

Papers relating to the foreign relations of the United States, 1924. Volume II 1924

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Papers Relating to the Foreign Relations of the United States 1924

 $\begin{array}{c} \text{(In Two Volumes)} \\ \\ \text{Volume II} \end{array}$



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Dec. 23 (342)	From the Ambassador in Japan (tel.) Conversation with the Foreign Minister in which the Foreign Minister admitted that on equitable grounds there was no reason to question the U. S. claim, but that the legal basis of the claim was still under consideration; and the Ambassador intimated that the United States is prepared to apply alien property fund against its claims and would make some reduction in its claims.	112
Dec. 24 (480)	To the Ambassador in France (tel.) For Logan: Specific information as to Department's position on certain questions, as requested by Logan. (Instructions to repeat to Great Britain.)	113

Date and Number	Subject	Page
1924 Dec. 24 (482)	To the Ambassador in Great Britain (tel.) Desirability of Ambassador's presence at the Finance Ministers' conference.	115
Dec. 24 (483)	To the Ambassador in Great Britain (tel.) Information that the U. S. Ambassador to Japan has inadvertently made incorrect statements to Japan concerning the U. S. position on application of alien property fund against U. S. claims and regarding reduction in U. S. claims; and that the Ambassador has been instructed to make the U. S. position clear to the Japanese Foreign Minister and ascertain whether his statements have been telegraphed to Japanese missions in Europe. (Instructions to repeat to Logan.)	115
Dec. 26 (485)	To the Ambassador in Great Britain (tel.) Report from Ambassador in Japan that American position has been made clear to Japanese Foreign Minister and that no communications have been sent out based on misunderstanding. (Instructions to repeat to Logan.)	116
Dec. 29 (606)	From the Ambassador in France (tel.) From Logan: Letter dated December 23 from the British representative on the experts' committee (text printed) requesting confirmation of his understanding that the U. S. delegation intends to claim that (1) U. S. Army costs arrears should be met by an annuity spread over 24 years from January 1, 1923, which would be a prior claim charge on future cash receipts and would amount to an annuity not exceeding 50 million gold marks, and (2) the other claim would be met by an annuity not exceeding 50 million gold marks, expressed at percentage of Dawes annuity, which would not be entitled to any priority and would be transferred pari passu with reparation shares of Allied Powers. Transmittal of his proposed reply.	117
Dec. 30 (492)	To the Ambassador in France (tel.) Note for Foreign Minister if Logan concurs (text printed) stating that the date of January 6, 1925, for the Finance Ministers' Conference is entirely agreeable to the U. S. Government, which has taken steps to be represented at the conference; and expressing opinion that decisions regarding allocation of annuities should cover as many years as possible, their application not being restricted to the first years of the plan.	118
Dec. 31 (546)	From the Ambassador in Great Britain (tel.) Chamberlain's note, December 29 (text printed) presenting further arguments and representations against participation of the United States in payments to be made by Germany under the Dawes Plan; and suggesting arbitration of question.	119

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1924 Dec. 31 (495)	To the Ambassador in Great Britain (tel.) Instructions to proceed to Paris for Finance Ministers' Conference, his presence being necessary to carry out U. S. intention to meet the British at Paris and press for a full discussion of U. S. claims and insistence on U. S. rights and to make British opposition as inconvenient for them as possible, being ready, however, at the same time to reach an amicable adjustment on a reasonable basis. (Similar instructions sent to Logan and Herrick on December 31.)	125
1925 Jan. 3 (7)	From the Ambassador in France (tel.) Information that note accepting invitation to Finance Ministers' Conference was delivered December 31.	126
Jan. 3 (11)	From the Ambassador in France (tel.) From Logan: Cynical comment by British representative in regard to American plan for settlement of claims. Presentation of memorandum to British representative in reply to his request for confirmation of his understanding of U. S. delegation's scheme for settlement.	126
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APPOINT	MENT OF AN AMERICAN AS AGENT GENERAL FOR REPARATION PAY UNDER THE DAWES PLAN	YMENTS
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June 29 (207)	To the Ambassador in France (tel.) For Logan: Owen Young's cablegram to British member of committee of experts (text printed) suggesting that choice of Agent General should be unanimous.	136
July 2 (324)	From the Ambassador in France (tel.) From Logan: Unanimous desire of delegates for the appointment of an American for Agent General; French condition that a French national, preferably Leverve, be appointed as Railway Commissioner, to which the other delegates agree to lend support.	136

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Aug. 16	To President Coolidge (tel.) British suggestion of Gilbert, recent Under Secretary of U. S. Treasury, for Agent General; no objections by Young and Department if appointment meets with approval of interested Governments.	138
Aug. 17 (302)	To the Ambassador in Great Britain (tel.) The President's approval of Gilbert, although preferring Young. Appreciation of services of Kellogg and Logan.	138
Aug. 18 (354)	From the Ambassador in Great Britain (tel.) Opinion that Young should accept position of Agent General, even if temporarily, in order to start plan.	139
Aug. 18 (305)	To the Ambassador in Great Britain (tel.) Desirability of appointment of Young.	139
Aug. 19 (359)	From the Ambassador in Great Britain (tel.) Young's intention to go to Paris to work out plan of reparations as Agent General, pending permanent appointee.	139
Sept. 3 (399)	From the Chargé in France (tel.) From Logan: Formal appointment of Gilbert as Agent General for reparation payments.	139

Payment by Belgium to the United States on Account of the Costs of the American Army of Occupation in Germany

1924 May 13 (255)	From the Ambassador in France (tel.) From Logan: Belgian representative's oral proposal that Belgium deposit in a special blocked account for U. S. Army costs, to await ratification of Army Costs Agreement, 25 percent of the 100,000,000 gold marks on deposit at Coblenz as net product of the Ruhr occupation, which will be turned over to Belgium directly for application to Belgian priority. Draft reply (text printed) accepting proposal and suggesting that the special account be opened in the Federal Reserve Bank of New York.	140
May 28 (171)	To the Ambassador in France (tel.) For Logan: Authorization to inform Belgian representative orally that the United States would have no objection to proposed special account in favor of Army costs, on understanding that assent of other Governments concerned has been obtained. Instructions to telegraph text of any written proposal and text of proposed reply.	142

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1924 June 16 (302)	From the Ambassador in France (tel.) From Logan: Letter, dated June 14, from Belgian assistant representative (text printed) explaining the decision to turn over the sums on deposit at Coblenz directly to Belgium, Belgium remaining accountable to the Reparation Commission and to the United States for portion payable to it; and requesting information as to U. S. desires, as the Belgian Government is ready to deposit 25 percent of the cash in the special blocked account. Suggestion that Department waive proposed step requesting advance consent of powers, and accept offer.	143
June 24 (196)	To the Ambassador in France (tel.) For Logan: Letter to Belgian assistant representative (text printed) accepting proposal, on understanding that interested Governments are agreeable to the proposed disposition of the funds; and suggesting that the special account be opened in the Federal Reserve Bank of New York.	144
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July 8 (225)	To the Ambassador in France (tel.) For Logan: Advice that the United States is not directly concerned with the question of the amounts to be debited to Belgium; that the Federal Reserve Bank of New York will accept blocked account to its credit in local currencies with state banks of various countries, with right to convert to dollars at its option and to invest funds abroad or in the United States, interest earned to follow final disposition of funds; that Belgium presumably could be credited with sums set aside at their value when received by Belgium and when sums ultimately received by U. S. Treasury, U. S. Army cost account will be credited with dollar value of currencies at time credited to Federal Reserve Bank.	146
July 12 (207)	To the Ambassador in Great Britain (tel.) For Logan: Notice to U. S. Treasury, from Belgian National Bank, of deposit in certain foreign banks and in Federal Reserve Bank of New York of funds in local currency to credit of U. S. Treasury (text printed); instructions to inquire of Belgian authorities and report understanding pursuant to which funds are being deposited.	147
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PAYMENT BY BELGIUM TO THE UNITED STATES ON ACCOUNT OF THE COSTS OF THE AMERICAN ARMY OF OCCUPATION—Continued

	American Army of Occupation—Continued	
Date and Number	Subject	Page
1924 July 15 (213)	To the Ambassador in Great Britain (tel.) For Logan: Restatement of U. S. proposition, providing for deposit in U. S. Treasury rather than Federal Reserve Bank of New York. Instructions to make position clear to Belgians and to inform them that the United States is not directly concerned with the question of the amounts to be debited to Belgium.	149
Aug. 8 (332)	From the Ambassador in Great Britain (tel.) From Logan: Letter from Belgian assistant representative (text printed) concurring in Department's method of effecting conversion and investment, remaining question being difference in exchange upon first sums from time received by Belgium and time when accepted by U. S. Treasury; hope that America will support Belgian viewpoint before Reparation Commission that any loss by exchange should be borne by common pool.	150
Aug. 15 (298)	To the Ambassador in Great Britain (tel.) For Logan: Instructions to inform Belgian assistant representative that the U. S. Treasury understands that Belgium has accepted the U. S. proposition and is acting accordingly; that the United States notes that Belgium is in accord with view that United States should be debited only with what it may actually receive; that although the United States is not directly concerned with question of amounts to be debited to Belgium by the Reparation Commission, the United States sees no objection to suggestion that Belgium should not suffer any loss by exchange upon these deposits.	151
GARIAN	THE UNITED STATES OF THE RIGHT TO BE REIMBURSED OUT OR REPARATION PAYMENTS FOR COSTS OF THE AMERICAN ARMY OF IN GERMANY	
1924 Feb. 1 (54)	From the Ambassador in France (tel.) From Logan: Suggestion that the Department take definite position on asserting right to participation for U. S. Army costs in Bulgarian payments which are applied to reparations and at same time are credited to German reparations account; opinion that Reparation Commission is not competent to interpret Army Costs Agreement without mandate from Allied Powers and the United States.	152
Feb. 7 (48)	To the Ambassador in France (tel.) For Logan: Opinion that payments made by Germany's allies should be credited to reparation account of Germany, and that Reparation Commission is not competent to interpret Army Costs Agreement without mandate from signatory powers; instructions to support American right to participation in Bulgarian payments and, if necessary, to reserve rights.	153
May 14 (261)	From the Ambassador in France (tel.) From Logan: Report of agreement, signed March 28 between Bulgaria and Allies, fixing cost of Armies of Occupation in Bulgaria. Opinion that this will leave free other payments for application to credit of Germany's reparation account; intention to take action as instructed when subject of distribution comes before Commission.	154

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1924 June 27 (319)	From the Ambassador in France (tel.) From Logan: His statement before Commission (text printed) making formal record that Bulgarian payments credited on Germany's reparation account are considered as applicable to U. S. Army costs, pursuant to ratification of the Army Costs Agreement.	155

PROPOSALS FOR A COMPROMISE SETTLEMENT OF THE DISPUTE BETWEEN THE STANDARD OIL COMPANY AND THE REPARATION COMMISSION OVER THE DISPOSAL OF THE D. A. P. G. TANK SHIPS

1924 Jan. 12 (15)	To the Ambassador in France (tel.) For Logan: Department's inability to concur in intimated decision of the Tanker Tribunal that the stockholders have no equitable or beneficial interest in a corporation's assets, citing decisions of courts and action of governments in support of position.	∘ 156
Apr. 28 (232)	From the Ambassador in France (tel.) From Logan: Failure of the two arbitrators of the Tanker Tribunal to come to agreement. Recommendation that Standard Oil Co. suggest a compromise by division of tonnage on a half and half basis, rather than resort to calling in a third arbitrator.	159
June 19 (187)	To the Ambassador in France (tel.) For Logan: Consent of Standard Oil to a compromise based in principle upon equal division of proceeds from sale at auction of five tank steamers and of balance remaining in operator's fund after reimbursement of company's expenditures made under Tanker Agreement.	160
July 3	From the Unofficial Representative on the Reparation Commission Report of the members of the Tanker Tribunal, June 28 (text printed) announcing their failure to agree upon a decision and recommending a compromise.	161
Sept. 17 (408)	From the Charge in France (tel.) From Logan: British representative's reluctance to accede to compromise, desiring that arbitration be proceeded with. Request for instructions whether to approve continuation of arbitration or to endeavor to force a vote on the compromise. Suggestion that the Department consider the use of pressure in London.	165
Oct. 8 (432)	From the Chargé in France (tel.) From Logan: Suggestion that U. S. Ambassador at London be requested to urge British Government to instruct its representative to vote in Reparation Commission for proposed compromise.	166
Oct. 14 (360)	To the Ambassador in Great Britain (tel.) History of D. A. P. G. tanker case. Instructions to urge British reconsideration in favor of compromise, in view of un- disputed preponderant financial interest of Standard Oil Co. in tankers.	167

Proposals for a Compromise Settlement of the Dispute Over the Disposal of the D. A. P. G. Tank Ships—Continued

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1924 Oct. 21 (432)	From the Ambassador in Great Britain (tel.) Consultation with Treasury official in absence of Prime Minister on subject of compromise in D. A. P. G. tanker case; lack of success in changing British position.	168
Nov. 8 (398)	To the Ambassador in Great Britain (tel.) Advisability of bringing subject to attention of Foreign Office after new government is formed; further information and instructions.	169
DEL	EVERY OF THE GERMAN AIRSHIP "ZR-3" TO THE UNITED STAT	ES
1923 Sept. 18	To the Chargé in Great Britain Information that airship $ZR-3$, being built in Germany for the U. S. Government, is expected to fly to the United States between November 15 and December 1, 1923, probably flying over the Netherlands, Belgium, Switzerland, France, Spain, Portugal, and Great Britain before crossing the Atlantic Ocean. Instructions to advise Foreign Office and request permission for airship to pass over territory. (Sent, mutatis mutandis, to Belgium, France, Portugal,	170
Sept. 28 (393)	Spain, Switzerland, and the Netherlands.) From the Chargé in France (tel.) Suggestion that the safer course would be to wait until route is determined and then approach the Governments concerned, presupposing consent as a matter of course.	170
Oct. 1 (113)	From the Ambassador in Belgium (tel.) Authorization for flight of ZR-3 across Belgium.	171
Oct. 10 (88)	From the Minister in Switzerland (tel.) Authorization for flight of $ZR-3$ across Switzerland on certain conditions.	171
Oct. 16 (63)	From the Minister in Portugal (tel.) Authorization for flight of ZR-3 across Portugal and the Azores.	172
Nov. 6 (132)	From the Ambassador in Spain Spain's request for certain information in regard to voyage, such as type of airship, nationality, cargo, etc., before desired permission to enter Spain can be given. Explanation that request was not cabled, since date of airship's journey has been postponed.	172
Nov. 19 (62)	From the Minister in the Netherlands (tel.) Authorization for flight of ZR-3 over Dutch territory.	172
1924 Feb. 13 (56)	From the Ambassador in Great Britain (tel.) British inquiry as to nationality and ownership of airship at time of flight, and whether it is as civil or military airship.	173

Delivery of the German Airship "ZR-3" to the United States-Contd.

Date and Number	Subject	Page
1924 Feb. 18 (41)	To the Ambassador in Great Britain (tel.) Explanation that contract with Germany provides for airship's delivery to U. S. Government at Lakehurst, N. J.; that it will be operated until delivery by a German crew, accompanied by several U. S. Navy and Army officers; that it is to be considered a civilian airship.	173
Mar. 10 (73)	To the Chargé in Spain Information furnished by Navy Department to be communicated to Spanish Government (text printed) in reply to inquiries regarding ZR-3.	173
Apr. 7 (119)	From the Ambassador in Great Britain (tel.) British intention to grant special and temporary authorization for flight of ZR-3 over Great Britain and Northern Ireland, and inquiry as to approximate time of flight. Information that Governor of Bermuda has been instructed to issue similar authorization and that Irish Free State has been approached.	174
Apr. 8 (307)	From the Ambassador in Spain Authorization for flight of ZR-3 across Spanish territory, and offer of facilities.	175
Aug. 29 (280)	To the Ambassador in France (tel.) Information that $ZR-3$ is expected to start transatlantic flight about September 25, probable route being over France, Belgium, Netherlands, England, and occupied territory of Germany, and possibly Ireland and Canada; instructions to state that request for flight includes not only France but occupied territory of Germany.	175
Aug. 29 (36)	To the Minister in the Netherlands (tel.) Information concerning probable time of flight and route of Zeppelin. Instructions to inform Foreign Office as to date; and to telegraph confirmation of Department's understanding that authorization for flight is unconditional. (Footnote: Information that on September 3 the Minister notified the Department that authorization for the flight was unconditional.)	176
Aug. 29 (61)	To the Ambassador in Belgium (tel.) Information concerning probable time of flight and route of Zeppelin; Department's understanding that authorization for flight is unconditional. Instructions to inform Foreign Office as to date and make clear that authority shall include flight over occupied territory of Germany.	176
Aug. 29 (100)	To the Charge in Germany (tel.) Information concerning probable time of flight and route of Zeppelin; instructions to notify Foreign Office as to date.	176
Aug. 29 (313)	To the Ambassador in Great Britain (tel.) Information concerning probable date of flight and route of Zeppelin. Instructions to request definite authority for flight over territory of Great Britain and Ireland, and also occupied territory of Germany, flight over Canada to be taken up with British Embassy in Washington.	177

Delivery of the German Airship "ZR-3" to the United States—Contd.

Date and Number	Subject	Page
1924 Sept. 10 (90)	From the Ambassador in Belgium (tel.) Belgian permission for flight over Belgian territory and German zone occupied by Belgian troops on condition that no photographs be taken of military establishments.	178
Sept. 13 (377)	From the Ambassador in Great Britain (tel.) Receipt of permit for flight of ZR-3 over Great Britain and Northern Ireland to be transmitted to and carried in airship; granting of necessary authorization also for flight over British- occupied territory in Germany.	178
Sept. 17 (407)	From the Charge in France (tel.) Grant of permission for flight over France, with request that certain fortified seaports be avoided; assumption that Zeppelin will carry American officers and fly American flag.	178
Sept. 18 (379)	From the Ambassador in Great Britain (tel.) Receipt of permit for flight of ZR-3 over Irish Free State; published order by Bermuda authorizing flight over its territory.	179
Sept. 19 (293)	To the Chargé in France (tel.) Instructions to state that, as presence of American officers on $\mathbb{Z}R-3$ is that of passengers, American flag will not be flown; assurance that areas mentioned will be avoided.	179
Sept. 25 (416)	From the Chargé in France (tel.) French objection to Zeppelin flying German flag; preference that no flag be flown while crossing French territory; desire that seaports Dunkirk, Cherbourg, Brest, and Rochefort be avoided.	179
Sept. 26	To the British Ambassador Notice that the dirigible is ready to fly to America, authorization having been received for voyage across countries in contemplated route; expression of hope that Canada and Newfoundland, while not included in route, will extend kind reception in any contingency which may arise.	180
Sept. 26 (300)	To the Chargé in France (tel.) Instructions to risk no delay by insistence upon flying of German flag on Zeppelin, and to secure unequivocal authorization for flight from Government.	180
Sept. 29 (421)	From the Chargé in France (tel.) French permission for flight on condition that airship will not fly any flag in its course over French territory.	181
Oct. 2 (200)	From the Chargé in Germany (tel.) Foreign Office statement that, since Zeppelin will fly to the United States under German flag, German authorities should procure necessary permissions for flight over foreign territory; Embassy's concurrence.	181
Oct. 2 (115)	To the Chargé in Germany (tel.) Instructions to inform Foreign Office that necessary authorizations have been obtained and that no action by German Government is necessary; understanding that German flag will not be flown over French territory. (Footnote: Chargé's reply, October 3, that Zeppelin would fly no flag except upon leaving Friedrichshafen and on arrival at destination.)	181

Delivery of the German Airship "ZR-3" to the United States-Contd.

Date and Number	Subject	Page
1924 Oct. 3 (314)	To the Chargé in France (tel.) Instructions to inform Foreign Office that airship will not fly any flag over French territory and that it will avoid seaports designated; request for French confirmation that Zeppelin is free to cross French territory. (Footnote: Chargé's reply, October 4, that airship is now free to cross French territory.)	182
Oct. 7 (913)	From the British Ambassador Assurance that, in case $ZR-3$ is compelled through accident or stress of weather to fly over or alight in Canada or Newfoundland, those countries will extend every courtesy and assistance possible.	182
Nov. 13 (147)	To the Chargé in Germany (tel.) Instructions to inform Foreign Office that the Navy Department on behalf of the United States officially accepted ZR-3 on November 10 pursuant to terms of agreement of June 26, 1922, between this country and Germany.	183
OF THE	ROM THE SECRETARY OF STATE TO SENATOR LODGE URGING RATIFIC TREATY BETWEEN THE UNITED STATES AND GERMANY SIGN BER 8, 1923	CATION IED ON
1924 Mar. 13	To the Chairman of the Senate Committee on Foreign Relations Explanation of Department's adoption of policy of reciprocal national treatment and unconditional most-favored-nation treatment in the negotiation of commercial treaties.	183

GREAT BRITAIN

NEGOTIATIONS TO ENSURE BY TREATY THE RIGHTS OF THE UNITED STATES IN CENTRAL AFRICAN TERRITORIES UNDER BRITISH MANDATE

1924 Feb. 16 (39)	To the Ambassador in Great Britain (tel.) Note to British Government (text printed) reiterating U. S. position with regard to its rights in former German territories of Central Africa, now under British mandate, and submitting for approval an alternative form of preamble to proposed treaties with Great Britain, in view of British objections to previous draft of preamble. Instructions to proceed to signature of treaties as soon as possible.	193
July 31 (623)	From the Ambassador in Great Britain Note from Foreign Minister, July 29 (text printed) postponing final decision regarding proposed treaties until a more advanced stage has been reached in negotiating the treaty relating to the British mandate in Palestine.	195
Dec. 30 (541)	From the Ambassador in Great Britain (tel.) Note from Foreign Office stating that British Government is now prepared to conclude the treaties and accepts the suggested preamble with a slight modification. Request for instructions.	196

EFFORTS TO MAINTAIN AMERICAN CAPITULATORY RIGHTS IN PALESTINE PENDING AGREEMENT BY TREATY REGARDING THE BRITISH MANDATE

Date and Number	Subject	Page
1924 Apr. 15 (99)	To the Ambassador in Great Britain (tel.) Instructions to bring to attention of Foreign Office substance of telegram from U. S. consul at Jerusalem, April 11 (text printed) reporting sentence in Jaffa court of I. Hanovich, American citizen; and to state the Department's hope that measures will be taken to avoid raising an issue by insistence of local courts upon jurisdiction over American citizens, pending conclusion of convention between United States and Great Britain to ensure U. S. rights in Palestine.	197
Apr. 18 (104)	To the Ambassador in Great Britain (tel.) Further instructions to make representations to Foreign Office, in view of receipt of telegram from U. S. consul at Jerusalem, April 14 (text printed), which states that the Attorney General declares Palestine Government can no longer admit consular jurisdiction over American citizens.	198
May 13 (180)	From the Ambassador in Great Britain (tel.) Note from Foreign Office (excerpt printed) summarizing circumstances in case of I. Hanovich, and stating that he was released upon representations by American consul; also expressing pleasure at U. S. intention to resume negotiations for Palestine mandate convention.	198
May 21	From the Consul at Jerusalem (tel.) Information concerning release of Hanovich on bail, court pressing him to pay fine, which he refuses to do. Request for instructions whether protest should be made to Government of Palestine in such cases.	199
May 24	To the Consul at Jerusalem (tel.) Instructions to protest, pending recognition of British mandate over Palestine, in Hanovich case and any other case where local courts assume jurisdiction over American citizens. (Footnote: Report from consul at Jerusalem, July 15, that Hanovich had not been required to pay fine.)	199
Aug. 19	From the Consul at Jerusalem (tel.) Report as to new customs duties amendment ordinance published August 15, effective August 18, increasing considerably the rate on imported articles; enumeration of certain articles affected.	199
Sept. 2 (315)	To the Ambassador in Great Britain (tel.) Instructions to bring to attention of British Government reported attempt to collect increased customs duties from U. S. citizens in Palestine without U. S. consent, which is in contravention of U. S. capitulatory rights, and to inquire as to British views. Instructions also to state U. S. expectation to sign proposed Palestine mandate convention at early date. (Instructions to repeat to American Consul at Jerusalem for information.)	200
Oct. 18 (365)	To the Ambassador in Great Britain (tel.) Instructions to make representations to Foreign Office in connection with reported attachment of bank account of Philip Skora, American citizen, by judgment of local court at Tel-Aviv in disregard of rights of American consular court.	201

Efforts To Maintain American Capitulatory Rights in Palestine, etc.—Continued

Date and Number	Subject	Page
1924 Dec. 6	To the Consul at Jerusalem (tel.) Information that the Palestine mandate convention was signed at London, December 3. Instructions to maintain same position as heretofore with respect to rights and duties of consulate until exchange of ratifications.	201
Dec. 11 (516)	From the Ambassador in Great Britain (tel.) Foreign Office inquiry whether, in view of signature of Palestine mandate convention, the United States desires to pursue questions raised regarding increased customs duty in Palestine and attachment of bank account of Skora.	202
Dec. 17 (473)	To the Ambassador in Great Britain (tel.) U. S. maintenance of position as to necessity of its assent to any duties imposed on U. S. citizens in Palestine prior to coming into effect of convention; willingness, however, to consider request for assent to increased taxes as from date of communication of its assent to British Government. Inability to recede from position taken in Skora case and other similar cases.	202

Convention Between the United States and Great Britain Relating to Rights in Palestine, Signed December 3, 1924

1924 Apr. 28 (108)	To the Ambassador in Great Britain (tel.) Note for Foreign Office (text printed) inclosing copy of convention recently concluded with France with respect to the mandate for Syria and the Lebanon and suggesting that the convention be taken as a basis for negotiation of the convention with respect to the mandate for Palestine; proposing that by article 6 (text printed) extradition treaties, etc., in force shall extend to the mandated territory and U. S. consular officers shall enjoy same rights, privileges, and immunities as accorded to consular officers of other countries; inquiring British view of U. S. interpretation of article 7 of draft as regards changes in administration of Transjordania; and proposing exchange of notes assuring most-favored-nation treatment in Palestine. Instructions concerning draft of convention.	203
July 24 (606)	From the Ambassador in Great Britain Note from Foreign Minister, July 17 (text printed) accepting U. S. draft of convention subject to minor textual changes and the omission of second half of article 6 dealing with privileges to be accorded U. S. consular officers; giving assurances, however, as to treatment which would be accorded U. S. consular officers; explaining inability to concur in U. S. interpretation of article 7 concerning Transjordania; giving assurances of most-favored-nation treatment to U. S. nationals in Palestine.	207
Aug. 22 (325)	To the Ambassador in Great Britain Note for Foreign Office (text printed) expressing U.S. willingness to accept British modifications with one slight change, and to proceed to signature of convention in view of assurances given. Instructions to inquire whether U.S. interpretation of British assurances is correct.	209

Convention Between the United States and Great Britain Relating to Rights in Palestine—Continued

Date and Number	Subject	Page
1924 Nov. 12 (850)	From the Ambassador in Great Britain Note from Foreign Minister, November 10 (text printed) confirming U. S. interpretation of assurances given in note of July 17 and giving further assurance of intention to consult the United States, as well as powers represented on League Council, regarding any alteration in administration of Transjordania for which Great Britain may decide to seek approval of Council. Transmittal of printed proof of proposed convention. (Footnote: Information that the Ambassador was instructed, November 25, to accept the draft convention, subject to minor changes, and was given full powers to sign.)	211
Dec. 3	Convention between the United States of America and Great Britain Defining U. S. rights in Palestine.	212

Dec. 3	Convention between the United States of America and Great Britain Defining U. S. rights in Palestine.	212
	ED NEGOTIATIONS TO ENSURE RECOGNITION OF THE PRINCIPLE DOOR IN THE TURKISH PETROLEUM COMPANY'S CONCESSION IN	
1924 Jan. 16	From the Associate General Counsel of the Standard Oil Company of New Jersey Cablegram, January 15, from managing director of Turkish Petroleum Co. (text printed) giving company's assurances of carrying out open-door policy in connection with its concession in Iraq; stating that the Iraq Government insists upon its right to approve companies which, under article 34 of draft convention between Iraq Government and Turkish Petroleum Co., might desire to become sublessees of company; suggesting, however, that Iraq might accept instead right to disapprove any particular sublessee; and requesting views of American group. Disposition of American group to accept company's assurances, and to make proposal for meeting Iraq Government's contentions regarding sublessees.	222
Jan. 22	Memorandum by the Chief of the Division of Near Eastern Affairs, Department of State Interview with Standard Oil Co. counsel regarding Iraq Government's attitude and interest of American group in Turkish Petroleum Company's subleasing plan, which is practical application of open-door policy; decision of American group to acquaint Turkish Petroleum Co. with their views against undue restriction of company's right to make subleases, and to suggest desirability of retaining article 34 of draft convention, which makes possible the operation of subleasing plan, and desirability of explaining details of subleasing plan to Iraq Government in order to bring question to immediate issue with that Government.	224
Jan. 29	From the Associate General Counsel of the Standard Oil Company of New Jersey Telegram, January 28, from managing director of Turkish Petroleum Co. (text printed) reporting the Iraq Government committee's rejection of article 34 and negotiations at temporary impasse; and requesting suggestions. American group's proposed suggestion that they would approve article 34 with reservation. Request for Department's views.	226

CONTINUED NEGOTIATIONS TO ENSURE RECOGNITION OF THE PRINCIPLE OF THE OPEN DOOR IN THE TURKISH PETROLEUM COMPANY'S CONCESSION IN IRAQ—Continued

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1924 Feb. 5	From the Associate General Counsel of the Standard Oil Company of New Jersey Telegram to Turkish Petroleum Co., February 5 (text printed) stressing importance of article 34 and expressing opinion that impasse in negotiations will be overcome if Foreign Office will support company's representative in his contention that article 34 is essential.	227
Mar. 10	From the Associate General Counsel of the Standard Oil Company of New Jersey Opinion of managing director of Turkish Petroleum Co. that the Iraq Government will ultimately accept article 34 and that the British Government will support the open-door formula of American group; his statement that the French have practically accepted general scheme for American participation.	228
Sept. 18	Memorandum prepared by Mr. Teagle and Mr. Thompson of the Standard Oil Company and Mr. Wadsworth of the Division of Near Eastern Affairs, Department of State Unsuccessful efforts of British partners in Turkish Petroleum Co. and of American group to reach settlement with G. S. Gulbenkian, owner of 5 percent nonvoting share interest in company, who has blocked plan, proposed by American group and accepted in principle by other three partners, that company's activities be limited to production and transportation of crude oil. Desire of American group that the United States make representations to British Foreign Office in an attempt to secure acceptance by Gulbenkian, a naturalized British citizen, of principle of dividing among partner groups the oil produced in Iraq rather than the profits of a joint enterprise, since American group's sole object is to obtain crude oil.	229
Sept. 20 (331)	To the Ambassador in Great Britain (tel.) Information as to alleged unreasonable position taken by Gulbenkian, preventing American group from concluding agreement as to terms of participation in Turkish Petroleum Co.'s concession; and instructions to make informal representations to Foreign Office based on recapitulation of U. S. position regarding fair participation of American interests.	232
Sept. 24 (393)	From the Ambassador in Great Britain (tel.) Foreign Office assurance of desire for fair participation of American interests and for expediting conclusion of the arrangement agreed to by the four groups; intimation of Foreign Office official that he would try to find out if Gulbenkian's obstructive attitude might be altered.	235
Oct. 14 (424)	From the Ambassador in Great Britain (tel.) Opinion of Foreign Office, following conferences with Gulbenkian, that Gulbenkian's contentions are founded on practical and legal grounds, also that Turkish Petroleum Company's offers are reasonable; report that there is hope of early settlement between company and Gulbenkian.	236

CONTINUED NEGOTIATIONS TO ENSURE RECOGNITION OF THE PRINCIPLE OF THE OPEN DOOR IN THE TURKISH PETROLEUM COMPANY'S CONCESSION IN IRAQ—Continued

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1924 Nov. 28	From the President of the Standard Oil Company of New Jersey Two cablegrams from Standard Oil Co. counsel (texts printed): (1) Outlining procedure now agreed upon by all groups; (2) reporting that other groups are urging American group to take shares in Turkish Petroleum Co. as soon as available, even though Iraq concession is not yet granted. Reply to second cablegram (text printed) stating undesirabil- ity of taking shares prior to granting of concession. Request for Department's comments.	236
Dec. 1	From the Chief of the Division of Near Eastern Affairs, Department of State Department's opinion, expressed in telephone conversation with president of Standard Oil Co., that if American group should take shares in Turkish Petroleum Co. prior to granting of concession, they would be participating in company which had acquired no valid concessionary rights.	238
Dec. 17	From the Associate General Counsel of the Standard Oil Company of New Jersey Information as to phraseology of article 34 of proposed convention, with particular reference to subleasing plan—changes necessitated by insistence of Iraq Government on certain degree of supervision over transfers of territory under plan. Company's assurance that if changes in article 34 are adopted, it must be with concurrent adoption of articles 5 and 6, which embody, as condition of the concession, the provisions for carrying out the company's subleasing plan.	239
Represe New	NTATIONS BY THE UNITED STATES AGAINST TRADE DISCRIMINAT ZEALAND IN SAMOA, AND COUNTERCOMPLAINT BY NEW ZEALA	ION BY
1924 Apr. 8 (89)	To the Ambassador in Great Britain (tel.) Instructions to make representations regarding discrimination by New Zealand against American products in Western Samoa in contravention of article 3 of the Tripartite Convention of 1899 between Great Britain, Germany, and the United States.	241
Apr. 10 (123)	From the Ambassador in Great Britain (tel.) Promise of Foreign Minister to insist upon early settlement of matter; also his understanding that New Zealand claimed discrimination by United States in imposition of port duties against British ships in American Samoa.	242
July 2 (537)	From the Ambassador in Great Britain Foreign Office note, June 30 (text printed) summarizing history of alleged U. S. discrimination against British shipping in American Samoa; stating New Zealand's willingness to accord U. S. commerce national treatment in Western Samoa provided reciprocal treatment is accorded British commerce in American Samoa by virtue of article 3 of convention of 1899; enclosing note of New Zealand to Great Britain stating its position (text printed).	243

ANNOUNCEMENT BY THE BRITISH GOVERNMENT OF THE DECISION TO ACCREDIT A MINISTER TO REPRESENT IN THE UNITED STATES THE INTERESTS OF THE IRISH FREE STATE

Date and number	Subject	Page
1924 June 24 (564)	From the British Ambassador British proposal to appoint a Minister at Washington to handle matters exclusively relating to the Irish Free State; desire for U. S. concurrence.	246
June 28	To the British Ambassador Information that the President will be pleased to receive a duly accredited Minister Plenipotentiary of the Irish Free State. (Footnote: Information that Timothy A. Smiddy presented his credentials as Minister on October 7.)	247
Applicat M.	tion to the Irish Free State of the Property Conventance 2, 1899, Between the United States and Great Britain	ION OF
1925 Jan. 26 (1019)	From the Ambassador in Great Britain Note to Foreign Minister, November 17 (text printed), inquiring as to application to Irish Free State of provisions of the property convention of March 2, 1899, between United States and Great Britain; British reply, December 12 (text printed), stating that provisions of convention are still binding on Ireland.	248
Withd	ENT OF THE DISPUTE WITH THE BRITISH GOVERNMENT REGRAWAL OF RECOGNITION OF AMERICAN CONSULAR OFFICERS AT-ON-TYNE	
1924 Mar. 26 (102)	From the Ambassador in Great Britain (tel.) Information that the Foreign Secretary has agreed to the settlement of the Newcastle case on lines suggested by the Department; that Brooks would be acceptable as vice consul at Belfast; and that the British Embassy at Washington will inquire Department's wishes as to whether exchange of notes should take place in Washington or London.	249
Mar. 27 (74)	To the Ambassador in Great Britain (tel.) Department's gratification that there is a good prospect of settling the Newcastle case along lines previously agreed upon. Instructions, in discussing the case, to reiterate the understanding already reached.	249
Mar. 31 (112)	From the Ambassador in Great Britain (tel.) Undated notes exchanged subject to the Department's approval (texts printed) providing for the recall of the charges against the American consul and vice consul at Newcastle-on-Tyne and the appointment of a new consul at that port. Notes exchanged March 31 (texts printed) providing for the assignment of Slater to Fort William and Port Arthur and of Brooks to Belfast.	250
Apr. 1 (81)	To the Ambassador in Great Britain (tel.) Approval of texts of notes to be exchanged. Suggestion that notes be dated April 2 and be released for publication April 3. Draft of a statement (text printed) to be published preceding	251

Representations by the British Government on Behalf of British Indians Ineligible to Citizenship in the United States

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From the British Charge Submission of certain considerations regarding the hardship which will be inflicted upon British Indian subjects resident in the United States and especially in California, if the Supreme Court decision of February 19, 1923, is to be enforced immediately or made retroactive; and inquiry whether it would not be possible to postpone the date of enforcement to January 1, 1925, in order to minimize the hardship upon Indian property owners and students.	252
From the British Charge Inquiry whether report of cancelation of naturalization certificate of T. R. Mamdal is correct and request that operation of Supreme Court decision in the matter of cancelation of naturalizations be deferred.	256
To the British Ambassador Information concerning the case of T. R. Mamdal and other cancelation cases. Request for detailed list of the British Indians involved and the extent of their holdings of land.	257
From the British Ambassador Partial list of British Indians and their real property holdings. Suggestion that the effective date of Supreme Court ruling be postponed to January 1, 1926. Inquiry whether the United States concurs in the view that real property acquired by British Indians prior to the passage of the California land law of 1913 will not be liable to confiscation.	258
To the British Ambassador Letter from Attorney General of California to the Governor (excerpt printed) stating that there can be no postponement of the date when the Supreme Court decision becomes effective, but that reasonable time for disposal of property should be extended to aliens erroneously naturalized; opinion that lands lawfully acquired prior to passage of California land law of 1913 will not be liable to confiscation.	260
	From the British Chargé Submission of certain considerations regarding the hardship which will be inflicted upon British Indian subjects resident in the United States and especially in California, if the Supreme Court decision of February 19, 1923, is to be enforced immediately or made retroactive; and inquiry whether it would not be possible to postpone the date of enforcement to January 1, 1925, in order to minimize the hardship upon Indian property owners and students. From the British Chargé Inquiry whether report of cancelation of naturalization certificate of T. R. Mamdal is correct and request that operation of Supreme Court decision in the matter of cancelation of naturalizations be deferred. To the British Ambassador Information concerning the case of T. R. Mamdal and other cancelation cases. Request for detailed list of the British Indians involved and the extent of their holdings of land. From the British Ambassador Partial list of British Indians and their real property holdings. Suggestion that the effective date of Supreme Court ruling be postponed to January 1, 1926. Inquiry whether the United States concurs in the view that real property acquired by British Indians prior to the passage of the California land law of 1913 will not be liable to confiscation. To the British Ambassador Letter from Attorney General of California to the Governor (excerpt printed) stating that there can be no postponement of the date when the Supreme Court decision becomes effective, but that reasonable time for disposal of property should be extended to aliens erroneously naturalized; opinion that lands lawfully acquired prior to passage of California land law of 1913

RECOGNITION OF THE GREEK GOVERNMENT BY THE UNITED STATES

1924 Jan. 23 (17)	To the High Commissioner in Turkey (tel.) Excerpt from the Secretary's speech before the Council on	262
	Foreign Relations of New York, January 23 (text printed) dealing with the political situation in Greece and the reasons why the United States has hesitated to resume formal relations, and expressing the hope that the changed conditions resulting from the conclusion of the Lausanne Treaty and recent elections in Greece will enable the United States to extend formal recognition.	
Jan. 25	To President Coolidge Desirability of resuming diplomatic relations with Greece; suggestion of accrediting a Chargé d'Affaires ad interim to the Greek Government and receiving a Greek Chargé d'Affaires at Washington.	264

GREECE

RECOGNITION OF THE GREEK GOVERNMENT BY THE UNITED STATES—Continued

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1924 Jan. 25	From President Coolidge Approval of recommendations regarding relations with Greece.	265
Jan. 26 (13)	To the Chargé in Greece (tel.) Note from the Secretary of State to the Greek Foreign Minister, to be dated January 29 (text printed) accrediting Atherton as Chargé d'Affaires ad interim. Information that this action will constitute a formal recognition of the Greek Government by the United States, that Secretary of State will be pleased to receive letters of credence of Greek representative at Washington, and that recognition will be made public January 30.	265
Jan. 29 (29)	From the Chargé in Greece (tel.) Delivery of letter of credence to Foreign Minister; Foreign Minister's gratification and intention to send similar instructions to the Greek Chargé at Washington. (Footnote: Information that the Greek Chargé presented his letter of credence on February 4.)	266
Feb. 5 (33)	From the Chargé in Greece (tel.) Changes in Greek Cabinet, Venizelos being forced to retire.	267
Feb. 6 (35)	From the Chargé in Greece (tel.) Formation of a new Cabinet under the Presidency of Cafandaris.	267
Mar. 8 (43)	From the Chargé in Greece (tel.) Information that the Cabinet is about to resign; that republicans are demanding of Assembly a declaration abolishing Glücksburg dynasty and a pronouncement in favor of a republic to be approved by a plebiscite.	267
Mar. 9 (44)	From the Chargé in Greece (tel.) Resignation of the Cafandaris Cabinet; Regent's request that republican leader, Papanastasiou, form a new government.	268
Mar. 10 (32)	To the Chargé in Greece (tel.) President's desire to appoint Irwin B. Laughlin as Minister to Greece, time for his departure undetermined. Instructions to make usual inquiry at Foreign Office as to whether appointment is acceptable and to state that move is not to be interpreted as relating to present political developments.	268
Mar. 12 (49)	From the Chargé in Greece (tel.) Formation of new Cabinet with Papanastasiou as Prime Minister, new government representing military democrats, whose policy is to declare a republic to be approved by a plebiscite.	269
Mar. 12 (50)	From the Chargé in Greece (tel.) Recommendation, in view of local political tension, that inquiry as to acceptability of Laughlin be postponed, since it might be used for political purposes.	269
Mar. 17 (37)	To the Chargé in Greece (tel.) Approval of suggestion for short delay in requesting agrément for Laughlin; desire, however, that former instructions now be carried out.	270

GREECE

RECOGNITION OF THE GREEK GOVERNMENT BY THE UNITED STATES-Continued

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1924 Mar. 20 (53)	From the Chargé in Greece (tel.) Foreign Minister's oral acceptance of Laughlin as Minister to Greece, with promise of written confirmation.	270
Mar. 25 (57)	From the Chargé in Greece (tel.) Dethronement of Glücksburg dynasty by vote of Deputies and establishment of republic, latter to be confirmed by plebiscite on or about April 13.	270
Apr. 14 (62)	From the Chargé in Greece (tel.) Plebiscite returns indicating 65 to 70 percent of voters favoring republic.	271
Apr. 16 (63)	From the Chargé in Greece (tel.) Greek notification to all foreign Legations of change of regime to republic, having a Provisional President pending the formal election of a President, which will be carried out according to constitutional method to be elaborated by constitutional assembly.	271
Apr. 17 (46)	To the Chargé in Greece (tel.) Note for Foreign Minister (text printed) expressing America's intention to continue official relations as authorized in Chargé's communication of January 29.	272
Apr. 19 (65)	From the Chargé in Greece (tel.) Report that note has been forwarded to Foreign Minister as instructed.	273
Exchang Mutua Matte	EE OF NOTES BETWEEN THE UNITED STATES AND GREECE ACCAL UNCONDITIONAL MOST-FAVORED-NATION TREATMENT IN CRS	ORDING USTOMS
1924		
Sept. 10 (934)	From the Greek Chargé Information that benefit accorded to U. S. products on condition of reciprocity will come to an end December 10 through the imposition of the new Greek tariff providing for a maximum and a minimum tariff; and that Greece is ready to enter upon negotiations for a commercial treaty with the United States on the basis of the new tariff.	273
Nov. 6	To the Greek Charge Desire in near future to conclude with Greece a comprehensive treaty of friendship, commerce, and consular rights. Proposal, pending conclusion of such a treaty, for the immediate conclusion of a modus vivendi, to be effected through an exchange of notes, by means of which each country may assure to the commerce of the other unconditional most-favored-nation treatment. Transmission of draft text of note to be exchanged.	274

GREECE

EXCHANGE OF NOTES BETWEEN THE UNITED STATES AND GREECE ACCORDING MUTUAL UNCONDITIONAL MOST-FAVORED-NATION TREATMENT IN CUSTOMS MATTERS—Continued

Date and Number	Subject	Page
1924 Nov. 8 (80)	To the Minister in Greece (tel.) Transmittal of text of draft note for exchange, with instructions to deliver draft note to Foreign Office and explain orally that the Department desires at an early date to enter into a treaty of friendship, commerce, and consular rights with Greece but is awaiting the Senate approval of the treaty with Germany, signed December 8, 1923, before negotiating similar treaties with other countries. Information that modi vivendi similar to that proposed with Greece have been concluded with Brazil, Czechoslovakia, Dominican Republic, Guatemala, and Nicaragua and negotiations are under way with several other countries.	275
Nov. 19 (104)	From the Minister in Greece (tel.) Foreign Minister's statement that Greece had decided to apply minimum tariff rates for 3 months after December 10, pending conclusion of new treaty, and that time might be extended if negotiations were not then concluded; his comment that draft note seemed to follow lines acceptable to his Government.	276
Dec. 3 (87)	To the Minister in Greece (tel.) Instructions to press Greek Government for immediate instructions to its Chargé at Washington to conclude proposed exchange of notes, in view of fact that it will be impossible to conclude a treaty in the near future.	276
Dec. 9 (197)	From the Minister in Greece Failure of Foreign Minister to carry out promise to instruct the Greek Legation at Washington to effect exchange of notes; his exchange of notes with U. S. Minister at Athens, December 9 (texts printed), subject to Department's approval. Passage of bill by National Assembly giving Government power to negotiate provisional conventions of a duration of 6 months; and Government's decision to postpone application of new tariff until March 1, 1925.	277
Dec. 16 (95)	To the Minister in Greece (tel.) Greek Minister's confirmation of his Government's plan to extend status quo regarding commercial matters until March 1, and in interval to negotiate provisional convention. Department's understanding that exchange of notes will take the place of such provisional convention.	281
1925 Jan. 16 (2)	To the Minister in Greece (tel.) Instructions to make formal confirmation of exchange of notes; and to add further statement (text printed) that provisional convention is thus rendered unnecessary.	281
Jan. 20	From the Minister in Greece (tel.) Note dated January 19 to Foreign Office, confirming exchange of notes.	282

GREECE

Consent by the United States to the Pledge of Further Securities by Greece for the Greek Refugee Loan of 1924

Date and Number	Subject	Page
1924 Jan. 4	From the French Ambassador Inquiry made by Greece whether France is disposed to waive right of veto conferred by Tripartite Financial Agreement of 1918 relative to granting of any new pledge for Greek foreign loan; French disposition to act favorably on request if United States will also waive right, Great Britain having taken similar attitude.	282
Feb. 26	To the French Ambassador Assertion that the attitude of the U. S. Government has undergone no change in the matter and that it is still disposed not to offer any objections to the pledging of security by Greece for refugee loan, if France and Great Britain likewise agree to raise no objection.	284
Oct. 9	From the Greek Charge Renewed request for U. S. consent to the pledging by Greece of security for refugee loan.	285
Nov. 14	To the Greek Charge U. S. consent to the pledging of further securities by Greece for refugee loan.	286
Dec. 12	From Speyer & Co. Detailed information concerning proposed loan to the Greek Government.	288
Dec. 18	To Speyer & Co. Advice that the Department offers no objection to the flotation of loan in question.	289

GUATEMALA

EXCHANGE OF NOTES BETWEEN THE UNITED STATES AND GUATEMALA ACCORDING MUTUAL UNCONDITIONAL MOST-FAVORED-NATION TREATMENT IN CUSTOMS MATTERS

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Aug. 14	To the Guatemalan Minister	290
	Understanding of agreement reached through conversations for mutual unconditional most-favored-nation treatment in customs matters.	
Aug. 14	From the Guatemalan Minister Confirmation of U. S. understanding concerning agreement	291
	reached through conversations for mutual unconditional most-favored-nation treatment in customs matters.	

