(m) It shall not be necessary to attach original evidence to the pleadings but all documents submitted as evidence shall be certified as true and correct copies of the original, or, in the event that any particular document filed is not a true and correct copy, the nature of the difference between it and the original copy shall be stated in the certificate.]

[Where the original of any document or other proof is filed at any Government office on either side, and can not be conveniently withdrawn, and no copy of such document is in the possession of the agent

of the Government desiring to present the same to the Commissioners in support of the allegations set out in his pleadings, he shall notify the agent of the other Government in writing of his desire to inspect such document. Should such inspection be refused, then the action taken in response to the request to inspect, together with such reasons as may be assigned for the action taken, shall be reported to the Commissioners and, in turn, to the Umpire mentioned in article 5 of this Protocol, so that due notice thereof may be taken.]

(n) It shall not be necessary to attach original evidence to the pleadings but all documents hereafter submitted as evidence shall be certified as true and complete copies of the original, if they be such. In the event that any particular document filed is not a true and complete copy of the original that fact shall be so stated in the certificate. The complete original of any document filed, either in whole or in part, shall be retained in the Agency filing the document and shall be made available for inspection by any authorized representative of the Agent of the other side.)

(Where the original of any document or other proof is filed at any Government office on either side, and can not be conveniently withdrawn, and no copy of such document is in the possession of the Agent of the Government desiring to present the same to the Commissioners in support of the allegations set out in his pleadings, he shall notify the Agent of the other Government in writing of his desire to inspect such document. Should such inspection be refused, then the action taken in response to the request to inspect, together with such reasons as may be assigned for the action taken, shall be reported to the Commissioners and, in turn, to the Umpire mentioned in article 5 of this Protocol, so that due notice thereof may be taken.)

411.12/1765 : Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, March 14, 1934—5 p. m.

[Received 10: 55 p. m.]

23. Referring to Department's instruction No. 283, March 9, 1934, relating to protocol for general claims, the Foreign Office is unofficially agreeable to the draft of protocol suggested by the Department with the following changes:

Page 6 Department's draft line 6<sup>50</sup> after the word "Umpire" omit all matter to the end of page. In place thereof substitute a paragraph reading substantially as follows: "All matters relating to the designation of an Umpire, time within which his decisions should be rendered and general provisions relating to his work shall be fixed

<sup>50</sup> *Ante*, p. 432, par. 3, l. 7.

in a convention to be negotiated under the provisions of article 5 of this protocol."

Page 8 paragraph "d" lines 7 and 15<sup>51</sup> after the word "Answer" insert the following: "and Reply Brief". This addition would enable the responsible [*respondent*] Government to present rebuttal evidence if found necessary.

Page 9 second line<sup>52</sup> omit the words "or Umpire". Page 9 line 15<sup>53</sup> omit all matter after the word "rests" to the end of paragraph.

Page 14 second line<sup>54</sup> omit the words "more than 30 days". It is thought that they may lead to ambiguities in view of the provisions of (j) paragraph 6.

The Foreign Office feels that for the protocol no additional powers are required as described in the first paragraph of suggested protocol. Does the Department concur in this and the suggested changes in the protocol? Please advise by telegraph.

I had a conference with Foreign Minister Puig this afternoon at which I presented the draft of the special claims convention suggested by the Department in its instruction No. 282 of March 9, 1934. Minister Puig indicated that there would be no difficulty regarding the protocol of general claims along the lines discussed by Colonel Moreno and Licenciado Sierra but that in the draft of the special convention the introduction of the Santa Isabel issue reopened a situation that would result in difficulties in the Mexican Senate. He stated that he had anticipated simultaneous action on the protocol and convention. Minister Puig stated that he would not be able to discuss with President Rodriguez the matter of the general claims protocol and of the suggested terms of the special convention until the return of the President to Mexico City, who will not return to the city under five or six days and that he would see me again on Friday, March 23, when he hoped to give to me the views of the President.

I may add that not much progress can be anticipated in the negotiation from March 23 to April 1st owing to the annual Spring vacation in all government offices.

DANIELS

411.12/1765 : Telegram

*The Secretary of State to the Chargé in Mexico (Hawks)*

WASHINGTON, March 16, 1934—noon.

35. Your cables No. 23, March 14, 5 p. m., and No. 24, March 15, 10 a. m.<sup>55</sup> Department considering suggested changes but desires

<sup>51</sup> *Ante*, p. 433, par. (d), l. 5 and 12.

<sup>52</sup> *Ante*, p. 433, par. (d), l. 14.

<sup>53</sup> *Ante*, p. 433, par. (e), l. 10.

<sup>54</sup> *Ante*, p. 435, par. (m), l. 6.

<sup>55</sup> Latter not printed.



clarification of specific change for page 8. It is meaningless to insert "and reply brief" after "answer" in the two lines mentioned in your cable.

HULL

411.12/1767 : Telegram

*The Chargé in Mexico (Hawks) to the Secretary of State*

MEXICO, March 17, 1934—10 a. m.

[Received 1 p. m.]

28. Referring to Department's telegram No. 35, March 16, noon, as a result of further conference with Foreign Office officials, changes on page 8 would read as follows: lines 10 and 11<sup>56</sup> "evidence, with the Brief and Reply Brief, as rebuts evidence, filed with the Answer and Brief, et cetera". Line 19<sup>57</sup> would read: "evidence filed with the Answer or Brief, the additional evidence".

HAWKS

411.12/1765 : Telegram

*The Secretary of State to the Chargé in Mexico (Hawks)*

WASHINGTON, March 21, 1934—1 p. m.

37. Your cables No. 23, March 14, 5 p. m., No. 24, March 15, 10 a. m.,<sup>58</sup> and No. 28, March 17, 10 a. m. Assuming that suggestions contained in your 23, March 14, represent official position of Foreign Office, following comment is submitted for your use in reply thereto:

1. Department has no serious objection to suggested change on page 6 of draft Protocol. It is assumed, however, that by "line 6" in first paragraph your cable No. 23 is meant "line 5". Since the suggested substitution would occur in Article 5, it is believed that the following words at the end of the suggested paragraph "Article 5 of this Protocol" might be replaced by "of this Article".

2. Department is unable to agree to the proposed change in paragraph (d), page 8, of Protocol, as explained in your 28, March 17, 10 a. m. If evidence is filed by the respondent Government with reply brief, it would be necessary to give the claimant Government the right to file another pleading in which it could discuss the evidence submitted with the reply brief. This would disrupt the whole plan of simplified procedure. Paragraph (d), as presented in our draft, contemplates that all evidence shall be filed with the Memorial and Answer, except that evidence may be filed with the brief to rebut evidence filed with the answer. This would appear to be fair to both sides, and

<sup>56</sup> *Ante*, p. 433, par. (d), l. 5.

<sup>57</sup> *Ante*, p. 433, par. (d), l. 12.

<sup>58</sup> Telegram No. 24 not printed.

is in keeping with the desire expressed by both Governments for simplified procedure. Since the Agent for the defendant Government will be obligated to file all of the evidence in defense of the claim with the answer, and since the evidence which may be filed with the brief will be strictly limited to evidence in rebuttal to that filed with the answer, the rights of the respondent Government would be fully protected by the procedure set forth in the draft as submitted. It is hoped that you will be able to convince the Mexican Government that no change in the draft in this respect should be made.

3. Department has no objection to omission of word "umpire", second line, page 9.

4. Department considers that suggestion that all matter following the word "rests", line 15, page 9, to end of paragraph, is too sweeping as regards cases in which answers have already been filed. These answers were filed under the old system of pleading. Many of them consisted merely of a denial of the allegations in memorials. Such an answer would not afford the claimant Government sufficient information on which to base an adequate argument in support of the claim in the brief, since it would not disclose the factual and legal defenses of the respondent Government which, under such circumstances, would first appear in the reply brief. It would therefore seem to be only fair that in such cases the claimant Government should have an opportunity, if it should so desire, to file a counter-brief. You may, if necessary, compromise on the Mexican proposal by omitting from line 16, page 9, the words "or hereafter filed". Such a change would limit the filing of counter-briefs to those cases in which the answers have already been filed.

5. Page 14, line 2. Department considers that the 30-day provision is desirable, and will be found to be most helpful to the Agents of both Governments at times when, because of involved nature and number of pleadings under consideration, or other unforeseeable contingencies, it may be difficult to file all the pleadings within the time specified in paragraph (j) of Article 6. It is believed that a comparison of the reasons for and advantages in retaining the provision with those against it should satisfy the Mexican authorities that it should be retained. For assistance to you in the discussion of the subject with the Mexican authorities, see also the comments on pages 12 and 13 of instruction 283, March 9.<sup>59</sup>

6. Department concurs in view of Foreign Office that no additional powers are required for the signing of the Protocol, as implied by the first paragraph draft. The reference to full powers may be omitted.

7. It is hoped that the Protocol may now be agreed upon, with only those changes indicated herein.

8. Special Convention :

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<sup>59</sup> *Ante*, pp. 428-429.

The Department notes your report regarding the Santa Isabel cases. For the reasons stated in paragraph beginning at bottom of page 2 of instruction No. 282, March 2 [9],<sup>60</sup> Department feels very strongly that some provisions should be made for these cases. Department is not so much concerned as to the form that such provision shall take so long as the desired results are attained.

You are requested to urge this point as vigorously as possible, since failure to make some provision for the Santa Isabel cases, in view of the fact that an allowance was made to the British Government in cases growing out of the same incident, might greatly jeopardize the chances for obtaining Senatorial approval of the Convention.

You are, of course, aware of the necessity for prompt action, particularly with respect to the Protocol concerning general claims, in view of the fact that appropriations will have to be obtained for the expenses of this Government. And that should be effected if possible during present session of Congress.

HULL

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411.12/1769 : Telegram

*The Chargé in Mexico (Hawks) to the Secretary of State*

MEXICO, March 22, 1934—5 p. m.

[Received 10:30 p. m.]

30. Referring to Department's telegram No. 37, March 21, 1 p. m. As Embassy's No. 1224, March 16, 1934<sup>61</sup> is not mentioned in the Department's telegram it would seem that despatch had not been received at the time the Department's instructions were drafted and that reasons advanced by the Foreign Office for suggested changes and discussed in enclosure 6 of despatch had not been taken into consideration. Does reading of despatch and enclosure change the point of view of the Department?

In connection with special convention mentioned in paragraph 8 of the Department's telegram the Embassy does not understand "Notes your recommendations regarding Santa Isabel cases". It has refrained so far from submitting to the Department any reasons pending receipt of an official answer from the Foreign Office. The Embassy has only transmitted the first impression of the Foreign Minister as communicated verbally to the Ambassador. Foreign Minister informed Embassy on March 17 that as President was not returning to Mexico City as originally planned the question of the protocol and convention would be taken up through the Secretary to the President

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<sup>60</sup> *Ante*, p. 415, paragraph beginning "Second. Claims decided . . ."

<sup>61</sup> Despatch and its enclosures not printed.

who left Mexico City this morning to confer with the Executive and that the Embassy would be advised as soon as decision of the President was known.

HAWKS

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411.12/1771 : Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, March 24, 1934—5 p. m.

[Received 10:25 p. m.]

33. At a conference today with the Minister of Foreign Affairs he informed me he could not discuss definitively terms of protocol and of special convention until he had heard from President Rodriguez who is still away. He gave me an advance copy of changes in the Department's draft on the special convention which he had submitted to the President with his recommendations. Briefly the changes cover: article I to simplify language; article III reducing rate of interest, although there is no commitment to accept the principle of interest; article IV prescribing procedure for duplicated claims; article VI making certain reservations regarding evidence. I brought up again the matter of Santa Isabel cases reaffirming the views of the Department as communicated in the Department's instruction Number 282 of March 9, and its telegram Number 37, March 21, 1 p. m. Foreign Minister informed me he could not reopen these cases which he considered closed by the decision of the Commission. I also mentioned the views of the Department in its telegram Number 37, of March 21 covering changes in protocol. Foreign Minister informed me he would have to await recommendations from his advisers who are away for the Spring annual vacations as reported in the Embassy's telegram Number 23 of March 14. Memorandum of conversation being forwarded by air mail despatch leaving here Sunday.<sup>62</sup> Translation of proposed changes in draft of special convention and my comments thereon will be forwarded by air mail Tuesday. Foreign Minister made no other reference to protocol.

DANIELS

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411.12/1769 : Telegram

*The Secretary of State to the Ambassador in Mexico (Daniels)*

WASHINGTON, March 26, 1934—1 p. m.

41. Your 30, March 22, 5 p. m. Despatch 1244 [1224] was not received before cable No. 37 of March 21 was sent but, having now been received, does not seem to necessitate any change in that cabled instruc-

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<sup>62</sup> Not printed.

tion. Department feels that the further concessions offered in that cable are all that are consistent with an orderly, fair and rapid appraisal of the claims and that signing of the protocol on that basis should be expedited. Otherwise a whole year will be lost from inability to obtain appropriation before adjournment of Congress.

Santa Isabel Claims—Cable No. 37, March 21, should have read “notes your report regarding”.

HULL

411.12/1776

*The Ambassador in Mexico (Daniels) to the Secretary of State*

No. 1267

MEXICO, March 26, 1934.

[Received March 29.]

SIR: I have the honor to refer to the Embassy's telegram No. 33 of March 24, 1934, 5 p. m., in which I made a brief report of the changes suggested informally by the Minister for Foreign Affairs in the Department's draft of a Convention for the en bloc settlement of Special Claims. I also refer to the Embassy's airmail despatch No. 1265 of March 24, 1934,<sup>63</sup> giving the substance of the conversation I had on that date with the Minister for Foreign Affairs.

I now forward copy of the informal document given me by the Minister and embodying his suggested changes, a translation thereof, and a copy of the Department's draft of the entire Convention with the changes suggested underscored.<sup>64</sup>

At the same time, I am adding some observations on certain points of the Department's draft of the Convention which accompanied the Department's instruction No. 282 of March 9, 1934.

The draft of the Convention under Article IV, Section IV, refers to “Claims Withdrawn”. The original proposal from the Foreign Office provided for certain deductions including among others “Claims Withdrawn”. The Department's draft of a Convention to carry out the general plan proposed by the Foreign Office also provides for “Claims Withdrawn”. However, the Department's interpretation of the term “Claims Withdrawn”, as specified on page 2 of the Instruction, is to the effect that there are included only claims withdrawn by the American Agent because they had been filed too late and not claims withdrawn by claimants themselves because of independent settlements with the Mexican Agent or for other reasons (underscored, supplied).

Under “Withdrawn Claims” two groups should be taken into consideration. One group includes 114 claims aggregating \$10,159,922.

<sup>63</sup> Not printed.

<sup>64</sup> Latter not printed.

which were docketed provisionally and the filing of which was disapproved by the Commission in its decision No. 3 of April 24, 1931 (Opinion[s] of Commissioners, Special Commission, p. 39). The other group includes 40 claims aggregating \$1,635,117. which the records of the Commission show have been withdrawn already by the Agent of the United States. A list of these claims is attached as enclosure 4.<sup>65</sup> Under the Department's interpretation of the terms "Claims Withdrawn", this last group could not be deducted, notwithstanding the fact that they have been withdrawn already.

From discussions held in the past with the representatives of the Foreign Office, it would appear that these 40 claims are among those that they consider should be deducted.

Due note has been taken of the views of the Department that the examination of duplicated claims and the determination of which are general and which are special might be postponed for years (page 2, instruction No. 282). The following observations are made in connection therewith:

The terms of the General Claims Convention and of the Special Claims Convention, the one hundred and thirty nine decisions rendered by the General Claims Commission, and the policy followed by the American Agency in the memorialization of 933 General and Special claims, which include about 228 cases that have been filed General and Special, establish sufficient precedents for determining now in the majority of the cases which claims are General and which are Special.

Reference is also made to the analysis of General and Special Claims submitted with the Embassy's despatch No. 1135 of February 23, 1934,<sup>65</sup> and to the supplementary analysis submitted with this despatch (Enclosure 5).<sup>65</sup>

It would appear from the latest estimate that of the 1072 claims aggregating \$268,888,509, that have been filed General and Special, approximately 326 for \$182,413,089. are General Claims and 746 for \$86,475,420. are Special Claims. Under the circumstances the postponement for two or more years to determine the exact classification of claims is not deemed advisable.

I have presented and urged, in writing and orally, the views of the Department that in deducting the amount of the adjudicated claims, the Santa Isabel claims should be excluded. I have reported to the Department the position of the Minister for Foreign Affairs that he could not entertain any reopening of the Santa Isabel cases which were dismissed by the decision of the Special Claims Commission.

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<sup>65</sup> Not printed.

I desire to set forth my understanding of the case. The American and British claims were presented, argued and adjudicated by corresponding Claims Commissions. The American presentation of the cases was based on the contention that the liability of Mexico was fixed under paragraphs 2 and 3 of Article III of the Convention, acts of forces. The British presentation was based on paragraph 5 which involves lack of protection. The decision of the American Commission did not support the contention by the American Agent and the cases were dismissed. The decision of the British Commission confirmed an agreement between Agents, which provides for the payment of an indemnity amounting to 39,000 gold pesos for the two cases involved. The two judicial decisions are the results of different presentations. Moreover, Article VIII of the Special Convention specifies that the High Contracting Parties agree to consider the decisions of the Commission as final and conclusive. I am enclosing a brief summary reviewing the decisions rendered by the American and British Commissions on the Santa Isabel cases (Enclosure 6).<sup>87</sup>

Under the circumstances, it appears to me that the Santa Isabel claims are *res adjudicata*, and that we ought not to press this point.

From past statements of the Foreign Minister and of his advisers it would appear that they will insist upon the simultaneous signing of the Protocol for General Claims and of the Convention for the en bloc settlement of the Special Claims. There has been discussed informally between Mr. Sierra and Colonel Moreno the possibility of exchanging, at the time of the signing of the Protocol, notes providing for settlement of the American Special Claims on the same basis as the settlement made with European countries for similar claims, and specifying that the details of the settlement would be covered in a Convention to be signed later.

I await the instructions of the Department on the changes to the Special Convention that have been suggested informally by the Minister for Foreign Affairs, in advance of the President's decision on the matter, and on the other points raised in this despatch.

Respectfully yours,

JOSEPHUS DANIELS

[Enclosure—Translation]

*Modifications of Special Claims Convention as Suggested by the Mexican Minister for Foreign Affairs (Puig)*

#### ARTICLE I

The claims of the United States of America covered by the Special Convention shall be adjusted, settled and forever thereafter barred

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<sup>87</sup> Not printed.

from further consideration, by the payment by the Government of Mexico to the Government of the United States of a sum of money which shall equal the same proportion of the total amount claimed by the United States in all such cases (after the deductions provided for in Article IV hereof), as the proportion represented—in respect to the total sum claimed by the Governments of Belgium, France, Germany, Great Britain, Italy and Spain—by the total amount found to be due from the Mexican Government in the settlement of similar claims and under the Conventions concluded with those Governments by the Government of Mexico during the years of . . . <sup>68</sup>

To determine said general average percentage resulting from the settlements with said countries for similar claims, the classic arithmetical procedure shall be used, that is to say, the total amount awarded to Belgium, France, Germany, Great Britain, Italy and Spain shall be multiplied by 100 and the product shall be divided by the total amount claimed by said countries.

Having thus determined the general average percentage, in order to ascertain the amount that Mexico should pay to the United States, said percentage shall be multiplied by the total amount claimed by the United States (after the deductions provided for in Article IV of this Convention) and the resulting product shall be divided by 100.

### ARTICLE III

Deferred payments, by which term is meant all payments made after January 2, 1935, shall bear interest at the rate of one-fourth of one percent per annum for the first year counting from January 1, 1935, and an additional one-fourth of one percent for each additional year until the maximum of one percent is reached, which shall be applied beginning January 1, 1939.

### ARTICLE IV

Fourth Clause . . . <sup>68</sup>

From the claims registered for the same reason with both Commissions, there shall be deducted the total amount of all claims that in fact or apparently should have been registered only with the General Claims Commission established by the Convention of September 8, 1923.

The determination of claims that ought to be withdrawn from the Special because in fact or apparently they should have been registered only with the General for prosecution and adjudication does not prejudice the jurisdiction and validity of said claims, which shall be

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<sup>68</sup> Omission indicated in the original.



determined in each case when examined and adjudicated in accordance with the provisions of the General Claims Convention of September 8, 1924 and Protocol of 1934.

#### ARTICLE VI

. . .<sup>70</sup> leaving to the judgment of the Mexican Government the furnishing of originals or certified copies thereof and with the specific reservation that no documents shall be delivered which owing to their nature cannot be furnished by said Government.

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411.12/1776 : Telegram

*The Secretary of State to the Ambassador in Mexico (Daniels)*

WASHINGTON, March 31, 1934—4 p. m.

44. Your cable 33, March 24, 5 P. M. and despatches Nos. 1265 and 1267.<sup>71</sup> Efforts are being made to conclude the work of Congress expeditiously to enable it to adjourn as early as possible in May. To obtain appropriation for Mexican claims work it is necessary first to have enacted an authorization for appropriation and subsequently the appropriation proper, in other words, two enactments. This will probably be impossible of accomplishment unless General Claims protocol is concluded promptly. There appear to be no differences of importance on the protocol and it is therefore desired that you use your utmost endeavors to conclude it before end of week beginning April 2. You may, at time of signing protocol, as suggested in your despatch No. 1267, write a note giving assurance that "my Government agrees that there shall be concluded as promptly as possible a convention providing for a settlement of the Special Claims of the United States by the payment by the Government of Mexico of a sum equivalent to the same percentage of the amount of the claims in question as the amount found to be due on the similar claims of Belgium, France, Germany, Great Britain, Italy and Spain corresponds to the total amount claimed by those countries in claims properly filed before the respective commissions." Since Mexican comments on proposed Special Claims Convention are only tentative Department prefers to reserve final consideration thereof until you advise of definite views of Mexican Government after consultation with the President.

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<sup>70</sup> Omission indicated in the original.

<sup>71</sup> No. 1265 not printed.

Before signing protocol cable text of all paragraphs containing any changes from form of enclosure 2 with instruction No. 283 of March 9 in order to avoid any important misunderstandings.

HULL

411.12/1777: Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, April 2, 1934—4 p. m.

[Received 8:50 p. m.]

34. Department's telegram No. 44, March 31, 4 p. m. Colonel Moreno conferred this morning with Licenciados Sierra and Rabasa of Foreign Office regarding instructions of the Department in its telegram No. 37, March 21, 1 p. m., on changes to protocol. Following results on various paragraphs of said telegram.

Paragraph 1, substitution of the words "[of] this Article" for "Article 5 of this Protocol" is accepted.

Paragraph 2, Foreign Office proposal providing for introduction of evidence with reply brief is withdrawn, consequently paragraph (*d*) remains as drafted by the Department.

Paragraph 4, Foreign Office proposal suggesting omission of all matter following the word "rest[s]" is withdrawn; Department's proposal that words "or hereafter filed" line 16, page 9 be omitted is accepted.

Paragraph 5, Foreign Office urges omission of the words "more than 30 days" because it conflicts with provisions of (*i*) which prescribes that all memorials should be filed within the first 17 months and of (*j*) which fixes 70 days for the filing of pleadings and of briefs.

Regarding the signing of protocol prior to signing of special convention Licenciado Sierra stated that simultaneous signing was contemplated under existing policies of the Minister. The matter of an exchange of notes as set forth in the Department's telegram 44 was discussed. Foreign Office considers Department's draft of notes not entirely satisfactory because it is not sufficiently specific. Moreno and Sierra will work on a formula that might be incorporated in a note. Consideration being [apparent omission] to include in formula Articles I and IV, without reference to amounts of draft, of special convention as amended by the Foreign Office (see enclosure 3, Embassy's despatch 1267, March 29 [26], 1934<sup>72</sup>), matter will then be discussed by Foreign Minister and myself after former has conferred with the President who has just returned to the City. Will telegraph formula and the result of my conference with Dr. Puig.

DANIELS

<sup>72</sup> Enclosure 3 to despatch No. 1267 not printed.

411.12/1777: Telegram

*The Secretary of State to the Ambassador in Mexico (Daniels)*

WASHINGTON, April 3, 1934—6 p. m.

45. Your 34, April 2, 4 p. m. Department feels you should have no difficulty in persuading Foreign Office that omission from Paragraph 6, subparagraph (m) of Protocol of the words "more than 30 days" leaves the rules governing dates for filing pleadings absolutely inflexible with the probably inevitable consequence that unnecessary difficulties will arise and disputes result in cases in which it becomes impossible to file pleadings exactly on due dates. It is not, of course, contemplated that the 30-day relaxation provision shall apply to memorials nor be availed of in subsequent pleadings except in cases of unforeseen emergency. Consequently the objections offered by Mexican Government are more theoretical than real. The purpose of the whole protocol is to facilitate disposition of the claims without causes for friction or misunderstanding and for that reason it is felt that the omission of the words "more than 30 days" would be out of harmony with the whole spirit of the agreements. This clause cannot result in any inconvenience to either side nor prolong the general work, and the advantages of such a small degree of flexibility of procedure should be obvious.

In drafting notes regarding Special Claims Convention which are proposed to be exchanged at time of signing protocol, the possibility of having individual claims carefully checked both as to amount and jurisdiction before definitely fixing total amount of Special Claims liability should be preserved. Department cannot agree that definite determination as to whether particular claims are special or general and the definite percentage of liability can be determined in present haste of negotiations. These are vitally important matters which do not need to be determined at present and which must be determined more leisurely. Reference is made in this connection to page 3 of your despatch 1267.<sup>73</sup>

HULL

411.12/1778: Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, April 4, 1934—4 p. m.  
[Received April 5—12:23 a. m.]

35. 1. Referring to Department's telegram No. 45, April 3, 6 p. m. Foreign Office withdraws its prior proposal that 30-day period be omitted notwithstanding that it feels that such a provision is in some aspects in conflict with other terms of the protocol.

<sup>73</sup> Ante, p. 442.

2. Yesterday and today I conferred with Minister of Foreign Affairs. He would have preferred simultaneous signing of protocol for general claims and of convention for special completed in accordance with the expressed previous views of the President. However, in the spirit of cooperation he is agreeable to an exchange of notes at the time of signature of protocol and pending further negotiations and early conclusion of a convention. He is willing to accept a note couched in terms of his suggested changes in Articles I and IV of the Department's draft of convention. The preamble of note would read as follows:

"In signing the protocol for the further evaluation of claims presented by the Government of the United States and Mexico under the terms of the General Claims Convention of September 8, 1923, my Government agrees that there shall be concluded as promptly as possible a convention providing for the en bloc settlement of the claims of the United States covered by the Special Claims Convention of September 10, 1923, said settlement to be in accordance with the following general principle.["] Paragraph A would be substantially Article I of enclosure 3, despatch 1267. Paragraph B would read: First, claims withdrawn; second, claims decided; third, as in Department's draft; fourth, as shown on page 4 of enclosure 3. Paragraph C would read: "The proportionate amount to be paid under A and the deductions to be under B shall be determined by a representative duly appointed by each Government, whose joint report, after due conference and consideration, shall be accepted as final." It will be seen that paragraph C above incorporates certain provisions of the treaty.

3. Careful check of English and Spanish texts of the protocol has been made with Foreign Office. Some changes have been approved heretofore by the Department. Others are designed to clarify and convey the equivalent Spanish term.

Referring to enclosure Department's instruction No. 283 of March 9, 1934, the following changes should be noted: Page 3 line 15<sup>74</sup> to read "signed June 18, 1932." Page 6 line 4<sup>75</sup> omit all from "the umpire shall be required, et cetera, to the end of the section." Substitute the following "whose written decisions shall also be accepted by the two Governments as final and binding. All matters relating to the designation of an Umpire, time within which his decisions should be rendered and general provisions relating to his work shall be fixed in a convention to be negotiated under provisions of this Article." Page 7 line 15<sup>76</sup> substitute "English or Spanish" for the word "language." Page 8 lines 15<sup>77</sup> omit the words "two"—"or umpire." Page 9 line 5<sup>78</sup>

<sup>74</sup> *Ante*, p. 431, par. 8, l. 5.

<sup>75</sup> *Ante*, p. 432, par. 3, l. 9.

<sup>76</sup> *Ante*, p. 433, par. (c), l. 7.

<sup>77</sup> *Ante*, p. 433, par 6.

<sup>78</sup> *Ante*, p. 433, par. (e), l. 7.

omit "the existence and significance of the facts which it considers to be established by the evidence and the principles of law upon which the defence of the cases rests", substitute therefor "the facts in the case and legal principles upon which the defence of the case rests." This phraseology corresponds to that used in lines 2 and 3<sup>79</sup> of the same page. Page 9 line 9<sup>80</sup> omit the words "or hereafter filed." Page 12 line 1<sup>81</sup> substitute the word "document" for "pleading", line 15<sup>82</sup> add the words "of both countries." Page 13 line 15<sup>83</sup> substitute the word "present" for "attach", line 16<sup>84</sup> omit the words "to the pleadings". Page 14 line 1<sup>85</sup> designate as paragraph "O" from "the complete original et cetera, to the end of the sentence." Page 14 line 6<sup>86</sup> designate as paragraph "P" all of paragraph beginning "where the original, et cetera". Throughout the protocol insert the words "and brief" after the word "pleadings" in order to convey the same meaning in Spanish. Will forward by air mail complete text of protocol and note.<sup>87</sup> Would appreciate Department's instructions at the earliest practicable date.

DANIELS

411.12/1778 : Telegram

*The Secretary of State to the Ambassador in Mexico (Daniels)*

WASHINGTON, April 7, 1934—1 p. m.

47. Your No. 35, April 4, 4 p. m. If, as appears, your cable includes all suggested changes in our draft of Protocol, it would seem to be acceptable as now agreed upon by Mexico. However, before authorizing you to sign, Department desires to check air mail copy.

With reference to proposed exchange of notes regarding Special Claims Convention, it is to be observed that these notes, as drafted, include those terms of the Convention which Mexican Government desires but omit all reference to those provisions in which this Government is interested. Exchange of notes in these terms would leave this Government in an embarrassing position with reference to the balance of the Convention and, as it is believed that sufficient time remains to obtain appropriation if Protocol and Convention can be signed by middle or end of next week, Department desires you to do utmost possible with a view to concluding both agreements within that time in accordance with the following suggested changes in the Special Claims Convention.

<sup>79</sup> *Ante*, p. 433, par. (e), l. 5.

<sup>80</sup> *Ante*, p. 433, par. 7, l. 10.

<sup>81</sup> *Ante*, p. 435, l. 1.

<sup>82</sup> *Ante*, p. 435, l. 13.

<sup>83</sup> *Ante*, p. 436, l. 9.

<sup>84</sup> *Ante*, p. 436, l. 9.

<sup>85</sup> *Ante*, p. 436, l. 14.

<sup>86</sup> *Ante*, p. 436, par. 2, l. 1.

<sup>87</sup> Not printed.

Referring to form of Convention contained in enclosure 3 with your despatch No. 1267,<sup>88</sup> following should be added to first paragraph of Article I: "In computing the total sum claimed by the Governments mentioned above, deduction shall be made of all claims corresponding to those mentioned in paragraphs first and third of Article IV hereof." This is essential to avoid possibility of computing European percentage on a total of claims including those corresponding to deducted American claims, which would not, of course, be in accordance with the present understanding of the two Governments.

Article II. No changes.

Article III. Add "In the event of failure to make annual payments when due, however, this rate shall be increased at the rate of one-fourth of one percent per annum on the amount of deferred payments during the period of any such delay until a maximum additional rate of three percent on such overdue amounts is reached."

Article IV. No change except elimination of amounts in paragraphs first and second, but paragraph fourth, as redrafted, is not clear. Please cable at once origin and intent of this latter paragraph, whereupon further comments will be sent you.

Article V. Should read "The total amount of the special claims of the United States, as well as the deductions to be made therefrom, in accordance with Article IV above, and the proportionate amount thereof to be paid in accordance with Article 1 above, shall be determined, et cetera," continuing as quoted in your cable No. 35. Since no gross amount of special claims is fixed in the Convention, this change is necessary to make clear the powers and duties of the Committee referred to in Article V.

Article VI. Mexican amendment is accepted, but understanding should be arrived at in writing to the effect that the reservation with respect to the evidence will not be availed of to deprive the United States of such evidence except in cases in which the withholding thereof may be required by considerations of real political importance to the Government of Mexico. This understanding is considered necessary as a reasonable control upon the judgment of such, now unknown, persons as may have the decision in these matters in the future and may not be in harmony with the spirit which pervades the negotiation of these agreements.

Please emphasize, in connection with the foregoing, that every concession possible is being made to meet the wishes of the Mexican Government in the matter of the simultaneous signing of the two agreements, pointing out that the Department has abandoned further contention with respect to the obvious discrimination against this

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<sup>88</sup> Enclosure 3 with despatch No. 1267 not printed; but see American draft, p. 419, and the draft as modified by the Mexican Minister for Foreign Affairs, p. 444.

Government in Santa Isabel cases, also by reduction of interest to a maximum of one percent, except in case of default, and in the matter of evidence. With these concessions it is not believed you should encounter much difficulty in obtaining prompt agreement to the Convention in amended form. Please use your full resources and ingenuity to avoid further formal exchange of views on the matter of interest. The purpose of the indicated addition to Article III will be obvious to you, and it is hoped that you will, if necessary, use your full personal influence to obtain acceptance of this amendment.

Confident of your ability to conclude Convention on the indicated bases after a further clarification of paragraph 4 of Article IV, full powers are being sent in order that signature may be consummated at earliest possible date.

HULL

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411.12/1780 : Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, April 9, 1934—4 p. m.

[Received 9:03 p. m.]

38. Referring to Department's telegram No. 47, April 7, 1 p. m. Minister of Foreign Affairs agrees to following Department's changes to Special Convention:

In Article III to interest; in Article IV to omission of amounts; Article V as revised by the Department. Agreeable to an exchange of notes in the sense of the Department's interpretation of Article VI. Regarding proposed addition to Article I, Minister takes position that suggested insertion introduces a new stipulation in the principle of a settlement based on the general percentage average of the settlements with European nations approximately 2.6 percent and it will require further study of the effect of the proposal and subsequent consultation with the President before he can give decision. If proposed change in Article I is eliminated he is ready to sign convention.

With reference to statement in the Department's telegram regarding present understanding of the two Governments may I point out that from the beginning of en bloc negotiations the discussion has been predicated on a settlement based on a general average of approximately 2.6 percent without any mention of any deduction to European claims as in the case of American claims. Any disadvantage accruing to American claimants is more than compensated by provisions of the convention to the effect that the deduction of claims duplicated on jurisdiction grounds will be determined later by joint committee instead of deducting 50 percent of the value of duplicated claims as originally proposed.

Regarding section 4 of Article No. IV, it was originated by the Foreign Office which advises that it is intended to make clear that in eliminating from the proposed convention those claims that might be general the final jurisdiction and validity of such claims should be determined by the terms of the General Convention and protocol and not by any provision of the convention under consideration.

In view of the substantial progress made in today's negotiations towards a final convention and of my understanding of the antecedents I earnestly hope that the Department will agree to the omission of the change in Article I otherwise the negotiations will be delayed with no assurance of gaining the point. I await the instructions of the Department.

DANIELS

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411.12/1780: Telegram

*The Secretary of State to the Ambassador in Mexico (Daniels)*

WASHINGTON, April 11, 1934—11 a. m.

50. Your cable No. 38 and despatch No. 1301, April 5.<sup>89</sup> Form of protocol with that despatch will be correct for signature after the following verbal changes. [Verbal changes which here follow are omitted.]

It is feared that there is a misunderstanding regarding proposed addition to paragraph 1, Article I of the Convention. The fundamental principle underlying the en bloc settlement of special claims is, of course, equality of treatment with European countries. Clearly, such equality would not result by computing the percentage of payment on different bases for European countries and for the United States. Since the total of our special claims is approximately three hundred millions, a difference of one-half of one percent in the basic rate amounts to one and one-half million dollars of liability. It is therefore of the greatest importance that the calculation of the basic percentage of liability shall be done with accuracy. It has been assumed all along, of course, that the same method of computation would be applied to European claims as to American claims—otherwise the basic consideration of equality would be destroyed. The indicated addition was suggested merely for the purpose of removing any doubts on this subject at the time of actual computation by the Joint Committee provided for in Article V of the Convention. It is incomprehensible how the Mexican Government can think this addition involves any change of principle. While, as you say, there have been certain discussions with respect to a "general average of approxi-

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<sup>89</sup> Despatch No. 1301 not printed.



mately 2.6 percent", it has been the basic theory that the question of approximation must be reduced to a certainty by the Joint Committee. That process requires a precise formula. It is only desired that that formula should represent the basic principle of the Convention, namely, equality of treatment. With this explanation, it is believed the objection of the Mexican Government will be admitted to be untenable.

With reference to paragraph 4 of Article IV of the Convention please note the following: supposing claim A for \$100,000 is eliminated from special claims settlement because it "in fact or apparently should have been registered only with the General Claims Commission", but suppose the Commissioners provided for in the protocol should, in applying General Claims Convention, as provided in this provision, find they have no jurisdiction because claim is actually special. The result would be, of course, complete elimination of that claim from both sides as basis for possible liability. That fact will doubtless establish the necessity for alteration in the terms of Mexico's proposed substitute for paragraph 4, Article IV.

The provision, as originally drafted, was based on the theory that the Commissioners or Umpire having definitely determined in advance which claims were properly classified as general claims before the Joint Committee would be called upon to make the final computation of liability on the special claims. In view of the apparent desire of the Mexican Government to have the Joint Committee begin its work promptly after exchange of ratifications of the Convention, this Government would be willing to accept Mexico's substitute for paragraph 4, Article IV with the following addition thereto: "or the Special Claims Convention of September 10, 1923 and the Protocol of June 18, 1932, in the event it shall be found by the Commissioners or Umpire to have been improperly eliminated from the special claims settlement". This seems to be the only means of avoiding the unfortunate possibility indicated above. Also add "case" after "determined in each" in third line from bottom of this provision as contained in Enclosure 3 with despatch 1267 and also correct the date from 1924 to 1923.<sup>90</sup>

Full powers to sign convention will be sent you as soon as President returns to Washington. Meanwhile confirmation copy of convention as amended herein and heretofore will be sent you by air mail.

HULL

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<sup>90</sup> Enclosure 3 with despatch No. 1267 not printed; but see article IV of the draft of the convention as modified by the Mexican Minister for Foreign Affairs, p. 444. The word "case" had been inadvertently omitted from the draft under reference.

411.12/1780

*The Secretary of State to the Ambassador in Mexico (Daniels)*

No. 321

WASHINGTON, April 11, 1934.

SIR: Referring to the Department's cable No. 50 of April 11, 1934, there is enclosed herewith a final draft of the proposed Special Claims Convention embodying all the amendments heretofore agreed upon and those indicated in the above mentioned cable.

It is desired that you check this copy very carefully and advise the Department of any changes therein before it is finally signed.

Very truly yours,

For the Secretary of State:

R. WALTON MOORE

[Enclosure]

*Draft of Special Claims Convention*

The United States of America and the United Mexican States, desiring to settle and adjust amicably the claims comprehended by the terms of the Special Claims Convention concluded by the two Governments on the 10th day of September, 1923, without resort to the method of international adjudication provided by the said agreement, have decided to enter into a Convention for that purpose, and to this end have nominated as their Plenipotentiaries:

The President of the United States:

The Honorable Josephus Daniels, Ambassador Extraordinary and Plenipotentiary of the United States of America in Mexico, and

The President of the United Mexican States:

The Honorable José Manuel Puig Casauranc, Secretary of State for Foreign Affairs,

Who, after having communicated to each other their respective full powers, found to be in due and proper form, have agreed upon the following articles:

ARTICLE I

The claims of the United States of America covered by the Special Claims Convention shall be adjusted, settled and forever thereafter barred from further consideration, by the payment by the Government of Mexico to the Government of the United States of a sum of money which shall equal the same proportion of the total amount claimed by the United States in all such cases (after the deductions provided for in Article IV hereof), as the proportion represented—in respect to the total sum claimed by the Governments of Belgium, France, Germany, Great Britain, Italy and Spain—by the total amount found to be due from the Mexican Government in the settle-

ment of similar claims and under the conventions concluded with those Governments by the Government of Mexico during the years . . . . In computing the total sum claimed by the Governments mentioned above, deduction shall be made of all claims corresponding to those mentioned in paragraphs "first" and "third" of Article IV hereof.

To determine said general average percentage resulting from the settlements with said countries for similar claims, the classic arithmetical procedure shall be used, that is to say, the total amount awarded to Belgium, France, Germany, Great Britain, Italy and Spain shall be multiplied by 100 and the product shall be divided by the total amount claimed by said countries.

Having thus determined the general average percentage, in order to ascertain the amount that Mexico should pay to the United States, said percentage shall be multiplied by the total amount claimed by the United States (after the deductions provided for in Article IV of this Convention) and the resulting products shall be divided by 100.

#### ARTICLE II

The amount provided for in Article I above shall be paid at Washington, in dollars of the United States, at the rate of \$500,000 per annum, beginning January 1, 1935, and continuing until the whole amount thereof shall have been paid.

#### ARTICLE III

Deferred payments, by which term is meant all payments made after January 2, 1935, shall bear interest at the rate of one-fourth of one percent per annum for the first year counting from January 1, 1935, and an additional one-fourth of one percent for each additional year until the maximum of 1 percent is reached which shall be applied beginning January 1, 1939. In the event of failure to make annual payments when due, however, this rate shall be increased at the rate of one-fourth of 1 percent per annum on the amount of deferred payments during the period of any such delay until a maximum additional rate of three percent on such overdue amounts is reached.

#### ARTICLE IV

In computing the total amount of claims mentioned in Article I above, there shall be deducted from the total amount of all special claims filed by the United States under the terms of the Special Claims Convention of September 10, 1923, the following items:

*First:* Claims withdrawn.

*Second:* Claims decided.

*Third:* One-half of the amount represented by the total claimed in all cases in which the same claim has been filed twice, either for the same or for different amounts, with the Special Claims Commission.

*Fourth:* From the claims registered for the same reason with both Commissions, there shall be deducted the total amount of all claims that in fact or apparently should have been registered only with the General Claims Commission established by the Convention of September 8, 1923. The determinations of claims that ought to be withdrawn from the Special because in fact or apparently they should have been registered only with the General for prosecution and adjudication does not prejudice the jurisdiction and validity of said claims, which shall be determined in each case when examined and adjudicated in accordance with the provisions of the General Claims Convention of September 8, 1923 and Protocol of 1934, or the Special Claims Convention of September 10, 1923, and the Protocol of June 18, 1932, in the event it shall be found by the Commissioners or Umpire to have been improperly eliminated from the Special Claims settlement.

#### ARTICLE V

The total amount of the special claims of the United States, as well as the deductions to be made therefrom, in accordance with Article IV above, and the proportionate amount thereof to be paid in accordance with Article I above, shall be determined by a Joint Committee consisting of two members, one to be appointed by each Government, whose joint report, after due conference and consideration, shall be accepted as final.

#### ARTICLE VI

It is agreed that, for the purpose of facilitating a proper distribution by the United States to the respective claimants of the amount to be paid as provided for herein, the Mexican Government shall deliver to the United States, upon request, all evidence in its possession bearing upon the merits of particular claims and to procure, at the cost of the United States, such additional evidence as may be available in Mexico and as may be indicated by the Government of the United States to be necessary to the proper adjudication of particular claims, leaving to the judgment of the Mexican Government the furnishing of originals or certified copies thereof and with the specific reservation that no documents shall be delivered which owing to their nature cannot be furnished by said Government.

#### ARTICLE VII

The present Convention shall be ratified by the High Contracting Parties in accordance with their respective Constitution, such ratifi-

cations being exchanged in Mexico City as soon as practicable and the Convention shall take effect on the date of the exchange of ratifications.

In witness whereof, the respective Plenipotentiaries have signed and affixed their seals to this Convention.

Done in duplicate at Mexico City this . . . . . day of . . . . .

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411.12/1785 : Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, April 13, 1934—4 p. m.

[Received 8:54 p. m.]

41. Referring to Department's telegram No. 50, April 11, 11 a. m., Department's suggested addition to fourth paragraph of article No. IV is acceptable to Foreign Office which in turn suggests the following addition to follow Department's paragraph: "In the latter event, the claims improperly eliminated in the opinion of the Commissioners or Umpire, shall be settled and adjusted by the same en bloc procedure prescribed by this Convention for all claims registered with the Special Commission."

Foreign Office suggests another addition in said paragraph. Refer to enclosure 3, despatch 1277 [1267]<sup>91</sup> page 3 line 26, after the words "the determination[s]"<sup>92</sup> add "by the representatives of both Governments referred to in article V of the Convention." Line 30 should read "prejudice the jurisdiction in, et cetera."<sup>93</sup>

Regarding Department's change in article I, Foreign Minister still considers that it raises a new issue and increases Mexico's anticipated estimated liability in the settlement with the United States. Consequently he must consult President before giving an answer which he hopes to do this afternoon.

DANIELS

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411.12/1785 : Telegram

*The Secretary of State to the Ambassador in Mexico (Daniels)*

WASHINGTON, April 14, 1934—2 p. m.

52. Your cable 41, April 13, 4 P. M., last paragraph, and Moreno's personal letter of April 10,<sup>94</sup> indicate a misunderstanding as to intention and purpose of proposed addition to paragraph 1 Article I of Special Claims Convention. The intended effect is this: Since, in calculating net total of American Special Claims on which to com-

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<sup>91</sup> Enclosure 3 with despatch No. 1267 not printed; but see final draft of Special Claims Convention, p. 455.

<sup>92</sup> See p. 457, line 9.

<sup>93</sup> See p. 457, line 12.

<sup>94</sup> Letter of April 10 not found in Department files.

pute the total liability, certain deductions are to be made under paragraphs first and third of Article IV of the Convention, it is but natural and proper that the same process should be used in arriving at the percentage of liability found to exist on the European claims. For example: If gross European claims were 380 millions as shown in Annex 17 to enclosure with instruction No. 214 of December 16,<sup>95</sup> and that amount included fifty million dollars of claims corresponding to American claims to be deducted under paragraphs first and third of Article IV of proposed convention, then the European percentage of liability should be computed on the net of 380 less 50 or 330 millions, making a difference of approximately one-third of one percent on the basic percentage of liability or of one million dollars in net liability to the United States. It is not a question of figures to be included in the Convention but merely a determination of principles which will carry out the intention of both Governments to fix liability to United States on a basis of equality with European countries. This is fundamental. Will communicate later regarding terms of Article IV.

HULL

411.12/1787: Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, April 14, 1934—3 p. m.

[Received 8:45 p. m.]

43. Supplementing my telegram No. 41, April 13, 4 p. m. Minister of Foreign Affairs told me this morning that in order to bring negotiations to a successful conclusion he proposed in lieu of addition in article I of the convention as suggested by the Department, namely, "In computing the total sum claimed by the Governments mentioned above, deduction shall be made of all claims corresponding to those mentioned in paragraphs first and third of article IV", that article IV be amended by eliminating paragraph First: "Claims heretofore withdrawn".

Minister of Foreign Affairs points out that agreement of Mexican Government to pay in dollars and a nominal rate increases the obligations of the Mexican Government to the United States and are stipulations not contemplated in settlements with European governments.

From the questions raised by Foreign Office in the discussions relating to the Department's suggested addition I am confident that the latest proposal from the Minister is the best we can hope for, consequently I trust it will be approved by the Department. It is requested

<sup>95</sup> For instruction No. 214 and its enclosed draft protocol regarding general claims, see *Foreign Relations*, 1933, vol. v, p. 814; enclosure and annexes under reference not printed.

that I be advised without delay of the decision of the Department in order that the preparation by the Foreign Office of the protocol and convention may be expedited.

DANIELS

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411.12/1788: Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, April 15, 1934—4 p. m.

[Received 11:35 p. m.]

44. Referring to Department's telegram No. 52, April 14, 2 p. m., received after Embassy's telegram 43 April 14, 3 p. m., was sent.

The Department's position regarding the principle of equality of treatment for American claimants as in the case of European claimants as discussed in the Department's telegrams 47, April 7, 1 p. m. and No. 50, April 11, 11 a. m., is thoroughly understood; has received most careful consideration; and has been pressed in discussions with the Foreign Office officials. They, in turn, point out that strict application of principle ought to take into consideration that in contemplated negotiations with foreign governments, except Belgian, which has been paid, the plan under consideration involves payment in pesos and no interest, while under proposed convention payments to the United States are to be in dollars with a nominal rate of interest. However, I have persuaded the Minister not to raise the foregoing point and he, in order to bring negotiations to a successful conclusion, proposes that the value of American withdrawn claims be not deducted from the total amount; in other words that paragraph 1 of Article No. IV be omitted. The value of these claims is approximately \$1,600,000. The American duplicated claims total slightly over \$5,500,000. Deduction of this amount from the total registered claims before applying the average percentage of about 2.6 results in the United States recovering about \$143,000 less in the final settlement. The Embassy has no definite figures regarding the total amount of European claims that were withdrawn or duplicated. It has estimated that the withdrawn claims aggregate about 30,000,000 pesos which would raise the recovery percentage from about 2.6 to about 2.8. The compilation of pertinent data has not been completed by Foreign Office. May I point out that the en bloc proposal presented to the Foreign Office by former Ambassador Clark and which had the approval of the Department provided for the deduction of the value of American claims that had been adjudicated, withdrawn and duplicated and that similar deductions were not made in the totals of past adjudications which were the basis for determining the average per-

centage of recovery proposed by American Government. Moreover, in the discussions held with the Foreign Office since September 1933 when the present Mexican proposal was first received, the question of making deductions from the European settlement for claims withdrawn and duplicated as in the case of American claims was never brought up nor did it enter into computations made at the time as to what our recovery would be.

Previous estimates as to the net total amount of special claims and which are the basis of Department's estimate of \$300,000,000 (Department's telegram 50) need revision. Above figure was based on a classification that one-half of the total amount of claims withdrawn in filing on account of jurisdictional grounds correspond to special claims and the other half to general. The total amount of said claims was estimated originally to be approximately \$236,000,000. Present estimates now closer to 269,000,000. It is believed that about 182,500,000 may be regarded as general and about 86,500,000 special. Under this basis the net total amount of special claims is approximately \$229,000,000 instead of 300,000,000.

In my judgment the Department's decision in the matter should not be limited to the effect on the special claims but ought also to take into consideration its effect on Mexican cooperation toward other pending problems between the two Governments and prospective negotiations codifying [*sic*] with their adjustment, such as: diplomatic discussions of agrarian claims, final settlement of general claims following their evaluation under the terms of the protocol, Chamizal award, distribution of waters of the Rio Colorado and of Lower Rio Grande.

From my knowledge of the situation and of local conditions I am confident that the latest comprehensive suggestion from the Minister is as good as we can hope for, although it may not be ideal.

DANIELS

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411.12/1788 : Telegram

*The Secretary of State to the Ambassador in Mexico (Daniels)*

WASHINGTON, April 17, 1934—3 p. m.

54. Referring to your cables numbers 41, 43 and 44 of April 13, April 14 and April 15. In a last effort to meet every reasonable expectation of the Mexican Government the Department proposes the following changes in the Convention, reference being made to the last draft thereof which was transmitted with air mail instruction No. 321 of April 11.

*First.* Omit last sentence of paragraph 1 of Article I.



*Second.* Omit entire contents of Article IV and substitute therefor the following: "In computing the percentage of liability on the above-mentioned European claims and, on the basis of that percentage, the amount of liability on American claims, no deductions shall be made from the total claims in either case, except, in the case of the United States, of (a) the amount of decided cases, and of (b) the total amount of those claims improperly filed as special claims, because coming within the jurisdiction of the General Claims Commission under the terms of the General Claims Convention of September 8, 1923.

"The determination of the question as to which of those claims filed both general and special, shall be deducted from the total of the special claims, shall be made in the manner provided in Article V hereof."

*Third.* Add to Article V the following: "If the Joint Committee shall be unable to agree as to whether a particular claim which has been filed both general and special properly belongs in the group of special claims or in that of general claims such claim shall be treated as a general claim and shall be adjudicated and settled in the same manner as other general claims under the provisions of the General Claims Convention of September 8, 1923, and the protocol of 1934."

It will be noted that omission first above is complete concession to the wishes of the Mexican Government in this respect. Deduction of decided cases is also a complete although improper concession to the sensibilities of the Mexican Government because of the Santa Isabel cases. Since lump sum percentage represents proper average recovery on all cases good and bad the elimination of cases designated by decisions as unfounded merely deprives this government of the corresponding percentage of recovery to apply to good cases. There may still remain minor points upon which Mexican Government may not be completely satisfied. But it might be pointed out that successful negotiation of such difficult questions of international difference involves concessions on both sides and that no time remains for protracted discussion of minor technicalities.

Unless agreements can be concluded this week it will probably be advisable to continue negotiations leisurely by mail rather than by cable since possibility of appropriations during present session will have virtually disappeared and probably would not justify further cable communications. Full powers to sign the convention were sent you by air mail April 14, and it is hoped that you can now sign both agreements without further delay. Cable as soon as possible what you do.

HULL

411.12/1790 : Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, April 19, 1934—noon.

[Received 4:05 p. m.]

49. In a 2-hour conference at the Foreign Office yesterday during which the entire claims situation was reviewed and the acceptance of the points outlined in the Department's telegram 54, April 17, 3 p. m. urged, the Foreign Minister stated that much to his regret he had reached the limit of concessions and that he would prefer postponement of further negotiations and that he could not sign the protocol without the convention. He based his decision on the fact that the recent changes and additions suggested by us had not only resulted in increasing the obligations to be assumed by the Mexican Government but involved radical changes from the plan originally proposed by him, a plan that was in its essentials based on former Ambassador Clark's proposal for an en bloc settlement and the application of the average percentage resulting from settlements made by Mexico with European Governments. The original draft of the protocol and convention were prepared by the Department. During the negotiations both Governments have made concessions. In my opinion the concessions made by the Foreign Minister have been greater than those made by the Department. I hope I can persuade him to accept the convention if I am authorized to sign it with article IV with changes reported in my telegrams numbers 41, April 13, 4 p. m., 43, April 14, 3 p. m. confirmed in subenclosure of the Embassy's airmail despatch 1336 of April 17<sup>96</sup> and Department's suggested addition to article V eliminated. While all of the Department's suggestions have not been accepted by the Minister I feel that unless we meet him on the present issue the question of claims will be postponed indefinitely with no assurance that the future negotiations will result in an agreement with better terms than those in the present one especially in view of the possible change of administration following the elections. If it meets with your approval I believe that a telephone conversation, after you have had opportunity to study the problem might be beneficial. If you agree please telephone me at your earliest convenience.

DANIELS

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<sup>96</sup> Despatch No. 1336 not printed.

411.12/1791: Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, April 21, 1934—1 p. m.  
 [Received 3:15 p. m.]

52. Reference telephone conversation with the Undersecretary, my recommendation is that Department authorize signature of convention without insisting that duplicated American claims be withdrawn and that claims classified as neither general or special be settled as general claims. Otherwise present negotiations will be prolonged without any assurance that we can secure better position. Moreover, decision in the matter will affect others. Please refer to my telegram No. 49, April 19, noon, and recommendation contained in my telegram 44, April 15, 4 p. m. Would appreciate telegraphic instructions today.