HAITI

REQUEST BY THE BANK OF THE UNION PARISIENNE FOR ARBITRATION OF THE QUESTION OF GOLD PAYMENTS ON HAITIAN BONDS

1924 Jan. 4	From the Secretary of the French Embassy Information that the Bank of the Parisian Union has requested that the question of the redemption of the Haitian loan of 1910 in gold coin should be submitted to arbitration and that the French Government approves of the request.	293
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HAITI

REQUEST BY THE BANK OF THE UNION PARISIENNE FOR ARBITRATION OF THE QUESTION OF GOLD PAYMENTS ON HAITIAN BONDS—Continued

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1924 Jan. 8	To the Secretary of the French Embassy Department's opinion that holders of bonds of the 1910 loan, since they are presumably not parties to the contract, would not be in a position to request arbitration of question whether outstanding bonds should be redeemed in gold or paper francs; that fiscal agent under the 1910 contract could not properly advance a claim for arbitration on behalf of the bondholders.	294
June 12	From the French Ambassador Inability of France to accept Haiti's rejection of the request for arbitration. Opinion that intervention of Bank of Union Parisienne is fully warranted, since the bank in requesting arbitration under article 30 of the contract was acting in its capacity as bank which issued the 1910 loan and not on behalf of the bondholders.	294
Sept. 5	From the French Chargé Further exposition of the French position. Request that the United States intervene so as to induce Haiti to desist in its refusal to let Bank of Union Parisienne avail itself of the right to request arbitration under article 30 of the 1910 contract.	296
Sept. 25	To the French Chargé Information that the bank's demand for arbitration as party to contract has changed aspect of question; and that the Amer- ican Legation at Port au Prince has been instructed to discuss matter with Financial Adviser and other Haitian officials and to report	298

HONDURAS

Efforts by the United States and the Central American Republics To Reestablish Constitutional Government in Honduras

1924 Apr. 8 (14)	To the Commissioner in the Dominican Republic (tel.) Instructions to proceed at once to Tegucigalpa to report what steps should be taken to bring about a solution of the three-cornered revolution in Honduras. Failure of Guatemala, Salvador, and Nicaragua to agree on plan of joint mediation. Department's desire for Commissioner's presence in Tegucigalpa or Amapala to assist at conference, if held, or to offer direct medi-	300
Apr. 9	ation by United States. To the Commissioner in the Dominican Republic (tel.) Résumé of political situation in Honduras and efforts of Guatemala, Salvador, and Nicaragua to agree on plan for joint mediation. Arrangements for mission.	301

HONDURAS

Efforts by the United States and the Central American Republics To Reestablish Constitutional Government in Honduras—Continued

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1924 Apr. 10 (2)	To the Commissioner in the Dominican Republic (tel.) Instructions to proceed at once, using friendly good offices on behalf of United States alone, if advisable to save time and avoid other difficulties. Telegram, April 9, from Guatemala (text printed) reporting President Orellana's offer to act in conjunction with United States alone; and Department's reply (text printed). Authorization to offer use of U. S. warship for conference. Suggestion that appropriate solution of situation might be either election of a constitutional President by existing Congress or establishment of a provisional government assuring new elections under conditions of freedom and fairness.	302
Apr. 11	From the President's Personal Representative in Honduras (tel.) Decision reached, en route, that action should be taken jointly with other Central American States; suggestion that they be requested to send representatives to Amapala for con- ference.	304
Apr. 14 (3)	From the President's Personal Representative in Honduras (tel.) Arrival in outskirts of Tegucigalpa. Discussion with revolutionary leaders, Carias and Tosta, of bases of settlement providing for immediate cessation of hostilities and for government of country until new elections can be held.	305
Apr. 15 (4)	To the President's Personal Representative in Honduras (tel.) Instructions to consider the possible delay in terminating hostilities which might result from waiting to convene Central American conference, and possible injection of partisan influences into deliberations; request for views after discussion of situation with American Minister and leaders of all factions.	306
Apr. 16 (5)	From the President's Personal Representative in Honduras (tel.) Arrival at Tegucigalpa. Discussion of basis of settlement with Council of Ministers of the dictatorship; and their agreement upon a compromise calling for the signing of a preliminary agreement containing approximately the same bases presented to the revolutionary leaders and the subsequent sending of delegates to a conference at Amapala where definite agreement would be reached based upon preliminary pact. Revolutionary leaders' consent to all proposals save proposal to postpone selection of Provisional President until after conference at Amapala.	306
Apr. 19 (7)	From the President's Personal Representative in Honduras (tel.) Acceptance by Council of Ministers of solution providing for an initial conference on board U. S. S. Milwaukee at Amapala, with assistance of U. S. special representative, to select a Provisional President and sign a preliminary pact, to be followed by an immediate suspension of hostilities and the negotiation at Amapala of a final agreement, with the mediation of the United States and all the Central American states. Approval of solution by three of the four revolutionary leaders.	308
Apr. 21 (9)	From the President's Personal Representative in Honduras (tel.) Acceptance of solution by all four of the revolutionary leaders. Arrangements for the initial conference. Suggestion that all Central American Republics be invited to send dele- gates to conference with utmost expedition.	310

HONDURAS

EFFORTS BY THE UNITED STATES AND THE CENTRAL AMERICAN REPUBLICS TO REESTABLISH CONSTITUTIONAL GOVERNMENT IN HONDURAS—Continued

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1924 Apr. 23	To the Minister in Guatemala (tel.) Instructions to invite Guatemala to participate in conference to be held at Amapala for negotiation of a final agreement between Honduran factions. (Sent, mutatis mutandis, to Costa Rica, Nicaragua, and Salvador.)	311
Apr. 23 (10)	From the President's Personal Representative in Honduras (tel.) Report on initial conference; agreement on all articles of the preliminary pact; presentation by each faction of two candi- dates for Provisional Presidency and postponement of selec- tion for another day.	311
Apr. 26 (25)	From the Minister in Costa Rica (tel.) President Acosta's favorable attitude toward participation of Costa Rica in the Amapala conference.	312
Apr. 26 (9)	To the President's Personal Representative in Honduras (tel.) Telegrams from Guatemala, Nicaragua, and Salvador (texts printed) reporting acceptances of Department's invitation to the Amapala conference. Telegrams to Guatemala and Salvador (texts printed) urging immediate attendance of representatives; telegram to Costa Rica (text printed) urging acceptance of invitation and appointment of representative.	312
Apr. 28 (14)	From the President's Personal Representative in Honduras (tel.) Signature of preliminary agreement and election of Tosta as Provisional President. Complete control of capital by revolutionary troops. Opinion that victory of revolution does not affect validity of agreement reached, as it was signed by both factions. Request for authorization to state that Provisional Government headed by Tosta will receive moral support of United States.	314
Apr. 30 (15)	From the President's Personal Representative in Honduras (tel.) Tosta's installation as Provisional President, his election and the provisions of the preliminary agreement having been definitely accepted by all elements.	315
May 1 (12)	To the President's Personal Representative in Honduras (tel.) Approval of steps taken; authorization to state that the United States will lend moral support to Provisional Govern- ment; commendation for bringing about a satisfactory solution of Honduran difficulties.	315
May 1 (19)	From the President's Personal Representative in Honduras (tel.) Report that in first session of the conference the Central American delegates expressed entire accord with provisions of the preliminary agreement. Suggestion made informally to Central American delegates that the conference make formal declarations regarding neutrality toward factions in Honduras and urging speedy ratification by signatory powers of treaties and conventions signed at last Central American Conference.	315
May 2 (20)	From the President's Personal Representative in Honduras (tel.) Formal approval by all delegates of final form of definitive agreement between the two factions in Honduras.	316

HONDURAS

EFFORTS BY THE UNITED STATES AND THE CENTRAL AMERICAN REPUBLICS TO REESTABLISH CONSTITUTIONAL GOVERNMENT IN HONDURAS—Continued

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1924 May 3	The Pact of Amapala For the purpose of reestablishing and permanently consolidating peace in the Republic of Honduras.	317
May 3 (22)	From the President's Personal Representative in Honduras (tel.) Report on final session of conference, with the signature of the definitive agreement and a formal declaration of delegates of Guatemala, Salvador, Nicaragua, and Costa Rica (text printed) expressing appreciation of services of the Personal Representative of the President of the United States and recommending the immediate ratification by all signatories of treaties and conventions which might aid in similar future situations; telegram addressed to Provisional President by Central American delegates containing assurances of their moral support.	319
May 5 (98)	From the Minister in Honduras (tel.) Presidential decree, issued May 2, convoking national constituent assembly to promulgate fundamental and organic law of the Republic.	321
May 9 (103)	From the Minister in Honduras (tel.) Promulgation of decree declaring general amnesty.	321
PROCLAM ARMS	ATION BY PRESIDENT COOLIDGE PROHIBITING THE EXPORTAT AND MUNITIONS OF WAR FROM THE UNITED STATES TO HOND	ION OF URAS
1924 Mar. 22	To President Coolidge Inquiry by New Orleans firm whether order of revolutionary forces in Honduras for rifles and ammunition can be filled; opinion that, in order to stop such shipments, a proclamation should be issued as authorized by Joint Resolution of Congress of 1922.	321
Mar. 22 (1689)	Proclamation Prohibiting exportation of arms and munitions of war to Honduras.	322
May 14	To President Coolidge Suggestion of a supplementary proclamation making exception to proclamation no. 1689 in case of exports of arms and ammunition to Honduras for commercial purposes or for use of Provisional Government.	323
May 15 (1697)	Proclamation Prescribing as an exception to the provisions of proclamation of March 22, 1924, arms and munitions exported with consent of the Secretary of State.	324

HUNGARY

CONSENT BY THE UNITED STATES THAT THE PRIORITY OF RELIEF BONDS BE SUBORDINATED TO A NEW INTERNATIONAL LOAN TO HUNGARY FOR RECONSTRUCTION

Date and Number	Subject	Page
1924 Jan. 2	From the Hungarian Minister Request that the United States consent to subordinate relief bond priority in favor of new reconstruction loan for Hungary. Assurance that the United States will not be asked to yield privileged position of relief bondholders with respect to priority over reparation payments.	325
Feb. 16	To the Hungarian Charge Desire to give sympathetic consideration to any appropriate plan for financial rehabilitation of Hungary; necessity, however, to receive certain additional information and assurances before proceeding in matter; refusal to consider waiver unless all other creditor nations of Hungary take similar action.	325
Mar. 27	From the Hungarian Minister Authorization to negotiate debt-funding agreement with the United States, which would be valuable only if America is willing to waive legal priority of relief bonds, their priority over reparations having been assured by Reparation Commission.	327
Apr. 29 (138)	To the Ambassador in France (tel.) For Logan: Signature, April 25, by Hungarian Minister, of refunding agreement; its approval by President and submission to Congress. Authorization to cooperate with Hungarian representatives in endeavor to obtain appropriate action by Reparation Commission to assure to the refunding bonds the same priority now enjoyed by the relief bond. (Instructions to repeat to Budapest.)	328
May 14 (263)	From the Ambassador in France (tel.) From Logan: Hungarian request for information concerning action of Congress on refunding agreement, as actual contracts for loan which Hungarians are negotiating in London cannot be consummated until status of U. S. relief bond is ascertained. Information that all countries have expressed willingness to subordinate their relief bond priority in favor of reconstruction loan and that Reparation Commission will at next meeting take action to accord to the new bonds the same priority over reparations which old relief bond enjoys. (Footnote: Information that Logan was notified, May 21, of the passage of the refunding bill by House and Senate.)	330
May 26 (280)	From the Ambassador in France (tel.) From Logan: Receipt of copies of letters from nations consenting to subordination of prior liens enjoyed by their relief bonds to Hungarian reconstruction loan; recommendation that United States follow formula adopted by other powers.	331
May 29 (173)	To the Ambassador in France (tel.) For Logan: Letter from Secretary of Treasury, May 29 (excerpts printed) advising that lien of obligations of Hungary providing for refunding of indebtedness of Hungary to the United States is subordinated to that of loan for reconstruction, bonds having been received in exchange for relief obligation according to agreement. (Instructions to repeat to Budapest.)	331

RESTRICTION OF JAPANESE IMMIGRATION BY ACT OF CONGRESS, AND THE ABROGATION OF THE GENTLEMEN'S AGREEMENT

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1924 Jan. 11 (211–E)	From the Chargé in Japan Japanese Government's statement (text printed), in answer to an interpellation in the Diet, explaining position regarding decision of Supreme Court of California in the Alien Land Law cases and revision of Japanese-American commercial treaty; and suggesting revision of Japanese away on dual nationality and alien land ownership.	333
Jan. 15	From the Japanese Embassy Representations regarding provision in immigration bill before Congress which will exclude from admissible classes aliens not eligible to American citizenship, thus unjustly discriminating against the Japanese and reflecting upon their character, notwithstanding Japan's faithful execution of the Gentlemen's Agreement.	334
Undated	Memorandum by the Secretary of State of a Conversation with the Japanese Ambassador, March 27, 1924 Secretary's suggestion that the Ambassador, as a rejoinder to statements made in the report of the House Committee on Immigration, present a note summarizing the purpose and substance of the Gentlemen's Agreement as understood and performed by the Japanese Government.	337
Undated	Memorandum by the Division of Far Eastern Affairs, Department of State Résumé of administrative measures proposed by the United States for adoption by Japan, and acceptance thereof or counterproposals by Japan; and the correspondence between the two countries, 1907-1908, which constitutes the Gentlemen's Agreement (texts printed).	339
Apr. 10	From the Japanese Ambassador Statement of Japan's understanding of the purport of the Gentlemen's Agreement and Japan's practice and purpose with respect to emigration from Japan to the United States; and the grave consequences which the enactment of the exclusion clause of the immigration bill would bring upon the relations of the two countries.	369
Apr. 10	To the Japanese Ambassador Acknowledgment of note of April 10 and concurrence in its statement as to the essential points constituting the Gentlemen's Agreement. Information that the note and present reply are being communicated to the appropriate committees of the two Houses of Congress.	374
Apr. 15 (69)	From the Ambassador in Japan (tel.) Report that a resentful tone has crept into newspaper articles over passage by House of Johnson immigration bill.	374
Apr. 15 (54)	To the Ambassador in Japan (tel.) Information that the phrase "grave consequences" in the Japanese note of April 10 has been construed as implying a veiled threat, although it is manifest that that was not the intention; and that, as a consequence, the Senate on April 14 defeated a measure to continue the present practice in regard to the Gentlemen's Agreement and will undoubtedly adopt the Johnson bill as passed by the House.	375

RESTRICTION OF JAPANESE IMMIGRATION BY ACT OF CONGRESS, ETC.—Continued

Date and Number	Subject	Page
1924 Apr. 15 (55)	To the Ambassador in Japan (tel.) Excerpts from the Congressional Record of April 14 (texts printed) indicating the changed viewpoint of several senators who had formerly supported the Department's view as to continuing the Gentlemen's Agreement.	376
Apr. 16	Memorandum by the Chief of the Division of Far Eastern Affairs, Department of State, of a Conversation with the Japanese Ambassador, April 15, 1924 Ambassador's distress over adverse action taken by Senate on April 14 and disappointment and chagrin at construction which had been placed upon his note of April 10; his suggestion that a statement be issued to correct the impression that he had addressed Congress directly and in a minatory tone.	379
Apr. 17	From the Japanese Ambassador Explanation of his use of the expression "grave consequences" in his note of April 10 and denial that it was intended as a veiled threat.	381
Undated	Memorandum by the Secretary of State of a Conversation with the Japanese Ambassador, April 17, 1924, at 6 p. m. Ambassador's presentation of his note explaining the expression "grave consequences" and suggestion that the note and any reply which the Department might make be made public at the same time. Secretary's assertion that he felt quite sure the Ambassador did not intend any threat and was sorry such a construction had been placed upon the expression.	382
Apr. 18	To the Japanese Ambassador Assurance that expression "grave consequences" was taken in the sense intended by the Japanese Ambassador and that it was far from the Ambassador's thought to express or imply any threat.	383
Apr. 22 (79)	From the Ambassador in Japan (tel.) Japanese attitude of hopeful waiting, as expressed in press comment and resolutions passed separately, April 21, by leading Japanese political parties.	383
Apr. 23 (80)	From the Ambassador in Japan (tel.) Foreign Minister's denial of truth of news dispatch that the Japanese Ambassador at Washington has been instructed to use every proper means to induce President Coolidge to veto the immigration bill carrying the exclusion clause.	384
Undated [Rec'd Apr. 25]		384
May 1 (88)	From the Ambassador in Japan (tel.) Receipt by Embassy of numerous protests against the exclusion clause from groups and organizations all over Japan.	388

RESTRICTION OF JAPANESE IMMIGRATION BY ACT OF CONGRESS, ETC.—Continued

Date and Number	Subject	Page
1924 Undated	Memorandum by the Secretary of State of a Conversation with the Japanese Ambassador, May 1, 1924 Ambassador's view that the immigration bill violates the first clause of article 1 of the 1911 treaty, which his Government believes should be construed as giving the right to enter, travel, and reside irrespective of the carrying on of trade. Secretary's refusal to agree to the construction; and statement that, if question of treaty violation were raised, it would be impossible for the United States to admit its obligations were not fully met.	
May 8 (69)	To the Ambassador in Japan (tel.) Information that conferees on immigration bill have reported measure with exclusion clause retained but with a proviso setting March 1, 1925, as effective date, to enable President to negotiate with Japan for abrogation of Gentlemen's Agreement.	388
May 10 (70)	To the Ambassador in Japan (tel.) Information that the House has recommitted the immigration bill with instructions to conferees not to agree to the proviso reported in the bill.	389
May 10 (97)	From the Ambassador in Japan (tel.) Articles in Japanese press indicating that the Foreign Office regards the Morris-Shidehara draft as the most acceptable basis for future negotiations; and that Japan will vigorously oppose surrender of immigration rights without assurance that the Japanese now resident in United States would not be subjected to discriminatory treatment.	389
May 14 (72)	To the Ambassador in Japan (tel.) Report of conferees, May 12, recommending the adoption of the exclusion clause substantially as embodied in the Johnson bill and without the proviso. Probability that report will be adopted before end of week. Disposition of Congress to assert complete legislative control over immigration matters. Authorization to intimate to Japanese Government that recent political developments have made a solution on basis of Morris-Shidehara draft more than ever out of the question.	390
May 16 (73)	To the Ambassador in Japan (tel.) Adoption of conferees' report in House and Senate. (Instructions to repeat to Peking.)	390
May 23	To President Coolidge Return of immigration bill without recommendation, although disapproving of the exclusion provision of section 13 (c).	391
Undated	Memorandum by the Secretary of State of a Conversation with the Japanese Ambassador, May 23, 1924, 4 p. m. Secretary's explanation of the President's decision to approve the immigration bill. Ambassador's inquiry whether the President would issue a public statement in connection with the approval of the bill.	393
May 26 (81)	To the Ambassador in Japan (tel.) Signing of immigration bill by the President; and the issuing of a public statement in regard to it.	395

RESTRICTION OF JAPANESE IMMIGRATION BY ACT OF CONGRESS, ETC.—Continued

Date and Number	Subject	Page
1924 May 26 (82)	To the Ambassador in Japan (tel.) Public statement issued by the President (text printed) giving his reasons for signing immigration bill.	396
May 26 (122)	From the Ambassador in Japan (tel.) Foreign Minister's request that the President issue an explanatory statement covering exclusion clause if he signs immigration bill, to allay Japanese bitter disappointment.	397
May 28 (125)	From the Ambassador in Japan (tel.) Report of deepest resentment and bitterness over news that the President has signed immigration bill, allayed somewhat by the President's published statement; official precautions to prevent popular outbreaks.	397
May 28 (126)	From the Ambassador in Japan (tel.) Cabinet approval of instruction to Japanese Ambassador at Washington to lodge solemn protest against passage of bill.	397
May 31 (50)	From the Japanese Ambassador Memorandum of Japanese Government (text printed), protesting against discriminatory clause in section 13 (c) of immigration act of 1924 as being inconsistent with terms of treaty of 1911; claiming efficacy of Gentlemen's Agreement, thus making unnecessary statutory exclusion; and requesting American Government to take suitable measures to remove such discrimination.	398
Undated	Memorandum by the Secretary of State of a Conversation with the Japanese Ambassador, May 31, 1924, 11:30 a.m. Secretary's suggestion that, since exclusion provision was not to go into effect until June 30, there would be opportunity for Department to give notice that the Japanese Government was released from further application under the Gentlemen's Agreement.	401
May 31 (130)	From the Ambassador in Japan (tel.) Report that the Japanese nation is in sympathy with Government's protest, harboring deep-seated resentment and bitterness although no anti-American outbreaks have occurred.	402
June 4 (132)	From the Ambassador in Japan (tel.) Belief, confirmed by tone of press, that there is general realization in Japan that no immediate action favorable to Japan can be expected and that the best course is an attitude of restraint in discussion of situation. Suicides and boycott of American goods, indicative of extent of bitterness.	403
June 16	To the Japanese Ambassador Notice that Japanese Government is to be considered as released, as from the date upon which section 13 (c) of the immigration act comes into force, from further obligation under the Gentlemen's Agreement.	403
July 8 (571–E)	From the Chargé in Japan Extract from the Foreign Minister's speech, July 1, at the opening of the Diet (text printed) explaining the circumstances attending the insertion of the exclusion clause in the immigration act of the United States and the Japanese position.	408

Date and Number	Subject	Page
1924 Sept. 11 (152)	To the Chargé in Japan (tel.) Denial of truth of Associated Press dispatch from Tokyo (text printed) attributing the strong, frank tone of the Japanese Ambassador's note of April 10 to the insistence of the Secretary of State, who wanted a note "with teeth."	1
Jan. 22 (10)	From the Ambassador in Japan (tel.) Foreign Minister's statement before the Diet (text printed) that a continuance of discussions between Japan and the United States at this time will serve no useful purpose and that the matter must await a correct understanding on the part of the American people of the Japanese people and their point of view.	411
Japanesi Born ' Count	E LEGISLATION TO PROVIDE FOR THE EXPATRIATION OF CO TO JAPANESE PARENTS IN THE UNITED STATES AND IN CERTAIN TRIES	HILDREN OTHER
1924 July 17 (581–E)	From the Chargé in Japan Transmission of a bill passed by both Houses of the Diet, amending the law of nationality, so that persons of Japanese	411
1925	stock born in certain foreign countries will be presumed to have acquired the nationality of the country in which they were born and to have divested themselves of their Japanese nationality at the time of birth, unless a desire to preserve Japanese nationality has been formally expressed.	
Mar. 24 (175)	From the Ambassador in Japan Information that Japanese parents in Hawaii are being urged to refrain from registering their children at the Japanese consulate and thus clearly define their status as American citizens, pursuant to the new expatriation law put into effect by the Japanese Government on December 1, 1924.	413
POSAL	ON BY THE UNITED STATES AND GREAT BRITAIN TO THE JAPANES TO ASSIMILATE THE SOUTH MANCHURIA RAILWAY ZONE WITH JA ORY FOR TARIFF PURPOSES	SE PRO-
1924 July 11 (203)	To the Ambassador in Great Britain (tel.) Telegram, July 8, from Peking (text printed) reporting that a new commercial treaty is being negotiated at London between Great Britain and Japan and that a clause has been proposed, presumably by Japan, providing that Chosen, Kwantung Leased Territory, and the South Manchuria Railway Zone are to be placed on same status as Japan for tariff purposes. Instructions to make discreet inquiries. Information that the United States is opposed to such assimilation of the South Manchuria Railway Zone.	414
uly 14 (250)	From the Ambassador in Great Britain (tel.) Foreign Office admission that a new commercial treaty with Japan is being discussed, but that the proposals regarding the Kwantung Leased Territory and the South Manchuria Railway Zone come entirely from side of Japanese Government; agreement with U. S. views and request that they be presented in an informal memorandum.	414

Opposition by the United States and Great Britain to the Japanese Proposal To Assimilate the South Manchuria Railway Zone With Japanese Territory for Tariff Purposes—Continued

Date and Number	Subject	Page
1924 July 17 (221)	To the Ambassador in Great Britain (tel.) Authorization to give Foreign Office an informal memorandum of U. S. views.	415
July 18 (265)	From the Ambassador in Great Britain (tel.) Information that Japan is asking for amendments or interpretations of the existing 1911 treaty, rather than a new treaty; and that the British Foreign Office is entirely in accord with U. S. views regarding the South Manchuria Railway Zone.	415
July 26 (238)	To the Ambassador in Great Britain (tel.) Department's opinion that there is no legal basis for a suggestion or arrangement which would constitute the South Manchuria Railway Zone a separate customs area. Telegram, July 23, from Tokyo (text printed) reporting the Foreign Minister's denial that Japan contemplated any change in the status of the South Manchuria Railway Zone.	416

Financial Settlement by Japan for the Fatal Shooting of Lieutenant Warren H. Langdon, U. S. Navy, at Vladivostok by a Japanese Sentry, January 8, 1921

1923 Mar. 19 (170)	To the Chargé in Japan Instructions to present to Foreign Office the matter of pecuniary reparation for the unlawful killing of Lieutenant Langdon and to endeavor to obtain indemnification in the amount of \$40,000.	417
Aug. 11	To Senator Henry Cabot Lodge Status of case of Lieutenant Langdon, presentation of claim having been deferred pending settlement by this Government of claims presented by Japan for death of two Japanese subjects, Uratake and Saito.	419
1924 Apr. 1 (60)	From the Ambassador in Japan (tel.) Foreign Office note (excerpt printed) offering \$15,000 to surviving relatives of Lieutenant Langdon as an expression of condolence and consolation, with a view to speedy settlement of case; and asserting that if a considerable amount is demanded by way of indemnification, it would compel Japan to go back into and discuss the causes and circumstances leading to the unfortunate affair. Opinion that it would be expeditious to accept this offer.	420
Apr. 8 (49)	To the Ambassador in Japan (tel.) Inquiry as to reasons for believing it expedient to accept offer.	420
Apr. 28 (86)	From the Ambassador in Japan (tel.) Opinion that refusal of present offer would only result in delay without prospect of increase in amount, because of feeling regarding immigration situation.	421

Financial Settlement by Japan for the Fatal Shooting of Lieutenant Warren H. Langdon—Continued

Date and Number	Subject	Page
1924 June 21 (105)	To the Ambassador in Japan (tel.) Authorization to accept \$15,000 in settlement of Langdon claim and to explain to Foreign Office that offer is accepted because of willingness of Langdon's parents that matter be settled in that manner. (Footnote: Information that a draft for \$15,000 was received by the Chargé in Japan on July 5.)	421

LITHUANIA

Extradition Treaty Between the United States and Lithuania, Signed April 9, 1924

1924 Apr. 9	Treaty between the United States of America and Lithuania For the extradition of fugitives from justice.	422

MEXICO

Support Given by the United States to the Constitutional Government in Mexico in Suppressing Armed Insurrection

1924 Jan. 7 (16)	To the Chargé in Mexico (tel.) Instructions to advise Foreign Office that the President has placed an embargo on shipment of arms or munitions of war to Mexico, except such as are approved for shipment to the recognized Government of Mexico and for industrial and commercial uses.	428
Jan. 7 (1683)	Proclamation Prohibiting the exportation of arms or munitions of war to Mexico, except such as are approved for shipment to the recognized Government of Mexico and for industrial or commercial uses.	428
Jan. 11 (8208)	From the Chargé in Mexico Note from Acting Foreign Minister, January 9 (text printed) expressing satisfaction with embargo measure.	430
Jan. 16	To the Consul at Vera Cruz (tel.) Information that the Mexican Government has appealed for aid and that the United States is furnishing that Government with a limited quantity of war material in the interest of stability and orderly procedure.	430
Jan. 19	To the Mexican Charge Information that at his request permission has been granted for 2,000 Mexican troops to proceed over American soil from Naco to El Paso with understanding that they shall travel unarmed while in the United States, their arms and ammunition being sent as baggage. (Footnote: Information that two similar requests were later granted by the Department.)	431

Efforts by the United States To Protect American Lives and Commerce Against the Operations of Insurgents in Mexican Ports

Date and Number	Subject	Page
1924 Jan. 17	From the Consul at Vera Cruz (tel.) Circular letter from naval command of de facto Government that it has been decided to mine the ports of Frontera, Puerto Mexico, and Vera Cruz.	432
Jan. 19	To the Consul at Vera Cruz (tel.) Instructions to advise Huerta that the U.S. cruiser Richmond has been ordered to proceed to Tampico to protect U.S. commerce, in view of Huerta's failure to comply with Department's request that authority responsible for proposed blockade of Tampico take steps to remove this threat to world commerce.	432
Jan. 19	To the Consul at Vera Cruz (tel.) Instructions to protest against the mining of the ports of Frontera, Puerto Mexico, and Vera Cruz as being an unwarranted threat against world commerce, and to administer a solemn warning that the United States will be constrained to adopt measures to protect its nationals and commerce if mines and other obstructions are not immediately removed from the ports in reference.	433
Jan. 19	To the Vice Consul at Salina Cruz (tel.) Inquiry whether rebels or Federal Government officials are placing mines.	433
Jan. 19	From the Consul at Vera Cruz (tel.) Representations to Huerta, in accordance with instructions; information from Department of Marine that blockade will not go into effect until end of month.	433
Jan. 20	From the Vice Consul at Salina Cruz (tel.) Information that Federal Government officials have mined the port.	434
Jan. 21	To the Vice Consul at Salina Cruz (tel.) Telegram sent to consul at Vera Cruz (text printed) instructing him to make an informal protest to Huerta against the threat or execution of a bombardment of any Mexican port, in view of report that Salina Cruz is to be bombarded by rebel gunboat. Instructions to make the same informal protest to authorities at Salina Cruz.	434
Jan. 21	From the Consul at Vera Cruz (tel.) Information that all instructions have been carried out and protests made to Huerta in person.	434
Jan. 22 (46)	From the Chargé in Mexico (tel.) Note from Acting Foreign Minister, January 21 (text printed) stating that necessary measures have been taken to prevent blockade of Tampico and protect commerce of friendly countries, and that operations of the Richmond will cease to be necessary in a very short time.	435
Jan. 23	From the Consul at Vera Cruz (tel.) Information that orders have been issued by de facto authorities for removal of mines and obstructions from ports of Frontera, Puerto Mexico, and Vera Cruz.	435

EFFORTS BY THE UNITED STATES TO PROTECT AMERICAN LIVES AND COMMERCE AGAINST THE OPERATIONS OF INSURGENTS IN MEXICAN PORTS—Continued

Date and Number	Subject	Page
1924 Jan. 23	To the Consul at Vera Cruz (tel.) Instructions to report whether mines have been removed from all ports.	435
Jan. 24 (60)	To the Chargé in Mexico (tel.) Instructions to inform Acting Foreign Minister that the Richmond is being withdrawn from Mexican waters since effort to blockade Tampico has been abandoned by Huerta; and that the Omaha, the destroyers, etc., at Vera Cruz will be withdrawn as soon as their services are no longer needed in connection with the Tacoma disaster.	436
Jan. 25	From the Consul at Vera Cruz (tel.) Huerta's statement that only the position of Obregón's forces was bombarded, inhabitants being in no danger; that Salina Cruz was mined by Federal authorities.	436
Jan. 31	From the Consul at Vera Cruz (tel.) Information that all mines have been removed and that Huerta, in view of the removal of this protection, hopes that Mexican gunboat Bravo will not be allowed to leave New Orleans during this conflict.	437
Feb. 2 (71)	To the Chargé in Mexico (tel.) Information that the Omaha and destroyer squadron have been relieved from duty in Mexican waters; but that the Richmond has been ordered to proceed to Vera Cruz as a precautionary measure.	437
Feb. 5	From the Consul at Vera Cruz (tel.) Evacuation of Vera Cruz by Huerta forces. Expectation that Federal troops will assume control shortly.	437
Feb. 6 (81)	To the Chargé in Mexico (tel.) Department's hope that occupation of Vera Cruz by Government forces will be speedily followed by restoration of public order and adoption of ample provisions for protection of American lives and property, as the Department desires to withdraw the Richmond at earliest possible moment. Authorization to communicate this information to the Foreign Office.	438
Feb. 9	From the Consul at Vera Cruz (tel.) Evacuation of Puerto Mexico by Huerta's forces; imminence of departure from Vera Cruz and occupation by Federal troops. (Footnote: Information that on February 11 the consul reported that the Federal forces had arrived, and on February 17 that the Richmond had departed.)	438

PROTESTS BY THE UNITED STATES AGAINST DEMANDS UPON AMERICAN CITIZENS IN MEXICO FOR PAYMENT OF DUTIES AND TAXES ALREADY PAID TO REVOLUTIONARY AUTHORITIES

1924		
Jan. 4	From the Consul at Vera Cruz (tel.) Desire of American interests to know Department's position as to whether they can export and import without being fined and treated as smugglers by Obregón Government in event of its return to Vera Cruz.	438

PROTESTS BY THE UNITED STATES AGAINST DEMANDS UPON AMERICAN CITIZENS IN MEXICO FOR PAYMENT OF DUTIES AND TAXES ALREADY PAID TO REVOLUTIONARY AUTHORITIES—Continued

Date and Number	Subject	Page
1924 Jan. 5	To the Consul at Vera Cruz (tel.) View that American citizens are entitled, under generally recognized rules and principles of international law, to transact business with de facto authority in Vera Cruz, it remaining for them to decide whether they shall engage in this business.	439
Feb. 1	To the Mexican Charge Representations against Mexican decree of December 10, 1923, declaring ports of Vera Cruz and Manzanillo to be closed, as being contrary to requirements of international law that a port outside the control of a government cannot be closed by such government save by an effective blockade maintained by it.	439
Feb. 5 (77)	To the Chargé in Mexico (tel.) Instructions to request remission of further payment of duties by shippers on the Esperanza, pointing out that under applicable rules and principles of international law these American citizens are entitled to pay charges to de facto authorities in Vera Cruz, and, having made such payment, are free from further obligation.	440
Feb. 12	From the Mexican Charge Notification that port of Vera Cruz has been occupied by Government forces and reopened to international traffic. (Footnote: Information concerning the reopening of ports of Acapulco, Frontera, and Progreso.)	441
Feb. 16 (82)	From the Chargé in Mexico (tel.) Telegram, February 14, from consul at Guadalajara (text printed) requesting advice for American citizens who are required by State authorities to make repayment of taxes already exacted by revolutionary government.	441
Feb. 19 (100)	To the Chargé in Mexico (tel.) Instructions for consul at Guadalajara to advise American citizens not to repay taxes already paid to persons in de facto authority; and for Chargé to inform Foreign Office of situation and suggest that attention of State of Jalisco be called to applicable rules and principles of international law.	441
Feb. 20 (106)	To the Chargé in Mexico (tel.) Instructions to bring to attention of Foreign Office the report that authorities at Vera Cruz are requiring the repayment of taxes already exacted by de facto authorities and that the Department has advised interested Americans not to make such repayments; and to state that no doubt the Mexican Government will instruct authorities in Vera Cruz to be governed by the applicable rules and principles of international law.	442
Feb. 21 (108)	To the Chargé in Mexico (tel.) Instructions to bring to attention of Foreign Office the report that Cuyamel Fruit Co., Arbuckle Brothers, and Westfeldt Brothers, American firms, are being penalized by Vera Cruz authorities for having transacted business with de facto authorities; and to express the hope that the Mexican Government will act to remove these obstructions to international trade.	44:

PROTESTS BY THE UNITED STATES AGAINST DEMANDS UPON AMERICAN CITIZENS IN MEXICO FOR PAYMENT OF DUTIES AND TAXES ALREADY PAID TO REVOLUTIONARY AUTHORITIES—Continued

Date and Number	Subject	Page
1924 Feb. 27 (8341)	From the Chargé in Mexico Foreign Office note, February 25, stating that authorities of State of Jalisco have been informed of U. S. representations and have been instructed to report on the subject and issue suitable orders.	443
Mar. 6 (129)	To the Chargé in Mexico (tel.) Instructions to request Foreign Office to dispatch prompt orders to Vera Cruz authorities to desist from penalizing Singer Sewing Machine Co., Sanborn Brothers, and Mississippi Valley Trading Co., American firms, for having transacted business with de facto authorities.	443
Mar. 15 (147)	To the Chargé in Mexico (tel.) Mexican Chargé's assurance that instructions have been given customs authorities throughout Mexico not to require second payment of taxes where first payment has been made in good faith under compulsion to de facto authorities.	444
Mar. 18 (152)	To the Chargé in Mexico (tel.) Instructions to bring to attention of proper authorities the report of the consul at Vera Cruz (text printed) that customs authorities have failed to grant permission for shipment to interior of goods cleared from customs under pressure from de facto authorities and stored in private warehouses and railway terminals; to urge the immediate release of such shipments; and also to point out the extent of the moral and material assistance which the United States has rendered to Mexican Government during recent months.	444
Mar. 22 (159)	To the Chargé in Mexico (tel.) Instructions to bring urgently to the attention of the Foreign Office the reports that at Vera Cruz and Guadalajara certain American firms are being threatened with embargo of their property unless taxes already paid to de facto authorities be repaid immediately; and to request that the Mexican Government issue definite instructions to all local authorities that they must not indulge in such proceedings against American citizens.	445
Mar. 26 (106)	From the Ambassador in Mexico (tel.) Circular of March 21 issued by General Director of Customs (excerpts printed) stating that no form of customs duties or penalties paid to the rebels will be demanded again by customs offices; also that period of rebel control will not be taken into account in calculation of legal periods.	445
Mar. 27 (170)	To the Ambassador in Mexico (tel.) Report from consul at Vera Cruz that, through influence of the Governor, repayment of taxes is still being threatened; instructions to request that orders be given the Governor to cease such threats.	446
Mar. 29 (113)	From the Ambassador in Mexico (tel.) Foreign Minister's statement that the Mexican Government would not insist upon repayment of customs duties already paid to de facto authorities in control of ports; that the Government will maintain policy not to insist upon repayment of state taxes already paid to de facto authorities and will request state authorities not to collect taxes already paid to de facto authorities.	446

PROTESTS BY THE UNITED STATES AGAINST DEMANDS UPON AMERICAN CITIZENS IN MEXICO FOR PAYMENT OF DUTIES AND TAXES ALREADY PAID TO REVOLUTIONARY AUTHORITIES—Continued

Date and Number	Subject	Page
1924 May 31 (89)	To the Ambassador in Mexico Expression of gratification that question of double taxation apparently has been satisfactorily settled by method of direct appeal to governors of states.	446

EXPULSION OF THE BRITISH CHARGÉ FROM MEXICO, AND THE EXERCISE OF GOOD OFFICES BY THE UNITED STATES FOR THE PROTECTION OF BRITISH INTERESTS

1924		
June 4 (198)	From the Chargé in Mexico (tel.) Receipt by Cummins, British Chargé, of a note from the Mexican Secretary of the Interior stating that, by virtue of orders from the President through the Foreign Minister, Cummins is required to leave Mexico within 10 days and that requisite measures will be taken if he does not leave.	447
June 9 (8570)	From the Chargé in Mexico Information received from Cummins during conversation at British Legation at Cummins' request, that expulsion notice contemplates his departure on June 10; that Mexico's action was based upon alleged offensive tone of Cummins' note to Mexico in the case of a British subject whose property had been expropriated, and the British Government's assumption of responsibility for the note; that British Government is offering, as a solution, to grant Cummins leave upon arrival of Hohler on mission to prepare a special report, but that any action looking to Cummins' expulsion would result in immediate cancelation of Hohler's mission.	447
June 13 (212)	From the Chargé in Mexico (tel.) Information that Cummins is virtually a prisoner in the British Legation, which is under open surveillance by Mexican authorities; and that Cummins is in touch with the Chilean Minister, who is dean of diplomatic corps in absence of U. S. Ambassador, and purposes to enter a vigorous protest with that body in case of a violation of the British Legation. Request for instructions in such an eventuality.	448
June 14 (304)	To the Chargé in Mexico (tel.) Authorization to join with diplomatic body in a protest, if Mexican Government violates the British Legation.	449
June 14 (219)	From the Chargé in Mexico (tel.) Chilean Minister's unsuccessful effort to obtain revocation of expulsion decree against Cummins; his belief Mexican Government will resort to drastic measures. Desirability of suggesting to British Government expediency of instructing Cummins to leave on receipt of passports, if Mexican Government can be induced to change its present attitude.	449

EXPULSION OF THE BRITISH CHARGÉ FROM MEXICO, ETC.—Continued

Date and Number	Subject	Page
1924 June 18 (312)	To the Chargé in Mexico (tel.) British Foreign Office note of June 17 (excerpt printed) stating that the Mexican rejection of the British offer leaves no alternative except to withdraw Cummins; and requesting good offices of State Department, through U. S. representative in Mexico, to communicate that decision to Cummins and assist him in his departure, especially by taking over from him the archives and effects of the British Legation. Instructions to take over the British Legation's archives and effects and to assist Cummins in every proper way; also, as an act of courtesy, to inform Mexican Government of Department's instructions.	450
June 18 (224)	From the Chargé in Mexico (tel.) Preparations for turning over of British archives and for departure of Cummins, usual facilities being allowed by Foreign Office and extension of time granted by request.	451
June 18 (225)	From the Chargé in Mexico (tel.) Cummins' desire to further postpone departure until detailed instructions are received regarding transfer of archives; Chargé's request for instructions as to proper attitude in event Mexicans attempt to seize Cummins after expiration of time limit.	451
June 19 (226)	From the Chargé in Mexico (tel.) Grant of further extension of time limit for Cummins' departure, upon Chargé's request, it being found impossible to close up British Legation affairs in given time.	452
June 19 (227)	From the Chargé in Mexico (tel.) Signing of inventory of effects, oaths, and receipt for strong room containing archives, to which British consul general has access.	453
June 19 (319)	To the Chargé in Mexico (tel.) Instructions to suggest to Cummins the importance of departing as soon as possible; to inform Foreign Minister of expectation that Cummins will not be restricted in any way while making reasonable efforts to depart; also to state, if occasion requires, that this Government must protest if British Legation is violated.	453
June 20 (228)	From the Chargé in Mexico (tel.) Report that Cummins is departing for the United States via Laredo, and that necessary work of transferring archives, etc., has been completed, three British employees remaining in the Legation.	454
June 21 (229)	From the Chargé in Mexico (tel.) Cummins' departure, evening of June 20, without any hostile demonstration; British intention to ask American Embassy to take over British interests.	454
June 21 (326)	To the Chargé in Mexico (tel.) Assumption that Cummins is now en route to Laredo and that representations directed in Department's telegram 319 of June 19 are not necessary.	455
June 27	To the British Ambassador Information that the American Ambassador in Mexico has been instructed to extend appropriate good offices in relation to British interests in that country according to request, and that the Mexican Government has been so advised.	455

MOROCCO

Invitations From Great Britain, France, and Spain to the United States To Adhere to the Convention of December 18, 1923, Regarding the Organization of the Statute of Tangier

Date and Number	Subject	Page
1924 May 29 (481)	From the British Ambassador Information that the convention of December 18, 1923, regarding statute of Tangier has been ratified by Great Britain, France, and Spain and ratifications were deposited at Paris on May 14. Invitation, in concert with France and Spain, to United States to adhere to the convention.	456
June 4 (72)	To the Ambassador in Italy (tel.) Instructions to ascertain informally the attitude of Italy toward the convention and toward the Tangier port concession. (Sent, mutatis mutandis, to the representatives in Belgium, the Netherlands, and Portugal.)	456
June 6 (64)	From the Minister in Belgium (tel.) Information that Belgium has objected to the new convention because it does not give sufficient guarantees in regard to equality of economic opportunity and because Belgium is given no representation on the proposed Mixed Tribunals; that Belgium feels it will eventually be forced to adhere to the convention but will make reservations if possible; that Belgium has taken no action in regard to the Tangier port concession and is not yet in a position to comment.	457
June 6 (31)	From the Minister in Portugal (tel.) Information that Portugal has found the convention unsatisfactory, but has decided to adhere without conditions or reservations, and has same attitude toward port concession.	458
June 7 (110)	From the Ambassador in Italy (tel.) Information that Italy is not disposed to adhere to the convention without reservations and desires to act in complete accord in matter with United States.	458
June 16 (29)	From the Chargé in the Netherlands (tel.) Note from Netherland Foreign Minister stating Netherlands is disposed to adhere to Tangier convention but that certain questions affecting protégés outside of Tangier Zone are causing delay, and that only reservation likely is nonadhesion to article 9, as Netherlands is not a party to treaties of Versailles, St. Germain, and Trianon; and requesting U. S. views concerning Tangier convention.	459
July 11	To the British Chargé Reasons why United States does not find it practicable to participate in proposed administrative machinery of Tangier Zone. Willingness, however, to consider possibility of suspending extraterritorial rights in the Zone on condition: (1) that the meaning of the term "economic equality" as used in convention be explained with greater particularity; (2) that signatories to convention acknowledge to United States and assume full responsibility for acts and omissions of administrative authorities of the Zone; (3) that the United States shall be free to designate judge or judges from consulate personnel in all cases in which an American is a party; (4) that provisions with respect to semsars are in no way intended to affect existing rights of semsars in other parts of Morocco; and (5) that the extension to the Tangier Zone of any future international agreements shall not be considered as abridging rights of American citizens in Tangier without consent of U. S. Government. (Similar communication sent to French and Spanish Ambassadors,)	459

MOROCCO

Invitations From Great Britain, France, and Spain to the United States To Adhere to the Convention of December 18, 1923—Continued

Date and Number	Subject	Page
1924 July 14	Memorandum by the Under Secretary of State of a Conversation with the French Chargé Chargé's inquiry as to meaning of U. S. note, it not being clear to him what United States intended to do. The Under Secretary's explanation that, if guarantees and safeguards as raised in U. S. note were given in a satisfactory manner, it was Department's intention to recommend to the Senate the suspension of U. S. extraterritorial rights and U. S. adhesion to the convention with reservation that United States should not participate in the administration of the Zone.	462
Oct. 10 (935)	From the British Ambassador Acceptance of U. S. conditions with respect to (1) meaning of term "economic equality," (2) semsars, and (3) extension to Tangier Zone of any future agreements. Assurance that France, as the only intermediary of the Moroccan Government, will assume full responsibility in Zone insofar as diplomatic questions are concerned; and that an associate judge or judges might be designated from the U. S. consulate general, exclusive of officers de carrière, since dahir creating the Mixed Tribunals prohibits persons holding official positions from sitting on tribunals as associate judges.	463
Oct. 31	From the French Ambassador Acceptance of certain of the U. S. conditions, and assurances on the other conditions similar to those given by Great Britain.	466
Nov. 8 (55–08)	From the Spanish Ambassador Acceptance of certain of the U. S. conditions, and assurances on the other conditions similar to those given by Great Britain and France.	468
Dec. 20	To the British Ambassador Request for further assurances concerning responsibility of French Government in diplomatic matters and freedom of U. S. Government to designate as associate judge any qualified U. S. citizen regardless of fact that he may be a consular officer de carrière. Inquiry whether United States will have an opportunity to examine the codes and regulations to be drawn up and by what method it is contemplated that diplomatic relations with Shereefian Empire shall be maintained. (Sent, mutatis mutandis, to the French Ambassador; and a similar note sent to the Spanish Ambassador.)	470

NETHERLANDS

AGREEMENT BETWEEN THE UNITED STATES AND THE NETHERLANDS FURTHER EXTENDING THE DURATION OF THE ARBITRATION CONVENTION OF MAY 2, 1908

1004		I
1924 Jan. 3	To the Netherland Minister Consent of the United States to renew the arbitration convention of May 2, 1908, with the understanding that Netherlands will not be averse to considering a modification of the convention, or the making of a separate agreement, providing for the reference of disputes mentioned in the convention to the Permanent Court of International Justice, in the event that the Senate gives its consent to adherence to the protocol of December 16, 1920.	473

NETHERLANDS

AGREEMENT BETWEEN THE UNITED STATES AND THE NETHERLANDS FURTHER EXTENDING THE DURATION OF THE ARBITRATION CONVENTION OF MAY 2, 1908—Continued

Date and Number	Subject	Page
1924 Jan. 5 (37)	From the Netherland Minister Assurance that Netherlands is disposed to renew the arbitration convention with understanding with respect to the Permanent Court of International Justice as desired by the United States.	474
Feb. 13	Agreement between the United States of America and the Netherlands Providing for the extension of the arbitration convention of May 2, 1908, for a further period of 5 years from March 25, 1924.	474
Feb. 13	To the Netherland Minister Understanding that, in the event that the Senate gives its assent to adhesion to the protocol of December 16, 1920, the Netherlands Government will not be averse to considering a modification of the arbitration convention, or the making of a separate agreement providing for reference of disputes mentioned in the convention to the Permanent Court of International Justice.	475
Feb. 13 (475)	From the Netherland Minister Confirmation of understanding regarding modification of the convention in the event of the adhesion by the United States to the protocol of December 16, 1920.	476

FAILURE TO CONCLUDE A TREATY OF FRIENDSHIP, COMMERCE, AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND THE NETHERLANDS

1923 Oct. 18 (123)	From the Minister in the Netherlands Willingness of Foreign Office to negotiate unconditional most-favored-nation clause with the United States.	476
Nov. 21 (56)	To the Minister in the Netherlands (tel.) Department's readiness to negotiate general treaty of amity, commerce, and consular rights with the Netherlands on basis of unconditional most-favored-nation treatment; instructions to inquire whether Foreign Office is willing to negotiate a treaty on this basis.	477
Dec. 5 (65)	From the Minister in the Netherlands (tel.) Foreign Minister's note stating that Netherlands is disposed in principle to conclude a new general treaty of amity, commerce, and consular rights with the United States on the basis of unconditional most-favored-nation treatment; his suggested announcement of negotiations, for release December 8 (text printed).	477
Dec. 7 (60)	To the Minister in the Netherlands (tel.) Instructions to inform Foreign Minister that United States is disposed to begin negotiations at once and will forward a copy of proposed draft to Netherland Minister at Washington, trusting that Netherlands will not object to having negotiations conducted at Washington. Information that the announcement suggested by Netherland Foreign Minister will be released December 8.	478

NETHERLANDS

FAILURE TO CONCLUDE A TREATY OF FRIENDSHIP, COMMERCE, AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND THE NETHERLANDS—Continued

Date and Number	Subject	Page
1923 Dec. 12 (68)	From the Minister in the Netherlands (tel.) Foreign Minister's note (text printed) conveying information that there is no objection to new treaty being negotiated at Washington.	478
1924 Jan. 9	To the Netherland Minister Submission of draft treaty of friendship, commerce, and consular rights, with comments and explanations.	478
May 8 (1346)	From the Netherland Minister Objections to detailed character of draft treaty and to several of the treaty's special clauses. Counterproposal that for the time being the two countries enter into a simple agreement limited to a reciprocal warrant of unconditional most-favored-nation treatment and safeguarding mutual rights agreed upon in convention of 1852.	480
July 11	To the Netherland Minister Inability to agree to counterproposal; request for further information as to Netherlands' objections to draft treaty.	481
Oct. 9 (2649)	From the Netherland Minister Suggested modification of paragraph 5, article 7, of the draft treaty on the ground that it places Netherlands at a serious disadvantage in comparison with its position under the convention of 1852; also suggested modification of the last sentence of paragraph 1, article 7, where is stipulated the right to impose prohibitions or restrictions of a sanitary character designed to protect human, plant, and animal life. (Footnote: Information that with the Secretary's acknowledgment of this note on October 24 negotiations were discontinued.)	482
Nov. 22	From the Acting Secretary of Agriculture Statement that the change in wording of draft treaty, as proposed by the Netherlands, regarding plant quarantine is unsatisfactory, and that the Department's provision covers subject fully; reference to authorities on subject proving that prohibitions and restrictions are necessary to exclude insect and plant diseases.	486

NICARAGUA

REJECTION BY THE NICARAGUAN GOVERNMENT OF PROPOSALS BY THE UNITED STATES FOR THE SUPERVISION OF ELECTIONS IN NICARAGUA

1924 Jan. 5 (1)	To the Minister in Nicaragua (tel.) Instructions to inform Hill, American member of the High Commission of Nicaragua, that Dodds has agreed to go to Nicaragua in February at Department's request and that he will be accompanied by three assistants, his contract as electoral adviser to be similar to his former contract; and that the Department must insist upon Hill's full cooperation in order to assure full payment of all sums due both to Dodds	487
l	and his assistants.	

REJECTION BY THE NICARAGUAN GOVERNMENT OF PROPOSALS BY THE UNITED STATES FOR THE SUPERVISION OF ELECTIONS IN NICARAGUA—Continued

Date and Number	Subject	Page
1924 Jan. 9 (5)	From the Minister in Nicaragua (tel.) Information that the salary and expenses of Dodds and his assistants are accepted as an obligation of the High Commission.	487
Feb. 15 (127)	To the Minister in Nicaragua Instructions to assign Thurston, Secretary of the Legation, to make a careful study of the new electoral law and the problems which may arise in its application, as the Department desires frequent and full reports on the election and campaign. Note for Foreign Minister (text printed) informing him of Thurston's assignment.	488
Mar. 18 (30)	To the Minister in Nicaragua (tel.) Instructions to inquire whether the Nicaraguan Government would object to the detail of four marines in civilian clothing to assist Dodds at Chinandega, and to arrange with Commander of Legation guard for their detail if Nicaraguan Government has no objection to this arrangement.	489
Mar. 22 (44)	From the Minister in Nicaragua (tel.) Note from Nicaraguan Government consenting to use of marines at Chinandega and in any other analogous case.	490
Mar. 28 (34)	To the Minister in Nicaragua (tel.) Instructions to call upon President Martinez, accompanied by Thurston and Dodds, and to present a memorandum explaining the advisability of retaining one of Dodd's assistants as technical adviser to the electoral authorities from the present until next October, and urging that this action be taken in order that all parties may have adequate assurance that electoral law will be satisfactorily complied with.	490
Apr. 1 (57)	From the Minister in Nicaragua (tel.) President's consent to retain one of Dodds' assistants throughout electoral period.	49
July 16 (82)	To the Chargé in Nicaragua (tel.) Note for Foreign Minister (text printed) suggesting the advisability of requesting Dodds to come to Nicaragua the middle of September with sufficient assistants to permit him to be of utmost help to Nicaraguan Government in carrying out its pledges of a free and fair election.	49
Aug. 6 (157)	From the Chargé in Nicaragua (tel.) Foreign Minister's note stating that the Nicaraguan Government declines to accept the suggestion that Dodds and certain assistants be requested to come to Nicaragua to assist in the elections.	49
Aug. 6 (158)	From the Chargé in Nicaragua (tel.) Foreign Minister's assurance that a definite rejection of the proposed supervision is not intended; that intention is only provisionally to withhold acceptance of the Department's suggestion.	49

REJECTION BY THE NICARAGUAN GOVERNMENT OF PROPOSALS BY THE UNITED STATES FOR THE SUPERVISION OF ELECTIONS IN NICARAGUA—Continued

	Oligi	nueu
Date and Number	Subject	Page
1924 Aug. 7 (159)	From the Chargé in Nicaragua (tel.) President's positive statement that the note expressed Nicaragua's definite and final refusal to accept suggestion to engage Dodds and his assistants to assist in the elections; his intention to consult his Cabinet regarding Chargé's suggestion that it might be desirable to have a more elaborate supervision made at the expense of the U. S. Government, since the Nicaraguan note laid special stress upon futility of supervising elections with only 14 people.	494
Aug. 7 (93)	To the Chargé in Nicaragua (tel.) Instructions to urge Foreign Minister and President to conclude arrangements with Dodds without delay in order that he may have time to make arrangements with collaborators before sailing on August 28. Intimation that it would be more desirable to have Dodds go at invitation of Nicaragua than on behalf of U. S. Government.	494
Aug. 9 (160)	From the Chargé in Nicaragua (tel.) Memorandum from the President (text printed) conveying Cabinet's resolution maintaining refusal to accept supervision of elections.	495
Aug. 13	From the Nicaraguan Collector General of Customs (tel.) Cable from deputy collector general of customs at Managua (text printed) reporting that a serious political situation will result unless State Department acts forcibly.	496
Aug. 14	To Dr. Harold W. Dodds (tel.) Instructions to give up plan for trip to Nicaragua.	496
Sept. 25 (111)	To the Chargé in Nicaragua (tel.) Authorization, if advisable, to have a few marines at important centers during elections simply to observe and report manner in which elections are carried on, without undertaking any functions whatsoever in connection with conduct of elections. Inquiry as to advisability of issuing a public statement.	496
Sept. 27 (197)	From the Chargé in Nicaragua (tel.) President's unexpected request for marines from Legation to observe elections and examine election returns before they are counted by election boards; further proposals and counterproposals; opinion that it would be unwise to allow marines to attempt to examine election returns as proposed or to attempt any other participation in the election now without adequate instructions.	497
Sept. 29 (113)	To the Chargé in Nicaragua (tel.) Department's desire that marines avoid any participation which would seem to make them at all responsible for the conduct of the elections; belief, however, that their presence would be helpful in supplying accurate information about elections.	498
Sept. 29 (198)	From the Chargé in Nicaragua (tel.) Intention to station 14 marines at different places to observe and report conduct of elections; advisability of giving out public statement to this effect.	498

Rejection by the Nicaraguan Government of Proposals by the United States for the Supervision of Elections in Nicaragua—Continued

Date and Number	Subject	Page
1924 Oct. 1 (201)	From the Chargé in Nicaragua (tel.) Note to Foreign Minister giving names of marines to be employed as election observers and requesting the necessary protection for their mission. Foreign Minister's note expressing President's desire that marine observers wear civilian clothes.	499
Oct. 2 (116)	To the Chargé in Nicaragua (tel.) Instructions to express to the President the concern of the United States regarding creation of large armed force to be used in connection with elections; and the hope that it will be placed under control of Cantonal Directories and that strict orders will be given to abide by provisions of electoral law, to avoid any semblance of police interference.	500
Oct. 2 (117)	To the Chargé in Nicaragua (tel.) Note for Foreign Minister (text printed) conveying U. S. refusal to accede to Nicaraguan request that marine observers wear civilian clothes.	500
Oct. 15 (219)	From the Chargé in Nicaragua (tel.) Foreign Minister's note containing a detailed and voluminous description of the Government's attitude during the electoral period which is qualified as having been eminently impartial and commendable; and the assertion that the Executive considers the legality of the elections to be indisputable.	502
Nov. 7 (236)	From the Chargé in Nicaragua (tel.) Evidence of questionable legality of elections.	502
Dec. 10 (151)	To the Chargé in Nicaragua (tel.) Disposition of Department to raise no question regarding validity of elections and to continue normal diplomatic relations; advisability of receiving certain assurances from Solorzano.	503
Dec. 13 (264)	From the Chargé in Nicaragua (tel.) Document signed December 12 by Solorzano (text printed) giving definite assurances regarding 1928 elections, formation of constabulary, measures for solution of economic problems, and efforts to obtain cooperation of other political elements in Nicaragua.	505

Intimation by the United States to President Martinez That His Election to the Presidency Would Be Considered Unconstitutional

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1924 May 29 (62)	To the Chargé in Nicaragua (tel.) Instructions to inform President Martinez privately that	506
(02)	the Department views with concern the persistent reports that he intends to run for office to succeed himself, as the Department would regard his election as unconstitutional and would not be disposed to extend its recognition to the new adminis-	
	tration.	_

Intimation by the United States to President Martinez That His Election to the Presidency Would Be Considered Unconstitutional—Continued

Date and Number	Subject	Page
1924 June 1 (102)	From the Chargé in Nicaragua (tel.) President's intention to accept nomination offered to him May 25 if Liberal Party ratifies it, as he believes from reports of eminent American attorneys, acting in his behalf in Washington, that in that case the Ü. S. Government would approve of his candidacy; his intimation, however, that he would withdraw if U. S. Government continues to view his candidacy in an unfavorable light.	507
June 5 (66)	To the Chargé in Nicaragua (tel.) Instructions to intimate to the President that the United States would be compelled to make public its opposition, should it become clear that he is an active candidate for reelection. Authorization to inform him that the Department is in possession of information that wholly false reports have been sent him by a number of his advisers who have come to Washington.	508
June 7 (108)	From the Chargé in Nicaragua (tel.) President's decision to withdraw his candidacy.	508
July 16 (83)	To the Chargé in Nicaragua (tel.) Telegram from Nicaraguan Foreign Minister (text printed) inquiring whether the Department would favor ticket agreed upon in alliance of Conservative and Liberal Parties naming Solorzano for President and Sacasa for Vice President. Instructions to reply (text printed) that the Department has no preferences and that any candidate not prohibited by Constitution but elected by free will of people will be accorded recognition.	509

EXCHANGE OF NOTES BETWEEN THE UNITED STATES AND NICARAGUA ACCORDING MUTUAL UNCONDITIONAL MOST-FAVORED-NATION TREATMENT IN CUSTOMS MATTERS

1923 Sept. 22 (281)	From the Chargé in Nicaragua Opinion that Nicaragua would be favorably inclined to concluding a treaty with the United States according unconditional most-favored-nation treatment as regards customs. Report of the existence of a treaty between Nicaragua and France according special import rates; also of peculiar situation which exists by reason of several financial arrangements with certain bankers.	510
1924 Jan. 15 (3)	To the Minister in Nicaragua (tel.) Report from consul at Corinto that American products are not accorded the reductions of the French treaty. Instructions to report.	511
Feb. 6 (16)	From the Minister in Nicaragua (tel.) Information that American products have not been accorded reductions of French treaty since its renewal in 1921. Foreign Minister's suggestion that simple statement of adherence to treaty will obtain for the United States equal rights.	511

EXCHANGE OF NOTES BETWEEN THE UNITED STATES AND NICARAGUA ACCORDING MUTUAL UNCONDITIONAL MOST-FAVORED-NATION TREATMENT IN CUSTOMS MATTERS—Continued

Date and Number	Subject	Page
1924 Feb. 16 (16)	To the Minister in Nicaragua (tel.) Instructions to point out to Foreign Minister that it is not the U. S. policy to enter into such arrangements as the preferential tariff arrangement between Nicaragua and France; and that the Tariff Act of 1922 authorizes the President to impose new or additional duties on imports from any country discriminating against the United States; also to inform him that the United States is prepared to enter into a modus vivendi through an exchange of notes mutually according unconditional most-favored-nation treatment.	511
Mar. 15 (38)	From the Minister in Nicaragua (tel.) Nicaragua's willingness to enter into a modus vivendi through exchange of notes.	512
June 5	To President Coolidge Suggestion that it would be preferable for the United States to negotiate an arrangement with a view to eliminating discriminations by mutual consent, rather than to consider the imposition of additional duties on merchandise from Nicaragua. Request for approval.	51 2
June 6	From President Coolidge Approval of proposed arrangement.	513
June 9 (69)	To the Chargé in Nicaragua (tel.) Transmittal of note to be exchanged with Nicaragua for effecting modus vivendi; instructions.	513
June 11 (354)	The American Charge to the Nicaraguan Minister for Foreign Affairs Understanding with reference to mutual unconditional most-favored-nation treatment to be accorded in customs matters.	514
July 11 (460)	The Nicaraguan Minister for Foreign Affairs to the American Charge Confirmation of understanding with reference to mutual unconditional most-favored-nation treatment in customs matters.	516

NORWAY

REFUSAL BY THE SECRETARY OF STATE TO ADMIT THAT RIGHTS OF SOVEREIGNTY OVER POLAR ARBAS MAY BE BASED UPON THE FORMALITY OF TAKING POSSESSION AFTER DISCOVERY

1924		
Feb. 25	From the Norwegian Minister Transmittal of an article from the Rochester Herald of January 7, stating that Roald Amundsen, the Norwegian polar explorer, had agreed that the United States might claim all the land he might find on his airplane expedition to the north polar regions; and Amundsen's denial that he had made any such agreement. Statement that possession of all land Amundsen may discover will be taken in the name of His Majesty the King of Norway.	518

NORWAY

REFUSAL BY THE SECRETARY OF STATE TO ADMIT THAT RIGHTS OF SOVEREIGNTY OVER POLAR AREAS MAY BE BASED UPON THE FORMALITY OF TAKING POSSESSION AFTER DISCOVERY—Continued

Date and Number	Subject	Page
1924		
Apr. 2	To the Norwegian Minister Explanation of the basis for the rumor contained in the article from the Rochester Herald. Refusal to admit that rights of sovereignty over polar areas may be based upon the formality of taking possession after discovery.	519
Apr. 4	From the Norwegian Minister Acknowledgment of U. S. note of April 2 and information that it has been communicated to the Norwegian Government.	520

PANAMA

Ince	ONCLUSIVE NEGOTIATIONS FOR A TREATY TO REPLACE THE TARREST	AFT
1924 Jan. 29 (11)	From the Minister in Panama (tel.) Foreign Minister's request that the Department answer the request of the Panaman Minister at Washington for the naming of a commission to negotiate a new treaty, in view of approaching date of proposed abrogation of the Taft Agreement.	521
Jan. 30 (11)	To the Minister in Panama (tel.) Authorization to inform the Panaman Government that the United States is willing to appoint a commission to negotiate a treaty with Panama and is willing to commence negotiations in Washington at convenience of Panama.	521
Feb. 20	To the Panaman Minister Acknowledgment of receipt of Panaman Minister's note of February 5 containing information of the appointment of the Panaman commission. Information of the appointment of the American commission.	522
May 28 (39)	To the Minister in Panama (tel.) Instructions to inform the Panaman Government that the President has issued a proclamation abrogating the Taft Agreement; and that, in order to provide ample time for treaty negotiation, the War Department is instructing the Canal authorities to continue as heretofore, for a period of 1 month, the rules and practices of the Canal administration in the matter of commercial operations in the Zone.	522
July 9	President Porras to President Coolidge (tel.) Appeal for the President's personal intervention to prevent failure of negotiations; explanation that present difficulties are due to American Commissioners' insistence that article of treaty granting commercial privileges to Panama be made for a period of 15 years and not in perpetuity as Panama desires.	524
July 12 (49)	To the Minister in Panama (tel.) Note for President Porras (text printed) conveying the assurance that while the United States did not intend as a matter of policy to set up a commercial colony in the Canal Zone, it could not give up its rights under the treaty of 1903 and at most would agree to nonexercise of certain of those rights for so long a period as it can safely foresee what its requirements may be.	525

PANAMA

Inconclusive Negotiations for a Convention To Replace the Taft Agreement—Continued

Date and Number	Subject	Page
1924 Aug. 22 (217)	To the Minister in Panama Brief résumé of the negotiations which extended from March 17 to August 6, ending in a deadlock over the draft treaty pro- visions for control of a portion of Colon by Canal authorities and for the conceding of certain commercial rights in the Zone to Panama for a limited period.	527
Sept. 8 (82)	From the Minister in Panama (tel.) Desire of President Porras to conclude treaty before his term of office expires October 1; his informal proposals for settling questions of difference.	531
Sept. 15 (86)	From the Minister in Panama (tel.) Slight modification of informal proposals made by President Porras.	532
Sept. 18 (64)	To the Minister in Panama (tel.) Department's informal counterproposals for submission to President Porras on the understanding that if the treaty is not concluded and ratified before October 1, these concessions will be withdrawn and the United States will stand upon the proposals made in the treaty negotiations in Washington.	533
Sept. 20 (91)	From the Minister in Panama (tel.) Agreement of President Porras to Department's informal proposals.	535
Sept. 21 (92)	From the Minister in Panama (tel.) Favorable attitude of President-elect toward signing and ratifying treaty.	536
Sept. 26 (100)	From the Minister in Panama (tel.) Notification to President Porras and his Commissioners that the Department's informal proposals are definitely withdrawn and that negotiations will have to be continued between the two commissions in Washington after agreement has been reached upon the two principal points of contention, since there is no prospect of reaching an agreement under the present administration.	536

PERSIA

Delay in the Confirmation of an Oil Concession in Northern Persia to the Sinclair Exploration Company

1924		
Jan. 24	Memorandum by the Chief of the Division of Near Eastern Affairs, Department of State	539
	Interview with representative of Standard Oil Co. of New	
	Jersey regarding letter which the company proposes to make public explaining its cooperation with British interests on the	
	ground of a preexisting concession acquired from Khoshtaria by the Anglo-Persian Co. and indicating that the Standard	
	Oil Co. proposed to defend their share of the Khoshtaria claim acquired from the Anglo-Persian Co.	

Delay in the Confirmation of an Oil Concession in Northern Persia to the Sinclair Exploration Company—Continued

Date and Number	Subject	Page
1924 Feb. 21	From the Persian Minister Transmission of copy of his letter published in New York Times, February 8, in answer to the public announcement made January 18 by the Standard Oil Co. of New Jersey of its determination, in association with the Anglo-Persian Oil Co., to enforce its rights under the Khoshtaria concession. Brief review of the oil negotiations. Statement that Standard Oil's announced determination to enforce its rights under concessions Persia holds as invalid cannot be carried out within Persian territory with Persia's approval.	541
Apr. 1 (28)	From the Minister in Persia (tel.) Arrival in Teheran of representative of Blair & Co. to study Persia's securities for loan provided in Sinclair contract.	545
May 3 (36)	From the Minister in Persia (tel.) Introduction in Mejliss of bill to ratify Sinclair contract; British protest to Persian Government renewing Khoshtaria claims.	545
May 15 (40)	From the Minister in Persia (tel.) British refusal to consent to hypothecation of Anglo-Persian royalties and southern customs for loan in the United States before settlement has been reached concerning Persian debts to Great Britain.	546
May 21 (510)	From the Minister in Persia Departure of representative of Blair & Co. for America to confer with company regarding loan which Persia seeks to obtain in America and for which Persia is willing to pledge all of her revenues as security.	546
June 30 (46)	From the Minister in Persia (tel.) Persian Government's request that Sinclair representative give a written engagement to defend rights under concession as against any claim based upon Sepahsalar concession, which was later transferred to Khoshtaria, and to waive claim of any sort on Persian Government should an adverse judgment disallow Sinclair's title.	546
July 3 (47)	From the Minister in Persia (tel.) Sinclair representative's refusal to give engagement requested by the Persian Government; and the oil commissioners' substitution of article 29 of the oil bill passed in June 1924 for article 25 in the Sinclair contract.	547
July 16 (593)	From the Minister in Persia Oil commission's decision to reconsider its action regarding article 25 of the Sinclair contract and to make it read "the Persian Government declares that no other concession is valid," inasmuch as the representative of the Anglo-Persian Co. had interpreted the commission's action as additional evidence of Persia's inability to defend her position with regard to the Sepahsalar concession.	547

DELAY IN THE CONFIRMATION OF AN OIL CONCESSION IN NORTHERN PERSIA TO THE SINCLAIR EXPLORATION COMPANY—Continued

Date and Number	Subject	Page
1924 July 29 (9)	From the Secretary of Legation and Acting Consul at Teheran (tel.) Departure of Sinclair representative for Russia after informing Prime Minister that resumption of negotiations would be determined by U. S. action with regard to the Imbrie killing; and Prime Minister's offer to see that the oil bill passed without loan provision if he would remain.	547
Sept. 18 (123)	From the Chargé in Persia (tel.) Prime Minister's statement that the Mejliss had approved all the principal clauses of the oil concession except that providing for loan; and his assurance that, if Sinclair interests would indicate readiness to take over the concession, the stipulation for the loan could and would be dropped. Government's lack of contact with Sinclair interests since departure of their representative.	548
Sept. 19 (647)	From the Chargé in Persia Conversation with Prime Minister on September 17 in which the Chargé remarked that the departure of the Sinclair representative and of the representative of Ulen & Co., closely subsequent to the killing of Imbrie, would appear to have dealt a severe blow to the American economic program in Persia; and the Prime Minister expressed his personal disappointment that the Sinclair interests appeared to have lost interest in the concession and were willing to let it lapse. Chargé's observations on opportunities for oil concessions in Persia.	548
Oct. 14 (99)	To the Chargé in Persia (tel.) Instructions to report on the status of the oil concession and on the correctness of press reports from Persia that the Sinclair interests have accepted the North Persian oil concession and that the stipulation for a loan is omitted from the contract.	551
Oct. 17 (153)	From the Chargé in Persia (tel.) Information that the Sinclair interests have in fact accepted the concession as reported in the press, but that final confirmation by the Mejliss must be obtained. (Footnote: Information that in June 1925 the Sinclair interests informed the Persian Government that because of the failure of their negotiations with the Soviet Government, they would not be able to pursue further the question of exploitation of the Persian oil fields.)	551

Negotiations by Ulen & Company for a Contract To Build Railways or Motor Roads in Persia

1924 Jan. 22	From the Consul at Teheran Arrival in Teheran of representative of Ulen & Co. for the purpose of negotiating a contract to build railways or motor roads in Persia; his efforts to secure cooperation of Sinclair interests by offering to arrange for the flotation of 5 million	552
	interests by offering to arrange for the flotation of 5 million dollars of the proposed Sinclair loan provided the proceeds are earmarked for construction purposes.	

NEGOTIATIONS BY ULEN & COMPANY FOR A CONTRACT TO BUILD RAILWAYS OR MOTOR ROADS IN PERSIA—Continued

Date and Number	Subject	Page
1924 Jan. 26	From the Consul at Teheran Interview between Prime Minister and representative of Ulen & Co. in which the Prime Minister indicated his willingness to sign a preliminary contract of 6 months' duration for the construction of a railway to a Persian Gulf port and expressed the opinion that the existing railway options of the British-controlled Persian Railways Syndicate had lapsed.	556
Feb. 15 (15)	From the Minister in Persia (tel.) British Minister's request that Ulen & Co. representative be advised that the British will uphold the validity of the option granted the Persian Railways Syndicate; his indication that U. S. interests would be welcome to participation, making it plain, however, that if this were rejected Persia's chief securities could not be pledged to U. S. loans until British claims had been taken care of; and his intimation that the British might consider it necessary to revert to the economic arrangements of 1907 to safeguard their interests.	557
Feb. 21 (382)	From the Minister in Persia Information that the Persian Government has decided not to undertake to build railroads until Persia's coal and iron resources have been thoroughly investigated; and that, in the meantime, the Ulen & Co. representative is to prepare a project for building metalled roads and enter into communication with competent engineers for study of Persia's coal and iron resources.	557
Feb. 26 (16)	To the Minister in Persia (tel.) Information that the Ulen & Co. representative at Teheran has indicated a desire that the Department support an American loan independent of British claim and insist upon priority for loan. Instructions to inform the representative that the Department desires its Minister to give appropriate diplomatic support to American interests; but that, while the Department will uphold the principle of equal opportunity, it does not approve of the practice of intervening abroad to facilitate the floating of foreign loans in the United States.	558
Mar. 12 (226)	From the British Ambassador Transmittal of two memoranda explaining the history and scope of the British railway rights in Persia, with a request that the facts be communicated to interested American firms.	558
Apr. 11	To the British Ambassador Acknowledgment of British Ambassador's note no. 226 of March 12.	559
Apr. 25 (468)	From the Minister in Persia Discussion of the desirability of combining the Ulen loan and the Sinclair loan, as suggested by the Ulen representative in a memorandum dated March 27.	559
Apr. 29 (476)	From the Minister in Persia Memorandum of agreement between Persian Government and Ulen & Co. of New York, signed at Teheran, April 27 (text printed) for submission and consideration of a proposal for investigation, planning, and construction of railroads or motor roads or both in Persia.	561

Negotiations by Ulen & Company for a Contract To Build Railways or Motor Roads in Persia—Continued

Date and Number	Subject	Page
1924 Apr. 30 (477)	From the Minister in Persia Opinion of Ulen & Co.'s counsel (text printed) that the position taken by the Persian Government is sound and that the British have no legal option or preferential right on railway construction in Southern Persia.	564
Sept. 1 (113)	From the Chargé in Persia (tel.) Recall and projected departure of representative of Ulen & Co., in view of late occurrences in Persia.	565

RETENTION BY THE UNITED STATES AND OTHER POWERS OF THEIR EXTRATERRITORIAL RIGHTS IN PERSIA

TORIAL RIGHTS IN LERSIA		
1923 July 31 (17)	To the Minister in Persia (tel.) Request for text of joint note on taxation of foreigners in Persia reported to have been sent to the Persian Government by the Minister and other diplomatic representatives at Teheran.	565
Aug. 5 (231)	From the Minister in Persia Joint note of diplomatic representatives in Persia to the Persian Foreign Minister, June 14, 1922 (text printed) protest- ing against the imposition of municipal taxes on subjects en- joying capitulations and suggesting conditions under which modifications in existing system might be effected.	565
Sept. 27 (836)	From the British Charge View that it would be wrong to base any claim against Persian Government on the supposed continuance of the Russo-Persian treaty of 1828 and that the British case for capitulatory rights must rest upon rights conceded by treaty to various other powers such as France (treaty of 1855) and Germany (treaty of 1873). Possibility that action based on this position might prejudice attitude of other powers still disposed to hold by treaty of 1828. Inquiry as to U. S. views in matter, in view of desirability of the five Powers' offering a united front in case of a challenge by the Persian Government.	56 7
Oct. 25 (914)	From the British Charge Memorandum by British Minister in Persia (text printed) on liability of subjects of powers enjoying capitulations in Persia to pay Persian taxation, whether imperial or municipal.	570
Jan. 21	To the British Ambassador View that acquiescence of British Government in present attitude of Persian and Soviet authorities with respect to the treaties of 1828 and 1921 would not afford any ground for objection on part of U. S. Government nor would this action by British Government prejudice the position of the U. S. Government or its nationals in Persia in view of the firm bases upon which such rights rest. Desire, until there is a definite challenge on part of Persian Government, to avoid a course of action which would obstruct Persian efforts to establish finances on a sound basis.	572

PERSIA

RETENTION BY THE UNITED STATES AND OTHER POWERS OF THEIR EXTRATERRITORIAL RIGHTS IN PERSIA—Continued

Date and Number	Subject	Page
1924 Jan. 30 (293)	To the Minister in Persia Transmittal of correspondence exchanged with British Embassy. Inquiry whether Minister has joined in any further protests. Information that the Department inclines toward a liberal policy in dealing with Persian requests for right to tax U. S. citizens, provided such taxes are accepted by nationals of other powers, but that the United States is not at present prepared to renounce its capitulatory rights in Persia. Instructions to request Department's instructions in each new case.	578
Mar. 3 (934)	From the Chargé in Italy Information that Italy, in reply to British inquiry, deems the question whether the treaty of 1828 has been abrogated is, from the juridical point of view, debatable; but feels that for practical purposes it would not be wise at present time to acknowledge that the treaty has been abrogated, in view of the fact that rights in penal matters granted in that treaty are not conferred in the subsequent treaties.	575
Mar. 7 (4002)	From the Ambassador in France Information that the French Government is entirely in accord with the attitude of the British Government.	576
Mar. 15 (234)	From the British Ambassador Synopsis of instructions sent to the British Minister at Teheran for his guidance should the question of extraterritorial rights be raised by the Persian Government. Hope that the United States concurs in views outlined and will instruct the U. S. representative to adopt an attitude similar to that of his British colleague should the question of extraterritoriality be raised.	576
Apr. 1 (441)	From the Minister in Persia Foreign Minister's note, March 11 (text printed) refusing to agree that foreign subjects residing in Persia are exempt from taxes, except as exempt under the treaty of 1903 with Great Britain; and refusing suggested guarantees as constituting a foreign interference with domestic affairs of the country.	579
Apr. 3	To the British Ambassador Information that the British note of March 15 is being forwarded to the U.S. Minister in Persia and that he has been instructed to advise the Department of any effort to raise question of extraterritoriality in order that appropriate instructions to meet the situation might be sent him.	580
June 30 (316)	To the Minister in Persia Inquiry whether the U. S. Government, under most-favored- nation provisions of the treaty of friendship and commerce of 1856 with Persia, is receiving the benefits of the treatment accorded to Great Britain under the treaty of 1903.	581
Aug. 25 (621)	From the Minister in Persia Presumption that Americans are receiving same treatment accorded to Great Britain under treaty of 1903, since no complaints regarding taxes have been received.	581

PERSIA

Cooperation of the United States With Great Britain in Efforts To Restrict the Export of Opium From Ports in the Persian Gulf

Date and Number	Subject	Page
1924 July 10 (624)	From the British Ambassador Decision to issue to British consular officers the King's regulations relating to the control of the traffic in opium between the Persian Gulf and the Far East (text printed); intention, however, before issuing the regulations, to invite the Persian Government to cooperate in the control of opium traffic in the Persian Gulf, in view of the very considerable financial and economic interests of the Persian Government; inquiry whether the United States would be inclined to instruct its Minister at Teheran to support the representations which the British Chargé has been instructed to make.	582
Aug. 21	To the British Ambassador Information that the Minister at Teheran is being instructed to make representations regarding the control of opium traffic, provided a satisfactory settlement by the Persian Government of the questions arising from the killing of Vice Consul Imbrie has been reached.	584
Aug. 22 (330)	To the Minister in Persia Authorization to make representations to the Persian Government regarding illicit trade in opium in Persian Gulf ports, provided a satisfactory settlement has been reached with Persia regarding killing of Imbrie.	585
Sept. 15 (83)	To the Chargé in Persia (tel.) Note for Persian Government (text printed) expressing hope that the Persian Government will find it possible to participate in the work of the opium conference to be held at Geneva in November. Authorization to make certain oral representations also.	586
Sept. 23 (652)	From the Chargé in Persia Information that the Persian Government will be represented at Geneva by Mirza Eissa Khan; and that the British representative had presented his representations and the King's regulations on August 15.	588
Oct. 8 (671)	From the Chargé in Persia Foreign Minister's note, September 30 (text printed) stating that definite instructions have been given Persian representatives to opium conference at Geneva and expressing the hope that the views of the Persian Government in the matter of the method of placing restrictions on production and trade of opium will be accepted. Chargé's intention to abstain from further discussion of question, in view of critical situation with respect to Imbrie case.	589

PERU

Special Diplomatic Mission From the United States To Participate in the Centennial Celebration of the Battle of Ayacucho

1924 Feb. 14	President Leguia to President Coolidge Invitation to take part in festivities to celebrate on December	592
	9 the first centennial of the battle of Ayacucho.	I

PERU

Special Diplomatic Mission From the United States To Participate in the Centennial Celebration of the Battle of Ayacucho—Continued

Date and Number	Subject	Page
1924 May 3 (78)	To the Ambassador in Peru Letter from President Coolidge to President Leguía (text printed) expressing cordial thanks for the invitation to take part in the festivities to celebrate the centennial of the battle of Ayacucho; and regret that he will be unable to visit Peru at that time because of the convening of the Congress of the United States.	592
Sept. 8 (275)	From the Ambassador in Peru Memorandum received from the Foreign Office (text printed) giving details of the plans for the celebration of the centenary of the battle of Ayacucho and the character of the representa- tion from other countries.	594
Nov. 17 (60)	To the Ambassador in Peru (tel.) Choice of General Pershing, Admiral Dayton, and Frederick C. Hicks of New York to represent the United States in celebration, Pershing to have rank of Ambassador and the other two that of Minister. Detailed information concerning the Mission.	595
Dec. 1 (63)	From the Ambassador in Peru (tel.) Request for instructions regarding precedence between ambassadors en poste and ambassadors accredited especially for centenary. (Footnote: Information that on December 3 Ambassador Poindexter was named a member of the Mission with rank of Ambassador.)	595

RUMANIA

1923		
Nov. 13 (60)	From the Minister in Rumania (tel.) British note, November 10, to Foreign Office protesting against anticipated provisions of the new mining law, information having been based on semiofficial statements and inti-	597
	mations in the press. Likelihood that France, Belgium, and the Netherlands will also protest. Specific provisions of law which are objectionable to foreign oil interests. Request for instructions.	
Nov. 22 (44)	To the Minister in Rumania (tel.) Authorization to make appropriate protest if new mining law contains the provisions which refuse to recognize bona fide leases of oil lands and which confiscate rights in undeveloped concessions.	597
Dec. 10 (495)	From the Minister in Rumania Decision, after consultation with British colleague, to with- hold protest until more information could be obtained con- cerning the new mining law.	598

Date and Number	Subject	Page
1924 Mar. 29 (582)	From the Minister in Rumania Transmittal of a draft of the new mining law received from the acting head of Romano-Americana Co., together with a summary of certain of the most objectionable provisions of the new law. Note of protest presented to Foreign Minister, March 29, after consultation with British, French, and Netherland colleagues (text printed).	599
Apr. 8 (586)	From the Minister in Rumania Information that note of protest was presented although it had just been learned that the new law would not be presented to Parliament until the autumn session; also that for the present his colleagues had abandoned the idea of entering formal protests. Transmittal of Foreign Minister's note acknowledging the note of protest and stating that the draft referred to by the U. S. Minister was a simple departmental study of the matter.	602
May 21	From the Associate General Counsel of the Standard Oil Company of New Jersey Specific articles of the proposed mining law which prejudice the interests of the Standard Oil Co. in Rumania. Likelihood that the law will pass Parliament during latter part of month. Request that U. S. Minister at Bucharest be instructed to oppose strongly the enactment of the objectionable features of the law and to cooperate in this respect with the local management of the Romano-Americana.	602
May 24 (15)	To the Minister in Rumania (tel.) Instructions to report the latest information regarding time when law will be presented to Parliament; also to report as to representations made or contemplated by colleagues; and to give opinion regarding effect of proposed legislation on U. S. interests and suggest measures likely to protect such interests. Information as to articles of the law to which Standard Oil has called Department's particular attention.	604
May 27 (18)	From the Minister in Rumania (tel.) Information that the Rumanian Government's decision to present mining bill at once and thus forestall concerted foreign action caught interested colleagues completely by surprise and for this reason the only protest made was U. S. note of March 29; that the Foreign Minister in interview asserted that objectionable features of bill had been removed and that bill would not be rushed through without debate. Recommendation that other powers be approached in an effort to secure identic action immediately.	608
May 30 (19)	From the Minister in Rumania (tel.) Opinion of oil interests and also of Legation that the mining bill now before Parliament is as unsatisfactory as the previous draft.	60
June 3 (21)	From the Minister in Rumania (tel.) Information that the only fundamental changes in the new draft of the mining bill are that the time of nationalization is extended and the pipe lines expropriated will be paid for; that British colleague has protested and Belgian, French, and Netherland representatives will protest the following day; that Minister plans to make an additional detailed protest.	60

Date and Number	Subject	Page
1924 June 5 (22)	From the Minister in Rumania (tel.) Message from Romano-Americana for information of Department, to be transmitted also to Standard Oil Co. (text printed) concerning alterations in mining law.	606
June 9 (618)	From the Minister in Rumania Note to Foreign Minister, June 6 (text printed) pointing out a second time certain of the objectionable clauses of the proposed mining law.	607
June 29 (27)	From the Minister in Rumania (tel.) Information that the mining bill has been passed and is awaiting signature by the King.	609
July 1 (625)	From the Minister in Rumania Fruitless efforts of American, British, and French Legations to obtain certain changes in the mining law; individual verbal representations made by American, British, and French representatives, June 21; Foreign Minister's identic note, June 24, replying to their several representations (text printed); British protest, June 25; American Minister's third note of protest, June 26 (text printed). Final approval of the law by the Senate, June 28.	609
July 3 (19)	To the Minister in Rumania (tel.) Information that the Department is considering asking the Minister to return to the United States for consultation and that, if so instructed, the Minister would be authorized to inform his colleagues and the Rumanian Government that he is returning for consultation regarding Rumania's unsatisfactory attitude toward U. S. nationals and their interests. Request for views regarding proposed action.	613
July 6 (29)	From the Minister in Rumania (tel.) Belief that the Department's contemplated action would be a severe shock to the Liberal Government and would come at a particularly embarrassing time. Suggestion that he be authorized to tell the Foreign Minister that he had been instructed to return for consultation and to make public the reasons, and that if the Foreign Minister offered any serious propositions, he tell the Foreign Minister he would transmit them to U. S. Government and delay departure pending further instructions. Recommendation that the Rumanian Minister at Washington be informed if this course is approved.	614
July 8 (22)	To the Minister in Rumania (tel.) Approval of course recommended. Suggestion that representations be made to both the Prime Minister and the Foreign Minister. Instructions to telegraph in advance the time fixed for interviews, so that the Rumanian Minister at Washington may be informed simultaneously. Intention to withhold final instructions with respect to Minister's return, pending report on interviews.	615

Date and Number	Subject	Page
1924 July 13 (38)	From the Minister in Rumania (tel.) Note, July 11, to Foreign Office expressing a desire to make a highly important communication personally to Foreign Minister and Prime Minister and requesting an interview with them immediately after the return of the Foreign Minister. Press comments on Minister's reported recall; Legation's refusal to discuss matter; Foreign Office's semiofficial denial of report that the recall was due to the severe tone of the Minister's recent protests.	616
July 15 (27)	To the Minister in Rumania (tel.) Conversation with Rumanian Minister in which the Minister was informed that the American Minister at Bucharest had been directed to return for consultation, in view of Rumania's unsatisfactory treatment of U.S. interests in Rumania.	616
July 17 (43)	From the Minister in Rumania (tel.) Signature of mining law by the King, July 3; its promulgation, July 4. Advice of Minister of Industry and Commerce to delegation of foreign oil interests not to pay attention to letter of the law but to rely on good will of Government. General impression that law can be evaded only by employing the right intermediaries, i. e., the Liberal banks and lawyers.	617
July 21 (634)	From the Minister in Rumania Report on conference with the King, July 17, and interview with the Foreign Minister, July 18, during which the U. S. Minister presented a note dated July 10 (text printed) stating that the Minister had been instructed to proceed to Washington for consultation on the unsatisfactory attitude of the Rumanian Government with respect to American interests and setting forth all the points covered by Department's telegrams nos. 19 and 22.	618
July 25 (52)	From the Minister in Rumania (tel.) Evidence of Rumanian Government's conciliatory attitude, as shown in their memorandum received July 21, the signature of the long-delayed extradition treaty, and the progress in the settlement of the Baldwin Locomotive Works' claim and the Aladar Nagy case. Desirability of a visit to Washington for a personal and confidential conference. Probability that Rumania's suggestion that American Minister's departure be postponed 6 weeks was made to avoid possible reaction in financial circles, since the Finance Minister was en route to London to obtain a loan.	61
July 26 (635)	From the Minister in Rumania Foreign Office memorandum received July 21 (text printed) attributing to incomplete or erroneous information the U. S. decision to request its Minister to return to the United States for consultation regarding the attitude of the Rumanian Government toward American interests, and expressing the hope that the United States will not adopt an attitude detrimental to Rumania.	

Date and Number	Subject	Page
1924 July 30 (34)	To the Minister in Rumania (tel.) Approval of recommendation that publicity originally intended regarding Minister's departure should not be given. Authorization to postpone departure temporarily if there is any possibility of making further progress in solution of difficulties. Instructions to telegraph date of departure so that appropriate information may be given the press; to return via Paris and London to secure information as to attitude of British and French Governments and concerning visit of the Rumanian Finance Minister to London; also to notify the Rumanian Government orally or in writing of instructions to return, making additional representations concerning matters pending.	620
Aug. 5 (54)	From the Minister in Rumania (tel.) Information that the Foreign Minister has been informed orally of the American Minister's proposed departure on the following Sunday and of the Department's intentions regarding publicity; that the local press quotes the London Financial Times as stating that the Finance Minister refused an offer from an oil group because of unfavorable terms; that the commercial attaché will carry on negotiations for settlement of private debts. Opinion that the present Government will not continue in power beyond fall.	628
Aug. 7 (38)	To the Minister in Rumania (tel.) Approval of arrangements for return; and desire to have departure confirmed by telegram.	629
Sept. 16 (40)	To the Chargé in Rumania (tel.) Statement given to press (text printed) announcing that the American Minister to Rumania was received by the President and had later reported to the Secretary of State, with whom he consulted concerning American interests in Rumania.	629
Sept. 24 (62)	From the Chargé in Rumania (tel.) Decision of the Ministry of Industry and Commerce, in the application of the Romano-Americana Co. for permission to drill two wells on certain narrow parcels of land under concessions acquired in 1900, that this drilling shall be governed by the new mining regulations which provide that no wells can be drilled at a distance of less than 30 meters from the boundary of the neighboring property. Protest of the Romano-Americana on the ground that this ruling constitutes an insidious violation of acquired rights.	630
ept. 26 (41)	To the Chargé in Rumania (tel.) Instructions to inform the Rumanian Government that the Department is greatly surprised at the decision of the Ministry of Industry and Commerce with respect to the drilling applications of the Romano-Americana and to add that, in view of the repeated assurances that acquired rights would not be disturbed, it is hoped that the Rumanian Government will not persist in the attitude apparently adopted by the Ministry of Industry and Commerce.	631

Date and Number	Subject	Page
1924 Sept. 30 (64)	From the Chargé in Rumania (tel.) Promise of the Minister of Industry and Commerce to render a favorable decision in the two applications of the Romano-Americana Co. and decisions in other similar cases on the basis of political expediency, while refusing to admit the company's claim in principle. Chargé's decision not to present protest pending further instructions, in view of company's willingness to let matter rest. Intention of the Association of Petroleum Industries of Rumania to make a collective protest to the Minister of Industry and Commerce against this interpretation of the mining law.	631
Oct. 6 (66)	From the Chargé in Rumania (tel.) Failure of Government as yet to act upon applications of Romano-Americana; British Chargé's request for authority to make a protest.	632
Oct. 7 (42)	To the Chargé in Rumania (tel.) Instructions to inform Foreign Minister that prior to the reconsideration of the matter by the Ministry of Industry and Commerce the Chargé had been instructed to protest against the reported decision of that Ministry and that the Chargé would file a statement of U. S. views should a similar situation arise in the future; and to express the hope that no such situation will arise.	633
Oct. 9 (67)	From the Chargé in Rumania (tel.) Communication to Foreign Minister of substance of Department's telegram no. 42, October 7; the Foreign Minister's statement that he would take matter up with the Minister of Industry and Commerce and that he believed a satisfactory solution would be reached.	63
Oct. 15 (43)	To the Chargé in Rumania (tel.) Information that the Minister to Rumania will sail from New New York on October 25 and arrive at Bucharest about November 8; that he has full information as to Department's views concerning matters at issue between American and Rumanian Governments.	63
Oct. 15 (44)	To the Chargé in Rumania (tel.) Note for Foreign Minister (text printed) conveying the information that the American Minister is returning to his post with a full knowledge of his Government's views, and briefly restating the principles for which the U. S. Government has consistently stood with respect to outstanding questions between the two Governments and between the nationals of the two countries.	63
Oct. 21 (71)	From the Chargé in Rumania (tel.) Information that note contained in Department's telegram no. 44, October 15, was presented in person; that the Foreign Minister expressed pleasure at the American Minister's return and stated he would take up various points of the note with him; also that the Foreign Minister, after reading the note, denied that Rumania had made substantial payments to other Governments on account of relief or reconstruction loans.	63

Date and Number	Subject	Page
1924 Oct. 21 (72)	From the Chargé in Rumania (tel.) Information that the British Minister is making a formal protest against mining law provisions in articles 113 and 192 as applied to narrow concessions obtained before the present law was proclaimed; that the Romano-Americana has not obtained any satisfaction regarding its applications and urges that a protest be made at the same time as the British protest. Suggestion that it might be better to delay protest for a time.	637
Oct. 28 (47)	To the Chargé in Rumania (tel.) Approval of suggestion that protest be delayed. Authorization, however, to protest in accordance with Department's telegram no. 41, September 26, should a satisfactory solution not be reached within a reasonable time.	637
Nov. 7 (319)	To the Minister in Rumania Amplification in certain particulars of the views expressed in the note for the Foreign Minister communicated to the Chargé in telegram no. 44, October 15; intimation as to action which might be considered appropriate should Rumania fail to show requisite good will in working for settlement of questions pending.	637
Nov. 8 (678)	From the Chargé in Rumania Note to Foreign Minister, November 8 (text printed) making representations regarding the refusal of the Ministry of Industry and Commerce to grant permission to the Romano-Americana Co. for the installation of wells on concessions held by them previous to the promulgation of the present mining law.	642
Nov. 16 (76)	From the Minister in Rumania (tel.) Arrival at Bucharest, November 9. Audience with the King, November 15. Intention to seek interview with Foreign Minister on Baldwin Locomotive Works matter and 15-30-meter distance mining-law regulation, although Department's instructions have not been received.	643
Nov. 20 (684)	From the Minister in Rumania Foreign Minister's note, November 18 (text printed) explaining the aim of the "pooling" regulations; giving assurance that the Ministry of Industry and Commerce will examine with the greatest benevolence all claims that American companies may present; and suggesting that the companies may obtain satisfaction more easily by addressing the mining authorities of the country directly.	644
Nov. 20 (79)	From the Minister in Rumania (tel.) Opinion, concurred in by British colleague and oil interests, that the Rumanian reply of November 18 is evasive and unsatisfactory and that its suggestion concerning addressing mining authorities is ridiculous, as oil interests have done so repeatedly without obtaining satisfaction and often without even reply. Suggestion to British colleague that, to gain force, authority be obtained to reply simultaneously.	646

PROTESTS BY THE UNITED STATES AGAINST THE UNSATISFACTORY ATTITUDE OF THE RUMANIAN GOVERNMENT TOWARD AMERICAN PETROLEUM AND OTHER INTERESTS—Continued

Date and Number	Subject	Page
1924 Dec. 1 (51)	To the Minister in Rumania (tel.) Instructions to limit reply to Rumanian note to the statement that the first action taken under the mining law has only tended to confirm the U. S. view of the law's serious effect upon U. S. interests and that the U. S. Government cannot reconcile Rumania's course of action with the repeated statements that acquired rights would not be disturbed. Authorization to submit reply simultaneously with British colleague, but not a joint reply.	646
Dec. 3 (80)	From the Minister in Rumania (tel.) Impression that Foreign Minister is anxious for a settlement but is opposed by Ministry of Industry and the intractable Finance Minister; that Minister's oral protests may have been effective as Standard Oil's representative has been informed that their 10 applications on file would be granted and all future applications of same nature would also be granted. (Footnote: Information concerning the settlement of the issue between the Romano-Americana and the Rumanian Government.)	647

PROTESTS BY THE UNITED STATES AGAINST RUMANIAN LEGISLATION RESTRAINING AMERICAN CREDITORS FROM COLLECTING DEBTS OWED IN AMERICAN CURRENCY

- 1		
1923 June 21 (420)	From the Minister in Rumania Transmittal of copy of Commercial Indebtedness Law adopted May 30, 1923, and promulgated June 3, 1923, which will apply to creditors of countries having a high currency and who have not within the 3 months provided by the Term of Grace Law promulgated May 14, 1923, concluded separate conventions or agreements with their Rumanian debtors, all creditors in the meantime being debarred from taking any action in the Rumanian courts for collection of debts. Information concerning the Manchester agreement concluded with British merchants, of which the present law is legal confirmation. Precautionary protest lodged with Foreign Minister, June 19, 1923.	648
Aug. 22 (215)	Approval of precautionary protest. Instructions to bring matter again to attention of Foreign Office, pointing out that the law is not only discriminatory but that it seriously impairs the obligations of private contracts by substituting an arbitrary and in many cases a lower rate of interest than that provided in the contracts and by extending for a long period of years the time in which payments can be made; also to state that the U. S. Government will regard any attempt to impose the law upon American creditors without their consent as an improper interference with existing private contracts and that it cannot agree to the infringement of the rights of its nationals in the manner proposed by the law.	650

PROTESTS BY THE UNITED STATES AGAINST RUMANIAN LEGISLATION RESTRAINING AMERICAN CREDITORS FROM COLLECTING DEBTS OWED IN AMERICAN CURRENCY—Continued

Date and Number	Subject	Page
1924 Sept. 20 (453)	From the Minister in Rumania Note of protest addressed to Foreign Minister, September 20 (text printed). Foreign Minister's comment on note's severe tone; and his intimation that the Government was seriously considering modification or abrogation of the law. Minister's opinion that this will be done in view of the vehement protests of all the great powers and the desire of the Rumanian Government to obtain the long-promised French loan.	651
Nov. 23 (481)	From the Minister in Rumania Aide-mémoire left with Foreign Minister, November 21 (text printed) protesting against the rumored project of a law providing for a 6-months' moratorium against all foreign creditors who had not made special arrangements with Rumanian debtors similar to the one made by the British. Similar communications left with Foreign Minister by representatives of other countries. Draft law published November 23 extending term of grace for another 3 months. Evident intention of Rumanian Government to extend so-called terms of grace until all foreign creditors shall have been coerced into accepting arrangements similar to Manchester agreement.	653
1924 Jan. 21 (525)	From the Chargé in Rumania Principal points of an agreement concluded December 20, 1923, by French creditors. Opinion that American creditors have the choice of concluding an arrangement along lines of British and French agreements or of submitting to an indefinite moratorium.	656
Mar. 4 (570)	From the Chargé in Rumania Reiteration of opinion that American creditors will not find any solution for their claims except in the manner followed by the British and the French, as the Rumanian Government is continuing its policy of extending the 3-month moratorium periods, already having prolonged them four times.	658
Oct. 4 (65)	From the Chargé in Rumania (tel.) Information that the Term of Grace Law has been extended for 3 months from September 15. Request that Department of Commerce be informed.	658
Oct. 10 (68)	From the Chargé in Rumania (tel.) Visit received from delegate appointed by Rumania to negotiate settlement of private debts to American creditors and delegate's proposal that representatives of the creditors be appointed to negotiate direct with him, or that the American Legation be empowered to negotiate with him, an agreement for American creditors, using British or Swiss agreement as basis of discussion.	659
Oct. 24 (46)	To the Chargé in Rumania (tel.) View that private debts owed between Rumanian and American nationals should be adjusted by interested parties directly and not subjected to governmental interference; authorization, however, to render proper informal assistance where requested by creditors.	659

PROTESTS BY THE UNITED STATES AGAINST RUMANIAN LEGISLATION RESTRAINING AMERICAN CREDITORS FROM COLLECTING DEBTS OWED IN AMERICAN CURRENCY—Continued

0 0		
Date and Number	Subject	Page
1924 Dec. 5 (689)	From the Minister in Rumania Note to Foreign Minister, December 4 (text printed) reiterating U. S. views regarding the Term of Grace Law and protesting its further extension. Information concerning a projected loi d'imprévision which gives courts discretionary power to grant a term of grace to debtors and would thus permanently replace the Term of Grace Law.	660
Dec. 20 (700)	From the Minister in Rumania Information that the Foreign Minister intends shortly to submit a carefully prepared expose of the situation for transmission to Washington consisting of a brief drafted by leading Rumanian financial and economic authorities explaining the impossibility of granting preferential treatment to American creditors in view of the agreements concluded with all the more important foreign creditors; that the law has been extended for another 3 months; that a draft of the loi d'imprévision has been prepared.	662
Extradi	TION TREATY BETWEEN THE UNITED STATES AND RUMANIA, JULY 23, 1924, AND A NOTE REGARDING THE DEATH PENALTY	Signed
1924 July 23	Treaty between the United States of America and Rumania For the extradition of fugitives from justice between the two countries, together with a note regarding the death penalty.	664
July 24 (636)	From the Minister in Rumania Circumstances leading up to signing of treaty by Rumanian authorities and American Minister; its transmittal to Department together with protocol in form of a note.	670
Dec. 5	To President Coolidge Presentation of extradition treaty with a view to its transmission to the Senate. Precedents for suggestion that the Senate, in giving its advice and consent to the treaty, confirm the assurances contained in the note attached to the treaty.	671
Dec. 8	President Coolidge to the Senate of the United States Transmittal of extradition treaty for advice and consent of the Senate and for confirmation by the Senate of the note attached to the treaty.	672
1925 Jan. 17	To the Chairman of the Senate Committee on Foreign Relations Reply to two inquiries concerning note on death penalty appended to extradition treaty; assurance of practical applica- tion of treaty in its present form.	673

RUSSIA

Instructions for the Guidance of American Diplomatic Representatives in Their Relations With Soviet Representatives in Countries to Which They Are Accredited