DANIELS

411.12/1790: Telegram

*The Acting Secretary of State to the Ambassador in Mexico (Daniels)*

WASHINGTON, April 21, 1934—4 p. m.

60. Your cable 49 April 19, noon. Your air mail despatch No. 1336<sup>97</sup> has not been received. Taking as a basis for comment draft of Convention transmitted with instruction No. 321 of April 11, Department understands the very best you are able to obtain from the Mexican Government is a Convention in that general form but subject to the following:

*First.* Elimination of last sentence of paragraph 1 of Article I, on page 2.

*Second.* The elimination of paragraph "First" of Article IV, page 3, with respect to "claims withdrawn" as a concession to United States for the elimination of the above mentioned sentence from Article I.

*Third.* Paragraph 4 of Article IV to be left as in the above mentioned draft Convention with the word "prejudice" in sixth line, page 4, changed to "prejudge" and the following sentence added to the Article:

"In the latter event, the claims improperly eliminated in the opinion of the Commissioners or Umpire, shall be settled and adjusted by the same en bloc procedure prescribed by this Convention for all claims registered with the Special Commission."

*Fourth.* All other articles to be left as indicated in the above mentioned draft Convention.

This Government interprets paragraph 4 of Article IV, including the added sentence quoted above, as meaning that if a particular claim

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<sup>97</sup> Not printed.

is improperly classified by the Joint Committee as a general claim, the General Claims Commissioners or Umpire may in their judgment determine it to be a special claim rather than a general claim, without adjudicating it upon the merits, in which event the total amount claimed in that particular case shall be added to the total of all special claims for the purpose of computing the total special claims liability of the Mexican Government.

In this situation, with the foregoing interpretation of Article IV, which should be confirmed with the Foreign Office; and in view of the circumstances explained and the opinion expressed in your cable No. 49 of April 19, you are authorized to sign the Convention on these terms.

This authorization is given with reluctance principally because it is not felt that in these terms the Convention fully embodies the principle of equality of treatment which it has been understood would be accorded to the United States, and because in its present form it involves unnecessary complications of procedure requiring the pleading of certain cases twice under different circumstances for the purpose of obtaining one adjudication on the merits.

It is believed, however, that the real necessity for progress in the settlement of these long deferred matters justifies this authorization as representing apparently the least sacrifice possible, under the circumstances.

PHILLIPS

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411.12/1793 : Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, April 23, 1934—4 p. m.

[Received 10:10 p. m.]

54. Referring to Department's telegram No. 60, April 21, 4 p. m., Foreign Office confirms Department's interpretation of paragraph Fourth, article A, which in final text of Convention becomes paragraph Third. Protocol and Convention to be signed Tuesday. Reference press statement accompanying Department's instruction 323 of April 12,<sup>98</sup> Minister of Foreign Affairs feels that a statement issued jointly by both Governments ought not to include matters that relate to action of American President or Senate, such as mentioned in third paragraph of the Department's suggested statement. He plans to issue a statement as follows:<sup>99</sup>

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<sup>98</sup> Not printed.

<sup>99</sup> In his telegram No. 57, April 24, 3 p. m., the Ambassador in Mexico stated that the Foreign Office intended to release the press statement that day "at 6 o'clock p. m. Washington time." (411.12/1795)

"The Minister for Foreign Affairs of Mexico and the Ambassador of the United States of America signed today a Protocol and a Convention. The Protocol relates to the claims of the United States and of Mexico presented heretofore to the General Claims Commission pursuant to the terms of the Convention of September 8, 1923. The Convention provides for the lump sum settlement of the claims of the United States covered by the Special Claims Convention of September 10, 1923.

The signing of these two agreements is designed to settle and adjust amicably the claims pending between the two countries through a simpler procedure than their submission to Mixed Claims Commissions.

The Protocol contemplates:

The resumption of activities by the agencies of the two Governments for the preparation and exchange, to be completed within a period of 2 years, of pleadings and briefs covering the claims of their respective nationals;

The appointment by each Government of an outstanding national jurist for the examination and appraisal of claims based on the pleadings and briefs presented by each agent;

The conclusion, after the 2-year period referred to above, of a Convention for the final settlement of the claims of the two Governments that have been appraised by the two national commissioners.

The rules of procedure to be followed by the agents of the two Governments are also fixed.

For the Convention, the basis of the agreement is that general average percentage of the settlements made by the Government of Mexico with European Governments in the adjustment of similar claims. The definite figures to be used in the final computations will be determined by a representative duly appointed by each Government, whose joint report shall be accepted as final. Ratifications will be exchanged when the Senate of each country has approved the Convention."

Foreign Minister states he has no objection to any supplementary statement by the Department to take care of domestic situation.

DANIELS

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411.12/1793 : Telegram

*The Acting Secretary of State to the Ambassador in Mexico (Daniels)*

WASHINGTON, April 24, 1934—1 p. m.

64. Your telegram No. 54, April 23, 4 p. m. Assuming that the Protocol and Convention will be signed today the Department will give out for publication in Wednesday morning newspapers a statement synthesizing enclosure to its instruction No. 323 and announcement suggested by Dr. Puig.<sup>1</sup>

PHILLIPS

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<sup>1</sup> For text of press release issued by the Department of State, April 24, 1934, see Department of State, *Press Releases*, April 28, 1934, p. 224.

Treaty Series No. 878

*Convention Between the United States of America and Mexico for an En Bloc Settlement of Special Claims, Signed at Mexico City April 24, 1934*<sup>2</sup>

The United States of America and the United Mexican States, desiring to settle and adjust amicably the claims comprehended by the terms of the Special Claims Convention concluded by the two Governments on the 10th day of September, 1923, without resort to the method of international adjudication provided by the said agreement, have decided to enter into a Convention for that purpose, and to this end have nominated as their Plenipotentiaries:

The President of the United States:

The Honorable Josephus Daniels, Ambassador Extraordinary and Plenipotentiary of the United States of America in Mexico, and

The President of the United Mexican States:

The Honorable José Manuel Puig Casauranc, Secretary of State for Foreign Affairs

Who, after having communicated to each other their respective full powers, found to be in due and proper form, have agreed upon the following articles:

#### ARTICLE I

The claims of the United States of America covered by the Special Claims Convention of September 10, 1923, shall be adjusted, settled and forever thereafter barred from further consideration, by the payment by the Government of Mexico to the Government of the United States of a sum of money which shall equal the same proportion of the total amount claimed by the United States in all such cases (after the deductions provided for in Article IV hereof), as the proportion represented—in respect to the total sum claimed by the Governments of Belgium, France, Germany, Great Britain, Italy and Spain—by the total amount found to be due from the Mexican Government in the settlement of similar claims and under the conventions concluded with those Governments by the Government of Mexico during the years from September 25, 1924 to December 5, 1930.

To determine said general average percentage resulting from the settlements with said countries for similar claims, the classic arithmetical procedure shall be used, that is to say, the total amount awarded to Belgium, France, Germany, Great Britain, Italy and Spain shall be multiplied by one hundred and the product shall be divided by the total amount claimed by said countries.

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<sup>2</sup> In English and Spanish; Spanish text not printed. Ratification advised by the Senate, June 15 (legislative day of June 6), 1934; ratified by the President, November 27, 1934; ratified by Mexico, November 23, 1934; ratifications exchanged at Mexico City, December 13, 1934; proclaimed by the President, December 22, 1934.

Having thus determined the general average percentage, in order to ascertain the amount that Mexico should pay to the United States, said percentage shall be multiplied by the total amount claimed by the United States (after the deductions provided for in Article IV of this Convention) and the resulting products shall be divided by one hundred.

## ARTICLE II

The amount provided for in Article I above shall be paid at Washington, in dollars of the United States, at the rate of 500,000.00 (five hundred thousand dollars) per annum, beginning January 1, 1935,<sup>3</sup> and continuing until the whole amount thereof shall have been paid.

## ARTICLE III

Deferred payments, by which term is meant all payments made after January 2, 1935, shall bear interest at the rate of one-fourth of one percent per annum for the first year counting from January 1, 1935, and an additional one-fourth of one percent for each additional year until the maximum of one percent is reached which shall be applied beginning January 1, 1939. In the event of failure to make annual payments when due, however, this rate shall be increased at the rate of one-fourth of one percent per annum on the amount of deferred payments during the period of any such delay until a maximum additional rate of three percent on such overdue amounts is reached.

## ARTICLE IV

In computing the total amount of claims mentioned in Article I above, there shall be deducted from the total amount of all special claims filed by the United States under the terms of the Special Claims Convention of September 10, 1923, the following items:

First: Claims decided.

Second: One-half of the amount represented by the total claimed in all cases in which the same claim has been filed twice, either for the same or for different amounts, with the Special Claims Commission.

Third: From the claims registered for the same reason with both Commissions, there shall be deducted the total amount of all claims that in fact or apparently should have [been] registered only with the General Claims Commission established by the Convention of September 8, 1923.

The determination, by the representatives of both Governments referred to in Article V of this Convention, of claims that ought to

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<sup>3</sup> For press release issued by the Department of State on January 3, 1935, announcing the payment of the first annual installment, see Department of State, *Press Releases*, January 5, 1935, p. 8.

be withdrawn from the Special Commission because in fact or apparently they should have been registered only with the General Commission for presentation and adjudication, does not prejudice the jurisdiction in and validity of said claims, which shall be determined in each case when examined and adjudicated by the Commissioners or Umpire in accordance with the provisions of the General Claims Convention of September 8, 1923 and the Protocol of April 24, 1934, or the Special Claims Convention of September 10, 1923, and the Protocol of June 18, 1932, in the event it shall be found by the Commissioners or Umpire to have been improperly eliminated from the Special Claims settlement. In the latter event, the claims improperly eliminated in the opinion of the Commissioners or Umpire, shall be settled and adjusted by the same en bloc procedure prescribed by this Convention for all claims registered with the Special Commission.

#### ARTICLE V

The total amount of the special claims of the United States, as well as the deductions to be made therefrom, in accordance with Article IV above, and the proportionate amount thereof to be paid in accordance with Article I above, shall be determined by a Joint Committee consisting of two members, one to be appointed by each Government, whose joint report, after due conference and consideration, shall be accepted as final.

#### ARTICLE VI

It is agreed that, for the purpose of facilitating a proper distribution by the United States to the respective claimants of the amount to be paid as provided for herein, the Mexican Government shall deliver to the United States, upon request, all evidence in its possession bearing upon the merits of particular claims and to procure, at the cost of the United States, such additional evidence as may be available in Mexico and as may be indicated by the Government of the United States to be necessary to the proper adjudication of particular claims, leaving to the judgment of the Mexican Government the furnishing of originals or certified copies thereof and with the specific reservation that no documents shall be delivered which owing to their nature cannot be furnished by said Government.

#### ARTICLE VII

The present Convention shall be ratified by the High Contracting Parties in accordance with their respective Constitutions, such ratifications being exchanged in Mexico City as soon as practicable and the Convention shall take effect on the date of the exchange of ratifications.



In witness whereof, the respective Plenipotentiaries have signed and affixed their seals to this Convention.

Done in duplicate, in english and spanish, at Mexico City this 24th day of April 1934.

JOSEPHUS DANIELS  
[SEAL]

PUIG  
[SEAL]

411.12/1819

*The American Ambassador in Mexico (Daniels) to the Mexican Minister for Foreign Affairs (Puig)*<sup>4</sup>

The Ambassador of the United States of America presents his compliments and has the honor to inform His Excellency, the Minister for Foreign Affairs, that in proceeding to the signature of the Convention for the en bloc settlement of the Special Claims of the United States, and in order to aid in the interpretation of Articles IV and VI, the following points discussed orally during the negotiations are accepted by both governments.

Under Article IV: If a particular claim is improperly classified by the Joint Committee as a General Claim, the General Claims Commissioners or Umpire may in their judgment determine it to be a Special Claim rather than a General Claim without adjudicating it upon the merits, in which event the total amount claimed in that particular case shall be added to the total of all Special Claims for the purpose of computing the total Special Claims liability of the Mexican Government.

Under Article VI: That the reservation of the Mexican Government not to deliver documents which, owing to their nature, cannot be furnished by said Government, shall be used only in exceptional cases, where the withholding thereof may be required by considerations of real political importance to the Government of Mexico.

México, April 24, 1934.

Executive Agreement Series No. 57

*Protocol Between the United States of America and Mexico Regarding General Claims, Signed at Mexico City, April 24, 1934*<sup>5</sup>

Josephus Daniels, Ambassador Extraordinary and Plenipotentiary of the United States of America to the Government of Mexico, and

<sup>4</sup> Transmitted to the Department by the Chargé in Mexico as an enclosure to his despatch No. 1385, May 4, 1934; received May 9. A note of the same date, *mutatis mutandis*, in Spanish, from the Mexican Minister for Foreign Affairs was received by the American Ambassador in Mexico.

<sup>5</sup> In English and Spanish; Spanish text not printed. Ratified by the President, January 14, 1935; ratified by Mexico, November 23, 1934; ratifications exchanged at Washington, February 1, 1935; proclaimed by the President, February 1, 1935.

José Manuel Puig Casauranc, Secretary for Foreign Affairs of the United Mexican States, duly authorized, have agreed on behalf of their two Governments to conclude the following Protocol:

WHEREAS, It is the desire of the two Governments to settle and liquidate as promptly as possible those claims of each Government against the other which are comprehended by, and which have been filed in pursuance of, the General Claims Convention between the two Governments, concluded on September 8, 1923;

WHEREAS, It is not considered expedient to proceed, at the present time, to the formal arbitration of the said claims in the manner provided in that Convention;

WHEREAS, It is considered to be conducive to the best interests of the two Governments, to preserve the *status quo* of the General Claims Convention above mentioned and the Convention extending the duration thereof, which latter was concluded on June 18, 1932, as well as the agreement relating to agrarian claims under Article I of the additional Protocol of June 18, 1932;

WHEREAS, It is advisable to endeavor to effect a more expeditious and more economical disposition of the claims, either by means of an en bloc settlement or a more simplified method of adjudication, and

WHEREAS, In the present state of development of the numerous claims the available information is not such as to permit the two Governments to appraise their true value with sufficient accuracy to permit of the successful negotiation of an en bloc settlement thereof at the present time;

THEREFORE, It is agreed that:

First.—The two Governments will proceed to an informal discussion of the agrarian claims now pending before the General Claims Commission, with a view to making an adjustment thereof that shall be consistent with the rights and equities of the claimants and the rights and obligations of the Mexican Government, as provided by the General Claims Protocol of June 18, 1932. Pending such discussion no agrarian claims will be presented to the Commissioners referred to in Clause Third nor, in turn, to the Umpire referred to in Clause Fifth of this Protocol; but memorials of cases not yet memorialized may be filed in order to regularize the awards made upon the agreed adjustments.

Consequently, the subsequent provisions of this Protocol shall apply to agrarian claims only insofar as they do not conflict with the status thereof, as exclusively fixed by the terms of the agreed Article I of the additional protocol to the extension of the General Claims Convention, signed June 18, 1932.

Second.—The two Governments shall proceed, in accordance with the provisions of clause Sixth below, promptly to complete the written

pleadings and briefs in the remaining unpleaded and incompletely pleaded cases.

Third.—Each Government shall promptly designate, from among its own nationals, a Commissioner, who shall be an outstanding jurist and whose function it shall be to appraise, on their merits, as rapidly as possible, the claims of both Governments which have already been fully pleaded and briefed and those in which the pleadings and briefs shall be completed in accordance herewith.

Fourth.—Six months before the termination of the period herein agreed upon for the completion of the pleadings and briefs referred to in Clause Sixth or at an earlier time should they so agree, the said Commissioners shall meet, at a place to be agreed upon by them, for the purpose of reconciling their appraisals. They shall, as soon as possible, and not later than six months from the date of the completion of the pleadings and briefs, submit to the two Governments a joint report of the results of their conferences, indicating those cases in which agreement has been reached by them with respect to the merits and the amount of liability, if any, in the individual cases and also those cases in which they shall have been unable to agree with respect to the merits or the amount of liability, or both.

Fifth.—The two Governments shall, upon the basis of such joint report, and with the least possible delay, conclude a convention for the final disposition of the claims, which convention shall take one or the other of the two following forms, namely, first, an agreement for an en bloc settlement of the claims wherein there shall be stipulated the net amount to be paid by either Government and the terms upon which payment shall be made; or, second, an agreement for the disposition of the claims upon their individual merits. In this latter event, the two above-mentioned Commissioners shall be required to record their agreements with respect to individual claims and the bases upon which their conclusions shall have been reached, in the respective cases.

The report shall be accepted, by the convention to be concluded by the two Governments, as final and conclusive dispositions of those cases. With respect to those cases in which the Commissioners shall not have been able to reach agreements, the two Governments shall, by the said convention, agree that the pleadings and briefs in such cases, together with the written views of the two Commissioners concerning the merits of the respective claims, be referred to an Umpire, whose written decisions shall also be accepted by both Governments as final and binding. All matters relating to the designation of an Umpire, time within which his decisions should be rendered and general provisions relating to his work shall be fixed in a Convention to be negotiated under provisions of this Clause.

Sixth.—The procedure to be followed in the development of the pleadings and briefs, which procedure shall be scrupulously observed by the Agents of the two Governments, shall be the following:

(a) The time allowed for the completion of the pleadings and briefs shall be two years counting from a date hereafter to be agreed upon by the two Governments by an exchange of notes, which shall not be later than November 1, 1934.

(b) The pleadings and briefs of each Government shall be filed at the Embassy of the other Government.

(c) The pleadings and briefs to be filed shall be limited in number to four, namely, Memorial, Answer, Brief and Reply Brief. Only three copies of each need be presented to the other Agent, but four additional copies shall be retained by the filing Agency for possible use in future adjudication. Each copy of Memorial, Answer and Brief shall be accompanied by a copy of all evidence filed with the original thereof. The pleadings and briefs, which may be in either English or Spanish at the option of the filing Government, shall be signed by the respective Agents or properly designated substitutes.

(d) With the Memorial the claimant Government shall file all the evidence on which it intends to reply. With the Answer the respondent Government shall file all the evidence upon which it intends to rely. No further evidence shall be filed by either side except such evidence, with the Brief, as rebuts evidence filed with the Answer. Such evidence shall be strictly limited to evidence in rebuttal and there shall be explained at the beginning of the Brief the alleged justification for the filing thereof. If the other side desires to object to such filing, its views may be set forth in the beginning of the Reply Brief, and the Commissioners, or the Umpire, as the case may require, shall decide the point, and if it is decided that the evidence is not in rebuttal to evidence filed with the Answer, the additional evidence shall be entirely disregarded in considering the merits of the claim.

The Commissioners may at any time order the production of further evidence.

(e) In view of the desire to reduce the number of pleadings and briefs to a minimum in the interest of economy of time and expense, it shall be the obligation of both Agents fully and clearly to state in their Memorials the contention of the claimant Government with respect to both the factual bases of the claims in question and the legal principles upon which the claims are predicated and, in the Answer, the contentions of the respondent Government with regard to the facts and legal principles upon which the defense of the case rests. In cases in which Answers already filed do not sufficiently meet this provision so as to afford the claimant Government an adequate basis for preparing its legal Brief with full general knowledge of the factual and legal defenses of the respondent Government, it shall have

the right to file a Counter Brief within thirty days following the date of filing the Reply Brief.

(*f*) For the purposes of the above pleadings and briefs, as well as the appraisals and decisions of the two Commissioners and the decisions of the Umpire, above mentioned, the provisions of the General Claims Convention of September 8, 1923, shall be considered as fully effective and binding upon the two Governments, except insofar as concerns the matter of procedure, which shall be that provided for herein.

(*g*) Whenever practicable, cases of a particular class shall be grouped for memorializing and/or for briefing.

(*h*) In order that the two Agents may organize their work in the most advantageous manner possible and in order that the two-year period allowed for pleadings and briefs may be utilized in a manner which shall be most equitable to both sides, each Agent shall, within thirty days from the beginning of the two-year pleading period, submit to the other Agent a tentative statement showing the total number of Memorials and Briefs such Agent intends to file. Six months after the beginning of the two-year pleading period, the two Agents shall respectively submit in the same manner statements setting out definitely by name and docket number the claims in which it is proposed to complete the pleadings and briefs, indicating those in which they intend to combine cases in the manner indicated in paragraph (*g*) above. The number of pleadings and briefs so indicated shall not, except by later agreement between the two Governments be exceeded by more than ten percent.

(*i*) In order to enable the Agencies to distribute their work equally over the two-year pleading period, each Agency shall be under the obligation to file its Memorials at approximately equal intervals during the first seventeen months of the two-year period, thus allowing the remaining seven months of the period for the completion of the pleadings and briefs in the last case memorialized. The same obligation shall attach with respect to the filing of the pleadings and briefs referred to in paragraph (*h*) below.

(*j*) The time to be allowed for filing Answers shall be seventy days from the date of filing Memorials. The time to be allowed for filing Briefs shall be seventy days from the date of filing the Answers. The time to be allowed for filing Reply Briefs shall be seventy days from the date of filing the Briefs.

(*k*) In those cases in which some pleadings or briefs were filed with the General Claims Commission before the date of signature hereof, the Agency which has the right to file the next pleading or brief shall

be allowed to determine when that document shall be filed, taking into consideration the necessity of complying with the provisions of paragraph (i) above.

(l) In counting the seventy-day periods mentioned in paragraph (j) above, no deductions shall be made for either Sundays or holidays. The date of filing the above described pleadings and briefs shall be considered to be the date upon which they shall be delivered at the Embassy of the other Government. If the due date shall fall on Sunday or a legal holiday, the pleading or brief shall be filed upon the next succeeding business day. The two Governments shall, for this purpose, instruct their respective Embassies to receive and give receipts for such pleadings and briefs any weekday between the hours of 10 and 16 (4 p. m.) except on the following legal holidays of both countries:

*Of the United States*

January 1  
 February 22  
 May 30  
 July 4  
 First Monday in  
 September  
 Last Thursday in  
 November  
 December 25

*Of Mexico*

January 1  
 February 5  
 May 1  
 May 5  
 September 14  
 September 15  
 September 16  
 October 12  
 November 20  
 December 25  
 December 31

(m) In view of the herein prescribed limitations upon the time allowed for the completion of the work of the Agencies and the Commissioners, it is recognized that the success of this simplified plan of procedure depends fundamentally upon the prompt and regular filing of the pleadings and briefs in accordance with the provisions of this Protocol. It is agreed, therefore, that any pleading or brief which shall be filed more than thirty days after the due date for the filing thereof, shall be disregarded by the Commissioners and the Umpire, and that the respective case shall be considered by them upon the pleadings and briefs preceding the tardy pleadings and briefs, unless, by agreement of the two Governments, the continued pleading of the respective case shall be resumed.

(n) It shall not be necessary to present original evidence but all documents hereafter submitted as evidence shall be certified as true and complete copies of the original if they be such. In the event that any particular document filed is not a true and complete copy of the original, that fact shall be so stated in the certificate.

(o) The complete original of any document filed, either in whole or in part, shall be retained in the Agency filing the document and shall be made available for inspection by any authorized representative of the Agent of the other side.

(p) Where the original of any document or other proof is filed at any Government office on either side, and cannot be conveniently withdrawn, and no copy of such document is in the possession of the Agent of the Government desiring to present the same to the Commissioners in support of the allegations set out in his pleadings or briefs, he shall notify the Agent of the other Government in writing of his desire to inspect such document. Should such inspection be refused, then the action taken in response to the request to inspect, together with such reasons as may be assigned for the action taken, shall be reported to the Commissioners and, in turn, to the Umpire mentioned in Clause Fifth of this Protocol, so that due notice thereof may be taken.

Done in duplicate in Mexico, D. F. in the English and Spanish languages this twenty fourth day of the month of April one thousand nine hundred and thirty four.

JOSEPHUS DANIELS [SEAL]  
 PUIG [SEAL]

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Executive Agreement Series No. 57

*The Mexican Chargé (Campos-Ortiz) to the Secretary of State*

[Translation]

WASHINGTON, February 1, 1935.

MR. SECRETARY: In conformity with the provision of paragraph (a) of Clause Six of the Protocol relating to claims presented before the General Claims Commission, signed on April 24, 1934, which states: "The time allowed for the completion of the pleadings and briefs shall be two years counting from a date hereafter to be agreed upon by the two governments by an exchange of notes, which shall not be later than November 1, 1934" and taking into account that the extension of time granted by the Mexican Government to that of the United States in Note No. 6509 of September 26, 1934,<sup>6</sup> expires on the first of February, both governments, for the purposes of the clause above mentioned, consider as initiated as of this date and by means of the exchange of these identic notes the period of two years to which the said provision of the Protocol refers.

I avail myself [etc.]

P. CAMPOS-ORTIZ

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<sup>6</sup> Notes exchanged September 25, 1934, and September 26, 1934, extending the beginning of the exchange of pleadings from November 1, 1934, to February 1, 1935, not printed (411.12/1902).

Executive Agreement Series No. 57

*The Secretary of State to the Mexican Chargé (Campos-Ortiz)*

WASHINGTON, February 1, 1935.

SIR: In conformity with the provision of Paragraph (a) of Clause Sixth of the Protocol relating to claims presented before the General Claims Commission, signed on April 24, 1934, which states: "The time allowed for the completion of the pleadings and briefs shall be two years counting from a date hereafter to be agreed upon by the two Governments by an exchange of notes, which shall not be later than November 1, 1934," and taking into account that the extension of time granted by the Mexican Government to the Government of the United States in Note No. 6509 of September 26, 1934, expires on the first of February, both Governments, for the purposes of the clause above mentioned, consider as initiated as of this date and by means of the exchange of these identic notes the period of two years to which the said provision of the Protocol refers.

Accept [etc.]

CORDELL HULL

**EFFORTS TO SOLVE UNSETTLED PROBLEMS WITH RESPECT TO THE RECTIFICATION OF THE RIO GRANDE; RESERVATION BY THE MEXICAN GOVERNMENT OF ITS RIGHTS IN THE CHAMIZAL AREA<sup>7</sup>**

711.12155/897

*The Mexican Chargé (Padilla-Nervo) to the Acting Secretary of State*

[Translation]

No. 001

WASHINGTON, January 2, 1934.

MR. UNDER SECRETARY: I have the honor to inform Your Excellency that the Mexican Commissioner on the International Commission on Boundaries and Waters between Mexico and the United States, after having inspected the work that is being done at present on the left bank of the Rio Grande in front of the town of Presidio, Texas, came to the conclusion that part of the said work may be considered as violating the Treaties in force and that almost all of it is being executed in territory claimed by Mexico under the avulsive change of Ojinaga and the Machuca Islands.

On that ground the Mexican Commissioner, Engineer Armando Santacruz, addressed a communication to Engineer L. M. Lawson, United States Commissioner, on December 11th last, invoking Article 3 of the Convention of November 12, 1884,<sup>8</sup> which prohibits the con-

<sup>7</sup> For previous correspondence, see *Foreign Relations*, 1933, vol. v, pp. 823 ff.

<sup>8</sup> William M. Malloy (ed.), *Treaties, Conventions, etc., Between the United States of America and Other Powers, 1776-1909* (Washington, Government Printing Office, 1910), vol. i, p. 1159.



struction of "obstructions tending to shift the current or produce deposits of alluvium", and stated in that communication (referring to the territory in which almost all the work is being performed) that the riparian lands on the left bank of the Rio Grande, from the confluence of the Rio Conchos to a little below the bridge at Presidio, are included under the avulsive changes of Ojinaga and the Machuca Islands, which were cut off from Mexico, and which, in accordance with the Conventions between the two countries, are to remain under the dominion and jurisdiction of Mexico until the International Boundary Commission makes a decision with regard to them.

In view of the above circumstances and in conformity with Article 5 of the Convention of March 1, 1889,<sup>9</sup> the Mexican Commissioner has requested the United States Commissioner to take the steps necessary for having the Commission order the suspension of the work in question until the said International Boundary Commission looks into the matter and makes such decisions as may be proper.

By instructions from my Government, I now have the honor to repeat to Your Excellency the request which the Mexican Commissioner made to the United States Commissioner, asking you to be kind enough to have the necessary steps taken to have the International Boundary Commission consider this matter in its various aspects and make the proper decisions.

I thank Your Excellency in advance for the attention which you may be kind enough to give this matter and I avail myself [etc.]

L. PADILLA-NERVO

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711.12155/916

*The Secretary of State to the Mexican Chargé (Padilla-Nervo)*

WASHINGTON, February 1, 1934.

SIR: I refer to your note No. 001 of January 2, 1934, in regard to certain construction work which you stated was being done on the left bank of the Rio Grande near the town of Presidio, Texas, apparently in violation of Article III of the Convention of November 12, 1884, which prohibits the building of obstructions which may tend to deflect the current or produce deposits of alluvium.

A report dated January 11, 1934, has now been received from Boundary Commissioner Lawson,<sup>10</sup> from which it appears that he is cooperating with the Mexican Commissioner in this matter. Mr. Lawson informs the Department that the temporary suspension of the work in reference has been ordered and that the American Section of the Commission will advise the local officials in charge of the work on the

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<sup>9</sup> Malloy, *Treaties*, 1776-1909, vol. I, p. 1167.

<sup>10</sup> Not printed.

American side of the river concerning the provisions of existing treaties bearing upon permitted and prohibited works, including the provisions of Article III of the Convention of November 12, 1884. The Commissioner further states that upon compliance with these provisions by the officials in charge of the work the temporary suspension which he has effected will be terminated.

Accept [etc.]

For the Secretary of State:  
R. WALTON MOORE

711.12155/1007

*The Secretary of State to the Secretary of the Treasury*  
(*Morgenthau*)

WASHINGTON, May 7, 1934.

MY DEAR MR. SECRETARY: I have received a letter from the Director of Procurement of your Department, dated April 27, 1934,<sup>11</sup> requesting the advice of this Department concerning the proper procedure to be followed in providing adequate and suitable housing accommodation for the United States Customs, Immigration, Public Health and Plant Quarantine services at this end of the International Bridge in El Paso, Texas.

Admiral Peoples refers in his letter to the previous steps that have been taken with a view to obtaining a solution of this problem and encloses a copy of H. R. 1731, introduced on March 9, 1933, by Representative Thomason of Texas, to authorize the Treasury Department to enter into a long term lease of a building to be erected at private expense in the Chamizal area of El Paso. He states that in view of the urgent need for better accommodations in El Paso for the services mentioned, your Department would appreciate early advice as to whether action should be further delayed pending a settlement by the International Boundary Commission, United States and Mexico, of the controversy as to national sovereignty in the Chamizal tract, or whether steps should be taken looking toward the acquisition of improved facilities through a lease arrangement similar to that proposed in H. R. 1731.

In reply I may say that there appears to be no prospect of an early settlement by agreement between the United States and Mexico of the question of territorial sovereignty over the Chamizal area. The considerations which prompted this Department in 1929 to request that the matter of the acquisition by the United States of title to the proposed building site in that area be held in abeyance<sup>12</sup> therefore remain unchanged.

<sup>11</sup> Not printed.

<sup>12</sup> See *Foreign Relations*, 1929, vol. III, p. 479.

It is believed that similar considerations would not apply to the method of solving the problem suggested in H. R. 1731, as the contemplated transfer of the United States inspection services from the quarters which they now occupy under lease in the Chamizal tract to new leased quarters in a building to be constructed in that tract and owned by private parties would appear to entail no change in the international status of the area in question. Moreover, provision is in the Bill for the cancellation of the lease in the event that the lands leased shall be determined to be subject to the jurisdiction of Mexico. However, it is suggested that the private character of the building enterprise should be still further emphasized by the deletion from the Bill of paragraph (1) of Section one, which, of course, would involve also the deletion of the final clause of Section two. With these omissions the Department of State would perceive no objection to H. R. 1731 from the point of view of the international relations of the United States.

Sincerely yours,

For the Secretary of State:

R. WALTON MOORE  
*Assistant Secretary*

711.12155/1031

*The Mexican Ambassador (González Roa) to the Secretary of State*

[Translation <sup>13</sup>]

No. 2063

WASHINGTON, May 22, 1934.

MR. SECRETARY: Under date of January 20 [2], last, this Embassy had the honor to address a note to Your Excellency in which, by express instructions of the Mexican Chancellery, the request was renewed which the Mexican Boundary Commissioner, Engineer Armando Santacruz, presented to the United States Commissioner, Mr. L. M. Lawson, for the suspension of the works that were being carried out on the left bank of the Rio Grande, opposite the town of Presidio, in the State of Texas. The step taken by Engineer Santacruz, was based on the fact that the said works were being carried out on the land situated within the avulsive changes of Ojinaga and the Islands of Machuca, which were separated from Mexico.

Your Excellency, in a note dated February 1 last, was good enough to inform me that the said works had been suspended.

The request first made by the Mexican Commissioner, and later by this Embassy, was based, principally, not on the legality or illegality of the works with regard to their form and conditions, but on the fact of their being situated on the land comprised in the said

<sup>13</sup> File translation revised by the editors.

avulsive changes, and which, in accordance with the conventions now in force between the two countries, remain under the dominion and jurisdiction of Mexico, until the International Boundary Commission makes the necessary decision.

In this connection my Government has given me instructions to request Your Excellency to instruct the United States Commissioner, Mr. Lawson, to proceed with examination of this case and to render the appropriate decision.

The Mexican Commissioner, Mr. Santacruz, is prepared to undertake this study.

Of the cases in which the avulsion took place some time ago, this is the only one which is awaiting the decision of the International Boundary Commission, and there appears to be no reason for delaying consideration thereof. According to information which this Embassy has, the investigation based on testimony and documents, which is necessary in order to enable the Commission to make a decision determining in a definitive manner to what sovereignty and jurisdiction the land in question is to be subject, has now been completed.

Trusting that Your Excellency's Government agrees with that of Mexico that it is highly expedient, in order to avoid the complications that might result from the uncertain status of that land, that the International Boundary Commission should render the respective decision, I take [etc.]

FERNANDO GONZÁLEZ ROA

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711.12155/1073

*The Secretary of State to the Mexican Ambassador (González Roa)*

WASHINGTON, July 16, 1934.

EXCELLENCY: I refer to Your Excellency's note No. 2063 of May 22, 1934, advising me of the desire of the Mexican Government that the American Commissioner be instructed to take the necessary steps to the end that the International Boundary Commission, United States and Mexico, may proceed definitely to determine the sovereignty in certain lands on the left bank of the Rio Grande opposite the town of Presidio, Texas, which your Government avers were involved in avulsive changes of that river and are consequently under the dominion and jurisdiction of Mexico, in accordance with the applicable provisions of the treaties in force between Mexico and the United States, pending a decision of the Commission.

As Your Excellency was informed in my note of acknowledgment dated May 31, 1934,<sup>14</sup> this matter was duly referred for an expression

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<sup>14</sup> Not printed.

of his opinion and recommendations to the American Commissioner. A reply has now been received from Mr. Lawson in which he advises that the question of these areas is greatly complicated by the obscurity and uncertainty of the existing evidence and data concerning the manner in which they were formed. This opinion is corroborated by the information in the files of the Department.

It occurs to me that it would be most helpful in the consideration of this matter if, prior to the issuance of definitive instructions of the two Governments to their respective Boundary Commissioners, an examination and careful study of the existing data respecting the areas might be undertaken to provide a basis for determining whether such data may be sufficiently reliable and accurate to enable the Commissioners to render an authoritative decision with regard to the status of the areas, or whether, on the other hand, the character of the evidence disclosed may be such as to render such a decision extremely difficult to reach, thus pointing to the desirability of further discussion of the matter by the two Governments.

In the event that this suggested procedure commends itself to Your Excellency's Government, I shall be pleased to request the American Commissioner to direct one of the engineers of the American Section to cooperate with an engineer of the Mexican Section in carrying out such a preliminary examination and study.

Accept [etc.]

For the Secretary of State:  
SUMNER WELLES

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711.12155/1078

*The Secretary of State to the Mexican Ambassador (González Roa)*

WASHINGTON, July 21, 1934.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note dated July 12, 1934,<sup>15</sup> in which reference is made to a Resolution recently approved by the Congress of the United States authorizing this Government to rent for a period of 25 years a building to be constructed by the owners of certain lands situated in that part of El Paso, Texas, known as the Chamizal.

Your Excellency adverts in this connection to the note which your Embassy addressed to this Department on May 31, 1929,<sup>16</sup> concerning the reported intention of the United States Government at that time to acquire title to lands in the Chamizal for the construction of a federal building, in which note it was stated that the Government of Mexico would not recognize by reason of such acquisition any change in the status of the Chamizal. In your note under acknowledgment

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<sup>15</sup> Not printed.

<sup>16</sup> *Foreign Relations*, 1929, vol. III, p. 476.

Your Excellency advises that your Government has instructed you to announce that it reserves the rights which it claims in the Chamizal area and therefore maintains the reservations set forth in your Embassy's note of May 31, 1929.

In reply I take this opportunity to inform Your Excellency that these reservations have been duly noted and that this Department does not construe the Resolution referred to in your note as involving any change in the existing status of the area in question.

Accept [etc.]

CORDELL HULL

711.12155/1121

*The Mexican Ambassador (González Roa) to the Secretary of State*

[Translation]

[No. 3625]

WASHINGTON, September 26, 1934.

MR. SECRETARY: I refer to your Excellency's note of July 16th last, which you were good enough to send me in reply to Note No. 2063 from this Embassy, of the preceding 22nd of May, in which I had the honor, by instruction from my Government, to request Your Excellency to have appropriate instructions given to the United States Commissioner on the International Boundary Commission, Mr. Lawson, in order that an examination might be made of the case of the lands situated within the avulsive changes of Ojinaga and the Machuca Islands and to have the corresponding decision made.

Your Excellency was good enough to inform me, in your kind note of July 16th, that everything connected with these lands is very complicated, due to the vagueness and ambiguity of the existing data, and that it would therefore be well for the two Governments to issue definite instructions to their Commissioners to examine and study with great care the data that exists respecting these lands, in order to be able to establish a basis for deciding whether such data are sufficient for the Commission to issue an authorized decision regarding the status of those zones, or whether the character of this data is of such a nature that it would be extremely difficult to reach a decision, which would indicate, in Your Excellency's opinion, the suitability of having the matter discussed again by both Governments.

With respect to this, I have instructions to address Your Excellency, informing you that, in the opinion of my Government, the data in the possession of the Boundary Commission concerning the lands mentioned are sufficient to form the basis for a decision thereon, for which reason the Government of Mexico would be glad to have this case dealt with at once by the said Boundary Commission.

I avail myself [etc.]

FERNANDO GONZÁLEZ ROA

711.12155/1146

*The Secretary of State to the Mexican Ambassador (González Roa)*

WASHINGTON, November 8, 1934.

EXCELLENCY: I have the honor to refer to Your Excellency's note No. 3625 of September 26, 1934, to the Department's reply of October 2, 1934,<sup>17</sup> and to prior correspondence, in relation to the desire of your Government that the International Boundary Commission, United States and Mexico, undertake to determine the sovereignty with respect to certain lands on the left bank of the Rio Grande near the town of Presidio, Texas.

Further careful study has been given to this matter by the Department, as well as by the American Section of the Boundary Commission. This study reveals that not only are the areas in the vicinity of Presidio obscure and uncertain with respect to their status, but that there are several islands among those surveyed and the nationality of which was once determined by the joint action of Commissioners Emery and Salazar which are believed to have now disappeared or to have become attached to mainlands on one bank of the Rio Grande or the other. There are likewise believed to exist other areas between Quitman Canyon and the Gulf of Mexico the status of which appears not to be definitely known, thus rendering ineffectual the fundamental principle of a clearly established water boundary between the points mentioned. In view of these conditions this Government would be disposed to join with Your Excellency's Government in issuing instructions to the Boundary Commission of such scope as to embrace a joint investigation by the Boundary Commissioners of the entire water boundary between Quitman Canyon and the Gulf, with the view of determining the status of the above-mentioned islands, as well as to determine whether or not there are any areas which may be bancos subject to the action of the Commission, in accordance with the provisions of existing boundary conventions.

Since it would be in the interest of both Governments to know with definiteness the status of all such areas, including those situated near Presidio, I have the honor to request that Your Excellency be good enough to inform the Department whether your Government would be disposed to join this Government in issuing instructions to the Boundary Commission in the sense above indicated.

Accept [etc.]

For the Secretary of State:  
R. WALTON MOORE

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<sup>17</sup> Latter not found in Department files.

EFFORTS TO STOP ILLEGAL ENTRY OF CHINESE NATIONALS FROM  
MEXICO INTO THE UNITED STATES<sup>18</sup>

812.504/1424

*The Consul at Ensenada (Smale) to the Secretary of State*

No. 778

ENSENADA, January 24, 1934.

[Received January 27.]

SIR: I have the honor to refer to my despatch No. 702 of June 12, 1933,<sup>19</sup> which reported rumors of the intended expulsion from the Northern Territory of Baja California of Chinese residents. The Department now is informed that definite steps are being taken by the civil population in Ensenada, and, by report, in Tijuana and Mexicali, to this end. A circular distributed in Ensenada yesterday reads as follows, in translation:

**"MEXICANS—AWAKE!**

"The Nationalist Committee has been Legally Constituted in this Port.

"The Anti-Chinese campaign will begin immediately with full force.

"It is a Matter of Hours.

"Families soon will receive all classes of well presented literature; but at once must abstain from patronizing the asiatic element.

"Our campaign will be carried out energetically until it triumphs.

"Mexican Commerce is United.

"There is no one to fear.—Our being Mexican compels us and reason and right assist us.

"The Nationalist Committee of Ensenada.

"Ensenada, B. C., January 23, 1934."

A copy of the circular in Spanish is enclosed herewith.<sup>19</sup>

A meeting is to be held tonight, at which further plans are to be discussed. Reports received at the Consulate indicate that if Chinese merchants do not close their shops and depart from this Territory, strong and illegal measures will be employed to cause them to do so. While there are some who are in favor of ridding the communities of Chinese by excessive taxation and assessment of heavy fines for infractions of various provisions of the Mexican Labor Law, or other laws, it is doubtful that all elements will confine their activities to such a procedure.

Success of the project of the Nationalist (Anti-Chinese) Committee unquestionably will present to the United States the problem of dealing with Chinese refugees. The Consulate is writing today to the

<sup>18</sup> Continued from *Foreign Relations*, 1933, vol. v, pp. 839-847.

<sup>19</sup> Not printed.



Chief Patrol Inspector, United States Immigration Service, Chula Vista, California, on this subject, and encloses herewith a copy of its letter.<sup>21</sup>

Should it be the policy of the United States to endeavor to prevent acts of violence against the Chinese upon the grounds that such acts would work a great hardship upon the United States Government, and should the Department authorize me to do so, it is possible that I could convince leaders of the Nationalist Committee that it would be wise for them to encourage the employment of legal means to solve their problems. . . .

Pending the receipt of instructions from the Department, the Consulate will but observe the facts.

Respectfully yours,

WM. A. SMALE

812.504/1424 : Telegram

*The Secretary of State to the Ambassador in Mexico (Daniels)*

WASHINGTON, January 31, 1934—6 p. m.

13. Reference despatch No. 778 of January 24, 1934, from Ensenada. Unless you are in possession of reliable information indicating that the anticipated situation will not arise or are aware of some urgent reason why such action should not be taken, the Department desires you to discuss this matter with the Mexican Foreign Office, carefully pointing out that your Government refrains from representations respecting the purely Mexican aspects of the situation, but stating that this Government hopes adequate measures will be taken to prevent the forcing of Chinese into the United States from Baja California and the consequent repetition of the serious difficulties caused by the forced illegal entry of Chinese into this country following the anti-Chinese movement in Sonora.

In this connection please consult Embassy's despatch No. 2442 of March 30, 1933,<sup>22</sup> reporting that Doctor Puig stated our complaints regarding Sonora Chinese were justified, Embassy's No. 81 of May 17, 1933,<sup>21</sup> reporting among other things General Rodriguez's previous attitude respecting Chinese expelled from Baja California, and Nos. 109 and 272 of May 22, and June 23, 1933, respectively,<sup>23</sup> reporting arrangements effected by Governor of Sonora to prevent movement of Chinese to United States border, as well as No. 311 of July 1, 1933,<sup>24</sup> reporting orders given by Gobernación to Mexican immigration officials on United States border.

HULL

<sup>21</sup> Not printed.

<sup>22</sup> *Foreign Relations*, 1933, vol. v, p. 841.

<sup>23</sup> *Ibid.*, pp. 843 and 849.

<sup>24</sup> *Ibid.*, p. 845.

812.504/1428 : Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, February 10, 1934—noon.

[Received 3:45 p. m.]

9. Referring to Department's telegram No. 13, January 31, 6 p. m., the Minister for Foreign Affairs in a letter received last night states that the chief of the Migration Service at Tijuana says that he has no information that Chinese entering the United States crossing at unauthorized points and that the chief of the American Immigration Service has informed him that he is redoubling the guard in order to prevent such entries. The Mexican agent further stated that he would report immediately any new developments. The Mexican Immigration Agent at Ensenada reported that he had no knowledge of entries of Chinese into the United States at secret points.

The Minister for Foreign Affairs advised me orally that the President told him that the territory of Lower California being under federal jurisdiction, if deportments of Chinese from that point into the United States took place the Federal Government would control it.

DANIELS

812.504/1431 : Telegram

*The Ambassador in Mexico (Daniels) to the Secretary of State*

MEXICO, February 15, 1934—10 a. m.

[Received 1:15 p. m.]

12. Reference my telegram 9, February 10, noon, I have just received a note from the Minister of Foreign Affairs stating that the Ministry of Gobernación has transmitted, with authorization of the President, telegraphic instructions to Governor of Northern District of Lower California to take the necessary steps to prevent Chinese residents there from entering the United States at unauthorized points and without complying with the necessary legal requirements.

DANIELS

812.504/1441

*The Department of State to the Chinese Legation*

## MEMORANDUM

The Department of State has received the Chinese Legation's memorandum of March 2, 1934,<sup>25</sup> in regard to anti-Chinese agitation in Lower California, Mexico, in which the Legation expresses the desire

<sup>25</sup> Not printed.

that some arrangement be made whereby Chinese refugees from that area could be admitted into the United States for a short time, under such conditions as the immigration authorities may prescribe in cooperation with Chinese consular officers, until it is safe for them to return to Mexico.

Prior to the receipt of the memorandum mentioned, the Department had received and is continuing to receive from its consular representatives at Ensenada and Mexicali reports with regard to anti-Chinese agitation in Lower California, Mexico. These reports indicate that American consular and immigration officers are watching the situation closely and are prepared to handle that situation, should occasion arise, in such manner as the circumstances may require and as may be appropriate.

The Department is not prepared to suggest to the immigration authorities the making of any special arrangement unless the Chinese Government chooses in advance of such arrangement to place at the disposal of the American Government a credit adequate to defray all expenses that such arrangement may entail. Since August 1931, the American Government has expended more than \$500,000 to provide for the repatriation to China of Chinese refugees from Mexico. This expenditure was brought to the attention of the Legation on several occasions, especially in the Department's note of September 1, 1933.<sup>26</sup>

WASHINGTON, March 9, 1934.

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812.504/1448 : Telegram

*The Consul at Ensenada (Smale) to the Secretary of State*

ENSENADA, March 14, 1934—11 a. m.

[Received 5 p. m.]

Department's telegram of March 13, 5 p. m.<sup>27</sup> I am reliably informed that the Governor<sup>28</sup> returned from Mexico City with instructions of the President that the constitutional rights must be respected. Nevertheless, Chinese stores are to be closed and with the exception of few hours March 10th have been closed solely upon the basis of alleged nonconformity with laws such as reported bottom page 4 my despatch No. 797 February 28.<sup>27</sup> Consulate retains conviction that the Chinese are likely to be driven from business in Ensenada probably by discriminatory application of minutiae of many laws and regulations which may be enforced.

Embassy informed.

SMALE

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<sup>26</sup> *Foreign Relations*, 1933, vol. v, p. 845.

<sup>27</sup> Not printed.

<sup>28</sup> The Governor of the Northern District of Lower California.

812.504/1448: Telegram

*The Secretary of State to the Chargé in Mexico (Hawks)*

WASHINGTON, March 16, 1934—4 p. m.

36. Reference telegram dated March 14, 11 a. m. from Consul at Ensenada regarding situation of Chinese in Baja California. The Department desires you to keep this matter actively before the attention of the Mexican Foreign Office emphasizing our reliance upon its assurance given you recently that adequate measures will be taken to prevent illegal entries of Chinese into the United States. In your discretion you may say that the recurrence of a situation similar to that which arose in connection with the exodus of Chinese from Sonora would be highly embarrassing to this Government and would necessarily entail the adoption of protective measures which would restrict freedom of transit in detriment to the interests of citizens on both sides of the frontier.

HULL

812.504/1449: Telegram

*The Chargé in Mexico (Hawks) to the Secretary of State*

MEXICO, March 17, 1934—6 p. m.

[Received 10:50 p. m.]

29. Referring to the Department's telegram 36, March 16, 4 p. m., the Minister for Foreign Affairs informed me this afternoon that the President during the recent visit to Mexico City of the Governor of the Northern District of Lower California had given the latter strict instructions to take the necessary measures to prevent the illegal entry by Chinese from his district into the United States. A full report by the pouch March 20.<sup>29</sup>

HAWKS

812.504/1461

*The Chinese Minister (Sze) to the Secretary of State*

WASHINGTON, March 30, 1934.

SIR: Referring to your note of September 1, 1933,<sup>30</sup> regarding the cost of repatriating to China Chinese refugees from Mexico, I have the honor to inform you that I have not failed to bring the matter to the attention of my Government.

<sup>29</sup> Not printed.

<sup>30</sup> *Foreign Relations*, 1933, vol. v, p. 845.

I have now received a reply, instructing me to deliver to you \$10,443.26 for this purpose, and I take pleasure in enclosing herewith a check for this amount for transmission to the Secretary of Labor.

I take this opportunity to express to you the sincere thanks of my Government for the considerate treatment shown by the American Government to the Chinese refugees who have been forced to flee from Mexico.

Accept [etc.]

SAO KE ALFRED SZE

# NICARAGUA

## PRELIMINARY DISCUSSIONS RESPECTING A TRADE AGREEMENT BETWEEN THE UNITED STATES AND NICARAGUA

611.1731/41

*The Nicaraguan Chargé (De Bayle) to the Secretary of State*

[Translation <sup>1</sup>]

WASHINGTON, September 16, 1933.

MR. SECRETARY: For the reasons which I shall express to Your Excellency below, my Government has followed with the greatest interest the news published with reference to negotiations initiated by the Department of State with certain countries with a view to the celebration, on bases of reciprocity, of commercial agreements contemplating mutual concessions in customs tariff matters.

The ties of every kind between Nicaragua and the United States, developed still further since the celebration of the convention by which the first grants to the second an option for the construction of an inter-oceanic canal,<sup>2</sup> and the closeness of their commercial relations, well illustrated by the fact that the United States has furnished, or has constituted a market for, 62 percent of the total volume of Nicaraguan imports and exports during the last ten years, necessarily impose upon my Government the duty of following with attention those commercial negotiations which might greatly influence the development of Nicaraguan economic life, especially during this period of crisis which my country has not escaped.

By the terms of a convention entered into on January 27, 1912 [1902],<sup>3</sup> Nicaragua and France, granting each other reciprocal concessions with respect to import duties on their respective products, provided in this connection for most-favored-nation treatment; and, in consideration of this treatment by France, Nicaragua conceded analogous treatment to French products and also a specific lowering of 25 percent in the import duties on certain articles especially enumerated in a list known as Table B. These advantages granted to French commerce in a convention of reciprocal concessions, no doubt in consideration of the circumstance that the larger share of Nicara-

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<sup>1</sup> File translation revised by the editors.

<sup>2</sup> Bryan-Chamorro Treaty, signed August 5, 1914, *Foreign Relations*, 1916, p. 849.

<sup>3</sup> *British and Foreign State Papers*, vol. xciv, p. 818.

guan coffee was imported by France, were extended later to the products of the United States by a decree of the President of Nicaragua of August 23, 1911, issued for the purpose of favoring North American commerce, and they have been maintained almost uninterruptedly since then.

With this same tendency to favor imports from the United States, reflecting a natural sympathy of the Nicaraguan people for the people of the United States, the Nicaraguan customs tariff has regularly come to assign to products which are essentially North American substantially reduced import duties. And as a consequence of this and of the preferential treatment to which I have referred above, not only has the commerce of the United States come to occupy first place in my country, comprising more than 62 percent of the total of Nicaraguan imports and exports, but also North American products have come to be consumed in Nicaragua up to 66.6 percent of the total of imports in the last ten years, from January 1, 1923, to December 31, 1932, while the consumption of Nicaraguan products in the United States during the same period has barely reached 57.5 percent of the total of Nicaraguan exports.

In view of the imminence of the commercial arrangements mentioned at the beginning and of the very great interest which Nicaragua has in them, my Government considers it imperative to call Your Excellency's attention to the circumstances related to the end that Nicaragua's profound interest in them be taken into consideration, that reciprocally the United States grant to Nicaraguan commerce and products treatment not less favorable than that accorded to any other country of America, and that no greater restrictions than those already imposed be placed on the importation of its products; and my Government has given me instructions to express to Your Excellency at the same time its desire not to remain outside the commercial arrangements which may be celebrated but to take part in them, and that under such arrangements special concessions be given to it in compensation for the continued favorable treatment of the commerce and products of the United States.

In accordance with those instructions, I wish to refer particularly to discussions which are pending in the Department of Agriculture of the United States, in execution of the act approved by Congress May 12, 1932 [1933], (Agricultural Adjustment Act),<sup>4</sup> with the object of arriving at an arrangement (Marketing Agreement for Sugar Stabilization) for the production, refinement and distribution of sugar, and which appear to favor although perhaps without an express declaration and only through an agreement creating certain defined production areas and an administrative organism charged

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<sup>4</sup> 48 Stat. 31.

with issuing special regulations governing them, the exclusion of sugar produced in Nicaragua from importation into the United States.

Sugar is one of the principal products which Nicaragua exports and which the commerce and industry of the West Coast of the United States, and principally of the States of California, Oregon and Washington, use preferentially, because of the special qualities of the Nicaraguan product, in the preservation and packing of fruits which themselves are generally destined to be exported. While the amount which Nicaragua can supply to the commerce and consumption of the United States, 15,000 to 20,000 tons per year, is perhaps inappreciable as an element of competition with other sugars, and signifies practically nothing alongside of the 6,350,000 tons annually at which the internal consumption of the United States is calculated, this exportation, nevertheless, constitutes for my country one of the great sources of its export trade and, as such, of its capacity to buy, precisely in the same markets of the United States, the products which it must import. The exclusion of Nicaraguan sugar from importation into the United States would seriously affect the economic life of Nicaragua, depriving it of resources which it needs for its importations, and in turn would prejudice the quota which the commerce of the United States has freely had in the Nicaraguan import trade.

As a natural consequence of the present absence of economic equilibrium, the Government of Nicaragua must contemplate the probability of a revision of its customs tariff and of its commercial arrangements and conventions, in the near future; particularly since French merchants have already solicited greater preferences in the regulation of international exchange by invoking the circumstance that, while the greater part of Nicaraguan coffee is imported into France, Nicaragua, nevertheless, obtains the larger part of its imports from other countries. Your Excellency will not fail to appreciate that the commerce of my country, should the United States adopt the proposed restrictions on the importation of sugar and should other countries out of fear of this for the reasons which I have just expressed adopt similar restrictions, would be seriously affected, and that the 66.6 percent of its imports which it has been obtaining in the North American market would necessarily have to be reduced, perhaps obliging it to make greater concessions to those who in such a critical situation should consume a larger portion of its exports or give the latter greater facilities.