Date and Number	Subject	Page
1924 May 26 (25)	From the Minister in Austria (tel.) Receipt of an identic note by American and other Legations from the newly appointed Soviet Minister, expressing desire to establish official and personal relations. Request for instructions.	675
May 27 (24)	To the Minister in Austria (tel.) Instructions to acknowledge the Soviet representative's note personally and unofficially and to receive him should he call, but not to return his call or otherwise assume any official relation.	675
Aug. 24 (20)	From the Chargé in Finland (tel.) Information that the French, Belgian, and Dutch Ministers have declined the Foreign Minister's invitation to a farewell dinner for the Norwegian Minister because the Russian Minister has been invited and has accepted; that the Chargé intends to decline also.	675
Aug. 26 (18)	To the Chargé in Finland (tel.) Instructions to accept the invitation of the Foreign Minister. View that U. S. nonrecognition of the Moscow regime should cause the Chargé no embarrassment in accepting official invitations and that unpleasant incidents can be avoided by assuming a dignified attitude in accepting official hospitality. (Substance quoted for information and guidance to representatives in Austria, China, Denmark, Germany, Great Britain, Greece, Italy, Latvia, Mexico, Norway, Persia, Poland, Sweden, and Turkey.)	676
Aug. 28 (19)	To the Chargé in Finland (tel.) Department's pleasure over developments reported concerning the Foreign Minister's dinner, with the exception of the Chargé's statement to the Foreign Minister that he could not under any circumstances meet the Soviet representative; view that there should be no difficulty in informal and courteous relations, as between two gentlemen, with respect to the representative at the capital to which Chargé is accredited of a regime not recognized by the United States.	676
Oct. 30 (396)	From the Ambassador in Mexico (tel.) Request for instructions as to what action the Ambassador, in his capacity as dean of the diplomatic corps, should take in regard to the presentation of the new Soviet Minister to the new President on December 1; and also what action he should take respecting the Soviet Minister should it be necessary for him to call a meeting of the diplomatic corps.	677
Nov. 3 (506)	To the Ambassador in Mexico (tel.) Instructions to present the new Soviet Minister to the President at the official reception on December 1, if called upon to do so; and to notify the Soviet Minister if, as dean, the Ambassador is obliged to call a meeting of the diplomatic corps. Instructions to receive the Soviet representative if he calls, but not to return his call.	677

RUSSIA

REFUSAL BY THE DEPARTMENT OF STATE TO SUPPORT THE SINCLAIR EXPLORATION COMPANY AGAINST INTERFERENCE BY JAPANESE AUTHORITIES IN NORTHERN SAKHALIN

Date and Number	Subject	Page
1924 Oct. 15	From the Sinclair Exploration Company Charge that the Japanese authorities, while preventing the company's engineers from conducting explorations in Northern Sakhalin, have permitted their own nationals to carry on operations which have resulted in a commercial production of oil. Request that this discriminatory action be brought to the attention of the Japanese Government with the request that instructions be issued to the Japanese authorities to refrain from any further interference with the company's employees in their explorations in Northern Sakhalin.	678
Nov. 7	To the Sinclair Exploration Company Department's maintenance of the position taken in its letter to the company on March 17, 1923, when it refused to make representations to Japan on behalf of the company.	679
Dec. 10	From the Vice President of the Sinclair Exploration Company Repetition of request that the matter be brought to the attention of the Japanese Government, pointing out that the assurances heretofore given to the U.S. Government by the Japanese Government require that the Japanese officials be instructed not to interfere with American nationals in North- ern Sakhalin.	679
Dec. 20	To the Vice President of the Sinclair Exploration Company Reiteration of refusal to make representations to Japan on behalf of the company.	681
PROTESTS	S BY THE SOVIET AUTHORITIES AGAINST UNAUTHORIZED ENGLAMERICAN GOVERNMENT VESSELS INTO SOVIET WATERS	TRY OF
1924 Jan. 31 (132)	From the Soviet Deputy Commissar for Foreign Affairs (tel.) Protest against entrance of U. S. warship Bear into Kolyuchin Bay and of American destroyer into port of Batum without permission of Soviet authorities.	681
Feb. 6	To the Secretary of the Navy Transmittal of the Soviet note of January 31; information that no reply will be made; desirability of discontinuing call of destroyers at Batum.	682
Dec. 11 (320)	From the Soviet Commissar for Foreign Affairs (tel.) Protest against violation of sovereignty of Soviet Republic by U. S. Coast and Geodetic Survey in setting up magnetic station on peninsula in Emma Bay, Cape Puzino, and repeated entrance into Soviet waters by U. S. cruiser Bear.	682

SPAIN

Continuation of the Commercial "Modus Vivendi" Between the United States and Spain

Date and Number	Subject	Page
1924 Mar. 15 (50–14)	From the Spanish Ambassador Transmittal of article 20 of the consular convention of January 7, 1862, between Spain and France and the convention of November 27, 1919, between Spain and Argentina, with the suggestion that they might serve as a basis for the negotiation of a convention between Spain and the United States in regard to intervention of consuls in the settlement of estates and indemnities for labor accidents.	684
Apr. 3 (15)	From the Ambassador in Spain (tel.) Spain's refusal to consider new treaty or the proroguing of old one so long as importation of Spanish grapes is peremptorily prohibited by the United States.	685
Apr. 4 (12)	To the Ambassador in Spain (tel.) Information that the Department of Agriculture is investigating the danger from importation of grapes and will reach a decision before harvest time; that the Department desires to arrange for a further modus vivendi, as it will not be possible to conclude a treaty before the existing modus vivendi expires May 5. Instructions to take up this matter with Spanish Government and to inquire whether that Government is willing to give benefit of minimum tariff rates for U. S. products in return for like treatment of Spanish products.	685
Apr. 7 (16)	From the Ambassador in Spain (tel.) Opinion that prorogation of present modus vivendi without modification for 6 months or a year is utmost that can be accomplished under existing circumstances. Inquiry whether to accept such a solution if offered.	686
Apr. 23 (15)	To the Ambassador in Spain (tel.) Instructions to obtain extension of modus vivendi in its present form for a period of 1 year, if the Ambassador finds it impossible to effect a favorable modification of the existing arrangement.	687
Apr. 27	From the Ambassador in Spain Exchange of notes between Spanish Foreign Office and American Embassy, April 26 and 27, respectively (texts printed) postponing for 1 year, or until May 5, 1925, date of expiration of commercial agreement of August 1, 1906.	687
June 13	To the Spanish Ambassador Willingness to negotiate on subject of intervention of consuls in the settlement of estates and indemnities for labor accidents, preferring, however, to have them considered in connection with treaty of friendship and commerce as drafted and pre- sented to Spain in June 1923 by American Ambassador.	688
Sept. 10 (46)	From the Ambassador in Spain (tel.) Request for copy of commercial treaty which Department desires to have presented to Spanish Government.	689
Sept. 18 (54–14)	From the Spanish Ambassador Spanish Government's desire to negotiate two separate conventions, one concerning labor accidents and the other about the intervention of consuls in the settlement of estates.	689

SPAIN

Continuation of the Commercial "Modus Vivendi" Between the United States and Spain—Continued

Date and Number	Subject	Page
1924 Oct. 7	To the Spanish Ambassador Intimation that, before giving further consideration to the proposal to negotiate separate conventions regarding labor accidents and intervention of consuls in the settlement of estates, the Secretary would be pleased to be informed concerning Spain's intentions with respect to the negotiation of a commercial treaty along the lines proposed at Madrid in 1923.	690
Oct. 7 (44)	To the Ambassador in Spain (tel.) Information that the United States has already submitted two different drafts of the treaty to the Spanish Government, either one of which might serve as a basis for negotiations and has several times indicated its readiness to proceed with negotiations. Instructions to inform the Spanish Government that United States is ready to renew the negotiations and would be pleased to receive comments and countersuggestions regarding the draft presented at Madrid in June 1923.	690
Nov. 7 (54)	From the Ambassador in Spain (tel.) Information that the Foreign Office considers that the prorogation of the treaty on November 5, 1923, was reply of Spanish Government to the first proposal and that prorogation on May 5, 1924, was reply to second proposal, neither draft of the treaty being considered satisfactory. Request for a draft of a purely commercial treaty containing irreducible minimum.	691
Dec. 5	To the Spanish Ambassador Suggestion that, pending conclusion of new treaty of commerce, the commercial relations between the two countries be maintained on basis of unconditional most-favored-nation treatment, to become operative on May 5, 1925, and continue in force until 30 days after notice of termination by either country.	691
Unautho For	ORIZED ASSISTANCE BY THE AMERICAN EMBASSY IN SPAIN IN SE AMERICAN INTERESTS EXCLUSIVE TELEPHONE RIGHTS IN SPAIN	CURING
1924 Aug. 26 (39)	From the Ambassador in Spain (tel.) Information that exclusive telephone rights in Spain have been given to American telephone interests which were assisted by the American Embassy in winning the concession.	692
Aug. 29 (38)	To the Ambassador in Spain (tel.) Department's desire that appropriate support be given American interests; its disapproval, however, of monopolies. Instructions to send report on aid given American telephone interests and complete information concerning concession granted.	693
Sept. 3 (41)	From the Ambassador in Spain (tel.) Information that only one American firm sought the concession, and that the American telephone system was naturally recommended as superior to the Swedish.	693
Sept. 4 (41)	To the Ambassador in Spain (tel.) Explanation that the Department desires complete information so that the nature and extent of the monopolistic privileges may be understood.	694

SPAIN

Unauthorized Assistance by the American Embassy in Spain in Securing for American Interests Exclusive Telephone Rights in Spain—Continued

Date and Number	Subject	Page
1924 Sept. 5 (42)	From the Ambassador in Spain (tel.) Salient points of royal decree granting telephone concession to Spanish company which has adopted American telephone system and is backed by American capital.	694

SWEDEN

Arbitration Convention Between the United States and Sweden, Signed June 24, 1924

	JUNE 24, 1924	
1922 Nov. 6	From the Swedish Minister Inquiry whether the United States would be willing to enter into negotiations for a new treaty of arbitration with Sweden, the treaty of May 2, 1908, having expired on August 18, 1918.	695
1923 Jan. 19	To the Swedish Minister Willingness to conclude an arbitration convention similar to the one concluded on May 2, 1908, or to consider any provisions differing from those of the 1908 convention which Sweden may propose. Suggestion that in the new treaty provision be made for its duration for an initial period of 5 years and for continuance in force indefinitely thereafter until expiration of 1 year after notice of termination has been given by either party.	696
Feb. 9	From the Swedish Minister Transmittal of draft of a new arbitration treaty, similar to the 1908 convention in its essential parts but with modifications in articles 1 and 2 providing for reference of disputes to the Permanent Court of International Justice instead of the Permanent Court of Arbitration, and in article 4 providing for the duration of the new convention for initial period of 5 years and for continuance in force indefinitely thereafter until expiration of 6 months after notice of termination by either party.	697
Aug. 23	To the Swedish Minister Legal difficulties in way of accepting Sweden's proposal concerning Permanent Court of International Justice; willingness, however, to conclude convention similar to convention of 1908 with understanding that, should Congress adhere to protocol of December 16, 1920, under which Permanent Court of International Justice has been created, Sweden would agree to modification of convention or making of separate agreement referring difficulties to Permanent Court of International Justice; acceptance of proposal to terminate convention after 6 months' notice.	698
1924 Jan. 15	From the Swedish Minister Readiness of Sweden to conclude convention similar to convention of May 2, 1908, and separate agreement for reference of difficulties to Permanent Court of International Justice should U. S. Senate adhere to protocol of December 1920.	700

SWEDEN

ARBITRATION CONVENTION BETWEEN THE UNITED STATES AND SWEDEN-Con.

Date and Number	Subject	Page
1924 Feb. 13	To the Swedish Minister Transmittal of English text of draft arbitration convention similar to convention of 1908 and draft note of understanding regarding the Permanent Court of International Justice.	700
June 17	From the Swedish Minister Authorization to sign arbitration treaty as drafted by Department and to present note confirming Department's note of understanding regarding tribunal of reference.	701
June 24	Convention between the United States of America and Sweden For settlement of differences by arbitration.	702
June 24	To the Swedish Minister Understanding that Sweden will not be averse to considering modification of convention of arbitration, or making of separate agreement, under which disputes could be referred to Permanent Court of International Justice, in event that the Senate gives its consent to U. S. adherence to the protocol of December 16, 1920.	703
June 24	From the Swedish Minister Confirmation of U. S. understanding that Sweden will not be averse to considering a modification of the arbitration convention, or the making of a separate agreement, under which disputes could be referred to the Permanent Court of International Justice, in the event that the Senate assents to U. S. adherence to the protocol of December 16, 1920.	704

SWITZERLAND

Continuation of American Consular Protection to Swiss Interests in Egypt

1924 June 6 (12)	To the Minister in Switzerland Instructions to inform the Swiss Government of the Department's desire that American consular officers in Egypt be relieved as soon as practicable of representation of Swiss interests there.	705
June 30 (62)	From the Minister in Switzerland Memorandum from the Swiss Federal Political Department, June 25, stating that the Swiss Government is negotiating for the establishment of Swiss representation in Egypt and ex- pressing the hope that the United States will continue its pro- tection of Swiss interests until such representation is estab- lished.	705
Sept. 10 (176)	To the Chargé in Egypt Information that consuls at Alexandria, Cairo, and Port Said are being authorized to continue representation of Swiss interests in Egypt but are being instructed to restrict notarial and passport services and to charge fees in accordance with Swiss Tariff of Fees or, if not available, U. S. Tariff of Consular Fees.	706

SWITZERLAND

CONTINUATION OF AMERICAN CONSULAR PROTECTION TO SWISS INTERESTS IN EGYPT—Continued

Date and Number	Subject	Page
1924 Sept. 10 (60)	To the Minister in Switzerland Instructions to inform the Swiss Government that American consular officers in Egypt will continue representation of Swiss interests pending establishment of Swiss representation; enumeration of difficulties occurring because of dual representation and absence of American consular jurisdiction over nationals of other governments.	707

TURKEY

EFFORTS BY THE DEPARTMENT OF STATE TO OBTAIN RATIFICATION OF THE TREATIES CONCLUDED BETWEEN THE UNITED STATES AND TURKEY ON AUGUST 6, 1923

0, 1926		
1924 Jan. 23 (17)	To the High Commissioner in Turkey (tel.) Excerpt from the Secretary's speech before the Council on Foreign Relations of New York, January 23 (text printed) dealing with affairs in the Near East, particularly with regard to the negotiation of the treaties concluded August 6, 1923, with Turkey, their provisions, and their relation to the Allied settlement.	709
May 5	To Senator Henry Cabot Lodge Description of the negotiations which led up to the conclusion of the treaties of August 6, 1923, with Turkey; and outline of the considerations which led to the belief that American interests could best be served by the prompt ratification of the treaties.	715
June 7	To Senator Henry Cabot Lodge Refutation of certain allegations contained in the statement accompanying the resolution introduced into the Senate by Senator King, and printed in the Congressional Record of June 3, with regard to the Lausanne treaty and the Chester concession.	721
June 12 (106)	To the High Commissioner in Turkey (tel.) Adjournment of Congress without taking action on Lausanne treaty.	724
Dec. 8	To Senator William E. Borah Urgency of early ratification of treaties with Turkey, in view of recent developments which will put the U. S. Government at a serious disadvantage in safeguarding legitimate American interests in Turkey.	724
Dec. 8	From Senator William E. Borah Information that considerable opposition to the treaties is found among members of Senate Committee on Foreign Relations; intention to bring subject up for consideration at next meeting.	725
Dec. 12 (232)	From the High Commissioner in Turkey (tel.) Turkish intimation that treaties with United States would not be presented to the Assembly for ratification until it was found they would be ratified by the United States.	725

TURKEY

EFFORTS BY THE DEPARTMENT OF STATE TO OBTAIN RATIFICATION OF THE TREATIES CONCLUDED ON AUGUST 6, 1923—Continued

Date and Number	Subject	Page
1924 Dec. 18	To President Coolidge Importance of securing a proper basis upon which to protect American interests in Turkey through the early ratification of the treaties.	726
Dec. 29	From the Secretary of Commerce Attention called to importance from viewpoint of American commerce of prompt ratification of treaties with Turkey, to existence already of tariff discrimination in Turkey in favor of Allies, and to complaints of tariff difficulties by merchants in Turkey and by American exporters.	727
1925 Jan. 10	To Senator William E. Borah Report of American High Commissioner in Turkey that the chief representatives of American business and philanthropic organizations in Turkey unanimously favor immediate ratification of the treaties with Turkey.	729

LiffOurs	OF THE TREATY OF AUGUST 6, 1923		
1924 Apr. 15 (71)	From the High Commissioner in Turkey (tel.) Conferences with Turkish officials during visit at Angora, April 7 to 13, in which Commissioner discussed American and Turkish interests with respect to business and benevolent institutions and the great necessity of having all future issues settled by investigation and without such arbitrary action as the closing of institutions; Commissioner's belief that relations he has established will in the future facilitate protection of American interests.	730	
Apr. 21 (69)	To the High Commissioner in Turkey (tel.) Instructions to telegraph observations and conclusions regarding Turkish attitude toward American interests and toward treaties with United States and their ratification, and regarding the stability of the Turkish Government and its willingness to fulfill its international obligations.	730	
Apr. 27 (81)	From the High Commissioner in Turkey (tel.) Enumeration of new incidents and difficulties which have arisen in respect of American interests, although Turkish representatives in conferences at Angora expressed a friendly attitude toward American interests. Opinion that the Turkish Government is stable and can fulfill its international obligations, and that it will ratify the treaties as soon as the United States has done so.	731	
May 6 (92)	From the High Commissioner in Turkey (tel.) Opinion that the added weight which might be given his representations by early ratification of the treaties by the Senate is not of sufficient importance to lead to their submission to the Senate before the Department considers such action opportune. Assertion that, pending ratification of the treaties, he can suggest no plan for protecting American interests save the opportunist and defensive policy being pursued.	732	

TURKEY

EFFORTS TO PROTECT AMERICAN INTERESTS IN TURKEY PENDING RATIFICATION OF THE TREATY OF AUGUST 6, 1923—Continued

Date and Number	Subject	Page
1924 July 9 (148)	From the High Commissioner in Turkey (tel.) Brief summaries of cases pending. Request for authorization to go to Angora and confer with Ismet Pasha, and for instructions as to the extent to which the American Government would be prepared to go in addition to remonstrating and placing diplomatic protests on record. Opinion that the situation is graver than at any time during his service as High Commissioner.	733
July 17 (130)	To the High Commissioner in Turkey (tel.) Authorization to visit Angora to confer with Ismet Pasha, intimating to him that the U.S. Government may find it expedient to replace the High Commissioner with a subordinate official as its representative in Turkey and that it is a matter of personal regret for the Secretary to see the unsatisfactory turn events have taken in Turkey.	734
Aug. 9 (166)	From the High Commissioner in Turkey (tel.) Conference, August 7, with Ismet Pasha regarding serious situation, presenting memoranda of most important cases pending and aide-mémoire (text printed) appealing to his sense of justice to secure favorable action.	735
Oct. 2 (194)	From the High Commissioner in Turkey (tel.) Foreign Office note, September 28 (text printed) stating that, pending the ratification of the treaties, authority will not be given American citizens to purchase (acquérir) real property. Request for authorization to answer the note by referring to the protocol of 1874 and reserving rights of American citizens under that protocol to hold property.	736
Oct. 7 (196)	From the High Commissioner in Turkey (tel.) Estimation of the situation regarding questions pending, representations to Ismet nearly 2 months ago having been only partially successful. Recommendation that, for the present, the policy of patience and plain speaking be continued.	737
Oct. 10 (174)	To the High Commissioner in Turkey (tel.) Approval in general of recommendations as to policy.	738
Oct. 27 (182)	To the High Commissioner in Turkey (tel.) Instructions for delegate at Angora to take up question of transfer of real property and make representations regarding discrimination against Americans with respect to rights which existing agreements clearly define.	738
Nov. 3 (218)	From the High Commissioner in Turkey (tel.) Telegram from the delegate at Angora, November 2 (text printed) reporting that representations had been made, but that little hope was held out for a satisfactory adjustment.	739

744

TURKEY

Assurances to Great Britain That the American Government Would DISCOUNTENANCE THE SHIPMENT OF ARMS TO TURKEY

Desire that the United States aid Great Britain in the provisional application to Turkey of the arrangements contemplated in article 6 of the Arms Traffic Convention of September 1919, by preventing arms reaching or being manufactured in Turkey through action of U. S. citizens, both through reciprocity and through U. S. declared policy made public September 27, 1923. Dec. 6 To the British Chargé Expression of doubt as to efficacy of agreement in question; assurance, however, that the American Government will decline to sell war supplies in troubled areas of Near East or to support its nationals in efforts to sell or to promote manufacture of such in Turkey. From the British Ambassador Notification that Great Britain has been obliged to postpone any further attempt to secure provisional application to Turkey of article 6 of the Arms Traffic Convention of 1919, having failed to secure unanimity among Governments concerned; and that Great Britain proposes to remove its embargo on the export of arms and munitions to Turkey. To the Ambassador in Great Britain Transmittal of British note with reference to the removal of the British embargo on the export of arms and munitions to Turkey. Information that the Department perceives no reason for altering its policy at the present time. Appointment of an American Representative To Participate in A Casultative Capacity in the Work of the Sanitary Commission in Turkey	Date and Number	Subject	Page
Expression of doubt as to efficacy of agreement in question; assurance, however, that the American Government will decline to sell war supplies in troubled areas of Near East or to support its nationals in efforts to sell or to promote manufacture of such in Turkey. From the British Ambassador Notification that Great Britain has been obliged to postpone any further attempt to secure provisional application to Turkey of article 6 of the Arms Traffic Convention of 1919, having failed to secure unanimity among Governments concerned; and that Great Britain proposes to remove its embargo on the export of arms and munitions to Turkey. Apr. 15 (155) To the Ambassador in Great Britain Transmittal of British note with reference to the removal of the British embargo on the export of arms and munitions to Turkey. Information that the Department perceives no reason for altering its policy at the present time. Appointment of an American Representative To Participate in a Coultative Capacity in the Work of the Sanitary Commission in Turkey From the British Ambassador Invitation to appoint a delegate to represent the United States on the Sanitary Commission to be established under article 116 of the treaty of July 24, 1923, between Turkey and the Allied Powers. (Footnote: Information that identic notes were received)	Nov. 13	Desire that the United States aid Great Britain in the provisional application to Turkey of the arrangements contemplated in article 6 of the Arms Traffic Convention of September 1919, by preventing arms reaching or being manufactured in Turkey through action of U. S. citizens, both through reciprocity and through U. S. declared policy	739
Apr. 5 (314) From the British Ambassador Notification that Great Britain has been obliged to postpone any further attempt to secure provisional application to Turkey of article 6 of the Arms Traffic Convention of 1919, having failed to secure unanimity among Governments concerned; and that Great Britain proposes to remove its embargo on the export of arms and munitions to Turkey. Apr. 15 (155) To the Ambassador in Great Britain Transmittal of British note with reference to the removal of the British embargo on the export of arms and munitions to Turkey. Information that the Department perceives no reason for altering its policy at the present time. Appointment of an American Representative To Participate in a Consultative Capacity in the Work of the Sanitary Commission in Turkey 1924 July 21 (636) From the British Ambassador Invitation to appoint a delegate to represent the United States on the Sanitary Commission to be established under article 116 of the treaty of July 24, 1923, between Turkey and the Allied Powers. (Footnote: Information that identic notes were received)	Dec. 6	Expression of doubt as to efficacy of agreement in question; assurance, however, that the American Government will decline to sell war supplies in troubled areas of Near East or to support its nationals in efforts to sell or to promote manu-	741
(155) Transmittal of British note with reference to the removal of the British embargo on the export of arms and munitions to Turkey. Information that the Department perceives no reason for altering its policy at the present time. Appointment of an American Representative To Participate in a Consultative Capacity in the Work of the Sanitary Commission in Turkey 1924 July 21 (636) From the British Ambassador Invitation to appoint a delegate to represent the United States on the Sanitary Commission to be established under article 116 of the treaty of July 24, 1923, between Turkey and the Allied Powers. (Footnote: Information that identic notes were received)	Apr. 5	Notification that Great Britain has been obliged to post- pone any further attempt to secure provisional application to Turkey of article 6 of the Arms Traffic Convention of 1919, having failed to secure unanimity among Governments con- cerned; and that Great Britain proposes to remove its em-	742
1924 July 21 (636) From the British Ambassador Invitation to appoint a delegate to represent the United States on the Sanitary Commission to be established under article 116 of the treaty of July 24, 1923, between Turkey and the Allied Powers. (Footnote: Information that identic notes were received)		Transmittal of British note with reference to the removal of the British embargo on the export of arms and munitions to Turkey. Information that the Department perceives no	743
July 21 (636) From the British Ambassador Invitation to appoint a delegate to represent the United States on the Sanitary Commission to be established under article 116 of the treaty of July 24, 1923, between Turkey and the Allied Powers. (Footnote: Information that identic notes were received	SULTA	five Capacity in the Work of the Sanitary Commission	
	July 21	Invitation to appoint a delegate to represent the United States on the Sanitary Commission to be established under article 116 of the treaty of July 24, 1923, between Turkey and the Allied Powers. (Footnote: Information that identic notes were received	743

Inability of United States to designate a member of the

Sanitary Commission with authority to participate in its decisions, as the Council of the League of Nations is to be the final authority on questions presented to the Commission. Desire to designate a representative to participate in the Commission in a consultative capacity and to enter appropriate reservations regarding American interests should occasion arise.

(Sent, mutatis mutandis, to the French and Italian Chargés.)

Aug. 29

To the British Ambassador

TURKEY

Appointment of an American Representative To Participate in a Consultative Capacity in the Work of the Sanitary Commission for Turkey—Continued

Dat eand Number	Subject	Page
1924 Oct. 2 (891)	From the British Ambassador Acceptance of suggestion that the United States appoint a representative to participate in the Sanitary Commission in a consultative capacity. (Footnote: Information that similar notes were received from the French and Italian Chargés.)	745
Oct. 23	To the Consul General at Constantinople (tel.) Instructions to cooperate with Surgeon W. W. King of the U. S. Public Health Service, who has been designated to participate in consultative capacity in meeting of proposed Sanitary Commission at Constantinople.	745

GERMANY

INSISTENCE BY THE UNITED STATES UPON ITS RIGHT TO PARTICI-PATE IN THE DISTRIBUTION OF GERMAN REPARATION PAYMENTS UNDER THE DAWES PLAN¹

462.00 R 296/176: Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

Washington, February 23, 1924-5 p. m.

58. L-50, for Logan.² From the information in the hands of the Department on the proposed basis of report of the first committee,3 it appears that American rights may be adversely affected in two particulars, viz., reimbursement of Army costs and payment of claims adjudicated by the Mixed Claims Commission under the agreement of August 10, 1922, with Germany.4

The Army Costs Agreement of May 25, 1923,5 was negotiated and signed on the assumption that German reparation payments would, in some measure, continue to be made. A moratorium was thought of only in connection with a loan or anticipatory payments by Germany and in those circumstances the Allies undertook to communicate with this Government for the purpose of reaching an agreement which would not cause any prejudice to the Government of the United States. If now a moratorium is recommended, and if current army costs are exempted from it, an arrangement should also be made for excepting a certain definite amount as an annual payment on account of American Army costs, say a twelfth of the total under the agreement of May 25. The equity of the position of

¹ For previous correspondence concerning German reparations, see Foreign Relations, 1923, vol. 11, p. 46.

tion Commission.

For reports of the committees of experts, see Great Britain, Cmd. 2105: Reports of the Expert Committees Appointed by the Reparation Commission; Reports of the Expert Committees Appointed by the Reparation Commission; also "Report of Committees of Experts to Reparation Commission," Federal Reserve Bulletin, May 1924. For proceedings of the London Conference and texts of agreements adopted, see Great Britain, Cmd. 2270, Miscellaneous No. 17 (1924): Proceedings of the London Reparation Conference July and August 1924. The agreements are also printed in Great Britain, Cmd. 2259, Treaty Series No. 36 (1924).

2 James A. Logan, Jr., American unofficial representative on the Reparation Commission.

International committee of experts appointed by the Reparation Commission to report on Germany's budget and currency; see telegram no. 535, Dec. 21, 1923, from the Ambassador in France, Foreign Relations, 1923, vol. 11, p. 108.

194, 1952, vol. 11, p. 262.

the Government of the United States in this respect is particularly obvious when it is recalled that this Government agreed to accept payment over a period of 12 years in settlement of its just and overdue Army cost claim, whereas Army costs of the Allies have been met practically in full as they fell due.

Agreement of August 10, 1922, provides for a Mixed Commission to determine amount to be paid by Germany in satisfaction of Germany's financial obligations to the United States under the treaty concluded on August 5 [25], 1921,6 between the two countries, and under the Treaty of Versailles. While adjudication of claims by the commission is pending, it is impossible to determine accurately what the amount finally awarded will be. This amount is, however, estimated at approximately \$500,000,000 exclusive of Army costs which were, for certain technical reasons, notified to the commission. should be borne in mind in connection with the total amount of American claims that the Government of the United States did not present any claims included in the categories which are covered by paragraphs 5, 6 and 7, annex I of part VIII of the Treaty of Versailles. Had this Government followed the example of some of the other Allied and Associated Powers and included these categories, the total amount of American claims would have been greatly increased.

The Government of the United States considers that it is entitled to compensation for this \$500,000,000 or whatever other amount the Mixed Claims Commission may finally determine.

Unless the attention of the first committee is called to the American claims, it is not improbable that this committee's recommendation will provide for the utilization of all Germany's available assets in compensation of claims of other Allied and Associated Powers without taking into consideration the claims of this Government. You should therefore acquaint General Dawes and Mr. Owen Young 7 with the foregoing facts and add that the Government of the United States would view with disapproval any general settlement of the reparation problem which did not take into proper account its legitimate claims while providing for claims of the other powers.

You may discuss the foregoing with Mr. Arthur N. Young,8 referring to his personal correspondence with me.

HUGHES

⁶ Foreign Relations, 1921, vol. II, p. 29.

⁷ American members of the first committee, of which General Dawes was chairman. They were not, however, representatives of the Government of the United States.

On Dec. 31, 1923, Mr. Young, the Economic Adviser of the Department of State, was sent to Paris to confer with Mr. Logan and the American Ambassador. He was instructed to return to the Department in May 1924. (File nos. 462.00 R 29/3264a, b.)

GERMANY 3

462.00 R 296/192: Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

Paris, February 28, 1924—6 p. m. [Received February 29—1:40 a. m.]

93. L-100, from Logan. Your telegram L-50, February 23, 5 p. m.

- (1) I have ascertained that the experts' committee is to deal with the manner and the amount of payments Germany is to make beginning 1924, and that it has neither intention nor competence to deal with the question of distribution.
- (2) In regard to our Army costs it should be borne in mind that under a short moratorium on cash payments no amounts would accrue to us under the agreement of May 25, 1923, during that period. The amounts deferred, however, would be allocated, under the agreement, to the last eight years during which we have an absolute priority on all cash received instead of only 25 percent. Purpose of any moratorium is to increase cash payments in following years, so that actually under a cash moratorium we are technically and practically more likely to be paid in full than without a moratorium.

Your second paragraph. I do not understand that by our arms and ammunition costs agreement the Allies bound themselves in any way not to grant Germany a moratorium if the necessity arose. I fear that were we to demand a cash payment of one-twelfth of the capital sum of the Army costs during the moratorium period, we would not only confuse adjustment but would greatly prejudice our own equity in the settlement. Under the present plan of the experts' committee, Germany will be asked to make substantial deliveries in kind during moratorium period which are to be financed, probably, by a loan largely internal. If Germany is also called upon to make cash payments for our Army costs the moratorium becomes a fiction.

The committee wishes for technical reasons to avoid use of the word moratorium. A claim on our part for any cash payments would lead, probably, to other claims by Allies for similar payments and undoubtedly would have a disastrous effect on the ratification of agreement of May 25, now pending in the French Parliament.

(3) In regard to the claims before the Mixed Claims Commission, 1 am convinced that the committee's plan, as at present conceived, has no direct bearing on the legal rights of the United States. It is my personal belief that our legal rights will not be prejudiced by the proposal any more than by the schedule of payments, or by any other suggestions that might be made by the signatories of the Treaty of Versailles who endeavor, naturally, to get all they can out

^{*}Telegram in three sections.

¹⁰⁸⁸⁴⁻Vol. II-39---7

of Germany. Even so, the reservation indicated in the paragraph (4) below could be framed in such a way by the Department that our

position would be protected from any possible prejudice.

(4) For the reasons stated above and in view of the special position of the Government of the United States on the question at issue, due to its unofficial connection with the Reparation Commission, it is my belief that the broadest interests of our Government are best protected by refraining at this time from interjecting the claims mentioned by the Department into the discussion now under way in the two committees of experts appointed by the Reparation Commission, and that American interests will be best served by encouraging in every way we can the reaching of a solution of the economic and financial phases of the problem by the experts' committees and the commission, and if, and when, the Reparation Commission takes definite decisions on the reports of the two committees, and if then there is any question that the equitable rights of the United States have been infringed, I am in a position, should the Department so instruct me, to make a statement of record or a reservation which will adequately protect our position. I feel that after the Army Costs Agreement becomes effective through its ratification by the French Parliament, our position is amply safeguarded for the reasons stated under (2). So far as adjustment of our claims resulting from operation of Mixed Claims Commission is concerned, should we not elect to deal directly with Germany, settlement [is always possible?] through medium of value of German property at present sequestered by our [Government?]. [Always possible?] to negotiate with Allies in hope of reaching some agreement in regard to participation on percentage basis in annual cash payments hereafter to be made by Germany under plan of the committees as at present conceived.

(5) I consider it highly inopportune at present to press the Allies to arrange an adjustment with Germany giving specific mention and space to our claims, as I feel certain that such a request at this moment and in the particularly delicate situation existing would jeopard the hope of constructive work following the experts' work. There would be many, indeed, who would say that the real object of American participation in the experts' committees, even in the present indirect and entirely unofficial way, was the hope of slipping through the American claim and in this way forcing the consent and cooperation of the Allies. Aside from good ground of this argument, the purely technical aspect of which I ignore, a much more acute danger from practical business point of view would be raised by failure of the committees to reach constructive findings than would be presented by some possible technical prejudicing of American equity in the two categories of claims to which Department refers in its instruction. We have claims against Europe GERMANY 5

much more important than those of the Army costs and the findings of the Mixed Claims Commission; namely, Europe's indebtedness to us. Our best hope for reimbursement of this latter account depends upon Europe's early rehabilitation and reconstruction, and at least for the present this is largely dependent on successful issue of the work of the committees. I should be alarmed, therefore, were we virtually to throw away all chance of successful results by pressing claims in question before experts' committees.

(6) I shall not press views expressed in your telegram L-50 upon Dawes and Young unless instructed to do so. Logan.

HERRICK

462.00 R 296/192 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

Washington, March 7, 1924-4 p. m.

77. L-56, for Logan. Your L-100, February 28, 6 p. m. The statements made in (1) and (2) of your telegram have been carefully noted. It does not appear, however, why the cash payment of American Army costs would make a moratorium any more of a fiction than would the payment of Allied Army costs in cash, nor would it appear to be fair to give preferred treatment during the moratorium to the Allied Army costs at expense of our overdue and unpaid Army costs. To be assured of full payment over the last 8 of the 12 years is one thing; it is quite another if the Army Costs Agreement should be made abortive by reason of any plan the experts submit. This was the reason why the Department believed that General Dawes and Mr. Owen Young should be advised of our Army cost plan and of the provisions of the agreement of May 25, 1923.

From communications received including Arthur Young's personal letter of January 24 to Mr. Hughes, 10 it appeared to the Department that the committee's report might contain recommendations for utilization of all of Germany's assets in settlement of Allied claims. Department believed that Dawes and Owen Young should be informed that solid American claims against Germany exist. The Department did not intend to demand an immediate adjustment of its claims against Germany, nor did it wish to countenance any action bearing on its claims which would prejudice its ultimate interests. The Department agrees with you that the needless injection of this issue into the deliberations of the committee would not

¹⁰ Not found in Department files.

serve any useful purpose. The Department still believes, however, that Dawes and Owen Young should be acquainted with the claims in question in order that they may be on their guard against recommendations which might constitute in fact an estoppal of the proper collection of this Government's claims against Germany. If the recommendations of the committee will not prejudice our rights in any way with respect to payment by Germany of claims adjudicated by the Mixed Claims Commission it will not, of course, be necessary for Dawes and Owen Young to raise the question. The Department has noted your statement that recommendations of the committee will not take into consideration question of distribution of the payments to be made by Germany, and has also noted your further statement that you could take appropriate action to safeguard our rights if and when the Reparation Commission renders definite decisions upon the reports of the committees. It may be true that the experts are not authorized to distribute payments, but it is not impossible, for instance, that they may in their recommendations look to the creation of certain credits to be made available to the interested powers through central bank or by other means which would cover all of Germany's available assets; or, after certain fixed charges have been determined, the plan may provide for surplus to be allocated among certain creditor powers on percentage basis which would exclude, in fact, this Government from participation. Percentage basis, even if not explicit or stated in plan, may be assumed in discussions. Such an arrangement might be a controlling factor in eventual acceptance or rejection of the experts' plan either by Reparation Commission or by the Allied Powers, and it would be most embarrassing should it become necessary, in order properly to protect our legitimate interests, to raise an objection at that late hour which might afford excuse for other objections and result in either embarrassment or defeat of the plan. To include at this time some provision under which the door to participation by this Government would not be definitely closed would obviate any necessity for objection or reservation on its part; for example, it might be provided that any credits or surplus made available should be distributed among the powers that have claims against Germany.

Department has no desire at this particular juncture to jeopard constructive results of the committees' work by insisting on Allies arranging adjustment with Germany which would give our claims specific mention and place. On the other hand, it is important that American interests should not be overlooked and that no final action be taken by which Army Costs Agreement would be rendered nugatory, or which would make it impossible to arrange, should it be necessary to do so, for appropriate payment by Germany of claims adjudicated by Mixed Claims Commission. American claims are not

large and this Government has already foregone categories upon which other Powers have insisted.

Please advise Dawes and Owen Young of Department's views.

HUGHES

462.00 R 296/212: Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

Paris, March 12, 1924—4 p. m. [Received 11:17 p. m.¹¹]

114. L-105, from Logan. Department's L-56, March 7, 4 p. m.

- (1) I had already shown your L-50, February 23, 5 p. m., to Dawes and Owen Young, and have informally handed them text of this telegram as well as the other correspondence which completely informs them of Department's views.
- (2) I was hesitant about pressing too strongly the official views of the Department because of the delicate and special position of Dawes and Young on the investigation committee, as such action might have been susceptible of interpretation that the American members of the committee were in fact official agents of the Department. I have explained fully that I was only communicating the Department's views for their information and that these views were in no sense of the word instructions. Both Dawes and Young are aware of the views and position of our Government; and it has already been kept in mind that every effort would be made in a proper way to describe the external war obligations of Germany to which any budgetary surplus will be applicable in such elastic language as, while not specifically including claim of the United States, would not specifically exclude our claim. It is clear from my recent informal conversations with General Dawes and Mr. Young that they have the Department's special interest in mind, and that in drafting of final report of the committee, which is just now under way, they will endeavor, by all means they can properly employ, to have such language used as will protect position of the United States.
- (3) If, as I now feel to be unlikely, there is no success in obtaining a favorable or noncommittal drafting, the Government of the United States might make reservations along lines suggested under (4) of my L-100, February 28, 6 p. m., when committee's report is acted on by Reparation Commission. It is now planned that the report will come before the commission about March 19; in the mean-

[&]quot;Telegram in two sections.

time the Department may desire to consider nature and language of

reservation if the necessity for it should arise.

(4) While I fully appreciate the Department's position in this question, I feel forced, nevertheless, to adhere to my view already expressed that the Government of the United States will be most likely to obtain actual satisfaction of its two classes of claims if the plan of experts goes through even in the contingency, now somewhat remote, that the plan appears by its terms to deal with Allied obligations only. Furthermore, inasmuch as United States is not represented officially on the Reparation Commission, I am forced to the conviction that no action taken by the committee can bind us or stop us either in law or equity, and that our technical and legal position remains unchanged from what it was before the committee met. This will be true especially if we were to make full reserves at appropriate time in regard to our rights should language of the report appear to commit us adversely. I hope that Dawes and Young will succeed in obtaining noncommittal wording which will render unnecessary any reservation, as the moral effect of reservation on our part might be harmful here. Logan.

HERRICK

462.00 R 296/212: Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

WASHINGTON, March 15, 1924-7 p. m.

91. L-58, for Logan. Your L-105, March 12. The Department hardly needs emphasize earnest desire that work of the expert committees should be successful and that no disposition exists here to cause slightest embarrassment. The point of Department's L-50, February 23, and L-56, March 7, was, on the contrary, to avoid embarrassment and difficulties which would arise were report of the committees to contain provisions or to proceed upon understanding which would jeopard the just claims of this Government and of its nation-There is no lack of appreciation of importance of European recuperation or of our own interest therein, and we are fully sensible of difficulties of work of the committees and skill and resourcefulness which have been shown by American experts. ment does not perceive that appropriate recognition of the relatively small American claims would jeopard their work. The President expects our claims to be properly safeguarded and if the event proved to the contrary there would be an unfortunate reaction in American opinion which would undoubtedly find effective expression in Congress.

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When the nature of our claims is considered, this position becomes clearer:

- (1) The Army costs claim, in relation to the Allies, is a debt of honor. At their request we maintained our Army in Europe, and did so under the distinct agreement that the claim for Army costs was to be paid on a parity with their own and ahead of reparations. They should have distributed equitably the money received for Army costs; instead of doing so they kept these moneys and left us out. We have had no desire to take advantage of their necessities, but we do wish to have an honorable obligation recognized and to this end we made an equitable agreement for the payment of our accumulated Army costs over a period of years. To render our Army Costs Agreement abortive and virtually to push aside our claim would be regarded here as most unjustifiable. It is not the point whether we would be technically or legally bound by an arrangement to which we were not a party. We wish to avoid the necessity of making representations on technical or legal grounds after the experts have gone through the great trouble of endeavoring to effect an arrangement which would permit economic recovery, and we do not wish to be put in position of seeming to obstruct the result of their efforts. The way to avoid this contingency is not to rely on technical grounds, but to have equitable and practical treatment of situation so as to prevent contingency.
- (2) In regard to our other claims, which are now under consideration by Mixed Claims Commission, this Government is not asking for priority or inequitable advantage, nor is it assuming a harsh and inconsiderate position. It simply desires reasonable and equal treatment. This Government's claims are not large and it has abandoned categories upon which the Allies insist and upon which this Government was equally entitled to insist. Here again we wish to avoid creating difficulties arising from any disregard of our equities. The Department trusts that no occasion will arise which will require it to make any protest against a report for the success of which in the interests of peace and stability we are most anxious.

If the nature of the report, however, or any understandings which accompany it, or the action of the Reparation Commission should be such as to embarrass this Government in the protection of American claims, either its own or those of its nationals, you are instructed to make appropriate reservations before the commission. To advise you on the exact terms of the reservation is almost impossible for us, having in mind a contingency which we hope will be remote and without such a report before us. Any reservation should, however, be comprehensive and appropriate to the two classes of claims; it should set forth the reserve of the Government of the United

States in regard to its rights as well as the expression of its confidence that no action is thought of which would ignore our part in the common victory over the enemy, or which would preclude this Government from obtaining equitable treatment as above stated with regard to the payment of the above claims.

HUGHES

462.00 R 296/218: Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

Paris, March 22, 1924—10 a. m. [Received 8:20 p. m.¹²]

139. L-112, from Logan. I have informally handed General Dawes, Owen Young and Mr. Robinson ¹³ a copy of your L-58, March 15, so they are completely informed of the Department's views. I have had the opportunity within the last few days of making an informal and hasty examination of the draft report of the second committee, and noted in it that, while our Army cost position had been protected, our Mixed Claims Commission position was entirely unprotected. I thereupon sent a confidential letter to Young in the following sense, and also sent copies to Dawes and Robinson:

"If the present wording of the report is maintained I should be somewhat embarrassed, in view of the explicit instructions I have received from the Secretary of State to make reservations with the Reparation Commission should there appear to be grounds for a contention that the Government of the United States may, with respect to either or both of its claims, be prevented by the literal language of the committee's report from participating in Germany's external payments during the ensuing years. As you are aware, I wish to avoid a reservation of this nature because of its possible harmful effect on the best working of the plan, and I should consider it a much happier solution could the wording be so changed that it would leave these points unprejudiced.

From my hasty reading of the draft, I note that you have in mind making specific reference to American Army costs. To do so is very helpful as far as it goes, but the equally if not more important claim arising from the judgments of the Mixed Claims Commission is not covered. Strictly speaking, these awards of damages are perhaps not reparations, neither are they, according to contentions that might be made, charges under the Treaty of Versailles. Unless, however, we refer specifically to the satisfaction of these judgments or employ

¹² Telegram in two sections.
¹³ Harry M. Robinson, American member of the second committee of experts, appointed by the Reparation Commission.

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all-inclusive language, it is clear that the contention might well be maintained that none of the payments foreseen by the plan could properly be participated in for settlement of these judgments."

Both General Dawes and Mr. Young are doing everything possible to meet the views of the Department. Their position is, however, delicate. They advise me informally that while there is no opposition to inclusion of provision for Army costs claim in findings of the committee, there is, nevertheless, strong opposition manifested to a provision for meeting judgments of Mixed Claims Commission, the general feeling being that our equity on that account is secured and our position protected by German holdings of our Alien Property Custodian. Dawes and Young are both working on the matter; but for reasons stated above, and provided I do not have time to refer matter to Department, I may be forced to formulate and make reservation outlined in paragraph (2), Department's L-58.¹⁴

[Logan] HERRICK

462.00 R 296/262

The British Ambassador (Howard) to the Secretary of State

No. 326 Washington, April 12, 1924.

Sir: I have the honour, under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, to inform you that the reports of the Expert Committees of the Reparation Commission which have, as you are aware, been made public during the last few days, have in accordance with the usual custom been laid before the British Parliament. His Majesty's Government anticipate that before the Easter recess they will be called upon to make to Parliament a statement of their views on these Reports, and it is their desire that the Governments severally concerned should be made acquainted beforehand with their attitude.

In these circumstances I have the honour to inform you that at an early date the Secretary of State for Foreign Affairs intends to express the satisfaction felt by His Majesty's Government that the report is unanimous, and that it has been signed by representative experts from the United States, France, Italy and Belgium, as well as from Great Britain. He will say that His Majesty's Government feel that a report, supported by such authority, must command general assent, and that there will be a universal desire to use the

¹⁴ The report of the first committee of experts adopted Apr. 9, 1924, stated in part in section x₁ of part ₁ that "Wherever in any part of this Report or its Annexes we refer to Treaty payments, reparation, amounts payable to the Allies, etc., we use these terms to include all charges payable by Germany to the Allied and Associated Powers for these war costs"; Great Britain, Cmd. 2105 (1924), p. 33.

opportunity, afforded by so authoritative a report, to end the unsettlement which now exists.

Mr. Ramsay MacDonald will then point to one feature which His Majesty's Government consider deserves special emphasis, namely, that it is boldly stated in the report that it is an indivisible whole, and that the signatories of the report renounce in the strongest terms all responsibility therefor, if certain of their recommendations are adopted, and others rejected. While therefore in some respects the proposals may be capable of improvement, His Majesty's Government attach so much importance to the agreed recommendations, which can be brought into immediate operation, that they for their part will be prepared to support the scheme in its entirety, provided that all the other parties concerned are willing to take the same course, agreeing to give the experiment a real chance and waiting to make any modifications which may appear necessary, until experience has been acquired and then only by common agreement.

In communicating to you this brief summary of the attitude of His Majesty's Government towards the Experts Committees reports, I have the honour to inform you that it is also being brought to the notice of the Governments of France, Belgium, Italy, Japan and Germany by His Majesty's representatives in those countries.

I have [etc.]

(For the Ambassador)
HERBERT W. BROOKS

462.00 R 296/273 : Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

[Paraphrase]

London, April 17, 1924—6 p. m. [Received 6:45 p. m.]

147. The Prime Minister sent for me today and discussed situation of the experts' report. He has received absolute assurances from Germany that the Government will accept it; the same assurances from Italy and a statement from Italian Ambassador that their expert on Reparation Commission will act with the British. The Prime Minister has had a favorable letter from France through Lord Crewe, but not definite, and a noncommittal reply from Belgium evidently influenced by France's attitude. He is using utmost endeavors to obtain absolute unanimity for an unconditional acceptance, and he will go so far as to insist upon this, or he will raise the whole question of the legality of the occupation of the Ruhr, tariffs, and the Saar administration. He told me unofficially

¹⁵ British Ambassador in France.

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that he knew that the American Government is not in any way committed officially and that it was not officially represented, although American citizens had done valuable work on the committee. was, however, wondering if the American Government would consider whether some statement of its views, while in no way committing it to action, might help European Governments to take wise steps at the present moment. His suggestion was that, without committing our Government to any definite action, you might approve or praise the commission's [committee's?] report and express view that it seems a fair basis for action. He said he was aware that the American Government was not directly interested and that he did not desire to involve it, but that some of the European Governments, by reason of elections and other circumstances, are in a difficult position, and, he felt sure, would welcome a pronouncement that would make it easier for them to do the right thing. He thought that if this statement could emanate from Washington it would render great service to Europe.

The Prime Minister believes that the report will be accepted, but he thinks that a word from you would, at this time, be very valuable. He said that he made the suggestion with some hesitation but added that he knew that neither my Government nor I would misunderstand it.

KELLOGG

462.00 R 296/273: Telegram

The Secretary of State to the Ambassador in Great Britain (Kellogg)

[Paraphrase]

Washington, April 18, 1924-5 p. m.

102. Your no. 147, April 17, 6 p. m. The President will speak at a meeting of the Associated Press in New York on April 22, and will then deal appropriately with the subject to which you refer.

HUGHES

462.00 R 296/286a: Circular telegram

The Secretary of State to the Ambassador in France (Herrick)

Washington, April 23, 1924—3 p. m.

The following excerpts from a speech delivered yesterday by President Coolidge at the Annual Luncheon of the Associated Press at New York City are transmitted for your information.

"The finding of the experts, which is known as the Dawes Report, has recently been made and published. It shows a great deal of research and investigation, and a broad comprehension of the requirements of the situation. It has been favorably received by the Reparations Commission. It is gratifying to understand that the

Allies are looking upon it with full sympathy, and Germany has expressed a willingness to cooperate in the execution of the plan. There appears to be every reason to hope that the report offers a basis for a practical solution of the reparations problem. I trust that it may commend itself to all the European governments interested as a method by which, through mutual concessions, they can arrive at a stable adjustment of the intricate and vexatious problem of reparations, and that such an outcome will provide for the restoration of Germany and the largest possible payments to the other countries.