My Government, attentive to the request of the producers of my country who are justly alarmed by the possibility that the arrangements and regulations for stabilizing sugar now being discussed in the Department of Agriculture may have the effect of excluding their product from importation into the United States, has instructed me



specifically that, in informing you of its point of view and of the interest which Nicaragua has in the commercial arrangements and agreements first mentioned and from which it does not desire to remain apart, I should insist especially on expressing to Your Excellency, in association with the Minister of Finance of Nicaragua, Dr. Salvador Guerrero Montalván, who is now in Washington, the well-grounded fear that without the attention of the State Department the special situation and attitude of Nicaragua with respect to the commerce of the United States and the importance which its sugar exports have in its economic life, may be forgotten, in order that opportune consideration may be given them before definite decisions are made by the Department of Agriculture.

In carrying out these instructions, I suggest to Your Excellency, taking advantage of the presence here of the Minister of Finance of my country, the possibility of an exchange of impressions in the matter between him and the respective officials of the Treasury and Agriculture Departments, if, as I do not doubt, Your Excellency considers it advisable from the point of view of more complete information. Trusting that my Government's interest in the matter will be sufficiently appreciated by Your Excellency and that the Government of the United States will recognize the basis and justice of its pretensions by giving them immediate attention, I have [etc.]

HENRI DE BAYLE

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611.1731/41

*The Secretary of State to the Nicaraguan Chargé (De Bayle)*

WASHINGTON, October 5, 1933.

SIR: The Department has received your note of September 16, 1933, concerning the commercial relations between Nicaragua and the United States. You state that your Government has followed with the greatest interest the news published with reference to negotiations initiated by the Department of State with certain countries with a view to the celebration, on bases of reciprocity, of commercial agreements contemplating mutual concessions in customs tariff matters, and that in this connection your Government desires that the United States grant to Nicaraguan commerce and products treatment not less favorable than that accorded to any other country of America, and that no greater restrictions than those at present imposed be placed on the importation of Nicaraguan products. You also state that you have been instructed to express the desire of your Government not to remain outside the commercial agreements which may be celebrated.

You also refer to discussions now being held in the Department of Agriculture of the United States, in execution of the Agricultural Adjustment Act, with the object of arriving at a marketing agree-

ment for sugar stabilization which you fear would exclude sugar produced in Nicaragua from importation into the United States, and you suggest the advisability of arranging for the Minister of Finance of Nicaragua, Dr. Salvador Guerrero Montalván, who is now in Washington, to consult with the appropriate officials of the Treasury and Agriculture Departments in this connection.

The Government of the United States appreciates and shares the desire of the Government of Nicaragua to continue and intensify the close commercial relations already existing between the two countries. Evidence of this desire on the part of the United States, as well as of Nicaragua, is the Agreement effected by an exchange of notes of June 11, and July 11, 1924, between Nicaragua and the United States, providing for mutual unconditional most-favored-nation treatment in customs matters.<sup>5</sup> This agreement is still in effect.

As you are aware, the Government of the United States is now engaged or is about to engage in conversations with representatives of Colombia, Brazil and Argentina with the object of exploring the possibilities of negotiating reciprocity agreements.<sup>6</sup> These conversations are purely exploratory, however, and the United States will not be able to determine whether or not it will be practicable to enter into reciprocity agreements with the Governments mentioned or with other governments until they are completed.

In the event that the present studies and conversations should indicate the practicability of this Government's entering into a series of reciprocity agreements, it will be happy to initiate conversations with the Government of Nicaragua looking to the possibility of the negotiation of such an agreement.

With reference to your comments regarding the discussions being held under the Agricultural Adjustment Act looking to the execution of a marketing agreement for sugar stabilization, and your fears that this agreement might have the effect of excluding sugar produced in Nicaragua from importation into the United States, the Department has transcribed the pertinent portion of your note to the Department of Agriculture and will inform you of the nature of that Department's reply when it is received. In this connection, the Department of State has recommended to the Department of Agriculture that the proposed marketing agreement not contain any provision which would have the effect of placing an embargo on the importation of full duty sugars.

With reference to your suggestion that it might be advisable for the Minister of Finance of Nicaragua, Dr. Salvador Guerrero Montalván,

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<sup>5</sup> *Foreign Relations*, 1924, vol. II, pp. 514-517.

<sup>6</sup> For correspondence concerning negotiations with Colombia, see *ante*, pp. 66 ff.; with Brazil, see vol. IV, pp. 542 ff. For preliminary discussions with Argentina, see *ibid.*, pp. 510 ff.

to confer with officials of the Treasury and Agriculture Departments while he is in Washington, this Department will be pleased to arrange for conferences between Dr. Guerrero and such officials as he may care to confer with.

Accept [etc.]

For the Secretary of State:  
JEFFERSON CAFFERY

811.6135/79

*The Secretary of State to the Nicaraguan Chargé (De Bayle)*

WASHINGTON, October 21, 1933.

SIR: Supplementing my note of October 5, 1933, informing you that the portion of your note of September 16, 1933, concerning the possible effect of a marketing agreement for sugar stabilization, had been transcribed to the Department of Agriculture, you are now informed that that Department states that it has been found that the proposed sugar marketing agreement could not be executed under the provisions of the Agricultural Adjustment Act, and that there is, therefore, no question pending of restrictions on sugar coming into the United States from Nicaragua other than the restrictions which have been in effect hitherto.

Accept [etc.]

For the Secretary of State:  
JEFFERSON CAFFERY

611.1731/46

*The Department of State to the Nicaraguan Legation*

#### MEMORANDUM

Reference is made to Señor De Bayle's note of September 16, 1933, expressing the interest of the Nicaraguan Government in exploratory conversations regarding the possibility of concluding a trade agreement between the United States and Nicaragua, and to Mr. Caffery's reply of October 5, 1933, in which it was stated that if present studies and conversations should indicate the practicability of this Government's entering into a series of reciprocity agreements, it will be happy to initiate conversations on this subject with the Government of Nicaragua.

The studies and conversations above referred to have now progressed to such an extent as to make it possible to initiate exploratory conversations with the Government of Nicaragua regarding the possibility of concluding a reciprocal trade agreement. Preliminary studies suggest that such discussions might proceed on the following basis:

Over 70% of the imports into the United States from Nicaragua consist of bananas and coffee. These products are now permitted to be imported free of duty. The United States might on its part, therefore, undertake in the proposed agreement to continue to admit these products free of duty in return for concessions by Nicaragua on products imported from the United States.

Although, as indicated above, bananas and coffee are by far the most important articles exported from Nicaragua to the United States, there may be other products on which the Government of Nicaragua would seek concessions and which it would desire to bring to the attention of the United States Government in the course of the exploratory conversations. However, with reference to the interest of the Government of Nicaragua in the treatment to be accorded Nicaraguan cane sugar, it is necessary to state that it would not be possible at this time to indicate whether any provision could be made in the proposed trade agreement regarding the treatment to be accorded this product.

In addition to provisions of the character indicated above, the trade agreement might provide for unconditional and unrestricted most favored nation treatment, subject to the usual exception regarding preferences by the United States to the commerce of Cuba, and to other generally recognized exceptions; provision against quantitative restrictions (quotas) on imports of products respecting which tariff concessions are granted by each party under the agreement; provision against increased internal taxes on such products; and national treatment with respect to internal taxes on all products.

The Minister of the United States at Managua is being instructed in the above sense and is being requested to proceed with exploratory conversations along the lines indicated if the Government of Nicaragua is so disposed.

WASHINGTON, January 4, 1934.

611.1731/46

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*The Acting Secretary of State to the Minister in Nicaragua (Lane)*

No. 11

WASHINGTON, January 4, 1934.

SIR: There is enclosed a copy of a memorandum which was today handed to Señor Dr. Don Henri De Bayle, Chargé d'Affaires ad interim of Nicaragua,<sup>7</sup> in regard to the desire of this Government to enter into exploratory conversations with a view to determining whether it would be possible to conclude a reciprocal trade agreement between the United States and Nicaragua. The Department desires that these conversations should take place at Managua and you are

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<sup>7</sup> *Supra.*

accordingly requested to take up the matter with the Minister of Foreign Affairs. If the latter is prepared to proceed with these conversations along the general lines indicated in the memorandum, the Department will send you as soon as possible a statement regarding the concessions which might be requested of Nicaragua.

You should make it perfectly clear that the intention of this Government is solely to explore the situation to determine whether negotiations, if undertaken, would be likely to meet with success.

Very truly yours,

For the Acting Secretary of State:  
FRANCIS B. SAYRE

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611.1731/48

*The Minister in Nicaragua (Lane) to the Secretary of State*

No. 65

MANAGUA, January 24, 1934.

[Received January 31.]

SIR: I have the honor to report that on receipt of the Department's mail instruction No. 11 of January 4, 1934 (File No. 611.1731/40 [46]) I called on the then Acting Minister for Foreign Affairs, Mr. Franklin Springer, on January 12, and enquired whether he had yet received from the Nicaraguan Chargé d'Affaires in Washington a copy of the Department's memorandum of January 4, regarding the possibility of concluding a reciprocal trade agreement between the United States and Nicaragua. On being informed by Mr. Springer that he had not as yet received a copy, I made such a copy available to him. An appointment was then made for me to discuss the question with Mr. Springer on January 18, he having previously told me that President Sacasa desired him to initiate the conversations with me immediately.

When I called, however, on Mr. Springer on January 18, he said that in view of the forthcoming early return of the Minister for Foreign Affairs, Doctor Leonardo Argüello, he (Mr. Springer) preferred not to initiate conversations on his own part prior to the return of his immediate superior. He stated, however, that he would consult with the Minister of Hacienda at once and have all the available material ready for the consideration of Doctor Argüello, on the latter's return from Montevideo.

Doctor Argüello, having returned to Managua yesterday afternoon, received me this morning by appointment. I had informed him, when I met him at Corinto on January 22, on the occasion of the departure of my family for the United States, that I should like to converse with him as soon as possible on the above-mentioned subject. When I called on him today, he said that no report had yet been received from the Chargé d'Affaires in Washington and that he had not yet had time to study the matter carefully since his arrival in Managua. He

promised me that he would give the matter his careful attention and would communicate with me as soon as he was in a position to discuss the situation.

I am, therefore, not able to state whether the Minister for Foreign Affairs is prepared to proceed with the suggested conversations "along the general lines indicated in the memorandum."

It would be helpful to me, in such conversations as may later materialize, to have memoranda, exchanges of notes or other documents which were presumably prepared in connection with negotiations which the Department, so I understand, recently undertook with Colombia and other countries so that I might have an understanding of the Department's general point of view. It would be of help, furthermore, if the Department would inform me specifically what is meant, on page three of the memorandum addressed to the Nicaraguan Chargé d'Affaires, by "other generally recognized exceptions" and "national treatment with respect to internal taxes on all products."

I should be grateful to the Department, therefore, if it would send me at its convenience an amplifying instruction so that I may be in a position correctly to interpret its attitude to the Nicaraguan Government.

Respectfully yours,

ARTHUR BLISS LANE

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611.1731/48

*The Secretary of State to the Minister in Nicaragua (Lane)*

No. 55

WASHINGTON, April 5, 1934.

SIR: Reference is made to your despatch No. 65 of January 24, 1934, regarding the proposed reciprocal trade agreement between the United States and Nicaragua. In accordance with your request there are enclosed for your confidential information copies of the English and Spanish texts of the agreement signed December 15, 1933, by the United States and Colombia.<sup>8</sup> In accordance with Article XI the agreement will not become effective until after the enactment of legislation in both countries to give it effect. Such legislation has not yet been enacted in either country.

The following analysis of the provisions of the agreement may be of assistance to you in connection with your discussions with the Nicaraguan authorities.

The principal provisions of the agreement are found in Articles I and II under which customs concessions or commitments are made by each party with respect to specified products of the other. The last

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<sup>8</sup> *Foreign Relations*, 1933, vol. v, p. 249.

sentence of the first paragraph of Article I was included in order to conform to the definition of customs duties laid down in the Colombian law, and the limited scope of this definition necessitated the addition of the second paragraph of the article in order to include all other duties, charges and taxes imposed on importations. The text of Article I is therefore peculiar to the agreement with Colombia. The first sentence with the insertion of the words "and import charges" after the words "customs duties" will probably suffice in the case of most countries.

Article III contains certain reservations and exceptions. The first of these reservations relates to the right to impose special duties on articles not properly marked to indicate the country of origin and is included in order to give effect to section 304 of the United States Tariff Act of 1930.<sup>9</sup> The second reservation relates to anti dumping duties and has been included in consequence of the Anti Dumping Act of 1921 (42 Stat. 11). This reservation, however, is subject to a proviso whereby the Anti Dumping Act will not be applicable to unroasted coffee originating in Colombia. The proviso was included on the insistence of the Colombian negotiators and was not desired by the United States. Since the proviso has been included in the agreement with Colombia a similar proviso could, if necessary, be included in the proposed agreement with Nicaragua. But this Government would be unwilling to extend such a proviso to include any product other than unroasted coffee.

The articles on which commitments are made by the United States in the agreement with Colombia are all on the free list, the obligation of the United States being to refrain from subjecting them to duty. As to such articles the above-mentioned reservations suffice. If any dutiable articles should be dealt with in such an agreement certain additional reservations might be necessary, such as a reservation permitting the imposition of countervailing duties on bounty-fed articles (section 303, Tariff Act of 1930).

Article IV deals principally with internal excise or consumption taxes as distinguished from charges imposed at the time of importation. These provisions are designed generally to prevent the nullification or impairment of the customs advantages obtained under the agreement through the imposition or the increase of taxes on goods after clearance through the customs. The principal elements which should be kept in mind in considering the provisions of this article are as follows:

The kinds of internal taxes dealt with are (1) national or federal taxes, and (2) state, departmental or municipal taxes. The products affected are in two categories, namely, (1) those on which customs con-

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<sup>9</sup> 46 Stat. 590.

cessions or commitments are made as listed in the schedules appended to the agreement, and (2) these and all other articles. The kinds of treatment stipulated are (1) national treatment, whereby each party agrees to treat imported products the same as like products of domestic production without, however, assuming any obligation as to the absolute amount of the taxes imposed, and (2) a limitation on the absolute amount of the taxes imposed.

The first paragraph of the article relates to all articles and provides for national treatment with respect to national or federal taxes. Provisions for general national treatment have been customarily included in treaties entered into by this and other Governments. A general purpose of such a provision is to confine any discrimination against foreign as compared with domestic goods to the customs houses and thus to simplify the foreign exporters' problem of determining the competitive disadvantage to which imported goods are subject in the importing country as compared with articles produced therein. This provision serves also to prevent the impairment or nullification by means of discriminatory taxes of the improved competitive position of imported goods established under other provisions of the agreement. It tends to result in more moderate taxes on foreign goods than might otherwise be imposed since due regard must be had for the interests of any domestic producers concerned. It is provisions of this type to which reference was made in the memorandum handed to the Chargé d'Affaires of Nicaragua and regarding which you have inquired in your despatch under reference.

The second paragraph of the article also provides for national treatment, but relates only to certain products included in the schedules instead of being generally applicable to all products; and to state, departmental or municipal taxes as distinguished from national or federal taxes. The provisions of this paragraph reflect certain peculiarities of the tax system of Colombia. The United States desired a general provision for national treatment in respect of all taxes, national, federal, state, departmental, or municipal, on all articles, but was unable to obtain acceptance of such a provision by Colombia. The provisions of the second paragraph of the article represent a compromise whereby national treatment with respect to departmental or municipal taxes in Colombia is limited to certain products in the appended schedule.

The third paragraph provides for a limitation on the absolute amount of all national, federal, departmental, state or municipal taxes on articles with respect to which the parties have respectively made customs concessions or commitments under the agreement, subject to the proviso that with respect to state, departmental, or municipal taxes any state, department or municipality of either country may



increase its taxes to an amount equal to those imposed on the day of the signature of the agreement by any other state, department, or municipality in that country. The purpose of the limitation on the absolute amount of internal taxes on products in the schedules is to ensure that the customs concessions on these products will not be nullified or impaired. This provision is particularly important in relation to products not produced in substantial quantities in the importing country and with respect to which a provision for national treatment is of little practical value. Thus, as regards products of particular importance to each party as indicated by their inclusion in the schedules of products on which customs concessions or commitments are obtained, a double safeguard of national treatment and of a limitation on the absolute amount of internal taxes is provided.

The fourth paragraph of the article is designed to make it clear that the obligations assumed by the United States under the second and third paragraphs apply to state taxes only in so far as they are subject to statutory control by the Federal Government. The provisions referred to would not, for example, apply to a tax imposed by a state of the United States which was held by the courts to be a tax on intra-state commerce and hence not subject to statutory control by the Federal Government.

The fifth paragraph relates to discriminatory transportation rates and is a special provision occasioned by certain discriminations to which American trade has been subject in Colombia.

Article V is designed to ensure that tariff concessions will not be nullified or impaired by means of prohibitions or restrictions. The article relates only to products on which customs concessions or commitments are made under the agreement. The provision against the imposition of prohibitions and restrictions does not apply under certain circumstances and conditions which are specified in the article and which will probably be found self-explanatory. As regards products not included in the schedules provision is made in Article VII for most favored nation treatment with respect to prohibitions and restrictions.

Article VI provides for notice of changes in administrative rules effecting advances in duties and charges applicable to imports. The purpose of this provision is to prevent the disruption of plans and arrangements of traders which sudden and unforeseen changes are likely to entail. It will be noted that the provision applies to administrative changes only; not to changes effected by legislation. Legislative changes normally receive sufficient publicity prior to enactment to warn traders of impending changes and to allow them to make their plans accordingly. The exceptions to the rule regarding notice of changes will probably be found self-explanatory. The clause,

“unless otherwise provided under constitutional requirements”, at the beginning of the article was considered to be necessary by the Colombian negotiators to meet certain legal exigencies in that country. Its inclusion is not necessary from the standpoint of the United States. The phrase “or customs courts” is also unnecessary from the standpoint of this Government.

Article VII provides for unconditional most favored nation treatment regarding import and export duties, charges, restrictions and formalities. Provision for unconditional most favored nation treatment is desirable in so far as products included in the schedules are concerned since the value of concessions made by one party to the other might, in the absence of the most favored nation clause, be seriously impaired by the subsequent granting of greater concessions to some other country. As regards articles which for one reason or another are not included in the schedules each party will at once obtain, under the provisions of this article, the benefit of any concessions made on such articles by the other party under reciprocity agreements with other countries. The importance of this latter consideration lies in the fact that concessions granted by the United States to each country will apply only to products of major importance to that country. This limitation is necessary because any concessions made to one country will be freely extended at least to countries with which the United States has treaties or agreements providing for most favored nation treatment, and concessions on products of importance to those countries must be reserved for negotiations with them. The inclusion of the unconditional most favored nation clause in the reciprocity agreement assures the parties thereto that in addition to reciprocal concessions on products of major importance to them, they will obtain concessions on other products of less importance as soon as reciprocity agreements affecting these products are concluded with other countries.

In carrying out a reciprocity program concessions will normally be made to each country on products of which that country has been the chief source of imports into the United States. Statistical studies show that under such a plan concessions made to each country can be generalized to all others and an ample basis for negotiating with most of the important countries of the world can still be maintained. However, the execution of a reciprocity program while retaining the advantages of a general policy of unconditional most favored nation treatment presents certain aspects more or less peculiar to Nicaragua and some of the other Latin American countries. Certain products, notably coffee and bananas, occupy a predominant place among the exports of a number of these countries. It may be considered advisable, if and when negotiations with Nicaragua shall have been completed, to postpone actually bringing the agreement into force until

negotiations shall have been completed with certain other countries to which coffee or bananas are important export products, in order to preserve a basis for negotiations with such countries. Steps have already been taken to determine the possibility of concluding agreements similar to that with Colombia with several other countries to which coffee or bananas are of predominant importance, namely, Brazil,<sup>10</sup> Costa Rica, Guatemala and Haiti.<sup>11</sup>

The first four paragraphs of Article VII of the agreement with Colombia follow closely the text of model most favored nation provisions drawn up by the Economic Committee of the League of Nations. The first five paragraphs of the article will probably be found self-explanatory. The other paragraphs perhaps require some comment.

The sixth paragraph applies the most favored nation principle to quotas. It is evident that it would be inequitable to divide the total authorized importations of a product equally among the exporting countries. If one country had been supplying 90% of the imports of a product and another 10%, the allotment of equal quotas to the two countries might result in a very drastic curtailment of imports from the first country while permitting and facilitating an actual increase in the imports from the second. The paragraph has in view allotting quotas in accordance with the share of the trade which each of the countries might normally expect to obtain, thus disturbing as little as possible their relative positions. If the total importations of an article in recent years have been 100 and one country has supplied 90% and the other 10% of this amount, and if the total importations from all sources were restricted to 50, the quota for the first country might be 45 and for the second country 5. Under this system the trade of each is reduced in the same proportion. The share of the trade in each product obtained by each exporting country in a period of years preceding the application of the import restriction would be the basis for allotting the permissible imports among the exporting countries concerned. The inclusion of provisions regarding quotas is not, of course, to be taken as implying an intention on the part of this Government to adopt a general quota system.

The seventh paragraph contains the exceptions to the most favored nation clause. The "generally recognized exceptions" referred to in the memorandum handed to the Chargé d'Affaires of Nicaragua, regarding which you inquire in your despatch under acknowledgement, include such exceptions as are provided for in this paragraph.

The first of these exceptions refers to advantages accorded to adjacent countries to facilitate frontier traffic. This exception, which is

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<sup>10</sup> See vol. iv, pp. 542 ff.

<sup>11</sup> See *ante*, pp. 86 ff.; pp. 280 ff.; and pp. 293 ff.

included in the model clause drawn up by the Economic Committee of the League of Nations, would not permit preferences by either party to all importations from adjacent countries. It has in view special circumstances in which localities or cities are divided by the frontier and is designed to permit free intercourse between the parts on each side of the frontier without the necessity of extending such exemptions to the products of the other party to the agreement.

A further exception to the most favored nation clause which is commonly recognized in treaties, and which is included in the model clause of the Economic Committee of the League of Nations, relates to advantages to countries which have entered into customs union with one of the parties. Countries which have entered into a customs union are regarded as having been merged into a single entity for customs purposes.

Under the exception regarding police and sanitary regulations either party may impose such requirements regarding the entry of merchandise as may be necessary for the enforcement of such regulations. It is evident that governments must retain complete freedom of action in such matters. For example, it is necessary to permit the imposition by either party of a prohibition on the importation of plant or animal products from the territory of the other party in order to guard against diseases prevalent therein, without applying such a measure to importations from other countries where such diseases do not exist.

The provisions regarding the commerce of Cuba and regarding the commerce of the dependencies of the United States are exceptions to the most favored nation clause which have been recognized in numerous treaties and agreements concluded by the United States.

Under the last paragraph of the article a dependency of the United States, while permitted to grant preferences to the United States or other dependencies thereof, must accord equal treatment to the commerce of the other party as compared with that of foreign countries.

Article VIII defines by elimination the area to which the agreement applies, this area being that to which the Tariff Act of 1930 applies. It will be noted that the only provisions of the agreement which apply to the dependencies named in Article VIII are the provisions of Article VII, and that none of the provisions of the agreement applies to the Panama Canal Zone. For the purpose of the Tariff Act and the regulations issued thereunder, the Panama Canal Zone is treated as a foreign country. Exports from the Canal Zone to the United States therefore pay duty in this country as from a foreign country, and articles imported into the Canal Zone from the United States, with certain exceptions such as articles for Government departments, officials and employees, pay the regular duties of Panama.

With reference to Article XI it is possible that this Government would desire a different term for future agreements than the two year

term specified in the agreement with Colombia. This matter can be left for decision until after the other provisions of such agreements have been decided upon.

As indicated in the Department's instruction of January 4 a statement of the concessions which this Government would seek from Nicaragua will be prepared as soon as possible. However, owing to the pressure of work arising from similar studies relating to other countries the completion of this statement may be somewhat delayed. Pending the receipt of this statement you are requested to have a study made of the imports into Nicaragua from the United States and the customs treatment to which American trade is subject with a view to submitting your recommendations regarding the concessions which might be requested. In preparing a list of products on which concessions might best be sought you should proceed on the assumption that any concessions granted by Nicaragua to the United States will be extended to other countries in accordance with the unconditional most favored nation principle. As a general rule, therefore, concessions should not be sought by the United States on products of which countries other than the United States are the chief source of imports into Nicaragua and which Nicaragua might conceivably desire to use as a basis for reciprocity negotiations with such countries.

Very truly yours,

For the Secretary of State:  
FRANCIS B. SAYRE

611.1731/51

*The Minister in Nicaragua (Lane) to the Secretary of State*

No. 181

MANAGUA, April 24, 1934.

[Received May 2.]

SIR: I have the honor to acknowledge the receipt of the Department's Instruction No. 55 of April 5, 1934 (no file number), regarding the proposed reciprocal trade agreement between the United States and Nicaragua. Yesterday, I mentioned to the President that I had received no further information from the Nicaraguan Government as to whether it was prepared to enter into conversations with me. The President expressed surprise and said that he had instructed the Minister of Foreign Affairs to proceed with negotiations. He requested me to take up the matter with Dr. Argüello.

This morning I called on the Minister of Foreign Affairs and told him that I had had a talk with President Sacasa yesterday, that President Sacasa appeared to be in favor of initiating conversations. Dr. Argüello stated that he was studying the matter and suggested that as soon as I should return from my trip to San Salvador, he and I could discuss the matter at length.

It was agreed, therefore, that on my return from my proposed trip, immediate discussions with the Minister of Foreign Affairs will proceed.

In my conversation with the President yesterday, he expressed the opinion that Nicaragua is more closely united with the United States than is any other Central American country, and that for this reason the United States should be prepared to afford Nicaragua the most favorable treatment possible. I felt it unwise to comment on this suggestion at that time. The President then continued that the bond between the United States and Nicaragua is the proposed canal envisaged under the Bryan-Chamorro Treaty. Doctor Sacasa then stated that his personal opinion is that the construction of the canal would be the greatest benefit possible to Nicaragua. I inquired whether or not there would be political opposition at this time in Nicaragua to such an achievement. He said that the opposition would be of no consequence; that it is fruitless to worry about opposition here, and that taken in conjunction with the Pan-American Highway project,<sup>12</sup> it would be of great economic and commercial value to this country. Inquiring as to the possible reaction in other Central American countries, the President said that the construction of the canal would be of great benefit to Costa Rica, which would be encompassed by canals (Dr. Argüello, however, upon my repeating to him this conversation this morning, added that El Salvador and Costa Rica would undoubtedly show opposition to the construction of the canal, and added that these two countries were evidencing a united front at the present time).

This being the first suggestion since my arrival here that the Government is at present interested in our exercising our rights under the Bryan-Chamorro Treaty, I report the matter to the Department as being of more than ordinary interest.

I informed the President and the Minister of Foreign Affairs orally that although I had no instructions at the present time on this matter, I should be glad to have their views in order that I might transmit them to the Department.

Respectfully yours,

ARTHUR BLISS LANE

611.1731/52

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*The Minister in Nicaragua (Lane) to the Secretary of State*

No. 209

MANAGUA, May 15, 1934.

[Received May 21.]

SIR: Referring to my despatch No. 181 of April 24, 1934, regarding the proposed reciprocal trade agreement between the United States

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<sup>12</sup> See vol. iv, pp. 467 ff.

and Nicaragua, I have the honor to state that on May 3, the day following my return from San Salvador, I spoke to President Sacasa enquiring as to the possibility of initiating exploratory conversations. The President stated that he desired these conversations to proceed as soon as possible and that he would speak to the Minister for Foreign Affairs in this sense. Due to the Cabinet reorganization, as reported in my despatch No. 193 of May 4, 1934,<sup>13</sup> and because of Doctor Argüello's having been out of town on a short visit, I did not again broach the matter to the Minister of Foreign Affairs until May 11. At this meeting Doctor Argüello said that he had been studying the correspondence on the subject but had not yet had an opportunity to discuss the matter with Doctor Francisco Castro, the newly appointed Minister of Hacienda. As soon as he had a conversation with him, he promised to get in touch with me. Later that morning I called on all the newly appointed cabinet members in company with the Chief of Protocol, don Lisimaco Lacayo. At my interview with Doctor Castro, at which the Undersecretary of Hacienda, Doctor Luis Quesada was also present, I said that while I made the practice of dealing with the Nicaraguan Government officially through the President and the Minister for Foreign Affairs, I should always be glad to discuss informally matters of interest with Doctor Castro, as I had done with his predecessor. I added that I had taken up with the Minister for Foreign Affairs that same morning the possibility of our initiating exploratory conversations regarding a reciprocal trade agreement, my understanding being that Doctor Argüello was planning to discuss the matter with Doctor Castro. I said that I would be at Doctor Castro's disposition in this or any other matter in which he might be interested.

Doctor Castro said that he was much interested in a possible reciprocal agreement and that he was studying the matter, but had as yet reached no definitive conclusions.

I shall keep this matter actively in the minds of the appropriate officials. From what I have been told by the President and by Doctor Henri De Bayle (when he was here in February of this year) I gather that the chief interest of the Nicaraguan Government is to obtain a market for its sugar and sugar product (rum) in the United States and, specifically, to obtain a quota of from 10,000 to 15,000 long tons per annum. Mr. Ignatius O'Reardon, an American citizen, manager of the Ingenio San Antonio, near Chichigalpa (the largest sugar hacienda in Nicaragua) informs me that a quota of 10,000 tons would cover Nicaraguan needs at the present time. The Department may wish to bear in mind this apparent interest of Nicaragua in a quota on the importation of sugar, to be used for bargaining purposes.

Respectfully yours,

ARTHUR BLISS LANE

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<sup>13</sup> Not printed.

611.1731/53

*The Minister in Nicaragua (Lane) to the Secretary of State*

No. 256

MANAGUA, June 2, 1934.

[Received June 13.]

SIR: With reference to my despatch No. 209 of May 15, 1934, I have the honor to state that the Secretary of Hacienda, Doctor Francisco Castro, recently requested me orally to furnish him with a copy of the reciprocal trade agreement concluded between Colombia and the United States. I informed Doctor Castro that I would not be able to furnish him with such an agreement without the Department's instructions, and I added that I considered it is contrary to the Department's policy to furnish foreign governments with copies of conventions between the United States and another foreign power prior to the removal of the injunctions of secrecy by the Senate.

I have, however, furnished Doctor Castro with a copy of the joint statement of December 15 issued by the then Acting Secretary of State and the Minister of Colombia,<sup>14</sup> as it appeared in the *Congressional Record* of May 1, 1934 (page 8025 [7755]).

Respectfully yours,

ARTHUR BLISS LANE

611.1731/53a : Telegram

*The Secretary of State to the Minister in Nicaragua (Lane)*

WASHINGTON, July 17, 1934—8 p. m.

41. Department's instruction No. 11, January 4, 1934. The Department wishes to commence exploratory conversations as soon as possible. It is therefore preparing a study of the trade between the two countries and a list of the concessions which would probably be asked of Nicaragua. This list will be forwarded to you shortly. It is hoped that Nicaragua in turn will be in a position to expedite its own study in order that actual conversations can be initiated in Managua not later than September 1. Please ascertain and report whether this is agreeable to the Government of Nicaragua. It is desired that no publicity be given matters for time being.

HULL

611.1731/54

*The Minister in Nicaragua (Lane) to the Secretary of State*

No. 348

MANAGUA, July 20, 1934.

[Received July 27 (?)]

SIR: I have the honor to inform the Department that immediately on receipt of the Department's telegraphic instruction No. 41 of

<sup>14</sup> *Foreign Relations*, 1933, vol. v, p. 248.



July 17, 8 p. m., I called on President Sacasa and expressed the hope that the Nicaraguan Government would be able to complete its studies as soon as possible in order that we might be able to commence exploratory conversations in Managua with the least possible delay after the receipt of my further instructions from the Department.

The President repeated what he had said to me on previous occasions,—that his Government is deeply interested in the possibility of concluding a reciprocal trade agreement with the United States and that he would give instructions immediately to the Ministers of Foreign Affairs and of Hacienda to complete their studies in order that the conversations might commence. He suggested, on my enquiring what steps I might take to ensure the expeditious handling of the matter, that I address an informal letter to the Minister for Foreign Affairs. A copy of the letter, dated July 18 [19], to Dr. Argüello is transmitted herewith for the Department's information.<sup>15</sup>

When I presented the letter this morning to Dr. Argüello (he was unable to see me at his office yesterday) I expressed the hope that he might be able to initiate the conversations with me at the earliest possible date; and that I hoped soon to have further information from the Department which would enable me to proceed with him. Dr. Argüello indicated that he would give the matter careful study but made no further comments.

Later in the morning I saw the President and told him of my having called on Dr. Argüello. Dr. Sacasa said that Dr. Argüello had not attended the regular cabinet meeting yesterday and that consequently he had not had an opportunity to talk to him about the matter. He said, however, that he had spoken to the Minister of Hacienda, Dr. Francisco Castro, who indicated, so the President said, that he was disposed to start conversations at any time. I expressed my personal opinion to the President that, if each Government could decide what it desired in the matter of concessions from the other, we should then be in a position to start conversations on a definite basis. The President said that he agreed that this would be desirable.

I shall continue to endeavor to keep this matter prominently in the minds of the appropriate officials of the Nicaraguan Government; on the other hand, I should appreciate it if the Department would send the further instructions, promised in the Department's telegram No. 41 as early as convenient, and by airmail.

Respectfully yours,

ARTHUR BLISS LANE

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<sup>15</sup> Not printed.

611.1731/55

*The Minister in Nicaragua (Lane) to the Secretary of State*

No. 350

MANAGUA, July 21, 1934.

[Received July 26.]

SIR: Referring to my despatch No. 348 of July 20, 1934, concerning the steps I have taken in regard to the Department's wish, as expressed in its telegram No. 41 of July 17, 8 p. m., to commence exploratory conversations with a view to the negotiation of a reciprocal trade agreement between the United States and Nicaragua, and particularly to the informal note which I addressed, under date of July 19, to the Nicaraguan Minister for Foreign Affairs on the subject (enclosure No. 1 to the despatch under reference), I have the honor to transmit herewith copies and translations of an informal note in reply to the latter which I have just received from the Minister of Foreign Affairs<sup>16</sup> and in which the continued interest of the Nicaraguan Government in negotiating such an agreement and its acceptance of the proposed procedure is expressed.

Respectfully yours,

ARTHUR BLISS LANE

611.1731/57

*The Minister in Nicaragua (Lane) to the Secretary of State*

No. 354

MANAGUA, July 23, 1934.

[Received July 30.]

SIR: Referring to my despatches Nos. 348 and 350 of July 20 and 21, respectively, regarding the Department's desire to conclude a reciprocal trade agreement with Nicaragua, I assume that the provision in Paragraph III of Title III of the amended Tariff Act (H. R. 8687)<sup>17</sup> providing that articles may not be transferred from the dutiable to the free list, or vice versa, would preclude the imposition of duty on coffee and bananas by executive action. If my assumption is correct, it would seem that the implied suggestion contained in the Department's memorandum of January 4, 1934, to the Nicaraguan Chargé d'Affaires ad interim in Washington (Department's instruction No. 11 of June [January] 4, 1934, file 611.1731/40 [46]) namely: that we might impose a duty upon bananas and coffee imported into Nicaragua, unless Nicaragua should give us such tariff concessions on articles imported into Nicaragua as we might desire, can no longer be made with the same force. I trust that the Department, in accord-

<sup>16</sup> Not printed.<sup>17</sup> Approved June 12, 1934; 48 Stat. 943.

ance with the views which I express in this despatch, will not employ the procedure suggested in its memorandum of January 4, otherwise I fear that certain difficulties for us may be created.

Even though a discussion on the matter may now, because of the amended act, be purely academic, I desire to analyze briefly the situation which might be created should we use as a bargaining weapon the threat of transferring articles, which are now admitted duty free, to the dutiable list; furthermore the background of the existing political and financial situation should be in the minds of those officers of the Department who are to deal with the negotiations of reciprocal trade agreement with Nicaragua.

Parenthetically, let us first consider the probable effect of putting coffee and bananas on the dutiable list, or intimating that we may do so, unless we should secure the concessions desired from Nicaragua. I quote the figures for the years of 1932 and 1933 regarding the exportation of coffee and bananas, as taken from the report of the Collector General of Customs for those years.

#### COFFEE EXPORTATIONS FROM NICARAGUA

1932

<i>Country</i>	<i>Kilograms</i>	<i>Value in córdobas</i>	<i>Per cent of total</i>
Germany	2, 089, 667	396, 179	
France	2, 278, 246	375, 362	
Great Britain	1, 527, 037	293, 306	
Netherlands	1, 030, 180	215, 900	
United States	486, 387	93, 620	6. 46%
Italy	217, 656	39, 789	
Spain	339, 577	38, 137	
Others	158, 700	26, 851	
Totals . . . . .	8, 127, 450	C\$1, 479, 144	

#### COFFEE EXPORTATIONS FROM NICARAGUA

1933

<i>Country</i>	<i>Kilograms</i>	<i>Value in córdobas</i>	<i>Per cent of total</i>
Germany	3, 863, 669	659, 150	
France	4, 203, 895	632, 547	
United States	1, 592, 618	284, 973	12. 82%
Netherlands	1, 310, 185	233, 812	
Spain	1, 139, 604	143, 893	
Great Britain	643, 588	105, 696	
Italy	395, 410	63, 749	
Others	554, 955	90, 591	
Totals . . . . .	13, 703, 924	2, 214, 411	

It will be noted from the above figures that in 1932, 6% of the total coffee exportations went to the United States, and that in 1933 there was an increase to approximately 12%. Should we have threatened to impose a duty on coffee, it is not improbable that this commodity would have found ready markets in countries other than the United States. Furthermore, the amounts involved do not seem sufficient to convince Nicaragua that the United States as a coffee market is essential to Nicaraguan prosperity. I doubt, therefore, whether a threat to take coffee off the free list would have been effective.

BANANAS—EXPORTATION FROM NICARAGUA

	<i>Year</i>	<i>Bunches</i>	<i>Value in córdobas</i>	<i>Per cent of total</i>
United States	1932	3, 377, 613	2, 237, 629	100.
United States	1933	3, 613, 859	1, 806, 930	97. 73
Netherlands	1933	84, 165	42, 083	2. 27
Totals for 1933 . . . . .		3, 698, 024	1, 849, 013	100.

It will be noted that in 1932 the United States consumed all the banana crop exported from Nicaragua and that in 1933 we consumed almost the entire exported crop. According to the best information available, all of the companies distributing and/or exporting in Nicaragua are American owned; consequently an imposition of duty on this product should primarily affect adversely the American interests concerned. Loss of revenue would, however, obtain with respect to the Nicaraguan Government, in case of lessened exportation, by virtue of the export tax imposed on bananas, at the rate of ½ to 2 centavos per bunch according to the size (hand count). The total Nicaraguan Government revenue from the exportation of bananas was in 1932 C\$ 52,107.29; in 1933 C\$ 54,357.91, (including tax on bananas exported to the Netherlands).

Any attempt or threat on our part to transfer bananas or coffee to the dutiable list or to raise the duty, or threaten to do so in the case of other commodities, would, I feel reasonably certain, be bitterly resented here, where the feeling against the United States is still hostile as a result of the intervention. Any threat or action such as indicated would almost certainly be interpreted here as another instance of our using our superior economic strength to dominate small countries, Nicaragua specifically.

We have endeavored in every proper way to counteract this sentiment and I believe, as a result of the policy of the "Good Neighbor" and of "Hands Off", much has been accomplished. Nevertheless, the psychology of the Nicaraguan is such that should we now take some action which he considered drastic and adverse to Nicaragua's interests, the good accomplished would soon be forgotten.

More practically, any action taken which would result in a decrease in the revenue of the Nicaraguan Government, might have very serious repercussions locally, which would have their effect on our prestige here and in other Latin American countries. As I have endeavored to point out in previous despatches, the present financial situation of the Government is highly precarious, due to the inroads which the expenses of the Guardia Nacional have made on the treasury, resulting in the budget of expenditures being exceeded monthly by C\$ 60,000 more or less, according to the best information I have been able to obtain. If, as I understand, there remain less than C\$ 300,000 to the credit of the Government in the Bank of Nicaragua from the proceeds of the two credits granted totaling \$3,000,000 (half granted in 1932 and the remainder in 1933), then it seems to be merely a question of time before the Government will be out of funds. (I cannot conceive it possible that any serious banking institution will grant a further loan to this Government for the purpose of having it squandered by the needless expenditures of the Guardia Nacional, which at the present time, according to information furnished me orally by the Minister of Hacienda, consumes 65% or more of the budgeted income of the Government, and does not, so the President tells me, submit to the Government, detailed accounts covering the expenditures). When the moment arrives that the Guardia officers and men are unable to draw their pay, a serious moment for the Government and for the country is at hand. Already has this feeling been manifest in the activities of the Military Academy element of the Guardia, as evidenced by the Castillo plot against the Government (see my despatch No. 336 of July 18 and subsequent despatches on this matter<sup>18</sup>). Should any action of ours result in decreasing the revenue of the country, one may be certain that the anti-American journalists in Nicaragua and others will feature that point. When unfortunate happenings beset this country the finger of blame is invariably pointed at the United States. I cite as instances the fires following the earthquake in Managua in 1931<sup>19</sup> and the assassination of Sandino in 1934.<sup>20</sup>

The question which I respectfully submit for the Department's very serious consideration is this: Is it worth while, from the point of view, not only of our foreign relations but also of the possible financial gain to ourselves, to run the risk of increasing the hostile feeling towards us in Nicaragua; of being a party, even though unwittingly, to the financial collapse of the Government here, with all the graver events which might follow in its wake; and thereby of undoing in Latin America

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<sup>18</sup> Not printed.

<sup>19</sup> See *Foreign Relations*, 1931, vol. II, pp. 780 ff.

<sup>20</sup> See *post*, pp. 526 ff.

generally some of the happy results already accomplished as a result of the policy of the "Good Neighbor"?

From past conversations which I have had with Nicaraguan officials I am of the opinion that the most effective bargaining instrument available (and the least liable to offend susceptibilities), is the desire of Nicaragua to obtain a quota for the importation per annum of 10,000 tons of cane sugar or of sugar products, such as rum. While the value of such an exportation would appear not to be excessive in comparison with the total Nicaraguan exports, it would, I believe, tend to satisfy government, congressional and small stockholding interests and would serve to stimulate sugar production here. At present quotations, the value of 10,000 long tons of sugar would be approximately C\$ 360,800, f. o. b., Corinto. (I am informed by the Manager of the San Antonio plantation that its warehouse at Chichigalpa is stored full of sugar without any likelihood of disposing of it unless a market therefor becomes available in the United States.)

The Department will recall that the Nicaraguan Government has approached us on several occasions with a view to obtaining such a quota (See Note from Nicaraguan Chargé d'Affaires in Washington of September 16, 1933, and my telegram No. 46 of February 10—1 P. M., 1934<sup>21</sup>). Should we be able to grant the Nicaraguan request, in return for tariff concessions granted to us by Nicaragua, I am inclined to believe that this would be the course most advantageous to our interests, in so far as Nicaragua is concerned.

With regard to possible concessions which might be made to the United States, some months ago I made informal enquiries of the Foreign Office as to the most-favored-nation treaties in force to which Nicaragua was a party. According to the reply received, Nicaragua is a party to treaties of the type mentioned with Great Britain,<sup>22</sup> France,<sup>23</sup> Germany,<sup>24</sup> Spain<sup>25</sup> and Italy.<sup>26</sup> A copy and translation of Dr. Argüello's letter is transmitted herewith for the Department's records.<sup>27</sup> Mr. Crain, Vice Consul at Managua, is at present engaged in preparing a report in compliance with the Department's telegram No. 42, July 19—8 p. m.<sup>27</sup>

Respectfully yours,

ARTHUR BLISS LANE

<sup>21</sup> Telegram not printed.

<sup>22</sup> Treaty with Great Britain, signed July 28, 1905; renewed November 9, 1923; *British and Foreign State Papers*, vol. xcviII, p. 72.

<sup>23</sup> Treaty with France, signed January 27, 1902; denounced by France in 1919; renewed by *modus vivendi*, January 21, 1921, and February 16, 1921; *ibid.*, vol. xcV, p. 818.

<sup>24</sup> Treaty with Germany, signed February 4, 1896; renewed by exchange of notes January 11, February 27, and March 6, 1924; *ibid.*, vol. xcviI, p. 994, or League of Nations Treaty Series, vol. xli, p. 263.

<sup>25</sup> Treaty with Spain, signed July 25, 1850; renewed September 29, 1923; *British and Foreign State Papers*, vol. xxxix, p. 1331.

<sup>26</sup> Treaty with Italy, signed January 25, 1906; renewed March 3, 1922; *ibid.*, vol. c, p. 1117.

<sup>27</sup> Not printed.

611.1731/65

*The Chargé in Nicaragua (Dawson) to the Secretary of State*

No. 406

MANAGUA, August 20, 1934.

[Received August 27.]

SIR: Referring to the Legation's recent despatches concerning the proposed reciprocal trade agreement between the United States and Nicaragua, I have the honor to report that the Minister for Foreign Affairs, Doctor Leonardo Argüello, informed Minister Lane, in the course of a meeting on August 17, 1934, that he had requested the Chamber of Commerce of Managua to make suggestions as to what concessions Nicaragua might ask of the United States in negotiating a trade agreement between the two countries. Doctor Argüello stated that he had made the request in confidence and that he had consulted only the Managua organization, implying that other Chambers of Commerce in the country were of little importance.

The foregoing is the only tangible step of preparation for preliminary discussion of the proposed agreement which has come to the Legation's notice since President Sacasa informed the Minister one month ago that Doctor Francisco Castro, the Minister of Finance, was disposed to start conversations at any time (the Legation's despatch No. 348 of July 20, 1934).

Respectfully yours,

ALLAN DAWSON

611.1731/57

*The Secretary of State to the Minister in Nicaragua (Lane)*

No. 122

WASHINGTON, August 24, 1934.

SIR: The Department has received your despatch No. 354 of July 23, 1934, concerning the proposed reciprocal trade agreement between the United States and Nicaragua.

The act approved June 12, 1934, provides that "No proclamation shall be made increasing or decreasing by more than 50 per centum any existing rate of duty or transferring any article between the dutiable and free lists". The Legation is correct, therefore, in assuming that this act precludes the imposition of duties on coffee and bananas by executive action. However, in the absence of an obligation to Nicaragua to retain products originating in that country on the free list, there is nothing to prevent the Congress from imposing duties upon them if it so desires. The value of a provision continuing specified articles on the free list would be that, during the effective period of the agreement, Nicaragua would be protected against the possible imposition of duties on such articles.

With reference to enclosure No. 1 of your despatch referred to, the reductions in duties which the United States might agree to make in an agreement with Nicaragua would apply equally to all countries, except Cuba, with which the United States has a special treaty relationship under which the percentage of preference accorded to Cuban products must be maintained. The United States would perceive no objection, therefore, if concessions by Nicaragua to the United States should be generalized to other countries in conformity with Nicaragua's most-favored-nation treaties or its general commercial policy. Such general reductions would be quite consonant with the policy of the United States, which is to seek an increase in the total volume of international trade rather than the diversion of trade from one channel to another.

Consideration is being given, also, to the other matters contained in your despatch.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

611.1731/55 : Telegram

*The Acting Secretary of State to the Minister in Nicaragua (Lane)*

WASHINGTON, August 30, 1934—7 p. m.

52. Legation's despatch No. 350, July 21, 1934. You may inform the Nicaraguan Government that the Department expects within a few days to give public notice of this Government's intention to negotiate a foreign trade agreement with Nicaragua. You will be informed by telegraph as soon as the notice is given.

PHILLIPS

611.1731/60

*The Secretary of State to the Chargé in Nicaragua (Dawson)*

No. 123

WASHINGTON, August 31, 1934.

SIR: Reference is made to your despatch No. 366 of August 1, 1934,<sup>28</sup> with regard to the possibility of giving Nicaragua a sugar quota in connection with the negotiation of a trade agreement.

From the last paragraph of your despatch the Department gathers the impression that the belief is held in Nicaragua that the Costigan-Jones sugar legislation<sup>29</sup> places quota restrictions on the importation of all types of sugar in continental United States, whether "drawback" or sugar for consumption purposes. In order that you may have the

<sup>28</sup> Not printed.

<sup>29</sup> Approved May 9, 1934; 48 Stat. 670.



views of the appropriate department of this Government regarding this matter, there is enclosed a copy of a note dated July 10, 1934, from the Nicaraguan Legation<sup>31</sup> inquiring whether "drawback" sugar is subject to any quota restrictions under the Costigan-Jones sugar legislation, together with a copy of the reply from the Department of Agriculture dated August 1, 1934.<sup>31</sup>

It will be noted that this latter communication states the opinion that foreign sugars which are imported into continental United States for "drawback" purposes will not be charged against the consumption quotas established by the Secretary of Agriculture for each respective country, but that an authoritative comment has been requested from the General Counsel of the Agricultural Adjustment Administration. Upon the result of further advice, an instruction will be forwarded the Legation about this matter.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

611.1731/58

*The Secretary of State to the Chargé in Nicaragua (Dawson)*

No. 127

WASHINGTON, September 6, 1934.

SIR: Reference is made to the Legation's despatch No. 353, dated July 23, 1934,<sup>31</sup> concerning the desire of Nicaraguan officials for a copy of the reciprocal trade agreement recently negotiated between the United States and Colombia, and requesting information as to the Department's policy in this connection.

In reply you are informed that the text of the reciprocal trade agreement between the United States and Colombia is still considered confidential and that it would therefore be contrary to the Department's policy to furnish advance copies of the text to any third government prior to the removal of the injunction of secrecy.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

611.1731/66a: Telegram

*The Acting Secretary of State to the Chargé in Nicaragua (Dawson)*

WASHINGTON, September 10, 1934—8 p. m.

54. Public notice of intention to negotiate a foreign trade agreement with Nicaragua was given September 7.<sup>32</sup> Please inform Minister for Foreign Affairs.

PHILLIPS

<sup>31</sup> Not printed.

<sup>32</sup> For text of public notice and statistics on trade with Nicaragua, issued by the Department of State, September 7, 1934, see Department of State, *Press Releases*, September 8, 1934, pp. 176-179.

817.00/8143

*The Chargé in Nicaragua (Dawson) to the Secretary of State*

[Extract]

No. 496

MANAGUA, September 26, 1934.

[Received October 4.]

SIR: I have the honor to report that, at President Sacasa's invitation, I called on him on September 19, 1934, so that, to use his own phrase, he "might talk things over with me". He told me over a period of more than two hours of his difficulties and troubles.

Turning to the question of the proposed trade agreement between the United States and Nicaragua, President Sacasa expressed gratification at the ruling of the Department of Agriculture that "draw-back" sugar would not be subject to quota provisions, of which he had been informed by Doctor Henri de Bayle, the Nicaraguan Chargé d'Affaires in Washington. He said, however, that he still hoped that it would be possible for Nicaragua to secure a sugar quota in connection with the negotiations for the trade agreement. I then remarked that Mr. Ignatius O'Reardon, the manager of the San Antonio sugar estate, the only exporter of refined sugar from Nicaragua at the present time had told me that a quota for Nicaragua would be of little use as, in his opinion, Nicaraguan sugar could not, in any case, compete in the domestic trade of the United States with American continental or insular sugar or that of Cuba because of advantages of the latter in freight rates and/or customs duties.

Doctor Sacasa then went on to say that what he hoped for was not only a quota but preferential duty on the same terms as Cuba. I explained to him that, as I understood the matter, Cuba is in a special status, provided for in our existing most-favored-nation treaties, and that I thought that the only way to give Nicaragua equivalent treatment would be to denounce all of our most-favored-nation treaties with sugar producing countries in contravention of our long standing policy on the question. The President did not seem to get the point although I reiterated it. I should be appreciative if the Department would advise me whether my interpretation is correct.

Respectfully yours,

ALLAN DAWSON

617.003/161

*The Secretary of State to the Chargé in Nicaragua (Dawson)*

No. 138

WASHINGTON, September 28, 1934.

SIR: Reference is made to despatch No. 37, of September 15, 1934,<sup>ss</sup> from the American Vice Consul at Managua, transmitting a copy of a communication from the Collector General of Customs and High Commissioner to the Nicaraguan Minister of Finance, outlining proposals for a new Nicaraguan Tariff which may be presented to Congress for action at this session. In his transmitting despatch, the Vice Consul states:

"... it is noted that the Proposed Tariff makes provisions for increased duties on commodities of vital importance in the United States' export trade, including such items as wheat flour, hog lard and substitutes, machinery in general, and automobiles."

Inasmuch as Nicaragua has expressed its desire to negotiate a commercial agreement with the United States, the general purpose of which it is clearly understood will be to remove or reduce existing barriers to trade, including import tariffs, the Department believes it has a right to expect that the Government of Nicaragua, pending the completion of the negotiations, should refrain from increasing its import duties on products which are principally of American origin. It is desired that you point this out informally to the Minister for Foreign Affairs and report the result of your representations.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

611.1731/71a : Telegram

*The Secretary of State to the Chargé in Nicaragua (Dawson)*

WASHINGTON, September 28, 1934—6 p. m.

58. Telegraph whether proposed trade agreement with the United States will require ratification by legislature and if so when next session will be inaugurated and duration. Repeat to other missions in Central America.

HULL

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<sup>ss</sup> Not printed.

611.1731/72 : Telegram

*The Chargé in Nicaragua (Dawson) to the Secretary of State*

MANAGUA, September 29, 1934—11 a. m.

[Received 2:20 p. m.]

158. Yes. Congress will probably adjourn October 5th; next regular session starts December 15th and lasts under constitution for 45 to 60 "meetings" (not days).

DAWSON

611.1731/68

*The Secretary of State to the Chargé in Nicaragua (Dawson)*

No. 140

WASHINGTON, September 29, 1934.

SIR: The receipt is acknowledged of your despatch No. 464 of September 11, 1934,<sup>34</sup> quoting the translated text of a Nicaraguan press item stating that information had been obtained from the Department of State to the effect that there was under contemplation a barter plan whereby Nicaragua, Honduras and Guatemala would pay in coffee for a percentage of their imports.

In this regard, you are informed that in the exploratory studies of trade agreements which are now being made no consideration is being given to any plan for the barter or exchange of commodities. In your conversations with officials of the Foreign Office you may make such use of this information as may appear advisable.

Very truly yours,

For the Secretary of State:

SUMNER WELLES

617.003/163

*The Chargé in Nicaragua (Dawson) to the Secretary of State*

No. 511

MANAGUA, October 2, 1934.

[Received October 8.]

SIR: Referring to the Department's instruction No. 138 of September 28, 1934, in regard to the proposal of the Nicaraguan Collector General of Customs to the Minister of Finance for a new Nicaraguan tariff, I have the honor to report that the paragraph from the Consulate's despatch No. 37, of September 15, 1934,<sup>34</sup> pointing out that the proposed tariff would provide for increased duties on wheat flour, hog lard and substitutes, machinery in general, automobiles and other commodities of vital importance in the export trade of the United States, which is quoted in the Department's instruction under acknowledgment, was inserted by the Vice Consul in his despatch at my suggestion.

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<sup>34</sup> Not printed.

Some days ago, before the date of the Department's instruction, I mentioned to the Minister for Foreign Affairs my feeling that the enactment of a new tariff increasing rates while negotiations were pending for a trade agreement between the United States and Nicaragua which would presumably be intended to produce the opposite effect would be unfortunate, especially as some of the items which would be affected are imported mainly from the United States. The Minister replied that he did not think there was any possibility of the proposed tariff being enacted at the current session of Congress which is due to terminate on October 5, 1934. Later, I made a similar statement to President Sacasa who told me (1) that he had not yet presented the proposed tariff to Congress because his financial advisers had not had a chance to consider it in detail and correlate it with the Government's general economic program and (2) that he considered my point well taken.

Respectfully yours,

ALLAN DAWSON

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611.176 Sugar/40

*The Secretary of State to the Chargé in Nicaragua (Dawson)*

No. 151

WASHINGTON, October 19, 1934.

SIR: Reference is made to the second paragraph on page five of your despatch No. 496 of September 26, 1934, reporting that President Sacasa in a recent conversation expressed the hope that the United States would grant Nicaragua a sugar quota on the same preferential terms as Cuba. You inquire as to whether your interpretation of the difference in status between Cuba and Nicaragua, as conveyed to President Sacasa, is correct.

The Department approves your expression of views on this subject to Doctor Sacasa. The Department does not contemplate departing from its established policy of unconditional most-favored-nation treatment and of making an exception to this rule only in favor of Cuba. In the negotiations for trade agreements shortly to be undertaken, it is not planned to grant preferential treatment to any other countries. Furthermore, under the Trade Agreements Act of June 12, 1934, this Government could discriminate in favor of the product of one country as against the product of another only if the latter discriminated against the trade of the United States or if its acts or policies were such as to defeat the purposes of the act.

Very truly yours,

For the Secretary of State:  
FRANCIS B. SAYRE

617.003/167

*The Chargé in Nicaragua (Dawson) to the Secretary of State*

No. 613

MANAGUA, November 21, 1934.

[Received November 30.]

SIR: I have the honor to report that President Sacasa has twice recently spoken to me about his plans for revision of the Nicaraguan tariff. In his conversations he has stressed two points, the need of the Nicaraguan Government for added revenues and the danger that Nicaraguan markets will be flooded by Japanese goods with detrimental results to Nicaraguan export trade.

In connection with the first point, the President stated that he had given some study to the proposal of the Collector General of Customs for a revision of the tariff, generally along upward lines (despatch No. 37, of September 15, 1934, from the Consulate at Managua<sup>36</sup>), but that he did not wish to do anything about the matter until the reciprocal trade agreement negotiations between the United States and Nicaragua had been disposed of.

President Sacasa expressed the feeling that large Japanese imports into Nicaragua would be regrettable as Japan took none of Nicaragua's exports and the general trend in the world today seemed to be to trade on a reciprocal basis. He said that the Exchange Control Commission had tried to hold down Japanese imports by restrictions on the granting of foreign exchange to cover them but that this had been unsuccessful. While the President did not mention it, the reason for this seems to be that, although Japanese exporters require payment on or before delivery, their prices are such that importers can buy foreign exchange from brokers at the prevailing street rate of about 1.20 córdobas to the dollar instead of from the National Bank at the official rate of 1.02 córdobas to the dollar and still purchase goods cheaper than from American, British, German or French exporters.

One thing which appeared to worry Doctor Sacasa and certainly does other Nicaraguan officials is that, under the new German exchange regulations, Nicaragua will be able to sell coffee to Germany, its principal market, only to the extent that Nicaragua purchases German exports. The President seemed to have a vague idea that, if imports from Japan could be cut off, some of the trade would go to Germany with reciprocal benefits to Nicaragua. Other officials appear to be more inclined to regard the German market as definitely lost and to be hoping for the development of new coffee markets, such as in the United States.

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<sup>36</sup> Not printed.

The President remarked that he was inclined to think that a modification of the Salvadoran preferential tariff scheme<sup>87</sup> (Despatch No. 589, of August 28, 1934, from the Consulate General at San Salvador<sup>88</sup>) would furnish Nicaragua the greatest measure of protection and do the most good. From all appearances he was convinced of the efficacy of this system by several conversations last month with Mr. E. C. Curtis, a traveling agent for Brune, Pottberg and Co., of New York, with credentials as a representative of the Textile Exporters Association of the United States, which has sent representatives to all of the Central American countries in an endeavor to secure action which would counteract the dumping in them of Japanese cotton goods exports and enable American exports of this category (the most important item in American export trade to Central America) to maintain their position, which has been seriously undermined.

Mr. Curtis, a very able and intelligent German Jew who has been a resident of the United States since before the entrance of the United States into the World War and has taken out first papers, in various talks with me expressed his belief that the only way in which the American textile export trade, as well as the British, could continue to meet Japanese competition in Central America was by an extension to other countries of the Salvadoran tariff system. He frankly expressed the opinion that no reductions in tariff rates which could conceivably be secured in reciprocal trade agreements (which would presumably not be extended to Japan since it does not have a most-favored-nation treaty with Nicaragua nor, so far as the Legation has been able to ascertain, with the other Central American countries) would enable American cotton goods exporters to compete with their Japanese competitors on terms of price equality.

Mr. Curtis, who is a very efficient propagandist, appears to have strongly influenced Doctor Leonardo Argüello, Minister for Foreign Affairs. In addition, he succeeded in getting some newspaper support for his propaganda and had several articles, written by him, published in *La Noticia*, the leading local daily.

Shortly after Mr. Curtis's departure for Honduras, where he intended to pursue a similar campaign, two Japanese officials, Messrs. Kazaburo Kataoka and Yasuto Shudo, one understood to be a member of the Japanese Legation staff in Mexico City and the other a Foreign Office employee, arrived in Managua in the course of a trip through the Central American countries and Panama. They gave several newspaper interviews to the effect that their mission was to improve commercial relations between Japan and Central America and that Japan was anxious to purchase Nicaraguan products, mentioning raw

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<sup>87</sup> Decree No. 67, June 23, 1934, El Salvador, *Diario Oficial*, July 3, 1934, p. 1451.

<sup>88</sup> Not printed.

cotton, hard woods, coffee and scrap iron. The Department can judge as to the seriousness of these remarks. Nicaragua exports no cotton, its hard woods could hardly compete with those from Formosa, for example, the Japanese are not known as a race of coffee drinkers and the only scrap iron in Nicaragua consists of old rails and abandoned railroad material, principally on the east coast.

The two Japanese officials remained in Managua only two days, from October 15 to 17, 1934, and did not have an interview with the President. They were received by the Minister for Foreign Affairs, who told me that he was badly impressed by their manner. He stated that, while they carried proper credentials, they had used journalistic rather than diplomatic methods in questioning him (Doctor Argüello has apparently had little experience with the typical Japanese thirst for knowledge). They made no concrete proposals, according to Doctor Argüello, but indicated that they would send him a note from Panama. When I last saw the Minister, last week, before his departure for León, he told me that he had had no word from the Japanese representatives.

I think there is little question that the higher Nicaraguan authorities, as a whole, would much prefer to give the United States tariff preference by raising tariff rates on imports from such of our competitors as Japan rather than by lowering duties on our products and those of other nations having most-favored-nation treaties with Nicaragua. The Nicaraguan Government is at its wit's end to make ends meet and does not want to lose any revenues. The lesson that one of the major causes of the world depression is the system of worldwide tariff barriers damming the stream of natural international commercial intercourse has not been learned by it.

Respectfully yours,

ALLAN DAWSON

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611.176 Sugar/41

*The Secretary of State to the Chargé in Nicaragua (Dawson)*

No. 167

WASHINGTON, November 26, 1934.

SIR: The receipt is acknowledged of your despatch No. 593 of November 12, 1934,<sup>39</sup> reporting the circulation of a rumor in Nicaragua to the effect that a quota of 9,000 tons of sugar for importation into the United States has been allotted to Nicaragua.

In reply, there is enclosed a copy of "General Sugar Quota Regulations, Series 1, Supplement 1" of the Department of Agriculture issued on October 9, 1934, which fixes the 1934 quotas for full duty sugar

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<sup>39</sup> Not printed.



imported for consumption into the United States. You will note that the quota allotted to Nicaragua is 6,985,419.88 pounds, or something over 3,000 long tons.

The amounts of the full duty sugar quotas are of public knowledge; but, in view of the somewhat smaller quotas for the Central American Republics than had been hoped for by interested parties, it would not appear either necessary or advisable for the Legation to take any steps to make known to the public the amount of the Nicaraguan quota. In case you receive any direct inquiries in the matter, you are, of course, authorized to supply the requested information.

It is suggested that, in case the subject of Nicaraguan sugar quotas is brought up in any conversations you may have with Nicaraguan officials, you point out that sugar imported into the United States for re-export on a "drawback" basis is not subject to the quota and continues to be admitted into the United States in unlimited quantities. It is understood that the bulk of Nicaraguan sugar exported to the United States is of the "drawback" category.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

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[See also extract from instruction No. 120, December 21, 1934, to the Minister in Costa Rica, printed on page 92.]

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**POLITICAL UNREST IN NICARAGUA; POLICY OF THE UNITED STATES  
NOT TO INTERFERE IN NICARAGUAN INTERNAL AFFAIRS**

817.00/7932 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, February 5, 1934—noon.

[Received 3:55 p. m.]

37. My telegram No. 36 of today.<sup>40</sup> The President yesterday showed me a letter dated January 26 which he had received from Sandino stating in substance as follows: Sandino had heard that the Government had decided not to live up to the provisions of the agreement of February 2, 1933,<sup>41</sup> but hoped this report was inexact. Sandino would be loyal to the President should the latter have trouble with the "unconstitutional" Guardia Nacional but will not give up his arms. He went so far as to say that the President would endeavor to use force if disarmament of Sandino's forces were desired. He referred in hostile terms to the attitude of the Guardia.

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<sup>40</sup> Not printed.

<sup>41</sup> Peace agreement signed by President Juan Bautista Sacasa and General César Augusto Sandino; for text, see *La Prensa*, February 4, 1933.

The President said to me that the threatening tone of Sandino's letter angered him and that he would not permit such an attitude of lack of respect which had resulted in the creation of a state within a state. He said, however, that the tactless attitude of the Guardia and particularly of General Somoza <sup>42</sup> had aggravated the situation and that he is more concerned regarding the attitude of the Guardia than he is with respect to Sandino (my letter of February 3 to Edwin Wilson <sup>43</sup> discusses at length the Guardia situation).

The President said that he had determined to send for Sandino to have a frank discussion with him and that he expected him here within a week.

LANE

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817.00/7934 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, February 9, 1934—3 p. m.

[Received 7:05 p. m.]

44. My telegram No. 40, February 5, 11 p. m.<sup>44</sup> President Sacasa stated to me this morning that he had received reply from Sandino agreeing to come to Managua although he felt trip unnecessary "as everything had already been settled". The President said that he was arranging to have Salvatierra, Minister of Agriculture, proceed to Wiwili by regular plane on Tuesday and accompany Sandino to Managua.

LANE

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817.00/7935 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, February 14, 1934—5 p. m.

[Received 8:50 p. m.]

48. My 44, February 9, 3 p. m. Informed by official sources that plane was unable to land at Wiwili and that consequently Sandino's arrival here will be delayed: meanwhile, there appears to be uncertainty on the part of the Government as to what action it will take.

General Somoza tells me that he will take no action to embarrass the President and that Guardia will be loyal. Reports from consular agent at Matagalpa, however, indicate that tense feeling exists in that region between Guardia and Sandinistas and that the former are anxious to create a pretext in order to attack latter.

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<sup>42</sup> General Anastasio Somoza, Jefe Director of the Guardia Nacional.

<sup>43</sup> Letter not found in Department files. Edwin C. Wilson was Chief of the Division of Latin American Affairs.

<sup>44</sup> Not printed.

Situation is aggravated because of open antagonism to Government on the part of Chamorro<sup>45</sup> and Moncada.<sup>46</sup> Furthermore, even if Guardia officers should be loyal to the Government, I have grave doubts as to efficiency and discipline of organization as a whole and as to whether Somoza really controls his men.

LANE

817.00/7968

*The Minister in Nicaragua (Lane) to the Secretary of State*

No. 102

MANAGUA, February 20, 1934.<sup>47</sup>

[Received March 5.]

SIR: Supplementing my telegram No. 53, February 16, 5:00 P. M.,<sup>48</sup> reporting the arrival of Sandino in Managua on that date, I have the honor to report that during the last few days very prolonged negotiations have been carried on with Sandino in the Presidential House with a view to arriving at a mutually satisfactory formula for dealing with the situation which has arisen with the termination on February 17 of the time limit of one year provided for in the peace pact of February 2, 1933. As has been previously reported General Somoza and the Guardia Nacional have strongly maintained the view that Sandino should now turn over all his arms and munitions, stating that such action would be in accordance with the terms of the peace pact. President Sacasa himself maintained a more conciliatory attitude, but without announcing publicly just what policy he intended to pursue.

In the local press of February 17, 1934, Sandino was reported to have said that he would not turn over his arms to the Guardia Nacional because of the unconstitutionality of that organization; and that he actually assumed this attitude seems to have been confirmed by subsequent press reports and by conversations I have had with officials close to the situation. General Somoza was admittedly resentful of this declaration attributed to Sandino, and has told me several times that he would like to "lock him up." One result of the raising of this point by Sandino, namely, the alleged unconstitutionality of the Guardia Nacional, may be that the National Congress will finally decide to enact legislation designed to put the organization on a firm and unquestioned legal basis. The need for Congressional action was pointed out by Juan Ramon Aviles in an editorial in *La Noticia* of February 18, 1934. Whether or not this would bring before Congress the project of law for the Guardia Nacional submitted by General Matthews in

<sup>45</sup> General Emiliano Chamorro, Conservative Party candidate for the Vice Presidency of Nicaragua in 1932.

<sup>46</sup> José Marfa Moncada, ex-President of Nicaragua.

<sup>47</sup> Not sent until February 27, 1934.

<sup>48</sup> Not printed.

1932<sup>49</sup> before the withdrawal of the Marines it is impossible to state, but the need for some such action seems now more urgent than ever.

Doctor Salvador Calderón Ramírez<sup>50</sup> has been taking part in the conversations with Sandino in the Presidential House, and has apparently exerted his influence on the side of reasonable conciliation. At the same time, if I may judge from the conversations I have had with him, he is somewhat disillusioned, and has referred in disparaging tones to Sandino's intellectual capacity for expressing his ideas. A similar opinion was expressed the other day by Doctor Leonardo Argüello, Minister of Foreign Affairs, when he stated that he carefully listened to Sandino talk for half an hour, but was unable afterwards to express any opinion concerning what had been said because he did not know what had been said. High officials in the Government have manifested an impatience because so much time has been and is being spent in long negotiations with such a person. Finally, President Sacasa himself has given evidence of losing his patience and in speaking confidentially to me gave me the impression that he was inclined to take a firm stand and deal strongly with the situation.

In an interview which appeared in *La Nueva Prensa* of February 20, 1934, Sandino is reported to have said that the United States would like to get him out of the Rio Coco region in order that the land there might fall into American hands and serve as a source of food supply in the event of a war. No indication was given as to what may have prompted him to make such a statement.

According to reports received from Mr. John A. Willey, American Consular Agent in Matagalpa, there is considerable uneasiness in the Segovias with respect to Sandino's future movements. The possibility of a general attack by Sandino and all his followers has been freely discussed, and worry is expressed lest bandit activities interfere with the remaining coffee shipments. The possibility of an attack on Matagalpa for the purpose of looting has even been suggested. Very little, if anything, has so far happened to justify such fears in that area, but there obviously exists a feeling of tense uncertainty.

Respectfully yours,

ARTHUR BLISS LANE

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817.00/7939 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, February 22, 1934—5 a. m.

[Received 11:20 a. m.<sup>51</sup>]

57. My 48, February 14, 5 p. m. Last night, February 21, about 11 o'clock machine gun fire was heard near the Legation residence.

<sup>49</sup> *Foreign Relations*, 1932, vol. v, p. 889.

<sup>50</sup> Nicaraguan Chargé in Mexico.

<sup>51</sup> Telegram in three sections.

On entering town to investigate we observed that house of Salvatierra, Minister of Agriculture, where Sandino has been staying, had apparently been attacked, a wounded man lying on sidewalk immediately in front and a detachment of about ten Guardia men being stationed across the street. The captain of the detachment informed me that Sandino's men had fired upon Guardia which had replied in kind. Proceeding to Legation office we telephoned to President who requested me to confer with him.

From what he and others in the Presidential quarters told me I understand that Sandino, his father, Salvatierra and General Estrada left the Presidency about 10:30 and on approaching entrance to Campo de Marte car was stopped and taken with occupants to nearby military prison whence Generals Sandino and Estrada were removed. (While President and General Somoza tell me that they are unaware of what happened to Sandino, I have reason to believe that Sandino has been killed.)

The President having told me that he was unable to reach Somoza by telephone he asked me whether I would endeavor to persuade him to come to the Presidency. I agreed. I found Somoza in his home apparently unwilling to go because of possibility that violence might be done to him. On my offering to take him with me in my car he consented to accompany me. At the President's invitation I was present when he interviewed Somoza who professed ignorance of what had happened and said that he had been attending a concert all evening. [Omission?] it having developed then that Salvatierra and Sandino's father were in jail, and at the request of both the President and Somoza I took them from the jail to the Legation office (Somoza told me that he could not guarantee their lives as far as the Guardia was concerned). From here they telephoned the President who requested that they proceed to the Presidency under the protection of the Legation car. This protection was accorded.

I was informed that orders had been issued by General Somoza to the Guardia to concentrate on Wiwili with a view to bringing about the surrender of the arms of Sandinistas and in case this were impossible to exterminate them. Also that Conservative military leaders be imprisoned (Somoza later told the President in my presence that order regarding Conservatives would be countermanded immediately, the President having argued that there was no proof against that Party which would necessitate such action).

Yesterday morning I received Somoza who had telephoned that he wished to see me urgently on an important matter. He informs me that President had exchanged letters with Sandino implying that Guardia should be reorganized within 6 months; also that General Portocarrero, former Sandinista candidate for President, had been

chosen as delegate of Government in Provinces of Esteli, Nueva Segovia, Jinotega, and Matagalpa. Somoza, who appeared unusually excited, stated that Portocarrero's appointment was an insult to the Guardia as it would put the Guardia under the control of Sandino. I advised him to be calm and suggested that I confer with Calderón Ramirez to ascertain the real situation. (Somoza told me that he wanted to proceed immediately against Sandino and that if I would merely wink my eye he would "lock him up". Again I advised caution and suggested to him the possible consequences of any violent action such as civil war.)

Yesterday afternoon I saw Calderón who said that Portocarrero although once a Sandino enthusiast was now very loyal to the Government and was, in his opinion, the best selection for the position of delegate. I repeated this message to Somoza at 6 o'clock and was told by him that he would not "start anything" without prior consultation with me. Somoza appeared even more nervous than in the morning and was conferring with three Guardia officers (one of whom I recognized outside of Salvatierra's house afterwards) when I entered his home. He said that, while he accepted Calderón's estimation of Portocarrero, the Guardia would be furious at the "insult" and that things had reached a point where he could no longer control the Guardia. As I left him he again said that nothing would be done without consulting first with me.

The President told me that the action of the Guardia is nothing short of revolt and that he is uncertain whether he can depend on Guardia support.

Tense feeling is evident in Presidential circles. Furthermore, from being present at interviews last night between Sacasa and Somoza I gather that former has little control over the latter. On the other hand I am told by one of his relatives [omission?] has sacrificed respect of his men for popularity and that therefore discipline is at a low ebb.

Apparent lack of discipline and organization in Guardia and probable reprisals on the part of Sandino's followers render the situation serious. Apparent general lack of confidence in Government is not a healthy sign.

LANE

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817.00/7940 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, February 22, 1934—4 p. m.

[Received 9:40 p. m.]

58. My 57, February 22, 5 a. m. The President sent for me this morning and asked me to accompany General Portocarrero to aviation

field. I complied with request. Calderón Ramirez left on the same airplane for San Salvador.

President showed me decode of telegram from Jefe Politico at Jinotega indicating that crowd of Government (as distinguished from Guardia) sympathizers had gathered to offer loyalty to President. President stated that similar telegrams had been received from all parts of the country.

He said he had placed censorship on all outgoing communications and that he proposed to establish state of siege.

Later I saw General Somoza. He told me that General Sandino, his brother Socrates, and Generals Estrada and Umanzor had been killed last evening and that son-in-law of Salvatierra had been badly wounded in the fighting outside of latter's house.

Somoza said that his code message regarding operations at Wiwili, as reported in my telegram 57, February 22, 5 a. m., had been stopped by order of the President but that later it had been released, necessitating a delay, however, of about 8 hours; and that the telegram with respect to the release of Conservatives had been sent.

It is evident that the relations between the President and his associates, on the one hand, and Somoza, on the other, are severely strained as a result of the murder of Sandino and his companions. As this relationship is openly discussed here, Somoza told me he would issue statement to the press emphasizing his loyalty to the President. Somoza assures me that he will support President and his government. Since events of last night, however, I have less confidence in his assurances than formerly.

Managua is quiet outwardly. Have as yet no reports from other parts of country but have instructed Consul at Puerto Cabezas to telegraph such reaction in his district as he may be able to confirm.

LANE

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817.00/7938 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, February 22, 1934—7 p. m.

[Received 9:41 p. m.]

60. President Sacasa told me this afternoon that Congress today declared a state of siege and that none of the local newspapers would be permitted to appear tonight.

LANE

817.00/7941 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, February 22, 1934—8 p. m.

[Received February 23—12: 12 a. m.]

61. With reference to my telephone conversation with Edward [Edwin?] Wilson this morning regarding possibility of Department issuing statement respecting policy of nonrecognition of revolutionary governments, I told Somoza today (for the purpose of sounding him out) that I might consider it wise to make such a declaration. He strongly objected to such a statement on the ground that the public would feel that it involved the Guardia. This naive admission of the connection between the Guardia and a possible unconstitutional government is I think an added reason for such a statement to be made. If the Department decides to make a statement I trust I may have complete text with authority to furnish to local press.

Vice President Espinosa called on me this afternoon and said that he believed his life in danger as in the event of retirement of President Sacasa he (Espinosa) would be the chief obstacle to Somoza's ambitions being realized.

LANE

817.00/7941 : Telegram

*The Secretary of State to the Minister in Nicaragua (Lane)*

WASHINGTON, February 23, 1934—11 a. m.

14. Your 61, February 22, 8 p. m. You may in your discretion say orally to Somoza that there has been no change in the Department's policy. We, however, believe it inadvisable to make any public statement either in Managua or here on this point, at least at the present moment. Please, however, continue to let us have your views in the matter.

HULL

817.00/7942 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, February 23, 1934—5 p. m.

[Received 6: 45 p. m.]

62. There have been no disorders in Managua following death of Sandino, although situation is still somewhat tense with state of siege in force and telegraph and telephone communications restricted.



Granada is quiet according to a reliable report, and American Consul at Puerto Cabezas reports everything quiet in that region.

Repeated to Central American Missions.

LANE

817.00/7945 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, February 23, 1934—11 p. m.

[Received February 24—4:04 a. m.]

64. Last night I was present at a conference between the President and General Somoza at which it was agreed (1) that Somoza should conduct thorough investigation as to parties responsible for killing of Sandino and make prompt report to the President, and (2) that cordial cooperation must exist between the President and the General. There was extended discussion on both of these points but at the close of the conference I felt that relations between them had been considerably improved.

This morning Somoza stated to me:

(1) He had last night called in the three officers who had assisted in carrying out the plan for the capture and killing of Sandino and had told them that the President insisted that the guilty party or parties be punished and that while he realized that the whole Guardia is responsible, somebody must assume the guilt. Each of the three officers offered [to] admit guilt but it was finally decided that one of them who has but one arm and whom I had recognized outside of the Salvatierra house immediately after the shooting there, should bear the brunt (first, because it was realized that I had recognized him, and second because it was hoped that the public would not be out of sympathy with a light punishment to a crippled officer).

(2) He would issue to press a statement affirming his loyalty and that of the Guardia to the President.

(3) There has been movement on foot among the President's supporters to replace Somoza by General Abaunza (now chief of staff), a journalist from León whose relations with Somoza are strained.

(4) As a proof of his loyalty to the President he offered that the President should have a man of his confidence in the office of the Chief of the Guardia to act as liaison officer and specifically suggested Crisanto Sacasa.

This afternoon I saw the President in company with Federico Sacasa. The latter read to me Somoza's proposed statement and indicated that it had his approval. It is to the effect that Somoza will cause a minute investigation to be made, that the incident is deplorable and that the President is in no way implicated. The President did not indicate his views. I understand from Universal Press correspondent, however, that Somoza released text to press this evening (it will not be published here until tomorrow evening as newspapers will not

appear tonight). I transmitted to the President Somoza's suggestion regarding Crisanto Sacasa. Federico Sacasa said that this would be an excellent move and would create a good impression on the public. The President's brother said that the best means of Somoza proving his loyalty would be by deeds and suggested that Somoza turn over copies of his codes to the President (at present the President said his office is unable to decipher telegrams received for the Guardia).

On leaving the President I conferred with Somoza and suggested as proof of his loyalty that he enable the President to have recourse to all messages. Somoza then offered to give copies of his codes to the President. He likewise said that if the President distrusted him he would resign immediately together with all of his officers and men. (He admitted that the President would be justified in distrusting him as a result of action taken.)

LANE

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817.00/7946: Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, February 23, 1934—midnight.

[Received February 24—4:40 a. m.]

65. Department's telegram 14, February 23, 11 a. m. I have several times explained to General Somoza my understanding of Department's policy.

As explained to Wilson over telephone today the situation has been aggravated since yesterday by the apparently growing and strong feeling that I conspired with Moncada and Somoza to have Sandino killed. This has been told me by Nicaraguan, American and diplomatic sources. This impression may have been emphasized by an article [in] *La Noticia* of February 20 headed "The Sandino Affair" with the subheading "Activities of General Somoza," stating that I had dined with Somoza Saturday night (which is untrue) and attended a baseball game with him on Sunday.

It is true that I had seen Somoza many times prior to Wednesday night with a view to persuading him not to do anything rash. He gave me his word of honor on four separate occasions (the last at 6 p. m. on February 21) that he would take no action against Sandino without my consent. He has since apologized to me for what he claims he could not prevent, the feeling among the Guardia officers being too strong against Sandino. Somoza has admitted to me, however, that the officers who participated acted under orders. A statement from the Department at this time in support of the broadly [omission?] or indicating our policy of nonrecognition of non-constitutional governments should serve not only to quiet the anti-Ameri-

can feeling but also to check any military movement against the Government. Beside the President and his brother the following representative Nicaraguans told me today that they still consider the situation very serious: Chief Justice Cuadra Zavala, Vice President Espinosa and Senator Stadthagen. I concur. Although there are suggestions that the President or Somoza should resign, such action would not seem to solve the situation as the problem of relations between the Guardia and constitutional government would still exist. In the absence of a more radical solution it would seem that cordial and harmonious cooperation between the President and Somoza is essential and that Somoza must subordinate himself to the President. I am doing what I can to bring this about.

LANE

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817.00/7950 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, February 24, 1934—6 p. m.

[Received 8:50 p. m.]

67. Referring to my conversation today with Wilson. I respectfully submit two points for the Department's consideration:

1. I understand from Wilson that our policy regarding nonrecognition of revolutionary governments has not changed. If this be the case I fail to see why only Somoza and the Nicaraguan Government may be told that fact, but that the people here who think that our silence indicates a reversal of policy should remain in ignorance with the possible effects which I have already brought to the Department's attention.

2. Nicaragua is still a party to the Treaty of 1923<sup>52</sup> which was proposed and supported by us. The President told me this morning that he feels that it is entitled to an expression of policy for this reason.

Whether or not a period of anarchy or civil war follows in wake of the present situation, it is undeniably true that Nicaragua at present faces a grave crisis, not only in my opinion but in that of every responsible person to whom I have talked. Since it is impossible to predict with certainty that quiet and normal conditions will be restored in the near future, any appropriate step which might be taken in an effort to avoid possible disorders and bloodshed would appear to be justified.

LANE

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<sup>52</sup> *Conference on Central American Affairs, Washington, December 4, 1922-February 7, 1923* (Washington, Government Printing Office, 1923), p. 287.

817.00/7952 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, February 25, 1934—1 a. m.

[Received 4:32 a. m.]

69. 1. President Sacasa today with a view to exerting his authority gave written orders to General Somoza on two matters (a) regarding delivery of 15 rifles to Mboya and (b) providing for validity of passports, now required for purchasing railroad tickets, without the visa of the Guardia. General Somoza tonight showed me his replies to these orders complying explicitly in each case. In my estimation his subordination is the most encouraging development in the past few days.

2. This morning following a conversation with Senator Stadthagen, a leading Conservative, I informed the President that Stadthagen expressed the personal opinion that the representative Conservatives would be willing to cooperate with the Government provided the President requested their presence. The President declined to make a definite request except on the condition that it be made through me and on the understanding that it was due to a suggestion on my part. General Chamorro sent word this evening to me through Stadthagen that he would not care to go to the Presidency on these terms and only unless the President would state concretely his proposal; otherwise the Conservatives might compromise themselves with the Government which they frankly fear. The President to whom I conveyed the Conservative reply indicated that he would not issue a request under such conditions.

3. Somoza told me tonight that Chamorro had sent word to him he would support Guardia and that he had replied thanking him but indicating he did not require support at this time. Somoza said that he conveyed this information immediately to President. The local press appeared tonight for the first time since the night of the 21st and contained the following [(1)] declaration by General Somoza pledging the obedience of Guardia to President Sacasa and (2) a statement by President Sacasa condemning the crime and expressing his confidence in the support of his subordinates and the cooperation of his fellow citizens.

LANE

817.00/7953 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, February 25, 1934—4 p. m.

[Received 11:10 p. m.]

70. My 69, February 24, 1 a. m. This morning General Somoza, his staff and other Guardia officers, about 45 in all, called on the Presi-

dent and reiterated their oath of allegiance. Somoza tells me he made a speech emphasizing the loyalty of the Guardia, pointing out that since the death of Sandino, Sacasa is the real President of Nicaragua, he now having completed jurisdiction over every part of the country, and pledging the support of himself, his officers and men to the "Constitutional Government" of President Sacasa. Somoza said that the President gave him an "abrazo" as the latter departed.

Somoza stated to me today that operations were to have begun this morning against the Sandinistas at Wiwili. He said (when I left him at 2:30) that he had not as yet received any reports as to what had occurred.

I have an appointment to see the President at 4:30 and will later telegraph to the Department further.

LANE

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817.00/7954 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, February 25, 1934—9 p. m.  
[Received February 26—12:37 a. m.]

71. Earle W. Kingsley, American citizen, employed as pilot of local Italian-owned Aviation Company, called on me today and stated that Guardia Nacional desired to charter plane to drop bombs tomorrow on Sandinistas and inquired whether his participation in such action would jeopardize his citizenship. I replied that according to the precedents of international law available to me his citizenship would not be jeopardized.

Emphasizing that I was speaking merely for myself I earnestly requested him as a personal favor not to be a party in any way to bomb-throwing. He said he would refuse to go.

If Kingsley should participate in bomb-throwing after having visited me, his action would probably be interpreted as having my approval. This would be most unfortunate, particularly during the present state of public opinion.

LANE

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817.00/7953 : Telegram

*The Secretary of State to the Minister in Nicaragua (Lane)*

WASHINGTON, February 26, 1934—5 p. m.

15. Your 67, February 24, 6 p. m. As Wilson explained to you, there are other issues involved. The Central American countries are planning to hold a conference soon <sup>53</sup> at which they will discuss whether

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<sup>53</sup> For correspondence concerning the Central American Conference held March 15 to April 12, 1934, see vol. IV, pp. 423 ff.

to continue the principle of non-recognition. Costa Rica and El Salvador are apparently doubtful as to the advisability of continuing this principle. If the United States were now to make a public declaration of its support of the principle this would inevitably be interpreted—or misinterpreted—as an effort to influence the deliberations of the conference. As you know, the United States is maintaining a hands off policy regarding the conference and considers that the Central American states in holding this conference should deal with such matters as they desire to discuss entirely on their own responsibility. Furthermore, it has for many years been said that the United States has sought to impose its own views upon the Central American states, and that to this end it has not hesitated to interfere or intervene in their affairs. This criticism has been made particularly in regard to our relations with Nicaragua. We therefore desire not only to refrain in fact from any interference, but also from any measure which might seem to give the appearance of such interference.

Your suggestion of a public statement is made, as we understand it, with two objectives in mind: (a) to avoid disorders, and (b) to scotch the malicious rumors that the United States is in some way implicated in the Sandino affair and favors Somoza for the presidency. As regards (a) you have already been authorized to tell Somoza (concerning whose loyalty there was apparently at first some apprehension) that our policy has not been modified. If this statement on your part is ineffective it is difficult to see that a public statement would have much more force in dissuading him from a movement against the Government. (The information contained in your 69 and 70 indicate encouraging developments in this regard.) As concerns (b), the ignorant and irresponsible individuals who circulate such rumors would, in our judgment, not only fail to understand the significance of a public statement on our part, but might conceivably misinterpret or twist its meaning in such a way as to cause further embarrassment.

We are fully alive to the reasons which have prompted your recommendation and have carefully considered them, but hope that you will appreciate our point of view as set out above.

HULL

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817.00/7955 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, February 26, 1934—5 p. m.

[Received 8:15 p. m.]

73. General Somoza has just telephoned me that commander of central area has communicated by radio that many Sandinistas have

voluntarily surrendered in operations in vicinity of Wiwili requesting to be incorporated in Guardia but are without food and shelter. Somoza stated that he had instructed commander to provide food and lodging.

LANE

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817.00/7956 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, February 27 [26], 1934—midnight.

[Received February 27—5 : 10 a. m.]

76. The President told me last night that despite the protest of allegiance on the part of the Guardia, as reported in my telegram 70, February 25, 4 p. m., he did not have sufficient confidence in Somoza and his men to refrain from the steps which are now being taken to transform the Casa Presidencial into what is nothing less than an armed camp: trenches having been dug on the crest of the hill, sand bags and machine guns are in evidence, and at night even the reception rooms of the Palace are guarded by armed forces, none of whom are regularly of the Guardia. The President told me that many of the armed men who were from the streets of Managua wished to show their loyalty by offering to defend him. Sacasa said that he could not well refuse their request as they would be offended. What the President does not apparently realize is that it is of vital importance for him not to continue to irritate the Guardia with preparations for defense against them. Responsible people of Managua with whom I have talked have read the statements of Sacasa and Somoza, the oaths of allegiance of the Guardia, the order to the Guardia today, and are at a loss to reconcile them with the maintenance of an arsenal in the President's house against the very organization which has been set up to defend him.

I have decided it is the indecisive character of the President which makes it difficult if not impossible for him to proceed in a strong and courageous manner. Unfortunately he is surrounded by influences which I fear are not for the good of the country: persons who wish to humiliate Somoza regardless of the consequences. The President did admit to me however that an excellent effect should be created by Somoza's order of today but on the other hand he does not act as though he were willing to do his part in endeavoring to restore harmonious relations. The situation as to Somoza seems to have improved. He has assured me of his loyalty to the President but whether he is strong enough to withstand Moncada's influence I am not confident. (Somoza told me last night that Moncada had come to Managua on February 21 for the purpose of bringing the Sandino matter

to a head and that he called on me that day with a view to showing the public that the action had the support of the United States. The fact that he lunched with me, although others were present, may have enhanced the impression which it is alleged he wished to create.)

The Minister for Foreign Affairs who spoke to the Secretary at Montevideo regarding the desirability of changing the present organization of the Guardia <sup>54</sup> stated to me this morning, when I told him that our policy of nonrecognition of revolutionary governments had not been changed, that this fact should be made known, as it is felt by many here that we are supporting the Guardia which is our creation. Cordero Reyes, formerly Chief Justice and also a member of the Nicaragua Delegation at Montevideo, told me today that our policy of nonrecognition would be the greatest influence for tranquility.

Doctor Argüello said that he regarded the situation as "most grave" principally because of the indecision of the President in taking action with respect to the reorganization of the Guardia. Cordero Reyes referred to its development into a politico-military organization which controls not only the results of the elections which it was supposed impartially to supervise but dominates the Executive in the administration of the country.

Despite the gravity of the situation there is no disorder here, merely a feeling of tenseness and anxiety.

LANE

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817.00/7958: Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, February 27, 1934—6 p. m.

[Received 10:10 p. m.<sup>55</sup>]

78. Department's 15, February 26, 5 p. m. I fully appreciate Department's point of view and am fully sympathetic with the Department's broader aim. If I may seem to have over-emphasized my own view it is because I wished the Department fully to realize the gravity of the situation. I shall now endeavor to accomplish in personal conversations what I had hoped might have been done in a public statement.

Not with a view to persuading the Department to change its attitude but in order that the Department may fully understand the situation, I submit the following:

I had not meant to indicate to the Department that the rumor is current that we favor Somoza for the Presidency. Such a rumor has

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<sup>54</sup> See instruction No. 7, December 28, 1933, to the Minister in Nicaragua, *Foreign Relations*, 1933, vol. v, p. 849.

<sup>55</sup> Telegram in two sections.



not reached me and I do not find any record of having so informed the Department. The feeling exists, however, that we favor the Guardia as contrasted with the Government, such feeling being chiefly of the following:

- (a) Our creation of the Guardia.
- ([b]) My having seen a great deal of Somoza (it is not recalled that I have seen the President many more times nor is it generally known that I have acquainted him with every meeting I have had with Somoza).
- (c) Silence as to our policy.
- (d) Feeling in the United States against Sandino.
- (e) Moncada's having lunched with me on February 21.

The Minister for Foreign Affairs said to me this morning that it is not merely a matter of convincing Somoza but of convincing the whole Guardia which, according to him, is responsible for the circulation of the rumor that I am the intellectual author of the killing of Sandino. He said that the Guardia is convinced that I—and hence the United States Government—favors the Guardia as against the Government.

While I have no worthy evidence on the following point, it is possible that the view expressed in the Department's instruction No. 7, of December 28, 1933,<sup>56</sup> may have come to the knowledge of the Guardia: "It is the Department's opinion, nevertheless, that the continued maintenance of a Guardia Nacional organized substantially as at present is important to the future peace and welfare of Nicaragua." (As will be inferred from my letter to Wilson of February 3, I do not entirely share the Department's view and consequently have not availed myself of the authority contained in the last paragraph of the instruction under reference.)

The Mexican Minister, who returned yesterday, said that the feeling in Salvador is strong against us because of my alleged complicity in the killing and added that the same sentiment exists throughout Central America.

LANE

817.1051/817 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, February 28, 1934—5 p. m.

[Received 8:30 p. m.]

79. The President sent for me this morning and told me that Congress had drafted a bill which would give the Guardia Nacional a legal status. He said that he has asked the Commission from the Congress

<sup>56</sup> *Foreign Relations*, 1933, vol. v, p. 849.

to meet me, Señor Armijo, the President of the Congress, Senator Sandoval and Deputy Palma (former President of the Congress).

They thereupon exhibited the draft which, as I remember it from the few minutes which I had to examine it, is substantially as follows:

The Commanding General of the Guardia, that is the President, shall:

1. In accordance with the provisions of article 209 of the constitution, issue instructions to the Jefe Director.
2. Define military areas and direct movements of troops (article 3, paragraph 6 and 14).
3. Nominate officers in the Guardia (article III, paragraph 13).
4. Issue orders regarding "extraordinary" movements of Army.
5. Control communications and expenses.
6. Control, with Gobernación, over police forces now under Guardia.
7. Receive daily from Jefe Director report [on] activities and regularly report regarding expenditures.
8. Decree is to go into effect on publication in *Gaceta Oficial*.

Explanatory telegram follows.

LANE

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817.1051/819 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, March 1, 1934—3 p. m.  
[Received 7:52 p. m.]

80. My 79, February 28, 5 p. m. The Ministers of Mexico and El Salvador, both of whom have just arrived, have told me that they had specific instructions to cooperate closely with me in the present situation. I met with them yesterday evening for the purpose of agreeing as to such conciliatory measures as might be taken by us. I acquainted them with the substance of proposed bill regarding the Guardia and stated that I did not wish to express any opinion regarding this bill, and particularly not to approve any action which might be interpreted as a repudiation of the position previously taken by the United States Government with respect to the Guardia. We agreed that a good moral effect would be created if the three of us should go in a body to the President and emphasize to him that our respective Governments are supporting the Constitutional Government of Nicaragua and that, should we be able in the interest of peace to exert our good offices with a view to conciliating divergent opinions, we placed ourselves at his disposal.

We thereupon called on the President and the foregoing view was expressed to him by the Minister of Mexico as senior diplomatic representative. The Minister of El Salvador suggested that it might be wise for the sake of harmony to issue an order to the Guardia along the

lines of the proposed bill, it being his feeling that an act of Congress might be resented while the action of the President as Commanding General of the Guardia would be considered to be entirely normal. The Minister of Mexico indicated that he was in accord with this plan. I stated, however, that in the absence of instructions from my Government I did not wish to give my approval, as such approval might be interpreted as a new departure in our attitude towards the Guardia. On the other hand I said that I understood my Government's present position to be that the question of the Guardia is one for the present Government to determine. We left the President with the understanding that he would issue an order to the Guardia embodying the provisions of the draft law. As the Mexican Minister had told the Minister of El Salvador and myself that his instructions did not permit him to call on General Somoza but would allow him to treat only with the President and the Minister for Foreign Affairs, and the President having indicated that he had no objection to our using our good offices with General Somoza, the Minister of El Salvador and I determined to see Somoza last night particularly as reports were current yesterday that the crisis between the President and Somoza had been reached. I thereupon telephoned Somoza from the Legation and told him that the Minister of Salvador and I would be grateful if he would consult with us. He told us on reaching the Legation that the Guardia is loyal to the present administration, but that the feelings of the officers and men of the Guardia should be taken into account and that the continued maintenance of measures of military defense at the Presidential house were causing increased irritation and antagonism. Somoza had already been acquainted with the contents of the draft law by León Debayle, who had called on him at the request of the President. Somoza said that such a law would not only have a bad effect on the Guardia but would also work against the President, as it would indicate to the country that Sacasa not having enough moral force to issue orders to the Guardia had been forced to take action by the Congress. On being asked by the Minister of Salvador whether he would be agreeable to the issuance of the order by the President, instead of the enactment of the law, Somoza said that he would not object in principle but would greatly prefer if the provisions of the order could be contained in various orders issued from time to time. As I understand it, his feeling is that the Guardia would resent receiving at one blow such a comprehensive and what he termed a "drastic" order. We suggested that sometimes it is wiser to get a thing over with once and for all rather than to drag it out indefinitely. He left us agreeing to call on the President this morning should he be summoned.

This morning the President requested the presence of the Ministers of Mexico and El Salvador and of myself. He said that this morning the Commission of Congress, which had called on him yesterday, has been to see him to say that, as this is the last day of the present session, it would be advisable if the bill should be presented to the Congress. The President said he then had told the Commission that he had decided to issue an order which would take the place of the proposed bill. According to the President the Commission objected to such a procedure on the ground that a vote of confidence in the President on the present issue is absolutely essential, especially because of the need to obtain in concrete form an expression of opinion of the Conservative Party. The President, while admitting that the issuance of the order would have a less irritating effect on the Guardia, said that he felt that he should follow the wishes of Congress. He pointed out furthermore that the bill had not originated with him but with certain members of Congress and that he could not constitutionally prevent the bill from being discussed. The other two Ministers and I expressed no opinion regarding this suggested change of procedure but again reiterated our offer to take such conciliatory measures as might seem convenient. The President said that he would inform us of the action taken by Congress.

On leaving the President my colleagues and I agreed that, as the matter has reached a purely political stage, it would be improper for us to take any further action.

The three of us feel that we have done all that we properly can and the Minister of Salvador and I consider that our conciliatory efforts with Somoza last evening have relieved us of any charge that we are indifferent to the situation. We all feel that it is now a matter for the Government and for Congress to determine.

Prior to our meeting last evening with the President, I had an opportunity to have a few words with him at the ceremony yesterday afternoon at which the Minister of El Salvador presented his credentials. I told the President that the plan for me to come to see him not alone but with the other Ministers should not in any way be regarded as a lessening of my desire to be of assistance. On the other hand I felt that joint support of the Constitutional Government by the three Ministers should be helpful.

My own view is that the significance of the representatives of Mexico and of the United States acting in accord with respect to Nicaragua will be felt here, and particularly when such action is taken with the concurrence and assistance of El Salvador.

LANE

817.1051/820 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, March 1, 1934—11 p. m.

[Received March 2—4:52 a. m.]

82. My 80, March 1, 3 p. m. This afternoon when I called on Minister of Hacienda at Presidential Palace to acquaint him with contents of Department's instruction No. 35<sup>57</sup> he said that the President desired to see me. When the President received me he said that the order which had been suggested last evening was ready to be signed, he having seen this morning General Somoza who was in agreement with the terms thereof. I said to the President that I understood from what he had said this morning that bill was to be presented to Congress. He said that I must have misunderstood him and at that time I did not doubt that this was the case. The order is substantially in the same terms as the draft law reported in my 79, February 28, 5 p. m., with two exceptions. Section 5 now provides merely that all extraordinary expenses of the Guardia shall be approved by the Commanding General. That part of section 7 which referred to expenditures has been omitted. The President said the order which would be signed immediately by him and countersigned by the Minister of Gobernación would be communicated to General Somoza this evening in the presence of the diplomatic representatives of the American countries, the idea being that our being witnesses to the ceremony would strengthen the President's position. I repeated to the President that my presence at such a meeting was not to be interpreted as approving the order but that I would be glad to associate myself with my colleagues in any proper way to bring about peace.

The President asked me to get in touch with my American colleagues and also with Somoza. On talking with the Minister of Mexico I found that he had the same impression as I regarding the conversation this morning, namely, that the President expressed his intention of having a bill submitted to Congress. The Minister of El Salvador however expressed the opinion that the President was not clear as to whether a law or an order would be issued. A meeting of the American representatives [having?] been fixed at 8 p. m. at the Palace, I called on Somoza to acquaint him with what we understood to be the intention, for the President to summon him to the Palace accompanying my colleagues and myself showing that harmony exists and that the order had his (Somoza's) approval. Somoza told me that the changes made in the order as mentioned above were suggested by him and that the reason a bill was not introduced in Congress was because it was learned that the Conservatives and Moncadistas would defeat it.

<sup>57</sup> Not printed.

The ceremony at the Palace was simple. The President, having read to us the signed decree, requested Somoza to swear his loyalty to him and to promise obedience before the representatives of friendly countries. Somoza complied with good grace even though it seemed to me that the manner in which the remarks were made to him was humiliating in character. Somoza invited the President and the diplomatic corps to a parade of the Guardia tomorrow to be reviewed by the President.

Although the President has probably strengthened his position in the country through this submission on paper on the part of Somoza, the problem appears to be unsolved as long as the President's lack of confidence as at present requires him to maintain extraordinary war measures about the Palace. Even this afternoon the President indicated to me that he could never have confidence again in Somoza.

The tension this evening is sensibly relieved. The President's action and compliance therewith on the part of Somoza have undoubtedly contributed thereto.

LANE

817.00/7954

*The Secretary of State to the Minister in Nicaragua (Lane)*

No. 37

WASHINGTON, March 2, 1934.

SIR: With reference to your telegram No. 71 of February 25, 9 p. m., the Department on June 5, 1931, authorized the American Legation in Tegucigalpa,<sup>58</sup> in a similar case, to invite the aviator's attention to Section 5282 of the Revised Statutes and to inform him that the obvious intent of the neutrality laws of the United States is to discountenance the enlistment of American citizens in foreign armed forces.

The Legation was likewise authorized to inform the President of Honduras of the above and to add that the Government of the United States would prefer that no American citizens should be employed on active military service in Honduras. The Legation was authorized to point out that in addition to the objections to such action as they might concern the relations of the American citizen to his Government was the further objection of the possibility of serious injury to unoffending civilians and to foreign as well as Honduran property resulting from aerial bombardment by an untrained civilian aviator.

Should the need arise you are authorized to make known confidentially the Department's views as outlined herein.

Very truly yours,

For the Secretary of State:

SUMNER WELLES

<sup>58</sup> *Foreign Relations*, 1931, vol. II, p. 578.

817.1051/821 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, March 2, 1934—6 p. m.

[Received 8:20 p. m.]

83. My 82, March 1, 11 p. m. I called on the President this morning and had an extended conversation:

1. As to the situation in the country. Having said that he had sent orders to the area commanders and to the chiefs of police and that until he had their respective reactions as to the order issued last evening, he would not be able to tell me accurately as to whether the country was tranquil.

2. He said that he would be glad to accept General Somoza's invitation to review the Guardia as soon as he had evidence that matters had reached a more normal stage.

3. He said that he had not yet determined whom he would send to the Central American Conference but indicated (very confidentially) that Crisanto Sacasa would go with two others, one of whom would be a Conservative.

4. Emphasizing that I was speaking personally as a friend and not officially, I earnestly requested the President to give serious consideration to the advisability of normalizing the situation insofar as his protection is concerned. I expressed the apprehension lest, if he did not do so, the country would not feel that the situation had improved. He promised gradually to reduce defensive measures and said that he was merely waiting to ascertain the general feeling throughout the country before taking action.

5. The feeling seems to be generally calmer today.

LANE

817.00/7965 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, March 5, 1934—4 p. m.

[Received 8 p. m.]

85. President told me this morning that situation having improved within last few days he, his family, Ministers Salvatierra and Guerrero Montalván, and Sandino's father, all of whom had been remaining in Palace since events of February 21, now felt at liberty to appear in town and had done so. I noticed that the defense measures previously described have been reduced.

Somoza has indicated to me, however, that the appointment of the President's cousin Ramón Sacasa as chief of the western area (newly established) with offices in León would not serve to enhance relations between the Government and the Guardia.

LANE

817.1051/828 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, March 21, 1934—4 p. m.

[Received 7:47 p. m.]

99. This morning, in referring to a general conversation which I had yesterday with the President on the present difficulties relating to the Guardia, the Minister for Foreign Affairs said that on the eve of leaving Montevideo he had had a talk with the Secretary (Mr. Cumming acting as interpreter) on the subject of Dr. Argüello's memorandum regarding the Guardia.<sup>60</sup> The Minister said that he understood the Secretary to say through Mr. Cumming that the Department was entirely in accord with the views expressed in the memorandum; that the Department had no objection to the reformation of the Guardia in such a manner as the Government desired regardless of the agreement (of November 5, 1932)<sup>60</sup> having been signed in the American Legation and by the American Minister as witnesses, and that I would be so instructed.

I said to Dr. Argüello that my understanding of the Department's position is that the question of the Guardia is one for Nicaragua to decide and for that reason we decline to express any opinion.

I gather that the Minister for Foreign Affairs desires to interpret the Secretary's remarks as an approval of any action which the Government may take in reorganizing the Guardia. My impression is strengthened by the second paragraph of the Secretary's despatch of December 11, 1933 transmitted to me in Department's instruction 15 of January 16.<sup>61</sup>

President admits that he has recently increased the Presidential guard by over 100 men all Liberals, because so he says, he must have around him men whom he can trust. The President tacitly agreed that this is not in accordance with the terms of the agreement of 1932.

Am reporting fully by air mail my conversation with the President (as well as one yesterday with General Chamorro) on the subject of the Guardia.

I should appreciate for my guidance the Secretary's views regarding Dr. Argüello's above-mentioned statement to me.

LANE

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<sup>60</sup> See instruction No. 7, December 28, 1933, to the Minister in Nicaragua, *Foreign Relations*, 1933, vol. v, p. 849.

<sup>60</sup> *Ibid.*, 1932, vol. v, p. 887.

<sup>61</sup> Not printed.



817.1051/828 : Telegram

*The Secretary of State to the Minister in Nicaragua (Lane)*

WASHINGTON, March 22, 1934—7 p. m.

27. Your 99, March 21, 4 p. m., first paragraph. Dr. Argüello evidently misunderstood me. I made no promise to him other than that I would forward his memorandum to the Department for its consideration, and I entirely approve of the attitude expressed in the Department's telegram of December 16, 1933, to me at Montevideo (quoted in the Department's instruction No. 7 of December 28, 1933 to you) to the effect "that the proposed reorganization of the National Guard is not a subject on which it may appropriately express an opinion". Your statement to Dr. Argüello as contained in paragraph 2 of your telegram under reference is approved.

HULL

817.1051/834

*The Minister in Nicaragua (Lane) to the Secretary of State*

[Extract]

No. 147

MANAGUA, March 26, 1934.

[Received April 2.]

SIR: With reference to my telegram No. 99 of March 21, 4:00 P. M., and to the Department's reply No. 27 of March 22, 7:00 P. M., I have the honor to report as follows:

[Here follows an extensive account of conversations between Mr. Lane and several high Nicaraguan civil and military officials.]

I am wholeheartedly in sympathy with the Department's position of not expressing an opinion with respect to the Guardia and earnestly recommend that we should continue along those lines. I consider, however, that it is not inconsistent with the Department's policy and on the other hand that it is in harmony with the President's policy of the "good neighbor" for me to do all I can through personal conversations to calm those persons whose ambitions and passions may lead them to commit acts which might have a disastrous effect on the well being of the country.

Respectfully yours,

ARTHUR BLISS LANE

817.1051/839 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, April 9, 1934—2 p. m.

[Received 4:06 p. m.]

106. My 105, April 7, 4 p. m.<sup>62</sup> President informed me this morning that he had appointed his brother Antiocho Sacasa as Chief of Staff of the Guardia in place of General Abaunza. Despatch by air mail.<sup>62</sup>

LANE

817.00/8020 : Telegram

*The Minister in Costa Rica (Sack) to the Secretary of State*

SAN JOSÉ, April 12, 1934—2 p. m.

[Received 4:42 p. m.]

23. Colonel Ferretti, Sandino aide, refugee here in interview in *Diario de Costa Rica* today says: "The American Minister is the true Chief of the Guardia Nacional of Nicaragua and with Moncada principal person responsible for the cowardly assassination of my unforgettable chief."

Ferretti in nasty interview also seeks to imply that Minister Lane had advance knowledge of assassination and was one of the conspirators. In *La Tribuna* today Octavio Jimenez, professional Yankee-baiting contributor to *Repertorio Americano*, in interview expresses sorrow that Costa Rica expelled Nicaraguans who insulted American flag. Jimenez also says Costa Ricans should rejoice because asylum has been given Ferretti.

Continued publication of such unchallenged anti-American propaganda likely to prove very harmful to prestige in Latin America and if the Department has any plan in mind to refute such allegations I will be happy to help execute your ideas.

Repeated to Managua.

SACK

817.00/8020 : Telegram

*The Secretary of State to the Minister in Nicaragua (Lane)*

WASHINGTON, April 13, 1934—4 p. m.

32. With reference to Sack's 23, April 12, 2 p. m. We have cabled him as follows:

"The Department of course does not intend to dignify such malicious and absurd stories by issuing any denial or taking any notice of them."

HULL

<sup>62</sup> Not printed.