A situation at once both intricate and difficult has been met in a most masterful way. Our countrymen are justified in looking at the result with great pride. Nothing of more importance to Europe

has occurred since the Armistice.

Part of the plan contemplates that a considerable loan should at once be made to Germany for immediate pressing needs, including the financing of a bank. I trust that private American capital will be willing to participate in advancing this loan. Sound business reasons exist why we should participate in the financing of works of peace in Europe, though we have repeatedly asserted that we were not in favor of advancing funds for any military purpose. would benefit our trade and commerce, and we especially hope that it will provide a larger market for our agricultural production. is notorious that foreign gold has been flowing into our country in great abundance. It is altogether probable that some of it can be used more to our financial advantage in Europe than it can be in the United States. Besides this, there is the humanitarian requirement, which carries such a strong appeal, and the knowledge that out of our abundance it is our duty to help where help will be used for meeting just requirements and the promotion of a peaceful purpose. We have determined to maintain, and can maintain, our own political independence, but our economic independence will be strengthened and increased when the economic stability of Europe is restored.

We hope further that such a condition will be the beginning of a secure and enduring peace. Certainly it would remove many of the present sources of disagreement and misunderstanding among the European nations. When this adjustment is finally made, and has had sufficient time of operation to become a settled European policy, it would lay the foundation for a further effort at disarmament in accordance with the theory of the Washington Conference. Although that gathering was able to limit capital battleships, it had to leave the question of submarines, air craft, and land forces unsolved. The main reason for this was the unsettled and almost threatening condition that still existed in Europe. A final adjustment for the liquidation of reparations ought to be the beginning

of a new era of peace and good will.

In the event that such a condition develops, it becomes pertinent to examine what can be done by our own country, in cooperation with others, further to rid ourselves and the rest of the world of the menace and burden of competitive armaments and more effectively insure the settlement of differences between nations, not by a recourse to arms, but by a recourse to reason; not by action leading to war, but by action leading to justice. Our past experience should warn us not to be overconfident in the face of so many failures, but

it also justifies the hope that something may be done where already there has been some success, and at least we can demonstrate that we have done all that we can.

As a result of American initiative there is already in existence The Hague Tribunal which is equipped to function wherever arbitration seems desirable, and based in part on that, and in part on the League, there is the International Court of Justice, which is already functioning. A proposal was sent to the last Senate by President Harding for our adherence to the covenant establishing this court, which I submitted to the favorable consideration of the present Senate in my annual message. Other plans for a World Court have been broached, but up to the present time this has seemed to me the most practical one. But these proposals for arbitration and courts are not put forward by those who are well informed with the idea that they could be relied upon as an adequate means for entirely preventing war. They are rather a method of securing adjustment of claims and differences, and for the enforcement of treaties, when the usual channels of diplomatic negotiation fail to resolve the difficulty.

Proposals have also been made for the codification of international law. Undoubtedly something might be accomplished in this direction, although a very large body of such law consists in undertaking to establish rules of warfare and determining the rights of neutrals. One of the difficulties to be encountered would be the necessity of securing the consent of all the nations, but no doubt the agreement of the major powers would go very far in producing that result.

I do not claim to be able to announce any formula that will guarantee the peace of the world. There are certain definite things however that I believe can be done, which certainly ought to be tried, that might relieve the people of the earth of much of the burden of military armaments and diminish the probability of military operations. I believe that among these are frequent international conferences suited to particular needs. The Washington Conference did a great deal to restore harmony and good will among the nations. Another purpose of a conference is the further limitation of competitive armaments. Much remains to be accomplished in that direction. It would appear to be impractical to attempt action under present conditions, but with a certain and definite settlement of German reparations firmly established, I should favor the calling of a similar conference to achieve such limitations of armaments and initiate plans for a codification of international law, should preliminary inquiries disclose that such a proposal would meet with a sympathetic response. But the main hope of success lies in first securing a composed state of the public mind in Europe.

It is my firm belief that America is in a position to take the lead

in this direction."

Repeat to London, Rome, Berlin and Brussels.

HUGHES

462.00 R 296/331 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

Paris, May 12, 1924—8 p. m. [Received May 13—3:30 p. m. ¹⁶]

253. L-160, from Logan.

- (1) In the matter of whether the United States should participate in the experts' plan with a view to the payment of American claims, there seem to be these alternatives, namely, indefinite post-ponement or an attempt to collect from Germany directly. The latter step would tend to undo the experts' plan, inasmuch as the provisions touching the budget and transfers are based on an estimate of Germany's maximum and transferable capacity. The whole scheme of transfer control under committee plan will break down if extensive transfers are made outside of the plan.
- (2) From an international point of view I am inclined to feel that the United States may well assert claim to a share in payments. The moment is especially favorable to urging that we be paid on an equal footing with the Allies by reason of President Coolidge's public praise of the plan, the need for an American loan, the language of the experts' report including the costs of the United States, and the advantage to the Allies of American participation because of the moral effect in influencing Germany to meet her obligations. To file a reservation would cast possible cloud on the plan and would postpone our chance of payment unless we were to enter into competition with the Allies and make direct collections from Germany.
- (3) Our Government might propose that, in agreement with Germany and the Allies, it might receive, say, 5 percent per annum, or a flat annual sum from funds deposited in a special account in bank of Germany. If Allies admit claim, they are likely to insist on a percentage instead of on a flat sum, so we would participate pari passu with them.
- (4) Should the United States decide to participate, several questions arise, notably—
- (a) The disposition of enemy property. The Allies feel that the United States has in hand funds out of which to meet part of American claims, and that our Government should not release these funds and then demand direct contributions from Germany, as Germany's ability to pay the Allies would be reduced thereby. The subject apparently is one requiring Congressional action, but the following procedure may be worthy the Department's consideration.

¹⁶ Telegram in three sections.

Should the Executive branch of the Government decide to participate in the experts' plan, it might promise to recommend to the Congress that former enemy property be liquidated upon the condition that German Government would compensate private owners by paying them from such a percentage of the annual payment in marks deposited in the Bank of Germany as might be allocated to the United States under the experts' plan. This scheme has the advantage of providing compensation to private owners; it does not involve an additional burden upon Germany; and it eliminates the exchange difficulties connected with transfer of Germany's mark payments to extent that German owners are resident in Germany.

- (b) The crediting on claims of the value of any cables transferred to the United States. It seems that the Government of the United States might well agree to credit the value of these cables on one of its claims.
- (c) Crediting the value of German ships taken over by the United States. Should we agree to credit cables but not ships, we can explain why we would credit the one and not the other. The Allies, Great Britain in particular, seem to feel that Germanowned property which was seized and permanently retained by the United States should be computed as offset in accounts between Germany and the United States.
- (d) Priority between our claims for Army costs and for the awards of the Mixed Claims Commission. This question is in part one of internal policy, and it is wholly possible that private claimants may object to having United States allocate receipts to its own claim first, while private citizens are left to await their chances. It is unfortunate that the Army Costs Agreement of May 25, 1923, has not yet been ratified; and it is quite probable that, if we decide to participate, the Allies may wish to scrap the agreement and to have one sum allotted to us to cover all claims, thereby leaving apportioning of amount to discretion of the United States. Even if the Allies do ratify Army Costs Agreement ultimately, they will bear in mind this financial obligation in making any further concessions to us on our other claim.
- (5) I wish to emphasize the urgency of an early decision on the points I have raised. It is wholly probable that the Allied Governments are now formulating individual plans for division of funds which will make it all the more difficult for us to participate. An inter-Allied conference sometime next month is almost certain, and if we could reach a decision well in advance, it would be most helpful. Bluntly speaking, we must definitely decide, during or before the conference, to come in or stay out. To file a reserve is for practical purposes merely to postpone the evil day, and in effect is a decision to stay out. I expect opposition to the American claims, but for

the reasons stated in (2) above, I think the present offers special opportunity to overcome this opposition. If the United States asserts its claim, I believe technical points should be disregarded as far as possible, and the claim be based on broad grounds of equity. I should appreciate an expression of the Department's general views at such time as may be convenient.

(6) In my observations on this question of policy, I have spoken of internal aspects of the question of participation which will immediately suggest themselves to you, such as, for example, political repercussion, part Congress should play in reaching a decision on the course to be followed, and question of competence of the Executive to waive or reduce any part of the total of American claims. It is probable that the Executive has not such power. Participation in conference would not be waiving or reducing claims but instead would be attempting to collect them. It is conceivable, however, that if others are forced to scale down their claims, they may request us to do same.

Sent by mail to London and Rome. Logan.

HERRICK

462.11 W 892/302a: Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

Washington, June 14, 1924—1 p. m.

181. L-80, for Logan.

(1) It is the expectation of the United States Government that it shall share in the payments proposed by the experts' plan. These payments will apparently comprise the total amounts for which Germany may be liable to the Allied and Associated Powers for war costs (see section XI, part I¹⁷), and are intended to utilize all resources of Germany which may be available for this purpose. Obviously, therefore, the approval of this Government is essential before the plan can be put into full operation in such a way as to affect the rights of the United States. Expressions in support of the plan which have been made public by this Government, such as in the President's address of April 22,¹⁸ have been based on the assumption that the Allied Governments would willingly agree to a fair participation by the United States. To the end that the plan may become satisfactorily operative, therefore, this Government wishes to reach

¹⁷ See "Report of Committee of Experts to Reparation Commission," *Federal Reserve Bulletin*, May 1924, pp. 351, 365; also Great Britain, Cmd. 2105, p. 33.

¹⁸ See circular telegram of Apr. 23, 3 p. m., p. 13.

a satisfactory understanding with the Allied Governments concerning American participation in the contemplated payments.

It is not proposed to discuss, in negotiations concerning American participation, any technical question concerning the rights of the United States, as a power which has not ratified the Treaty of Versailles, vis-à-vis the powers which have ratified that treaty, since it is believed that insistence upon such a technical question would be precluded by the manifest equities of the United States as a cobelligerent which contributed so materially to the defeat of Germany and her Allies. Furthermore, as between the United States and Germany, the rights of the United States to compensation have been accorded as fully as the rights of any of the Allied Powers, and the rights of the United States against Germany cannot be disregarded when Germany is dealt with on the basis of its full capacity of payment. The reference, in section XI of part I of the plan, to "all amounts for which Germany may be liable to the Allied and Associated Powers" manifestly contemplates this.

(2) The American claims include, first, accrued Army costs, and, second, other Government claims and claims and debts of American nationals submitted to the Mixed Claims Commission, United States and Germany, for adjudication. In view of the fact that American Army costs were not covered, as would have been equitable, pari passu with Allies' costs, priorities in favor of this claim are provided in the Wadsworth Agreement, cognizance of which has been taken by the Reparation Commission and which has already been approved by all the interested States except France. This fact should be taken into account in any new arrangement regarding distribution.

The second category covers amounts which rank on an equal footing with Allied claims (viz., reparations, clearing payments, restitution, Alsace-Lorraine payments, etc., see top of page 25, experts' report), which are expected to be covered out of German payments. Naturally, however, all such claims, both American and Allied, rank after service of proposed loan, costs of control and administration, and accrued as well as necessary current army costs.

Apart from Army costs, claims in a total amount of about \$1,225,000,000 have been filed with the Mixed Claims Commission, United States and Germany, which has been established to determine the amount of American claims against Germany and debts due from Germans to Americans. In this total there are not included claims for amounts of the nature of those covered by paragraphs 5, 6 and 7 of annex I to part VIII of the Treaty of Versailles. It is understood, however, that the total of Allied claims against Germany would be greatly reduced if the amount of their claims under these headings

¹⁹ Army Costs Agreement, Foreign Relations, 1923, vol. II, p. 180. 10884—Col. II—39——8

were deducted from the 132,000,000,000 gold marks. The United States has substantially reduced the total of its claims against Germany by refraining from presenting claims of these categories. The total amount awarded by the Mixed Claims Commission, United States and Germany, will be materially less than the amount of the claims filed. The United States, of course, will seek payment only of its Army costs and of amounts actually adjudicated. The amount of the American claims against Germany will be reduced to a very much further degree than apparently has been the case in the Allied States, by the awards to be handed down by the Mixed Claims Commission. The expectation of the United States to obtain payment of the amounts awarded is therefore reasonable.

(3) With respect to the accrued American Army costs, which amount to about \$255,000,000, provision is made in the Wadsworth Agreement for payment in twelve installments which shall have a certain degree of priority over the current army costs of the Allies from 1927. As yet no payments have been received under this agreement. In case none are received before the priority over current army costs becomes effective in 1927, the agreement obviously contemplates that the total amount shall be paid in the eight remaining installments, thus involving annual payments averaging over \$31,500,000. Since the Dawes Plan contemplates that substantially all the sums to be paid by Germany during the first two years after its adoption shall be expended in Germany, it is possible that, if the plan goes into effect, no substantial payments would be made under the Army Costs Agreement until 1927, thus leaving to be made the average annual payment indicated above.

When the Army Costs Agreement was entered into, the reparation situation was much more obscure than it now is, and this Government sees no reason why provision should not be made for the payment to the United States of similar installments from the German payments under the Dawes Plan. In view, however, of the fact that this Government will insist upon a participation in Germany's payments on behalf of other American claims, this Government is disposed to extend to 20 (or possibly 24) the number of installments provided by the Wadsworth Agreement for the payment of American Army costs, provided that after the first two years there shall be assigned to this Government, for application to other American claims, an additional amount equal to $2\frac{1}{2}$ percent of the annuities paid by Germany under the Dawes Plan.

It should be understood that beginning with 1927 the American Army cost installments shall have priority just preceding current army costs. Provision should also be made that there shall be no priorities preceding the 2½ percent payments except the service of the 800,000,000 gold marks loan, the costs of the Reparation

Commission and other bodies and agencies established under the treaty or the Dawes Plan, and necessary costs of armies of occupation. It is estimated that these priorities will amount to about

tion. It is estimated that these priorities will amount to about 359,000,000 gold marks per year, to wit: 82,000,000 gold marks for service of the loan (assuming 7 percent interest and amortization by 20-year sinking fund); 37,000,000 gold marks for costs of Reparation Commission and other agents of control (estimated on the basis of present outlay); and 240,000,000 gold marks current army costs.

(4) It is contemplated by the Dawes Plan that the Reparation Commission may sell the 16,000,000,000 gold marks of railway and industrial bonds to be delivered to the trustee, which are to bear 5 percent interest and 1 percent for sinking fund. It should be stipulated that if the bonds are sold, the interest paid on them shall nevertheless be included in the amount of Germany's annual payments for the purpose of determining the 2½ percent to be paid to the United States Government. United States Government.

In any agreement for United States participation in a percentage of current payments, there should be included also provision for similar participation in capital receipts, such as from the flotation of a large international loan or from payments in advance.

(5) It is possible that an attempt may be made by the Allied

- Governments to bring up some question concerning the disposition of enemy property taken over by the United States Government. As the disposition of this enemy property is a matter to be determined by Congress, this Government holds that any arrangement of the kind indicated above should in no way bind the United States with respect thereto. The Treaty of Versailles clearly left each Allied or Associated Government the option of retaining or returning such property. The Allied Governments have exercised their option of retaining it. The Government of the United States must remain equally free to retain or release the property as it may ultimately see fit in the exercise of its option. If any property is finally appropriated to the payment of American claims, the value thereof will, of course, be credited against these claims against Germany.
- (6) The statement in paragraph 5 applies not only to property taken over by the Alien Property Custodian, but to vessels, title to which was taken under the Joint Resolution of Congress of May 12, 1917. Both these cases come under section IV of part X of the Treaty of Versailles.
- (7) In respect of cables, however, when they shall be definitely allocated to the United States, this Government is prepared to credit
- the fair value thereof against its claims.

 (8) A definite understanding should be reached on maximum amount of current army costs. Including the costs under articles

8 to 12 of the Rhineland Agreement of June, 1919,²⁰ these costs should not in any event be greater than 240,000,000 gold marks, the amount deemed sufficient under the Wilson-Lloyd George-Clemenceau Agreement of June 16, 1919. ²¹ The maximum amount should if possible be reduced below this figure in order to keep the burden of these costs as light as possible that the remainder of German payments be released for other charges. In like manner the costs of the agencies of control and administration should be reduced to the minimum.

- (9) Later on, possibly, some arrangement may be made whereby German nationals might be compensated by their Government in German marks out of the American share of the proposed deposit to the credit of the Agent for reparation payments, this Government in turn to receive compensation therefor by utilization of a similar amount from alien property held in the United States. This would be one way to avoid difficulties in regard to transfers should they arise.
- (10) You will bear in mind that the Government of the United States is firmly convinced of the equity of an arrangement along the lines that have been set forth above. This Government desires at the appropriate moment to negotiate an arrangement to cover American participation in these payments. Before arrangements for distribution will have become crystallized it is important, obviously, that the Allied Governments be informed of this Government's position. The Department desires, therefore, to have from you, as soon as possible, any comments you may wish to make on this telegram, together with your suggestions about time and manner in which it would be advisable to indicate to the Allied Governments the position of the Government of the United States in this matter. It is obvious that the plan cannot become operative except with the accord of the United States, of special importance being the friendly interest of this Government in the proposed The Allied Governments should be glad to have this Government associated with them in cooperation as a creditor of Germany rather than to have any lack of harmony between the action of this Government on the one hand and the Allies on the other in seeking to obtain payment of their just claims.
- (11) These present proposals rest on the understanding that the plan will be accepted in its entirety. If it is proposed to modify this plan in any material way, however, the Government of the United States would wish, of course, to consider proposed modification on the withdrawal of these proposals as the changes might warrant.

HUGHES

²⁰ Official Gazette of the Inter-Allied Rhineland High Commission no. 1, part 1, Jan. 1920, pp. 4-15.
²¹ British and Foreign State Papers, 1919, vol. cxII, p. 978.

462.11 W 892/302b: Telegram

The Secretary of State to the Ambassador in France (Herrick) [Paraphrase]

GERMANY

Washington, June 14, 1924-2 p. m.

182. L-81, for Logan. You may find helpful the following information on how the Department reached views set forth in its telegram L-80, June 14, 1 p. m.

(1) The total amount of the probable awards on account of American claims, which includes claims of this Government except Army costs, has been estimated roughly at \$300,000,000. You will understand that this figure is given with the greatest reserve and without any commitment whatever, and that you are not to divulge it or use it in any way. The total amount finally awarded may quite possibly differ substantially from above estimate.

- (2) In regard to the total amount of American claims it is important to note two points: first, total amount of Germany's capital debt under the plan has not been fixed, and second, Spa Percentage Agreement 22 was drawn up before Germany's debt of 132 billion gold marks was agreed upon. For these reasons the Department does not believe that the Allied Governments can properly insist on being informed of the amount of American claim, more especially as it will represent amounts which have actually been adjudicated, not merely estimated amounts.
- (3) In regard to the amount of German property which is held by the Alien Property Custodian, the Department has nothing additional to say.
- (4) On the one hand the Department is anxious to retain the prior position of the Army cost claim, because of the manifest equity which the Allied Governments cannot dispute; and on the other, it is important that private claims should be paid at earliest date The Department has felt, accordingly, that the most desirable arrangement would be one providing for current payments to cover both classes of claims on what would amount to a fifty-fifty basis, as the total amount of Army costs and other claims would be not far from equal if the estimate given above be correct.
- (5) If the payment of the Army costs be extended over a period of 20 years, the United States should receive annually one-half of the estimated installment of \$31,500,000, or about 65,000,000 gold marks. If the payments were to be extended over a period of 24 years, the annual amount received would approximate 53,000,000 gold marks. In payment of other claims, 21/2 percent of, say, 2,150,000,000 gold marks, making allowance for prior charges against

²³ Foreign Relations, 1920, vol. II, p. 406.

normal annuity payments (see Department's L-80, last part of paragraph 3), would be equivalent to 54,000,000 gold marks. On the foregoing computation the Army cost claim would be covered in 18 to 22 years from the present, and the other claims in about 24 years.

HUGHES

462.00 R 296/370: Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State [Paraphrase]

> London, June 18, 1924—4 p. m. [Received June 18—2:15 p. m.]

220. From a conversation with the Prime Minister I am led to believe that after his interview with Herriot, which he expects will take place Saturday,28 should Great Britain, France, and Belgium agree on program for putting into force Dawes report, there will be meeting of Prime Ministers, and that they are very likely to send you an invitation to have a representative present in preliminaries. He said that they did not wish to embarrass you or request you to do anything which you feel our Government would not be justified in doing at this stage, but would leave it to you to help them in any way you feel proper; and that should an invitation be extended to have representative present or to appoint one, he hoped that it would be some outstanding figure of prominence whose presence would add influence.

KELLOGG

462.11 W 892/306: Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

Paris, June 23, 1924—6 p. m. [Received 10:25 p. m.24]

310. L-177, from Logan.

(1) Department's L-80, June 14, 1 p. m. As soon as the Department has reached a decision on the points presented below, I think that the Principal Allied Powers should be advised of the position of our Government in regard to participation in the proceeds of the Dawes Plan, but I am not yet sure that exactly the right time has come for this notification. The Allies should be firmly committed among themselves and for that reason I suggest that the Depart-

 ²³ On Saturday, June 21, M. Herriot crossed to London.
 ²⁴ Telegram in four sections.

ment's announcement be deferred until I have ascertained the results of the Herriot-MacDonald conference and also the object and scope of the inter-Allied meeting which has been reported in the press as set for July 16. I expect to obtain data on these two matters in a couple of days, and I shall then report immediately to the Department, giving my recommendations.

(2) In fixing the amount to be attributed to American claims with the exception of Army costs at 2½ percent, does Department mean that that percentage is to be computed on the lump annual installment before deduction of our prior Army costs annuity, or is it to be computed on the remainder of the net installment after deduction

of our Army annuity?

(3) I understand Department's statement that the 2½ percent allocation is to start with the beginning of the third year as being in substance a reply to a question I raised in a previous telegram, ²⁵ and a decision that the Government of the United States will not assert participation in proceeds of the loan for which the Dawes Plan provides, of course assuming that the loan is used for purposes described. If the loan were used in whole or in part for a direct cash reparation payment it would, *pro tanto*, come within the terms of the Army Costs Agreement.

(4) I am not entirely clear on the purport of latter part of your paragraph 3, which I understand as meaning that the special Belgian payment provided for by article 232 of the Treaty of Versailles should not have special priority but should be lumped in with other reparation claims. If this be proper construction I wholly agree.

- (5) I understand that we should assert participation in extra capital sums received from the flotation of railway bonds or otherwise. Department's instruction goes on to say that if Treasury bonds are sold, interest provided for therein should nevertheless be included in computation of German installments for purpose of assessing the 2½ percent. Would this not be a double employment of the same fund? That is, the United States, having received a capital amount of the bonds, will be deemed to be earning interest on the amount received. Agent General for reparation payments or the trustee would have to pay interest accruing on bonds themselves directly to purchasers, so that if our Government demands a percentage of interest so paid, the amount paid it would have to come out of other receipts under the plan. I fear that the Allies would raise objection to this double employment of bond interest for credit to the United States.
- (6) I appreciate how extremely difficult it is to make even an approximate estimate of the ultimate total of awards by the Mixed

²⁵ Not printed.

Claims Commission, and I realize that this matter is of less importance than fixation of our participation at 2½ percent.

I have received Department's telegram L-81, June 14, 2 p. m. Allies are certain to ask for approximation of our total claim in order that they may have some idea about number of years it would require to satisfy our claim in full, assuming the successful operation of the Dawes Plan. Capital claims are already fixed, of course, even if capital debt of Germany is not yet fixed under the plan. For that reason I recommend that the Department consider drawing up a rough estimate without any commitment and with all necessary reservations which could then be transmitted to the Allies, at least confidentially. It is desirable, naturally, that for purposes of negotiation the total amount be estimated at as low a figure as is prudently possible.

- (7) Department has presented effective answers to questions I have previously raised, but one minor point seems to have been overlooked. If it should become desirable to allocate blocks of bonds to individual powers directly in order that they might float them internally along with their own, perhaps without governmental guarantee, would the Government of the United States accept any portion of a block?
- (8) I am inclined to agree with Department's stand in regard to German ships, but for reasons somewhat different. I doubt the desirability of assimilating these ships to private property under article 297, Treaty of Versailles, as Department intimates in paragraph 6. The Reparation Commission has already decided, I believe correctly, that the shipping clauses of the treaty and article 297 were mutually exclusive and that German vessels held by the Allied Powers were not retained under article 297 of the treaty, but were delivered to the commission under annex 3, part 8, except such vessels as had been previously condemned as good prize or had been legally expropriated otherwise; and in my opinion our strong point is that the former German ships were not German at the time of the signing or of the coming into force of the treaty, but had already become American vessels by the lawful process of expropriation.

The Allied Governments may, however, take the view that as we are brushing aside technical questions of law, the matter of the ships should be considered on a broad, equitable basis. The vessels differ appreciably from private property held by the Alien Property Custodian, for they have actually been expropriated and allocated to the Government of the United States by itself. I think that [position taken by Department is proper?], however, inasmuch as these ships are the only thing that we got out of the war.

(9) I am pleased with the spirit and detail of Department's telegram; I believe it marks a great step forward toward successful

operation of the plan, and the possible realization of our claims. If any of the matters referred to above demand lengthy consideration, I suggest that when the moment is auspicious for annexes to our general position to be presented to the Allies, it will not be necessary for all details to have been adjusted in final form. They can be worked out during the interim between the official announcement of our position and the forthcoming negotiations. Logan.

HERRICK

462.00 R 296/370: Telegram

The Secretary of State to the Ambassador in Great Britain (Kellogg)

[Paraphrase]

Washington, June 24, 1924—5 p. m.

174. Your 220, June 18, 4 p. m. Department deems it inadvisable for this Government to be represented at Prime Ministers' meeting. This meeting seems to be appropriate for representatives of those Governments whose action is necessary to put Dawes Plan into effect. While the Government of the United States is most desirous that Dawes Plan should be promptly put into execution, and sympathizes with efforts to that end, its action is not required to make plan effective, assuming that its just interests would not be jeoparded. That is to say, our claims against Germany should be protected properly when it comes to questions of distribution, but this point is separate from necessary arrangements to put plan into operation.

In view of Mr. Logan's intimate knowledge of Dawes Plan and of this Government's views respecting settlement of questions of its claims against Germany, the Department has instructed him to be prepared to go to London about July 16, and informally to keep in touch with conference for purposes of information and to furnish a medium for any advisable communications with Department. Not desired that Mr. Logan should attend the meetings. An invitation has not yet been received and the Department would prefer that one should not be formally extended.

You may inform the Prime Minister that while his suggestion is appreciated, the Government of the United States does not see its way clear to be represented at the meeting, but that this Government will take pleasure in instructing Mr. Logan to be present in London at the time of the meeting for purposes of information.

Should it appear that matter of distribution is to be taken up, or that American claims might be involved, we shall wish Mr. Logan to be heard in any appropriate way. At present this is not to be mentioned. For the present, Department assumes that only steps to put plan into operation are being thought of.

HUGHES

462.00 R 296/379: Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

[Paraphrase]

London, June 24, 1924—8 p. m. [Received June 24—7:05 p. m.]

223. Have just received invitation referred to in my 220, June 18, 4 p. m. It is in form of long memorandum setting forth views of British Government and urging American participation. It is now being coded, and will be sent tomorrow morning at latest.

KELLOGG

462.00 R 296/381: Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

London, June 24, 1924—9 p. m. [Received June 25—8:50 a. m.²⁶]

224. My 223, June 24, 8 p. m. The following is memorandum referred to:

"The Secretary of State for Foreign Affairs presents his compliments to the United States Ambassador and has the honor herewith to confirm in writing the observations which he was able to make to His Excellency in the course of their recent verbal discussion and in regard to which further explanations have since been furnished to His Excellency by the permanent Under Secretary of State for

Foreign Affairs.

Secretary of State has been in personal consultation with the Belgian Prime Minister and more recently with the new French Prime Minister regarding the steps to be taken to put into immediate operation the scheme embodied in the Dawes report. This report has already been approved by all the Governments concerned, who have declared their readiness to adopt it in its entirety. The informal discussions which have taken place with the Belgian and French Ministers have centered therefore not so much upon the principle of the report as upon the exact measures which must be taken to give effect to its recommendations. It has been generally agreed that the following measures will be best calculated to secure this object.

The recommendations embodied in the Dawes report will impose upon Germany obligations altogether beyond what was laid down by the Treaty of Versailles. It will be necessary therefore that these recommendations should be embodied in some kind of formal document or arrangement to be signed by the powers who will be responsible for their execution. If Germany is to give her assent she for her part will justifiably expect to receive as a counterpart to the obligations which she will assume in adopting these new undertakings a corresponding undertaking on the part of the other powers that the

²⁶ Telegram in three sections.

economic and fiscal sanctions which have in the past been imposed

upon Germany shall be withdrawn.

It would be undesirable to give to the instrument of agreement a form which would have the appearance of a treaty explicitly modifying the Treaty of Versailles. It is felt that the most convenient form will be that of a protocol which might contain provisions covering the following points:

(1) An undertaking by all the signatory Governments to execute the recommendations of the Dawes report in their entirety.

(2) A pledge by the German Government to put into execution by a given date all the legislative or other measures pre-

scribed by the report.

(3) An undertaking by the Allied Governments to withdraw by a given date—which might be fixed at 14 days after the date indicated in (2) above—all the fiscal and economic sanctions and other arrangements affecting the economic activities of the Ger-

man Reich and now in force in German territory.

(4) Agreement by the Allied Governments that these sanctions would not be reimposed except in the case of flagrant failure on the part of the German Government to fulfill the conditions embodied in the report itself and the designation of an authority who would be charged if necessity arose with the duty of deciding whether such default had indeed taken place. This duty cannot properly be entrusted to the Reparation Commission whose functions are strictly determined by the Treaty of Versailles since the engagements to be entered into under the Dawes scheme lie to a certain extent outside the scope of that treaty. Some impartial and independent authority will have to be agreed upon who could properly undertake this duty and whose decisions would be accepted as binding on all the parties concerned.

(5) A provision that any dispute as to the proper interpretation of the articles of the protocol shall be referred to some

independent arbitral body.

For the purpose of negotiating the terms of such a protocol some further discussion will clearly be necessary and it is now proposed that an inter-Allied conference shall meet in London on July 16th next to be followed, so soon as agreement has been reached, by a fuller conference in which Germany will be invited to participate. The powers who will be asked to send representatives to this conference will be France, Italy, Japan, Belgium and such of the minor powers as are entitled to reparation. These minor powers will however it is hoped be represented merely by their Ministers accredited to the Court of St. James.

The conference will be strictly confined to an examination of the measures necessary to give effect to the recommendations of the Dawes committee. Such questions as security and inter-Allied debts are to be explicitly excluded. With this limitation the conference should be able to conclude its discussions within a short period.

One week may perhaps suffice.

The greatest importance is attached by the Allied Governments to the presence at this conference of representatives of the United States of America. It is not for the Allied Governments and still less for His Majesty's Government to suggest in what particular capacity the United States representatives might attend: this is a matter which must be left entirely to the United States Government who can themselves decide what can properly be done. There is no desire to cause them any embarrassment or expectation that they will take any action which for constitutional or other reasons they may be reluctant to take. The Secretary of State ventures however to remind the United States Ambassador that the report was framed under the direction and stimulus of a citizen of the United States and that but for the moral authority and technical experience of General Dawes and his assistants the report might never have been agreed upon or might have proved less decisive and less widely acceptable.

The success of the scheme outlined by General Dawes must depend predominantly on the flotation of the contemplated loan, the subscriptions for which will inevitably have to come largely from the United States of America. In examining the measures by which the report can be put into operation the powers will therefore desire to give particular weight to the possible views and feelings of the United States public; and they would be somewhat embarrassed in this endeavor if the United States Government were to hold them-

selves entirely aloof from the discussion.

It is not, however, merely on such incidental reasoning that Mr. MacDonald desires to ask Mr. Kellogg to enlist the cooperation of his Government in the difficult and vital negotiations which are so shortly to open. The Dawes report has placed the problem of German reparation on a more expert and a more practicable basis; it has at the same time given to the problem a scope which is wider and for that reason more humane. His Majesty's Government would deeply regret if the discussions were again to be restricted solely to those powers who have a too direct interest in the matter and if the moral influence of the United States which contributed in so essential a manner to the framing of the report were to be withdrawn at the moment when Europe is intent upon its execution.

The Secretary of State would therefore be indebted to the United States Ambassador if he would now lay these considerations before his Government and would impress upon them the desirability in the general interest of their consenting in whatever form may seem to them advisable to participate in the impending conference. Should the United States Government see their way to meet the wishes of the Allies in this respect the Secretary of State expresses the hope that in selecting an American representative choice may be made of a personality whose name and position will carry weight both in the United States and in Europe and so reinforce the authority with which the conclusions to be arrived at by the conference will be gen-

erally received".

462.00 R 296/382 : Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

[Paraphrase]

London, June 25, 1924—1 p. m. [Received June 25—12:21 p. m.]

225. Your no. 174, June 24, 5 p. m. The Prime Minister is out of town. Seems impossible to withdraw invitation, as he announced in Parliament on Monday that it would be extended and all papers carry this announcement. I telegraphed you yesterday that the invitation had been received and was being encoded, and the full text was sent you before your 174 reached the Embassy. I suggest that you may wish to consider the text of the Prime Minister's communication before you decide definitely what steps shall be taken. I think refusal likely to have depressing effect.

In regard to last sentence of your telegram. Prime Minister in

his statement in Parliament said, among other things: 27

"The business at the inter-Allied conference will be the Dawes report. The subject matter will be the Dawes report. As soon as the Dawes report is put into operation, as soon as all the machinery is arranged for putting the Dawes report into operation, and it is actually in operation, obviously we shall go on to discuss and, I hope, to settle the other outstanding matters between France and ourselves including inter-Allied debts; but I hope the House will be perfectly clear about this, as I can assure it I am perfectly clear myself—there is going to be no mixing up of inter-Allied debt questions with the putting of the Dawes report into operation."

Kellogg

462,00 R 296/382 : Telegram

The Secretary of State to the Ambassador in Great Britain (Kellogg)

[Paraphrase]

Washington, June 25, 1924—6 p. m.

176. Your nos. 224, June 24, 9 p. m., and 225, June 25, 1 p. m.

In view of text of invitation embodied in British memorandum and of the Administration's desire to do all that it properly can, without the assumption of objectionable obligations on the part of this Government, to promote the putting into effect of the Dawes Plan, the Department has deemed it advisable to take somewhat different course from that stated in its no. 174, June 24, 5 p. m. On the receipt of your telegrams today I took the matter up further with the President; he has now authorized me to instruct you to

²⁷ Quoted statement not paraphrased.

attend conference on July 16 for purpose of dealing with such matters as affect interests of this Government and otherwise for purposes of information. Department will instruct Mr. Logan to go to London to assist you. In view of attention that matter has received in press, following statement is being made public this evening at the White House: ²⁸

"It is the desire of the Administration that the Dawes Plan should be put into effect as speedily as possible. This is the first and essential step to economic recovery abroad in which this country is vitally interested. It is with this view that in response to the invitation extended by Prime Minister MacDonald instructions have been given to Ambassador Kellogg to attend the conference in London on July 16 for the purpose of dealing with such matters as affect the interests of the United States and otherwise for purposes of information. Colonel Logan will go to London to assist the Ambassador."

Text of this Government's reply to invitation will shortly be telegraphed you.

HUGHES

462.00 R 296/381: Telegram

The Secretary of State to the Ambassador in Great Britain (Kellogg)

[Paraphrase]

Washington, June 27, 1924-3 p. m.

179. Your no. 224, June 24, 9 p. m. Following for your information and guidance:

The Department notes that with view to giving effect to the experts' report, thought is being given to signing by the Allied Governments of some sort of formal instrument, probably in the form of a protocol, which would avoid appearance of a treaty explicitly modifying Treaty of Versailles. While obviously highly desirable that appropriate arrangements be made to give speedy effect to the experts' recommendations, you will appreciate that this Government is not in a position to join in an undertaking to execute recommendations of Dawes report. In particular this Government is not a party to economic and military sanctions. It has long since withdrawn its forces of occupation from Germany. It appears, moreover, that the instrument proposed to be drawn up is of such a nature that for this Government to adhere to it, the advice and consent of the Senate would be required, involving, at best, delay which it is important to avoid. Apart from other considerations,

²⁸ Quoted statement not paraphrased.

it would be inadvisable, therefore, from a practical standpoint, to consider making an agreement to which this Government would be a signatory and which would require approval by the Senate before it could be put into effect. To call such an agreement a protocol would not help the matter.

The United States has a definite interest and concern, nevertheless, in the situation. Although the United States is not a party to the Treaty of Versailles, in its separate treaty with Germany this Government is accorded certain rights and benefits stipulated for it in the Treaty of Versailles. Under these circumstances Germany, which has entered into certain obligations toward the United States, might consider that this Government should properly be heard in connection with arrangements which look toward Germany's assumption of new obligations of such importance as those proposed. In particular the Government of the United States is concerned with negotiating at the appropriate time an arrangement by which it may be enabled, in accord with the other Governments which are concerned, to participate in payments pursuant to experts' plan so that its Army costs, the claims of the Government, and private claims now being adjudicated by the Mixed Claims Commission may suitably be paid. The Department has fully instructed Mr. Logan on this point, and will instruct him to inform you of Department's position. Apart from this direct interest of the United States in arrangements referred to, the Government of the United States is of course greatly concerned that prompt and efficacious measures looking toward economic recuperation in Europe be taken.

It is important that representatives of the United States should do nothing by which it would be made to appear that this Government is participating in imposition on Germany of unduly onerous conditions. In the view of this Government the objective of the forthcoming conference is the promotion of economic recuperation and recovery of just claims against Germany in such a manner as will render unnecessary imposition of sanctions as have been imposed in the past. It is important that no misconception of the position of this Government should obtain currency.

It should also be kept in mind that the success with which the experts' plan has met comes from the fact that the Governments as governments were not dealing with the questions involved and that the experts, although not disregardful of political conditions and the attitude of the several Governments, undertook to give appropriate weight to economic conditions. It is important, therefore, that this approach to the question be continued, and that plans should not be jeoparded by introduction of political controversies.

With these considerations in mind, I may summarize following points:

(1) The Government of the United States does not wish to become a party to any protocol or other instrument which would involve participation by this Government in execution of experts' recommendations, nor does this Government wish to sign any general instrument necessitating submission to the Senate for advice and consent to ratification. What has just been said is not to be taken, however, to preclude possibility that some separate instrument, appropriate to regulation of payment of American claims or growing out of treaty between United States and Germany, might not be deemed advisable. Latter possibility will be dealt with as

situation develops.

(2) As this Government is not a party to the economic and military sanctions, no question of its participation in an instrument relating to sanctions need be raised. In regard to arrangement of sanctions appropriate to execution of plan, all that United States can do is use its moral influence with view to prompt carrying out of experts' recommendations without introduction of elements of political controversy which might tend to prevent satisfactory settlement. Your attendance at forthcoming conference will be in large measure to manifest earnest desire of this Government for a prompt settlement, and you will without doubt find that there will be occasions on which you may helpfully indicate sentiment of American Government and people in regard to these matters. You will, of course, in so acting bear in mind that purpose of conference is to give effect to experts' plan, and to create situation in which plan can operate freely as looked to in experts' report. It will be desirable, therefore, that your influence be so exerted that measures of compulsion which may not flow from plan and from its spirit may be avoided.

(3) Should the Governments arrange for certain sanctions as is suggested in points 4 and 5 of British memorandum, the Government of the United States will not, of course, associate itself with such arrangements. If, however, question of the selection of an "impartial and independent authority" should be presented, and if your opinion is asked, you may indicate that the Permanent Court of International Justice might be available for purpose desired.

(4) In regard to suggestion in the British memorandum touching flotation of proposed loan, and desire of Allied Governments to give weight to the possible views and feelings of the public of the United States, you will bear fact in mind that the Government of the United States is not in position to guarantee this financing or to assume any responsibility in regard to it. As was indicated in the President's address on April 22, this Government hopes that basis may be found on which American capital will participate. You will realize that you could not appropriately take the responsibility of indicating the exact views and feelings of American investment public. may, nevertheless, at times find yourself in a position helpfully to indicate views of American bankers and investors without involving this Government in any responsibility. If, for example, the French representatives should propose retention of measures which would amount to economic interference in the occupied territory, you might then say that while you could not speak for the Government of the

United States in the matter, you felt justified in stating informally on basis of your knowledge of views of American investment public, that under those conditions the loan could not be floated in the United States.

You are instructed to present the following note to the Foreign Office: 29

"The American Ambassador presents his compliments to the Secretary of State for Foreign Affairs and has the honor to acknowledge the receipt of His Excellency's note of June 24 which he did not fail promptly to communicate to his Government, regarding the forthcoming conference in London to consider the experts' plan.

Mr. Kellogg is now instructed to state that the Government of the United States has observed with deep interest and gratification that steps are being taken with a view to putting into effect the experts' plan as speedily as possible, and cordially appreciates the courteous invitation conveyed to the Government of the United States by His Majesty's Government. As His Majesty's Government will readily understand, the Government of the United States is not a party to the economic and military sanctions to which Germany is now subject and is not in a position to enter into an undertaking to execute the recommendations of the experts. Nevertheless, the Government of the United States, believing as it does that the first and essential step to economic recovery in Europe, in which the American Government and people are deeply interested, is the speedy adoption of the experts' plan, does not desire to stand aloof from the proposed conference. Therefore, with the authorization of the President the American Ambassador has been instructed to attend the conference, in view of the foregoing considerations and for the purpose of dealing with such matters as affect the interests of the United States and otherwise for purposes of information."

On appropriate occasion you may in your discretion orally inform Mr. MacDonald of this Government's views on other points mentioned in the British memorandum to which first part of present telegram is addressed, except that I do not desire you to refer in any way whatever to the subject of American claims until you receive specific instructions in the matter.

Repeat to Embassies in Belgium, Italy and France, and request the latter to give copy to Logan.

HUGHES

462.11 W 892/306 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

Washington, June 28, 1924—2 p. m.

205. L-91, for Logan. Your L-177, June 23, 6 p. m. Department's comments on your points, taken up in order, follow:

²⁹ Quoted note not paraphrased.

- (1) Your L-179, June 25, 7 p. m., 30 received; Department would be glad to have your further views at earliest possible moment.
- (2) The 2½ percent is to be computed on the net installment after deduction of the prior charges referred to in last part paragraph 3, Department's telegram L-80, June 14, 1 p. m., and after deduction of American Army cost annuity.
- (3) Your interpretation is correct. Naturally Department wishes, however, to reserve its position on this point for whatever it may be worth for purposes of negotiation, and prefers not to indicate its views, therefore, until after its general position in regard to participation in payments shall have been made known to the Allies.
- (4) Department's telegram was garbled; no reference was made to Belgian payments. As you suggest, Department believes that they should be lumped together with other treaty claims.
- (5) If the United States were to share in capital sums received from flotation of railway bonds, this Government would not, of course, expect to ask that its percentage should be computed on the interest payments on such a share of capital amounts.
- (6) The Department appreciates the reasons for your suggestion that the Allies be given a figure if they ask for it. You will realize how important it is to take no action that might cause them to insist that the United States might be given a smaller percentage. If you deem it absolutely necessary, in connection with the forthcoming negotiations, you may orally and confidentially indicate a figure based on the information given in Department's telegram L-81, June 14, 2 p. m., paragraph 1, subject to the qualification set forth there, also bearing in mind the points raised in Department's telegram L-80, June 14, 1 p. m.
- (7) In regard to the allocation of bonds to individual powers the Department could not commit itself in advance of knowledge of a particular proposal. For your information, however, and with the expectation of receiving your comment, I may say provisionally that it appears that bonds so allocated would constitute a definite assignment of their income and would, therefore, constitute desirable security.
- (8) In regard to vessels Department has failed to locate Reparation Commission's decision, the number of which you did not give. According to your statement vessels are excepted by it that have been "otherwise legally expropriated," and as title to German vessels seized in the United States was acquired long before conclusion of a treaty these ships would therefore come within this exception. The Government of the United States would not under any circumstances permit question of validity of this title to be raised. It is clear that German interests in and title to these vessels having been wiped

³⁰ Post. p. 135.

out, they did not come within part 8 of annex 3, Treaty of Versailles, which relates to vessels entitled to fly the German flag or owned or controlled by Germans.

The Reparation Commission took a similar position in regard to German ships seized by Brazil and it would thereby be precluded from taking a different position in the very much stronger case of the ships seized by the United States. According to a statement, July 11, 1921, of the General Secretariat concurring with the Brazilian point of view, the ships constituted private property in an enemy country and were to be dealt with under article 297 of the treaty, and the proceeds of their liquidation might be dealt with by Brazil in the manner provided for under provisions of that article.

This statement is significant notwithstanding the fact that the commission, while it approved the opinion of its Legal Service that ships seized by Brazil did not come within part 8, annex 3, took the position that article 297 was not within the competence of the com-In this position the commission was entirely correct. authority has been vested in it to construe that article, the construction of article 297 being a question for the particular Allied State within which the property is. The Department calls your attention to statements, with which it agrees, in Mr. Bayne's letter of May 20, 1921,31 in regard to application of article 297 to vessels seized by the United States. It seems unnecessary to enter into a detailed discussion on this point with the Allies. It is the position of this Government that while it is free to retain the vessels or return them or their proceeds to the former German owners, due credit will be allowed therefor, if they are retained, on American claims against Germany.

In any negotiations in regard to modification of the Army Costs Agreement, the Department offers the following for your further

guidance:

(a) The conditions in light of which the Army Costs Agreement was drawn have obviously been modified by the Dawes Plan. Putting aside question whether, under Army Costs Agreement, this Government would be entitled to receipts under Dawes Plan, the latter contemplates practically no external payments during first 2 years. The plan refers, moreover, to deliveries in kind from a different point of view, as these are to be covered from cash payments made by Germany. Under the circumstances the Department does not believe that after the second year the deliveries in kind should take rank ahead of American Army costs, more especially as there is possibility that deliveries in kind and other payments under headings of restitution and clearing payments, etc., might

⁸¹ Not printed.

be expanded to cover all available funds leaving nothing for American Army costs.

- (b) In view of the commission of experts' recommendations in regard to transfers, it should be understood that payments which are due on account of American Army cost priority should not merely constitute a prior charge on deposits accruing in the German Bank, but would be met from sums actually transferred. The priority might be somewhat empty otherwise. This point should not be lost sight of in connection with the drafting of any instrument having to do with American participation.
- (c) The Department realizes that Governments concerned had great difficulty in reaching the Spa Percentage Agreement. avoid reopening the question of percentages in order to take account of participation by the United States, the following procedure might be adopted for distribution of the amounts remaining after making deductions for priorities referred to in the last part of paragraph 3, Department telegram June 14, 1 p. m., and for American Army cost priority. In accord with Allied Governments, the United States might agree with German Government that claims of the United States excepting Army costs be met by series of annual payments parallel with those projected under the Dawes Plan in an amount equal to 21/2 percent of the payments available for distribution to the creditor Governments. In this way this percentage of payment would be brought within the "inclusive" payments which are a part of the plan, and the Spa percentages might apply to remainder. This Government is prepared to agree that any percentage payment of this kind to the United States should take rank, as far as payment and transfer of payment is concerned, equally with payment to the other creditor Governments of all obligations to them after the priorities indicated, including of course priority for American Army costs, have been covered.

The Department would be pleased to have your comments on these points as soon as may be possible.

HUGHES

462.00 R 294/345 : Telegram

The Ambassador in France (Herrick) to the Secretary of State
[Paraphrase]

Paris, July 2, 1924—noon. [Received 2:58 p. m.³²]

323. L-184, from Logan.

1. It is not entirely clear from your L-80, June 14, 1 p. m. what Department's feeling is on priority position that should be accorded

⁸² Telegram in three sections.

our past Army costs. The instruction gives inference that we should maintain the priority granted by the agreement pending and should merely extend the dates of payment, whereas second class of American claims would be subordinated to service of international loan, costs of control, Reparation Commission, etc., and the future current costs of the Allies' Armies. If this understanding of your instruction be correct, it would mean that our Army costs would enjoy an absolute priority on the proceeds of the experts' plan after the first 2 years. I do not feel that a priority of that nature, if really intended, could be obtained; my feeling is that the proper priority should be (1) service of the loan; (2) costs of control, Reparation Commission, etc.; (3) then our Army costs to come next and before current costs of the Allies; however, if it became absolutely necessary we should be ready to place our past Army costs on a parity with current Allied Army costs. Reparations and all other treaty costs, our other claims included, would follow.

Also I am not quite clear from figures in paragraph 5, your L-81, June 14, 2 p. m., whether Department wishes to have included interest on arrears at 4½ percent, as provided paragraph VII of [Army Costs Agreement?]. I am inclined to feel that it is wholly desirable in new negotiations that we waive questions of interest entirely and instead ask merely for flat annual installments of capital amount, or ask for interest only as a trading point.

2. In answer to paragraph 1 of your L-91, June 28, I have nothing to add to my L-179, June 25, 7 p. m.

I agree that it is premature to make decision on acceptance of bonds before we know exact nature of any proposal. I had in mind that time may come when the Allies might offer us a considerable block of bonds in satisfaction for all or a part of our Army costs with request that from then on we look only to the bonds for satisfaction of this claim. It is my feeling that if the Allies accept blocks of bonds, it is probably desirable that we do the same, but I agree that this matter can wait.

3. Your telegram, paragraph 8. By my remarks about ships I did not mean to intimate that I expected any possible question on validity of title, but merely that we were in stronger position by not relying on article 297 as source of our title, but by relying instead on our expropriation, as article 297 bears more on the question of attribution of liquidated proceeds. Article 44[244?], annex 3 wholly inapplicable to us because only ships that were German on January 10, 1920, covered. I am familiar with the Brazilian ships' case and vessels held by other South American powers. Bayne's letter to which you refer takes same position on source of title to our ships which I suggest. I think that the niceties as to the origin of title may be forgotten. The only question of practical importance is whether we

would permit a credit for value of ships, and if so, when. I wish to understand clearly an important declaration in your L-91, that if Government of the United States retains German ships "due credit will be given therefor on American claims against Germany." The Allies will in this connection doubtless point out that we have retained and have exercised full proprietary rights over these ships for more than 7 years; and as there does not seem to be any indication at present of return of the vessels the Allies will be likely to inquire how much more time must elapse before the ships shall be considered as retained.

To a degree, retention is a question of fact and Allies might from practical viewpoint reasonably take the position that United States has already retained the vessels in accordance with a definite expropriation whereas other enemy property was and still is only sequestrated, and they may ask why credit should not be computed forthwith. I should appreciate further comment on the matter of credit, especially the time thereof and whether on Army costs or on other claims.