817.00/8037

*The Minister in Nicaragua (Lane) to the Secretary of State*

No. 192

MANAGUA, May 4, 1934.

[Received May 9.]

SIR: I have the honor to report that yesterday while I was calling at the Foreign Office, General José María Moncada, ex-President of the Republic, called at the Legation and left word that he should like to call on me at my residence during the course of the day. Having an appointment with the President at 12:30 P. M., and recalling the allusions which have been made regarding the coincidence of my having had luncheon with General Moncada on February 21 last, I decided not to make an appointment with General Moncada until I had advised the President of the General's proposed call. President Sacasa, when I advised him of the foregoing, said that he supposed that it would not be possible for me to refuse to see General Moncada and that I had no alternative but to receive him.

I told the President that I felt that I should see General Moncada but that I wished to show my good faith to the President in advising him beforehand. I subsequently got in touch with General Moncada and invited him to my house where he spent the greater part of the afternoon.

After referring to the events of February 21 and to my having been accused with him as having instigated the killing of Sandino, he said that when he left my house on the afternoon of February 21, he endeavored to get in touch with don Federico Sacasa, brother of the President, to discuss some matters of business in which the two are interested. Not being able to locate don Federico, he said that he had gone for a drive in the direction of Las Piedrecitas and that he had later met the sons of don Federico at a restaurant on that road and had remained with them until about 10:30 P. M. They had heard some shots, whereupon General Moncada, so he said, had suggested that they return to Managua to investigate. Having left the Sacasa boys at their home, he proceeded to leave the city for his home in Masatepe but was stopped by a sentinel on the outskirts of Managua, who, General Moncada said, did not wish to allow him to leave without permission of the Chief of Police. The Chief of Police, according to the General, soon arrived on the scene and told him of the killing of Sandino. The General said that he told me of the above in order to show that he was not present when the killing took place. He said that he had advised General Somoza in the days immediately following the killing to be loyal to President Sacasa, as it was his duty to support the constituted authorities.

Referring to my visit to San Salvador and my conference there with Mr. Beaulac,<sup>63</sup> General Moncada said he wished to know what our policy is with respect to the Guardia Nacional, and particularly with regard to possible changes therein which might be made not in accordance with the agreement of 1932. I said that as I understood our policy, it is that the Guardia is a matter entirely for Nicaragua to decide; that Nicaragua as a sovereign nation must decide her internal problems; but that our silence should not be interpreted either as approval or disapproval. (When I saw the Vice-President, Dr. Espinosa, this morning and he asked me the same question, I gave him an identical answer.)

General Moncada said that he entirely approved our policy of non-interference, and that he personally did not desire further intervention or further war in Nicaragua. Referring to the forthcoming elections, in which he frankly said that he had made an arrangement with General Chamorro for the latter's support of General Moncada's candidacy as Senator from Rivas, he said that when Congress re-opens on May 15, a bill introduced by the Executive and already passed by the Senate would come before the Deputies for consideration, providing that the President of the Nicaraguan Board of Elections shall be nominated by the President and not, as he said is the case now, by Congress. He said that both he and General Chamorro will fight against the passage of this bill, for it would give the Executive even greater power over the elections than is at present contemplated. He said, for instance, that although he feels that he would have an easy majority in Rivas, should he be nominated, his nomination could be prevented should the Executive decide to do so through a government-controlled Board of Elections. He said that the situation in the Nicaraguan elections is somewhat similar to our primary system in the United States. When he asked what the policy of the United States would be with regard to the elections, I replied that we felt that we should take no part therein either directly or indirectly, and should use no influence in any way in connection therewith. General Moncada said he fully understood this situation, but said that although neither he nor General Chamorro wished a conflict (he added that they were both too old and too tired for war), they intended to insist on free elections. As I recall, I commented substantially as follows:

"Even though a friend may not wish to meddle in matters which are none of his concern, there is no reason why he should not give a word of advice. I feel sure that you will understand why I cannot say any more".

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<sup>63</sup> The Minister, under instructions from the Department, had proceeded to San Salvador on April 26, where he had consulted for a few days with Frank P. Corrigan, the new Minister to El Salvador, and with Willard Beaulac, Assistant Chief of the Division of Latin American Affairs, on temporary detail in Guatemala.

General Moncada said that was all he wished to know; that an expression from us regarding the freedom of the elections would, he felt sure, help to realize such a hope; and that this statement on my part, entirely satisfied him.

I trust that I may have correctly interpreted the Department's policy in regard to the situation which may arise in connection with the forthcoming elections. As I indicated to the Department in the last paragraph of my despatch No. 147 of March 26, there has been at times some question in my mind as to how the "Hands Off" and "Good Neighbor" policies should or may be reconciled. I feel, and so felt at the time my despatch No. 147 was written and was consequently guided accordingly, that we should not interfere in Nicaraguan internal affairs; should we feel, however, that a word from us might serve to maintain the peace of the country and consequently avoid bloodshed and disorder, we should not refrain from assuming the responsibility of the "Good Neighbor" by expressing our views, preferably as the personal views of our diplomatic representative.

Should the Department consider it desirable, I should appreciate an expression of opinion on my interpretation of our policy.

Respectfully yours,

ARTHUR BLISS LANE

817.00/8037

*The Secretary of State to the Minister in Nicaragua (Lane)*

No. 78

WASHINGTON, May 21, 1934.

SIR: Referring to your despatch No. 192 of May 4, 1934, concerning the political situation in Nicaragua, the Department approves of your interpretation of its policy as set forth in the penultimate paragraph thereof.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

817.00/8073

*The Minister in Nicaragua (Lane) to the Secretary of State*

No. 273

MANAGUA, June 14, 1934.

[Received June 25.]

SIR: I have the honor to transmit herewith, translations of an anonymous letter received by the Legation on June 11, 1934,<sup>64</sup> in an envelope bearing the return address, "Students, León, Nicaragua".

It will be noted that the letter is critical of the political activities of General Anastasio Somoza and the Guardia Nacional, and the alleged connection of this Legation therewith. While it is in itself unim-

<sup>64</sup> Not printed.

portant, it is typical of a number of other less literate communications along the same lines received by the Legation from time to time, and expresses a point of view widely held in Nicaragua and probably throughout northern Latin America. On mentioning this matter to the Minister for Foreign Affairs on June 14, Dr. Argüello confirmed my belief that the impression is current regarding our supporting the Guardia Nacional and the political activities of General Somoza. As an indication of this sentiment he showed me a letter which he had received from a friend of his in León reporting the circulation of a rumor there to the effect that I am supporting the candidacy of General Somoza for President in the elections of 1936.

The Department will recall that in my telegram No. 78 of February 27—6 P. M., I reported the feeling then current that we favored the Guardia as contrasted with the Government, based on the following reasons:

- a) Our having created the Guardia;
- b) My association with General Somoza (at the request of the President);
- c) Silence regarding our policy as to non-recognition of governments coming into power as a result of a military *coup d'état* (our recognition of the Government of General Martínez on January 26<sup>65</sup> having been generally regarded here as a reversal of the policy embodied in the General Treaty of Peace and Amity of 1923);
- d) The feeling that the elimination of Sandino, against whom our armed forces had fought, had the approval of the United States;
- e) The fact that General Moncada had lunched with me on February 21, thus giving the impression that he and I were conspiring to have Sandino assassinated.

I regret to report that the feeling as reported in February still obtains, not only here but apparently in other Latin American countries as well. Mr. Dawson<sup>66</sup> who had the opportunity to speak to persons who should be well informed in Colombia, Panama and Costa Rica, reports that the feeling seemed to be current in those countries not only that I conspired to bring about the assassination of Sandino but also that we are now supporting the Guardia Nacional, as contrasted with the Government. Should the Department contemplate modifying the *status quo* in connection with the maintenance of the embargo on the exportation of arms and munitions from the United States to Nicaragua (as suggested in my despatch No. 224 of May 22, 1934<sup>67</sup>), it occurs to me that it might be pointed out in a press conference at the Department that such action as the Department may determine to take with respect to the exportation of arms to Nicaragua is

<sup>65</sup> See pp. 216 ff.

<sup>66</sup> Allan Dawson, Second Secretary of Legation at Managua.

<sup>67</sup> *Post*, p. 559.

in consonance with the Government's general policy to deal directly and solely with the duly constituted governments with which we respectively maintain diplomatic relations and not through other than the normal channels.

Respectfully yours,

ARTHUR BLISS LANE

817.00/8066 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, June 19, 1934—noon.

[Received 2:40 p. m.]

130. General Somoza is quoted by the press and reliable witnesses as having in effect accepted responsibility for the murder of Sandino in a speech at a banquet in his honor on June 17 at Granada. Despatch follows.

LANE

817.00/8070 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, June 22, 1934—7 p. m.

[Received 10 p. m.]

131. My telegram No. 130, June 19, noon. Minister for Foreign Affairs advised me this morning on what he termed unquestionable authority that during the festivities at Granada, but not in a public speech, General Somoza had indicated (1) that I am furnishing the motive power for his ambitions and (2) that, despite my having declined the invitation to be present at the festivities because of my name having been brought into Sandino affair, I am backing him. (The fact is that I declined the invitation by telegraph on the ground of my wife's being in mourning and explained to Somoza personally that as the festivities were generally considered to be of a political character my presence would undoubtedly be misconstrued.)

The President this noon confirmed the reports given me by Minister for Foreign Affairs and said that his Government is seriously embarrassed particularly outside of the country, by Somoza's admission of responsibility for the death of Sandino in view of the earlier declarations made by Somoza that a complete investigation would be made to ascertain the guilty parties. He said he would like to get rid of Somoza to show that he, Sacasa, disapproves. He expressed apprehension, however, lest such action might throw the Guardia into revolt against the Government.

In accordance with my telephone conversation with Assistant Secretary Welles this afternoon I have prepared the following draft statement which President Sacasa approves. If the Department approves, it should be given to press here not later than early Saturday afternoon, in order to be published in Sunday morning press. No local newspapers on Monday.

“Unfounded and malicious rumors have been circulated, both in Nicaragua and elsewhere, to the effect that certain acts committed in Nicaragua in February, last, were approved and instigated by me. Until now I have felt that these rumors should not be dignified by a denial on my part.

During the past week, however, these rumors have been circulated with increased intensity and have apparently created an impression in some quarters that the political activities of certain elements have my personal support, and, inferentially, the support of my Government. I am constrained most emphatically to brand such rumors as unqualified falsehoods.

As I publicly stated on December 7, 1933, on the occasion of the presentation of my letters of credence to His Excellency, President Sacasa, the relations of the United States and Nicaragua must be based on mutual recognition and respect of sovereignty. This being the case, neither the United States Government nor its representative in Nicaragua is interfering in any manner in the political affairs of this country.

The foregoing statement has the approval of the Department of State.”

LANE

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817.00/8070 : Telegram

*The Secretary of State to the Minister in Nicaragua (Lane)*

WASHINGTON, June 23, 1934—3 p. m.

37. Your 131, June 22, 7 p. m. You are authorized in your discretion to make the statement with the following modifications:

1. First paragraph of your draft approved.

2. The second paragraph should read “During the past week, however, these rumors have been circulated with increased intensity and have apparently created an impression in some quarters that I was endeavoring to influence political developments in Nicaragua. I desire to state in the most categorical manner that these rumors and any such impression are absolutely false”.

3. In the third paragraph of your draft the second sentence should read “Since the inauguration of President Roosevelt, the Government of the United States has dedicated itself to the policy of the good neighbor and the manner in which that policy has been carried out is well known and well recognized throughout this Continent. Consequently, the Government of the United States and its representative in Nicaragua have neither interfered nor have they had any motive for



interfering directly or indirectly in the political affairs of the Republic of Nicaragua”.

4. In the final sentence of your draft insert the word “unqualified” before the word “approval”.

Cable if and when you issue statement.

HULL

817.00/8071 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, June 24, 1934—noon.

[Received 4:30 p. m.]

133. Department's telegram No. 37, June 23, 3 p. m. Respectfully suggest that in the last sentence of paragraph 3 of proposed statement, as amended by the Department, the following clause be deleted: “nor have they had any motive for interfering”.

I fear that its inclusion might be misconstrued here to indicate (1) that if we had sufficient motive we might interfere in the affairs of Nicaragua, and (2) that we tacitly approve the present activities of the Guardia.

If the Department approves this change such sentence would read as follows: “Consequently, neither the Government of the United States nor its representative in Nicaragua have interfered directly or indirectly in the political affairs of the Republic of Nicaragua”.

Please reply by telegraph urgently.<sup>68</sup>

LANE

817.00/8072 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, June 25, 1934—noon.

[Received 1:55 p. m.]

134. Statement as approved by the Department's 38, June 23 [24], 3 [5] p. m., being released for publication in the local press this evening.

LANE

<sup>68</sup> In telegram No. 38, June 24, 5 p. m., the Department informed the Minister in Nicaragua that the amendment suggested by him was satisfactory to the Department.

EMBARGO ON THE SHIPMENT OF ARMS AND MUNITIONS TO NICARAGUA CONTINUED AT THE REQUEST OF THE NICARAGUAN GOVERNMENT

817.24/273

*The Minister in Nicaragua (Lane) to the Secretary of State*

No. 224

MANAGUA, May 22, 1934.

[Received May 28.]

SIR: I have the honor to acknowledge receipt of the Department's instructions No. 69 of April 30, 1934 (no file number) and No. 71 of May 4, 1934<sup>69</sup> (no file number) relative to licenses to export arms, respectively, for the Government of Nicaragua and for the Guardia Nacional de Nicaragua. In this connection I refer to my telegram No. 123 of today<sup>70</sup> suggesting that the Department withhold the issuance of further licenses for the exportation of arms and ammunition to Nicaragua pending the receipt of the instant despatch.

Yesterday prior to my informing the Minister of Foreign Affairs, as has been the practice of the Legation prior to and subsequent to my arrival here, of the granting of the licenses in question, I requested the President for information regarding the shipments. Doctor Sacasa said that the shipment of 100,000 38 Automatic Colt Cartridges from the Winchester Repeating Arms Company (Department's instruction No. 69 of April 30) had been ordered by the Nicaraguan Government (as contrasted to the Guardia) for the defense of the Presidential Loma. As to the shipment to which reference is made in the Department's instruction No. 71 of May 4 the President said that this had been ordered without his knowledge or consent but that it had come to his attention when the Nicaraguan Consul General in New York refused to issue the necessary papers (I gather he referred to consular invoice) for importation into Nicaragua without the consent of the Government of Nicaragua, whereupon the matter was referred to the President (Doctor Sacasa said that much of this shipment is for sale to private parties and that he does not object to the importation but to the fact that the Guardia ordered the shipment without consulting him, the Commanding General).

It seems to me that there are two serious practical objections to our issuing licenses to export arms to Nicaragua, quite apart from the inadvisability, as I see it, of our inviting the accusation that we are responsible, even in an indirect manner, for internal developments here:

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<sup>69</sup> Neither printed.

<sup>70</sup> Not printed.

1) As I have in the past pointed out to the Department, the heaviest drain on the Government budget is the Guardia, which in the last month according to what the newly appointed Minister of Hacienda told me on May 17, spent C\$30,000.00 over its budgeted allotment of C\$65,000.00. It appears to me that by our granting export licenses we become parties, even though perhaps indirectly, to excessive expenditures of public funds for useless and potentially pernicious purposes.

2) The anomalous situation between the Government proper and the Guardia still exists.<sup>71</sup> Presumably, the 100,000 machine gun cartridges ordered by the Government are for possible use against the Guardia. (Military defense construction still continues on the Loma, and specifically a concrete machine-gun post placed in a position, so our Military Attaché informed me when he was here on a recent visit, to repel attacks from the Campo de Marte, the headquarters of the Guardia.) While it may be true that much of the shipment ordered by the Guardia is for sale to private individuals, I consider this unlikely. It seems, more logical that it is intended for offensive or defensive purposes, and now that Sandino has been eliminated it is difficult to understand against whom, outside of the Government, such large quantities of ammunition would be required. I fear that if we continue to issue such licenses, we are liable to lay ourselves open to the charge of arming the two camps against one another.

To refuse to allow any shipments of arms or ammunition to Nicaragua would presumably not prevent arms from reaching this country but would merely serve to divert Nicaraguan orders to European manufacturers. (This was the result of our action in 1927 when we refused to allow the exportation of any war material from the United States to Mexico, under the terms of the arms embargo which was then in force with respect to Mexico.)<sup>72</sup>

Would it not be preferable, if such a course be consistent with our Government's general policy, to lift the embargo entirely insofar as the shipment of arms and ammunition to Nicaragua is concerned? I respectfully submit the foregoing recommendation for the Department's serious consideration and for such instructions as it may desire to give me in the premises.

Respectfully yours,

ARTHUR BLISS LANE

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817.113/359

*The Secretary of State to the Minister in Nicaragua (Lane)*

No. 86

WASHINGTON, June 6, 1934.

SIR: With reference to your strictly confidential despatch No. 224, of May 22, 1934, concerning the issuance of licenses for the exportation of arms and munitions of war to Nicaragua, the Department is pre-

<sup>71</sup> See pp. 526 ff.

<sup>72</sup> See *Foreign Relations*, 1927, vol. III, pp. 233 ff.

pared to recommend that the embargo be lifted in the case of Nicaragua provided it is ascertained that such action will not be displeasing to President Sacasa and will not be likely to prejudice his Government. For your information the Department has informed the Legation at Tegucigalpa that it is contemplating similar action in the case of Honduras.<sup>73</sup>

You are therefore authorized to inform President Sacasa that the United States Government is contemplating lifting the embargo on arms shipments to Nicaragua in view of the circumstance that the country is tranquil and the conditions which gave rise to the embargo have ceased to exist. You may express to President Sacasa the hope that the removal of the embargo will be agreeable to him.

The Department will await your reply before taking further action in this connection.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

817.113/360

*The Minister in Nicaragua (Lane) to the Secretary of State*

No. 316

MANAGUA, July 10, 1934.

[Received July 16.]

SIR: Adverting to the Department's instruction No. 86 of June 6, 1934, I have the honor to report that yesterday morning I took up with President Sacasa the general question of the embargo on the exportation of arms and munitions from the United States to Nicaragua. Specifically I referred to the shipment of ammunition referred to in the Department's instruction No. 89 of June 15, 1934,<sup>74</sup> a permit for which the Department granted for the Guardia Nacional. I was orally informed this morning by the Secretary of the Comandancia General that the Comandante General (the President) did not give authorization for this shipment and had no knowledge thereof.

When I suggested to the President the possibility of our lifting the embargo on the shipment of arms and munitions to Nicaragua, provided he had no objection, Doctor Sacasa immediately replied that the possibility of revolution would be increased by such action; that there would be no remaining check available to the Nicaraguan Government on arms shipments to Nicaragua, and that he hoped some other procedure would be adopted.

As an alternative I suggested (making it plain that I was speaking merely for myself and not for my Government) that in future all requests for exportation of arms and munitions to Nicaragua be made

<sup>73</sup> See pp. 382 ff.

<sup>74</sup> Not printed.

through the Nicaraguan Legation in Washington, which would be responsible to the Department for the authenticity of the purchase and for the approval thereof on the part of the Government of Nicaragua. The President indicated that such a procedure would be agreeable to him. (This was the procedure adopted by the Department during the disturbances in Mexico in 1929,<sup>75</sup> the Mexican Embassy being responsible to the Department that shipments of arms and munitions approved by the Embassy should be in accordance with the wishes of the Mexican Government. It was the Department's practice not to issue any export licenses unless the request was submitted through and had the approval of the Mexican Embassy in Washington.)

In view of the expressed feeling of President Sacasa I have the honor consequently to modify the recommendations contained in my despatch No. 224 of May 22, 1934. I respectfully suggest that in future no shipments to Nicaragua of war material be permitted by the United States Government unless such shipments are requested through and approved by the Nicaraguan Legation at Washington. Should requests be made of the respective Nicaraguan consular officers in the United States, it would be expected that such requests would be referred to the Legation for appropriate action.

I should appreciate it if the Department would advise me if and when it has determined the course it will follow in the future in this matter, furnishing me, as well, with the details of the procedure which is to be followed in each case, in order that confirmation may be effected at this end.

Because of recent political developments here, which resulted in my recommending that a statement of policy be made regarding our non-interference in Nicaraguan affairs (see page 1 of enclosure to my despatch No. 288 of June 23, 1934, reporting a telephone conversation on June 22 with Assistant Secretary Welles),<sup>76</sup> adoption of the now recommended procedure would tend to emphasize the ideas underlying my statement of June 25,—that we do not support the political activities of the Guardia, that we do not regard the Guardia as a super-Government, and that the constitutionally constituted Government of Nicaragua is the normal channel through which we conduct our relations.

Respectfully yours,

ARTHUR BLISS LANE

<sup>75</sup> For correspondence concerning the insurrection in Mexico, see *Foreign Relations*, 1929, vol. III, pp. 336 ff.

<sup>76</sup> Despatch No. 288 not printed; but see telegram No. 131, June 22, 7 p. m., from the Minister in Nicaragua, p. 556.

817.113/360

*The Secretary of State to the Minister in Nicaragua (Lane)*

No. 110

WASHINGTON, July 30, 1934.

SIR: The Department has received your despatch No. 316 of July 10, 1934, reporting the desire of the President of Nicaragua that the present embargo on the export of arms and munitions of war from the United States to Nicaragua not be lifted at the present time.

In the light of the information contained in your despatch, this Government will continue the embargo as at present, except that licenses for the exportation of arms and munitions will be issued in the future only after the Department has been informed by the Nicaraguan Legation in Washington that the prospective shipment has the approval of the Nicaraguan Government. This practice will be followed regardless of whether the consignee in Nicaragua is the Government, an agency of the Government, a firm, or an individual; and it will apply to arms and munitions of all classes, including arms and their ammunition ordinarily used for sporting purposes.

Thus, in the case of each shipment of arms and munitions, the Department will require, not only that an application for an export license be made by the shipper as heretofore, but also that the Nicaraguan Legation in Washington advise the Department that the shipment has the approval of the Nicaraguan Government, it being understood that in no case will the Department of State take the initiative in seeking such an expression of approval from the Nicaraguan Legation. The question of bringing about such notification to the Department through the Nicaraguan Legation is a matter with regard to which the initiative and responsibility will lie with the Nicaraguan Government and the potential shipper or consignee.

With reference to dynamite, blasting powder, and like materials, intended for industrial use, the Department will continue to issue licenses in its own discretion.

You will please inform the Nicaraguan Government of the foregoing and notify the Department as soon as acknowledgement of your communication is made.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

817.1051/872 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, August 16, 1934—3 p. m.

[Received 7:30 p. m.]

144. The attitude of General Somoza towards the President's advisers and their attitude toward him apparently continue to be un-

favorable. (Am reporting by air mail regarding conversation with Somoza August 14th.)<sup>77</sup> Vice President told me this morning that rumor is being circulated that my departure Saturday is for purpose of giving Somoza free rein.

Under the circumstances I respectfully repeat the recommendations for changes in the procedure for granting export permits for shipments of arms and ammunition from the United States to Nicaragua made in my despatch No. 316 of July 16th. If such modified procedure be adopted I suggest that details thereof might appropriately be given publicity by the Department for convenience of and for reasons mentioned in last paragraph of my 316.

LANE

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817.113/360 : Telegram

*The Acting Secretary of State to the Minister in Nicaragua (Lane)*

WASHINGTON, August 17, 1934—4 p. m.

50. Your 144, August 16, 3 p. m. The Department's mail instruction No. 110 of July 30 informs you that licenses for the exportation of arms and munitions will be issued in the future only after the Department has been informed by the Nicaraguan Legation in Washington that the prospective shipments have the approval of the Nicaraguan Government. This policy will be placed in effect as soon as the Department learns that the Nicaraguan Government has acknowledged the receipt of your communication informing it of the above.

PHILLIPS

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817.113/362 : Telegram

*The Chargé in Nicaragua (Dawson) to the Secretary of State*

MANAGUA, August 25, 1934—1 p. m.

[Received 3 p. m.]

148. Department's telegram No. 50, August 17, 4 p. m. Note received today from Ministry of Foreign Affairs acknowledging receipt of my communication informing it of change in procedure for the issuance of licenses for exportation of arms and munitions from the United States to Nicaragua.

DAWSON

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<sup>77</sup> Despatch No. 399, August 16, from the Minister in Nicaragua, not printed.

PROLONGATION OF THE LIFE OF THE NICARAGUAN CLAIMS  
COMMISSION<sup>78</sup>

417.00/469

*The Acting Secretary of State to the Minister in Nicaragua (Hanna)*

No. 579

WASHINGTON, June 9, 1933.

SIR: Reference is made to your despatch No. 1253 of April 29, 1933,<sup>79</sup> concerning informal discussions with Judge Stanley with respect to the prolongation of the life of the Claims Commission which will, unless extended, complete its work by the end of this year. Reference is also made to your despatch No. 1275 of May 12, 1933,<sup>79</sup> concerning the making of some adequate provision for the payment of the awards of the Commission.

The Department concurs in your view that it is desirable that the life of the Commission be continued until all claims matters against the Nicaraguan Government have been settled. The Department believes that there is every reason why such action would be beneficial not only to the claimants but to the Nicaraguan Government as well. Settlement of outstanding matters of this nature would remove possible causes of friction between the Government of Nicaragua and foreign governments and in addition be an expeditious way of eliminating the loss of much time and effort in an endeavor to settle such matters through diplomatic channels.

Economically the continuation of the Commission's work could not help but be of great benefit to the Nicaraguan Government by determining definitely the obligations of that Government to foreigners, thus permitting it more easily to put its financial house in order. Furthermore, the settlement of claims in this way is a much more economical procedure than a resort to arbitration or the establishment of claims commissions between the interested governments.

For these reasons the Department authorizes you to discuss the subject with the Nicaraguan Government in an effort to obtain the results referred to. However, before the elimination of any category of claims is decided upon the Department should be fully informed concerning such proposed elimination and its authorization therefor obtained. You are also authorized to indicate in such manner as you may deem proper the interest of this Government in the final settlement of the claims by the payment of the awards made by the Com-

<sup>78</sup> For previous correspondence regarding the Commission, see *Foreign Relations*, 1929, vol. III, pp. 670 ff.; see also Department of State, *Press Releases*, September 12, 1931, pp. 193-194, and February 20, 1932, pp. 192-193.

<sup>79</sup> Not printed.



mission and to express the hope that adequate provision will be made to this end as provided for in the legislative decree of February 6, 1930.<sup>80</sup>

Very truly yours,

For the [Acting] Secretary of State:  
FRANCIS WHITE

417.00/478

*The Minister in Nicaragua (Hanna) to the Acting Secretary of State*

No. 1346

MANAGUA, June 30, 1933.

[Received July 5.]

SIR: Referring to the Department's instruction No. 579 of June 9, 1933, File No. 417.00/468[469], concerning the possible prolongation of the life of the Nicaraguan Claims Commission until all claims against the Nicaraguan Government have been settled, I have the honor to enclose a copy and translation of a bill presented to the Congress by the Minister of Finance, together with a copy and translation<sup>81</sup> of his transmitting letters, providing for the continuation of the Claims Commission until not later than June 30, 1934, and extending its jurisdiction to include claims against the Nicaraguan Government over which the Commission has no jurisdiction at the present time. This bill was published in *La Gaceta* of June 27, 1933, and came to the attention of the Legation on the same day that the Department's instruction was received.

It will be observed that according to Article 1 of the enclosed bill, the Claims Commission will have jurisdiction over every claim against the Government with the exception of salary claims and budgetary services which have arisen since the creation of the Claims Commission, and excepting also claims for indemnification for exactions, requisitions and war damages suffered prior to June 30, 1927. A time limit of four months from the publication of the law is fixed within which claims must be presented.

Article 3 of the bill apparently provides that the representative of the Government may propose to the Commission that it render a decision on any such claim whatsoever, whether or not the interested person presents a petition. I have had as yet no opportunity to discuss this clause with any member of the Claims Commission or the Government, but at first glance both the wording and the purpose of this article seem somewhat obscure.

As the Department is aware, Judge Stanley, President of the Claims Commission is now in the United States, and Dr. Guerrero Montalván, the Minister of Finance, is expected to arrive there about July 2 on a

<sup>80</sup> *La Gaceta-Diario Oficial*, February 10, 1930, p. 265.

<sup>81</sup> Not printed.

financial mission for the Nicaraguan Government.<sup>82</sup> It is believed that both these gentlemen will call at the Department, and an opportunity may be presented to discuss the subject with them. In the meantime I shall take up the matter with President Sacasa on the first suitable occasion, informing him of the Department's views in the premises.

Present indications are that the Nicaraguan Congress will adjourn in the near future without having acted on this bill. In that event the commission might be given provisional and temporary authority by Executive decree as suggested in my despatch No. 1253 of April 29, 1933.<sup>83</sup>

Respectfully yours,

MATTHEW E. HANNA

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417.00/481

*The Acting Secretary of State to the Minister in Nicaragua (Hanna)*

No. 618

WASHINGTON, July 29, 1933.

SIR: The Department refers to your despatch No. 1369, of July 17, 1933,<sup>83</sup> enclosing a copy of the law recently enacted by the Nicaraguan Congress extending the life of the Nicaraguan Claims Commission to June 30, 1934.

For reasons previously indicated to you, the Department regards the new law with approval and considers that Article 1 thereof extending the jurisdiction of the Commission to include every claim against the Government gives an excellent opportunity to obtain the adjudication of outstanding American claims against Nicaragua that did not previously come within the jurisdiction of the Commission. To this end the Department will notify all American claimants of record of the extended jurisdiction of the Commission and advise them to bring their claims to its attention.

In view of the fact, however, that most of these claimants are not residents of Nicaragua, the Department considers that the limitation of four months for the filing of claims, contained in Article 2 of the new law, should be extended to at least six months. It appears that under Article 4, claimants will have further time in which to fully support their claims by appropriate evidence.

While, as stated, the Department considers the extension of the Commission's jurisdiction a favorable opportunity for settling claims against Nicaragua that might otherwise be the subject of diplomatic negotiation or of arbitration, it considers it pertinent to point out that the Commission is a municipal tribunal whose acts are not binding on the United States and therefore that claims against Nicaragua

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<sup>82</sup> See pp. 575 ff.

<sup>83</sup> Not printed.

not brought to the Commission's attention under the new law or not decided by the Commission could not be considered as barred from future presentation through diplomatic channels should their merits seem to warrant such action. Furthermore, while it is improbable that any such course will be necessary, this Government reserves the right to present to the Nicaraguan Government any claim decided by the Commission, should the Commission's decision be so patently unjust as to constitute a denial of justice in the international sense.

With the exception of the time within which claims may be filed and with the understandings mentioned, the Department is in complete sympathy with the new law and you may so inform President Sacasa.

When informing the Department of the publication of the law please cable,<sup>85</sup> in order that claimants may have the longest possible time after notification to prepare their claims.

Very truly yours,

WILBUR J. CARR

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417.00/486

*The Minister in Nicaragua (Hanna) to the Secretary of State*

No. 1429

MANAGUA, August 23, 1933.

[Received August 30.]

SIR: Supplementing my despatch No. 1424 of August 21, 1933,<sup>86</sup> concerning the law recently passed by the Nicaraguan Congress prolonging the life of the Nicaraguan Claims Commission, I have the honor to report that the British Chargé d'Affaires had a conversation with me yesterday in which he expressed the opinion that his Government might raise objections to Article 6 of the law.

The sense of Article 6 appears to be that no claim embraced in the terms of the law may be heard in any other manner than that prescribed in the law nor by any authority other than the Claims Commission. The British Chargé said he thought his Government might object to this article in general and more specifically with respect to claims he has recently presented to this Government growing out of the killing of British subjects on the East Coast of Nicaragua by Nicaraguan outlaws. The British Chargé manifestly desired to learn the attitude of the Government of the United States in this connection but I evaded giving him any indication of the Department's attitude as set forth in its instruction No. 618 of July 29. The British Chargé said he probably would present the point informally to this Government pending the receipt of instructions from London.

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<sup>85</sup> By telegram No. 51, August 20, 1933, 10 a. m., the Minister in Nicaragua informed the Department of the publication of the law, signed by the President July 8, 1933, in *La Gaceta-Diario Oficial*, August 18, 1933, p. 1585.

<sup>86</sup> Not printed.

I have read the Department's instruction No. 618 to Judge Stanley, who returned to Managua, yesterday, and he has recalled that the original law creating the Claims Commission contained a provision to the effect that the decisions of the Commission shall be final and without recourse. Judge Stanley appeared to be of the opinion that the original law continues in full force and effect with respect to the new lot of claims covered by the new law, excepting insofar as the new law may modify the previous law.

I asked Judge Stanley for his opinion concerning the adequacy of the time limit of four months fixed in Article 2 of the law. He said he thought it improbable that an extension of this time limit would be necessary, but that it is his intention to ask for such extension if and when it should appear necessary. It is probable that the Nicaraguan Congress will be convened in extra session in the near future and Judge Stanley thinks this point will be cleared up by that time. The extension would have to be made by the Congress.

Judge Stanley told me that it is his intention to urge the enactment of the project for an issue of bonds with which to pay adjudicated claims, which was submitted to the Nicaraguan Congress at its last session, in case the Congress should be called together in extra session.

Respectfully yours,

MATTHEW E. HANNA

417.00/488

*The Chargé in Nicaragua (Daniels) to the Secretary of State*

No. 1452

MANAGUA, September 9, 1933.

[Received September 13.]

SIR: In reply to the Department's instruction No. 618 of July 29, 1933 (file No. 417.00/481), stating that with certain exceptions the Department is in complete sympathy with the new law prolonging the life of the Nicaraguan Claims Commission, I have the honor to report that in a letter to President Sacasa dated August 8, 1933, Minister Hanna transmitted the contents of the Department's instruction pointing out that the time limit of four months for the filing of claims seemed somewhat inadequate and that the Department considered it pertinent to point out further that the Commission is a municipal tribunal whose acts are not binding on the United States and therefore that claims against Nicaragua not brought to the Commission's attention under the new law or not decided by the Commission could not be considered as barred from future presentation through diplomatic channels should their merits seem to warrant such action. The President was also informed that the Government of the United States reserves the right to present to the Nicaraguan Government any claim decided by the Commission, should the Commission's decision be so patently unjust as to constitute a denial of justice in the international sense.

Under date of August 30, 1933, President Sacasa replied to the Minister's letter stating that he believed the observation of the State Department that the time limit of four months might conveniently be extended to six months was justifiable and that he would be willing to request Congressional action to bring this about, if the State Department should so desire.

With respect to the reservations made by the Department covering claims not brought to the Commission's attention under the new law or the adjudication of which might constitute a denial of justice in the international sense, the President considered these reservations to be unjustifiable, since they did not seem to be in harmony with the generally accepted principles of international law. In discussing this point the President referred to the Convention relative to the Rights of Aliens, signed at the Second International American Conference of Mexico in 1902.<sup>87</sup> Although the Government of the United States was represented at that Conference, it is believed pertinent to point out that according to the report thereof published by the Government Printing Office in Washington in 1902, the American representatives did not sign this Convention. A copy and translation of the President's letter of August 30, 1933, are enclosed herewith.<sup>88</sup>

On September 8, 1933, I had occasion to converse with Judge Stanley and asked him his opinion with respect to the President's attitude toward the reservations made by the State Department. He stated the President had already discussed the subject with him and appeared incensed because the Department had made such reservations in connection with the recently enacted law. According to Judge Stanley, the President exclaimed: "What is the use of having a Claims Commission if its decisions are not accepted".

Respectfully yours,

PAUL C. DANIELS

417.00/493 : Telegram

*The Minister in Nicaragua (Lane) to the Secretary of State*

MANAGUA, March 10, 1934—10 a. m.

[Received 12:34 p. m.]

96. New law has gone into effect extending time limit for presenting claims to Nicaraguan Claims Commission until April 30, 1934. Full text follows by air mail.<sup>89</sup>

LANE

<sup>87</sup> Second International Conference of American States, *Message From the President of the United States, Transmitting a Communication From the Secretary of State, Submitting the Report, With Accompanying Papers, of the Delegates of the United States to the Second International Conference of American States, Held at the City of Mexico From October 22, 1901, to January 22, 1902* (Washington, Government Printing Office, 1902), p. 226.

<sup>88</sup> Not printed.

<sup>89</sup> For text of the law, signed by the President February 20, 1934, see *La Gaceta-Diario Oficial*, March 8, 1934, p. 457.

417.00/500

*The Minister in Nicaragua (Lane) to the Secretary of State*

No. 293

MANAGUA, June 26, 1934.

[Received July 2.]

SIR: Referring to my despatch No. 282 of June 19, 1934, and No. 287 of June 23, 1934,<sup>90</sup> covering the status of the proposed bond law to meet awards of the Nicaraguan Claims Commission, and particularly to pages 3 to 5 of the former, in which I summarized a conversation with Judge J. S. Stanley, President of the Commission, I have the honor to transmit herewith, copies of a letter dated June 23 addressed to me by Judge Stanley.<sup>91</sup> Copies of my reply dated today are also enclosed.<sup>91</sup>

It will be noted that Judge Stanley renews his advocacy of a cash settlement of the awards of the Commission or, failing that, the issuance of sound bonds drawing interest from the date of issue. He states his opinion that the "lack of suggestions or recommendations", with one exception, by representatives of foreign powers as to the method by which awards to their nationals should be settled has encouraged the Nicaraguan Government in its desire for a bond issue on which service would be deferred. He suggests that representations along these lines would be of assistance in securing the sort of settlement he envisages.

I am in agreement with Judge Stanley that adequate legal provisions for meeting the awards are much to be desired and that there is a strong possibility that, unless pressure is brought to bear, the Nicaraguan Congress will either provide for a bond issue under such conditions as to make its market value negligible or take no action for payment of awards. I do not, however, feel that the desirability of securing fair treatment for claimants would justify representations by the Legation which would inevitably be considered an attempt to influence the course of pending legislation. I shall, in the absence of instructions from the Department to pursue another course, continue to refrain from expressing any opinion concerning the manner in which awards should be paid.

I have already, in the portion of despatch No. 282 to which special reference is made above, explained to the Department my belief that Judge Stanley's efforts to influence the form of the proposed bond law are not consonant with his judicial position as a member of the Claims Commission.

Respectfully yours,

ARTHUR BLISS LANE

<sup>90</sup> Neither printed.<sup>91</sup> Not printed.

417.00/501

*The Minister in Nicaragua (Lane) to the Secretary of State*

No. 323

MANAGUA, July 13, 1934.

[Received July 19.]

SIR: Referring to my despatch No. 293 of June 26, 1934, and previous correspondence concerning the awards of the Nicaraguan Claims Commission and suggestions as to the manner in which they should be met, I have the honor to report that, under the pertinent provisions of law now in effect (Article 4 of the Law of July 8, 1933, copies and translations of which were transmitted with my predecessor's despatch No. 1369 of July 17, 1933<sup>92</sup>), the life of the Commission expired on June 30, 1934.

Inasmuch as there were still a number of unadjudicated claims before the Commission at the expiration of its mandate, a bill was presented to Congress in late June for the purpose of extending the period of time during which it can consider claims until August 31, 1934, and the life of the Secretariat of the Commission to September 30, 1934. This bill is now before the Chamber of Deputies but action on it as well as on the proposed legislation to provide means for meeting the Commission's major awards has been delayed.<sup>93</sup>

The ostensible reason for the delay is that the Chamber has wished to devote its time exclusively to consideration of the budget for the 1934-1935 fiscal year which was presented to Congress on June 27. I am informed reliably, however, that the real cause is a desire to await the return from New York of Mr. Hans Sitarz, Manager of the National Bank of Nicaragua, with word of the reaction of the Board of Directors of the Bank to the suggestion that it loan the Nicaraguan Government C\$600,000.00 for use in cash settlement of the claims.

The Claims Commission is still functioning informally but it is obviously in an anomalous position and apparently has for the moment no legal status.

Respectfully yours,

ARTHUR BLISS LANE

417.00/500

*The Secretary of State to the Minister in Nicaragua (Lane)*

No. 101

WASHINGTON, July 17, 1934.

SIR: The Department has received your confidential despatch No. 293 of June 26, 1934, with further reference to the proposed bond law to satisfy the awards of the Nicaraguan Claims Commission.

<sup>92</sup> Not printed.<sup>93</sup> The bill extending the life of the Commission to August 31, 1934, and its Secretariat to September 30, 1934, was signed by the President July 17, 1934, and published in *La Gaceta-Diario Oficial*, July 20, 1934, p. 1289.

Your course of action in this matter is approved. As has previously been pointed out, the Commission is a domestic tribunal and the matter of its operation as well as the means which shall be provided to meet its awards are purely domestic questions. While the Department is desirous that American claimants shall obtain a just settlement of their claims, it does not consider that formal representations in their behalf are warranted in the present circumstances. However, should your opinion be requested by the Nicaraguan authorities, or should a favorable opportunity for expressing it arise, you may point out that a just settlement of the claims would seem to be in the interest of the Nicaraguan Government, since otherwise the claims may become the subject of diplomatic discussion. The rendering of an award without providing the means to satisfy it does not, of course, discharge the obligations of the Nicaraguan Government toward the claimants.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

417.00/507

*The Chargé in Nicaragua (Dawson) to the Secretary of State*

No. 420

MANAGUA, August 24, 1934.

[Received August 30.]

SIR: Referring to the Legation's previous despatches concerning the status of the Nicaraguan Claims Commission and its major awards, particularly to despatch No. 400 of August 16, 1934,<sup>94</sup> transmitting copies of a letter from Judge J. S. Stanley, President of the Commission, to President Sacasa enquiring as to the Commission's future, I have the honor to enclose copies of a reply from President Sacasa, dated August 23, 1934,<sup>94</sup> which was shown to me this morning by Judge Stanley.

It will be noted that the President's letter expresses his personal opinion that the Board of Directors of the National Bank will extend the desired loan of C\$700,000 to the Government for payment of all pending awards of the Claims Commission in cash. Mr. Hans Sitarz, General Manager of the National Bank informs me that he is by no means certain that this will be the case. He states that his own recommendation is now adverse in view of the introduction by the Minister of Finance on August 22 of a bill for the active establishment of a National Mortgage Bank which will, in his opinion, involve inflation. He says, further, that, should the loan be made, he is convinced that one of the conditions laid down will be for direct payment of awards to claimants by the Bank instead of the advance of the funds to the Government for payment by the latter. . . .

<sup>94</sup> Not printed.



Judge Stanley advised me that the House on August 22 passed a bill introduced by General Andrés Murillo, generally accepted as the Sacasa administration's floor leader, which would extend the life of the Commission to December 31, 1934, but authorize the President to terminate it at an earlier date should the Commission's work be brought to a close before that time (yesterday's press reported this action). He stated that Onofre Sandoval, the administration leader in the Senate, had assured him that the bill would be quickly approved in that body also, probably today.

Judge Stanley said that he hoped that the work of the Commission proper could be finished by September 20 although it would probably be necessary for one member of the Commission, its secretary and several employees to remain at their desks for about six weeks longer to draw up the Commission's final report<sup>95</sup> and attend to other pending details. Judge Stanley remarked that he had already reserved passage on a vessel sailing September 25.

In discussing the Commission's work, Judge Stanley commented that it would have been easily possible for it to complete its tasks by June 30, 1934, had it not been for extensions by the Nicaraguan Government of the time limit for filing claims and uncertainty as to the manner in which major awards were to be paid. He said that the Commission intended to leave in its files two awards in each pending case, one specifying payment of a certain sum, in bonds, and the other half the amount of the first, in cash, because of doubt as to whether the loan from the National Bank would actually be granted.

Respectfully yours,

ALLAN DAWSON

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417.00/509

*The Chargé in Nicaragua (Dawson) to the Secretary of State*

No. 468

MANAGUA, September 13, 1934.

[Received September 20.]

SIR: Referring to the Legation's despatch No. 465 of September 12, 1934,<sup>96</sup> and previous despatches concerning the awards of the Nicaraguan Claims Commission and the manner in which these awards will be paid, I have the honor to report that Mr. Hans Sitarz, General Manager of the National Bank of Nicaragua, this morning showed me a telegram he had received yesterday from the Board of Directors of the Bank, meeting in New York, which read: "Loan of C\$950,000 approved. Details by air mail."

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<sup>95</sup> Copy of final report of the Commission was transmitted to the Department in despatch No. 1133, November 1, 1935, from the Chargé in Nicaragua; not printed.

<sup>96</sup> Not printed.

Mr. Sitarz said that C\$700,000 of the loan would be used for payment of the awards of the Claims Commission which have not yet been met and that the remaining C\$250,000 would be at the disposal of the Nicaraguan Government for "other expenses." He stated that, after negotiations between the Government and the Bank, it had been agreed that the payment of awards should be made by the Ministry of Finance instead of by the Bank, as had originally been desired by the Board of Directors, but that disbursements would be checked by the Bank against a list of awards to be given to it by the Claims Commission.

Respectfully yours,

ALLAN DAWSON

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**DISCLAIMER BY THE DEPARTMENT OF STATE OF ANY SPECIAL  
RELATIONSHIP WITH RESPECT TO THE FINANCIAL AFFAIRS OF  
NICARAGUA**

817.51/2469

*The Nicaraguan Minister of Finance (Guerrero Montalván)<sup>97</sup> to the  
Assistant Secretary of State (Caffery)*

[Translation <sup>98</sup>]

The Minister of Finance of Nicaragua presents his compliments to the Honorable Jefferson Caffery, Assistant Secretary of State, and in compliance with his promise made at the conference he and Doctor Henri De Bayle the Chargé d'Affaires of Nicaragua had in the State Department, on October 28 last, is pleased to transmit the two memoranda A <sup>99</sup> and B which contain:

First, the ideas of the Government of Nicaragua concerning the desirability of reaching agreements between the Governments or between commercial institutions of both countries to stimulate commerce between Nicaragua and the United States, and

Second, information concerning the proposal to extend to certain institutions, created originally at the suggestion of the Department, the reduction in expenditures under the fiscal budget imposed by the present economic difficulties,

At the same time he is pleased to transmit to him the copy he requested of the document setting forth the agreement for the emergency issue of C\$1,500,000 córdobas recently decreed.<sup>99</sup>

WASHINGTON, November 14, 1933.

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<sup>97</sup> Salvador Guerrero Montalván was in the United States from June 17, 1933, to December 18, 1933, on a financial mission in connection with a loan of C\$1,500,000 to the Nicaraguan Government from the National Bank (817.51/2473).

<sup>98</sup> File translation revised by the editors.

<sup>99</sup> Not printed.

[Enclosure—Translation <sup>1</sup>]

## MEMORANDUM B

Nicaragua has not been able to avoid the influence which the special circumstances afflicting the world have necessarily introduced into the economic life of the country and its fiscal organization. Its Government budget has been out of balance since 1931, to such an extent that during the single calendar year 1932 the deficit increased by more than C\$1,158,000, a figure much too high for a total of C\$3,300,000 provided for the purely administrative services of the Government. The total income available for these services during that year, including a little more than C\$508,500 in customs revenues which the creditors having a lien on the revenues permitted the Government to dispose of, and C\$508,684 additional which although assigned to special purposes were applied under temporary legislation to the payment of the general budget, barely reached the sum of C\$2,193,551.16.

President Sacasa, from the beginning of his term and despite the natural resistance against this kind of effort, has been endeavoring to reduce all expenses for the purpose of balancing the budget. Little by little, as far as his constitutional powers have permitted him, he has progressively reduced the expenditures of various administrative services, suppressing posts which have not appeared to be strictly necessary and making a reduction of approximately 20 percent, in addition to another 20 percent which had been applied in 1931, in salaries of Government employees. Continuing in this endeavor, he proposes to extend the reductions to all the other services.

Of the fiscal income of 1932, C\$1,248,757.93, that is to say almost two-thirds, were absorbed by the maintenance of the Guardia Nacional, which received a total of C\$1,344,568.23. This institution continues to merit all the attention and support necessary for the maintenance of public order and tranquillity, and it is the Government's plan to impose upon itself whatever sacrifices are necessary to insure the Guardia's efficiency and prestige, but the inevitable reduction in the cost of this institution because of various circumstances has only been carried out to a very slight degree. Nevertheless, the fact that it was created by an agreement with the Government of the United States,<sup>2</sup> although this agreement did not receive the sanction of the American Senate, impels the Government of Nicaragua as a matter of courtesy to inform the Department of State of the great need, in so far as the maintenance of order and public security in consonance with the economic possibilities of the country will permit it, to make a reduction in the personnel of the Guardia Nacional and in the salaries assigned

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<sup>1</sup> File translation revised by the editors.

<sup>2</sup> Signed December 22, 1927, *Foreign Relations*, 1927, vol. III, p. 434.

to its members, which were fixed as is well known without any appreciable reduction having been made since the year 1929, one of the most prosperous years, and perhaps the year the income of the Government reached its highest point.

For the fiscal year which began July 1, 1933, there can be no doubt that income will be even lower than the figure reached during the year which ended June 30 last. The Government will be unable to apply to the maintenance of this institution two-thirds of the total of its income with manifest injury and neglect of the other branches of the administration in which, as has been stated, the personnel employed, and their salaries, have been reduced to the point that circumstances in the country have permitted.

The office of Collector General of Customs was also instituted in accordance with contracts which the Government of Nicaragua made with bankers of the United States following recommendations of the Department of State. This circumstance, although the obligations contracted by the Government with those bankers have terminated, induces the Government of Nicaragua to comply with the duty of informing the Department of State of the Government's intention to proceed to a general revision of the expenses and remuneration, likewise fixed at times of prosperity and when the State had more funds available, in order to reduce them all in the just proportion which corresponds to present circumstances, and which is related to the sums which the Government also necessarily must apply to the other services of the administration.

WASHINGTON, November 14, 1933.

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817.51/2507

*The Minister in Nicaragua (Lane) to the Secretary of State*

No. 358

MANAGUA, July 25, 1934.

[Received August 2.]

SIR: I have the honor to transmit herewith copies of the Spanish and English texts of the report of the Collector General of Customs of Nicaragua (Mr. Irving A. Lindberg) for the calendar year 1933.<sup>a</sup>

When I received the English text last week, I called on Mr. Lindberg and expressed my surprise that the report was addressed to the President of Nicaragua, the Minister of Hacienda of Nicaragua and the Secretary of State of the United States. I pointed out that while the procedure followed was undoubtedly merely a continuation of the practice during the intervention, I considered it most unwise to give to the public a false impression of the present attitude of the Government of the United States, which wishes in every way not only to re-

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<sup>a</sup> Not printed.

spect the sovereignty of Nicaragua, but to give tangible evidence thereof. I referred specifically to current charges that we are exercising an economic and financial control over Nicaragua and said that if it were known that he addressed his reports to the Secretary of State, it would of course be assumed that he received his instructions from the Department.

Mr. Lindberg made the point that he had been appointed on the nomination of the then Secretary of State; that he had always submitted his reports to the Secretary as a matter of courtesy; but that he would be happy to comply with my wishes. Accordingly he promised me that the Spanish, which he said was the official, text of his report for 1933 would not be addressed to the Secretary of State. As the English text had already been printed and issued, it was not possible to make the desired change therein.

I likewise raised the question of the propriety of Mr. Lindberg continuing what has been the regular practice of reporting monthly to the Secretary of State on funds handled by the Collector General of Customs (see despatches of February 20, May 24, June 8, June 26, and July 17, 1934<sup>4</sup>). Mr. Lindberg replied to the effect that in view of there being American bondholders interested in the revenues of the Nicaraguan Government, he considered it logical to furnish a copy of the report to the Secretary of State. There would seem to be, however, no good reason for reports to be sent to the Secretary of State of the United States, unless they are also sent to corresponding officials in the other countries of which the bondholders are nationals. I so expressed myself to Mr. Lindberg.

Mr. Lindberg said that, unless the Department should request copies of the regular reports, he will refrain from submitting them in future. While it may be true that the reports which have been customarily submitted by Mr. Lindberg's office in the past contain information of value to the Department, I consider that the principle involved, to which I have made reference, is important enough to outweigh the disadvantage of not having such prompt information regarding the revenues of the Nicaraguan Government.

Because of the general attitude prevailing towards foreigners now in the employ of the Government of Nicaragua, as outlined in my confidential despatch No. 325 of July 13, 1934,<sup>5</sup> I consider that the Legation must exercise great care in order that its relations with such officials be not misinterpreted.

I should be grateful if the Department would indicate whether my action meets with the Department's approval.

Respectfully yours,

ARTHUR BLISS LANE

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<sup>4</sup> None printed.

<sup>5</sup> Not printed.

817.51/2469

*The Secretary of State to the Chargé in Nicaragua (Dawson)*

No. 134

WASHINGTON, September 27, 1934.

SIR: On November 14, 1933, the then Minister of Finance of Nicaragua, Doctor Salvador Guerrero Montalván, while in the United States, addressed two memoranda to the Department, designated A and B, the first expressing the ideas of the Government of Nicaragua with regard to the possible conclusion of agreements intended to stimulate commerce between Nicaragua and the United States, and the second expressing the proposal of the Government of Nicaragua to reduce the expenditures of certain Nicaraguan institutions, including the Guardia Nacional, and the Customs Collectorship.

The Department acknowledged the receipt of these memoranda on November 25, 1933, and thereafter made an exhaustive study of the various loan contracts, financial plans, et cetera, of Nicaragua, under which the United States in the past had occupied a special relationship toward that country. As a result of this study it was determined that whatever special relationship had existed between the two countries in the past, by reason of these contracts or financial plans, no longer exists. The Department has, therefore, addressed the following note to the Chargé d'Affaires of Nicaragua, dated today:

"Sir: Reference is made to this Department's note of November 25, 1933,<sup>6</sup> acknowledging the receipt of two memoranda of the Minister of Finance of Nicaragua, dated November 14, 1933.

"With reference to Memorandum A,<sup>6</sup> public notice of this Government's intention to negotiate a foreign trade agreement with Nicaragua was made on September 7, 1934.<sup>7</sup>

"Due note has been taken of the information contained in Memorandum B, with reference to the fiscal situation in Nicaragua. It is presumed that this information was furnished merely as an act of courtesy, since the matters discussed are obviously not within the jurisdiction of this Government.

"Accept, Sir, the renewed assurances of my high consideration."

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

817.51/2507

*The Secretary of State to the Chargé in Nicaragua (Dawson)*

No. 135

WASHINGTON, September 27, 1934.

SIR: Referring to your despatch No. 358, dated July 25, 1934, enclosing the Spanish and English texts of the report of the Collector

<sup>6</sup> Not printed.

<sup>7</sup> See Department of State, *Press Releases*, September 8, 1934, pp. 176-179.

General of Customs of Nicaragua, for the calendar year 1933, you are informed that the matters covered therein have been the subject of an extensive examination in the Department, and the conclusion has been reached that since the so-called Knox-Castrillo Convention<sup>a</sup> failed of ratification there is no basis in law under which Mr. Lindberg could be required to furnish to the Secretary of State either the annual report or the monthly reports on funds handled by the Collector General of Customs. This conclusion seems inevitable since this Government is not a party to any of the agreements or contracts under which these reports were made, and there is, of course, no question of intervention at this time by reason of which the filing of these reports with the Secretary of State could be required.

In view of the foregoing, I concur in your recommendation that as a matter of policy it would be unwise to forward the reports in question to the Secretary of State as this might give a false impression concerning the attitude of the United States with respect to the Government of Nicaragua. You are authorized to inform Mr. Lindberg of the substance of this instruction.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

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<sup>a</sup> Signed June 6, 1911, *Foreign Relations*, 1912, p. 1074.

## PANAMA

### NEGOTIATIONS BETWEEN THE UNITED STATES AND PANAMA FOR THE REVISION OF THE TREATY OF NOVEMBER 18, 1903, AND THE ADOPTION OF A RADIO CONVENTION<sup>1</sup>

711.19/186

*The Secretary of State<sup>2</sup> to the Acting Secretary of State*

MONTEVIDEO, December 16, 1933.

MY DEAR PHILLIPS: The enclosed memorandum was handed to me here by the Secretary of Foreign Affairs of Panama, who is a delegate to the Conference. I stated to him that I thought that our Government had under consideration, with the view to working out as favorably as the facts would at all permit, most of the proposals contained in his memorandum; that this action followed the visit of President Arias.

I stated to him, however, that I would send the enclosure back to the Department with a request that careful and sympathetic consideration be given to each of the topics listed. I assumed that the work of carrying out the understanding with President Arias is going steadily forward.

My best regards.

CORDELL HULL

[Enclosure]

*The Panamanian Minister for Foreign Affairs (Arosemena) to the  
Secretary of State*

#### MEMORANDUM

As a result of President Arias' visit to President Roosevelt in the month of October 1933, certain pending questions between the United States and the Republic of Panama were mutually and satisfactorily settled. Other questions which were brought up were left open with the idea of settling them at the earliest opportunity. The spirit in

<sup>1</sup> For previous correspondence, see section entitled "Adoption of Remedial Measures for the Canal Zone in Consultation With President Arias of Panama During His Visit to the United States," *Foreign Relations*, 1933, vol. v, pp. 852 ff.

<sup>2</sup> The Secretary was in Montevideo as Chairman of the American delegation to the Seventh International Conference of American States, held at Montevideo, December 3-26, 1933.



which the different matters have been approached can best be rendered by referring to one of the general declarations, which recognized that the Republic of Panama as a sovereign nation had the right to benefit from the commercial advantages derived from its geographical situation to the extent that it does not interfere with the maintenance, functioning, sanitation and protection of the Canal by the United States, who desire ardently the prosperity of the Republic of Panama.

The pending questions and the aspirations of Panama are as follows:

*Radio Communications.*—The Navy Department of the United States has monopolized ship to shore communications so that no ship can enter into radio communication with the existing wireless stations in Panamanian territory.

The position of the Republic of Panama in the matter of wireless communications is therefore extremely awkward. The Republic is a signer of the Wireless Communications Agreement,<sup>3</sup> of which the United States is also a signer and takes the position that it has the right to enter into communication by radio with all countries and all ships without any other limitation than that of not interfering with the maintenance, functioning, sanitation and protection of the Canal.

It would be illogical to expect a country to be deprived of the benefits of a modern invention by the mere fact that there is a Canal within its boundaries.

*Highway Between Panama and Colón.*—The Republic of Panama is extremely interested in there being highway communications between its two largest cities. With regard to this subject President Roosevelt told President Arias: "The United States will make every effort to expedite its reply to Panama on this question and to find a way to comply with Panama's desire."

It is hoped that the United States will find a satisfactory solution toward this end.

*Panama Railroad Co.—Business Exploitation.*—This company conducts certain lines of business in Panama having nothing to do with the maintenance, functioning, sanitation and protection of the Canal, such as the leasing of land, the running of a hotel etc., without paying a single cent of taxes to Panama in exchange for the services it receives as if it were a taxpayer. Public opinion in Panama cannot understand that for instance an itinerant fruit vendor must pay taxes to Panama for the protection of his business, while the Panama Railroad Co. which does business on a scale which offers no comparison with the above mentioned case is exempt from all taxation.

<sup>3</sup> Radiotelegraph Convention signed at Washington, November 25, 1927, *Foreign Relations*, 1927, vol. I, p. 288.

On this point President Roosevelt indicated to President Arias his conformity with regard to the payment of taxes by the Railroad Company, particularly in the case of real estate which it owns and exploits in Panama.

*Lands of the Panama Railroad Company in Colón.*—These lands which the Railroad Company uses for purposes other than those having to do with the maintenance, functioning, sanitation and protection of the Canal should have been returned to the Republic of Panama in accordance with article 8 of the Canal Treaty,<sup>4</sup> when the ratifications of this instrument were exchanged. Some are of the opinion that such lands should remain in the possession of the Railroad Company until the expiration of its contract, Panama thinks otherwise and the fact remains that a considerable portion of such lands did not exist in 1904 and accordingly could not have been in the possession of the Railroad Company on such date.

On this point which is of vital importance to Panama it would be highly desirable that a just and equitable decision be reached as soon as possible.

*Sales to Ships Transiting the Canal.*—The sale of tourist articles by the Commissaries to ships has been prohibited. Articles which may be bought by ships from the Commissaries have been limited to fuel, foodstuffs etc. "Sale of other articles to ships will be prohibited, or a reasonable surtax, such as say, 25%, will be placed on such sales." What precedes is extracted from President Roosevelt's memorandum to President Arias.<sup>5</sup>

It would be desirable that sales to ships transiting the Canal be limited to the fuel necessary to the continuation of the trip, but in case sales of other articles be permitted (this does not include tourist articles the sale of which is prohibited) such sales should take place in accordance with adequate regulations permitting the free competition of the trade of Panama and Colón, which would be in keeping with the spirit of the general declaration heading this memorandum.

*Sales at Prices Below Normal.*—The Commissaries and some agencies of the United States Army and Navy sell certain articles such as beer and cigarettes at prices below normal, which eliminates all competition and promotes smuggling of such articles, particularly cigarettes, into the Republic of Panama.

President Roosevelt offered President Arias to have the case "sympathetically studied in an effort to meet Panama's views."

It seems reasonable to expect that such articles should pay the excise taxes which they would ordinarily have to pay if sold in the United States.

<sup>4</sup> Signed at Washington, November 18, 1903, *Foreign Relations*, 1904, p. 543.

<sup>5</sup> See memorandum of points agreed to by President Roosevelt and President Arias, *ibid.*, 1933, vol. v, p. 866.

*Panamanian Products.*—The Appropriation Act for the fiscal year ending June 30, 1934<sup>6</sup> seems to have been interpreted in such a way as not to permit the purchase by the Canal and Army and Navy Departments of Panamanian products such as certain construction materials, which are abundant in the Isthmus, meat and other foodstuffs etc. If this interpretation should prevail the production of such articles will not fail to diminish appreciably.

As the result of President Arias' visit to Washington this matter has been taken into consideration in an effort to determine whether enough latitude does not exist under the Act in question to permit of direct purchases by the United States, through administrative orders, of the products in question.

*Luxury Articles in the Commissaries.*—The American Government has already decided that such articles should not be sold to ships transiting the Canal, but the question of the sale of such articles to the employees of the Canal remains an open one. Presumably this matter will be resolved in accordance with the indications advanced by President Roosevelt and Under Secretary Caffery, namely, that the commissaries do not keep permanently in stock such articles but limit themselves to buying them after receiving special orders from the employees of the Canal.

*Limitation of Commissary Sales to Employees.*—President Roosevelt declared that it was not possible for the time being to establish equitable limitations owing to the complexity of the wage scale in the Canal but that he would give the necessary instructions so that the matter be studied and some ruling be given on this point.

It seems natural that in no case should the sales to an employee exceed the salary of the same.

819.74/279

*The Panamanian Minister for Foreign Affairs (Arosemena) to the Secretary of State*

PANAMA, March 16, 1934.

[Received March 21.]

DEAR MR. SECRETARY: Taking advantage on the privilege you personally accorded me at Montevideo during the sessions of the Seventh Pan-American Conference there, I am writing this letter to bid you, in the first place, my most cordial greetings, and at the same time taking myself the liberty to recall you to considering the points respectfully submitted in memorandum I had the honor of tendering to you at that city.<sup>7</sup> Many are the questions pending as cited in said

<sup>6</sup> 47 Stat. 1371.

<sup>7</sup> *Supra.*

memorandum and awaiting for solution; among them, however, a few stand that, by their very nature and scope on the good and friendly relations between our two countries, seem to deserve an immediate and attentive consideration. These are, by instance, that of radio communication, the Panama Rail Road Company commercial activities and the building of a trans-Isthmian highway.

In connection to the first point, i. e., radio communication, Panama is—as I personally pointed to you—in a quite embarrassing and disgraceful situation. It is the matter of a modern system which every country in the world is freely enjoying, while we, Panamanians, are not using it for our own convenience due to the interference against such use as exerted by the Navy Department of the United States, which action seems not justified at all. As you may readily understand it, the circumstance of the Panama Canal being located on our own territory appears not to justify the fact that our entire population is being deprived of the benefits of an invention used at their own discretion by every nation the world over. Panama, wholly acquainted with the circumstances and ensuing responsibilities, is ready to cooperate with the United States of America in the protection and defense of the Panama Canal; but it should appear unjust to carry out such a desire of co-operation to the extreme point of depriving ourselves of wireless communication with the world, a part of which we are. It is well possible, I think, for our two governments—yours and mine—to arrive to a mutual understanding and agreement on this point on the terms of the Washington Wireless Convention as signed by both the Republic of Panama and the United States.

Another point at issue and pending solution is that of the commercial activities carried on by the Panama Rail Road Company. This concern, the entire stock of which belongs to the United States Government, exerts itself varied commercial activities in our country, and some of such activities bear no apparent connection with passengers and cargo transportation through the Isthmus of Panama, this having been the aim in constituting the Company as an auxiliary to the Panama Canal and this being its true character as of lately. Most of such commercial activities exerted on territories under Panamanian jurisdiction, are under shelter and protection by Panamanian laws and authorities, and the Panama Government gets no payment or compensation for services, as the only reward it was getting in exchange for its very liberal concessions was annulled since the Canal Treaty started to be in force. It is apparent, then, that the Panama Rail Road Company, a concern worth millions of dollars and doing varied profitable business under protection and shelter dispensed by Panama laws and authorities, pays nothing for such protection, not even the compulsory compensation paid by every Panamanian citizen, from the

richest to the most humble classes. It appears markedly unjust that, by instance, while a poor man peddling fruits in the streets of Panama and Colón is forced to pay a tax in compensation for the protection he enjoys from Panamanian laws and administration, the Panama Rail Road Company is getting free and gratis the same protection for its bulky and valuable business. It is, at least, not easy at all to make this difference understood by the Panamanian people.

As for the third point, that one concerning the trans-Isthmian highway, we have it as a growing necessity for the development of our cities, and undelayable in order that the inhabitants of the city of Colón may enjoy the use of modern roads built on the Pacific side by the Panama Government at a high cost partly paid with funds raised through taxing the Colonites. It seems to be unjust that the inhabitants of the Republic's Atlantic section, having contributed to the construction of such roads, may not be able to use them for their own benefit because of a privilege granted more than fifty years ago by the Colombian Government to the Panama Rail Road Company. It is most probable that the taking into consideration the growing necessity of communications that modern ages ask for, was the reason why in the Canal Treaty draft (section V) the monopoly granted by it to the United States for inter-oceanic communication was limited to "any system of communication by the Canal or the rail-road" and nothing was said anent highways. The trans-Isthmian highway will, besides open a large field of activity for many a workingman now idle for lack of employment. The United States have already expressed, in principle, their approval of the Panama planning to build the inter-oceanic highway, and only their formal consent is now needed to get the work started.

Allow me then, Mr. Secretary, to point out the convenience of giving preference, if possible, when taking into consideration the matters included in my Montevideo memorandum, to the points I am treating in this letter, in the certitude that such an action will greatly enhance a better understanding between the United States and Panama.

I am taking advantage of this opportunity to sincerely congratulate you for your important statements during the National Press Club luncheon<sup>8</sup> about the Montevideo Conference, and to again convey to you the expressions of my highest regard and esteem.

Very truly yours,

J. D. AROSEMENA

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<sup>8</sup> Department of State Conference Series No. 18: *Some of the Results of the Montevideo Conference, Address by the Honorable Cordell Hull, Secretary of State, Before the National Press Club, Washington, February 10, 1934* (Washington, Government Printing Office, 1934).

819.74/283

*The Panamanian Minister (Alfaro) to the Secretary of State*

[Translation]

## MEMORANDUM

WASHINGTON, April 18, 1934.

The Minister of Panama presents his compliments to His Excellency the Secretary of State of the United States and in accordance with special instructions which he has received from his Government has the honor to make the following statement:

1. In November 1927, Panama and the United States signed and later ratified the Washington International Radiotelegraph Convention. This pact governs the relations of the two countries in this matter and establishes that they can enter into special agreements in conformity with their mutual interests. Panama has repeatedly manifested its disposition to give the United States all the reasonable cooperation which may be required for the operation and protection of the Canal, but on condition that its rights as a sovereign and independent nation be respected. Notwithstanding this situation, the United States without Panama's knowledge and consent has performed acts whereby it purposes to assume control over wireless communications in the territory of the Republic, thus disregarding its sovereignty, which has given rise to a formal protest on its part to the Department of State.

2. The Navy Department has been exercising in fact, in pursuance of this attitude of the United States Government, a certain control over radiotelegraph communications in the Republic, particularly so far as concerns the reception and transmission of messages for ships on the high seas. The aforesaid Navy Department requires that no station installed in the Republic shall receive or transmit messages from or to ships, so that, as a consequence, the radiotelegraph stations of the United States Navy situated in the Canal Zone have virtually a monopoly of such communications.

3. It should be observed in this connection that the United States Government has never tried to establish such control over the radiotelegraph stations established in the United States in the vicinity of its fortified ports. The stations which are situated in New York, Norfolk, San Diego, San Francisco, etc., may transmit and receive freely, in peace time, messages for ships, in spite of the fact that they are in the vicinity of fortified places.

4. Attention should be called also to the fact that even if the measures suggested by the Navy Department were put into force, they

would not have a practical result, since the stations established in the Republic of Panama could transmit and receive messages to and from the ships through other stations situated, for example in Costa Rica, at a distance of some one hundred and fifty miles from the Canal.

5. At the request of the State Department the President of Panama in October 1933, in the White House, explained the said facts and circumstances to Captain Hooper, an expert in radio matters in the service of the Navy Department. The conference was held in the presence of Mr. Edwin C. Wilson, Chief of the Latin American Division of the Department of State. After Mr. Hooper's arguments were overcome by the explanations given above, the latter adduced as a fundamental reason for recommending to the Navy Department that it should assume the aforementioned attitude, that it was indispensable in his judgment for the officers of the United States Navy to have the opportunity to train themselves properly in everything relating to the transmission, receiving and delivery of commercial messages. But he could find no reply when he was reminded that it was easier and more appropriate to obtain such training for the naval officers in the ports of New York, San Diego, etc., which are under the sovereignty of the United States, and nevertheless, the same procedure is not followed in the said ports as it is desired to follow with the Republic of Panama.

6. The Department of State in a memorandum<sup>8a</sup> prepared during the visit of the President of Panama with the President of the United States in October of last year, made the following suggestion:<sup>9</sup>

"It is suggested that consideration be given to the creation by Panama of a Radio Board on the lines of the present Aviation Board. This Board would have, say, six members, of whom three would at all times be designated by the United States Government, for appointment by the President of Panama. This Board would issue regulations for the licensing, inspection, etc., of radio stations in the Republic of Panama. Appropriate measures would be agreed to for the limitation of licenses to Panaman and American companies, and for appropriate safeguarding provisions to prevent endangering the operation or defense of the Canal Zone. The United States, under such conditions, would agree that no special restrictions be placed on 'ship to shore' service with the exception of that relative to transiting the Canal."

7. The Government of Panama considers that the adoption of the plan suggested is not acceptable, among other reasons, because it could be interpreted in the sense that the United States does not have full confidence in Panama's loyalty or that the latter country has not been

<sup>8a</sup> *Foreign Relations*, 1933, vol. v, p. 866.

<sup>9</sup> The original English of the Department of State memorandum is substituted here for that appearing in the file translation.

sufficiently aware of the responsibility which it has in everything relating to the operation and protection of the Panama Canal.

8. In the conference with the representatives of the press, held by the President of the United States on October 11, 1933, he declared, in the presence of the President of Panama, that the aspirations of Panama to establish radiotelegraph stations were perfectly reasonable. He indicated further than [*that?*] an arrangement would be reached in the matter which would be satisfactory to Panama.

9. The Government of Panama maintains that it is not necessary to adopt the plan transcribed above in order to attain the objects which the United States Government has in view, and in order that they may be fully attained the Government of Panama can take measures to enjoy benefits of radiotelegraph communications and at the same time prevent the efficient operation and adequate defense of the Canal from being affected in any way, without placing the Republic of Panama in a position of inferiority.

10. The objects which the United States Government doubtless seeks are two:

a) That in peace time there may be the most rapid and efficient radiotelegraph communication in everything respecting the transit of ships through the Canal, and

b) That in case of war or threat of hostilities, the operation or the defense of the Canal or the operation of the fleet or other armed forces of the United States shall not be endangered by reason of radiotelegraph communications in the Republic of Panama.

11. As the Government of Panama is desirous of cooperating with the United States for the objects indicated, it suggests the possibility of an agreement on the following basis:

1. That no transmitting or receiving set can be installed without previous permission of the Government of Panama;

2. That the Government of Panama reserves the right to inspect all receiving or transmitting sets whenever it deems fit and without previous notice;

3. That the Government of Panama reserves the right to censor, supervise, suspend and cancel the operation of such sets;

4. That on the licenses or permits which the Government of Panama may grant it shall be stated that such license or permit does not include the right to receive, transmit or deliver messages from ships to shore concerning transit through the Canal; and

5. That the Panamanian Government will dictate all the necessary measures in order to cooperate with the United States Government to prevent interferences of any kind in connection with radiotelegraph communications, especially insofar as such interferences may in any way affect the operation or defense of the Canal;

6. That in case of war or threat of hostilities, everything relating to radiotelegraph communications shall be done or supervised jointly by the Government of Panama and the United States with the object



of assuring that the functioning thereof shall in no way be prejudicial to the safety of the Canal or to the operations of the fleet or other armed forces of the United States.

The Government of Panama makes this suggestion with the object of arriving at a reasonable and friendly agreement, but, meanwhile, it reserves its right to act at any time in exercise of its sovereign rights and in accordance with the International Radiotelegraph Convention.

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711.1928/2337 : Telegram

*The Minister in Panama (Gonzalez) to the Secretary of State*

PANAMA, April 24, 1934—9 a. m.

[Received 3:20 p. m.]

71. President Arias informally told Burdett<sup>10</sup> on April 22 that he had instructed Alfaro to suggest to the Department that the minor differences be settled by administrative action prior to discussion of groundwork for proposed new treaty and in order to establish favorable sentiment toward United States in Panama. Otherwise local popular reaction against any treaty might render ratification impossible. He grouped as minor differences the question of luxury articles in the commissary, continuance of prohibition in Canal Zone, removal of zone restrictions against entry of deported Panamanians, cheap prices on cigarettes in zone, trans-Isthmian highway, payment of annuity in gold,<sup>11</sup> and repatriation of West Indians.

The Legation strongly believes that no major concessions should be made without compensatory concessions.

President stated he feared possibility of Panamanian default of next service charges on 1923 loan.

Detailed report on above follows by airmail.

GONZALEZ

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711.19/200a : Telegram

*The Secretary of State to President Roosevelt*<sup>12</sup>

WASHINGTON, July 23, 1934—3 p. m.

We will greatly appreciate learning of any decisions you may have reached after your talks with President Arias regarding the right of the Government of Panama to engage in ship to shore radio service and giving Panama instead of our own commissaries the opportunity within certain limits of furnishing food supplies to ships transiting

<sup>10</sup> William C. Burdett, First Secretary of Legation.

<sup>11</sup> See pp. 612 ff.

<sup>12</sup> President Roosevelt was aboard the U. S. S. *Houston* on a Caribbean cruise, during which an interview occurred between him and President Arias of Panama.

the Canal. We have held up negotiations with Panama pending receipt of word from you of your decisions on these two points and any protracted delay in resuming conversations with Panama may give rise to misunderstanding.

Best regards,

HULL

711.19/201 : Telegram

*President Roosevelt to the Secretary of State*

U. S. S. "HOUSTON," [undated].

[Received July 23, 1934—10:25 p. m.]

Your July 23, 3 p. m. No decision reached with President Arias. I made suggestion that no private radio company engage in ship to shore service but that we would gladly give further study with Panama to possibility of the Panaman Government setting up their own ship to shore service with some United States Navy personnel in constant contact with such service and continuous access to all messages.

As to commissaries there should be no elimination of our service to ships but it should be limited to ship's stores and not include luxuries. The Canal Zone Governor is, I gather, ready to give equal opportunity to a representative of Panama merchants to board all ships at the same time as his man does so, and to sell their wares in competition with Canal Zone commissary.

I suggest you resume conversations and hold final decision till my return.

ROOSEVELT

711.1928/270½

*The Panamanian Minister (Alfaro) to the Assistant Secretary of State (Welles)*

[Translation]

WASHINGTON, September 22, 1934.

DEAR MR. WELLES: With the purpose of advancing the preliminary conversations that we have been holding recently concerning the questions still pending between Panama and the United States, I have the pleasure of sending you herewith the following documents:<sup>13</sup>

A draft convention on radio communications, which my Government proposes after having considered the draft that you submitted to me on the 25th of August, last.

A draft of an article that my Government proposes on several of the points concerning the relations created by the construction of the canal.

<sup>13</sup> None printed.

It would give me much pleasure to exchange ideas with you on these two drafts and amplify them with the verbal explanations necessary, as soon as you advise me of your desire to have with me another interview for this purpose.

With the renewed assurances [etc.]

R. J. ALFARO

711.1928/271a

*The Secretary of State to the Secretary of War (Dern)*

WASHINGTON, October 4, 1934.

MY DEAR MR. SECRETARY: This Department has discussed with the President certain questions comprised in the present negotiations with Panama and he has informed me as follows:

That he is unwilling to request such further extension of United States political jurisdiction over Panamanian territory as would be involved in extension of such jurisdiction over New Cristobal. He therefore desires that this question be dropped. He said, however, that if it is seriously considered that the American residents of New Cristobal suffer from inadequate police and fire protection, some agreement may be negotiated with Panama whereby additional police and fire protection in New Cristobal might be furnished by American personnel from the Canal Zone;

That he desires that the United States Government and the Panama Railroad Company dispose by sale at a reasonable price of all lands owned by them in Colón and Panama not required by the activities of the Canal and the Railroad Company; and that this policy be made known as a portion of the pertinent agreements which it is proposed to negotiate with Panama.

Sincerely yours,

CORDELL HULL

711.1928/281

*The Panamanian Minister (Alfaro) to the Secretary of State*

[Translation]

WASHINGTON, October 24, 1934.

MR. SECRETARY: I have the honor to inform Your Excellency that by Decree No. 26 of the 15th instant the President of the Republic of Panama saw fit to appoint a Commission, to which has been entrusted the mission of furthering the negotiations with the United States leading to the conclusion of the treaties or conventions permanently regulating the relations created between the two countries by the construction of the Canal.

The Commission has been made up of Messrs. Doctor Carlos L. López, former Secretary of Gobierno and Justice and Second Desig-

nate to exercise the Executive Power, Doctor Narciso Garay, present Secretary of Public Instruction and former Secretary of Foreign Relations, and the undersigned, who will preside over it. Mr. Ernesto de la Guardia, who was also appointed a member of the Commission, did not accept the position. Mr. Eugenio J. Chevalier was appointed Secretary of the Commission.

Doctors López and Garay are coming with the rank of Envoys Extraordinary and Ministers Plenipotentiary, and Mr. Chevalier has been given the classification of Secretary of Legation of Class One.

In due time I shall have the honor to inform Your Excellency of the arrival of Messrs. Garay and López.

I take this opportunity [etc.]

R. J. ALFARO

711.1928/285a

*The Secretary of State to the Minister in Panama (Gonzalez)*

No. 179

WASHINGTON, October 25, 1934.

SIR: There is transmitted herewith for the strictly confidential information of the Legation a copy in translation of a draft convention<sup>14</sup> concerning radio communications, as well as a copy in translation of a draft convention<sup>14</sup> in modification of the Treaty of November 18, 1903, between Panama and the United States, recently submitted to the Department by the Panamanian Minister in Washington in connection with the negotiations between the two Governments.

Very truly yours,

For the Secretary of State:  
R. WALTON MOORE

711.1928/285b

*The Department of State to the Panamanian Legation*

MEMORANDUM

In his message to the Panamanian Assembly on September 1, 1934, President Arias included the following statement in reference to his conversations in Washington with President Roosevelt in October, 1933:

"1. That the construction of the Panama Canal has been terminated:

2. That the provisions of the treaty concluded in 1903 contemplate the use, occupation, and control of the Canal Zone by the United States for the purpose of maintaining, operating and protecting the

<sup>14</sup> Not printed.

Canal. This means that it was tacitly established that those provisions no longer contemplate the use, occupation and control of the Canal Zone for the purposes of Canal construction."

Article II of the draft treaty recently proposed to the Department of State by Minister Alfaro states in part:

" . . . the obligations on the part of the Republic of Panama to grant the use, occupation and control of other lands and waters for the purposes referred to in the said Article (Article II of the treaty of November 18, 1903) have been fully extinguished; and the two High Contracting Parties declare that as the Canal has already been constructed, the provisions of the aforesaid treaty of 1903 contemplate the use, occupation and control by the United States of America of the Canal Zone and the additional lands and waters which have been granted it up to this time for the purposes of the maintenance, operation, sanitation and protection of the Canal."

By authorization of President Roosevelt it is desired to record in this memorandum that his understanding of the views exchanged between President Arias and himself in October, 1933, in so far as they related to any question affecting the "construction" of the Panama Canal, and his understanding of the phraseology employed in the Joint Statement of the two Presidents of October 17, 1933,<sup>15</sup> in relation to this matter, is that such views and such phraseology referred to the Canal as having been "constructed" in the obvious sense that the principal stage of construction has been completed and that the Canal is now open to use. It has always been manifest, however, in President Roosevelt's opinion, that in a project as vast as that of the Panama Canal, there will probably be required from time to time expansion of Canal facilities, including additional construction, in order to insure adequate water supply and adequate facilities for expected increase in traffic. Obviously, the exact extent of such future expansion cannot be foreseen at the present time. Conversely, if future developments should appear to render unnecessary the retention for Canal purposes of any land or water facilities then enjoyed by the United States, the United States would expect to relinquish such facilities to Panama.

It is, of course, in the interest of Panama as well as in the interest of the United States that as potential traffic through the Canal increases, adequate facilities be provided so that such traffic may not be diverted elsewhere.

It is because of the foregoing considerations, which it is believed will be readily understood by the Government of Panama, that the United States Government is unable to renounce any of the rights which it enjoys under Article II of the treaty of November 18, 1903.

WASHINGTON, October 30, 1934.

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<sup>15</sup> Department of State, *Press Releases*, October 21, 1933, p. 218.

711.1928/287b

*The Assistant Secretary of State (Welles) to the Panamanian  
Minister (Alfaro)*

WASHINGTON, October 31, 1934.

MY DEAR MR. MINISTER: I understand that when leaving the Department yesterday, you requested a repetition of some of the remarks I had made at the opening of our conversation yesterday. I am very glad to repeat these statements in this personal letter to you.

I stated that I was glad to be able to say that this Government was now in a position to offer to the Government of Panama a basis for agreement on all of the questions which have given rise to misunderstanding during the past years which I believed would be agreeable to your Government; that this basis entailed an arrangement which would give to Panama all that to which in equity Panama was justly entitled and reserve to the United States all those rights believed indispensable in relation to the defense, maintenance, construction, operation, and sanitation, of the Panama Canal. I likewise added that I was sure you would understand that the draft I handed you<sup>16</sup> was not transmitted as a bargaining proposal, but as a suggested agreement based, after much study and consideration, upon the foundation above described. Finally, I said that in the judgment of this Government, all of our proposals and all of the series of agreements suggested should be regarded as an entity to stand or fall together and not as separate and unrelated instruments some of which might be accepted and others rejected.

I trust that this letter conveys the information you desired. If not, please let me know and I shall, of course, be happy to repeat any further remarks I may have made during the course of our most agreeable conference.

With the assurances [etc.]

SUMNER WELLES

711.1928/288

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*Press Release Issued by the Department of State, November 5, 1934*

In accordance with announcements made last spring, conversations have been taking place during the past summer between the Minister of Panama and Assistant Secretary of State Welles in exploration of the possibilities of negotiating agreements between the United States and Panama for the purpose of removing all those differences and causes of misunderstanding which have arisen in the relations between the two countries as a result of the construction and operation of the Panama Canal.

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<sup>16</sup> Not printed.

These conversations have progressed in the most satisfactory manner and the President of Panama has now appointed a commission to undertake the negotiation of such agreements with the United States. The commission is composed of Dr. Ricardo J. Alfaro, Minister of Panama in Washington, who will preside over the commission, Dr. Narciso Garay, Secretary of Public Instruction and former Secretary of Foreign Relations, and Dr. Carlos L. López, former Secretary of Government and Justice and Second Designate to exercise the Executive Power.

The first session of the series of conferences which will take place was held today in the Department of State.

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711.1928/287

*The Panamanian Minister (Alfaro) to the Department of State*

[Translation]

MEMORANDUM

The Minister of Panama has the honor to acknowledge the receipt of the State Department's memorandum of October 30, last, which treats of the proposal made by the Panamanian Government that in the new treaty which it is intended to conclude the statement be made that Panama has already fulfilled the obligation of granting the use, occupation and control of all the lands and waters outside of the Canal Zone which might be necessary for the construction of the Canal and that, consequently, the obligation which she assumed by the Treaty of 1903 of granting the use, occupation and control of the said additional lands and waters has been extinguished.

In relation to this subject the Department of State transcribes the paragraphs marked 1 and 2 which are found at page 48 of the Message sent by the President of Panama to the National Assembly on the first of September, last, in which paragraphs, referring to the results of his interview with the President of the United States, President Arias expresses the idea that, as a result of the interview, it was established that the provisions of the treaty concluded in 1903 "no longer contemplate the use, occupation and control of the Canal Zone for purposes of construction".

My Government believes that that view is most strictly in accord with the terms of paragraph one of the joint statement made by the Presidents of Panama and of the United States on the 17th of October, 1933, which paragraph reads as follows:

"Now that the Panama canal has been constructed, the provisions of the Treaty of 1903 between the United States and Panama contem-

plates the use, occupation and control by the United States of the Canal Zone for the purpose of the maintenance, operation, sanitation and protection of the Canal."

As may be seen, the paragraph transcribed expresses the understanding that the Canal having already been constructed, the provisions of the Canal treaty contemplate the use, occupation and control of the Zone "for the purpose of the maintenance, operation, sanitation and protection of the Canal". As the term "construction" has not been used either in this paragraph nor in the following one, my Government has deduced from this clear language that it was evident and agreed upon that the provisions of the 1903 treaty do not and cannot contemplate the construction of a canal which has already been constructed.

My Government believes, further, that the United States Government stated more than twelve years ago that the construction period of the Canal has already passed and that such period came to an end with the formal opening of the Canal.

Indeed, when the abrogation of the Taft Agreement was effected,<sup>17</sup> that was the precise reason given to justify that step, namely, that the construction of the Canal had already come to an end.

In a cablegram which the Secretary of War, Mr. Taft, addressed to the Secretary of State, Mr. Hay, reporting the arrangements concluded at Panama, Mr. Taft said:

"The order (executive) is of course revokable at will and its operations can be suspended by Panama by refusal to continue compliance with any of its conditions, but I believe from conference that, adopted, it will continue satisfactory basis of relations between parties until opening of canal." (Cablegram of December 2, 1904).

In the official communiqué given to the press on the 7th day of September, 1922, the Department of State, with reference to the Taft Agreement, expressed itself, as follows:

"By this Agreement the United States waived temporarily, during the period of construction of the Canal, the exercise of certain rights granted under the Hay-Bunau-Varilla Treaty of 1903".

In a note addressed to the President of the United States on the first day of September, 1922,<sup>18</sup> the Acting Secretary of State, Mr. Phillips, said, with reference to the Taft Agreement:

"After discussions with the officials of the Panaman Government a temporary agreement was formulated to serve as a *modus operandi* during the period of the construction of the Canal".

<sup>17</sup> See telegram No. 39, May 28, 1924, to the Minister in Panama. *Foreign Relations, 1924*, vol. II, p. 522.

<sup>18</sup> *Ibid.*, 1922, vol. II, p. 761.



And he added further on :

“The Taft Agreement was intended as a temporary arrangement to cover the period of construction of the Canal. As such it has served its purpose, since the Canal has for some time been formally open to commerce.”

Lastly, the Executive Order issued by President Coolidge on the 28th of May, 1924,<sup>19</sup> in declaring the Taft Agreement abrogated, states the following in its third “whereas”:

“. . . the purpose of the agreement in question has passed with the formal opening of the canal, and the agreement no longer provides an adequate basis for the adjustment of questions arising out of the relations between the Canal Zone authorities and the Government of Panama, and should be replaced by a more permanent agreement”.

The same Executive Order, in referring to the Taft Agreement in its second “whereas” calls it an “agreement reached between the Secretary of War and officials of the Panama Government to serve as a *modus operandi* during the construction of the canal”.

The Department expresses the view that when it was said in the joint declaration that the Canal is already constructed the statement was made “in the obvious sense that the principal stage of construction has been completed and that the Canal is now open to use”, but it is considered, nevertheless, that “in a project as vast as that of the Panama Canal, there will probably be required from time to time expansion of Canal facilities, including additional construction, in order to insure adequate water supply and adequate facilities for expected increase in traffic. Obviously, the exact extent of such future expansion cannot be foreseen at the present time”.

The memorandum states, for these considerations, that the Government of the United States is unable to renounce any of the rights granted to it by Article II of the Treaty of 1903.

The Government of Panama deeply regrets that it cannot agree with this interpretation of Article II, just referred to, because of the foregoing considerations and the considerations set forth below which support its point of view on the matter.

When the Treaty of November 18, 1903, was concluded, the question had not yet been settled as to what type of maritime channel—a sea-level canal or a lock canal—the United States would construct and of course the possibility was foreseen that a lock canal might be constructed which would require the creation of artificial lakes, the area of which would necessarily have to extend beyond the strip ten miles wide, the use, occupation and control of which were granted for the canal proper. Therefore, Article II of the treaty provided in the second sentence of its first paragraph, as follows:

<sup>19</sup> 43 Stat. 1952.

"The Republic of Panama further grants to the United States in perpetuity the use, occupation and control of any other lands and waters outside of the zone above described which may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal or of any auxiliary canals or other works necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said enterprise."

By virtue of that provision the Government of the United States acquired, without any additional compensation for the Panamanian Government, during the construction period of the canal, the use, occupation and control of the following areas situated outside of the Canal Zone:

1. The lands necessary for the creation of the Gatún Lake up to the level of 87 feet above sea level;
2. The lands necessary for the elevation of the said lake to the level of 100 feet above sea level;
3. The lands adjacent to the former pueblo of Chagres and known by the name of Fuerte San Lorenzo;
4. The lands of Paitilla at the northern end of the Bay of Panama facing the capital of the Republic and adjacent to its perimeter with an area of fifty hectares;
5. The Island of Largo Remo in Bay Las Minas to an extent of 220 hectares;
6. An area of 14.95 hectares on the Island of Taboga;
7. The land necessary for the formation of Lake Alhajuela by means of the construction of the Madden Dam, in an area of 22 square miles and up to the contour line of 263 feet above sea level.

If a glance is cast on the map of the Canal Zone it will be easily seen that all the waters that flow toward the Canal have already been made use of and continue to be made use of for feeding the locks and that the lakes of Gatún and Miraflores receive the waters from the various rivers, small rivers, arroyos and other streams forming the river systems of the Gatún, Siricito, Agua Sucia, Siri Grande, Trinidad, Tripones, Caño Quebrado, Pescado, Paja, Bailamonos, Mandinga, Cocoli, Cárdenas and Caimitillo Rivers; of the Chagres River, with its principal tributaries, the Chilibre, the Chilibrillo, the Indio, the Pequeñi, the Gatuncillo and in short all the other streams found on the various slopes that descend toward the Canal. The Chagres River not only feeds Gatún Lake but also the Lake of Alhajuela, formed by means of the Madden Dam, at a level higher than that of Gatún Lake. It seems evident, therefore, that there is no longer any system or utilizable stream of water for the Canal that has not already been utilized and which is not being utilized and neither is there any area of land that could be utilized for the formation of other artificial lakes, inasmuch as the three now in existence receive and store all the waters that flow over the slopes running toward the Canal basin.

It must be taken into account, furthermore, that the supply of water for the locks has as a basis today a level in Gatún Lake of eighty-seven feet above sea level and that the Republic of Panama has granted to the United States the use, occupation and control of the lands necessary for the elevation of the waters of the said Gatún Lake to the height of one hundred feet above sea level. This elevation, combined with the storage of water in the Lake of Alhajuela is sufficiently above the requirements of the Canal not merely with the two sets of locks now in existence but also with a third set of locks that may be constructed and put in use in the future for a traffic four or five times greater than that which at present exists.

When the possible enlargement of the facilities of the Canal has been spoken of the reference has always been specifically to the construction of additional locks, which signifies constructions that must be made within the Canal Zone and not outside of it. "As the Canal throughout its length of fifty miles,"—General Harry Burgess, Governor of the Canal, has said—"has a channel sufficiently wide for ships to be able to pass each other, no limitation whatever so far as concerns the channel of the Canal need be considered. The limiting factor lies in the locks." Accordingly, the only thing that can be needed outside the Canal Zone is the use and the supply of water which, as has been explained, has already been granted, accepted and utilized. By the land and water utilized for such object, the Canal traffic is rendered secure not only in its present capacity but in the capacity to which it may attain in all the period up to the year 2000.

This is shown by the extremely conservative technical calculations made by the eminent engineer General Harry Burgess, Governor of the Panama Canal until the middle of 1932. From a study published by him in the magazine *The Military Engineer*, of September–October, 1929, we take the following passages:

"The combined supply from the two lakes (Gatún and Alhajuela) would be, in a dry season like that of 1920, 49,000,000,000 cubic feet. For an impounding of water at the height of 240 feet, the combined supply would amount to 53,000,000,000 cubic feet" . . . "Supposing Lake Alhajuela to have an elevation of 230 feet, the supply of water would be sufficient for fifty-six daily transits through the locks and if the elevation of the dam were 240 feet, the supply of water would be sufficient for sixty daily transits. It is apparent, therefore, that when the Alhajuela project is finished, the provision of water for the Canal will be sufficient to operate the three sets of locks to the limit of their practical capacity." \*

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\* The above is a faithful translation from the Spanish, but without benefit of comparison with the original English text, which is not available at this moment.—Tr[anslator] FGH [Footnote in the file translation.]

The value of these figures may be estimated when the two following facts are considered: (1) That the Alhajuela reservoir has been given an ordinary elevation of 240 feet above mean sea level and a maximum elevation of 263 feet above the same level; (Report of the Governor of the Canal for 1931, page 30) and (2) that the average number of transits through the Gatún locks during the year 1928 was 16.7 daily. The average for the fiscal year ending June 30, 1933, was 12.0 for the same locks and in the preceding fiscal years it was 17.23 in 1929, 16.81 for 1930, 15.26 in 1931 and 12.06 in 1932.

“During the last five fiscal years”—General Burgess continues to explain in his above cited study—“the average number of tons (Panama Canal measurement) per transit is 5,000 . . . Twenty-seven daily transits at the rate of 5,000 tons per transit give an annual traffic of 49,000,000 tons (Panama Canal measurement) and at 6,400 tons per transit, an annual traffic of 63,000,000 tons by the same measurement. It may be affirmed with assurance that the present capacity of the Canal is from 60 to 65 million tons [per year], as measured by the Panama Canal.”

Attention is again called to the significance of these figures on the present capacity of the Canal, when it is taken into account that the highest annual traffic that the Canal has ever had since its opening was in the year 1929, when the number of tons transported reached the figure of 30,663,006. In the following years the annual traffic was 30,030,232 tons in 1930; 25,082,800 in 1931; 19,807,998 in 1932 and 18,177,728 in 1933.

At the end of General Burgess' work are found the following observations:

“A careful study made in 1927 by the then Governor of the Panama Canal (General Walker) of the statistics of Suez and Panama and the increase in world trade, led him to the conclusion that the probable increase in the traffic through the Panama Canal will be some 7,000,000 tons (tonnage measurement of the Panama Canal) per decade. It seems a well-founded prediction to estimate the increase in traffic at not more than 10,000,000 tons per decade and to affirm that the third set of locks will be needed within possibly thirty or thirty-five years” . . . “It is risky to use the predicted increase of 10,000,000 tons per year [*decade?*] for an indefinite time in the future but as the ultimate capacity of the Canal is [over] 112,000,000 tons per year, it appears entirely safe to say that the Canal can meet all the demands of commerce until the end of the present century.”

The foregoing views, supported by the very high authority of their eminent author, permit the affirmation without fear of falling into error, that the construction of the Canal has already terminated, not only for the needs of the present moment but even for those that may

exist in as distant a future as it is given to the present generation to foresee. This authority beyond suspicion has shown that there does not exist in a reasonable and foreseeable future any possibility of extension of the Canal facilities involving a necessity for new land and water outside the Zone.

Panama considers, therefore, that there is no reason justifying the retention of an indeterminate, indefinite, unlimited and eternal clause, the retention of which affects its national prestige; which is a latent subject of alarm for all the citizens and inhabitants of the Republic who see following it the specter of sudden and unnecessary expropriations, and which therefore constitutes an obstacle to the free economic development of the country.

My Government cannot believe that the additional lands clause had the scope or purpose of creating a kind of international eminent domain of perpetual duration, but merely the purpose of granting in an indeterminate form a right, the extension of which could only be determined when the execution of the work which would permit us to know, as we now know, the factor unknown in 1903, of the lands and waters necessary for the construction and operation of a lock Canal. Interpreted in that manner, the clause would come to form a kind of *capitis diminutio* of the national sovereignty, which would not permit the Republic of Panama to esteem itself the real sovereign of its territory, the latter being subject to an unlimited and unrestricted encumbrance which would affect its whole area, from one border to the other.

What in 1903 was possible of explanation, in 1934 can have no justification. Panama's sacrifices on behalf of the work on the Canal must have some limit. It could agree to the very burdensome and exceptional concessions which were imposed in 1903 by the force of insuperable circumstances. But Panama cannot agree to the perpetuation of a clause that inflicts upon it moral and material damage, without giving the United States any real equivalent benefit, because it retains the right to require that which there is no longer any need to require.

In view of the foregoing considerations, the Government of Panama hopes that the enlightened Government of the United States will see fit to reconsider what was stated in the memorandum of October 30, last, in the sense that there may be included in the new treaty that is contemplated, a clause containing in substance the declaration and agreement suggested in the draft article that the undersigned Minister had the honor to submit to the Department on September 22 last.

WASHINGTON, November 8, 1934.

711.1928/297½

*The Panamanian Legation to the Department of State*

[Translation]

## MEMORANDUM

Under date of September 22 last, the Legation of Panama had the honor to propose to the Department of State that in the treaty which the governments of Panama and the United States intend to conclude for the purpose of regulating the relations created by the construction of the interoceanic canal, a clause be inserted which would stipulate in substance the following:

“The United States agrees that Panamanian citizens shall be eligible to positions on the Panama Canal or with the Panama Railway Company, both in the class of the so-called ‘gold roll’ and in those of the so-called ‘silver roll’ on a footing of equality with American citizens, in regard to pay, promotions, vacations, retirement, protection against accidents in line of duty, and other facilities and guarantees granted to employees in their capacity as such; that preference shall be given to Panamanian citizens over foreigners in positions of the said classes and in cases of reduction in personnel.”

With regard to the eligibility of Panamanian citizens to “gold roll” positions and “silver roll” positions on the Panama Canal and with the Railroad Company and with respect to the present status of Panamanian citizens who now hold those positions, the situation is that specified by the following paragraphs:

### 1. ELIGIBILITY OF PANAMANIAN CITIZENS TO POSITIONS ON THE CANAL AND THE RAILROAD

There is at present no restriction on account of nationality in regard to eligibility to positions on the silver roll. Eligibility of Panamanians to positions on the gold roll is established by Executive Orders of December 23, 1908, February 2, 1914, February 20, 1920, and February [*September*] 14, 1927.<sup>20</sup> (See also Paragraph 4, 1 Personnel Regulations. The Panama Canal).

### 2. PAY

There are at present no differences with respect to pay by reason of nationality (*Ibid.* 32.1 et seq.)

### 3. PROMOTIONS

United States citizens shall have preference as to promotions, over Panamanians and foreigners even though the latter have been longer in the service. (Personnel Regulations, Par. 10.1).

<sup>20</sup> *Executive Orders Relating to The Panama Canal (March 8, 1904, to December 31, 1921), Annotated 1921* (Mount Hope, Canal Zone, 1922), pp. 86, 158-161, 266; and Supplement No. 14, p. 410.

#### 4. VACATIONS

All American employees shall be entitled to vacations, whatever their pay and class may be, Panamanian and foreign employees shall be entitled thereto when they draw wages or salaries of more than \$80 a month (\$960 a year) or of 40 cents (centavos) an hour. (Executive Order of February 20, 1920—Personnel Regulations, Par. 49 et seq.).

#### 5. RETIREMENT

Only employees of the Canal (not of the Railway) who are American citizens shall be entitled to retirement. (Federal Retirement Act of July 3, 1926,<sup>21</sup> Personnel Regulations, Par. 61.1). The pension plan of the Railway Company, established on January 1, 1924, is also restricted to citizens of the United States holding permanent positions paying \$600.00 per annum or more. The pension fund of the Railroad shall be established by withholding from employees 2 per cent of their pay (*Ibid.* Par. 62.1, 62.3).

#### 6. PROTECTION AGAINST ACCIDENTS IN LINE OF DUTY

There shall be no difference by reason of nationality in regard to protection against accidents in line of duty. All employees shall be protected by the provisions of the United States Employees' Compensation Act of September 7, 1916.<sup>22</sup> (Personnel Regulations, Par. 56.1 et seq.)

#### 7. GENERAL CONDITIONS AS TO EMPLOYMENT

There shall be no difference between employees by reason of nationality with regard to general employment conditions not included in the paragraphs enumerated above, such as lodging, commissary privileges, medical and hospital treatment, passes, special rates, etc. An exception is made in the transportation to the United States, of American citizens who have completed three years' service, which shall be paid by the Canal up to the amount of \$40.00 (Article 15, Executive Order of February 2, 1914).

#### 8. REDUCTION OF PERSONNEL

The preference of Panamanians over foreigners in case of reduction of personnel is established by Executive Orders of 1908, 1914, 1920, and 1927, enumerated in Paragraph 1. The standards for releasing employees in case of reduction of personnel are as follows: nationality, efficiency, preference in favor of veterans and seniority. By reason of nationality, preference is given to American citizens over Panamanians, unless the latter are more efficient. (Personnel Regulations, Par. 16.1 *a.*) Preference between American citizens is determined by the veteran's status (*Ibid.* *c.*) and it is determined by seniority, other conditions being equal (*Ibid.* *d.*).

<sup>21</sup> 44 Stat. 904.

<sup>22</sup> 39 Stat. 742.

From the foregoing data it may be noted that at present there is no restriction on the ground of nationality with reference to eligibility, pay, protection against accidents in line of duty, and general working conditions.

There are differences as to promotions, vacations for the employees on the silver roll, retirement and reduction of personnel.

As to retirement, a situation exists concerning which the Governor of the Canal Zone says the following in his report for the year 1932, after stating the conditions under which the retirement of the American employees is effected :

*“Foreign Employees:*

“The Panama Canal is still without arrangements enabling it to give due assistance to its foreign employees who, by reason of advanced age or other physical incapacity, can no longer perform their duties properly and must be separated from the working personnel.

“To such employees of the Railway Company pensions varying from \$7 to \$30 a month are given, but there is no authority for doing the same for the employees of the Panama Canal. The only thing that can be done for them at present is to offer them quarters in the Corozal Hospital, where there are no accommodations for their families, or to keep them on the pay roll at reduced wages, at pay varying from \$15 to \$35 a month, in order that they may do such work as they can. It would be much better to pension them once for all and thus permit them to be separated from the active work of the Canal.

“In order to obtain some relief, the sum of \$10,000 was included in the 1933 estimates, for the payment in cash of remunerations not exceeding \$30 per month to incapacitated foreign employees, under the rules that the President may issue. This was rejected by the Bureau of the Budget, because it constituted new legislation. It is hoped that a separate bill on the matter will be introduced. The need for aid in this regard is urgent, not only as a question of humane treatment of the employees who have reached an advanced age, but also as a measure of efficiency in the work.

“The cost of assistance to these employees, on the basis of an average pension of \$20 per month, has been estimated by the Bureau of Efficiency as \$12,000 for the first year, with a gradual increase up to a maximum of \$121,000 per annum for the twentieth year and each of the following years.” (*Annual Report of the Governor of the Panama Canal, 1932, p. 82*).

With reference to this proposed legislation, the same Governor, in his report for the year ending June 30, 1933, expressed himself as follows :

“This cost is not high, considering the number of employees affected, and the assistance that is recommended is considered not only humane but as one more step in the direction of the efficient working of the Canal, through the elimination of those who are already incapacitated for service and because each of those who are on the active labor roll



may thus be obliged to perform in a normal way the daily work which he does." (*Annual Report of the Governor of the Panama Canal, 1933, p. 81*).

In the same report for 1933, the Governor, referring again to the problem in question, says the following, under the heading "Foreign Employees of Advanced Age":

"The foreign employees of the Panama Railway Company who are no longer capable of rendering efficient service in any post are removed from the pay roll and are given a lump sum, plus travel expenses to their homes, or a small annuity. Since June 1, 1928, lump sums of from \$25 to \$500 have been paid to 14 of those employees, and to 134 employees, pensions of from \$7 to \$25 a month were granted. Of the 134 employees pensioned, 17 had died by the end of the fiscal year of 1933 and one pension was cancelled, 116 thus remaining on the pension roll at the end of the year. The average of the payments made up to that time was \$12.94 per month.

"The foregoing applies solely to the foreign employees of the Panama Railway [who are]<sup>23</sup> of advanced age. There is no provision for the payment of pensions to foreign employees of the Panama Canal [who are]<sup>23</sup> of advanced age. To aid a little in the settlement of that problem, arrangements have been made to give lodging to foreign employees of advanced age at the Corozal Insane Asylum, but few employees wish to stay there, and in any event the facilities available do not permit of lodging a considerable number of employees, some of whom have one or more persons dependent on them. Besides, the per capita costs of lodging granted in this way is higher than the sum that it would cost to grant a small pension and permit the employee to live his normal life among the people of his race.

"The remedy for this situation lies in Congress' voting the necessary items." (*Ibid.* page 78).

As can be seen from the preceding quotations, the Canal Administration itself agrees that, with respect to retirement pay, there should be a plan which provides it not only for the Panamanian citizens employed on the Canal, but also for all foreign employees. The Panamanian proposal therefore is based on justice, humanity and also the benefits to the work of the Canal.

With respect to the establishment of the same conditions for American and Panamanian citizens with respect to promotions and vacations, it may be observed that, aside from the fact that it appears indicated by the spirit of justice and the feeling of solidarity that inspired the Executive Order of December 23, 1908, and the subsequent orders, the establishment of such equality would not actually make any great difference, because of the very small number of Panamanian employees of the Canal.

In the book recently published by Professor Marshall E. Dimock, Special Commissioner of the Secretary of War in the Canal Zone,

<sup>23</sup> Brackets appear in the file translation.

entitled *Government Operated Enterprises in the Panama Canal Zone*, the following is stated:

"In January, 1934, there were 11,526 employees on the Panama Canal and the Panama Railroad Company on the Isthmus, and of them 2,853 were American citizens, while 8,673 were foreigners. The foreign employees are, as has been said, in the majority, natives of the British Antilles, coming from Jamaica or Barbados. Comparatively few of the foreign employees are from Panama or other countries of Central and South America."

The number of the Panamanian employees on the gold roll at present is, according to data submitted to the Government of the Republic, so low that it will not even amount to a hundred. There cannot, therefore, be any reason whatever for refusing to these employees, the majority of whom earn small salaries, the same rights and facilities as are granted to American citizens in the matters in which inequalities exist today.

With respect to employees on the silver roll and the laborers, the total number on June 21, 1933, was 9,575. The Legation does not have exact numerical data regarding the number of such employees who were Panamanian citizens, but according to data for the year 1932, the situation was as follows:

On the silver roll the total number of employees was . . . 9, 120  
Of these only . . . . . 1, 948

were Panamanians, that is, the proportion was hardly 20 percent, or, of every five employees or workers on the silver roll, who, as has been said, are almost all West Indians, only one is a Panamanian.

This want of proportion has, apparently, not undergone any noticeable change. The Panamanian Commission considers that the most elementary sense of justice requires that after the great sacrifices made by Panama for the work of the Canal, Panamanian citizens may be able to obtain a larger proportion of the benefits furnished by the opportunity to work on the Canal works; and it would therefore be very desirable that by establishing firmly and effectively the preference of Panamanian citizens over foreigners with respect to eligibility, promotion and reduction of force, the distressing situation which Panamanian artisans and day workers are now experiencing with respect to the work offered by the Canal and the Railway may be corrected.

A very clear idea of this situation is given by the following words of the Governor of the Canal Zone, in his report for the year 1932:

"The Canal Zone and the adjoining cities of Panamá and Colón, in Panama, face a condition of permanent unemployment. The construction of the Canal occasioned the coming of thousands of West Indians, as well as numerous Europeans and Orientals. Upon the completion of the construction work, the United States offered re-

patriation to all discharged employees, or former employees. Many did not accept repatriation and many who went home returned later to the Isthmus. For a time increased business in Panama absorbed many of them, but business has slumped sharply, throwing many out of work. Meanwhile the termination of the highways from the capital to the interior has resulted in a movement from the country to the city rather than from the city to the land. A further factor has been the natural growth of population in a prolific people, without control and without the losses from disease which occurred prior to the era of American sanitation. Similarly, but to a less extent numerically, the American population in the Canal Zone has increased, and many young men and women of the Canal families are approaching maturity without employment. The search for work is sharp and there is an increasing competition between Americans and aliens for work that may be performed almost equally well by either.

"This situation has become acute with the general slump in business, the falling off in Canal traffic and related activities and the diminished appropriations for new construction and replacements. It is not practicable to care for any number of these people by allowing them to settle on land in the Canal Zone. Many could not make a living for the moment, and the increases of malarial infection that have resulted in the Canal towns from the presence of these settlers have led us to the decision to license no more settlers. The most obvious form of relief is an increase in public works."

Although the situation is perhaps not as acute today as two years ago, it continues to be bad enough so that the Panamanian Commission, in view of the foregoing considerations, most strongly urges upon the American negotiators the favorable consideration of the clause of the new treaty through which they hope to improve the condition of the Panamanian citizens who work or are qualified to work for the Canal or for the Railways.

WASHINGTON, December 1, 1934.

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711.1928/297½

*The Chief of the Division of Latin American Affairs (Wilson) to the Assistant Secretary of State (Welles)*

[WASHINGTON,] December 4, 1934.