4. In regard to subparagraph (a) of paragraph 8, I agree that an effort should be made to obtain priority of American Army costs over deliveries in kind, but I am not confident this priority will be accorded. Should cash become inadequate there are other methods by which our Army costs could be obtained without direct transfer into foreign currencies; for example, acquisition by the Government of commodities in Germany to be paid for out of special bank fund, or financing out of this fund German purchases by American nationals who in turn would pay Government of the United States in American currency. Logan.

HERRICK

462.00 R 294/345 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

Washington, July 5, 1924—1 p. m.

216. L-95, for Logan. Reference to your L-184, July 2, noon.

(1) Our Army costs may be subordinated to the service of the proposed loan and, should it be necessary, to the costs of the Reparation Commission and agencies of control, but they should rank ahead of the Allied current Army costs. As the Army Costs Agreement by article II, paragraph 3, recognizes that the American claim should rank ahead of Allied current costs after January 1, 1927, I see no valid reason, in view of the clear equity of our position, for the Allied contention that their current Army costs rank ahead of or on

parity with unpaid American past Army costs after that date. If the experts' plan works, Germany's payments would be increased and the Allied costs would be reduced to such an extent that question might not be of any great practical importance. American claims apart from Army costs should rank equally with reparations and all other treaty charges lumped together, and after the loan service, costs of control, and accrued and current Army costs.

In regard to interest, article II, paragraph 7, of the Army Costs Agreement properly recognized that this Government is entitled to receive interest if there is delay beyond 1926 in payment of installments agreed upon of a claim that even now is equitably overdue.

Please cable Department if you believe that it is absolutely necessary to be in position where some concession on these points be offered in order to facilitate suitable arrangement providing for payment of claims.

- (2) Your observations concerning ships will receive Department's comment later.
- (3) Your paragraph 4. It is desired that you endeavor to obtain priority of American Army costs payments over the cash amounts that are to be allocated to cover deliveries in kind, restitution, clearings and similar matters. This arrangement would be equitable for the reasons set forth in Department's telegram L-80, June 14, 1 p. m., especially paragraph 3. If you are unable to obtain full priority for American Army costs, then priority to be accorded in favor of these other charges should be limited to a moderate amount, say 500,000,000 gold marks annually.
- (4) If it should not prove feasible to limit the suggested prior charges to an amount approximating 350,000,000 [sic] gold marks as estimated in last part paragraph 3 of Department's telegram L-80, June 14, 1 p. m., which seems to depend principally on the limitation of current Army costs to 240,000,000 gold marks a year, it is obvious that payment of claims of the United States would not be made on basis calculated in the last paragraph of Department's L-81, June 14, 2 p. m. In this contingency the Government of the United States might be compelled to ask for a larger percentage than that indicated. Refer Department's June 14, 1 p. m., paragraphs 8 and 11. While awaiting assurances on reduction to an economical basis of costs of control and current Army costs and also indication that the Allies are agreeable to payment American claims along lines of Department's June 14, 1 p. m., you may, if you think it advisable for purposes of negotiation, ask at first for a larger percentage than 2½. The Department recognizes the advisability of making its demands as moderate as possible, but obviously it does not desire to have to consider taking a percentage smaller than that indicated.

462.00 R 296/391 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

Washington, July 5, 1924-2 p. m.

217. L-96, for Logan.

- (1) Department is considering forwarding for presentation to the British, French, Belgian, and Italian Governments a *note verbale*; following is paraphrase of draft:
- (2) The Government of the United States has noted that the experts' plan, the application of which is to form the subject of the London Conference, contains the provision that the payments contemplated comprise amounts for which Germany is liable to the Allied and Associated Powers for war costs. Pursuant to the terms of the treaty proclaimed November 14, 1921, 23 between the United States and Germany, the latter is liable for satisfaction of American war claims, and in view of the above-cited provision in the experts' report the Government of the United States desires to reach an understanding with the Allied Governments in order that its and their claims may be paid suitably.

The Government of the United States understands that the conference at London is to deal with the measures to put the experts' plan into effect as speedily as possible, and that it is not proposed to examine questions of apportionment among the Allied and Associated Powers to which Germany is liable. This Government would, however, be glad to be informed when and how it is proposed to consider apportionment in order to be in position to indicate its views and appropriately to discuss the question with the Governments

concerned.

In the American claims there are included, first, the Army costs and, in the second place, the other claims of this Government and the claims and debts submitted for adjudication to the Mixed Claims Commission. As all the signatory powers have not yet ratified the Army Costs Agreement of May 25, 1923, it may be desirable to include suitable provision concerning these Army costs in any new arrangement entered into concerning apportionment of payments. It is unnecessary to dwell on the special position of this claim and the importance which this Government attaches to the payment of it at the earliest possible moment, particularly as American Army costs have not been met while similar costs of the Allies have been covered fully or substantially from past German payments.

The total of the American claims of the second category comes to much less than similar claims of the Allies. It should be borne in mind, in this connection, that this Government, although under its treaty with Germany it is entitled to assert claim under categories 5 to 7 of annex I, part VIII, of the Treaty of Versailles, has notified Germany that it makes no claim under these heads. Clearly both the Government and nationals of the United States are fairly entitled to be paid their claims and debts on an equal footing with the

²³ Foreign Relations, 1921, vol. 11, p. 29.

claims and debts of the Allies and Allies' nationals, as in equity they rank pari passu with these claims and debts. Such payments to this Government, which would be relatively small in amount, would, of course, form a part of "inclusive" payments to which section XI, part I, of the experts' report refers, and as far as concerns transfer pursuant to the procedure contemplated in annex 6 of the experts' report would be on an equal footing with payments to the Allies.

Obviously it is of importance that the Allies and the United States,

Obviously it is of importance that the Allies and the United States, in seeking the payment of their just claims, should act in cooperation instead of seeking payment separately with the possibility that

misunderstanding might follow.

(3) You will consult with Ambassadors Herrick and Kellogg, obtaining Mr. Kellogg's views by telegraph; and advise the Department as soon as possible whether there are any suggestions which they and you have to offer in the matter, or whether any objection is perceived to submitting such a note at this time as the one proposed.

(4) Repeat to the Embassy in Great Britain as Department's no.

186.

HUGHES

462.00 R 296/406: Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

Paris, July 8, 1924—6 p. m. [Received July 9—2:14 a. m.³⁴]

333. L-189, from Logan.

(1) Your L-96, July 5, 2 p. m. Regardful of delicate situation existing at present between France and Great Britain, I feel that the Department should proceed in the most guarded and moderate manner, lest the *note verbale* proposed be regarded as another bombshell, especially by French who are already in a sensitive mood and who may feel that the additional charges upon the fund receivable from Germany tends even further to make advantages of experts' plan illusory from purely French point of view.

(2) In my opinion any announcement that may be made should be brief, and for that reason I feel that our own note is too legalistic and

detailed, and that it might with advantage be shortened.

In regard to your third paragraph, I venture a suggestion which may form a basis for a draft; in particular I would not ask at present "when and how it is proposed to consider apportionment."

(3) At this juncture I believe that if the Department thought an immediate *note verbale* imperative, the following text would serve best to accomplish our purpose; let excellent argumentation of pro-

^{*} Telegram in three sections.

posed draft in your L-96 be reserved for conference which considers apportionment: 35

"The Government of the United States understands that the forthcoming London Conference is to deal with the measures necessary to put the experts' plan into effect as speedily as possible and that it is not proposed to examine questions concerning the apportionment of the all-inclusive payments to be made by Germany as contemplated by the experts' plan in satisfaction of the war claims of the Allied and Associated Powers.

The United States therefore does not desire at this time to raise the question of its equitable right, as a power associated in the Great War, to share, as contemplated by the experts' plan, in an appropriate apportionment of the all-inclusive payments for the purpose of meeting its claims for Army costs and for damage[s to] person[s]

and property.

The United States wishes to declare however that in seeking payment of its just claims from Germany it is willing to cooperate in the rehabilitation of Europe by acting through the machinery of the experts' plan rather than to disturb the machinery by seeking payment outside the plan. It desires therefore to discuss the subject when the matter of apportionment hereafter arises for consideration."

(4) I am consulting Ambassadors Herrick and Kellogg, and I urgently recommend that in the meantime action on Department's draft note verbale as well as my alternative draft above be suspended. I am hopeful that the somewhat disquieting situation created when the terms of the British invitation to the Allied Governments to the London Conference were revealed in the French press will be adjusted satisfactorily by the MacDonald-Herriot conversations in Paris.³⁶ The situation created by the British note will, however, be reflected in the London Conference, and it is my firm opinion that any note we should send at this time ought to receive most thoughtful consideration, for in event of any serious Anglo-French divergence of views which might arise at conference our note will undoubtedly come into prominence, and responsibility for any resulting failure of the conference might improperly be laid at our door.

I understand through Ambassador Kellogg and from other sources that tacit agreement already exists not to consider questions of distribution during conference, and our position, therefore, appears secure. If Mr. Kellogg can confirm this agreement, I believe our best ends will be served by reserving all formal communications from our Government to the Allies on subject of our claims until after London Conference, the precaution being taken, however, of instructing Mr. Kellogg on attitude to be taken if through any

⁸⁶ On July 8 and 9.

³⁵ Quotation not paraphrased.

possible breaking down of the agreement the questions were to come before the conference. I am confident this latter procedure is more businesslike and safer from whatever angle matter may be viewed.

Repeated to Embassy in London. Logan.

HERRICK

462.00 R 296/406 : Telegram

The Acting Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

Washington, July 9, 1924—3 p. m.

226. L-101, for Logan. Your L-189, July 8.

(1) The Department concurs in recommendation in paragraph 4 your telegram, and presentation of note will be withheld until further advices from you.

(2) The Department will appreciate your comment on desirability of obtaining from MacDonald through Kellogg before convening of London Conference recognition of principle of American participation in payments looked to by Dawes Plan in compensation of claims of this Government and of American nationals, with understanding that details of participation be subject of negotiation at time when the question of distribution will be considered.

GREW

462.00 R 296/410 : Telegram

The Ambassador in France (Herrick) to the Secretary of State
[Paraphrase]

Paris, July 9, 1924—8 p. m. [Received July 10—7:48 (a. m.?)]

336. The British Ambassador, who has just been at my house to see me, tells me that the conversations between Herriot and Mac-Donald have been very satisfactory and that the Prime Minister and Premier Herriot expect their Parliaments to be satisfied with their explanations. Principal obstacle to an agreement was question of who was to decide a German default. Finally settled that they would leave it to an American, presumably the Agent General, and Owen Young's name was mentioned. I gather, however, that they are somewhat perturbed lest you might not agree to this solution, but sincerely hope you will find it possible to do so, as it is the only one they have in sight.

HERRICK

462.00 R 296/412: Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

[Paraphrase]

London, July 10, 1924—10 a.m. [Received July 10—3 a.m.]

241. I have read your L-96, July 5, 2 p.m., to Logan and Logan's L-189, of July 8 to you, and I am inclined to agree with him that until we know more about the result of the conference at Paris yesterday it would be better if note were withheld and, if question of payments by Germany is raised, to notify the conference in session of our position. If, however, you conclude to send the note and adopt form suggested by Logan I think that conclusion is too indefinite as it merely states that our Government is willing to cooperate with the Allies in seeking payment of its just claims. In my opinion we should state that we expect to participate in the discussion for the purpose of this payment. The communiqué which was issued last night by the two Governments on the Herriot-MacDonald conference is so vague that I shall try to see the Foreign Office this morning and ascertain definitely if division of proceeds is to be discussed at all. Shall wire you later.

Kellogg

462.00 R 296/421

The British Embassy to the Department of State 37

The British and French Governments have agreed to submit to the Allied Governments the following note, the conclusions of which they recommend to their acceptance:—

- 1. In the minds of the British and French Governments the object of the Conference which is to meet in London on July 16th is to arrange the execution of the expert's plan in so far as concerns the questions the solution of which devolves upon the interested Governments:
- 2. The two Governments recognize the importance of the economic and financial points of view and particularly the necessity of creating a regime of confidence which gives the eventual lenders the necessary sense of security, but they do not consider that this necessity is incompatible with respect for the provisions of the Treaty of Versailles; that is what the following considerations clearly establish.

³⁷ This is an English translation of the note of July 9 of the British and French Prime Ministers to the Allied Governments. The translation was made at the British Embassy, and was left with the Secretary of State by the British Chargé on July 11. On the same day the French Chargé communicated the French text of the note to the Secretary of State (file no. 462.00 R 296/422).

Even more, the violation of these provisions would cause the disappearance, together with the permanent basis of a peace established with such labour, of any confidence in the solemn engagements of the nations and would be of such a character as would not forestall but rather prepare new conflicts:

3. The experts were appointed by the Reparation Commission and invited by that Commission on November 30, 1923, to "seek the means of balancing the budget and the steps to be taken to stabilize the currency of Germany". The Reparation Commission has acted in the matter by virtue of the powers it holds under the Treaty of Versailles and notably under Article 234 which reads as follows: "The Reparation Commission shall after May 1, 1921, from time to time, consider the resources and capacity of Germany, and, after giving her representatives a just opportunity to be heard, shall have discretion to extend the date, and to modify the form of payments, such as are to be provided for in accordance with Article 233."

It is in order to enlighten itself in the exercise of these powers that the Reparation Commission has consulted the Committees of experts constituted under paragraph 7 of Annex II of Part VIII which reads as follows: "The Commission is authorized to appoint all necessary officers, agents and employees who may be required for the execution of its functions, and to fix their remuneration; to constitute committees, whose members need not necessarily be members of the Commission, and to take all executive steps necessary for the purpose of discharging its duties; and to delegate authority and discretion to officers, agents and committees."

4. The experts have submitted their reports to the Reparation Committee which by a letter of April 17th, communicated them to the interested Governments and informed them that the Commission had decided unanimously.

"(a) to take act of the reply in which the German Government gives its adherence to the conclusions of the expert's reports;

(b) to approve within the limits of its attributes the conclusions formulated in those reports and to adopt the methods con-

tained therein;

(c) to transmit the reports of the committees officially to the interested Governments, recommending to them the conclusions which are within their competence in order that the plans proposed may produce as soon as possible their full effect, etc."

As the Reparation Commission states certain of the measures to be taken to put the plan of the experts into execution are within the sole competence of the Governments. This view is moreover found in the most explicit manner in the Dawes Report of which paragraph 3 reads as follows:

"If political guarantees and sanctions destined to ensure the execution of the plan proposed are considered desirable they do not come within the competence of the committee, neither do the terms of its mandate qualify it to examine questions of military occupation. We have however the duty of indicating clearly that our proposals are based on the supposition that the present measures in so far as they hinder this activity will be abandoned or modified to the necessary extent, as soon as Germany shall have put into execution the plan recommended, and that they shall not again be put into force except in case of flagrant default under the terms accepted by common agreement. In such a case it is clearly for the creditor governments, acting with the consciousness of their common responsibility in regard to their own financial interests and in regard to the private interests which shall have advanced funds for putting the plan into execution, to determine the nature of the sanctions to be applied and to organize them in such a way that they will be prompt and effective "

- 5. It is therefore necessary that the creditor governments conclude an arrangement by which they undertake to take such measures as are within their competence to ensure the execution of the Dawes plan. The British and French Governments declare that it is of the highest importance that the report of the experts be put into effect without delay in order to ensure the payment of reparation by Germany and to restore common action by the Allies. With this object the two Governments have agreed on the following points;—
- (a) A conference shall meet in London on July 16th. The two Governments note with satisfaction that the United States of America has decided to be represented at this conference.
- (b) The interested governments will first confirm their acceptance, in so far as they are concerned, of the conclusions of the Dawes Report, an acceptance which they have already given individually to the Reparation Commission.
- (c) The arrangements which will supervene ought not to do injury to the authority of the Reparation Commission but in consideration of the fact that guarantees ought to be given to the lenders who supply the 800 million gold marks and to the holders of obligations, the two Governments will unite their efforts in order to secure the presence of an American on the Reparation Commission in case the Reparation Commission shall have to declare a default on the part of Germany. If this solution should not be possible and in case the members of the Reparation Commission should not succeed in agreeing on an appreciation of the facts, the two Governments would recommend that the Commission should summon the Agent General of payments who ought to be of American nationality.

(d) The Dawes Report contains provisions for meeting defaults on details by means of the various control bodies, but an important and voluntary default would at once raise the question of Germany's good faith. In case the Reparation Commission should declare such a default, the interested governments will bind themselves to concert together immediately regarding the means for putting into execution the measures on which they shall be agreed, having regard to their own protection and that of the interests of the lenders.

(e) The plan according to which the economic and fiscal unity of Germany shall be restored as soon as the Reparation Commission shall have decided that the Dawes Report has been put into execution, shall be settled by the inter-allied Conference. The Reparation Commission will be requested to study and to present to the interallied Conference suggestions with a view to the establishment of this

plan.

(f) In case experience should show the necessity of modifications in the expert's plan and if the Reparation Commission does not already enjoy sufficient powers, such modifications could only be effected with all the necessary guarantees and by common accord between

the interested governments.

(g) In order to take full advantage of the reparation payments foreseen by the expert's report and in order to ensure the benefit of them to the interested nations, the Allies will institute a special body appointed to give an opinion to the interested governments with a view to their knowing what system it would be advisable to create in order to utilize the payments made by Germany (especially in so far as transfers and payments in kind are concerned). It will also be advisable to settle the question of the authority charged eventually with the interpretation of the Dawes Report and of the arrangements which will be taken in London to ensure its execution.

6. The two Governments agree to refer to the examination of their legal advisers any legal difficulty which may arise in the matter of

the interpretation of the present text.

7. The two Governments have had a preliminary exchange of views on the question of the inter-allied debts; on this point the British Government declared that it will seek, with the Governments interested, a fair solution of this problem, taking into account all the elements which affect it. This question is thus referred for a preliminary examination to the Treasury experts.

8. The two Governments have also had a preliminary exchange of views on the question of security; affirming to what point public opinion desires complete pacification, they agree to seek the best means of attaining this object, either by the intervention of the League of Nations, or by any other way, and to continue the examination of the question until the problem of the general security of

the nations receives a definitive solution.

462.00 R 296/412: Telegram

The Secretary of State to the Ambassador in Great Britain (Kellogg)

[Paraphrase]

Washington, July 11, 1924—6 p. m.

204. Referring to your 241, July 10.

- (1) I have instructed our Embassies in France, Italy, Belgium and Japan to furnish the Governments to which they are accredited with a copy of our reply 38 to the British invitation of June 24,39 for their information. Our reply explains the purposes for which the American representatives will attend the London Conference, which are, inter alia, "for the purpose of dealing with such matters as affect the interests of the United States."
- (2) The Department thinks it would be desirable for you informally to make clear both to Herriot and MacDonald and also, in your discretion, to representatives of the other Principal Allied Governments before commencement of the conference that this Government expects to participate in the payments under the plan which looks to the utilization of Germany's full capacity of payment.

Please cable without delay their attitude as reflected in conversations you have with them.

HUGHES

462.00 R 296/422: Telegram

The Acting Secretary of State to the Ambassador in Great Britain (Kellogg)

[Paraphrase]

Washington, July 12, 1924—1 p. m.

206. Following for the Ambassador and Logan, for their information.

(1) Yesterday afternoon the French and British Chargés d'Affaires communicated to the Secretary the text of the note drawn up by common accord between the French and British Prime Ministers at their Paris meeting for submission to the Allied Governments.40 After reading the note the Secretary stated that it did not call for any reply by him, but that in order to avoid a possible misapprehension he thought that he should call attention to the fact that the Government of the United States could not appoint the representative upon the Reparation Commission without consent of Congress.

See telegram no. 179, June 27, to the Ambassador in Great Britain, p. 32.
 See telegram no. 224, June 24, from the Ambassador in Great Britain, p. 28.
 Note from the British Embassy, p. 46.

Although this Government had privilege of appointing a representative under the treaty, the Senate in consenting to the Treaty of Berlin had made reservation that appointment should not be made unless Congress approved. Congress does not convene until December, and it would be wholly impracticable to have such an arrangement as an integral provision of present plans of the Allies. This did not mean, the Secretary explained, that some suitable alternative should not be suggested; and he said he noted that in the identic note it had been stated that if appointment on the Reparation Commission appeared to be impossible, the French and British Governments would recommend that commission call in the General Agent for reparation payments, who should be an American. The French Chargé d'Affaires asked whether that would require consent of Con-The Secretary said he had merely referred to an official appointment upon the Reparation Commission by the Government of the United States; that reservation did not apply to appointment of Agent for reparation payments under Dawes Plan, and that he had no objection to appointment of an American to this position. Of course if an American were appointed, the Secretary said, he supposed that the Reparation Commission would avail itself of his opinion as far as he was willing to give it; that would be another matter.

The Secretary was emphatic that he was not calling attention to this point to raise any obstacle, but wholly to the contrary, in order that no obstacle be created by misunderstanding of situation on this point.

Please repeat to Ambassador Herrick for his information.
(2) Department assumes that text of the Anglo-French note is available to you. If not, Department will cable it to you.

GREW

462.11 W 892/318: Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State [Paraphrase]

London, July 13, 1924—noon.

[Received 12:05 p.m.]

249. L-195, from Logan.

(1) Your L-81, June 14, 2 p.m., in regard to amount of awards of Mixed Claims Commission as probably about \$300,000,000, and the fact that this amount could be defrayed in about 24 years. Has the Department taken into consideration fact that the awards of the Mixed Claims Commission carry interest at rate of 5 percent from date of damage done until date of payment? In other words, there

is an interest charge of \$15,000,000 a year, and the sum suggested by Department as annual payment would not be adequate to meet even

this interest charge.

(2) My purpose in bringing up the foregoing is not to suggest that we put forward claim to interest on our claims, for of course if everyone enters this sort of claim, however equitable it may be, ultimate payment in full becomes practically hopeless; but I wish to draw Department's attention to the fact that interest runs on the judgments for both parties. This fact may have been overlooked in making calculations stated in your L-81. [Logan.]

Kellogg

462.00 R 296/422: Telegram

The Acting Secretary of State to the Ambassador in Great Britain (Kellogg)

[Paraphrase]

Washington, July 16, 1924—7 p. m.

216. Please give the following to Mr. Hughes upon his arrival: The French Chargé called upon me day before yesterday to confirm his understanding of views you expressed to him and British Chargé on July 11 when they presented identic note in regard to London Conference. His understanding appears to correspond to written memorandum of your conversation in Department's files. M. Laboulaye also stated that he had received instruction from M. Herriot to inform you how greatly the French Government appreciated favorable way in which you had received identic note. This favorable attitude would help a great deal toward reestablishment of peace in Europe. M. Laboulaye hoped that this message would be conveyed to you. I assured him that it would be.

GREW

462.11 W 892/318: Telegram

The Acting Secretary of State to the Ambassador in Great Britain (Kellogg)

[Paraphrase]

Washington, July 16, 1924—8 p.m.

217. L-105, for Logan.

(1) Your L-195, July 13, noon, from London. The Department's L-81, June 14, 2 p.m., did not cover question of interest.

⁴¹ Mr. Hughes sailed July 12 to attend the meeting in London of the American Bar Association, in his capacity as president of the association. He also visited Paris, Brussels, and Berlin, returning to Washington on Aug. 15.

Department has been informed that the date from which interest begins in awards of the Mixed Claims Commission varies according to the category of the claim, in some instances from the date of damage, in others from the Armistice. Decisions to date, furthermore, relate only to some categories, while others are expressly excepted for future consideration. The Department is of the opinion, however, that it is wholly probable that the commission in handing down its awards will provide payment of interest at 5 percent up to the date of payment. This matter lies outside the jurisdiction of the Department. As you will recall, 5 percent is the rate usually specified.

(2) As stated in Department's telegram June 28, 2 p.m., L-91, you may, if you think it absolutely necessary, give the estimated award, although as already indicated, the Department holds to the opinion that we should avoid giving this figure, and the question of interest is only one more reason in support of this view. Lacking Congressional authorization, the Department would not be in a position specifically to waive any portion of the amount to be awarded by the Mixed Claims Commission, but if a detailed discussion of the award is avoided, this point would not be raised, and the Department could agree to accept definite percentage of German payments as long as the Government of the United States is left free to distribute its share in payments in accordance with its own wishes.

(3) To supplement statements paragraph 2, telegram L-80, June 14, 1 p. m., Department submits following in connection with view that to present estimated amount of award would probably have prejudicial effect on the percentage in German payments desired by this Government. The amount of the American award will represent the bottom figure with all inflation removed. No American claims under categories of damages 5, 6 and 7 of annex I, part VIII, which cover probably more than half of the claims of the Allies. The 132 billion gold marks which has been established as the amount for which Germany is liable includes damages from acts of her The amount of the American claims is, however, principally for acts of Germany alone, as it is planned that claims of the United States against Austria and Hungary will be presented to a separate tribunal.42 The basis for any final distribution among the Allied Governments of Germany's payments will in all probability be the Spa Agreement, which was not based on adjudicated claims of the several Governments, such as will be the award to be handed down by the Mixed Claims Commission on American claims against Germany.

(4) When the question comes up, it is not improbable that the Allies might take position that the distribution of Germany's pay-

⁴² See vol. I, pp. 142 ff.

ments should be on pro rata basis, each State to receive a percentage representing ratio its claims bear to total claims of all the Governments. Were the estimated amount of the American award to be given, it would be most difficult, if not impossible, to keep before the Allied Governments the fact that proportionately this amount was very much less than were the claims of these Governments. The Department believes it preferable for this reason merely to give the total of claims filed, which, not including Army costs, amount approximately to one and a quarter billion dollars, and to state that although it is thought that this amount will be materially reduced in the award, yet inasmuch as the Mixed Claims Commission has to the present reached decisions in comparatively small number of cases only, it is not possible to indicate the precise amount of the award. An indefinite statement such as that will leave this Government much freer to insist on percentage it desires than it would be were it to give an estimated figure of its total claim reduced far below the figures on which claims of other Governments to participation will be based.

GREW

462.00 R 296/477: Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

London, August 5, 1924—4 p. m. [Received August 5—1:30 p. m.]

- 314. (1) Conference has just circulated proposed resolution offered by French delegation calling for a meeting of Financial Ministers of the Allied Governments in Paris immediately after the close of the London Conference for the purpose of settling question of allocation of payments received from Germany since January 1st, 1923, and also allocation of payments during first years of the operation of the Dawes Plan.
- (2) In view of fact that resolution by its terms indicated that only Allied representatives were to be present, have immediately filed letter with secretary general of the conference ⁴³ stating that while American delegation approves proposal of a conference in Paris for purposes indicated nevertheless considering the fact that payments to be allocated run from January 1st, 1923, a period to which pending Army Costs Agreement is applicable and also include payments under Dawes Plan, the United States is interested

⁴³ Letter printed as exhibit E in *American War Claims Against Germany*, S. Doc. 173, 69th Cong., 2d sess., p. 44.

under the terms of section XI, part I, of the plan and should therefore participate in the proposed conference as the only Associated Power. I indicated that this is in harmony with provisions of report of second committee, as reported paragraph 4 my 283,44 and the claims of the United States include Army costs and war damage claims now being adjudicated.

Kellogg

462.00 R 296/483: Telegram

The Ambassador in Great Britain (Kellogg) to the Acting Secretary of State

London, August 8, 1924—4 p.m. [Received August 8—9:05 a.m.]

328. My 314, August 5, 4 p.m. I sent to the Secretary of State at Southampton a copy of the French resolution proposing a meeting of Financial Ministers together with a copy of my reply outlined in paragraph 2 of my 314. The Secretary replied to me to the effect that he entirely approved the communication to the secretary general and saw no objection to an early meeting at Paris to discuss question of distribution.

Logan and I have prepared a memorandum dealing with the question of American participation in the payments to be made by Germany under the Dawes Plan. I furnished the Secretary a copy of this, likewise stating that we expected to deliver it to the principal Allied representatives at an appropriate moment. In reply the Secretary states that he entirely approves and thinks we have covered the matter fully.

Copies of all these documents are being sent by the pouch today.⁴⁴ I might add that the memorandum is based on the several messages from the Department to Logan and to me.

If you wish full text by telegraph please instruct.

Kellogg

462.00 R 296/491: Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

[Paraphrase]

London, August 12, 1924—4 p.m. [Received August 12—2:40 p.m.]

339. This morning at a confidential meeting of the Prime Ministers and first delegates, MacDonald asked me if I thought there were any

[&]quot;Not printed.

possibility that United States would be represented at a conference on subject of inter-Allied debts. I said that I thought not; that the subject of Allied debts to the United States was one to be dealt with wholly by Congress, and that Congress has passed a bill placing it in hands of a debt commission and fixing terms and conditions of funding these debts. The Prime Minister said that he quite understood the position, and subject was dropped. Allied countries tentatively agreed that they would carry out program agreed upon between MacDonald and Herriot in Paris to have their Finance Ministers first meet and discuss subject and then have Allied conference on subject later. It was also understood that there would be a conference on subject of division of the German payments between the Allied and Associated Powers, which they thought would be held in Paris in October; an earlier date might, however, be agreed upon. I informed everyone present, as I have before, that the United States would be represented at this conference; no objection was raised....

Kellogg

462.00 R 296/494: Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

[Paraphrase]

London, August 13, 1924—noon. [Received August 13—11:35 a.m. 46]

341. This morning I had a private conference with MacDonald. According to his statements the British Treasury objects to French resolution calling a Finance Ministers' conference on division of German payments on ground that France was trying to get British Government committed to reopening Spa percentages and cutting down Great Britain's proportion, or to allow priorities to detriment of latter. MacDonald, unlike Snowden, wishes us to be represented at conference of Finance Ministers. MacDonald did not concede payment of our claims, but did concede our right to negotiate at meeting of that sort. I am satisfied, nevertheless, that payment of our general claims will meet opposition from British Treasury unless we can extend both Army costs and general claims over sufficiently long period to make annual payments attractive to Great Britain. In view of fact that the Government of the United States will be included in the Finance Ministers' conference, Logan and I have

⁴⁶ Telegram in two sections.

thought so far that it would be unwise to furnish the Allied Governments with detailed memorandum on our position.⁴⁷

Both Logan and I felt that it should be reserved for the negotiation, as our position regarding basis of our claims had already been definitely presented. In any event we shall not furnish a copy of memorandum until after the finance meeting on Thursday. I should like to have the Department's views on this subject.

Kellogg

462.00 R 296/494: Telegram

The Acting Secretary of State to the Ambassador in Great Britain (Kellogg)

[Paraphrase]

Washington, August 13, 1924-6 p.m.

- 295. (1) The Department has noted from your recent telegrams that there is some objection to the payment of our claims and that although the Allies appear to be disposed to have this Government invited to the finance meeting, they have not recognized in principle our right to participate in payments under the Dawes Plan. The Department feels that the Allied Governments should be committed to the principle of this Government's participation before the conclusion of the present conference on the application of the Dawes Plan, but the Department prefers to delay instructions until the Secretary's return tomorrow evening. If, however, there is likelihood that the conference will conclude final agreement before you receive instructions, you are to endeavor to postpone final conclusion until the Department has the opportunity of instructing you after the Secretary's return.
- (2) If you are unable to have final conclusion postponed you may then endeavor to obtain express recognition of the principle of this Government's participation in payments under the Dawes Plan. If unsuccessful in this, then you should state that this Government would not view with favor utilization by the Allies of German resources and payments in such a manner as to prevent the full payment of American Army costs and other claims.

GREW

(Approved by the President.)

⁴⁷ The memorandum mentioned in telegram no. 328, Aug. 8, from the Ambassador in Great Britain, p. 55.

462.00 R 296/498 : Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

[Paraphrase]

London, August 14, 1924—5 p. m. [Received August 14—3:40 p. m.]

345. (1) I wish to refer Department to previous communications from me informing of MacDonald's intention to exclude from conference any discussion of division of German payments under Dawes Plan. French note August 2 proposed meeting of Finance Ministers at early date for this purpose and contained suggestions which the British felt to be unacceptable; hence their proposal for an informal meeting to consider the French proposal, the idea being that at this meeting satisfactory terms of reference will be formulated. Our participation in this meeting and in others is accepted.

I feel confident that this London Conference will undertake no commitments regarding division of payments, and whole subject will be left open for meeting of Finance Ministers. Of course I shall protest any restriction in terms of reference which would militate against a free discussion of our claims, but on the other hand a commitment in favor of our claims is not probable. I can insist on participation in the finance conference, but not on participation in division of payments unless latter subject comes before me.

- (2) If necessity should arise, I can make reserve and state that views of my Government will be communicated to Allied Governments as soon as possible. I have already given notification of our position to the conference by my note of August 5 (see my telegram no. 314, the same day) and again in oral statement on August 12. It does not seem to me likely that the conference can be held together on this issue alone if all other matters are finished, but in my opinion it is not likely that business before the conference can be completed before Saturday at the earliest.⁴⁸
- (3) To inject a new and difficult issue at this critical moment might disrupt conference and afford an opportunity to lay blame on the United States.
- (4) The informal meeting of the Finance Ministers planned for this morning was canceled on account of conference business.

Kellogg

⁴⁶ The London Reparation Conference adjourned on Aug. 16. The delegates reassembled on Aug. 30 to sign the agreements concluded at the conference.

462.00 R 296/617: Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

[Paraphrase]

London, September 25, 1924-noon.

[Received September 25—9:09 a. m.]

394. I was notified this morning by Sir Eyre Crowe that he had sounded out the British Treasury who said that they were unable at present to say when the Finance Ministers' conference would be held. They were taking the matter up informally with the French Treasury sometime next week, and hope to be in a position soon to let me know.

Kellogg

462.00 R 296/599: Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Extract-Paraphrase]

Washington, September 26, 1924—noon.

299. L-119, for Logan. It is with much pleasure that I inform you that the President desires you to attend the forthcoming financial conference in Paris as the representative of this Government. The date for the conference, which is to consider the allocation of German payments under the Dawes Plan, does not appear to have yet been decided upon but the Department will advise you as soon as it receives this information.

HUGHES

462.00 R 296/637: Telegram

The Chargé in France (Whitehouse) to the Secretary of State

[Paraphrase]

Paris, October 9, 1924-6 p. m.

[Received October 10—12:15 p. m.49]

434. L-232, from Logan.

(1) I wish to suggest to the Department advisability of notifying immediately Great Britain, Belgium, France, and Italy of our acceptance of invitation extended at London Conference to be present

⁴⁹ Telegram in three sections.

at proposed financial conference, and of my designation as representative of the Government of the United States at this conference.

(2) Reason for suggestion is twofold:

(a) Kellogg advises me of receipt of letter from Sir Eyre Crowe⁵⁰ stating that British Government would be glad to have us represented by an observer during meetings of the small subordinate committee of Allied financial experts charged with making a preliminary inquiry into points later to be definitely decided by a financial conference, and with fixing agenda for such a conference. Sir Eyre Crowe states that this committee will be convened on October 14 at Paris.

Crowe's letter made definite reserve that British Government did not accept our point of view regarding our participation in all-inclusive Dawes annuity, as Ambassador Kellogg had outlined it at London Conference on August 12. I may here state my own view that it appears to me questionable whether the British Government is proper party to extend invitation to us to be present at conference in Paris, and I am fearful lest the Crowe example of making reservations be contagious. Following precedents, invitation should come from France. I do not think, moreover, that we should risk waiting for an invitation which makes reserves and to that extent places handicaps on us at the outset.

(b) My second reason is that, in fact, we have already been invited to the conference. By referring to minutes of London Conference for afternoon of August 12 51 you will observe that French agreed to amend their resolution to include the "Associated Powers" and that the conference agreed that resolution should be referred to the "Allied Finance Ministers and the American representative." Kellogg was formally advised of the resolution, and first meeting of the Finance Ministers and the American representative was actually called for 11 o'clock, August 14, to meet in the office of the Chancellor of the Exchequer.

I was invited to attend this meeting, and my name appears on list of those expected to be present. The meeting was canceled because of complications which arose in connection with the general conference, and two days later the whole conference adjourned.

(3) For these reasons I feel that we have every technical basis for assumption that we have been asked to participate in this conference which is merely continuation of the meeting called in London and the carrying out of the action referred to in London protocol (paragraph E, article 4 of annex III). From point of view of policy I deem it highly undesirable to wait until we receive invitations which

50 Not printed.

⁵¹ Great Britain, Cmd. 2270, Miscellaneous No. 17 (1924), p. 70.

may be so laden with reserves that our hands will be tied in advance and [garbled group]. I urge Department's prompt action on this recommendation so that we may forestall creation of a position still more difficult than that which is actually facing us. Sir Eyre Crowe's letter, as I understand it, only reserves British position at the small and relatively unimportant preliminary committee meeting to which we are invited to send an "observer." I suggest that effect of this letter be circumvented in your cable designating me as representative at the financial conference by a statement that I have been authorized to designate one or more of my assistants to attend meetings of such committees as may be created in connection with work of finance conference.

Repeating telegram to London. Logan.

WHITEHOUSE

462.00 R 296/636 : Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

London, October 10, 1924—10 a.m. [Received October 10—9:10 a.m.]

413. My 410, October 9, 5[3] p. m.⁵² It was impossible for me to arrange a meeting with the Prime Minister owing to the political situation. However Crowe has withdrawn his note and says it was sent under a misunderstanding. He has sent a new note, substituting the word "representative" wherever the word "observer" appears in the text cabled you, so that we are not limited as to our representative.

Have just seen Logan's telegram of October 6 to Department.⁵² Am still of the opinion that while we should not of course mix up in matters purely between the Allied countries, if they are going to discuss the divisions in the future of annuities, we should be represented. Repeated to Logan.

Kellogg

462.00 R 296/635: Telegram

The Acting Secretary of State to the Ambassador in Great Britain (Kellogg)

Washington, October 10, 1924—7 p. m. 353. Your 410, October 9, 3 p. m.⁵² Please reply as follows to Crowe's note:

"I beg to acknowledge the receipt of your note of October blank informing me that His Majesty's Government is suggesting to the

⁵² Not printed.

Governments of Belgium, France, Italy, and Japan that a preliminary meeting of experts be held at Paris on October 14, 1924, to discuss the division of the annuities to be received from Germany under the Dawes plan and to prepare the way for a subsequent meeting of the finance ministers.

As you will recall on August 12, 1924, the London conference decided after receipt of my note to the Secretary General dated August 5,54 that a representative of the Government of the United States should be invited to attend the meeting of the finance ministers which it was then proposed should be held to consider the resolution submitted by the French delegates providing for the holding of a meeting of the Allied finance ministers and a representative of the United States in Paris after the conclusion of the London conference to consider the distribution of payments by Germany under the Dawes plan. This preliminary meeting was never held but so far as my Government has been advised there has been no change in the general plan of procedure contemplated by the proposal of the French Government. I have, therefore, been instructed to inform you that my Government has designated Mr. James A. Logan, Junior, as its representative to meet with the Allied finance ministers, and that in view of your Government's present proposal that a preliminary meeting of experts be held this 55 Government will be happy to take such steps as may be necessary with respect to American representation in such committees as may be created to that end.

In conclusion I beg to inform you that my Government is today communicating to the Governments of Belgium, France, Italy and Japan the designation of Mr. Logan as its representative as stated

above." 56

Repeat to Logan as Department's L-126.

GREW

462.00 R 296/658c: Telegram

The Secretary of State to the Chargé in France (Whitehouse)

[Paraphrase]

Washington, October 11, 1924—6 p. m.

322. L-128, for Logan. Your L-232, October 9, 6 p. m.

(1) The Department has notified the Principal Allied Governments that you will represent the Government of the United States at the forthcoming conference, and Ambassadors Kellogg and Herrick have been instructed to give you copies of the communications made pursuant to the Department's instructions. The Department believes that these communications take account of all the points raised in your helpful telegram.

⁶⁴ Not printed; see telegram no. 314, Aug. 5, from the Ambassador in Great

Britain, p. 54.

So On Oct. 13 the Department informed the Ambassador that "this" should be changed to "my." (File no. 462.00 R 296/642.)

The communications to the Governments named were dated Oct. 11, 1924.

(2) The Department does not know whether the preliminary meeting will be held on October 14 as suggested by the British Government. In view of the complicated questions which are to be considered in connection with the distribution of annuities, it is Department's opinion that the preliminary meetings may, perhaps at the outset, not only raise the major issues to be dealt with, but may also become the instrumentality by which some of these measures will be threshed out. Should this happen the Finance Ministers' meeting, when it takes place, might do little more than to ratify the plans which have been worked out by representatives under instruction from their Governments. It seems to be desirable, therefore, that you should personally attend opening meeting which may conceivably lead to an issue in regard to question of American participation in the proposed payments.

(3) Referring to desire expressed paragraph 3 of your L-229 ^{56a} that the Department send over to assist you someone who is familiar with these matters, the Department might find it possible to send someone later, in connection with the Finance Ministers' conference, or, if necessary, in connection with the preliminary meetings, should the situation develop in such a manner as to render action of this sort advisable. Of course, it is obvious that no one could be sent in

time for the first meeting, if that is held on October 14.

Referring to suggestion at end of your L-232 that you be authorized to designate one or more of your assistants, the Department does not know what persons you might properly designate to serve as this Government's representatives at preliminary meetings.

(4) The Department would like your comments on the above points as soon as possible.

HUGHES

462.00 R 296/658a: Telegram

The Acting Secretary of State to the Ambassador in France (Herrick)

Washington, October 14, 1924—6 p. m.

332. For Logan. L-132. French Embassy has communicated informally following message received from French Government:

"The British Government proposed to the interested Governments the date of October 14th for the meeting of the Experts to have charge to study the repartition of payments according to the Dawes Plan. The French Government found that date too near in order to be able to collect the necessary information for the discussion, so

⁵⁶a Not printed.

the French Government proposed that the date of the meeting be postponed to October 27th."

Please repeat to London as Department's 363 for information only.

Grew

467.00 R 29/27a: Telegram

The Secretary of State to the Ambassador in Great Britain (Kellogg)

[Paraphrase]

Washington, October 21, 1924—6 p.m.

368. As an Associated Power the United States under article 259 of the Treaty of Versailles and article 210 of the Treaty of St. Germain is entitled to be consulted on disposition to be made of sums of Turkish gold delivered by Austria and Germany under these treaty articles; see Department's instruction of July 16, 1923.⁵⁷ By article 58 of the Allies' treaty with Turkey,⁵⁸ that country renounces in favor of the Allied Powers any right in gold in question in consideration of Allies' waiver of their reparation claims against Turkey. At the time that the Allies' treaty was negotiated the American representative at Lausanne made full reservation of the rights of the United States. ⁵⁹

It is not believed that the United States has any beneficial interest in this gold, but our consent is now asked to its delivery to the Allied assessment commission (your despatch no. 45, January 29, 1924 57), to be used in payment Allied claims against Turkey. Department understands that gold amounts to £5,000,000. The Government of the United States fully appreciates fact that it has been consulted by Allied Governments, an inquiry in the matter having been addressed to Mr. Whitehouse, Chargé in France, by the secretariat general of the Conference of Ambassadors on October 20. This fact may be a useful precedent in connection with other and more important matters arising under the Treaty of Versailles. The question is, however, whether the Government of the United States should at once acquiesce in the delivery of the Turkish gold to the Allies in view of Sir Eyre Crowe's intimation that our right to participate in proceeds of the Dawes Plan may be contested on some technical ground. The question just now is not over any direct

⁵⁷ Not printed.

⁵⁸ League of Nations Treaty Series, vol. xxvIII, No. 701, p. 51.
⁵⁰ Telegraphic instruction no. 210, June 30, 1923, to mission at Lausanne; not printed

relation between the two matters, but whether this Government should facilitate the Allies in any of their dispositions if they are going to take so inequitable a stand in regard to our claims. The right of the United States to share in the proceeds of the Dawes Plan as provided in the plan itself is believed to be sound legally; it is certainly most equitable, as this Government has precisely the same right to be paid by Germany as has any other of the victors and we are in reality presenting claims for much less than we are entitled to present. If the Allies, as intimated by Sir Eyre Crowe, should see fit to treat us so inequitably as to attempt to contest our sharing on a proper basis in the proceeds of the Dawes Plan, then it is a question whether we should in any way facilitate the Allies in regard to consents for any purpose whatever. It may be well for the British Foreign Office to understand that, should they take such an inequitable position, they may, from now on, reckon with our determined opposition in connection with anything they may desire.

It is possible that the situation described above would afford you a favorable opportunity to ascertain the attitude of the Foreign Office in an informal and wholly personal interview, and to intimate what our position will be. I should appreciate your frank opinion on this suggestion. It seems to me that, should this Government in the course of the next few weeks meet with opposition from the Allies, and especially from the British Government, to its sharing in the proceeds of the Dawes Plan, apparently we would have been in fact assisting those who give us scant consideration in return. You will understand that this is not in any way to demand a quid pro quo for acquiescence by this Government in the disposition of the Turkish gold. No quid pro quo is desired, but merely fair treatment in regard to the matters which are coming up under the Dawes Plan and the Treaty of Versailles. You will remember that we also have unsettled questions in regard to cables and to the British C mandates. Should it become necessary to explain fully our relation to these matters it is desirable that we should not be in a position where apparently we have acquiesced in whatever was asked of us and then have received no justice in connection with our claims. Suggestion made is that you may have an opportunity to ascertain what the British propose to do. It does not appear that we have anything to lose by having it understood that no favors or consents of any kind and no facilitation of any of their proceedings in the future can be expected from us unless they deal fairly with us in regard to our claims.

HUGHES

462.00 R 296/669: Telegram

The Chargé in France (Whitehouse) to the Secretary of State
[Paraphrase]

Paris, October 21, 1924—6 p. m. [Received 8:11 p. m. o]

452. L-240, from Logan.

- (1) I should like to be advised of Department's position on the following subject which is likely to come up at financial conference for consideration.
- (2) By article 232 of Treaty of Versailles, Germany assumes Belgium's war debt to the Allied and Associated Powers. Our prearmistice claim against Belgium together with accrued interest is understood to be approximately \$200,000,000. On June 16, 1919, President Wilson, Premier Clemenceau, and Prime Minister Lloyd George signed a letter agreeing to recommend, each to his own Government, the acceptance of German bonds in satisfaction of Belgium's obligation.⁶¹ The proportion was to be about 40 percent to Great Britain, 40 percent to France and 20 percent to the United States.
- (3) By the Finance Ministers' Agreement of March 11, 1922,62 the United States, France and Great Britain by article 10 were to receive a portion of A B C bonds in satisfaction of their claims against

"JUNE 16, 1919.

M. HYMANS,

Ministre des Affaires Etrangères, Hotel Lotti, Paris.

SIR: The Reparation Clauses of the draft Treaty of Peace with Germany obligate Germany to make reimbursement of all sums which Belgium has borrowed from the Allied and Associated Governments up to November 11, 1918, on account of the violation by Germany of the Treaty of 1839. As evidence of such an obligation Germany is to make a special issue of bonds to be delivered to the Reparation Commission.

Each of the undersigned will recommend to the appropriate governmental agency of his Government that, upon the delivery to the Reparation Commission of such bonds, his Government accept an amount thereof corresponding to the sums which Belgium has borrowed from his Government since the war and up to November 11, 1918, together with interest at 5 per cent unless already included in such sums, in satisfaction of Belgium's obligation on account of such loans, which obligation of Belgium's shall thereupon be cancelled.

We are [etc.]

G. CLEMENCEAU WOODROW WILSON D. LLOYD GEORGE"

⁶⁰ Telegram in two sections.

⁶¹ Text of the letter printed in S. Doc. 413, 66th Cong., 3d sess., reads as follows:

⁶² See "Agreement between Great Britain, Belgium, France, Italy and Japan respecting the Distribution of German Reparation Payments.—Paris, March 11, 1922," British and Foreign State Papers, 1922, vol. cxvi, pp. 612 ff.

Belgium, the agreement as far as the Government of the United States is concerned being subject to its approval. The Belgians informally advise that they interpret this agreement of March 11, 1922, to mean that Great Britain and France have definitely abandoned any effort to require Germany to pay any sum for Belgian debt in addition to the 132 billion gold marks total reparation payment, accepting a special block of the A B C bonds instead.

- (4) At the financial conference soon to be held I have been given informally to understand that the Belgians will suggest that there be set aside 5/137 or perhaps 5/132 of each annuity for the service of the Belgian debt. In view of uncertainty of the future action of the United States, it is probable that they will ask that portion that otherwise would go to the United States should be paid to Belgium to be held by that Government either for itself, if it has to pay the United States directly, or as the trustee for the United States should our Government decide to carry out unratified agreement of June 16, 1919.
- (5) I assume that Department's position is that Belgium still owes us the debt, that we have not received it, and that we have not accepted Germany's liability in place of Belgium's, but that we are not inclined to press the claim at this time. If we were to accept Germany's liability, it would mean an additional claim against her of 800,000,000 gold marks.
- (6) From the Belgian point of view it is undesirable that we formally state our position at the conference should question arise, for Belgians fear that should United States say at the outset that payment is expected, Great Britain and France may say in view of changed conditions that Finance Ministers' Agreement of March 11 is not binding on them either, especially as it has never been ratified by French Parliament. It is desirable from our point of view, of course, to aid the Belgians as much as possible, as we shall need their help in obtaining recognition of our right to participate in the Dawes Plan annuities. Should question arise it seems that it would be better to say that we are studying matter, that we are aware of equities of Belgium's position, that this Government is not inclined to press for payment while general situation is under consideration, and that in meantime we would prefer that France and Great Britain go ahead as if we had no connection whatever with matter.
- (7) I shall appreciate Department's advice if it is not in accord with the foregoing statement of facts and suggestion. Logan.

WHITEHOUSE

467.00 R 29/31: Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

> LONDON, October 28, 1924-5 p. m. [Received 5:30 p.m.]

442. Your 368, October 21, 6 p. m. and 369, October 21, 7 p. m.68 I had a conference with Sir Eyre Crowe and explained in detail our claims for costs of Army of Occupation and reparations and reasons for our participation in German payments under the Dawes Plan. I said, in view of the attitude of Mr. Snowden at the conference and the statement of Crowe made to me in his note 64 that the British Government did not agree with the grounds upon which we based our right to participate, I felt I should have an informal and frank discussion of the whole subject with the Foreign Office. He said he was glad to discuss the matter with me. I think he understood our position perfectly.

He said however he understood there were some legal objections that the Treasury had raised; that under the Versailles Treaty the reparations of the Allied and Associated Powers were made a prior charge on Germany; that the Reparation Commission was the sole body empowered to receive reparations; that the Reparation Commission had notified Germany of the total amount of their claims but did not include ours as we did not ratify the treaty or come into the adjustment and that therefore technically we could not make a separate treaty and make our claims preferred claims over those of the Allies or pari passu with them.