MR. WELLES: Herewith the memorandum from Alfaro,<sup>24</sup> to which he referred yesterday, concerning the draft article proposed by Panama regarding the employment of Panamanians by the Panama Canal and the Panama Railroad Company. The memorandum notes that at present there is no difference in treatment on the ground of nationality with reference to eligibility, pay, protection against accident in line of duty, and general working conditions. It points out, however,

<sup>24</sup> *Supra*,

the difference in treatment on the ground of nationality with respect to promotions, vacations for the employees on the silver roll, retirement and reduction of personnel; on this latter point, however, it might be noted that existing executive orders provide for preference of Panamanians over foreigners in case of such reduction.

At such time in our discussions with the Panamanian Commissioners as you find it desirable to explain to them the reasons why we are unable to accept their draft article on this subject, I suggest that you might inform them of our interest in the question and willingness to take up with the War Department the Panamanian *desiderata* and to cooperate with a view to improving the conditions of employment of Panamanians in so far as this may appear feasible. Specifically, we could cooperate with the War Department in supporting legislation for the payment of old age pensions to foreign employees of the Panama Canal.

EDWIN C. WILSON

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711.1928/812

*The Minister in Panama (Gonzalez) to the Secretary of State*

No. 543

PANAMA, December 27, 1934.

[Received January 7, 1935.]

SIR: I have the honor to report that at an informal interview had today with the Secretary of Foreign Relations he voluntarily spoke regarding the progress of the treaty.

He stated that conversations were continuing on more or less minor matters in Washington, but that the objection made by the Panamanian Government as to the provisions of Article II of the Treaty of 1903 being inserted into the new treaty seemed to be meeting with obstacles. He said that Panama felt it had already complied with that provision of the treaty and that it was no longer necessary to incorporate it in any new treaty and that that was holding up further progress. That the same question had been raised by Mr. Louis Anderson, an international lawyer of Costa Rica, in connection with the boundary matter upon the ground that since the United States could take over any land which it might require in defense of the Canal, that under those conditions Costa Rica could not accept any land from the Republic of Panama in the settlement of its boundary dispute as it was not free to dispose of any land, which was at all times subject to be requisitioned by the United States Government. For this reason, the boundary conversations with Costa Rica had come to a sudden termination instead of, as expected, being adjusted and settled. Under the circumstances the Foreign Secretary stated that unless the United States was willing, particularly in time of peace, to

refrain from taking over any further land of the Republic of Panama that that in itself would prevent the negotiation of a new treaty.

Further, that as a condition for the construction of the trans-isthmian road, the United States had suggested that it be permitted to erect along said road any and all fortifications and gun emplacements which it deemed necessary and that, regardless of the fact that Panama was anxious to build this road, it could not be considered if it was to be a military area, particularly that portion of the road located within the territory of Panama. Furthermore, the Secretary stated, that the conditions as to construction of this road were so severe in character that it would necessitate a \$3,000,000. investment on the part of Panama which it could not afford and, in conclusion, since the main benefit of this road would enure to the United States and not to the Panamanian people, that if such provisions were to be insisted upon, Panama would abandon the idea of constructing the trans-isthmian road.

He further stated in conclusion that if the United States insisted on its right to take over further property of Panama that he presumed that the ultimate conclusion would be to withdraw the commission and continue under the old treaty until such time as other arrangements might be made. He informed me further that regarding the Madden Dam road, that it has been tentatively agreed that the Republic of Panama would turn over to the United States the jurisdiction thereof in exchange for permission to build the trans-isthmian road but that the conditions above mentioned made that impossible.

He further stated that in connection with the matter of radio, that regardless of the fact of whether the United States made a radio agreement or not the Panamanian Government intended to proceed with radio broadcasting under its recent laws, and the Madrid Convention<sup>25</sup> which it had signed, as well as the United States.

It is quite apparent, insofar as the Panamanian Government is concerned, that they do not seem to be willing to grant any rights to the United States, whether they relate to the maintenance, operation and/or defense of the Canal or not, and that their sole theory is based upon the fact that it has already turned over to the United States all the land and waters which the United States required for the defense of the Canal.

I inquired from him as to what was the objection of Panama for the United States having whatever land was necessary for the proper defense of the Canal, and his reply was that without any limitation being made the people of Panama were of the opinion that under an unlimited provision as to further acquisition of land the United

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<sup>25</sup> Signed December 9, 1932, *Foreign Relations*, 1932, vol. I, p. 873.

States might be able some day to extend its jurisdiction even to the Costa Rican border.

This afternoon I interviewed the President for the purpose of inquiring from him whether or not in his opinion he believed that a treaty which might be agreed upon in Washington and presented to the National Assembly could be passed. He stated that in his selection of Dr. López and Dr. Garay he had two views in mind, one, to obtain a representative of the Chiarista Party by the appointment of Dr. López and, secondly, from the Panamanian Society of International Action in the person of Dr. Garay, and that if they agreed in Washington to terms for a new treaty that he was positive that the Assembly would ratify it. On the other hand, he stated that there had been some delay caused in the conversations in Washington, first, owing to the fact that Dr. Garay had been ill and then Mr. Edwin Wilson having become ill, as well as the Christmas holidays, all of which had slowed up conversations.

However, the question of incorporating in the new treaty the provisions contained in Article II of the Treaty of 1903 was objectionable, and that unless the Government of the United States would be willing to eliminate that provision, Panama would be unable to continue conversations as to any new treaty; that as yet his Government had not received definite advice on this question from the State Department. His commissioners in Washington had written for further instructions as to whether or not they should remain any longer in Washington, and he had advised them that they should remain until the end of January before returning.

This information seems to be in accord with what is heretofore reported as to the conversation with the Secretary of Foreign Relations.

The President then stated that in addition to the objection on the part of his Government, to the subject matter of Article II of the treaty of 1903, that Louis Anderson, international lawyer in Costa Rica, was making much to do over the question of whether or not Panama was able to cede any land to Costa Rica in the boundary dispute, because the United States, under Article II, would be able to follow the land and claim it, which the President stated was of course an exaggerated view but, however, had been made authentic enough in Costa Rica to bring about the secession [*cessation?*] of all further conversation regarding the determination of the boundary.

I inquired of the President as to his opinion concerning the pending banking bill. He stated that it was his understanding that when the original bill was presented to Mr. Manuel José Diez, of the Chase National Bank, that he made no objection to it, but that he, the President, understood that the amendments which had since been made by

the Assembly had changed the complexion of the bill; that the bill was coming up today for second debate in the National Assembly and for further amendments and that he as yet was not familiar with the context of the bill.

In speaking of the free port bill, the President stated that he intended to circularize the advantages of that bill among the exporters of the United States through the medium of his consuls, since he believed that sufficient advantages would be found for exporters under it and he wanted to have them fully advised through the medium of his consuls, who would be supplied with copies of the bill.

He also stated, in referring to the Blandin rubber contract, that he believed that contract would not only be beneficial to his people, since it would give rise to employment and to a product of exportation, but also to the Goodyear Tire and Rubber Company who, in time of war, would have a plantation accessible to the United States for its needs and that he was ready to re-execute the contract as amended just as soon as a representative of the Goodyear Tire and Rubber Company would come to Panama.

Respectfully submitted,

ANTONIO C. GONZALEZ

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OBJECTIONS BY PANAMA TO RECEIVING PAYMENT OF THE PANAMA  
CANAL ANNUITY IN DEVALUED DOLLARS

711.1928/217½

*Memorandum by the Chief of the Division of Latin American Affairs  
(Wilson)*

[WASHINGTON,] January 17, 1934.

Dr. Alfaro, Minister of Panama, came in. He said that he had instructions from President Arias to inquire regarding the payment of the Canal annuity "in gold coin of the United States," as provided in the 1903 Treaty.<sup>26</sup> In this connection President Arias desired him to refer to the conversation which President Arias had with President Roosevelt on this subject.<sup>27</sup> President Arias stated that the first night at the White House he had mentioned the matter and had asked that payment be made on a gold basis. At this point Dr. Alfaro read me a letter he had received from President Arias in which the latter stated that President Roosevelt had answered, in effect, that there would be no question of making the payment on a good [*gold?*] basis, because it was an obligation of an international character.

<sup>26</sup> Signed at Washington, November 18, 1903, *Foreign Relations*, 1904, p. 543.

<sup>27</sup> For correspondence concerning the visit of the President of Panama to the United States in October 1933, see *ibid.*, 1933, vol. v, pp. 852 ff.

Dr. Alfaro then said that he recalled that President Arias had mentioned to him, the day following the afore-mentioned conversation, that President Roosevelt had added something to the effect that he wanted the benefit of the gold payment to accrue to Panama and not "to the bankers." Dr. Alfaro stated that under the terms of the trust agreement for the 1923 loan and subsequent instructions issued by the Government of Panama, the Canal annuity of \$250,000 was paid over by the United States Government to Mr. William Nelson Cromwell as Fiscal Agent of the Republic of Panama, for application against the service of the loan. Dr. Alfaro said that it was his understanding that all of the \$250,000 was not required for the service of the 1923 loan, since the revenue from the Constitutional Fund of six million dollars was also pledged to the service of this loan. The 1928 loan, now in partial default, had a second lien on the Canal annuity and the income from the Constitutional Fund, as well as having certain specific revenues pledged in its favor.

Dr. Alfaro said that it was the intention of the Republic of Panama to deposit with Mr. Cromwell, as heretofore, the \$250,000 in legal tender money, in accordance with the Republic's obligations; however, Panama desired that the additional amount, representing the difference between the annuity in "legal tender" and on a gold basis should be made available directly to Panama.

I told Dr. Alfaro that I had not known before that this matter had been discussed between the two Presidents. I said that we would at once give consideration to it and would advise him later.

EDWIN C. WILSON

711.1928/2144

*The Chief of the Division of Latin American Affairs (Wilson) to the Assistant Secretary of State (Welles)*

[WASHINGTON,] January 25, 1934.

DEAR MR. WELLES: I attach memorandum of my conversation with Dr. Alfaro, Minister of Panama, on January 17, 1934.<sup>28</sup> In brief, Dr. Alfaro requested, under instructions from President Arias, that the Canal annuity of \$250,000, due to be paid on February 26, 1934, should be paid on a gold basis. Dr. Alfaro read me a letter he had received from President Arias, in which the latter stated that he had discussed the matter with President Roosevelt when the two Presidents conferred in Washington in October, last, and that President Roosevelt had agreed that the payment should be made on a gold basis because it was an obligation of an international character. Dr. Alfaro then raised a second point, namely, that if payment is made on a gold basis,

<sup>28</sup> *Supra.*



only the sum of \$250,000 legal tender money should be paid over by the United States Government to Mr. William Nelson Cromwell, as Fiscal Agent of the Republic of Panama, and the balance representing the difference between the annuity on a legal tender basis and on a gold basis should be paid direct to the Republic of Panama for its own uses.

I also attach a memorandum<sup>29</sup> regarding the situation of Panama's foreign debt, and the provisions of the pertinent loan contracts, et cetera.

Briefly, my views regarding the Panamanian request are as follows:

Article 14 of the 1903 Treaty provides that the annuity shall be paid in gold coin of the United States. It appears, from papers attached hereto, that on November 10, 1933, we wrote the Secretary of the Treasury<sup>30</sup> requesting that arrangements be made for payment at the Mint par rate of exchange of certain international obligations of the United States payable abroad in gold currency. The Treasury took the matter up with the President, who approved the request. The principle applicable to the Panamanian case, therefore, seems to have been settled.

The second point, however, raised by the Panamanian request, that the "velvet" represented by the amount in gold in excess of the legal tender value should accrue directly to Panama, cannot, I believe, be decided favorably. On June 8, 1923, the Panamanian Minister addressed a letter to the Secretary of State<sup>31</sup> advising of arrangements for the issuance of the 1923 bonds; stating that the Republic had irrevocably conferred exclusive authority upon William Nelson Cromwell, as Fiscal Agent of the Republic, to receive payment for a certain part of the \$250,000 annually until the earlier satisfaction of the Trust Indenture of November 2, 1914, under which the Farmers' Loan and Trust Company was Trustee, for a Panamanian bond issue, "or in the event of the satisfaction of said Trust Indenture of November 2, 1914, prior to February 26, 1944, to receive and give acquittance for the entire amount falling due on each February 26th subsequent to the satisfaction of said Trust Indenture; and we hereby irrevocably authorize and request that Your Excellency's Government pay over said several sums to said William Nelson Cromwell, as Fiscal Agent, or his successors, during the periods and as above provided. You may accept as conclusive evidence of the satisfaction of said Trust Indenture of November 2, 1914, prior to February 26, 1944, a certificate executed by the Farmers' Loan and Trust Company of New York, as trustee, certifying to such satisfaction".

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<sup>29</sup> Not found in Department files.

<sup>30</sup> Letter not printed.

<sup>31</sup> Not printed.

On February 27, 1929, Sullivan and Cromwell forwarded to the Department <sup>32</sup> a certificate executed by the Farmers' Loan and Trust Company of New York as Trustee, certifying to the satisfaction of the Trust Indenture of November 2, 1914. It would therefore seem clear that under the terms of the Panamanian Minister's letter of June 8, 1923, the State Department is "irrevocably" authorized and requested by the Panamanian Government to pay over "the entire amount" falling due on February 26. If we decide that the Canal annuity should be paid on a gold basis, then it would appear that the Department is obligated to pay over the entire amount of the annuity to Mr. Cromwell.

The 1928 loan is secured, in addition to certain pledged revenues, by a second charge, subject to the 1923 loan, on the income from the constitutional fund and the \$250,000 annuity. Service in full is being paid on the 1923 loan. On the 1928 loan, however, sinking fund payments have not been met, and interest is being paid only to the extent that funds are available from the balance of the income from the constitutional fund and the annuity after prior satisfaction of the 1923 loan requirements. This means, in effect, that about 33% of the interest requirements of the 1928 loan are being paid. If the additional amount represented by payment of the annuity on a gold basis is turned over by Mr. Cromwell to the Fiscal Agents for the 1928 loan, as appears to be required under the Fiscal Agency contract, then the interest payments on the 1928 bonds will be by that much increased. This would mean that the benefit derived from payment of the annuity on a gold basis would in fact inure to the Republic of Panama, since it would be applied to the payment of the Republic's outstanding obligations.

My recommendations in the matter are:

1) That we should request the Treasury to have the annuity paid on a gold basis. This point, I believe, should be referred first to Mr. Carr <sup>33</sup> for his approval;

2) That upon an affirmative decision as to the foregoing, we should so advise Dr. Alfaro, but at the same time inform him that in view of the irrevocable instructions comprised in the Panamanian Legation's letter to the Department of June 8, 1923, we are obligated to pay over the entire amount to the Fiscal Agent of the Republic. This point, I suggest, should be referred to Le <sup>34</sup> for an opinion.

EDWIN C. WILSON

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<sup>32</sup> Communication not printed.

<sup>33</sup> Wilbur J. Carr, Assistant Secretary of State.

<sup>34</sup> The Office of the Legal Adviser.

711.1928/206‡

*The Secretary of State to President Roosevelt*

WASHINGTON, February 21, 1934.

DEAR MR. PRESIDENT: Referring further to demand of Panama Government for payment of the Canal annuity of \$250,000 by the United States Government "in gold coin of the United States", the Panama Minister here presented this demand to Mr. Edwin Wilson, head of the Latin American division here in the Department.

It occurred to me that it would emphasize the matter much less to let Wilson rather casually send for the Minister and make reply to him, in substance as set out in the attached manuscript, by doing so orally and making no written record.

I wish you would read this over and offer any comment or suggestions, and return as soon as convenient.<sup>35</sup>

CORDELL HULL

[Enclosure]

I have given full consideration to the request of the Panama Government that the United States Government pay its Canal annuity of \$250,000 "in gold coin of the United States". The suggestion that the United States Government as the result of an official conversation more than four months ago should make this February payment in gold, has received my careful consideration. It will be recalled that at the time of the official conversations referred to, a considerable list of complaints by the Government of Panama was receiving both sympathetic and favorable consideration and action. I think the full nature and extent of the complaints by Panama were understood by the United States Government, were reduced to a memorandum<sup>36</sup> or other instrument of writing, and their solution in a way favorable to the desires of the Panama Government to the fullest extent deemed at all consistent by the United States has been and is being gradually brought about.

Evidently any oral references to future canal annuity payments in gold were not deemed of a sufficiently binding or contractual nature as to be reduced to writing. The conversation apparently went no further than the expression of a hope or a disposition which did not and could not foresee the completely revolutionary financial and monetary changes which soon took place.

The devaluation by the United States of the gold content of the dollar, for example, operates in a large sense to reduce by 40 per cent

<sup>35</sup> A photostatic copy of the original of this document bears the notation: "C. H. Yes, grand idea. FDR."

<sup>36</sup> *Foreign Relations*, 1933, vol. v, p. 863.

external debts due and payable in the United States. The gold standard in most parts of the world has broken down; currencies everywhere have been dislocated; currency devaluations have taken place in most important countries. Nations generally recognize now that the use of gold as a currency should be permanently abandoned and the gold standard, for the present at least, abandoned both for internal and external purposes, in most parts of the world.

Financial and monetary conditions, therefore, are entirely different today, compared with what they were some months ago. For example, when the British Government went off gold, great losses resulted abroad, such as the virtual wiping out of the capital of the Netherlands Bank and that of the Bank of France, to say nothing of losses to English creditors throughout the world. American creditors are experiencing similar effects.

There is still another phase which would seem to be conclusive against the suggestion of the Government of Panama, which is the terms of payment in the United States to the fiscal agent of Panama and by him in turn to the chief holders of the Panama bonds who reside in the United States. From the location and the expressed terms of the payment and disposition of the entire canal annuity of \$250,000 under the most definite and irrevocable instructions of the Panama Government, it is difficult to conclude that the Panama Government would very seriously suggest that a gold bonus be handed over to it to be by that Government added to the 40 per cent reduction it has already potentially received on its indebtedness payable in this country by reason of the devaluation of the gold content of the dollar. If, in the light of the foregoing, you have any suggestions to make, I should be glad to meet with you at any time and talk them over.

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711.1928/206

*Memorandum by the Chief of the Division of Latin American Affairs  
(Wilson)*

[WASHINGTON,] February 26, 1934.

At my request, Dr. Alfaro came in this afternoon and I explained to him our way of looking at the question raised by Panama of the payment of the Canal annuity in gold, (as set out in the memorandum which the Secretary sent to President Roosevelt and which was approved by the latter).

Dr. Alfaro explained his views at some length. In brief, he disagreed on all points. As regards the conversation between the two Presidents, he stated that, according to what President Arias had informed him, the mention of the payment of the annuity in gold had come about as the result of a statement made in confidence by

President Roosevelt to President Arias regarding his currency program involving the ultimate devaluation of the dollar; when this was mentioned, President Arias (this is the version given me by Dr. Alfaro) said that there was this annuity to be paid a few months hence, and he hoped very much it would be paid in gold; President Roosevelt (according to Dr. Alfaro) said that of course the United States would pay in gold, but that he did not want "the bankers" to get the benefit of such payment, but wanted it to accrue to Panama alone.

Leaving aside the question of the conversation between the two Presidents, Dr. Alfaro said that Panama's contention was, in brief, that Panama had granted certain valuable rights in the 1903 treaty to the United States in return for a definite consideration, namely, the annual payment of a certain value as set out in the then existing gold dollar of the United States, to be made in perpetuity. Panama maintained that whatever the United States might do by exercise of its sovereign will in currency matters as regards its own citizens, the United States could not by unilateral act set aside the rights under an international compact accruing to another sovereign country. Panama's rights in this matter would be judged under international law and not under the domestic law of the United States.

Dr. Alfaro asked me if this was the "final word" by the United States. I said that I had explained our way of looking at it, after rather thorough discussion with people in different Government departments competent in such matters. I said that if Panama felt there were any phases of the matter which we had not taken into consideration, we should always be glad to consider them and to discuss them with him at any time.

Dr. Alfaro said that he would appreciate very much an opportunity to explain the Panamanian point of view to whatever officials of this Government "had a say" in determining our position in the matter. He said that he would like "a day in court" in order that the Panamanian viewpoint might be thoroughly discussed.

I said that I would be glad, indeed, to arrange such a conference.

I told Dr. Alfaro that as the annuity was due today, February 26, we had transmitted today to the Fiscal Agent of Panama in New York, as we were requested to do under the irrevocable instructions of the Panamanian Government, the Treasury warrant in the amount of \$250,000, as we had done in previous years. Dr. Alfaro said that he would communicate at once with his Government, and expected instructions would be sent to the Fiscal Representative either to decline to receive payment of this amount in legal tender money, or else, in receiving it to enter reservation as to Panama's rights to further payment.

711.1928/2065

*Memorandum by the Chief of the Division of Latin American Affairs  
(Wilson)*

[WASHINGTON,] February 28, 1934.

In accordance with the request of Dr. Alfaro, the conference was held in my office today, attended by Dr. Alfaro, Mr. MacLean, Assistant Solicitor General, Mr. Laylin, of the Treasury Department (in place of Mr. Opper who was unable to attend), Mr. Hackworth,<sup>37</sup> Mr. Merrell,<sup>38</sup> and myself.

Dr. Alfaro set out with considerable force and at some length Panama's contentions, as he had stated them to me on February 26.

The suggestion was made to him that Panama was in no sense suffering any prejudice, since the annuity payment had been assigned by Panama to the bondholders and that at least until the bonds had been retired, Panama would gain no benefit from the payment in gold, since this would automatically accrue to the bondholders. It was suggested that in view of this situation, Panama might desire to allow the situation to rest for the time being until such time as Panama might actually suffer some prejudice, when we could reexamine the matter.

Dr. Alfaro declined flatly to consider this suggestion. He felt, on the contrary, that Panama might well derive benefit from payment on the gold basis since Panama's obligations to the bondholders, such being payable in New York, were subject to the legislation of this country and hence, in his view, could be paid only on a legal tender basis, whereas Panama, being entitled to payment in gold from the United States Government, should profit by the additional amount involved in such form of payment. His contention was that the United States Government should make payment in gold or on a gold basis to the Fiscal Agent and that the question of what ultimately became of this payment should not be determined by the United States Government, but should be left for determination by the Fiscal Agent, the bondholders, and presumably the courts of this country.

Mr. MacLean expressed the opinion that the arrangements made by Panama, under which the treaty payment was assigned to its bondholders in this country, might well be a controlling factor in the situation, and said that he would like time to study the provisions of the loan contracts and other related documents. It was agreed that such study would be made.

At the close of the conference, Dr. Alfaro stated that the Fiscal Agent of Panama in New York had been instructed to decline to receive the payment made on February 26, and that we could expect to have

<sup>37</sup> Green H. Hackworth, Legal Adviser of the Department of State.

<sup>38</sup> George R. Merrell, Jr., of the Division of Latin American Affairs.

such payment returned to us. It was suggested to Dr. Alfaro that Panama might permit the Fiscal Agent to receive this payment, reserving her rights in the matter. Dr. Alfaro said, however, that this would merely result in having the matter drag along, and that Panama desired to bring the issue to a head at this time and to have it settled.

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711.1928/2104

*Memorandum by the Panamanian Minister (Alfaro), Handed to the Department of State, March 1, 1934*

CONFERENCE HELD AT THE STATE DEPARTMENT, FEBRUARY 28TH, 1934 <sup>39</sup>

PROPOSITIONS MAINTAINED BY THE MINISTER OF PANAMA IN CONNECTION WITH THE PAYMENT OF THE CANAL TREATY ANNUITY DUE BY THE GOVERNMENT OF THE UNITED STATES ON FEBRUARY 26TH, 1934.

1. The juridical relations of Panama with the United States arising out of the Canal treaty are governed by international law.

2. An obligation arising out of an international treaty cannot be changed, altered, diminished or impaired by the act of one of the parties to the treaty.

3. The United States cannot discharge its obligations towards the Republic of Panama by applying to the form of payment laws enacted by the United States whereby the treaty rights of Panama are diminished, impaired, prejudiced or in any manner affected.

4. A treaty or a contract is the expression of the will of the two parties. Therefore, the mind of the two parties necessarily must contemplate the things existing at the time of the contract. The mind of the parties cannot contemplate things not existing or the existence of which is not foreseen.

5. When the Canal treaty stipulated in 1904 that the United States would pay in perpetuity to the Republic of Panama an annuity of \$250,000 in gold coin, in compensation for rights granted by Panama also in perpetuity, that "gold coin" necessarily meant the coin existing at the time the treaty was signed, not the coin which existed thirty or a hundred years before or the coin which might exist or be created thirty or a hundred years later.

6. The gold existing in 1904 had certain weight and fineness which determined its value and hence, the value of the compensation agreed upon and stipulated in perpetuity. That value may change for causes independent from the will of the parties, but it cannot be changed by the will of only one of the parties to the Canal treaty.

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<sup>39</sup> See *supra*.

7. The value stipulated as a perpetual compensation to be paid annually by the United States to the Republic of Panama was the value represented by the sum of 250,000 coins named dollars and having a gold contents of 25.8 grains, 900 thousandths fine.

8. The above stated value cannot be diminished to the prejudice of the Republic of Panama by reason of a law enacted by the Congress of the United States, whereby it is decreed that the coin named dollar shall henceforth have a gold contents of 15.3 grains of the same fineness.

9. The Congress of the United States might likewise and with indisputable right enact some other law by which the gold contents of the dollar be reduced to five grains or to one grain; and if dollars of such a weight could legitimately be used in discharge of the treaty annuity, the right of Panama to the compensation agreed upon in 1904 would be virtually wiped out. This possibility would be so palpably contrary to the most elementary principles of justice and right that to enunciate it is equivalent to a refutation of the proposition.

10. The right of Panama to receive in discharge of the Canal annuity the gold coin stipulated in the treaty or its equivalent is not dependent upon the use to which the money may be or must be destined or upon considerations that Panama will not be benefited by such payment in gold.

11. The existence of a right does not cease or vary by reason of the fact that the person vested with the right is or is not benefited by its exercise.

12. The obliger in a stipulation to give or pay something is not vested with the power of deciding whether the discharge of his obligation will benefit his creditor or not.

13. Whatever disposition may be given to the proceeds of the Canal annuity, the Republic of Panama will be benefited one way or other by the enhanced value of gold with respect to present American "lawful currency". This is stated as a fact but it is maintained that this consideration has no bearing on the question of the treaty obligation of the United States with regard to the Republic of Panama.

14. Consideration of the question of benefit or no benefit would make compliance with the annuity clause of the Canal treaty contingent upon conditions of fact presumably determinable by the United States, viz; if Panama is benefited, the annuity will be paid in gold coin of 1904 or its equivalent; if she is not benefited, payment will be made in "lawful currency" of such value as may be determined by act of Congress.

15. The juridical relations of Panama with the bondholders of her foreign debt in the United States are governed by the laws of the United States.



16. The Republic of Panama has an indisputable right to discharge its obligations in the United States in accordance with the laws of the United States.

17. Payment in gold of 1904 cannot be objected to on the ground that Panama is discharging its debt obligations in the United States in "lawful currency". Panama does so and legitimately can do so because the United States in the exercise of its sovereignty has decided that it is for the good of the country to devalue the dollar, to abolish the gold coins, to abolish the gold clause in contracts and to make "lawful currency" legal tender in all sorts of obligations, and has so decreed by law.

18. The Republic of Panama has not been the only entity or person benefited by the reduction in the value—not the amount—of her debt, produced *ipso facto* by the devaluation of the dollar. Every debtor in the United States, whether a citizen of the United States or an alien, whether a natural or a juridical person, has been equally benefited.

19. The fact that this reduction in the actual value—not the amount—of its debt has taken place by the devaluation of the dollar, cannot be adduced as a reason for not making the payment of the Canal annuity as provided by the treaty. An international obligation cannot be affected by the effects of a given legislation in a Nation party to a treaty.

20. Panama owes in the United States a debt amounting to about \$15,000,000.00. At the same time Panama has invested in mortgages in the city of New York since 1904 the so-called Constitutional Fund of \$6,000,000.00. The abolition of the gold clause and the devaluation of the dollar work both ways with regard to Panama. In her favor, with regard to her outstanding loans. Against her, with regard to her investment.

21. Whether the debts of Panama in the United States are larger than her credits or vice versa and whether Panama had no debt at all or no credit at all in the United States, these facts are immaterial with regard to the international obligation of the United States towards Panama. Such obligation exists and is immutable. It cannot be affected or varied. Except by agreement of the two parties, it remains and will remain exactly the same whether Panama happens to have contracted loans in the United States or in case she had contracted the same loans in France and had now to buy francs at the rate of 6.56 for the service of the debt.

22. Panama has not "sold" or "assigned" in perpetuity to the bondholders of its debt the treaty payment. Panama has temporarily

"charged", "pledged", and "allocated", as security for the service of its debt, the said treaty payment to the extent that is necessary to cover the amortization and interest stipulated in the Loan Indentures of 1923 and 1928.

23. The loan pledge is temporary. The treaty payment is perpetual. The parties to the treaty, in accordance with international law, are eternal. Temporary agreements cannot disturb the essence of a perpetual right and the nature of its correlative obligation.

24. The Loan Indenture of 1928 provides:

"SIXTH. The Republic covenants and agrees that: "(1). It will not at any time, while any of the bonds issued hereunder are outstanding, enter into any agreement or understanding or do any act or thing whereby the obligation of the United States of America to make the Treaty Payments, shall or may be in any manner released, affected or impaired.

25. The Republic of Panama would allow the treaty payment obligation of the United States to be affected and impaired if she would agree or acquiesce in the proposition that payment may be made not in gold coin of 1904 but in any other "lawful currency" of a lesser value than that gold coin.

WASHINGTON, February 28, 1934.

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711.1928/211

*Memorandum by the Chief of the Division of Latin American Affairs  
(Wilson)*

[WASHINGTON,] March 2, 1934.

Dr. Alfaro telephoned me today that he had just received a cable from his Government that at the meeting of the Panamanian cabinet yesterday the question of the payment of the gold annuity was considered. The cabinet decided that the Fiscal Agent would be authorized "to turn over to the trustees of the loans the total of the proceeds of the gold payment in terms of lawful currency." In other words, Dr. Alfaro said, the Government of Panama now desires to devote to the service of its loans the additional payment which it expects to receive in legal tender representing payment of the annuity on a gold basis. Dr. Alfaro said that he was issuing a statement to the press in these terms but wished us to know of it first.

He added that he had heard from the Fiscal Agent that the latter was returning the Treasury check to the State Department today.

EDWIN C. WILSON

711.1928/207

*Sullivan & Cromwell to the Secretary of State*

NEW YORK, March 2, 1934.

DEAR SIR: We beg to acknowledge herewith your letter of February 24, 1934 <sup>40</sup> (BA—711.1928) addressed to William Nelson Cromwell, as Fiscal Agent of the Republic of Panama, and enclosing a copy of the Comptroller General's settlement Certificate No. 0322603, dated February 24, 1934, check on the Treasurer of the United States, No. 27,530, dated February 24, 1934, to the order of William Nelson Cromwell, Fiscal Agent of the Republic of Panama, for \$250,000 "in settlement of the annuity due the Republic of Panama on February 26, 1934, under Treaty of November 18, 1903", and a form of receipt therefor.

This form of receipt contains the statement that the aforementioned check is "in full payment of the annuity due the Republic of Panama February 26, 1934", etc.

In the absence from New York of Mr. Cromwell, but acting under his instructions, we beg to acknowledge your communication and to advise you that the Republic of Panama maintains the position that the payment of the Treaty Annuity, in accordance with the aforementioned Treaty, should be made in gold coin of the weight and fineness existing in 1904 or the equivalent in actual value thereof. Consequently, and in view of the aforementioned advice from the Government of Panama that it does not consider that the payment in question constitutes payment in full of the said Treaty Annuity, the Fiscal Agent considers that he cannot accept the check as tendered and the undersigned, on behalf of the Fiscal Agent, are returning the check herewith.

Respectfully yours,

SULLIVAN &amp; CROMWELL

711.1928/220a

*The Secretary of State to President Roosevelt*

WASHINGTON, March 20, 1934.

MY DEAR MR. PRESIDENT: With reference to my memorandum of February 21st, regarding the payment by this Government of the Panama Canal annuity of \$250,000, and to the conversations I have had with you since, I have gone into the matter in the most thorough manner and have now reached the following conclusions:

1) That our legal obligation to pay the yearly amount due Panama in gold dollars as of the weight and fineness of 1904 is a very doubtful question;

<sup>40</sup> Not printed.

2) That if we persist in our present contention, the Government of Panama will, in all probability, insist upon arbitration of the question, which, for obvious reasons, is undesirable;

3) That it would be likewise unwise, because of its effect upon other obligations of the United States, either to admit Panama's contention or to make any settlement which would appear to imply such admission.

Consequently, I suggest that as the most satisfactory and practical solution of the difficulty, the Government of Panama be advised that we will deal with this matter in the negotiations which we are shortly to undertake<sup>41</sup> in accordance with your authorization for the new treaty between the two Governments and that, in the meantime, the payment of \$250,000. will be made "on account". In the new Convention, the annuities to be paid to Panama could be increased in such an amount as would take care of the present obligation and such additional concessions as we may be able to obtain with respect to other matters now under consideration. The new annuities should not be expressed in terms of gold, but should be expressed in dollars, with the understanding that if the dollar is devaluated below the present standard, the difference shall be made up to Panama, and if the dollar rises above the present standard, a smaller amount shall be paid to Panama.

Finally, in connection with any arrangement that is made, we would take into account the rights of the Trustee and of the holders of the bonds of the Republic of Panama and the existing agreement on the part of Panama to turn over these annuity payments to its Fiscal Agent in New York for the benefit of the bondholders.

Since the matter has now been pending for some time, and the Government of Panama is increasingly impatient, I shall appreciate your letting me know whether the procedure above indicated meets with your approval.<sup>42</sup>

Faithfully yours,

CORDELL HULL

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711.1928/2334 : Telegram

*The Secretary of State to the Minister in Panama (Gonzalez)*

WASHINGTON, March 31, 1934—3 p. m.

29. For your strictly confidential information. This morning we suggested orally to the Minister of Panama the advisability, in view of the number of controversial questions pending between our two Governments, of discussing the possibilities of negotiating a treaty as a modification of the 1903 treaty to cover a settlement of such questions.

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<sup>41</sup> See pp. 581 ff.

<sup>42</sup> A photostatic copy of the original of this letter bears the notation: "C. H. OK FDR." (711.1928/225)

We suggested that the Panamanian request for payment of the Canal annuity on the basis of the former gold value of the dollar might be dealt with in such discussions. The Minister is to consult his Government and advise us later of its views.

HULL

[The question of the payment of the Canal annuity came up again in 1935 and 1936. The matter was finally settled by article VII of the General Treaty of Friendship and Cooperation between the United States and Panama, signed March 2, 1936 (see Treaty Series No. 945, or 53 Stat. 1807).]

**NEGOTIATIONS REGARDING PROPOSED TRANSFER OF TWO RADIO STATIONS BY THE UNITED STATES NAVY TO THE REPUBLIC OF PANAMA**<sup>43</sup>

819.74/259 : Telegram

*The Minister in Panama (Gonzalez) to the Secretary of State*

PANAMA, November 13, 1933—4 p. m.

[Received 8 : 15 p. m.]

160. Referring to radio control on Isthmus, Commandant Fifteenth Naval District informs me that Navy now prepared to turn over radio stations owned and operated by the United States at La Palma and Obaldía to Panaman Government. Commandant anxious to do this as soon as possible for reasons of economy. He is convinced that present equipment at the stations will not be appropriate for the use of Panama on account of the complicated character of apparatus and expense of operation.

Commandant suggests that this Legation propose to Panaman Government that present apparatus of these stations be dismantled and removed; that Navy would substitute, free of all charge to Panama, receiving and transmitting sets appropriate for the purposes of the stations; that present Diesel engines be dismantled as too large and costly of operation [and that?] they be replaced by small Delco or other generators to be purchased by Panama at a cost of about \$500 each station. The Panaman operators who have been instructed by the Navy for the past 3 months now prepared, Commandant states, to take over these smaller installations.

It will be appreciated if the Department will inform me by Navy radio whether it has any objection to informal inquiries being made from Panaman Government provided such arrangement will be satisfactory.

GONZALEZ

<sup>43</sup> For other correspondence regarding radio control in Panama, see pp. 581 ff.

819.74/261 : Telegram

*The Acting Secretary of State to the Minister in Panama (Gonzalez)*

WASHINGTON, November 21, 1933—7 p. m.

105. Your telegram No. 160, November 13, 4 p. m. After consultation with Navy Department no objection perceived to your making informal inquiries.

PHILLIPS

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819.74/264 : Telegram

*The Minister in Panama (Gonzalez) to the Secretary of State*

PANAMA, January 29, 1934—4 p. m.

[Received 8:15 p. m.]

14. Reference Department's 105, November 21, 7 p. m. At conference today with Minister for Foreign Affairs regarding transfer of radio stations La Palma and Obaldía he stated Navy conditions are not acceptable to Panama in that freedom of action of these stations would be limited. He will send Legation memorandum based on interview with Minister of Justice Jimenez of November 24 setting forth Panaman objections.

GONZALEZ

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819.74/265 : Telegram

*The Minister in Panama (Gonzalez) to the Secretary of State*

PANAMA, February 4, 1934—10 a. m.

[Received 3 p. m.]

19. Referring to my telegram No. 14, January 29, 4 p. m. The Panaman Government has, up to the present time, failed to communicate in writing its views on the radio question. I submitted on the 2d to the Secretary of State for Foreign Affairs an informal draft of joint agreement covering the transfer of radio stations at Obaldía and La Palma to the Panaman Government, and requesting examination by Panaman authorities. The draft was composed by the Legation in accordance with the Department's telegraphic instruction of November 21, 7 p. m. It was in line with suggestion by the Navy here and endeavored to meet objections voiced by Panama in the various conversations held by Legation since November 24. Copy is being forwarded to the Department by air mail.

It provided that the transfer of the two stations would not obligate Panama to clear messages from them through naval radio at Balboa and I verbally expressed the willingness of the Navy to assist Panama in constructing additional stations of its own in Panama City or elsewhere.

Secretary Arosemena said that the agreement seemed reasonable as with its own radio stations Panama could initiate ship to shore service. I replied that the draft agreement was certainly limited to the transfer of two stations as a courtesy to Panama but in no wise affected the ship to shore question whose solution was a matter of separate negotiation in line with the conversations between the two Presidents<sup>44</sup> and will follow the establishment of the radio board. This board, President Arias now believes, is unacceptable to Panama in the form outlined in item 8 of the Washington agreement.<sup>45</sup>

I said there was no objection to Panama communication with other countries through the two stations or through such other stations as it might install as long as the defense and operation of the Canal is properly safeguarded, and that the Navy expresses a willingness to construct a central station at Panama City for the Government of Panama. The Secretary said that Tropical Radio would effect this service for Panama.

The Secretary promised to have the radio question considered at a special Cabinet meeting and to transmit the views of Panama to the Legation on February 8.

The Legation can see no reconciliation of the opposing views of the Navy and Panama regarding ship to shore service, and it is now clear that Panama, on establishing independent operation of Obaldía and La Palma as a precedent, would initiate ship to shore service through Tropical Radio and disregard what the Navy so strongly considers to be essential, viz., control through a board when the United States is adequately represented.

GONZALEZ

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819.74/268

*The Minister in Panama (Gonzalez) to the Secretary of State*

No. 106

PANAMA, February 4, 1934.

[Received February 7.]

SIR: I have the honor to refer to my telegram No. 19 of February 4, 10 A. M. concerning the conversations with the Panamanian Foreign Office and with President Arias concerning the question of radio control in general and, specifically, the transfer to Panama of the United States Naval Radio Stations at Puerto Obaldía and La Palma.

There are enclosed herewith copies of a Memorandum to the Foreign Office of February 2, 1934 transmitting a draft of a joint agreement covering the above mentioned transfer, the agreement itself, and a copy

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<sup>44</sup> See *Foreign Relations*, 1933, vol. v, pp. 852 ff.

<sup>45</sup> *Ibid.*, p. 866.

of a Third Person Note addressed to the Foreign Office on February 3, 1934.<sup>46</sup>

The Department is aware of the opposing points of view in relation to conceding an ample measure of independence to Panama in its radio facilities and it would appear that no advance has been made in bringing these opposing viewpoints together. President Arias feels that a Radio Board as suggested in the Washington conversations would meet great popular resentment in Panama but is apparently unwilling to act hastily in going ahead without American approval. The Navy here feels that Tropical Radio is likely to initiate ship to shore service under Panamanian license and that the statement of Secretary Arosemena to me on February 2nd openly discloses that intention.

The Department's instructions will be greatly appreciated. It would seem that a decision should be now reached as to how far we are prepared to go, whether we are prepared to recede from our former position and sacrifice what the Navy considers necessary for the Canal defense, or whether we are to insist on a measure of control which Panama will not willingly accept and which we, in all likelihood, cannot enforce in time of peace.

Respectfully yours,

ANTONIO C. GONZALEZ

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819.74/269 : Telegram

*The Minister in Panama (Gonzalez) to the Secretary of State*

PANAMA, February 9, 1934—3 p. m.

[Received 8:35 p. m.]

23. Referring to my telegram No. 19, February 4, 10 a. m. and my despatch No. 106 of February 4th, Secretary for Foreign Affairs today handed me a memorandum giving Panaman Government's views regarding the agreement to cover transfer of radio stations at Puerto Obaldía and La Palma. The points upon which this memorandum differ substantially from the Legation's draft agreement of February 2nd are: (1) two frequencies are requested on 4.000 to 5.500 band and two on 6.675 to 7.000; (2) in case of war or threatened hostilities both stations shall be jointly managed and controlled by the two Governments; and (3) the agreement shall not limit the rights of Panama to erect, operate, and maintain radio telegraphic communication from point to point or shore to ship, nor shall it be considered as a limitation, definition, or restrictive condition on the rights of Panama to operate radio telegraphic stations.

Naval authorities here state that changes (1) and (2) are acceptable.

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<sup>46</sup> None printed.



The Legation replied to the Minister for Foreign Affairs reiterating that this present agreement cannot be construed as modifying any of the larger aspects of the as yet unsettled radio question nor affecting control of ship to shore service. It suggested that, instead of (3), the following be substituted "all provisions of the foregoing paragraphs relating to the operation of the radio stations at Puerto Obaldía and La Palma shall be effective until superseded by the general agreement concerning radio which is expected to be negotiated between the two Governments."

GONZALEZ

819.74/274

*The Minister in Panama (Gonzalez) to the Secretary of State*

No. 142

PANAMA, March 3, 1934.

[Received March 12.]

SIR: I have the honor to refer to Despatch No. 113 of February 10, 1934,<sup>47</sup> and to the Legation's telegram No. 23 of February 9, 3 p. m., concerning the proposed agreement to cover the transfer to the Panamanian Government of the Navy Radio stations at Puerto Obaldía and La Palma.

After a number of conferences with the President and the Secretary for Foreign Affairs in which the Legation has endeavored to reconcile the conflicting views of the Navy and the Panamanian Government, I have arrived at the conclusion that I should not further approach the local Government in the matter until I am given further instructions by the Department. The ideas of the Navy have been conveyed to the Legation by Commander W. L. Ainsworth, District Communication Officer of the 15th Naval District. This officer has expressed the Navy viewpoint regarding each clause in the various proposed drafts of the agreement and has represented the Admiral Commandant of the 15th Naval District in almost daily consultation with the Legation.

It is felt that arrival at an early agreement through this Legation is rendered difficult by the insistence of the Navy on points which it regards as vital to Canal defense, and I accordingly informed Commander Ainsworth on March first that the Legation would decline further to press an agreement on the Foreign Office until instructions are received from the State Department as to which points may be conceded and which ones are to be regarded as essential and to be insisted upon. It is understood that Admiral Crosley<sup>48</sup> at once communicated this information to the Navy Department.

It would seem that the points in disagreement can only be ironed out through conferences in Washington between officers of the two

<sup>47</sup> Not printed.

<sup>48</sup> Commandant of the 15th Naval District.

Departments. The Legation cannot otherwise be sure that upon reaching an understanding with Panama it will not be decided that we cannot concede what has been agreed upon, thereby forcing reconsideration of the entire agreement. This does not conduce to satisfactory negotiation or make a happy impression on the other parties to the negotiation.

The Navy, in its insistence on certain frequencies to be allotted to Panama for the use of these two stations, is endeavoring to avoid interference and general chaos in the radio situation on the Isthmus, and perhaps also to tie up Panama so fast that it will not be able to communicate from ships to shore nor in any other manner considered by the Navy as affecting the Canal defense.

Panama is endeavoring to insert in the agreement an admission by the United States that Panama should not be restricted in its radio control. It has definitely withdrawn from its position as expressed by President Arias in Washington where he agreed to consider the suggestion to create a Radio Control Board, similar to the Aviation Board.

Thus, this agreement to cover the transfer of two small and isolated radio stations out in the jungle, of no importance in themselves, takes on importance and results in long discussions, because the Navy and Panama both wish to establish precedents for future radio control in the wording of this agreement.

As a matter of fact, the Navy is, essentially, turning over little more than the houses where the radio stations have been installed. They could well withdraw and leave the houses to the jungle, and the general radio situation would be practically unchanged. The location where Panama most needs a radio station of its own is the penal station at Coiba Island. There is a very practical reason for a station there, but there is almost no reason for one at either Puerto Obaldía or La Palma other than the rather vague desire of Panama to form a nucleus of a radio system with these two stations.

The Legation ventures to express the hope that the conferences between representatives of the State and Navy Departments will result in a final decision on what measure of control is to be offered to Panama, and what kind of machinery will be erected to effect the liaison between the Radio authorities of the two countries on the Isthmus.

On February 16 the Naval authorities in Panama through Commander Ainsworth expressed to the Legation their objection to the frequencies allotted to Panama in Paragraph 3*a* of the Secretary for Foreign Affairs' draft agreement of February 9,<sup>49</sup> and suggested other frequencies. They also stated that a clause should be added to paragraph 3*b* providing that Panama should give three months notice of

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<sup>49</sup> Not printed.

any contemplated changes in the power, location, or frequencies to be used by their stations. They also recommended that Paragraph 6 should read as follows:

The Government of Panama agrees that in case of war or threatened hostilities, or when in the opinion of the United States Government the safety or operation of the Panama Canal is involved, said stations shall be managed or controlled jointly by both Governments, with the object of assuring that their operation will not be prejudicial in any way to the safety or operation of the Panama Canal or its defenses, or the operation of the Fleet, or to the armed forces of the United States.

The Naval authorities here furthermore requested that Paragraph 7 be eliminated and the following paragraph as suggested by the Legation be substituted therefor:

All provisions of the foregoing paragraphs pertaining to the operation of the radio stations at Puerto Obaldía and La Palma shall be effective until superseded by the general agreement concerning radio which is expected to be negotiated between the two Governments.

After a conference with President Arias on February 17 in which he said that he had personally drafted Paragraph 6, it was agreed that the tentative agreement should be resubmitted to the council of ministers. The President said that regardless of the stipulation for joint control, in time of war or threatened hostilities the United States Navy would exercise full control; that a provision in the agreement giving the United States full control would be interpreted in Panama as a surrender of national rights to the United States, and as a total lack of confidence in the cooperation to be rendered by Panama in the defense of the Canal.

Following this conference, the Navy withdrew its objection to Paragraph 6 and expressed agreement with the wording as given in the Memorandum from the Panama Foreign Office of February 9. I consequently informed the Foreign Office on February 19 that I perceived no objection to the wording of paragraph 6.

On February 20 I saw Secretary Arosemena who said that he would advise the Legation of the desire of Panama to accept the offer made by the Navy to construct new apparatus for the stations at Puerto Obaldía and La Palma as well as equipment for stations to be installed at Coiba and San Blas.

On the same day Commander Ainsworth furnished the Legation with a draft embodying the Navy's viewpoint regarding the agreement. (Enclosure No. 1).<sup>50</sup>

The Legation was likewise furnished with a copy of a communication from the Chief of Naval Operations to the Admiral Commandant

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<sup>50</sup> Not printed.

of the 15th Naval District bearing date of February 20 which stated that it was desirable that if frequencies on the 2750-2850 band be allocated to these stations, it be with the understanding that they be for fixed service only.

The same letter stated that the wording of Paragraph 3*b* was satisfactory but with reference to Paragraph 3*c*, the provisions of points 6, 7 and 8 of the proposed agreement of February 2 should remain substantially as written. The Chief of Naval Operations felt that joint control might be unobjectionable at the present time but that changing international conditions might make it impracticable, and the United States should be the judge as to when such control should cease. He further believed that the United States should reserve the right to close, censor, or operate either station when it believed such action to be necessary for the safety or operation of the Canal.

On February 21 the Foreign Office sent the Legation a Memorandum<sup>51</sup> stating that it accepted the offer of the United States to recondition the stations at Puerto Obaldía and La Palma and to install stations at Coiba and San Blas at a cost to Panama of \$3380.

On February 21 the Secretary for Foreign Affairs sent a Memorandum to the Legation with a draft of the much discussed agreement, (Enclosure No. 2, and translation, Enclosure No. 3).<sup>51</sup> The draft appeared to be acceptable but for the frequencies mentioned in Paragraph 2*a* and the inclusion of the unacceptable Paragraph 7.

I replied by a Note No. 102 on February 21, a copy of which is herewith attached as enclosure No. 4.<sup>51</sup>

This Note elicited a Note dated February 22 from the Foreign office, (Enclosure No. 5, and translation, Enclosure No. 6),<sup>51</sup> which accepted the modifications suggested in my last mentioned Note. The way thus seemed clear to transmit the agreement to the Department for its consideration, but on February 23 the Navy requested a further change in Paragraph 6 in order that it might read as follows:

The Government of Panama agrees that in case of war or threatened hostilities, said stations shall be managed or controlled jointly by both Governments, with the object of assuring that their operation will not be prejudicial in any way to the safety or operation of the Panama Canal or its defenses, or to the operations of the Fleet or the Armed Forces of the United States.

In connection with the foregoing, it is further agreed that when, in the opinion of the United States, the safety or operation of the Canal is involved, the United States shall advise the Panamanian Government regarding the extent of censorship or control desired, or regarding the desirability of closing the stations, to the end that the Panamanian Government may effect such censorship, control, or closure as may be required by the circumstances.

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<sup>51</sup> Not printed.

On February 26 Commander Ainsworth stated that the desires of the Navy could best be met by adding to Paragraph 6 the following sentence:

Should the circumstances in case of war or threatened hostilities so demand, the Panama Government agrees to close either or both stations without delay.

On February 28 the Navy Department sent a telegram to the 15th Naval District stating that the provisions of Paragraphs 6 to 8, inclusive, of the agreement of February 2 must be incorporated, and taking the stand that the provisions of Article 11 of the unratified Treaty of 1926,<sup>53</sup> which gave the United States complete control of radio in time of war, should be preserved.

On March 1 Commander Ainsworth submitted a memorandum to the Legation which conveyed the Navy's views regarding changes in Paragraph 6 of the proposed agreement. This is transmitted as Enclosure No. 7.<sup>54</sup>

It clearly appears that we are faced with the alternatives of either endeavoring to force Panama to continue to accept Navy control over its radio activities, or else frankly to turn over control to Panama while reserving the treaty rights to reassume control when necessary for Canal defense. The Legation sees no hope of a permanently satisfactory compromise between these two alternatives. Whether or not the Puerto Obaldía and La Palma stations are transferred under mutually satisfactory conditions, it is feared that the radio control question will constantly recur with increasing acuteness and irritation and it is, of course, quite possible that we would have already been confronted with a *fait accompli* but for the friendly attitude of President Arias.

Respectfully yours,

ANTONIO C. GONZALEZ

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819.74/275

*The Minister in Panama (Gonzalez) to the Secretary of State*

No. 146

PANAMA, March 10, 1934.

[Received March 19.]

SIR: I have the honor to report that in a recent informal conversation which I had with President Arias, among other things, we discussed his plan concerning the establishment of a radio control board along the line of that suggested by President Roosevelt at the time of President Arias' conferences in Washington, and President Arias stated that he was working on a Memorandum along the lines suggested so that the matter of radio in Panama would be settled, that in the mean-

<sup>53</sup> *Foreign Relations*, 1926, vol. II, p. 833.

<sup>54</sup> Not printed.

time, however, he was making inquiries from various Broadcasting Concerns in the States as to the minimum cost of installing, for the Panama Government's use, of a broadcasting system whereby he could speak to his people on government matters and keep them advised as to what their Government was doing; and that with this in view he had established in the meantime the practice of having press conferences but that even that seemed to be most unsatisfactory because the reporters would never set forth the substance of his remarks in his own words as he would like. He stated that he did not believe that the United States Government would have any objection to his Government having radio broadcasting facilities which would enable him to keep in touch with his people. He stated further, that he would be very glad to be able to have a broadcasting set placed in his office and deliver weekly addresses on matters of interest to his people in the outlying districts who are unable to keep in touch with the activities of the Government and its various Departments.

Respectfully yours,

ANTONIO C. GONZALEZ

819.74/275 : Telegram

*The Secretary of State to the Minister in Panama (Gonzalez)*

WASHINGTON, March 23, 1934—5 p. m.

25. Your despatch No. 142 of March 3, 1934. Your conclusion not to approach the Panamanian Government further in an endeavor to reach an agreement covering the transfer of the radio stations at Puerto Obaldía and La Palma until further instructions have been received from the Department is approved. Due to the complications you report such instructions will probably not be sent until after agreement on the general question of control of radio in Panama has been reached. Discussion of general control with the War and Navy Departments is being held in abeyance pending the receipt of President Arias' memorandum<sup>55</sup> mentioned in your despatch No. 146 of March 10.

HULL

819.74/284

*The Minister in Panama (Gonzalez) to the Secretary of State*

No. 213

PANAMA, May 2, 1934.

[Received May 14.]

SIR: I have the honor to refer to the Legation's telegram No. 80 of April 30, 11 a. m.<sup>55</sup> concerning the transfer of the naval radio stations at Puerto Obaldía and La Palma to Panama.

<sup>55</sup> Not printed.

Admiral William H. Standley, Chief of the Bureau of Naval Operations, visited Panama in connection with the call of the United States Fleet and on April 29 a conference was held at the Legation to discuss radio control. Those present were Admiral Standley, Rear Admiral W. S. Crosley, Commandant of the 15th Naval District, Commander W. L. Ainsworth, Chief Communications Officer of the 15th Naval District, myself and Mr. Burdett.<sup>57</sup> After an examination of the divergent points of view relating to the agreement to cover the transfer of the two radio stations, Admiral Standley said that the draft agreement<sup>58</sup> which was transmitted to the Department as Enclosure No. 1 to Despatch No. 142 of March 3, 1934 would be acceptable to the Navy if a paragraph were included to cover thoroughly the matter of protection to the Canal in the event of a threatened war or other serious eventuality. He said that the wording of the agreement without such paragraph does not give the Navy sufficient grounds to take over control during the twilight period between peace and war; that during such period it would be highly necessary for the Navy to control all radio facilities in Panama and the State Department would probably not consent for the Navy to suddenly exercise such control on the grounds that this action would constitute a direct threat and might defeat the negotiations in progress. The Navy's taking over radio control over all Panama stations might be construed as an overt act and we should cover such situation by a new paragraph in the agreement. The following paragraph was finally drafted and Admiral Standley said it would be immediately transmitted by radio to the Bureau of Naval Operations.