I said I did not think his position well taken. In the first place the United States Government as a participant in the war was entitled on equitable grounds to reparations. In the second place if the Allied Governments agreed to present participation Germany could not object. He said of course this was true and if the Governments agreed it could be adjusted. In the third place I told him that Germany and a part of the Allied and Associated Governments could not agree between themselves that their claims should be a prior charge on the revenues of Germany as against the claims of the United States. He did not claim this objection applied to our Army costs as that was provided for by the Armistice Agreement but he thought the whole matter of our claims was a subject for an agreement as there had been an agreement of the Army costs. did not commit his Government as to what adjustment they would make but said he would talk the matter over with his Treasury and

 ⁶³ Latter not printed.
 ⁶⁴ Not printed; see telegram no. 434, Oct. 9, from the Chargé in France, p. 59.

discuss it further with me. He supposed the experts at Paris would not settle it. It would be settled by the several Governments. He further said that he understood there was a further question about the ships taken from Germany. They were divided among Allies in a certain proportion according to their losses and all ships over a certain amount were paid for by the several Governments to the Reparations Commission; that the United States had not come into this adjustment. He said he was not at all clear about this point. What is your understanding as to this?

In the course of the conversation I mentioned the subject of the Turkish gold, explained the situation and said in that case the Allied Governments had asked our consent for the disposition of the gold to the Allies, thus they had conceded our interest. I did not make this a quid pro quo for the adjustment of our reparations claims but told him I could see no reason why we should consent to turn over this property to the Allied Governments if we were not permitted to participate in the German payments. He did not comment upon this but I think he grasped the point.

On the question of the Mesopotamian mandates he was not posted but said there was no intention of discriminating against American interests nor that monopolies should be granted. He was inclined to think the resolution referred to in your number 369 (which I did not show him) took the place of the original mandate. Article 11 of the treaty of alliance contains a clause against discrimination. He promised to give me full information on this subject.

Will write Logan and keep him fully advised.

KELLOGG

462.00 R 296/679 : Telegram

The Chargé in France (Whitehouse) to the Secretary of State
[Paraphrase]

Paris, October 30, 1924—6 p. m. [Received 9:10 p. m.]

472. L-243, from Logan.

(1) The first meeting of the experts convened Monday, October 27, and additional meetings were held Tuesday and Wednesday. To date questions discussed relate almost exclusively to adjustment Ruhr occupation accounts, a matter which in my opinion it is best for us to keep out of. We have had representatives at these meetings with listening brief exclusively, for purpose of keeping me advised in regard to developments and general attitude. Had I attended these meetings personally the question of our claims would

have been precipitated immediately. It is my opinion that general atmosphere this week is not one of the best for presentation of our position. I shall attend the meetings of the expert committee in the first part of next week and shall then intimate as much of our claims position as may be advisable before the actual meeting of the Finance Ministers.

(2) Last week I had a conversation with Herriot and Clémentel ⁶⁵ before whom I set forth the general lines of our claims. Both assured me that French support could be counted on provided that our annual charge on German all-inclusive annuity were kept within reasonable limits. I informed them that annual charge for both American Army costs and claims could probably be brought to a figure not varying greatly from annual charges already provided by Agreement of May 25, 1923, for Army costs alone, although necessarily for longer period. They told me that settlement on this basis was substantially all they wanted and that French delegates, therefore, would support our position at the conference. From what Ambassador Kellogg writes me, I expect British opposition which may have to be handled through diplomatic channels. I shall keep in close touch with Kellogg, who will undoubtedly be in a position to aid.

The Italian position is not clear, but I do not expect difficulties unless the Italians should line up with the British. It would help if the position of the Italian Finance Minister at the conference were sounded out through the American Embassy in Italy, and if it were ascertained to be unsympathetic a little pressure through diplomatic channels might materially aid our negotiations.

- (3) It is Clémentel's opinion that the actual meeting of the Finance Ministers will not be before the latter part of November at earliest.
- (4) Referring to query in paragraph 3 of Department's L-128, October 11, 6 p. m. When Finance Ministers' conference does convene I shall need legal assistance. Because of general reorganization of the Reparation Commission I shall be left without legal assistance, and for that reason I request Department to send someone here to act as my assistant, someone, preferably, with legal training, who speaks French and has a knowledge of the Department's attitude on questions at issue.
- (5) I have been indisposed for a few days but will be out of doctor's care tomorrow. Logan.

WHITEHOUSE

⁶⁵ M. Etienne Clémentel, French Minister of Finance.

462.00 R 296/669: Telegram

The Secretary of State to the Chargé in France (Whitehouse)

[Paraphrase]

Washington, November 7, 1924—6 p.m.

376. L-142, for Logan. Your L-240, October 21, 6 p. m.

- (1) Position of this Government on Belgian debt referred to in article 232, Treaty of Versailles, remains unchanged. As this question is a matter of debts and is, therefore, within competency of Debt Commission under existing law, it is quite distinct from the Dawes Plan annuities, and Department does not feel that this question should be brought into the forthcoming conference. As this Government is not a party to the Finance Ministers' Agreement of March 11, 1922, the question remains one between United States and Belgium. Even statement referring to "equities of Belgium's position" might be construed by Belgian Government as indicating that Government of the United States is preparing to change its position in matter. A further reason, moreover, for not permitting question to be introduced in discussions is that precedent for linking debt question with our claims for just and moderate participation under Dawes Plan might be thought to be established.
- (2) The Department possesses information which indicates that Belgium, besides neglecting its obligation to reimburse this Government from reparation receipts, has discriminated against the United States by making large payments to Great Britain on relief indebtedness without making corresponding payments to this Government as is required by existing agreements. You will be given details later. Of course you will not discuss this matter with the Belgians until you are instructed.
- (3) As the Government of the United States at the forthcoming finance conference is merely seeking suitable payment of its own just claims, the possible Belgian suggestion you outline in latter part your paragraph 4 does not appear directly to concern this Government. If American claims are suitably met, the Government of the United States will not be disposed to question arrangements made by Allies for apportionment of Dawes Plan annuities to cover appropriately their own claims against Germany and against one another.
- (4) Department appreciates, of course, that essential suggestion in your message is importance of seeking Belgium's support at forth-coming financial conference in every possible way. Department has no reason to feel, however, that Belgium would not be prepared to take position similar to position French Government is prepared to take (refer your L-243, October 30, 6 p.m.), which is most gratifying to Department. We presume that if you deem it advisable and

have a suitable opportunity you will discuss in like manner the general position with the Belgian representatives. They may well follow French in the matter.

- (5) Your paragraph 6. I see no need to state position this Government on article 232 at the conference unless our views are asked. If anything is to be said besides outlining this Government's position as set forth in paragraph 1 above, the Department will instruct you later in light of Treasury's views on matter referred to paragraph 2 above. On this latter point, Department will advise you further as soon as possible.
- (6) Referring to suggestion at end paragraph 2 your L-243, regarding Italian position, it might be better not to take any action looking toward raising any question with Italians at this time, as it appears possible that they might in some manner seek to associate question of their support with question of intergovernmental debts. The Department is, however, instructing our Ambassador to report promptly to Department and also to you and Ambassador Kellogg any information which reaches him on Italy's attitude, but not to make any inquiries or to discuss question without specific instructions.⁶⁶

Cable any comments you may have to make on foregoing.

HUGHES

462.00 R 296/694a: Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

Washington, November 11, 1924-5 p. m.

386. L-143, for Logan. The Department has just been consulted by J. P. Morgan and Company on the proposed French \$100,000,000 loan which the firm is considering bringing out shortly if the Department sees no objection to it. The bankers' negotiations, which have been under way for some time, have been awaiting consummation of the German loan. The bankers have also taken the position that they would not bring out the proposed French loan until France had balanced her budget. On the basis of the Herriot government's budget, which the bankers feel is likely to be accepted, they now appear inclined to proceed.

Other questions aside and apart from the position of the Department of Commerce and the Treasury, both of which I am now about to consult, I should certainly oppose flotation of a French loan in the United States were there any doubt of France's support at the forth-

 $^{^{\}rm ot}$ Telegram no. 130, Nov. 6, to the Embassy in Italy; not printed (file no. 462.00 R 296/686b).

coming Finance Ministers' conference, and I have already intimated as much to the bankers confidentially. From your telegram of October 30, L-243, I gather that Herriot and Clémentel are committed to support of the position of the United States. The Department does not desire to raise this question in such a manner as to give needless offense, but it must not take the risk of failing to make good the just claims of this Government. This matter is of such importance that you are authorized to communicate informally on this point with Herriot or Clémentel and to obtain definite assurance of French support of our claim for participation in the Dawes Plan annuities substantially on the basis you outline in your L-243.

I am communicating the foregoing to our Ambassador in Great Britain, confidentially, and am suggesting to him that he seek earliest favorable opportunity to ascertain position of Prime Minister or of Austen Chamberlain 66a on payment of American claims.

Telegraph reply as well as any comment on the foregoing and related questions as soon as possible, for the bankers will await the Department's answer.

HUGHES

462.00 R 296/696: Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

[Paraphrase]

London, November 12, 1924—4 p. m. [Received 4:20 p. m.]

467. Your telegram November 11, 5 p. m., received. I suggest that it might be wise to present the matter to Austen Chamberlain first and then say to him that should it be necessary for the Prime Minister to consider it I should like to have the opportunity of presenting it to him. To proceed otherwise might make Chamberlain think that I had gone over his head. I doubt if I can see him before next week for he is not receiving the diplomatic corps until afternoon, Friday. Also I suggest that I leave with Chamberlain a memorandum of our position similar to the memorandum (which was not presented) enclosed in my despatch no. 639, August 8, 1924, together with the legal arguments set forth in a later letter to you him which I emphasized the equitable position of the United States, and also calling attention to the approval given at the third plenary

 ⁶⁷ British Secretary of State for Foreign Affairs.
 ⁶⁷ See telegram no. 386 to the Ambassador in France, supra.

os Not printed; see the Ambassador's telegrams no. 328, Aug. 8, and no. 341, Aug. 13, pp. 55 and 56.

Not printed:

conference, July 28,70 to the report of second committee providing that with the resources placed at Agent General's disposal he should provide for payments of reparations and other treaty charges during transition period in accordance with decisions as to distribution which would be taken by Allied and Associated Governments. also have in my possession a letter from Owen Young which he has authorized me to use with the British Government and which states that paragraph 11 of the Dawes report was after careful consideration embodied for the purpose of making every type of claims of the Allied and Associated Powers against Germany a charge on the funds in the custody of the Agent General, and in consequence as long as Germany made her payments to Agent General in accordance with the plan she was thereby discharged from all claims of the Allied and Associated Powers. In view of suggestions made by Sir Eyre Crowe and Mr. Snowden that term "Associated Powers" was included without special significance, this latter might be used to advantage. Instructions requested.

Kellogg

462.00 R 296/695 : Telegram

The Chargé in France (Whitehouse) to the Secretary of State [Paraphrase]

> Paris, November 12, 1924—4 p. m. [Received 5:38 p. m.⁷¹]

493. L-247, from Logan. Department's L-143, November 11, 5 p.m. 1. Before I approach Herriot and Clémentel I should like to have Department's views and instructions on following formula for French position: French Government freely to recognize equitable right of the United States to participate in Dawes annuities; France and the United States were allies in the Great War, both suffered damages and losses and are entitled to settlement from the common enemy; both incurred army costs in the Rhineland. The United States did not ratify the Treaty of Versailles but signed peace treaty with Germany in which the United States reserved and Germany granted same rights and privileges as those to which the United States would have been entitled under the Treaty of Versailles. On reparation account, the United States, unlike the Allied Governments, makes no claims for pensions or family allowances but only for actual damages done to private citizens and property. Dawes annuities represent total of the payment to be made by Germany for war costs for many years to come and unless the United States re-

 $^{^{70}}$ See Great Britain, Cmd. 2270, Miscellaneous No. 17 (1924), pp. 35 ff. 71 Telegram in two sections.

ceives some payment from these annuities no payment at all will be received. French Government believes that it would be highly inequitable if the United States could not satisfy its just claims and French Government freely agrees to American participation in distribution of the Dawes annuities. Modality of that distribution is matter for consideration by Finance Ministers' conference.

Before talking with Herriot and Clémentel it is best, in my judgment, to have some definite approved formula to suggest which can be reduced to writing and signed by either of them and in my possession before our Government's position on the French loan is announced definitely. I feel that a formula along the lines suggested in paragraph above meets the situation and in all probability would have the support of the French Government. I should be grateful to have approval as soon as possible or receive instructions for modifications.

- 2. I am not expecting any difficulty from Belgium in supporting the formula on the lines proposed, but I expect there will be British opposition and I am not altogether sure of the Italians. I feel, however, that if I get French and Belgian approval to formula, announcement of which in the press this week I can arrange with the French and the Belgians, we can win over the Italians and probably the British. The latter, I think, would hesitate on account of public opinion to oppose a thesis that is so preeminently equitable and that carries with it Belgian and French indorsement. The formula once adopted, the field for our settlement eventually would be cleared.
- 3. Was ill recently but am now attending expert committee, though I have not taken any active part as questions of principle have not yet arisen. I shall soon be forced to take a positive position. Repeating telegram to Brussels and London. Logan.

WHITEHOUSE

462.00 R 296/695: Telegram

The Secretary of State to the Chargé in France (Whitehouse)

[Paraphrase]

Washington, November 13, 1924—[noon?]

389. L-144, for Logan. Your L-247, November 12, 4 p. m. I agree that it will be highly desirable to procure formula as you have suggested. You should, however, omit the sentence which reads: "The Dawes annuities represent total of the payment to be made by Germany for war costs for many years to come and unless the United States receives some payment from these annuities no payment at all will be received." It is considered unwise to raise any question whether United States could obtain payment outside of participation

in the Dawes Plan annuities. For the above sentence substitute the following: "Dawes Plan with its comprehensive provisions for payment by Germany of war costs specifically contemplates participation by United States in payments made under the plan."

HUGHES

462.00 R 296/696: Telegram

The Secretary of State to the Ambassador in Great Britain (Kellogg)

[Paraphrase]

Washington, November 13, 1924-6 p. m.

418. Your no. 467, November 12. I quite concur in your seeing Chamberlain first if you think it preferable to do so, and I see no objection to your leaving memorandum with him along lines you suggest if you deem it advisable. . . .

In regard to Owen Young's letter it appears to me to be unwise to raise any question as to whether the United States could be paid outside of participation in annuities provided under Dawes Plan, as to do this would bring up questions of alien property, etc. Department does not desire to take position which would support assertion of waiver of eventual claim against German Government or that Germany by agreeing to Dawes Plan has made "suitable provision" referred to in Knox resolution which was incorporated in our treaty with Germany. It is advisable that this Government avoid commitment on these points. Nevertheless, in connection with your conversations, Young's statement as to intent of section 11 may well be effective. Probably preferable to use portion of letter which alludes to purpose to cover our claims.

HUGHES

462.00 R 296/700: Telegram

The Chargé in Italy (Summerlin) to the Secretary of State

[Paraphrase]

Rome, November 16, 1924—3 р. т.

[Received 3:10 p. m.]

174. Your no. 130, November 6, 5 p. m.⁷² I understand that the Secretary General of the Italian Foreign Office has stated that he sees no reason why Italian delegation should not support American position for payment of claims.

I have advised Logan.

SUMMERLIN

⁷² Not printed.

462.00 R 296/707: Telegram

The Chargé in France (Whitehouse) to the Secretary of State
[Paraphrase]

Paris, November 17, 1924—7 p. m. [Received 10:13 p. m.]

512. L-255, from Logan.

(1) Referring to our technical position at the coming finance conference. While it is obviously advisable to stand on broad equitable ground, do we not also have the legal answer to Allied position on section 11 of the Dawes Plan to the effect that London Conference, which formally accepted plan, thereby altered Treaty of Versailles to that extent and put everyone on a parity, just as the Versailles Treaty was amended in other respects, such as the extension of the period for deliveries of dyestuffs, creation of transfer committee, etc.?

The answer to the suggestion that the word "Associated" was inadvertently included in the experts' report last April is that the London Conference unanimously accepted the text without change on August 16 after our claims position had been notified officially to

the conference by Ambassador Kellogg's note of August 5.78

(2) By the Allies' own argument our treaty gives us at least a second mortgage on assets of Germany. Under London protocol, can a third party, so to speak, seize principal part of these assets without considering second mortgagee's rights? The seizure is especially apparent in regard to railway system and assigned agents.

(3) While I agree that the broad basis of equity is the strongest, I do not think that we should permit the Allies to take the position that they have all the legal rights and that we have none, so that any concessions which might be made, might, from their point of view, be regarded as something in the nature of a courtesy.

(4) Telegram repeated to Embassy in London with request for expression of Kellogg's views for benefit of this office and the Department. [Logan.]

WHITEHOUSE

462.00 R 296/717: Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

[Paraphrase]

London, November 20, 1924—noon.

[Received 1:22 p. m.]

483. Logan's telegram L-255 to Department, November 17. In general I agree with Mr. Logan's first proposition in regard to use

⁷⁸ See telegram no. 314, Aug. 5, from the Ambassador in Great Britain, p. 54.

of words "Associated Powers." Besides statement made by Owen Young and very evident purpose [of section 11?], it is fact that London Conference by the protocol accepted it without change and with full knowledge not only of our assertion of right to participate in conference but of our assertion of right to obtain share of payments for satisfaction of both classes of our claims, and the plenary conference recognized it by adoption of first committee's report.

I think that our legal position should be fully stated. The Dawes Plan was not only supplemental to and in application of Treaty of Versailles for collection of reparations, but superseded that treaty in many respects, such as extension of period for delivery of dyestuffs, the activities of the transfer committee, arbitration in regard to decision of Reparation Commission on default, etc. The Dawes Plan provided for means of payment of reparations not only under Treaty of Versailles but under our treaty of 1921 with Germany which was made and ratified before Dawes report and was fully known both to Dawes committee and London Conference. Only hesitancy I have in calling it an amendment to Treaty of Versailles is feeling it might affect attitude of the French whose representatives in the London Conference were very insistent that they neither would nor could amend that treaty. They did not assert, however, that Dawes report and London protocol were not additional remedies and to some extent changed the powers existing under Treaty of Versailles.

(2) I do not believe that I would concede or even suggest that United States has second mortgage on Germany's assets, as I am quite convinced of soundness of our legal position that our claims rank pari passu with those of Allies.

(3) I agree with Logan that we should not only press our equitable rights but also our legal rights, which I think are incontrovertible.

I have mailed to Department and to Logan copies of a memorandum which I shall leave today with Chamberlain.⁷⁴

Telegram repeated to Logan.

Kellogg

⁷⁴ See memorandum dated Nov. 15, p. 85. It appears from the Ambassador's telegram no. 484, *infra*, and from Mr. Chamberlain's memorandum quoted in the Ambassador's telegram no. 509, Dec. 4, 10 a. m., p. 96, that the memorandum referred to here was presented on Nov. 19, at the conference between the Ambassador, Mr. Chamberlain, and Sir Eyre Crowe. The present telegram, no 483, may have been drafted Nov. 19 before the conference and not sent until Nov. 20.

462.00 R 296/724: Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

GERMANY

[Paraphrase]

London, November 20, 1924—noon. [Received 4:20 p. m.⁷⁵]

484. Yesterday afternoon I set forth fully to Mr. Chamberlain and Sir Eyre Crowe both legal and equitable grounds for position of the Government of the United States on its claims for Army costs and reparations. Mr. Chamberlain stated in reply that the question was one on which by its nature he must consult his colleague the Chancellor of the Exchequer, but that he would like to make a few general remarks.

First, Mr. Chamberlain said that there was no question in dispute between the British and the American Governments over justice of American claims for Army costs, but that advancement of reparations claims had come to him as great surprise. He then read extract from your New Haven address, November, 1922, 76 to effect that the American Government had a claim for Army costs but did not ask reparations payments from Germany. I replied that I believed you had in mind general reparations and not compensation for damages to the persons and property of American citizens.

Second, he referred to my assertion that the members of the Dawes committee intentionally inserted phrase "Allied and Associated Powers" in order that the Government of the United States should be protected in both categories in all claims. He stated as fact that no matter what was intention of the American members of the committee, the British members had no knowledge that the so-called reparations claims of American Government were envisaged by that clause. Had they been aware of that construction, the British experts would certainly have stated to the committee that question of the claims was ultra vires, and that it was a matter to be referred to British Government.

I said that at beginning of the London Conference I had fully informed British, Belgian, French, and Italian Governments of our position, and had placed it on record in the conference both in writing and orally; and that the conference had adopted the protocol with full knowledge of our claims.

Third, Mr. Chamberlain said that while he did not agree with our contentions put forward on a legal basis, he thought they would receive favorable consideration on an equitable basis and that matter was one for adjustment; that he was prepared to appeal to Chan-

⁷⁵ Telegram in two sections.

⁷⁶ Foreign Relations, 1922, vol. II, p. 199.

cellor of the Exchequer on that basis; he would like to be able to say to Mr. Churchill, however, that if claims of the American Government were to be allowed, we would pool in Reparation Commission with Allied Governments the fruits of the common victory; that if the American Government was to receive reparations it should give credit for alien property seized, especially ships, as the Allies had done. I asked Mr. Chamberlain what the Allies had done. Neither he nor Sir Evre Crowe were able to tell me definitely. Mr. Chamberlain promised to furnish me with memorandum in reply to memorandum I left with him going into matter in detail; he said he thought that Germany had indemnified German nationals for property taken by Great Britain, and that Great Britain had indemnified British nationals for property taken by Germany. Sums had been offset and balance settled between the two Governments. Crowe said that shipping had been pooled among the Allies and that all tonnage above certain percentage of losses was to be paid for to Reparation Commission by each Government. He was indefinite about details, and of course I declined to make any commitment and said I should report to you what he had said. I pointed out that Germany may have indemnified and paid her nationals for property taken by Great Britain, but that she had not done this with us. He said that there would be no objection to doing this, unless it would require shipment of gold out of Germany, and I suggested that it would. I also pointed out that United States had not put forward class of claims which Allied Governments had presented but Crowe asserted that they did not expect to receive anything on those general claims, beyond compensation for damages to persons and property.

I should like to be informed in detail of your attitude and position

in regard to ships and alien property.

I am to see Chamberlain again this afternoon and shall cable you further tonight. Copy of telegram sent Logan.

Kellogg

462.00 R 296/730

The Unofficial Representative on the Reparation Commission (Logan) to the Secretary of State

> Paris, November 21, 1924. [Received December 1.]

My Dear Mr. Secretary: Referring to the fourth paragraph of my L-256 to the Department of November 19, 1924,77 there is enclosed herewith one original copy of memorandum of my conversation with

[&]quot; Not printed.

Mr. Clémentel of October 25th, 1924, as initialed by me and Mr. Clémentel.

With reference to the second paragraph of my L-257 to the Department of November 19, 1924,⁷⁸ there is also enclosed one original copy of memorandum initialed by Mr. Gutt, the Belgian representative on the Expert Committee which is preparing the work for the forthcoming conference of Finance Ministers.

Faithfully yours,

JAMES A. LOGAN

[Enclosure 1-Translation 79]

Memorandum of a Conversation Between the French Minister of Finance (Clémentel) and the American Representative at the Conference of Finance Ministers (Logan), October 25, 1924

Mr. Logan informed M. Clémentel that he had come to see him to explain the position of the United States in the matter of their claims against Germany and of their right to participate in the Dawes annuities. Mr. Logan explained that the claims of the United States were of two kinds; (1) the costs of the Armies of Occupation. and (2) the claims for damages to persons and property. He stated that the United States Government believed it had an equitable and legal right to participate in the Dawes annuities, and that it hoped to have the aid of France in this matter at the forthcoming Conference of Finance Ministers. For M. Clémentel's confidential information, Mr. Logan expressed the opinion that an arrangement could probably be reached for the annual amount payable on these two classes of claims to the United States which would not greatly surpass the annual obligations already stipulated in the Wadsworth agreement on costs of the Army of Occupation, although the annual payments would nevertheless be spread over a longer period.

M. Clémentel stated that the French Government was favorable to American participation in the Dawes annuities, but that the legal advisers of the Ministry of Foreign Affairs were of the opinion that the strictly legal position resulting from the treaties did not constitute a basis for the American claims.

Mr. Logan, on the contrary, deemed that the United States had a legal right to participate in the Dawes annuities but that his Government was disposed to avoid if possible technical discussions of law and to stand on the general basis of equity.

M. Clémentel replied that although the French Government thought its legal point of view to be well-founded, nevertheless, for general reasons of equity, that Government was favorable to par-

⁷⁸ Not printed.

⁷⁹ Translation supplied by editor.

ticipation of the United States in the Dawes annuities with a view to the settlement of the claims formulated. He asked that the American position be explained in detail.

Mr. Logan stated that France and the United States had been allied during the war and that both had suffered damages and other losses which ought to be compensated by the common enemy. Both had incurred expenses for the occupation on the Rhine. Although the United States had not signed the Treaty of Versailles, it had signed a treaty in which Germany had accorded it the rights, privileges, and advantages to which the United States would have been entitled by virtue of the Treaty of Versailles. As the Dawes annuities represented the total payments to be effected by Germany it seemed only just and necessary that the United States should participate in them; Mr. Logan observed that the United States was formulating no claim for pensions or allowances to families.

M. Clémentel reiterated that on the general principle of equity the French Government was ready to admit the justice and necessity of American participation in the Dawes annuities from the outset of the execution of the plan, and to adopt this point of view. The French Government was not holding to technical points of law raised by its legal advisers (and not admitted by the Government of the United States), thus giving a new proof of the friendship existing between the two Republics. Naturally the importance of the participation and the details of its application are reserved and would be the object of discussion at the Conference of Finance Ministers. After having conferred with M. Herriot, M. Clémentel was able to state that the French Government would support the merits of the American cause set forth by Mr. Logan, with the sole reservation that the French Government believed that the service of this claim, the importance and modalities of which would be fixed by the conference, should not in any event be assured at a more rapid rate than the service of the French claim of the same kind.

Mr. Logan thanked M. Clémentel for his friendly attitude and stated that he would communicate the assurance of the French Government to the Secretary of State. For his own part, he was very happy to note that M. Clémentel agreed that the United States should participate in the Dawes annuities from the outset of the execution of the plan. Inasmuch as for the first year of the plan there would not be, in practice, any payment effected outside of Germany, he thought it very probable that his Government would not ask any participation for the first year. The observation formulated by M. Clémentel, namely, that the claims of the United States would be paid at a rate similar to that of French claims of the same kind, seemed a just and reasonable proposition. As M. Clémentel had observed, the importance of the American participation and

the details of its application were a subject for discussion by the Conference of Finance Ministers and Mr. Logan remained convinced that this conference, when it would have to consider the questions of priority and percentages, would doubtless recognize that the costs of the American Army of Occupation, according to the terms of the treaties as well as by virtue of the provisions of the pending Wadsworth Agreement, were entitled to a priority, and would accord moreover some consideration to the fact that the other claims of the United States contained no amount whatever for pensions or for allowances to families—a detail which would reduce materially the total of their claims in comparison with those of the other powers.

Mr. Clémentel observed that in his opinion these questions were within the competency of the Conference of Finance Ministers.

J. A. L., JR.

E. C.

[Enclosure 2-Translation 80]

The Belgian Assistant Delegate on the Reparation Commission (Gutt) to the American Unofficial Representative (Logan)

Paris, November 19, 1924.

MY DEAR LOGAN: I return herewith the one-page memorandum which you were good enough to hand me on the subject of the rights which the United States claims in the Dawes annuities.

M. Theunis 81 has formally authorized me to say to you in his name that he accepts this memorandum without reserve. This only serves further to confirm what I had already told you last week.

Sincerely yours,

GUTT

[Subenclosure-Translation 80]

Memorandum Sent to Mr. Logan by Mr. Gutt, November 19, 1924

The Belgian Government freely recognizes the equitable right of the United States to participate in the Dawes annuities. Belgium and the United States were allied in the Great War. Both suffered damages and other losses and are entitled to a settlement from the common enemy. Both have incurred expenses of occupation on the Rhine. The United States has not ratified the Treaty of Versailles, but it has signed a treaty of peace with Germany in which it has reserved and Germany has accorded to it the same rights and privileges to which the United States would have been entitled by virtue of the Treaty of Versailles. On reparations account the United States, unlike the Allied Governments, presents no claim for pen-

⁸⁰ Translation supplied by the editor.
⁸¹ Belgian Prime Minister.

sions or for allowances to families, but simply for actual damages to individuals and to property. The Dawes Plan with its concise and definite stipulations for the payment of the costs of the war by Germany looks to the participation of the United States in the payments effected by virtue of this plan. Accordingly, the Belgian Government considers that it would be wholly contrary to equity if the United States were unable to obtain satisfaction for its just claims, and the Belgian Government willingly agrees to American participation in the distribution of the Dawes annuities. The modalities of this distribution are subject to the Conference of Finance Ministers, in which the United States will be represented on an equal footing with the other powers.

C. G.

462.00 R 296/741

The Ambassador in Great Britain (Kellogg) to the Secretary of State

No. 877

London, November 24, 1924. [Received December 4.]

Sir: I have the honor to say that I have received Logan's L-260, contained in Paris Embassy's No. 523, November 22nd, 2 p. m.,82 to the Department, embodying the form of Memorandum which Logan proposed to submit to the Committee of Experts, and asking my comments. I wired you today, stating that I approved it; that it is substantially the same as the one I presented to Chamberlain (copies of which are enclosed herewith), except that I quoted Section 2 of the Resolution of Congress, and Articles I and II of the Berlin Treaty, so that Chamberlain would have them before him; and except that in my Memorandum, page eight, I said in substance that I did not believe any technical objection could be made on the ground that under the Versailles Treaty the reparations were to be collected solely by and through the Reparations Commission. Sir Eyre Crowe had suggested this as an objection. I said that part of the Allied and Associated Powers could not provide for an exclusive remedy.

As soon as I finished my Memorandum last week, I furnished a copy to Mr. Logan and asked his views. I have already told him I could see no reason why he should not present it to the Experts Committee with any additions he saw fit. There are some minor changes, but in substance you will see the two memoranda present the same points.

I have [etc.]

FRANK B KELLOGG

⁸³ Not printed.

[Enclosure]

The American Ambassador (Kellogg) to the British Secretary of State for Foreign Affairs (Chamberlain)⁸³

London, November 15, 1924.

MEMORANDUM DEALING WITH THE QUESTION OF AMERICAN PARTICIPATION IN PAYMENTS TO BE MADE BY GERMANY UNDER THE DAWES PLAN

In Section XI, Part One, of the Dawes Report, it is provided that payments made by Germany shall cover all sums for which Germany may be liable to the Allied and Associated Powers, but the same shall not prejudice the questions of distribution or priority between the various categories of charges. The clauses referred to are as follows:

"Before passing from this part of our report, we desire to make it quite clear that the sums denoted above in our examination of the successive years, comprise all amounts for which Germany may be liable to the Allied and Associated Powers for the costs arising out of the war, including reparation, restitution, all costs of all armies of occupation, clearing house operations to the extent of those balances which the Reparation Commission decide must legitimately remain a definitive charge on the German Government, commissions of control, and supervision, etc.

"Wherever in any part of this report or its annexes we refer to Treaty payments, reparation, amounts payable to the Allies, etc., we use these terms to include all charges payable by Germany to the Allied and Associated Powers for these war costs. They include also special payments such as those due under Articles 58, 124, and 125

of the Treaty of Versailles.

"The funds to be deposited in the special account in the Bank are to be available for the foregoing purposes, notwithstanding anything in this report which may be interpreted to the contrary, though in saying this we are not to be read as prejudicing questions of distribution or questions of priority between the various categories of charges."

These provisions were most carefully considered by the Dawes Committee. They were intended to make all claims of every name and nature of the Allied and Associated Powers against Germany a charge on the funds in the hands of the Agent General. The Dawes Report was accepted by Germany and by all the Allied Governments by the final Protocol of the London Conference, and has been put in force. The Conference was fully aware of the nature of the American claims for Army costs and reparations. On August second, the French Delegation presented to the Conference a Resolution,

⁸³ Presented Nov. 19, 1924; printed in American War Claims Against Germany, S. Doc. 173, 69th Cong., 2d sess., p. 45.

calling a meeting of Finance Ministers to meet in Paris immediately after the close of the Conference, for the purpose of allocating the payments made by Germany since January 1, 1923, and also the allocation of German payments as from the date when the Agent General for Reparation Payments takes up his duty and during the first years of the operation of the Dawes Plan. On August fifth, I sent a letter to the Secretary General of the Interallied Conference, setting forth the nature of the American claims and our right as an Associated Power under the Dawes Plan to be represented at said conference and to participate in such distribution. (These documents will be found as follows: French Resolution, Page 103, No. 26, Vol. I, Proceedings of the London Reparations Conference, July and August 1924. Letter from the American Ambassador to London Conference, page 126, No. 29, Vol. I.)⁸⁴

The French Resolution and my letter to the Conference on behalf of the United States came up for consideration on Tuesday, August twelfth, 1924, at which time I explained to the Plenary Conference the nature of the American claims and our right to be represented at such a Conference and to have the American claims paid out of the funds to be paid into the Bank by Germany for the benefit of the Allied and Associated Powers. After discussion, it was agreed that the United States should be represented and that notice should be sent out accordingly. (See Proceedings of the London Reparations Conference, Vol. I, page 49).85 Furthermore, the American position is in entire harmony with the Report of the Second Committee approved by the Plenary Conference on July 28, 1924, which provides in Article 4, sub-division c, that "with the resources thus placed at his disposal, the Agent General for Reparation Payments shall provide for the payments of reparations and other Treaty charges during the transition period in accordance with the decisions as to distribution which will be taken by the Allied and Associated Governments." This was intended by the Conference to include the United States.

The United States has two classes of claims against Germany: Costs for the maintenance of its Army of Occupation and claims for damages to persons and property.

The basis of the claims for Army Costs is America's participation in the war, the Armistice Agreement, the United States Treaty with Germany, and the Agreement of the Principal Allied and Associated Powers made May 25, 1923, for the payment of these sums. In

⁸⁴ For texts of the French resolution and letter of the American Ambassador, see Great Britain, Cmd. 2270, Miscellaneous No. 17 (1924), pp. 164 and 196, respectively; the citations given are to an earlier confidential print of the British Government.

⁸⁵ See *ibid.*, p. 80.

Article IX of the Armistice Agreement of November 11, 1918, signed by Germany and among others by the United States, this provision appears "The maintenance of the troops of occupation in the Rhineland shall be defrayed by the German Government."

In view of the payments made to the Allies by Germany in the global sums handed over to them, of which no part was paid to the United States for its Army costs, and on the theory of our equitable right in view of services rendered to the Allies by the maintenance of our Army on the Rhine, thereby reducing their own expenditures, there was signed at Paris on May 25, 1923, an Agreement with the Principal Allied Powers for the adjustment and payment of these army costs. This agreement has not yet been ratified by France, nor the ratifications exchanged. Roughly, that Agreement provides that our army costs of 255 million dollars (on which there have been some small credits) would be divided into twelve annual instalments. and should be, during the first four of the twelve years, a first charge on cash payments received from Germany, or for Germany's account, after the expenses of the Reparation Commission and the current expenses of the Allied armies of occupation have been satisfied, but during the last eight years be an absolute prior charge on all cash payments, except for the costs of the Reparation Commis-Furthermore, the Allies agreed that they would apply the value of deliveries in kind to the discharge of their army costs. No sums have been paid to the United States under this Agreement regarding army costs except that Belgium has deposited in a separate account for the benefit of the United States twenty-five per cent of certain reparation payments amounting to about eleven million dollars.86

By the agreement executed between the United States and Germany, August 10, 1922,87 a Mixed Claims Commission was established to sit in Washington and adjudicate the claims of American citizens for loss and damage to persons or property arising because of the war and subsequent to July 31, 1914, and also for the settlement of prewar and war debts owing to American citizens by German nationals. The Commission has been sitting for some time and is adjudicating these claims, and it is hoped it will have finished its work by the end of 1925. By our separate treaty with Germany of November 14, 1921,88 Germany accords to us the same rights in the matter of claims which we would have enjoyed had we ratified the Treaty of Versailles (see Part VIII, Reparation Annex I, Sections 1 to 10 inclusive), namely the satisfaction of all claims similar to those made

⁸⁶ See pp. 140 ff.

^{**} Foreign Relations, 1922, vol. II, p. 262.

** Treaty signed Aug. 25, 1921, proclaimed Nov. 14, 1921; see *ibid.*, 1921, vol. II, p. 29.

by the Allies, but the American Government has notified Germany that it will not make claims under sub-divisions 5, 6 and 7, including pensions, assistance to prisoners of war, their families and dependents, and allowances to families and dependents of mobilized persons, etc.; so that the American claims which are for damages to persons and property do not include, as do the claims of the Allies, any sums of the type above indicated.

In the Treaty of Peace between the United States and Germany, proclaimed November 14, 1921, there was embodied a resolution of the Congress of the United States declaring the war at an end. Among other things, the resolution contained the following provision:

"Sec. 2. That in making this declaration, and as a part of it, there are expressly reserved to the United States of America and its nationals any and all rights, privileges, indemnities, reparations or advantages, together with the right to enforce the same, to which it or they have become entitled under the terms of the Armistice signed November 11, 1918, or any extensions or modifications thereof; or which were acquired by or are in the possession of the United States of America by reason of its participation in the war, or to which its nationals have thereby become rightfully entitled; or which, under the treaty of Versailles, have been stipulated for its or their benefit; or to which it is entitled as one of the principal allied and associated powers; or to which it is entitled by virtue of any Act or Acts of Congress; or otherwise."

The Treaty also contained the following articles:

"ARTICLE I

"Germany undertakes to accord to the United States, and the United States shall have and enjoy, all the rights, privileges, indemnities, reparations or advantages specified in the aforesaid Joint Resolution of the Congress of the United States of July 2, 1921, including all the rights and advantages stipulated for the benefit of the United States in the Treaty of Versailles which the United States shall fully enjoy notwithstanding the fact that such Treaty has not been ratified by the United States.

"ARTICLE II

"With a view to defining more particularly the obligations of Germany under the foregoing Article with respect to certain provisions in the Treaty of Versailles, it is understood and agreed between the High Contracting Parties:

"(1) That the rights and advantages stipulated in that Treaty for the benefit of the United States, which it is intended the United States shall have and enjoy, are those defined in Section 1, of Part IV, and Parts V, VI, VII [sic], VIII, IX, X, XI, XII, XIV, and XV.

"The United States in availing itself of the rights and advantages stipulated in the provisions of that Treaty mentioned in this paragraph will do so in a manner consistent with the rights accorded to Germany under such provisions."

Aside from the legal right to participate in the payments by Germany to the Bank under the Dawes Report and the separate Treaty of Peace between the United States and Germany which I will hereafter consider, I believe the United States is entitled to participate on broad equitable grounds. It was the Associated Power in the It contributed very materially to the victory. It incurred large expense by the maintenance of its Army of Occupation which has been recognized by the Allied Governments in the Army Cost Agreement. It has just claims of reparation for damages to persons and property of its citizens, recognized and agreed to by the German Government and ranking pari passu with the claims of the Allied countries engaged in the war. I shall not enlarge upon this point, as all the facts and circumstances are well known to His Majesty's Government. But I submit that on technical legal grounds the right of the United States is incontestable. It is true the United States did not sign the Versailles Treaty. This can make no difference whatever so far as the costs of the Army of Occupation are concerned, as this is provided for by the Armistice Agreement which was signed by the United States. But beyond this, the failure to ratify the Treaty of Versailles did not take from the United States the right to indemnity from Germany for losses and damages suffered by its citizens, the same class of claims as those which are being collected by the Allies. It will be noticed that by the Berlin Treaty between Germany and the United States, Germany undertakes to accord to the United States, and the United States shall have and enjoy all the rights, privileges, indemnities, reparations or advantages specified in the Joint Resolution of Congress, including all rights and advantages stipulated for the benefit of the United States in the Treaty of Versailles, which the United States shall fully enjoy notwithstanding the fact that such Treaty has not been ratified. With a view of more particularly defining the obligations of Germany, it is further provided that the rights and advantages stipulated in the Treaty of Versailles for the benefit of the United States. which it is intended the United States shall have and enjoy, are those defined in certain sections of the Treaty, including the reparations section heretofore referred to.

It has been suggested that technical objections might be raised by some of the Allied Powers. Certainly no suggestion has been made that Germany could object. But it has been said that under the

Versailles Treaty the reparations of the Allied and Associated Powers were provided for and made a prior charge on Germany; that these reparations were to be collected by the Reparations Commission; that the Reparations Commission notified Germany of the total amount of claims which did not include those of the United States; and therefore the United States could not by separate treaty claim the right to share in this preference pari passu with the Allies. I submit that these claims for reparations arose on account of the war in which the United States participated, and not by virtue of the Treaty of Versailles. Furthermore, I do not believe it lies in the power of Germany and a part of the Allied countries to enter into a Treaty which would exclude the balance of the Allies in the war from collecting reparations or make the reparations of a part of the countries a first charge against Germany, unless the other countries engaged in the war agreed to such a preference. Could France enter into a separate treaty with Germany, making its reparations claims and army costs a prior charge on German revenues, thereby excluding Great Britain and the other Allies? If not, neither could the Allied Powers make such an agreement which would exclude the "Associated Power." Nor do I believe there can be any technical objection to the participation of the United States because the reparations were to be collected solely by and through the Reparations Commission. Likewise, a part of the Allied and Associated Powers could not provide an exclusive remedy for the collection of reparations by the balance of the Powers engaged in the war. The Dawes Report recognizes this and provides that the payments made by Germany to the Bank shall include all claims of the Allied and Associated Powers and this agreement has been accepted and put in force by the Protocol signed by Germany and all the Allied Powers.

The amount of the Army claims has been fixed, although there are some small credits to be made. But on the basis of 255 million dollars, to be paid in twelve annual instalments, it would take about 21 million dollars per year. However, by the agreement unpaid annuities accumulate and if not paid before, must all be paid during the last eight years. In fact unpaid annuities have accumulated, and probably will accumulate during the first two years of the Dawes Plan. Assuming therefore the ratification of the Army Cost Agreement, virtually all of the total sum would have to be paid in the last eight years, namely, 32 million dollars per annum. It is the desire of the United States to facilitate in every way the settlement of the reparations question and therefore it is willing to recast the Army Cost Agreement and to make an extension of the time of payments,

provided a reasonable percentage of the money paid into the Bank for reparations is also allowed on its general claims. The amount of the American claims cannot now be definitely stated. But we are satisfied that an arrangement can be made whereby the total annual payment to the United States for army costs and claims will not much exceed if at all the annual payments necessary to fulfill the present Army Cost Agreement. We believe the American claims for damages to persons and property should rank pari passu with the reparations claims of other countries. The Army costs are of course a prior charge.

462.00 R 296/724: Telegram

The Secretary of State to the Ambassador in Great Britain (Kellogg)

[Paraphrase]

Washington, November 24, 1924—5 p. m.

433. Your 484, November 20, noon. As you said, I had reference in my New Haven speech to general reparations.

The Department's attitude on ships and alien property was set forth at length in its instructions to Logan L-91, paragraph 8, June 28, and L-99, July 7.89 Instructions are being sent to Logan to furnish you copies of these instructions. Briefly they are that each of the Allied Governments was, under the Treaty of Versailles, given option of retaining or releasing enemy property. Some of the Allies if not all have released a part at least while retaining the balance. The Government of the United States must be fully as free to exercise its option to release or to retain as any of the others. If the German property seized in the United States or the proceeds are finally retained, due credit will be given of course against our claims against Germany.

It appears probable from every indication including statements made in reports of Congressional committees on alien property that Congress would not be disposed to approve final retention of such property. This Government ought to have complete liberty to retain or to release this property in view of the elimination of categories for pensions, allowances, etc., and of our willingness to extend payments from the proceeds of the Dawes Plan over a long series of years with consequent relatively small annual participation.

HUGHES

⁸⁹ Latter not printed.

462.00 R 296/728 : Telegram

The Ambassador in France (Herrick) to the Secretary of State

Paris, November 26, 1924—8 p. m. [Received November 27—2:27 p. m. o]

535. L-266 [from Logan]. Reference Department's 152.91

- 1. At experts' meeting this morning I made the simple oral statement that the Government of the United States had two general claims against Germany, namely, claims for damages to persons and property, and pre-war debts; that it anticipated the concurrence of the interested Governments in securing satisfaction to these claims through the Dawes Plan annuities. I emphasized the belief that our right to this participation in the Dawes annuities was so obviously sound from the points of view of both law and equity that I did not anticipate any denial of such recognition from the interested Governments. I added that a detailed statement of the ground on which we based our claims would seem unnecessary at this time.
- 2. The French and Belgian representatives then stated that regardless of the legal bases of our claim on which they reserved their Governments' [position, they?] were prepared to fully support our position on the grounds of equity.
- 3. The Italian representative stated that he personally supported our position on equitable grounds, but that he had no instructions from his Government. [Paraphrase.] He told me privately yesterday that he had been informed from Rome that the Italian Government could not support our position on legal grounds and that he was without instructions in regard to support from point of view of equity. He acknowledged his personal support after I had summarized our position, and he said he would communicate to his Government the broad grounds of our position with recommendation that they be considered favorably.
- 4. Japanese delegate remarked that though personally he supported our position he also was without instructions from Japanese Government. After the meeting I told him privately I should be glad to give him orally exposé of broad grounds of American position. I shall do this this afternoon. He had promised to ask his Government for immediate instructions. [End paraphrase.]
- 5. British representative remarked that he had no information to support our position either from an equitable or a legal basis but he felt before the British Government would give its approval the committee of experts should be fully informed of the figure and details of our claims. I replied that before giving any figures or details

on Not printed.

⁹⁰ Telegram in three sections.

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GERMANY

whatever it seemed to me that the question of principle should be settled, that until such [was] established it would be futile to discuss details. I proposed therefore that the committee adjourn until the British representative could be instructed by his Government, since no useful purpose [could be?] served by the committee until the British attitude in this respect [were] known. The British representative replied that he regretted this proposal since it would involve a delay. I replied that any delay would be due to the failure of the British Government to reach a decision. He agreed to my proposal and the committee adjourned.

[Paraphrase]

- 6. I have telephoned full account of meeting to Ambassador Kellogg, who approves the stand I took and will press for early determination of position of British Government on question of general principles. I am not wholly satisfied with Italian stand and am hoping Department will be able to find some means of strengthening it.
- 7. On the whole I am pleased with today's developments. Because of firm and unequivocal support of both the French and the Belgians I feel almost certain the British will ultimately come into line. The press in both France and Belgium is beginning to show interest in the proceedings of the committee and to comment favorably on our position. Undoubtedly there will be some leakage of the proceedings of this morning's committee meeting which I feel may be helpful in getting our position recognized by British.
 - 8. Repeated to Embassies at London and Rome. Logan.

HERRICK

462.00 R 296/728: Telegram

The Secretary of State to the Chargé in Italy (Summerlin)

[Paraphrase]

Washington, November 28, 1924—4 p. m.

139. Your 174, November 16, 3 p. m., and Logan's telegram of November 26, L-266, repeated to you from Paris.

The Department has noted with surprise the statement regarding Italian representative's position, in view of statement of Secretary General of Italian Foreign Office reported by you.

You will take first opportunity that offers to see Secretary General and intimate importance this Government attaches to recognition of its just claims. Refer to his earlier conversation on this subject; state that you understand that question is now under consideration in Paris and express hope that appropriate instructions

have been sent Italian representative at Paris to support American position. It might be helpful, in this connection, to remark that French and Belgian Governments are giving us their firm and unequivocal support.

Telegraph to Logan result of your representations.

HUGHES

462.00 R 296/707: Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

Washington, November 29, 1924—4 p. m.

424. L-158, for Logan. Your L-255, November 17. My feeling is that your first suggestion in regard to alteration of Treaty of Versailles by the London protocol contains elements of danger. This Government did not sign protocol and to that extent is not in same position as Allies. Legal position of this Government is based on provisions of the Armistice, Treaty of Versailles, resolutions of Congress approved July 2, 1921, ending state of war with Germany, and Treaty of Berlin, August 25, 1921. Although we offer no objections to the modification of the Treaty of Versailles not deemed incompatible with our interests, we can not admit that any! rights acquired by this Government by treaty or otherwise can in any way be diminished or altered by an agreement between the Allies and Germany to which the Government of the United States is not a party and to terms of which it has not consented.

The points you make on significance of the word "Associated" are well taken and should answer conclusively any allegation of its inadvertent inclusion. You will recall in this connection Department's telegram L-50, February 23,92 and your L-112, of March 22.93

Legal position of this Government is sound, and I am unwilling even to imply that our rights are only those of second mortgagee. From Ambassador Kellogg's telegram of November 20,94 which he repeated to you, I note that he shares my views on this point.

I am in agreement with you that we should stress our legal rights wherever possible and avoid appearance of resting our case wholly on equitable grounds, although we should of course always maintain the latter with due prominence.

HUGHES

 ⁹² Ante, p. 1.
 93 Ante, p. 10.
 94 Ante, p. 77.

462.00 R 296/735: Telegram

The Chargé in Italy (Summerlin) to the Secretary of State

[Paraphrase]

Rome, December 1, 1924—6 р. т. [Received 8:27 р. т.]

177. Your 139, November 28, 4 p. m. As Contarini ⁹⁵ was absent in Palermo I took the matter up with his secretary who was able to talk with him by telephone late yesterday. He (Contarini's secretary) informed me this morning that, notwithstanding report of the Italian representative sent to the Foreign Office stating that Logan had thanked him for his support of the American position at meeting on November 27, instructions were sent him last night approving his support of American position as reported by him and informing him that as the Italian Government was in accord with the American position he should continue to support it.

I have advised Logan and Ambassador Kellogg.

SUMMERLIN

462.00 R 296/737 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

Washington, December 4, 1924—3 p.m.

433. Department informed by Amembassy London that note has been received from British Foreign Office stating that it has been found necessary to postpone the meeting of Finance Ministers to a later date than December 1st and that the date of January 6th is suggested as the definite date for the meeting. In this note the hope was expressed that this date would be convenient to the Government of the United States.

Department is telegraphing the London Embassy to inform the British Foreign Office that the proposed date is acceptable to the United States, provided it meets with the convenience of the other Governments concerned.

You should inform the Foreign Office of the Government to which you are accredited of the foregoing.

Repeat to Rome as Department's 145 and to Brussels as Department's 72 and give copy to Logan.

HUGHES

⁹⁵ Signor Salvatore Contarini, Secretary General of the Italian Foreign Office.

462.00 R 296/740: Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

London, December 4, 1924—10 a. m. [Received 12 noon.96]

509. Received the following memorandum from Mr. Austen Chamberlain this morning.97

"Your Excellency: 1. I have the honor to acknowledge the receipt of the memorandum of the 15th November 98 which you handed to me personally at our interview on the 19th November in explana-tion of the views of the United States Government regarding their participation in the payments to be made by Germany under the Dawes Plan.

2. In that memorandum Your Excellency explains the reasons which, in the opinion of your Government, justify this demand. They divide their claims against Germany into two classes: (1) costs for the maintenance of the American Army of Occupation; (2)

claims for damages to persons and property.