Admiral Standley requested the Legation to ask the State Department for instructions to present the amended agreement to the Panamanian Government. The added paragraph reads as follows:

"As a further consideration to the making of this agreement, the Panamanian Government hereby agrees that if at any time the operation of the foregoing stations by the Panamanian Government should endanger the safety or operation of the Panama Canal, the Panamanian Government will upon request of the United States Government, cooperate with it in so controlling or suspending the operation of said stations as to fully protect the interests of the United States."

With regard to the general radio agreement between the two countries, Admiral Standley said that the Navy would never willingly surrender control over ship-to-shore or ground-to-plane messages. The agreement between the two Presidents at Washington in October, 1933 was discussed, particularly item 8 which said:

<sup>57</sup> William C. Burdett, First Secretary of Legation.

<sup>58</sup> Not printed.

“The United States under such conditions, would agree that no special restrictions be placed on ship-to-shore service with the exception of that relative to transiting the Canal.”

Admiral Standley said he did not understand how this crept into the agreement and he hoped that President Roosevelt did not really entertain this view. That naval control over all radio messages from ship-to-shore was most essential for the protection of the Canal. He said that he had told President Arias in October, 1933 that the naval radio experts had very emphatically made this recommendation to him and while he was not in a position to explain in a technical way how these ship-to-shore messages would endanger the Canal's safety, he intended to accept the recommendation of his experts, as that is what experts are for.

Admiral Standley read President Arias' memorandum on radio control, a copy of which the President sent the Legation on April 27, 1934, and which the Legation understands has already been submitted to the Department by Minister Alfaro. Admiral Standley thought that by no means should we recede from our position regarding radio control and remarked that the War Department agreed fully with the Navy Department's position concerning ship-to-shore messages. It should be said in this connection that Admiral Standley's statement is not exactly in accord with informal conversations held with certain Army officers on the Isthmus who believe that naval control over ship-to-shore service is not essential for the protection of the Panama Canal.

Admiral Crosley supported Admiral Standley in his views concerning the general radio control question. Both of these officers thought the new draft agreement regarding Puerto Obaldía and La Palma might facilitate the negotiation of the general radio control question.

There is attached hereto a copy of the amended draft agreement<sup>59</sup> which the Navy now desires to be presented for the consideration of the Panamanian Government.

Respectfully yours,

ANTONIO C. GONZALEZ

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819.74/290 : Telegram

*The Minister in Panama (Gonzalez) to the Secretary of State*

PANAMA, July 6, 1934—1 p. m.

[Received 8:14 p. m.]

124. Referring to my despatch No. 213 of May 2d, may I express the sincere hope that telegraphic instructions be given me immediately to propose to Panamanian Government the transfer of Puerto Obaldía and La Palma radio stations in accordance with draft agreement trans-

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<sup>59</sup> Not printed.



mitted with that despatch. I consider it highly appropriate to be able to announce an agreement on this matter before the arrival of President Roosevelt.

GONZALEZ

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819.74/290 : Telegram

*The Secretary of State to the Minister in Panama (Gonzalez)*

WASHINGTON, July 7, 1934—4 p. m.

74. Your telegram No. 124 of July 6, 1 p. m. Department sent you an air mail instruction on July 5<sup>60</sup> stating that as a practical matter it preferred to endeavor to reach an agreement on the general control of radio in Panama before making further efforts to arrange this transfer. It also pointed out that during the conversations being held with the Minister of Panama, the latter has not mentioned Panama's desire to have this transfer expedited.

HULL

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**DISAPPROVAL BY THE SECRETARY OF STATE OF PROTEST BY THE MINISTER IN PANAMA AGAINST SPEECH OF A MUNICIPAL OFFICIAL**

711.1928/289

*The Minister in Panama (Gonzalez) to the Secretary of State*

No. 476

PANAMA, November 3, 1934.

[Received November 12.]

SIR: I have the honor to report and to enclose an article appearing in today's issue of the *Panama American*,<sup>61</sup> which I have been unable to leave without notice, since the slurring remarks made against the United States by a public official of the City of Colón at a public gathering is more than should be expected.

Ever since the negotiations have been in the course of conversation between the Department and the Republic of Panama,<sup>62</sup> various articles have appeared of a scurrilous nature, reflecting discredit upon the United States and the American people, but the source from which they came did not deserve any official notice. The article referred to, however, does refer to remarks made by a public official, and for that reason I have filed with the Secretary of Foreign Relations of the Republic of Panama a protest, copy of which is hereto attached.

Respectfully yours,

ANTONIO C. GONZALEZ

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<sup>60</sup> Not printed.

<sup>61</sup> Not reprinted.

<sup>62</sup> See pp. 581 ff.

[Enclosure]

*The American Minister (Gonzalez) to the Panamanian Minister for Foreign Affairs (Arosemena)*

No. 276

PANAMA, November 3, 1934.

EXCELLENCY: I have the honor to inform Your Excellency that I wish to enter a protest on behalf of my Government against the speech which was made by Mr. Luis Sayavedra, Municipal Auditor of the City of Colón, on the 2nd day of November, 1934, before a large audience, on the first day of Panama's program of celebrations of Panama's thirty-first independence anniversary, when he referred to the United States as a monster beside whom Sir Henry Morgan who sacked Old Panama was an angel. This speech appeared in the *Panama American* of Saturday, November 3, 1934. I think that such remarks, coming from an officer, are wholly uncalled for and inexcusable, and I demand on behalf of my Government an apology.

There have been many speeches recently made and published in the newspapers discrediting my Government, but I have not until the present paid much attention to it and indexed them as coming from those who knew no better than to make such statements, but when statements such as above mentioned emanate from a public official, I am duty bound to take notice of the same and to file a protest thereto. I regret that such incidents should happen, as they tend to disrupt, not only the Good Neighbor Policy maintained by my Government, but also the friendship which would exist between my people and those of Panama.

Accept [etc.]

ANTONIO C. GONZALEZ

711.1928/290

*The Minister in Panama (Gonzalez) to the Secretary of State*

No. 478

PANAMA, November 6, 1934.

[Received November 12.]

SIR: Referring to my despatch No. 476 of November 3, 1934, in which I made protest against certain remarks made by a municipal official at Colón, I have the honor to enclose herewith copy of the reply from the Foreign Office, the same being note D. D. No. 1865 of November 6, 1934, which, although it side-steps the issue and fails to take unto itself the responsibility for the actions of a municipal officer, nevertheless does disclaim liability or sanction on behalf of the Government for such statements.

Respectfully yours,

ANTONIO C. GONZALEZ

[Enclosure—Translation]

*The Panamanian Minister for Foreign Affairs (Arosemena) to the American Minister (Gonzalez)*

D. D. No. 1865

PANAMA, November 6, 1934.

MR. MINISTER: I have the honor to refer to Your Excellency's kind communication of the 3rd of the present month, No. 276, and to inform you that the Panamanian Government does not share the ideas which Your Excellency states were expressed by Señor Luis Sayavedra, Municipal Auditor of Colón, in his speech in Colón on November 2nd, since, as Your Excellency knows, it has the very highest opinion of the Government of the United States of America so worthily represented here by Your Excellency.

Therefore, the Government of Panama does not or could not assume any responsibility on account of the expressions attributed to Mr. Sayavedra, and I beg Your Excellency to accept this sincere declaration as testimony of the high opinion which it has of Your Excellency's Government, which has given so many proofs of inspiring your acts with the spirit of the highest understanding and of good neighborliness.

Please accept [etc.]

J. D. AROSEMENA

711.1928/289

*The Secretary of State to the Minister in Panama (Gonzalez)*

WASHINGTON, November 20, 1934.

MY DEAR MR. MINISTER: Your despatch No. 476 dated November 3, 1934, regarding the formal protest which you made to the Panamanian Government on account of the speech of Mr. Sayavedra, Municipal Auditor of Colón, has come to my attention. I feel that I must express to you my opinion that such action on your part was inadvisable in the circumstances. The Government of Panama of course is no more responsible for the sentiments expressed by a municipal employee of the City of Colón than is the Federal Government of the United States responsible for remarks made by a municipal employe in any town or city of this country.

The above view disposes of your demand for an apology which might, I feel, have given rise to an unpleasant incident, had the Panamanian Secretary for Foreign Affairs been so inclined; fortunately Dr. Arosemena was not so inclined.

Yours sincerely,

CORDELL HULL

## URUGUAY

### PRELIMINARY DISCUSSIONS RESPECTING A TRADE AGREEMENT BETWEEN THE UNITED STATES AND URUGUAY

611.3331/35

*The Minister in Uruguay (Wright) to the Secretary of State*

No. 574

MONTEVIDEO, January 16, 1934.

[Received January 28.]

SIR: It will be recalled that in the course of the VII International Conference of American States,<sup>1</sup> President Terra of Uruguay handed to me for transmission to you the Spanish text of a project for a commercial treaty<sup>2</sup> between Uruguay and the United States—a translation of which I delivered to you and the general subject matter of which was discussed by you with Señor Marques Castro, Undersecretary of State for Foreign Affairs, in a conversation which he held at your office at the Parque Hotel. It will also be recalled that Uruguay's desires in this regard were advanced by the Uruguayan Delegation in the First Subcommittee of the Ninth Commission of the Conference.

In order that this matter may be made of record and laid before the Department in a manner which will permit of its consideration in connection with all phases of the question, I have the honor to transmit herewith:<sup>3</sup>

1. The original Spanish text of the proposed Commercial Treaty, which was handed to me by President Terra and which was prepared in the Foreign Office by Señor Marques Castro (according to information subsequently received from the latter).

2. Translation thereof.

3. Copy of the proposal regarding quotas and import licenses presented by Señor Marques Castro at the First Subcommittee of the Ninth Commission of the Conference.

4. Translation thereof.

At the time when the President handed me this draft with the request that it be transmitted to you for your consideration, he informed me that he considered the results of the Ottawa Agreements<sup>4</sup> very unfortunate for Uruguay, and that he believed that the American pack-

<sup>1</sup> See *Foreign Relations*, 1933, vol. iv, pp. 1 ff.

<sup>2</sup> Not printed.

<sup>3</sup> Enclosures not printed.

<sup>4</sup> The trade agreements concluded during the Imperial Economic Conference at Ottawa in 1932. See *British and Foreign State Papers*, vol. cxxxv, pp. 161 ff.

ing interests in Uruguay were already feeling the effects of this agreement and would soon feel them more severely. The President then observed "if this reaction upon the exports of our principal commodity continues, Uruguay will be ruined in five years".

He then emphasized the importance to Uruguay of revenue from this source—observing that while Argentina and Brazil, also exporters of cattle, had other products upon which they could rely, Uruguay was limited by conditions of topography and soil to principally pastoral pursuits. As a basis upon which to restore tariffs, or as a norm to which mutually advantageous comparisons might now be made, he referred to the tariff situation of 1928 which had been favorable to both nations, adding that the sale of American automobiles in Uruguay had at that time been satisfactory to us but that the automobile business at the present time was far from satisfactory—sales having been greatly reduced on account of lack of exchange and the Uruguayan demand far from satisfied for the same reason.

President Terra closed his remarks by expressing the hope that a solution might be proposed which would be practical and not theoretical.

As I reported to you at that time, I informed President Terra that although you were not in a position to discuss bilateral commercial treaties at this time, both the draft of the treaty and the President's observations would receive your attentive consideration—particularly in their relation to the economic principles that might emerge from the Conference, which had not at that time discussed the broader economic phases as set forth in your proposal. You will also recall that in your conversation with the Undersecretary of State for Foreign Affairs you informed him that the tentative provisions of the treaty, the problems advanced by the Uruguayan Delegation, and all other relevant matters, would be considered by our Government in due course.

Since the close of the Conference the matter has not again been broached to me, but it may be said that the matter of Uruguay's export of meat and meat products is as much to the fore as it ever was—especially in connection with the newspaper reports that cattle breeding interests in the United States have requested the Tariff Commission to raise the tariff on meat imports (as reported by telegraph in my telegrams Nos. 3 and 5 of January 5 and 13, respectively<sup>5</sup>) American exporters, and Uruguayan importers of American goods, are faced in increasing degree by a continuing demand for certain American products which the producers are less and less inclined to furnish unless some solution be found by which the "frozen" peso accounts accumulated from previous sales may be released.

Respectfully yours,

J. BUTLER WRIGHT

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<sup>5</sup> Neither printed.

611.3331/36

*Memorandum by the Secretary of State*

[WASHINGTON,] January 31, 1934.

The Chargé d'Affaires of Uruguay called to discuss the question of a reciprocity commercial treaty between our two countries. I stated to him that I had fully explained to his President Terra, to the head of the Uruguayan Foreign Office and their Delegation to the Montevideo Conference, just what the situation was, and I repeated it to him, which, in brief, was that in the first place I was as anxious as any person to negotiate reciprocity treaties which would develop mutually profitable trade to the fullest extent. I then called attention at length to the wild extremes to which all countries had drifted since the War in the direction of economic nationalism and isolation; that this policy of extremism had dried up world trade; that it would require some time to educate public sentiment back in the same direction; and that, therefore, each country must recognize the difficulties of the others and realize that a country like the United States could only get back to economic sanity by degrees, so far as liberal commercial policy to fully restore international trade was concerned—that as it returned to the more liberal plan of international economic cooperation, it could correspondingly enter upon reciprocity commercial treaties. I said I was opposed to embargoes or absolute prohibitions with respect to any and all commodities; and I earnestly hoped that at the earliest date the United States could enter into reciprocity treaties with countries like Uruguay which would embrace at least a few minor commodities at the beginning with the idea that by degrees in the future as public sentiment permitted the number could be increased. I said I felt that to the extent that any two countries could agree upon a mutually profitable exchange of commodities, it was a most important objective to have in mind.

I told the Chargé that of course the United States would not expect to sell any substantial quantities of meat or wheat to Uruguay or to the Argentine or any similar country that produced these for export, nor, on the other hand, should those two countries expect to sell any substantial amount to the United States which likewise produced them for export. I expressed the hope that after Congress acted on such application as might be made for power for the Executive to negotiate reciprocal commercial treaties based on mutual tariff concessions without the same having to be ratified by the Senate, we would be in a position to take up with all countries, as rapidly as possible, the negotiation of reciprocity treaties that would contemplate such commodities as might be deemed feasible in the light of public sentiment and which might be increased in number from year to year as sentiment

and general conditions permitted or made feasible. I made no definite commitments in any way except to outline and analyze the situation as above.

C[ORDELL] H[ULL]

611.3331/41

*Memorandum by the Secretary of State of a Conversation With the Uruguayan Minister (Richling)*

[WASHINGTON,] July 18, 1934.

The Minister, during his call, inquired whether there were any new developments touching possibilities of a further trade agreement between Uruguay and the United States. I replied that we had individuals and groups carefully developing all the facts and making studies of trade possibilities with most of the Latin American countries, including Uruguay, and that during the coming months we hoped to be able to do what then might prove to be feasible in the way of further trade arrangements. I reminded him that we were obliged to move very slowly, having in mind opposition sentiment and other extreme difficulties to overcome, but that we were very anxious to work out any and all possible additional trade arrangements with his and certain other countries; that it would probably be after the November election; and that moreover at the beginning it might only be possible to work out agreements which related to but very few and possibly minor commodities; that however as sentiment improved it would be possible within six or twelve months following to develop a supplementary trade agreement, etc. The Minister replied that he fully understood the situation. He finally suggested that Uruguay produces a better cognac than France and that they could receive a substantial amount of cotton goods from us in exchange for cognac. I requested him to talk with Dr. Sayre<sup>6</sup> from time to time, as well as with myself, and stated that we would keep all phases of these suggestions specially in mind until the time an opportunity came to consider them more definitely and fully.

C[ORDELL] H[ULL]

611.3331/44

*The Chargé in Uruguay (Dominian) to the Secretary of State*

No. 698

MONTEVIDEO, August 9, 1934.

[Received August 20.]

SIR: I have the honor to refer to my despatch No. 687 of August 1, 1934,<sup>7</sup> which indicated that the question of exports of Uruguayan

<sup>6</sup> Francis B. Sayre, Assistant Secretary of State.

<sup>7</sup> Not printed.

meat would figure largely in any treaty negotiations carried on with Uruguay.

At various times in the course of the exchange discussions<sup>8</sup> of the past fifteen days I had noted the recurrence of a statement made by Uruguayan officials to the effect that the importation into the United States of 30,000 tons of Uruguayan meat per year in addition to the amount already imported would solve present exchange difficulties. The Uruguayan officials appeared to think that sufficient dollar exchange would then be available in Uruguay to permit payment of obligations on the country's external debt bonds held under American ownership and provide for trade requirements in the amount necessitated for the transactions now taking place.

The relatively restricted quantity of additional meat which the official supervisors of the Uruguayan export trade would be pleased to place in the United States may seem to be worth considering in order that the position of advantage which American trade is gradually acquiring in Uruguay should not be hampered by any difficulties due to scarcity of dollar exchange.

The information available to the Legation seems to indicate that the average cost per ton of Uruguayan export meat is \$110.00. Accordingly, an amount of approximately \$3,300,000 in additional dollar exchange would enter Uruguay yearly in case exports to the United States would be increased by the 30,000 tons suggested in Montevideo.

According to the estimates of the Director of the Bank of the Republic, where foreign exchange operations are controlled, the present yearly requirement of dollar exchange amounts to over 12,300,000 pesos, distributed in the following manner on the basis of 1933 figures:

	<i>Pesos Paid in 1933</i>
Interest and amortization on five year gold bonds . . .	1, 316, 000
Service on other bonds . . . . .	6, 190, 000
Trade requirements . . . . .	4, 800, 000
	<hr/>
Total . . . . .	12, 306, 000

The value of United States imports from Uruguay for the year 1933, according to the official United States statistics compiled by the Department of Commerce, attained \$3,772,861.00. This figure represents dollars which have not been adjusted for depreciation of the dollar from its former gold parity during 1933. In view of the existence of various rates of exchange, known as official, gray and free, it is impossible to convert with any accuracy into dollars the peso amount of the distribution table submitted in the previous paragraph. It would seem, however, that the 4,800,000 pesos estimated for trade requirements at the Bank of the Republic correspond to \$3,772,861.

<sup>8</sup> See pp. 647 ff.



The Department is aware through reports from the Legation and the Consulate General that whereas in 1933 exports from the United States to Uruguay conferred the fourth place to the United States in the list of exporting countries to Uruguay, the first six months of 1934 indicate that American exports now give the United States the third place on the same list.

According to Uruguayan statistics our exports to Uruguay during the first half of 1934 amounted to 4,663,901 pesos, while our imports for that period were valued at 4,071,663 pesos. In the first six months of 1933, the United States sold 2,532,622 pesos worth of goods to Uruguay and bought 1,909,123 pesos worth of Uruguayan goods. These figures indicate that while the volume of trade between United States and Uruguay is growing, Uruguay's unfavorable balance is declining. The figures for the first half of 1934 indicate that this unfavorable balance is now 6.8% in its relation to the total trade whereas in 1933 the percentage was 14%.

With the restrictions now being introduced by the Uruguayan Government, particularly with regard to the bill now before the Uruguayan Congress embodying the Government's decision to forbid the importation of products for which an import license had not previously been obtained, the prospect for a continued advance in the position which American trade is acquiring seems less favorable. The question, hence, arises as to whether the importation of 30,000 tons of meat yearly, as suggested in Uruguay, is of sufficient interest to the American export trade to Uruguay.

My personal impression is that the tonnage suggested in Uruguayan official circles is a maximum figure probably to be set forth eventually for negotiation purposes. For the sake of precision I may add here that the term official circles in this instance refers to the Commercial Section of the Ministry of Foreign Affairs and the office of the Director of the Bank of the Republic which supervises foreign exchange transactions.

In the conversations which I have had on recent occasions with Uruguayan officials, I have made it a point to lay stress on the present situation in the agricultural regions of the United States in order to impress them with the difficulties existing in the way of any increase in agricultural importations to the United States.

With regard to the scarcity of dollar exchange to which Uruguayan officials allude when talking about payment of interest and amortization services on bonds held under American ownership, I have always pointed out that maintenance of debt service payments was an obligation assumed by the borrowers and that commitments of this particular type should be met irrespective of the amount of exchange available from the particular country to which debt service payments

were to be made. I have expressed, as my personal opinion, that surpluses of foreign exchange from countries with which Uruguay had a favorable trade balance could be utilized for interest and amortization service on Uruguayan bonds held abroad to the greater advantage of Uruguayan credit.

Respectfully yours,

LEON DOMINIAN

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**EFFORTS OF THE DEPARTMENT OF STATE TO SECURE EQUITABLE TREATMENT FOR AMERICAN INTERESTS WITH RESPECT TO URUGUAYAN EXCHANGE RESTRICTIONS<sup>9</sup>**

833.5151/143 : Telegram

*The Secretary of State to the Minister in Uruguay (Wright)*

WASHINGTON, April 6, 1934—3 p. m.

22. The Department does not believe that there are grounds at this time for representations in the specific case of the American oil companies as reported in your despatch No. 596 of February 20,<sup>10</sup> but desires you to cable your views as to the utility of making representations to the Uruguayan Government with reference to the general discrimination against American trade, which you report is being practised in the matter of the allotment of controlled foreign exchange.

HULL

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833.5151/155 : Telegram

*The Minister in Uruguay (Wright) to the Secretary of State*

MONTEVIDEO, April 11, 1934—8 p. m.

[Received 8:25 p. m.]

27. Your 22, April 6, 3 p. m. I consider that it would be unwise and inopportune to make representations regarding discrimination in allocation of exchange before elections to take place on April 19th., regarding which situation please also see my political reports. Commerce Committee of American association in meeting yesterday concurs in this opinion.

In despatch by air mail on 13th instant, I shall report concerning increase in our imports from Uruguay which (together with possibilities afforded by bilateral commercial treaty, if the bill to that end is passed by the Senate) will enable us to approach an Uruguayan

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<sup>9</sup> See also section entitled "Special Mission of John H. Williams To Investigate Foreign Exchange Problems in Argentina, Brazil, Chile, and Uruguay," vol. iv, pp. 390 ff.

<sup>10</sup> Not printed.

Government no longer trammled by immediate political considerations upon a more clearly defined issue and with stronger arguments.

WRIGHT

833.5151/170

*The Consul General at Montevideo (Reed) to the Secretary of State*

No. 501

MONTEVIDEO, June 1, 1934.

[Received June 14.]

SIR: I have the honor to refer to my strictly confidential despatch No. 495 of May 16, 1934,<sup>11</sup> entitled "Allotment of Exchange to American Interests", and in continuation thereof to give the figures for the first four months of 1934, as well as the totals of the exports from Uruguay to the United States for the same period for comparison therewith.

In the despatch above referred to, it was stated that there was some doubt as to how the new basic figure for exchange allotments to the United States (which was apparently due as a result of increased Uruguayan exports to the United States) should be obtained. It has been learned from an official of the Exchange Control Commission that the formula used by the Commission is still the original one, according to which the exchange to be allotted to American interests should be 231% of the value of the Uruguayan exports to the United States during any given period. In other words, the allotting of exchange is to vary immediately with American purchases, and to be equalized as promptly as possible, instead of in a subsequent period. This policy has not been followed by the Control Commission, however, either for the year 1933 or for the first four months of 1934. It is believed that the Commission's failure to do so is the reason for the non-publication of figures for 1933. The Commerce Committee of the American Association of Uruguay, acting on this assumption, has decided to request from the Control Commission a statement of the exchange allotted to American interests during the second half of 1933 and the basis thereof (a similar statement for the first six months of 1933 having been received). As mentioned in my previous despatch, the total amount of exchange allotted to American interests in 1933 was 10,441,019 pesos, while 231% of the value of Uruguayan exports to the United States in 1933 equals 12,820,500 pesos.

For the first four months of 1934, the total amount of exchange allotted to American interests was 2,618,804 pesos, which was converted to dollars 2,044,263. The inadequacy of this allotment is apparent when it is compared with the value of the exports to the United

<sup>11</sup> Not printed.

States during the same period, which, according to Uruguayan official statistics were valued at 2,628,750 pesos, 231% of which would be 6,072,313 pesos, which is apparently the amount of exchange that should have been allotted.

The exchange allotted month by month, in pesos, the rate used, and the total in dollars, is given herewith:

[Here follows statistical table, not printed.]

On April 9, 1934, the Exchange Control Commission took over the distribution of the so-called "compensated exchange", fixing its price at 40% above the cost to the Uruguayan buyer of official exchange. The figures obtained from the Control Commission now include the amount of "compensated" exchange allotted, in addition to that granted at the official rate. As this Consulate General has learned that the figures for the total exchange granted for American interests in the past also included "compensated" exchange, the totals for the months of January, February and March have been broken down into official and "compensated" exchange in order that they may be compared with the figures for April and with future totals. It is noted that a very important part, nearly half, of the exchange distributed to American interests for general imports (not including petroleum products) was in the form of compensated exchange, which explains the complaints of importers of American goods that they were individually receiving very little official exchange. From these figures, there was only exchange amounting to 501,230 pesos granted for American goods, (except petroleum products) during the first four months of 1934. The reason for the separate classification of petroleum products has been explained in previous despatches from the Legation and this Consulate General, and is due to the fact that the Control Commission charges such products, not to the quota of the country of origin, but according to the nationality of the handling company. Information obtained in the past by this Consulate General has indicated that much of these commodities imported into Uruguay by American-owned companies were not of American origin, and the Commerce Committee has not, as yet, accepted this procedure, tending to favor the practice of allotting exchange according to the country of origin of the merchandise. It has not formally protested to the Exchange Control Commission, however, deeming it desirable to await some statement of policy from the State Department which might serve as guidance. The detailed figures of exchange distributed to American interests during the first four months of 1934 were as follows:

[Here follows statistical table, not printed.]

Respectfully yours,

LESLIE E. REED

810.5151 Williams Mission/5 : Telegram

*The Acting Secretary of State to the Chargé in Uruguay (Dominian)*

WASHINGTON, July 3, 1934—7 p. m.

30. By arrangement with the Federal Reserve authorities, Mr. John H. Williams, economist of the Federal Reserve Bank of New York and an expert in international exchange, accompanied by Mr. Donald R. Heath of the Division of Latin American Affairs of this Department, sailed June 30 to visit Rio de Janeiro, Buenos Aires and Santiago to confer with the American missions and the governments in those countries regarding the exchange problem.<sup>12</sup> They also are hopeful of visiting Montevideo with the same object and will do so if time permits. Their tentative plans call for their arrival at Rio de Janeiro on July 13 and at Buenos Aires on July 31. It is suggested you communicate with them regarding the possibility of their visiting Montevideo, and send them a report on the development of exchange control, including a careful analysis of the present exchange situation, and copies of current despatches.

CARR

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833.51/591 : Telegram

*The Secretary of State to the Chargé in Uruguay (Dominian)*

WASHINGTON, July 10, 1934—6 p. m.

31. Recently published press reports from London state that American interests in Uruguay are being jeopardized by foreign exchange negotiations now being conducted between that country and Great Britain in which Great Britain is insisting, with threat of compulsory action, that Uruguay allocate the greater part of its sterling exchange in settlement exclusively of all British long term obligations, British-Uruguayan trade necessities, and payment of dividends due on British investments in Uruguay. The report adds that this would prevent or seriously prejudice payment of American and other foreign obligations of Uruguay.

Please discuss this question with the Foreign Minister expressing our confidence that the Uruguayan Government will strongly resist any effort in case any is being made, to have it discriminate against American interests. So far as service on Uruguayan external obligations is concerned, you may recall that the present service on Uruguayan dollar bonds is made on a flat 3½% basis irrespective of the fact that some of the issues carry 8%, others 6%, and others 5%. This existing arrangement is understood to be made on the basis of treating all Uruguayan external obligations alike, but it ignores the fact that

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<sup>12</sup> For the Department's instructions to Mr. Williams, see vol. iv, p. 390.

it gives the British full interest service (their bonds in great part drawing only 3½% interest) and gives American holders the disproportionate service indicated. Furthermore, it is worth recalling that Argentina in the Roca Agreement with Great Britain,<sup>13</sup> while apparently accepting the principle that sterling exchange arising from the sale of Argentine products to Britain should be available for meeting applications for remittances from Argentina to Britain, nevertheless insisted that there should first be deducted from such exchange sums necessary to effect payment of service on Argentina's public external debts, national, provincial and municipal, payable in countries other than Great Britain.

Cable report.

HULL

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833.51/593 : Telegram

*The Chargé in Uruguay (Dominian) to the Secretary of State*

MONTEVIDEO, July 12, 1934—6 p. m.

[Received 8:10 p. m.]

47. Department's 31, July 10, 6 p. m. Following a conversation this evening with Foreign Minister regarding press reports from London referred to in above cited telegram the Minister confirmed British insistence on the total allocation of sterling exchange as indicated in Department's July 10, 6 p. m., but added that Uruguayan Government was insisting upon retaining sufficient exchange to apply Uruguayan external debts to other than British creditors. Great Britain, he continued, still refused to agree to this Uruguayan suggestion of exchange distribution on the plea that British exchange should not be diverted to non-British uses. Nevertheless, the Minister stated that Uruguayan viewpoint of retaining sufficient exchange for other than British indebtedness would be maintained. He furthermore claimed familiarity with recent agreement between Argentina and Great Britain which he considered as fair. I shall see the Minister tomorrow and may report again.

DOMINIAN

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833.51/595 : Telegram

*The Chargé in Uruguay (Dominian) to the Secretary of State*

MONTEVIDEO, July 13, 1934—2 p. m.

[Received July 13—2 p. m.]

48. Referring to Department's telegram No. 31, and Legation's 47, July 12, 6 p. m., Minister of Foreign Affairs informed me this morning

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<sup>13</sup> See *Foreign Relations*, 1933, vol. iv, pp. 722 ff.

that Uruguay was suggesting giving Great Britain 90 percent of sterling exchange and retaining the balance of 10 percent for use in allocation of exchange to countries other than Great Britain. Discussions at present were based, he said, on the amount of these respective percentages and while British had been unyielding at first, he thought he detected signs of possible willingness on their part to accept 90 percent sterling exchange. He expressed hope that an arrangement on the above mentioned division of percentages would be made finally with Great Britain but cautiously added that Uruguay could not prevail against Great Britain's economic strength.

DOMINIAN

833.51/599

*The Chargé in Uruguay (Dominian) to the Secretary of State*

No. 670

MONTEVIDEO, July 13, 1934.

[Received July 23.]

SIR: Confirming my telegrams No. 47 and 48 of July 12, 6 pm. and July 13, 2 pm., respectively, in which, complying with the Department's telegraphic instructions contained in its telegram No. 31, of July 10, 6 pm., I reported the result of my discussions with the Foreign Minister about recent press items published in London to the effect that American interests in Uruguay were being jeopardized by the foreign exchange negotiations now being conducted between Great Britain and Uruguay, as a result of British insistence, with threat of compulsory action, that Uruguay allocate the greater part of its sterling exchange in settlement exclusively of all British exchange requirements thus seriously prejudicing payment of American and other foreign obligations of Uruguay, I have the honor to report, in amplification of both of my above quoted telegrams, that I had the opportunity of talking to the Minister of Foreign Affairs yesterday evening and this morning. In both interviews his conversation indicated considerable anxiety as to Uruguayan ability to resist British pressure now being exerted to compel allocation to Great Britain of all sterling exchange.

The attitude of the Foreign Minister reflects general sentiment in this country and is based primarily, as far as I am able to ascertain, on the exceedingly precarious economic condition in which Uruguay would be placed at once in case of the slightest cessation of its meat exports to Great Britain. It is evident that the fear of a possible curtailment in these meat exports to Great Britain dominates the mind of the Foreign Minister to an extent which he appears unable to hide.

Complying with the Department's telegraphic instructions, I recalled in the course of my discussion with him that the existing

arrangement regarding interest service of a flat 3½% basis on Uruguayan dollar bonds undoubtedly favored British holders as the British share of these bonds was originally issued at 3½% interest whereas American holders had to suffer cuts in interest yield which in some instances amounted to 50%. I also referred to the Roca Agreement <sup>13a</sup> between Argentina and Great Britain in which Argentina had made reservations for exchange funds necessary to effect payment of service on Argentina's public external debts in countries other than Great Britain.

Minister Arteaga was familiar with the Roca Agreement and stated that he considered it as fair. Moreover he thought that Uruguay was acting along similar lines. In my interview this morning, as reported in telegram No. 48 of the above two telegrams, he stated that he hoped that it would be possible to retain 10% of sterling exchange for the exchange requirements of other countries than Great Britain. This, he stated, in addition to the exchange acquired through sale of Uruguayan exports to countries other than Great Britain would suffice for distribution of exchange to American and other interests in a manner which would not be discriminatory against them as compared to the amounts paid to Great Britain.

I spoke to him then on my reliance on his own sense of fairness and expressed our confidence that the Uruguayan Government would strongly resist any effort which might be made to have it discriminate against American interests. To this he replied that his Government's endeavor to retain a 10% balance of sterling exchange was evidence of Uruguayan desire to avoid discrimination and said that he would try to maintain insistence on the retention of the 10% balance as long as it could be done without prejudice to Uruguayan interests.

Respectfully yours,

LEON DOMINIAN

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810.5151 Williams Mission/32

*The Chargé in Uruguay (Dominian) to the Secretary of State*

No. 673

MONTEVIDEO, July 16, 1934.

[Received July 30.]

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 258 of July 5,<sup>14</sup> in which referring to the Department's telegram No. 30 of July 3, relative to arrangements made with the Federal Reserve authorities for the visit of Mr. John H. Williams, economist of the Federal Reserve Bank of New York, the Legation is informed that Mr. Williams, accompanied by Mr. Donald R. Heath of the Division of Latin American Affairs of the Depart-

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<sup>13a</sup> League of Nations Treaty Series, vol. CXLIII, p. 67.

<sup>14</sup> Not printed.



ment, will arrive in Rio de Janeiro on July 13 and will thence proceed to Buenos Aires prior to returning to the United States by way of the West Coast.

It is gratifying to find that the Department considers it desirable that Mr. Williams should visit Montevideo and be of assistance in the problems arising in Uruguay as a result of exchange control in the country. It is noted also that Mr. Williams himself is anxious to include Montevideo in his itinerary, subject to the limitations in time of leave granted him by the Federal Reserve authorities.

A review of the exchange situation at the present moment leads me to conclude that Mr. Williams' presence at Montevideo, for part of a day, at least, while on his way to Buenos Aires would be of positive importance. I am enclosing herewith copies of a telegram and a letter addressed to him<sup>15</sup> which are self-explanatory regarding the value of not omitting Montevideo from his itinerary. His visit, should he decide to make it, will be all the more useful in view of the conversations on problems of exchange which have taken place between Minister Wright and the Ministry of Foreign Affairs, and which I am carrying on since Mr. Wright's departure. As steamers proceeding to Buenos Aires by way of Montevideo usually stop over during a great part of the day in this city, it is believed that the enforced stay in the capital will provide Mr. Williams with sufficient time to meet the leading officials and business men here who are dealing with the exchange problems of Uruguay. Care will be taken to provide him with the necessary contacts within the duration of his stay, and the Department will be kept informed of developments as they arise.

Respectfully yours,

LEON DOMINIAN

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810.5151 Williams Mission/24 : Telegram

*The Secretary of State to the Ambassador in Brazil (Gibson)*

WASHINGTON, July 17, 1934—7 p. m.

83. For Doctor Williams. Recent developments in the exchange situation in Uruguay prejudicial to American interests make it seem highly important that you visit Montevideo and study the problem there. I very much hope that you will find it possible to do so, even though this may mean extending your trip 10 days or 2 weeks longer.

HULL

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<sup>15</sup> Neither printed.

833.51/595 : Telegram

*The Secretary of State to the Chargé in Uruguay (Dominian)*

WASHINGTON, July 19, 1934—1 p. m.

32. Your 47 and 48, July 12, 6 p. m., and July 13, 2 p. m. From preliminary consideration of the matter it seems clear that retention of 10 per cent of sterling exchange for use in allocation of exchange to countries other than Great Britain will not allow Uruguay to give anywhere near as favorable treatment to American exporters and investors in allocating exchange as she apparently proposes to give British exporters and investors. Please discuss this with the Foreign Minister and report his views. Discrimination in Uruguay against American interests obviously must cause unfavorable reaction in this country.

HULL

833.51/597 : Telegram

*The Chargé in Uruguay (Dominian) to the Secretary of State*

MONTEVIDEO, July 20, 1934—5 p. m.

[Received July 20—4:28 p. m.]

49. Department's telegram No. 32, July 19, 1 p. m. In view of absence from capital of Minister for Foreign Affairs, I discussed today with Undersecretary of Foreign Affairs the matter of prevention of discrimination against American interests in allocation of exchange. Undersecretary informed me that no decision had been reached as a result of exchange conversations with Great Britain and expressed assurance that Minister for Foreign Affairs would keep me informed of the progress of exchange discussions between Uruguay and Great Britain. I hope to report further after return of Minister for Foreign Affairs who is expected tomorrow.

DOMINIAN

833.51/598 : Telegram

*The Chargé in Uruguay (Dominian) to the Secretary of State*

MONTEVIDEO, July 23, 1934—5 p. m.

[Received 7:06 p. m.]

50. Referring to Department's telegram No. 32, July 19, 1 p. m. and my telegram No. 49, July 20, 5 p. m.

I have discussed again with the Minister for Foreign Affairs on Saturday and today the question of prevention of possible discrimination against American interests in allocation of foreign exchange. He believes no discrimination will exist as long as the same percentage,

based on the value of country's imports of Uruguayan products, is provided respectively to each importing country and suggests that increase in American purchases of Uruguayan products, principally meat, will provide increasing amounts of dollar exchange. He also emphasized the difficult economic position in which Uruguay is now placed as a result of scarcity of foreign exchange due to the insufficient quantity of its exports. I have called his attention to the inevitable conclusion which will be reached in the United States that discrimination against American interests exists if sufficient dollar exchange to meet American requirements of trade and of investment services is not provided while British investors and exporters continue securing all sterling exchange they need. He informed me the British have complained of discrimination against them because the percentage allotted to American interests has been higher in the past than that given to British. However, Minister stated definitely today that equal treatment would be extended and that he would be able to make more definite statements when British negotiations had progressed further. A paraphrase of this telegram is being provided to the Minister for Foreign Affairs to avoid possibility of misunderstanding.

DOMINIAN

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810.5151 Williams Mission/45

*The Chargé in Uruguay (Dominian) to the Secretary of State*

No. 685

MONTEVIDEO, July 31, 1934.

[Received August 13.]

SIR: Referring to my despatch No. 673, of July 16, 1934, and No. 677, of July 20, 1934,<sup>16</sup> relative to the call in Montevideo of Messrs. John H. Williams and Donald R. Heath, I have the honor to report that both of these gentlemen, accompanied by Dr. Eric Lamb of the Federal Reserve Bank, reached Montevideo on July 27th and left for Buenos Aires on the evening of the 28th.

I am enclosing herewith a copy of the schedule of their activities during their stay in this capital.<sup>17</sup> The series of their conferences was initiated by a luncheon with the American Association of Uruguay, an association which acts as an American chamber of commerce in this city. The luncheon was attended by the members of the executive and commercial committees of the above-named association, and provided an opportunity for Dr. Williams to become acquainted with the viewpoints of the representatives of American interests operating in Uruguay. Throughout the luncheon Dr. Williams made a point of asking questions of the members present to familiarize himself with their views and desires.

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<sup>16</sup> Latter not printed.

<sup>17</sup> Not printed.

The luncheon was followed by the presentation of the visitors to the Minister for Foreign Affairs at 2:30 p. m. I had arranged for this meeting to enable these gentlemen to pay their respects to the Minister, and also with the idea of providing for an exchange of views on the Uruguayan exchange situation between Dr. Williams and the Minister for Foreign Affairs, who is intimately acquainted with exchange developments in Uruguay and who has taken the lead, personally, in the exchange negotiations carried on between his country and several of the countries which provide the Uruguayan market with foreign exchange.

This call was followed immediately by a round table conference at the Ministry of Foreign Affairs. The Minister attended the conference in person together with the chief of the Commercial Section of the Ministry of Foreign Affairs, the Director of the Bank of Uruguay and representatives of American and Uruguayan interests. Consul General Leslie E. Reed, whom I had asked to accompany me to this meeting, was also present. The Uruguayan viewpoint on the exchange situation was submitted to Dr. Williams by the Minister for Foreign Affairs, supported by the representatives of Uruguayan interests who were in attendance, while the American views were presented by the manager of the local branch of the National City Bank, Mr. H. H. Whitman, who is also President of the American Association of Uruguay. Technical discussions and details of this conference will be incorporated in Dr. Williams' analysis of the observations made on his trip.

The argument developed by the Minister for Foreign Affairs consisted in the statement that foreign exchange was becoming increasingly scarce in Uruguay as Uruguayan exports tended to decline, and that this scarcity of exchange was now accompanied by pressure on the part of European countries having favorable commercial balances in their trade with Uruguay for recovery of their respective exchange through Uruguayan purchases of their products. The Uruguayan Government was thus being forced into canalization of its foreign trade on a basis of purchasing from the countries which purchased from Uruguay. The Minister expressed himself as being opposed to this method of international trade but spoke of it as a case of *force majeure* at the present time, in order to prevent cessation of meat exports from Uruguay. He then gave voice to opinions which I have previously reported to the Department, namely, that foreign exchange would be provided mainly, under the Uruguayan exchange control system, to importers of the nationalities which purchased from Uruguay and that where exchange would be allotted to any one country in amounts representing percentages of the value of that country's purchases of Uruguayan products, the same percentage would be attributed to other countries in order to prevent discrimination.

Throughout the conference it was apparent that the Uruguayan position was controlled almost exclusively by the fear of a possible cessation, or a curtailment, of its meat exports to the main purchasing countries. The Minister for Foreign Affairs stated several times that Uruguay was forced to adopt the exchange restrictions now being put into effect because of the insistence which countries like Great Britain, France, Germany and Italy were maintaining for the return of all exchange emanating from each one of them respectively.

In the course of this conference, Dr. Williams drew on his broad experience to summarize the Uruguayan situation and was able to convince the Minister for Foreign Affairs that a policy of restricting imports, although perfectly sound, might defeat its purpose if applied unwisely or in a manner which would prevent the pooling by Uruguay of foreign exchange flowing into the country so as to make use of the foreign currencies in the payment of its external obligations as well as in the best interests of the Uruguayan consumer. Dr. Williams spoke with authority, based on intimate knowledge of exchange conditions in various important countries of the world. I noticed that the Uruguayan gentlemen present at the round table conference, and in particular the Minister for Foreign Affairs, were greatly impressed by his statements.

Later in the evening, Dr. Williams had an opportunity of discussing further the Uruguayan exchange problem with the Minister for Foreign Affairs, as both met at the Legation as my guests for dinner.

On the 28th, Dr. Williams and his party met the Director of the Banco de la República Oriental del Uruguay, at the Bank's offices, to discuss particular aspects of the country's exchange problem and in order to obtain data regarding the present exchange situation. This meeting lasted an hour, and enabled Dr. Williams to obtain an insight into the practical working of the Uruguayan exchange control, which is exercised through the agency of the Banco de la República Oriental del Uruguay. The bank is also the Uruguayan correspondent of the Federal Reserve Bank.

The meeting at the Bank was followed by a courtesy call on the Minister of Finance. The Minister for Foreign Affairs kindly undertook to present the three visitors to his colleague and I accompanied them to the Ministry of Finance. There the Finance Minister, Señor Manini Rios, indicated that while Uruguayan finances were in favorable condition and the country enjoyed a balanced budget, it was nevertheless necessary to prevent a flow of foreign currency out of the country in excess of the amount brought in.

In the afternoon, the Minister for Foreign Affairs received Messrs. Williams, Heath and Lamb at his home, the opportunity being thus offered for further discussion of various aspects of the Uruguayan

exchange situation. Dr. Williams' report will contain the technical considerations which are, perforce, omitted from this despatch.

It is gratifying to find that I am able to report that the visit of Dr. Williams to Montevideo at this time may be considered as particularly fortunate. His profound knowledge of economics and his familiarity with foreign exchange problems created a favorable atmosphere around him whenever he found himself among Uruguayan officials and disposed them to listen attentively to his remarks. I was struck with the excellent impression he had created when we went to the Ministry of Finance, and I am in a position to substantiate this observation in the following manner. While our call at the Ministry of Finance was in progress I noted that an undertone conversation took place between the Minister for Foreign Affairs and the Minister of Finance, on ways and methods of enforcing exchange control in the course of which the Minister of Finance said to his colleague that they would be fortunate if they could find an advisor as competent as Dr. Williams, or—pointing to Messrs. Heath and Lamb—a young man of the caliber of these two men, in order to place him in charge of the exchange control system. These remarks, although not particularly intended for my ears gave me an opportunity later in the day to intimate discreetly to the Minister for Foreign Affairs that I would be happy to ascertain whether the services of a technical official of the Federal Reserve Bank would be available for a short period if he thought that the employment of such an experienced expert would be of advantage to the Banco de la República del Uruguay. His reply was that he personally favored the temporary employment, as advisor, of one of our trained banking officials, but he thought that the present political situation in the country would not permit employment of foreigners.

There is no doubt, however, that Dr. Williams' statements on the exchange situation made a profound impression on the Minister for Foreign Affairs, as well as on the Director of the Bank of the Republic. In that respect his visit to Montevideo was an unqualified success.

Respectfully yours,

LEON DOMINIAN

833.5151/194 : Telegram

*The Chargé in Uruguay (Dominian) to the Secretary of State*

MONTEVIDEO, August 8, 1934—3 p. m.

[Received 3:10 p. m.]

54. Control of free exchange mentioned in my telegram 53, August 2, 4 p. m.,<sup>18</sup> will become effective on August 15th according to a decree dated August 4.

DOMINIAN

<sup>18</sup> Not printed.

810.5151 Williams Mission/61

*The Secretary of State to the Chargé in Uruguay (Dominian)*

No. 287

WASHINGTON, October 5, 1934.

SIR: There is transmitted herewith a copy of the section relating to Uruguay of the report of Dr. John H. Williams, of the Federal Reserve Bank of New York, of his mission of investigation of American foreign exchange problems in certain South American countries. Copies of the full report<sup>19</sup> are being sent you under separate cover. These copies should be kept in the confidential files of the Legation and the Consulate General, and precaution should be taken to prevent any material in the report from reaching unauthorized persons.

You are requested, in accordance with the suggestion made on page 34 of the report,<sup>20</sup> to investigate the complaint that the amount of exchange allocated by the Uruguayan Exchange Control for imports from the United States is less than it should be because exchange necessary for payment of petroleum products imported by American companies from South American producing areas is charged to the limited quota of exchange set aside by the control for imports of American origin. Should your investigation show this complaint to be founded, your report should be accompanied by an expression of your views as to the advisability of making representations.

You are also directed, in accordance with the suggestion contained on pages 35 and 36 of the report<sup>21</sup> to inquire orally of the appropriate authorities of the Uruguayan Government as to the maturity of the new issue of amortizable obligations which it is understood will be offered to foreign holders of blocked credits in Uruguay and to point out informally, as being in Uruguay's own interest, that their term should be as limited as possible. The Department realizes that it may be thought necessary to the Uruguayan program of orderly operation and eventual liberation of exchange control to remove the pressure on the exchanges of the present accumulation of frozen credits by spreading their transfer over a certain period of time, but any attempt to fund them into long term obligations would tend, it is believed, to defeat this object. It would, besides, inflict unjustified further hardships and losses on American holders of frozen credits in addition to those already suffered as a result of Uruguayan control of exchange, whereas, no restriction has been placed by this Government on remittances to Uruguay. American subscribers to the amortizable obligations previously issued by the Uruguayan Exchange Control have had no regular market or facilities for discounting them

<sup>19</sup> Vol. IV, p. 393.

<sup>20</sup> *Ibid.*, p. 420, first paragraph.

<sup>21</sup> *Ibid.*, p. 421, fourth paragraph.

and if the proposed new issue should be of long term obligations, it would be difficult, if not impossible, to create a satisfactory market for their sale or discount under present conditions. It is anticipated that, rather than accept possibly unmarketable long term obligations, many holders of blocked balances would be forced to take the losses which would be incurred by transferring their credits through the free market.

The Department would appreciate receiving by air mail any comments or expression of views which you may care to make on the matters treated in the report. It would be helpful to the Department in its consideration of the exchange problem if the Legation, in connection with the Consul General in Montevideo, were to prepare a study of the balance of payments between Uruguay and the United States in 1933 and an advance estimate of the balance for 1934.

Very truly yours,

For the Secretary of State:  
SUMNER WELLES

833.5151/236

*The Chargé in Uruguay (Dominian) to the Secretary of State*

No. 794

MONTEVIDEO, October 17, 1934.

[Received October 29.]

SIR: The importance of the removal of exchange restrictions in Uruguay as an aid to the country's international trade led me to inquire of the Director of the Bank of the Republic, in the course of a conversation which I had with him on October 15, as to whether there existed any likelihood of a total return to free exchange transactions in Uruguay. I have the honor to report that the Director stated that every effort was now being exerted by the appropriate agencies in Uruguay to reestablish the system of free exchange trade at the earliest possible moment. According to him, each step taken in the exchange control system adopted during the last two years constituted a stage in approaching the goal of the total removal of exchange restrictions. He stated that he now hoped that exchange control would be totally removed in Uruguay in the course of the first six months of 1935, unless some unforeseen event should force its continuation.

In making this statement, however, the Director of the Bank stated that control over importations would not be lifted as he, along with the Government officials entrusted with the supervision of the import and export trade were of the opinion that the control over imports recently inaugurated would have to be maintained until complete economic recovery of Uruguay had taken place and until they thought it necessary to prevent the importation of articles which were deemed unnecessary, although not classed as luxuries.



It would appear, therefore, that the difficulties with which exporters to Uruguay have been contending would not disappear entirely with the abolition of the exchange control system, but that the maintenance of a restrictive supervision over imports to Uruguay might still be attended by hindrances of the order which have been experienced lately in connection with exchange problems.

Respectfully yours,

LEON DOMINIAN

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833.5151/238

*The Chargé in Uruguay (Dominian) to the Secretary of State*

No. 802

MONTEVIDEO, October 20, 1934.

[Received November 5.]

SIR: Referring to the Department's instruction no. 287 of October 5 requesting that an investigation be made of the complaint that the amount of exchange allocated by the Uruguayan exchange control for imports from the United States is less than it should be because exchange for petroleum products, imported by American companies from South American producing areas, is charged to the quota of exchange set aside by the exchange control authorities for imports of American origin, I have the honor to inform the Department that this complaint was the subject of discussion in 1933 and during the spring of 1934 between the Chairman of the Commerce Committee of the American Association of Uruguay, which association acts as the American Chamber of Commerce of Uruguay, and the Director of the Bank of the Republic which institution is vested with the control of exchange. According to figures compiled by the American Association of Uruguay on the basis of Uruguayan statistics, the American quota of exchange for 1933 includes the amount of \$1,816,195 in payment of petroleum products practically no part of which was considered to have originated in the United States. This amount is part of a total of \$10,441,019 allocated to the United States as dollar exchange in 1933 by the Uruguayan exchange officials.

In the course of the above mentioned discussion, the Bank justified its policy, of charging exchange given in payment of petroleum products handled by American companies in Uruguay to the United States exchange quota, on the ground that such products were handled, financed, transported and sold by American companies which, by engaging in the business, obtained the major part of the profit resulting from the operations.

It appears that during the first six months of 1934 the American oil companies operating in Uruguay received \$702,000 at the official rate. Whether these companies will continue to receive exchange at

the official rate is not known in view of the intention of the Government to restrict the granting of official exchange to Government purchases only. It is understood that the oil companies would be satisfied if they could continue obtaining exchange at the so-called compensated rate of exchange which is an intermediary rate between the official and the free rate and is worth slightly more than the latter. However, there is nothing to warrant belief in the continuation of the awarding of exchange at rates other than the free rate, as the present tendency of the Uruguayan exchange control office is to direct exchange transactions into the free market. If, eventually, the oil companies obtain exchange at the free rate only, the cost of oil products will increase in Uruguay.

The determination of the amount of that portion of exchange, in the quota allotted to American interests, which represents payment for oil derived from non-American territory, is stated to be complicated. It appears that the origin of the oil supplied to Uruguay by American companies varies from month to month according to the dictates of the commercial and economic convenience of the companies interested. The preliminary figures of exchange allotment by countries for the month of September, 1934, indicate that out of a total of \$171,708.64 allotted to American exporters there was included about \$94,000 for petroleum products. The quantity of petroleum emanating from fields in the United States included in that total is known only to the petroleum companies which do not give out their statistics or information as the particular phase of the exchange problem, considered in this despatch, is one in which they are not interested. It is not unlikely, however, that the Uruguayan customs statistics may contain data on the quantity of oil of non-American provenience imported by American companies.

The Texas Oil Company claims to be the only American oil company whose exports to Uruguay are of American origin. The other American oil companies appear satisfied with receiving dollar exchange for the total amount of their imports into Uruguay. Their business may be seriously jeopardized if they are unable to continue receiving dollar exchange for all the products they sell in Uruguay. The complaint that dollar exchange provided for oil products of non-American provenience is part of the quota assigned to the United States emanates from American exporters who do not deal in oil products. Their viewpoint differs from that of the oil companies, thus giving rise to two distinct, and possibly opposing, currents of ideas on the subject.

The difficulties inherent to the determination of the value of oil of strictly American origin may have been taken into account by the Commerce Committee of the American Association of Uruguay after

its discussions last spring with the Bank of the Republic as the subject appears to have been dropped until the arrival of Dr. Williams in Montevideo last July. Neither does it appear to have been considered subsequently in the form of a formal complaint.

In view of the existence of apparently divergent viewpoints in the two groups of American exporters consisting respectively of exporters of oil and its products and of exporters of commodities other than petroleum products, and, moreover, in view of the possibility of the removal of exchange control indicated in my despatch No. 794 of October 17, 1934, it is submitted respectfully that representations be made only after formal complaint has been received at the Department or the Legation from legitimate importing interests, if conditions existing at the time of the receipt of such complaints warrant the representations being made without general prejudice to American interests.

Respectfully yours,

LEON DOMINIAN

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810.5151 Williams Mission/68

*The Chargé in Uruguay (Dominian) to the Secretary of State*

No. 871

MONTEVIDEO, December 11, 1934.

[Received December 26.]

SIR: In its instruction No. 287 of October 5 the Department indicated that it would find it helpful if a study of the balance of payments between the United States and Uruguay could be prepared, and on page 3 of the Legation's despatch No. 805 of October 23, 1934,<sup>22</sup> I informed the Department that the Department's suggestion would be complied with. I have the honor, in pursuance of the above, to enclose herewith a preliminary report<sup>22</sup> prepared by Vice Consul Lippincott, who has been detailed to the Legation pending the arrival of Mr. Paul J. Gray, recently assigned as Third Secretary.

It may be noted from the report that the adverse balance of payments which characterizes Uruguay in its economic relations with the United States is gradually being reduced, as it has decreased from over \$4,000,000 U. S. currency in 1933 to an estimated amount of a little over \$1,000,000 U. S. currency for the year just about to end. Lack of precise information regarding the items which enter into the determination of the balance of payments prevents these figures from representing more than an approximation. As such, however, it is believed that they indicate, with fair accuracy, the present situation.

Respectfully yours,

LEON DOMINIAN

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<sup>22</sup> Not printed.

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