3. Your Excellency will recollect that, during our interview, I repeated to you the assurance already given to you verbally on the 27th October by Sir E. Crowe 99 that, so far as His Majesty's Government are concerned, the question regarding the costs of the American Army of Occupation has already been disposed of. An agreement regulating that question was signed on the 25th of May 1923, as Your Excellency records in your memorandum under reply, between the United States and the Principal Allied Powers. That agreement has since been ratified, and the principle at stake has thus been finally settled so far as this country is concerned. His Majesty's Government consequently do not anticipate any difficulties as regards that matter.

4. As to the second claim advanced by Your Excellency—that for damages to persons and property—His Majesty's Government understand from your memorandum that it is based not only on treaty rights, but also upon a passage in the Dawes report and upon grounds of common equity. It is with sincere regret that, as regards the legal position which Your Excellency seeks to establish, His Majesty's Government are unable to see eye to eye with the American

Government.

5. It is due to the United States Government that I should state the view taken by His Majesty's Government of the legal position. They are unable to agree that Germany had it in her power by her later treaty with the United States of America to alter or vary the obligations that by the earlier Treaty of Versailles she had already contracted towards the powers which ratified that treaty. The con-

96 Telegram in eight sections.

Foreign Relations, 1923, vol. II, p. 180.

or Memorandum dated Dec. 3; faulty punctuation and verbal errors due to telegraphic transmission have been corrected from the text as printed in American War Claims Against Germany, S. Doc. 173, 69th Cong., 2d sess., p. 50.

See telegram no. 442, Oct. 28, 5 p. m., from the Ambassador in Great

Britain, p. 68.

tention, as I understand it, is that Germany, by the separate treaty with the United States of America, has undertaken to accord to the United States all the rights and advantages stipulated for the benefit of the United States in the Treaty of Versailles (including the reparation section of that treaty) notwithstanding the fact that such

treaty has not been ratified by the United States.

His Majesty's Government are, however, advised that this stipulation covers undertakings which Germany had not the power to give in view of previous obligations which she had incurred under the Treaty of Versailles. By article 248 of that treaty Germany constituted the reparation obligations a first charge upon all her assets, and she therefore was not in a legal position to incur any fresh obligations towards another power which had not ratified the treaty, if the effect would be to diminish the resources available for reparation to the Allied Powers which had ratified.

6. His Majesty's Government are unable to agree that the report of the Dawes committee could alter this legal position. The Dawes committee was appointed by the Reparation Commission (which derives its authority with regard to Germany from the Treaty of Versailles alone) to 'consider the means of balancing the (German) budget and the measures to be taken to stabilize the currency.' Any question as to the states which were to share in the reparation payments, or as to the proportions of the share of each, was clearly

outside the scope of the committee's functions.

7. I need not repeat to Your Excellency that I do not for one moment dispute the explanation which you were good enough to give me of the intentions which caused your Government to instruct the American member of the Dawes committee to introduce the words 'and Associated Powers' into the committee's report. Your Excellency must, however, allow me to say on my part that, if the United States Government understood the passage to have been inserted for the express purpose of placing on record a formal recognition of their claim to a share of the Dawes annuities, this was certainly not so understood by the British members of the Dawes committee. Indeed, I am informed that the matter was never discussed in this sense either in the full committee or in the drafting committee when the text of the report was under preparation, nor during the proceedings of the second committee of the recent London Conference, to whose report reference is made on the third page of Your Excellency's note.

8. I should add that, under the terms of the Treaty of Versailles, the amount of the damage for which compensation was to be made by Germany was left to be determined by the Reparation Commission. For the purpose of carrying out their task in this respect, the commission had to take into account the various claims put forward by the several Allied Governments. At no time, so far as His Majesty's Government are aware, did the American Government during the discussions that then took place, either within the commission or outside it, make any intimation that they wished to put forward a claim for inclusion in the total to be demanded from Germany. Nor does any reservation appear to have been made by any American representative, official or unofficial, of any possible future right of America to make such claim. The American Government were represented at the conferences held at Spa in 1920 with the object of

arriving at an agreement concerning the proportion in which the amount of reparations, when received, should be divided between the states entitled to share in the reparations. There is no record of any attempt having been made on the part of the American representatives, either on that occasion or since, to claim a percentage in the allotment then being laid down amongst themselves by the Allies for the distribution of German reparation payments when received. Nor did this create any surprise among the Allied Governments, since it had become generally understood that the United States Government made a special point of not demanding reparations from the powers defeated in the war. In that belief His Majesty's Government were strongly confirmed when, in a speech at New Haven on the 29th of December, 1922, of which the American Secretary of State caused the text most courteously, though informally, to be communicated to His Majesty's Ambassador at Washington, the American Secretary of State used the following words:

'The crux of the European situation lies in the settlement of reparations. There will be no adjustment of other needs, however pressing, until a definite and accepted basis for the discharge of reparation claims has been fixed. It is futile to attempt to erect any economic structure in Europe until the foundation is laid.

How can the United States help in this matter? We are not seeking reparations. We are, indeed, asking for the reimbursements of the costs of our Army of Occupation; and with good reason, for we have maintained our Army in Europe at the request of the Allies and of Germany, and under an agreement that its costs, with like Army costs, should be a first charge upon the amounts paid by Germany. Others have been paid and we have not been paid.

But we are not seeking general reparations. We are bearing our own burden and, through our loans, a large part of Europe's burden in addition. No demands of ours stand in the way of a proper settlement of the reparation question.'

It was in these circumstances, as I had the honour verbally to explain to Your Excellency, that, not having hitherto doubted that these words still correctly describe the policy of the American Government, the intimation that they now claimed a share in the Dawes annuities in respect of reparations, and apart from the cost of the Army of Occupation, came upon His Majesty's Government as a

complete surprise.

9. I have felt it to be due to Your Excellency and to the Government of the United States of America that I should explain thus fully the grounds on which His Majesty's Government are unable to admit the legal arguments brought forward in Your Excellency's memorandum. There remains the question of equity raised in Your Excellency's memorandum. His Majesty's Government understand that the United States Government has under its control very large sums arising from German property in the United States analogous to the property which, under the terms of the Versailles Treaty, has been used in Allied countries to meet private claims arising out of the war. Under the treaty any credit balance in favour of Germany resulting from dealing with German property is reckoned as a credit to Germany in the reparation account. Further, there are certain sums in respect of ships, retained by the United States in excess of their tonnage losses which should be accountable to the pool. His Majesty's Government have no definite information as to the amount of these sums, but they have always understood that they are likely

to be equal or nearly equal, to the amounts awarded by the Mixed Commission.

10. His Majesty's Government are naturally anxious to give the fullest and most friendly consideration to any claim put forward by the United States Government. Though, therefore, for the reasons given above, they find it difficult to see how the present claim could be sustained, they would be quite willing to examine the whole matter in connection with the forthcoming meeting of Finance Ministers in Paris if the United States Government would supply them with a statement of any further grounds on which it appears to them that the claim can be maintained and would inform them what the amount of the claim actually is, and whether, in the event of the claim being conceded, the United States Government is prepared to agree to set off against it, as other powers have done under the Treaty of Versailles, any credit balance arising from dealing with German assets which have come into their hands, and to have the net claim fixed as under the treaty by the Reparation Commission and made subject to the same reductions, owing to the reductions, past or prospective, of German payments, as applied to countries claiming under the Treaty of Versailles.

11. The United States Government will no doubt recognize the fairness of their undertaking the same obligations under this head as are binding on the Allies. If the matter is to be considered from the general point of view of equity, the propriety of such equality of benefit from, and of corresponding contribution to, the common fund can hardly be questioned. It would accordingly be of real advantage in forming a judgment on the practical issue raised by the American claim, if approximate figures as to the net amount involved could be furnished. If in return Your Excellency desires an exact statement of the obligations of the Allies in this matter, I shall be happy to obtain it for you from the Chancellor of the Exchequer, or it may be explained to the American representatives

at the meeting of Finance Ministers at Paris.

12. The actual details of any arrangement that may ultimately prove possible must necessarily stand over until the forthcoming meeting of the Finance Ministers in Paris. This, as Your Excellency is probably aware, can no longer take place at the beginning of December, as His Majesty's Government had hoped. But, irksome though this delay may be in some respects, it has at least this advantage—that it will give longer time to consider, in all their aspects, the questions Your Excellency has raised. I should mention that the Dominions' interest in reparations would, in any case, require us to consult them, through such representatives as they may appoint, before arriving at any new decisions.

13. In closing this communication I feel it is unnecessary to assure Your Excellency that nothing is further from my thoughts, and that nothing would be more distasteful to His Majesty's Government than to engage in a fruitless controversy over a matter of this kind with the United States Government, of whose services to the common cause, both during and since the war, the British people are, and always will be, fully appreciative. At the same time, His Majesty's Government would be guilty of a breach of trust were they not also to safeguard to the best of their ability the legitimate

interests of the British taxpayers, who are already bearing so large a share of the burdens inherited from the war, burdens which they have loyally shouldered and never by word or deed sought to evade, as Your Excellency will be the first to admit. If, therefore, His Majesty's Government hesitates so readily to accept the suggestions now put forward by the United States Government as others, less heavily burdened, may already have done, it will not, I feel convinced, be imputed to any ill-will on their part.

I have the honor to be with the highest consideration Your Ex-

cellency's obedient servant. Signed Austen Chamberlain."

Chamberlain gone to Rome. Will not return until December 14th. From copy of memorandum I left with him and mailed to you ² you will see many of his points were answered in advance, but I think further answer should be made.

Chamberlain's point 5. The position that Germany had no power to make a treaty with the United States to pay damages to American nationals is trivial. There is no obligation, express or implied, in the Versailles Treaty that incapacitated Germany to pay the United States the separate damages to her nationals accruing on account of the war; and no power in the Allied Governments and Germany to make their reparations a first charge. The damages to nationals of the different powers were not joint but separate and arose out of the war, not out of the Versailles Treaty.

Point 6. While the Dawes committee was appointed by the Reparations Commission, its report went beyond the Versailles Treaty; was not only in aid of that treaty for the purpose of collecting reparations, but in many respects superseded it, notably in the extension of period for the delivery of dyestuffs, activities of the transfer committee, arbitration, stabilization of currency, organization of bank and many other things. It was adopted by a treaty signed by all the Allied Governments and is as binding as the Versailles Treaty.

Point 7. Owen Young states there is no reason for [this statement?]. We might get another letter from him leaving out the statement that if Germany made the payments to the bank, she was discharged from all claims of the Allied and Associated Powers. (See my 467, November 12, 4 p.m.) Furthermore before the Dawes report was approved by the London protocol I notified Great Britain and the other nations individually and also the plenary conference as a whole of the position of the United States. The protocol was signed with full knowledge of this.

Point 8. Manifestly the Allies and Germany had no power to agree that the separate claims for damages by American nationals should be fixed by the Reparations Commission. There is no reason

² Ante, p. 85.

why the American Government should have notified the British Government or the Reparations Commission or the Spa Conference of its claims because it was left free to deal with Germany as it saw fit and not until the Dawes report was adopted with its provisions for all-inclusive payments was there any reason for the United States Government to notify the Allied Governments that we expect to share in the payments to the Agent General. I have already explained to Chamberlain but it would be well to put in writing that in your New Haven speech you referred to general reparations and not damages to persons and property which were then in process of being adjusted with Germany.

Points 9 to 13. In reply to Chamberlain's statement that we have very large sums arising from German property analogous [to] the property which under the Versailles Treaty has been used in Allied countries to meet private claims arising out of the war it might be suggested that Germany indemnified her nationals but has not done so in our case. Furthermore, Chamberlain's statement that any credit balance in favor of Germany resulting from dealing with German property is reckoned as a credit to Germany in the reparations account is not accurate. The Treaty of Versailles, article 297, allows each Government perfect freedom in dealing with alien property and ships. Each Government may take the property and may apply the value of the same on German obligations or it may not. In other words each power is left free to dispose of such property in accordance with its laws and regulations. Only in the event that the Allied Government retains the property is the value thereof dealt with under article 243. I think it should be suggested to the British Government again that we are not presenting the same class of claims as the Allied Governments. Logan says that well over 50 percent of the British claims are based on pensions, allowances, etc., and that if our claims were increased accordingly they would run into billions instead of millions. If we should agree to any set-off as suggested by Chamberlain we would be doing more than the Allies have done as we have presented no such claims or participated in the division of the overseas possessions. I have no knowledge of the pool to which Chamberlain refers but I assume he would be willing to furnish us exact data as to this. Our position, however, as to ships and alien property ought perhaps to be restated.

[Paraphrase.] The foregoing are partial suggestions for Department's consideration in answering British note, which I think should be done both in writing and orally. If Department wishes me to prepare an answer along lines indicated, I suggest that Logan and I confer in order to ensure harmonious action. Chamberlain said to me yesterday before I had any knowledge of contents of his note that he thought matter could be worked out with Churchill

(Chancellor of the Exchequer) and I believe note is sent for trading purposes. Chamberlain suggested it might be advisable in future discussions to bring in Chancellor of the Exchequer, so I infer that door is not definitely closed to further discussion. [End paraphrase.]

Copy to Logan.

Kellogg

462.00 R 296/740: Telegram

The Secretary of State to the Ambassador in Great Britain (Kellogg)

Washington, December 9, 1924—10 p. m.

457. Your 509, December 4, 10 a.m.

1. The following is text of reply to British note:3

"I have the honor to acknowledge the receipt of Your Excellency's note of [December 3, 1924] with respect to the participation of the United States in the payments to be made by Germany under the Dawes plan and I am instructed by my Government to make the

following reply:

(1)—My Government is gratified to receive confirmation of the assurance verbally given by Sir E. Crowe that so far as His Majesty's Government are concerned there is no question regarding the costs of the American Army of Occupation, as the principle at stake is deemed to have been finally settled by the agreement of May 25, 1923, between the United States and the Principal Allied Powers, but my Government must express its surprise at the attitude taken by His Majesty's Government in relation to the other American claims which were the subject of my memorandum of November 15th.4 My Government has seen fit voluntarily to limit its claims against Germany to categories of damages for injuries to persons and property and debts, and it has not been thought that His Majesty's Government would be disposed to question the right of the United States to participate pari passu with the Allied Powers in the payments to be made by Germany.

(2) My Government regrets that His Majesty's Government find difficulty with the legal position taken in the memorandum which I presented and my Government is unable to concur in the views which

Your Excellency has expressed upon this point.

The suggestion that the other Powers (under Article 248 of the Treaty of Versailles or otherwise) could assert a charge upon all the assets of Germany to the exclusion of the United States from recovery upon its just claims would be, in the judgment of my Government, not only repugnant to equity but also inadmissible from a legal standpoint. The United States effectively participated in the war and contributed to the common victory. As one of the Allied and

Presented to the British Secretary of State for Foreign Affairs as Embassy's note of Dec. 10, 1924.

*Ante, p. 85.

Associated Powers, it was equally entitled with its co-belligerents to enforce its just claims against Germany. The Armistice agreement provided for reparation for damage done, with the reservation that any subsequent concessions and claims by the Allies and the United States remained unaffected. The contention of His Majesty's Government would appear to come to this,-that one or more of the Allied and Associated Powers could properly make a separate agreement with Germany by which that Power or Powers would be entitled, not simply to recover upon its own claims, but to provide for the deprivation of co-belligerent States of satisfaction or remedy. The Treaty of Versailles provided that it should come into force between the ratifying parties when ratified by Germany and by three of the Principal Allied and Associated Powers. But my Government is unable to conceive that, if that Treaty had contained provisions which made it unacceptable to His Majesty's Government and had come into force without ratification by the British Empire, His Majesty's Government would have taken the view that France, Italy and Belgium, for example, would have had the right to demand the appropriation of all the available property of Germany and leave Great Britain without recourse for her claims. If such action were admissible, it could conceivably have been taken, as suggested above, by any one Power which had been able to enter into a separate engagement with Germany of like purport.

The general principle that a later treaty may not be permitted to alter or vary the obligations assumed by one of the Contracting Parties in favor of other Powers does not, as it seems to my Government, warrant the conclusion that other Powers by an earlier treaty may lawfully deprive third States of their rights. The position of the Powers ratifying the Treaty of Versailles is stated in Article 231

of that Treaty as follows:

'The Allied and Associated Governments affirm and Germany accepts the responsibility of Germany and her allies for causing all the loss and damage to which the Allied and Associated Governments and their nationals have been subjected as a consequence of the war imposed upon them by the aggression of Germany and her allies.'

Thus the Powers ratifying that Treaty explicitly affirmed the responsibility of Germany to each of the Allied and Associated Governments for the loss and damage each had sustained. The claims which are urged by the United States against Germany for injuries to persons and property arose out of these injuries, and not out of the Treaty of Versailles, and the United States lost none of its rights by not ratifying that Treaty. By its Treaty with Germany the United States has not sought to enforce any claims at the expense of its co-belligerents; Germany was under responsibility to the United States no less than to its co-belligerents and Germany accordingly has recognized the just claims of the United States; and it is the view of my Government that the Allied Powers have not been, and are not, in a position to deny these claims or to deprive them of effect by insisting upon absorbing all the assets of Germany for their own purposes.

I have noted Your Excellency's reference to the Reparation Commission, but I do not suppose that it would be contended that the competency of the Powers in their relation to the just claims of their

co-belligerents could be enlarged by any attempt to create an exclu-

sive collecting agency.

(3) It may be added that the Treaty of Versailles does not appear by its terms to have intended such a result as the deprivation of the United States of recourse for its claims, for that Treaty apparently contemplated provision for the payment of all the claims for which the responsibility of Germany was affirmed. There is found no obligation, expressed or implied, in the Versailles Treaty that can be regarded as intended to incapacitate Germany to provide for the payment to the United States of the separate claims of the United States and its nationals. Subsequently, it became necessary to devise some plan which would enable the currency of Germany to be stabilized and her budget to be balanced by arranging a practicable scheme of payments and with this purpose the Dawes plan was formulated. In Section XI, Part I of the Dawes report it is said that the Committee desires to make it 'quite clear' that the sums to be paid 'comprise all amounts for which Germany may be liable to the Allied and Associated Powers for the costs arising out of the war, including reparation, restitution, all costs of all armies of occupation' et cetera. It was added that wherever in any part of the report reference was made to Treaty payments it was intended 'to include all charges payable by Germany to the Allied and Associated Powers for these war costs'. It is thus evident that whatever may have been the purpose of the Treaty of Versailles, and my Government does not believe that it was the intent or could have been the effect of that Treaty to exclude the United States from recovery of its just claims, it is the intent of the Dawes plan to provide comprehensively for all the payments that Germany can make.

(4) With reference to Your Excellency's observations concerning

(4) With reference to Your Excellency's observations concerning the insertion in the Dawes report of the words 'Associated Powers', I may point out that there is no question of an instruction to the American members of the Dawes Committee as they were not representatives of the Government of the United States. When, however, it came to the notice of my Government that there was likelihood of consideration being given to inclusive payments by Germany that might utilize her full capacity of payment, my Government did take occasion to cause attention to be drawn to the claims of the United States in order that there should be no question of their exclusion. My Government does not assume to raise a question as to the personal understanding of the British member of the Dawes Committee, but I must beg leave to point out the clear import of the language

used,

But if there could have been earlier misapprehension it certainly was dispelled at the London Conference which took action to make the Dawes report effective. As I have already stated in my memorandum, to which Your Excellency's note refers, that Conference was fully aware of the comprehensive scope of the Dawes report and the nature of the American claims. I notified the representatives of Great Britain and the other Powers participating in that Conference individually and also the plenary Conference as a whole of the position of the United States. Permit me to repeat that on August 5, 1924, I sent a letter to the Secretary General of the Conference directing attention to the scope of the Dawes report and stating the interest of the United States in the distribution of the payments

under the Dawes plan. Accordingly I insisted on behalf of my Government that it should have the right to participate in the proposed Conference of Finance Ministers which was to meet for the purpose of discussing the allocation of the payments to be made by Germany. (Proceedings of the London Reparation Conference, page 126, No. 29.)⁵

On August 12, 1924, I further explained in the plenary session of the Conference the American position.6 The London Conference acted on the Dawes plan with full knowledge of the American claims

and the inclusive provisions of the Dawes report.

My Government does not consider it open to question that the Dawes report contemplated that the funds in the hands of the Agent General should be charged with all the claims against Germany, including the claims of the United States. This report was accepted by Germany and by all the Allied Governments by the final Protocol of the London Conference. It seems hardly necessary to discuss the functions of the Dawes Committee as their report was thus acted upon by the Powers directly and, having been adopted by a protocol signed by the Allied Powers, must be deemed to be as binding as the Treaty of Versailles itself. If any question had been open under the Treaty of Versailles with respect to the participation of the United States in payments made by Germany, and it is the opinion of my Government that there was not, it was competent for the Powers to provide for that participation; and this provision was

(5) In view of the facts that I have stated, my Government is unable to understand the expression of surprise in Your Excellency's note at the claim of the United States to share in the payments under the Dawes plan. Nor does my Government find itself to be debarred, by any action it has taken, from the right of such partici-

pation pari passu with the other interested Powers.

I observe Your Excellency's reference to the Conference at Spa in 1920. My Government did not participate in that Conference and it may again be remarked that it was not competent for the Allied Powers to affect the just claims of the United States without its consent. This, it is believed, was clearly understood. On August 5, 1920, Mr. Boyden caused to be inserted in the minutes of the Reparation Commission a statement referring to the Spa arrangements that these decisions to which the United States is not a party, do not affect the position of the United States'. At the meeting on September 10, 1920, the Reparation Commission in referring to the Spa agreement adopted a resolution which was intended to express the view that that agreement was not regarded as being in force with respect to those Powers which were not signatories.

(6) The Treaty between the United States and Germany came into force in November, 1921. Germany accepted responsibility for the same categories of claims of the United States as those which were recognized in the case of the Powers ratifying the Treaty of Versailles. In August, 1922, an agreement was made between the United States and Germany for the establishment of an arbitral commission which should pass upon the claims of the United States.

⁶ Ibid., p. 70.

⁵ Great Britain, Cmd. 2270, Miscellaneous No. 17 (1924), p. 196.

In negotiating that agreement my Government notified Germany that it would not present claims of the sort described in subdivisions 5, 6, and 7 of Annex I of Part VIII of the Treaty of Versailles, including pensions, assistance to prisoners of war, their families and dependents, and allowances to families and dependents of mobilized persons, et cetera. My Government is informed that the claims of these last mentioned categories submitted by the Allied Powers amounted to very large sums. Had my Government pressed claims of these categories its total claims would have been vastly increased.

While my Government did not urge these claims for general reparations which were described in the Treaty of Versailles as 'damage caused to the peoples of the Allied and Associated Powers', my Government did arrange in the agreement with Germany, to which I have referred, for the determination of its just claims for actual injuries to persons and property and debts. And these claims my Government has had no intention of relinquishing. In the speech of the Secretary of State of the United States at New Haven in December, 1922, to which Your Excellency alludes, the Secretary of State did not intend to forego, and did not forego, the right of the United States to enforce such claims against Germany. ence in that speech, as its language shows, was to 'general reparations', the claims for which as already stated my Government was not pressing, and not to the classes of claims which were then in process of adjudication under the agreement which the Secretary of State had already negotiated. The United States was not proceeding to the adjudication of its claims under this agreement as a mere matter of form, and when the Dawes plan was developed to provide for all the payments within the capacity of Germany, my Government appropriately directed attention to its claims and asserted its right of participation.

(7) I have dwelt upon the legal questions raised by Your Excellency's note, but in doing so I have no desire to lessen the emphasis upon the clear equity involved, as my Government does not understand that this equity is disputed. By reason of its relation to the war the United States, certainly as a matter of justice, is entitled to receive payment of its claims pari passu with the other Powers associated in the common victory. By its voluntary action in not pressing large categories of claims for general reparations, my Government has greatly limited, to the benefit of the Allied Powers, the extent of its participation in Germany's payments. My Government is unable to conceive that there would be any disposition on the part of His Majesty's Government to contest the equity of its participation in such payments to cover the limited classes of claims for which the United States seeks recovery.

(8) The amount of my Government's claim for the costs of the American army of occupation has already been stated with very close approximation. As the claims against Germany for injuries to persons and property and debts are in course of adjudication, it is impossible at this time to give a final statement of their amount, but it is estimated that they will be in the neighborhood of \$350,000,000.

With respect to Your Excellency's suggestion as to the reduction of claims by reduction past or prospective of German payments' I may say that my Government has already reduced its claims by

eliminating pensions, allowances, et cetera, as I have already stated, and there is not perceived to be any occasion for a reduction in respect to the limited classes of claims for which the United States

seeks participation.

I have noted Your Excellency's inquiry as to German assets which have come into the hands of my Government and in this relation I must call attention to the provisions of Article 297 of the Treaty of Versailles which give to each Government perfect freedom in dealing with such property. Each Government may take the property and apply the same on Germany's obligations or it may not; in other words each Power is left free to dispose of such property in accordance with its laws and regulations. It is understood that some, if not all, of the Allied Powers have released at least a part of such property. Only in the event of the retention of such property or its proceeds by the Allied or Associated Powers is the amount of the proceeds or the value of such property to be credited against its claims. My Government is entitled to the same freedom of choice in its disposition of German property as that enjoyed by the Allied Powers. The disposition of the property in question is subject to the control of the Congress of the United States but my Government of course intends with respect to such property or proceeds as may be finally retained to give appropriate credit upon its claims.

finally retained to give appropriate credit upon its claims.

(9) My Government has not failed to observe with gratification the expression of the desire of His Majesty's Government to give full and friendly consideration to its position in this matter and has instructed me to assure Your Excellency that while it must insist upon its legal and equitable right to participate in the payments by Germany under the Dawes plan, it has no wish to be oppressive. As it has already indicated, the Government of the United States is ready to make a fair arrangement as to the annual extent of its participation. And my Government will be glad to enter into a dis-

cussion of the details of such an arrangement.

Accept, Excellency, et cetera."

[Paraphrase]

2. Telegraph at once if you desire to suggest changes in the note.

3. Repeat to Logan as no. 447, L-164, with request that he similarly telegraph as above, advising you.

4. If no changes are proposed please present note. You may prefer, however, to await Chamberlain's return.

HUGHES

462.00 R 296/762: Telegram

The Secretary of State to the Ambassador in Japan (Bancroft)

Washington, December 14, 1924-4 p. m.

209. Department informed by Logan, who will represent the United States at Paris Financial Conference meeting January 6, that Japanese Delegate to preliminary Expert Committee in Paris has confidentially advised him under instructions from Tokyo that

following cursory examination of the subject Japanese Government sees no reason why American position regarding participation in Dawes Plan annuities should not be supported. The delegate requested that this support be considered tentative and confidential for the time being, since the question is still being studied by his Government from the legal viewpoint.

The following summary of the Department's views and of the general situation is furnished you for discreet use in case a favorable opportunity offers for the discussion of the question with the

Japanese Foreign Office.

United States believes that it is legally and equitably entitled to participation in the Dawes Plan annuities for the satisfaction not only of its army cost claim but also of the awards of the Mixed Claims Commission on account of American claims against Germany. The Belgian, French, and Italian Governments have indicated that they will support the American position on equitable grounds, and it now is hoped that the Japanese Government may also give its support.

[Here follows a summary of the British memorandum of December 3, transmitted in telegram no. 509, December 4, from the Ambassador in Great Britain, printed on page 96; and a summary of the American reply of December 9, transmitted in the Department's telegram no. 457, December 9, supra.]

HUGHES

462.00 R 296/775: Telegram

The Ambassador in France (Herrick) to the Secretary of State

Paris, December 19, 1924—7 p. m. [Received December 20—9:32 a. m.⁷]

585. [Paraphrase.] L-285, from Logan. As the Finance Ministers' conference approaches I need the Department's definite instructions on certain questions. I realize that the trend of the negotiations may result in the shifting of our position on some points and that many details may have to be adjusted by exchange of cables as the conference progresses, but I do not want to be placed in position of delaying conference unduly and of not being able to announce our position on questions of fundamental principles at time when it is opportune to declare it. I believe that I am aware of Department's general position, as it has been stated from time to time, but nevertheless in order to be sure that new developments have not altered that position I put the following questions:

^{&#}x27;Telegram in five sections.

1. Is the Department ready to waive all payments for Army costs or other claims during first two years, providing that a satisfactory arrangement is made for future years?

[Suggested] answer: Yes, if necessary, but it is desirable to obtain percentage on account of Army costs on any cash which might be transferred during second year. Percentage might be fixed at 20 percent of cash transferred with understanding that the United States would demand at most not more than 30 million gold marks.

2. What percentages for Army costs or for other claims, or both, would Department seek in any capital sums that may be realized in addition to annuities because of sale of industrial or railway bonds? Would percentages be on sliding scale in accordance with proportion between amount of bonds sold in the United States and those sold elsewhere?

Suggested answer: Out of a capital payment on account of Army costs and other claims, the United States will ask for each claim a sum which is proportionate to amount to which it would be entitled if these capital receipts were annuities instead of being capital receipts; and in addition, to satisfy claims besides Army costs, United States will desire 10 percent extra if one-half bond issue were floated in the United States with sliding scale of 1 percent additional for each 5 percent over one-half floated in the United States. Concretely, if the loan were \$100,000,000 and the percentage of the United States on its reparation claims were 5 percent and \$70,000,-000 of the loan were placed in the United States we should ask: (a) 50-60 million gold marks for Army costs; (b) \$4,000,000 (5 percent on an assumed balance, after priorities, of \$80,000,000); and (c) \$14,000,000 as a recognition of our special contribution to loan. Will the Department be good enough to indicate its views on this general suggestion? In forthcoming arrangements we must be ready to formulate our claims against capital receipts, as it is very probable some of the bonds will be floated in next two or three vears.

- 3. Is the Department agreeable to the suggestion that we should ask for annual lump sum of 50 or 60 million gold marks for our Army costs to be paid by priority from cash transferred? Will figure be 50 or 60?
- 4. As part of the foregoing proposal there is coupled with it question whether Department is willing as far as its other claims are concerned to accept fixed percentage which will be operative on net balance remaining after all priorities have been deducted from annuities, and from which United States will be paid pari passu with Allies. [End paraphrase.]

Concretely it appears that we shall require around 4 to 5 percent of sums remaining after priorities are deducted in order to secure a sum which added to a flat annuity of 50 million for Army costs would bring a grand total of 125,000,000 gold marks per annum in standard year. In answering this question I request Department particularly to consider the effect of expression pari passu. It means that we would merely have a credit in reichsmarks in the hands of Agent General and that it would then be up to us as it is to the other Allies to find ways and means of getting these funds out of Germany. Is Department willing to accept such a reichsmarks credit? Although it is perhaps unnecessary to decide finally now how we would use such a credit nevertheless likely that Allies will make general inquiries because of repercussion of our system on their own modes of utilizing their funds which are now being worked out. Two suggestions are the following:

(a) Congress might authorize proceeds of enemy property in the United States to be paid in dollars to recipients of Mixed Claims awards, German Government in turn issuing bonds in marks. These bonds to be given German owners of the German property so liquidated. The United States then assigning to the Germans for the service of these bonds the reichsmarks accruing to its account with the Agent General.

[Paraphrase.] On this solution Hill is hesitant. Owen Young and Gilbert have favored this arrangement and my own view inclines overwhelmingly to it.

(b) The reichsmarks might be allowed to remain on deposit in Berlin, and by some arrangement with the Federal Reserve Bank the Government could perhaps sell them to American merchants or bankers who have obligations to meet in Germany or elsewhere in reichsmarks. The merchants and bankers have to buy reichsmarks from someone and they might as well buy indirectly from the United States. This is a matter of banking machinery, but would in large measure assimilate our position to that of deliveries in kind.

The Department probably has additional solutions to offer, and I should like to have an expression of its views.

5. The British and the French in their adjustment of the Belgian debt question under article 232 of the Treaty of Versailles and Germany's liability for this debt are proceeding on theory that the right of the United States can be disregarded, probably on ground that we have not waived our claim against Belgium and accepted Germany's liability for it. There are two possible positions: The first is for us to insist on receiving a percentage of the annuity for satisfaction of the Belgian debt just as the British and the French proposed to do (with Belgium's agreement) and that that percentage be proportionate to amount of our debt and the amount of British and French debts, and that that proportion be separate from and in addition to other claims against the annuities. I am aware that this

may have the objection of linking our debt claims with the reparation problem, but it seems to me that appropriate reservations could at least safeguard our position. The other solution is for us to insist that Belgium receive the amount which we would receive if we were to claim it. Reason for this would be that Belgium owes us money, and that if Belgium instead of Germany is going to pay us, as was the real intent of the treaty, then Belgium ought to receive compensation from the German annuities. I should like to be informed which of these alternatives the Department wishes me to take, or if neither, what other suggestion the Department has to offer. This question of the Belgian debt will be among the questions early discussed and it is indispensable that I receive instructions without delay.

- 6. Am I to understand clearly that the United States is willing to abrogate the agreement of May 25, 1923, entirely and to incorporate new mode of payment of Army costs in any new instrument which may be drawn up by the Finance Ministers' conference, or is it our Government's position that the agreement of May 25 is merely to be held in abeyance? It is my opinion that the Allies will insist on agreement's definitive abrogation and on the acceptance of a new scheme.
- 7. Is my understanding correct that if we accept a flat annuity and percentage it will not be necessary to state formally in any instrument that will be drawn up that we assert claim to interest on either Army costs or other claims? In my view it is preferable not to speak of interest, and if interest must be covered to try to cover it by increasing our percentage demands.
- 8. If the United States does ultimately give credit to Germany for ships or other property, how, in practice, would the credit be given; i. e., against current annuities or on capital claims, with result that the number of annuities would be reduced? I suggest that latter position be taken.

The Department will aid me greatly by giving specific answers promptly to these eight questions. Logan. [End paraphrase.]

HERRICK

462.00 R 296/779: Telegram

The Ambassador in France (Herrick) to the Secretary of State

Paris, December 22, 1924—1 p. m.

[Received 1:45 p. m.]

590. Have received note dated December 20 from Minister for Foreign Affairs, translation of which reads as follows:

"It was decided at London the 12th of last August that soon after the closing of that conference the Conference of Ministers of Finance would take place in Paris: (1) to settle the question of the repartition of payments received from Germany since January 1st, 1923, including the net proceeds received by France, Belgium, and Italy since the 11th of January 1923, as well as the question of the repartition of payments from Germany since the effective assuming of his functions by the agent of reparation payments during the first years of the functioning of the Dawes Plan; (2) to make the arrangements provided for in article I of financial arrangement [agreement] of March [11], 1922 for the years 1922 and 1923. Decisions on this point will be communicated by the conference to the Reparation Commission for the making up of current accounts.

As you know a committee of experts has been appointed to prepare the work of this conference. This committee of experts which has worked in Paris since October 27th is about to end its work and the French Government can now fix Tuesday, January 6th, as the date for the meeting of the Finance Ministers arranged for by the

London Conference."

Copy to Logan.

HERRICK

462.00 R 296/783: Telegram

The Ambassador in Japan (Bancroft) to the Secretary of State

Токуо, *December 23*, 1924—6 р. т. [Received December 24—6:45 a. m.]

342. Referring to your telegram 209, December 14, 4 p.m. In a conversation with Foreign Minister last evening he said their representatives at Paris had been instructed to approve in principle the American claim if all the other powers agree; that since my former conversation he had heard from London that British were willing to consent to our claim for occupation expenses and were willing to discuss our claim for damages on three conditions: (1) amount of our claim should be stated, (2) our claim should be reduced in the proportion in which the signatories of Versailles Treaty reduced their claims, (3) the value of German property in our custody should be credited on our claim. I answered that the question related only to our claims for damages and that your position as originally stated was that the alien property fund was to be deducted from that claim. That the British proposal was hardly reasonable, that we should give to the other powers the benefit of our alien property fund as a condition to our sharing in the reparations and our Government certainly would not consider it. If, however, our claim for the balance left after crediting the alien property fund were allowed by all the other powers our Government would be willing to stand any fair reduction proportionately to reductions made by the other powers on their similar claims. I said further that I understood Japan agreed with all the other powers except Great Britain, that on equi-

table grounds there was no reason to question our claim. The Minister answered: "Yes, I am only desirous of considering the legal basis of your claim and when I receive the lawyers opinion I will let you know."

BANCROFT

462.00 R 296/775: Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

Washington, December 24, 1924—1 p.m.

480. L-175, for Logan. Your L-285, December 19, 7 p. m. Your questions are answered *seriatim* as follows:

(1) Yes, if necessary; but it is desirable, as you suggest, to obtain participation in cash payments. The provisions of the Dawes Plan in regard to expending most of annuities the first two years in Germany are not strictly in accord, it is true, with the procedure looked to at time of agreement of May 25, 1923, and of course you appreciate desirability of not making further concessions in matter than are absolutely necessary, especially as terms of the agreement are on a basis most generous to the Allies. In regard to suggested figure of 20 percent, the Department points out that paragraphs V and VIII of article 2 of agreement of May 25 provide for limitation in certain circumstances to 25 percent and 50 percent, respectively, Should a proposal be made by Allied representatives to introduce a figure of 20 percent or a limitation of 30 million gold marks, the Department would, however, consider matter if you believed a concession on this point to be desirable.

If the Allied Governments receive external payments during the first two years, there does not seem to be any good reason why the United States should not also receive external payments in respect to Army costs and other claims. You will bear in mind, in this connection, that it may also be possible, as indicated in (a) under your question 4, to arrange to utilize enemy property, compensating the owners in German currency; see Department's telegram L-80, June 14, 1924, paragraph (9). You may be able to find formula broad enough to cover this point.

You will also bear in mind, of course, that the funds already turned over by Belgium should be retained. As these and any other similar payments correspond to period 1923–1924 before Dawes Plan became operative, they should not be thought of as first payment in respect to installments covering period since September 1, 1924.

⁸ Ante, p. 18.

- 2. The Department agrees that in principle the percentage of capital payments should be same as if these receipts were annuities; it also agrees that arrangements along lines you suggest, for increased participation in event of flotation of a certain proportion of issues in the United States, would be highly advantageous. The percentages might be applied to gross proceeds realized from these loans rather than to amounts offered, as these might not be fully subscribed.
- 3. The Department believes it to be highly advantageous to ask for 60 million gold marks, but you may accept 50 million, if absolutely necessary, which would liquidate the Army costs claim in 20 years. In regard to priorities, the Army costs should rank after the service of the 1924 German loan and may rank after the costs of the Reparation Commission and other agencies of control. Up to 1927 they may rank after the cash applied to Allied current Army costs as looked to in the agreement of May 25, 1923, if you can not now make a more favorable arrangement. Please refer, in this connection, to your L-278 and 279, which indicate that French and Belgians have proposed extensive schemes of priorities. These priorities (except for exceptions just stated) should not outrank American Army costs, and when framing of drafts takes place, it would be advantageous to have priority provision for our Army costs included. As for our other claims, the Department also sees no reason why such items as restitution and clearing payments or the Belgian war debt should rank ahead of rather than pari passu with these other American claims.
- 4. The answer is "yes", but as stated above it will be necessary carefully to examine the priorities desired by other Governments. The priorities will, of course, have significance only in event that full payments looked to should not be deposited by Germany or not be transferred. Principle governing priorities has been stated above and in previous instructions. Should it turn out that certain sums deposited in Germany should not be deemed transferable, the Department would not, of course, seek any privileged position with respect to transfer, except that for Army costs, which have a recognized priority under agreement of May 25, priority of transfer should be accorded if necessary. The suggested figure of 125,000,000 gold marks would be quite satisfactory, as this would, presumably, pay off both the Army costs and other claims within about 20 years.

You will be instructed later on your alternative suggestions (a) and (b).

Neither printed.

- 5. The Department will send separate cable in regard to the Belgian debt.
- 6. The Department is prepared to abrogate the agreement of May 25, 1923, provided a satisfactory new agreement is concluded, and you may so state. Obviously the Department's position would be strengthened were France to ratify the agreement.
 - 7. The Department believes it preferable not to refer to interest.
- 8. Credit for enemy property including ships, if finally retained, should be given on the capital claim for damages, that is to say, not for Army costs.

Give Ambassador Kellogg a copy of your L-285 and of this telegram.

HUGHES

462.00 R 296/780: Telegram

The Secretary of State to the Ambassador in Great Britain (Kellogg)

[Paraphrase]

Washington, December 24, 1924—4 p.m.

482. Should the British continue to maintain their present unexpectedly hostile attitude toward our participation in the Dawes Plan annuities in respect to American claims except Army costs and should matter accordingly have to be threshed out at Paris Conference, it may be desirable for you to go to Paris at commencement of conference and be there during a part, at least, of its sessions, both because of your services at the London Conference and your special familiarity with the legal questions involved, and because of your having already discussed matter with the British. As you are aware, the President and I attach greatest importance to these negotiations and to having American rights suitably recognized. I am sure that Ambassador Herrick and Mr. Logan would under these circumstances fully appreciate situation and would understand that your going to Paris did not in any way reflect upon them.

HUGHES

462.00 R 296/783: Telegram

The Secretary of State to the Ambassador in Great Britain (Kellogg)

[Paraphrase]

Washington, December 24, 1924—7 p.m.

483. Telegram received today from Ambassador Bancroft indicating that he, not having understood our position in regard to

alien property, has inadvertently made incorrect statements to Japanese Foreign Office in carrying out Department's instructions to him of December 14 to enlist Japanese support for our position on claims. It appears that impression may have been given Japanese Government that Government of the United States is prepared to apply alien property fund against our claims, and some statement has also been made regarding reduction in American claims.

I am cabling our position fully to the Ambassador and am instructing him to correct at once any misapprehension that may have been created. He has also been instructed to ascertain whether Foreign Office has telegraphed his statements to Japanese Missions in Europe and, if it has, to endeavor to correct any misunderstanding at once. I have pointed out serious embarrassment which might arise in London or Paris were our position on these points to be misunderstood.

I do not see that you need take any action unless it appears that our position has been incorrectly communicated to Japanese Missions in Europe or to other Governments, or unless you think it advisable, should you have suitable opportunity, to make plain in informal way our position to your Japanese colleague, but not referring to situation just described. Repeat to Logan as Department's L-176.

HUGHES

462.00 R 296/785 : Telegram

The Secretary of State to the Ambassador in Great Britain (Kellogg)

[Paraphrase]

Washington, December 26, 1924-5 p. m.

485. Ambassador Bancroft telegraphed today that our position has been made clear to Japanese Foreign Minister, that latter has not sent any communication on subject since the conversation on which Department's no. 483, December 24, was based, nor has he made any communication to Great Britain in the matter.

It also appears that the Japanese Government raises no question as to equity of our claims, but that it is still examining the legal situation.

Repeat to Logan as Department's L-178.

HUGHES

462.00 R 296/793: Telegram

The Ambassador in France (Herrick) to the Secretary of State
[Extract]

Paris, December 29, 1924—noon. [Received 2:39 p. m.]

606. L-291 [from Logan].

1. During conversation on December 22 with Leith-Ross, British representative experts' committee, latter stated that he had not been advised by his Government of the full text of the "Memorandum dealing with the question of American participation in the payments to be made by Germany under the Dawes Plan", dated November 15, which Kellogg handed Chamberlain, on and particularly he had not been formally advised of any willingness on our part to reduce the Wadsworth Agreement annuities provided our other claims position was recognized. Therefore on December 22 I wrote him a letter wherein I simply referred to our conversation [omission?] "For your convenience therefore I quote the following excerpt from the memorandum handed Mr. Chamberlain by Mr. Kellogg on November 15 [19] last."

My quotation from the November 15 memorandum was an extract of about half the last paragraph of that memorandum starting with the words "It is the desire of the United States to facilitate in every way the settlement of the reparation question, etc." and finishing with the words "The Army costs are of course a prior charge." I concluded my letter with the statement that "I trust that in accordance with your statement that the foregoing will be of assistance in reaching an early solution of the question at issue."

2. Under date of December 23 I received the following letter from Leith-Ross:

"I have to thank you for your letter of the 22nd instant calling attention to the passage in the memorandum left with Mr. Chamberlain by the United States Ambassador on the 15th November last in which it is stated that 'The United States are willing to recast the Army Costs Agreement and to make an extension of time of payment provided a reasonable percentage of the money paid into the bank for reparations is also allowed on its general claims'.

In order that the precise import of this passage may be made clear I should be glad to know whether I am right in understanding that the intention of the United States delegation is to claim that: (a) the United States Army costs arrears should be met by an annuity spread over 24 years from the 1st January 1923, which would be a prior claim charge on future cash receipts and which would amount

¹⁰ Ante, p. 85.

to from 45 to 50 million gold marks per annum; (b) the other claim would be met by an annuity not exceeding 40 to 50 million gold marks per annum expressed at a percentage of the Dawes annuity, i. e. as the annual payments in the normal year are fixed at 2½ milliards the percentage required would not exceed 2 percent. These payments would not be entitled to any priority and would be transferred pari passu with the reparation shares of the Allied Powers.

If you can confirm definitely that the above corresponds with your intentions I shall be happy to communicate this information to the

proper quarter."

3. Subject to Department's approval I propose to hand the following informal memorandum to Mr. Leith-Ross:

[Here follows draft of memorandum. The memorandum as presented to Mr. Leith-Ross on January 3, 1925, is printed post, page 132.]

HERRICK

462.00 R 296/789: Telegram

The Secretary of State to the Ambassador in France (Herrick)

Washington, December 30, 1924-7 p.m.

492. Your 590, December 22, 1 p. m. and L-290, December 27, 10 a. m.¹¹

Please show following to Logan and if he concurs deliver to Foreign Office in reply to note regarding meeting of Finance Ministers.

"I have the honor to acknowledge the receipt of Your Excellency's note of December 20, 1924, informing me that your Government has fixed the date of January 6, 1925, for the meeting of Finance Ministers which is to be held to settle among other things the question of the allocation of the payments received from Germany since January 1, 1923, and during the first years of the operation of the Dawes plan.

In this latter connection I have been instructed to state that it is the belief of my Government that it would be highly desirable from the point of view of stability and certainty if the decisions to be reached by the meeting in question regarding the allocation of the contemplated annuities should cover as many years as possible rather than be restricted in their application to the first years

of the operation of the plan.

The date of January 6, 1925,¹² is entirely agreeable to the Government of the United States and as you have already been advised my Government has taken appropriate steps to be represented at the meeting which has now been called for that date."

HUGHES

¹¹ Latter not printed.

¹² The date was changed later to Jan. 7, 1925.

462.00 R 296/803 : Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

London, December 31, 1924—4 p. m. Received December 31—2:27 p. m.¹³

546. Following note just received from Austen Chamberlain: 14

"The most careful consideration has been given by His Majesty's Government to the additional arguments contained in the note which Your Excellency was so good as to address to me on the 10th December, relative to the claim of the United States Government to participate in respect of claims for damages to persons and property in the payments to be made by Germany under the Dawes Plan.

2. The United States Government believe their claim to be well founded in law. His Majesty's Government to their regret are unable to find in Your Excellency's note under reference any arguments in support of this contention more convincing to them than those previously advanced, and are unable, with the best will in the

world, to modify their previous opinion.
3. As His Majesty's Government understand it, the United States Government base their claim on the treaty of August 25th, 1921, between the United States and Germany, the wording of section XI of the Dawes report and the acceptance of that report by the London Conference.

4. With regard to the treaty of August 25th, 1921, the view of His Majesty's Government is expressed in my note of 3rd December. The arguments advanced by Your Excellency seem designed not so much to contest the legal soundness of the view taken by His Majesty's Government as to demonstrate the inequity of a strict application of that view, having regard to the wording of the Armistice Agreement of November 11th, 1918, and of article 231 of the Treaty of Versailles. I venture to think that this part of Your Excellency's note is based on a misapprehension which I feel it is my duty to The British contention is not 'that one or more of the Allied and Associated Powers could properly make a separate agreement by which that power or powers would be entitled not simply to recover upon its own claims but to provide for the deprivation of cobelligerent states of satisfaction or remedy,' nor that it is open to powers who negotiated an earlier treaty lawfully to deprive third parties of their rights. When more powers than one have claims against the same state it would no doubt be contrary, if not to established rules of international law, at any rate to the commonly accepted understanding of international intercourse, for a creditor power to conclude without the assent of other powers similarly situated, or without giving those powers an opportunity of equal advantage, a treaty with a debtor state which would have the effect of depriving the debtor of the capacity of making similar provision for the claims of the other creditors; though on the other hand, it must not be

¹⁸ Telegram in seven sections.

The British note was dated Dec. 29, 1924; verbal inaccuracies and faulty punctuation due to telegraphic transmission have been corrected from text printed in American War Claims Against Germany, p. 59.

forgotten that it has been recognized that powers which take active steps in accordance with international law for recovery of a debt may obtain a preference over other creditors—'vigilantibus non dormientibus subvenit aequitas'. But the Treaty of Versailles was not a separate treaty made by one power with the aim or effect of getting an exclusive advantage. That treaty was negotiated on behalf of the United States and 26 other Allied and Associated Powers, all of whom, except China, signed it. The treaty gave to the powers who accepted it certain rights and imposed certain burdens on them. And powers which signed but did not ratify the treaty clearly forewent those rights and escaped those burdens of their own voluntary choice.

5. I readily admit that it would have been inequitable for the European Allies to have concluded a treaty with Germany reserving to themselves an exclusive charge on German assets without giving to their American copartners in victory an opportunity to be a party to that treaty, and to share in the payments to be made by Germany thereunder. But that is the very opposite of the actual position. The European Allies were, as is well-known, exceedingly desirous that the United States Government should be a party to the treaty and not only was the treaty framed in a form which explicitly included the United States, but it was actually signed by their representative, though to the regret of the European Allies, the United States Government did not subsequently proceed to ratification. The standpoint of His Majesty's Government is then merely this, that all the belligerents who opposed Germany having concluded a treaty with her in common, one of their number cannot, on refusal to ratify the treaty, legally claim its benefits; that they cannot in equity claim to share those benefits without sharing in the obligations imposed by that instrument; and that Germany having by that treaty made certain hypothecations or assignments of her assets to meet the claims of the belligerents with whom she was contracting, had no power except in agreement with the latter subsequently to give to a state which decided not to ratify that treaty, any charge in contradiction with her previous undertaking.

6. The view of His Majesty's Government regarding the effect of the wording of the Dawes report has already been stated in my note of December 3rd. Without wishing to enter into any controversy concerning the interpretation of section XI of the Dawes report, His Majesty's Government remain of opinion that the Dawes committee had no power or competence to pronounce on or prejudge the question of the allocation of the annuities prescribed in their report; and that they did not in fact make any such pronouncement. Further, if the Dawes committee intended by their report to express an opinion upon this matter which was totally alien to their terms of reference, the decision of the Allied Powers at the London Conference to adopt the Dawes Plan would not, without further and fuller provision, have involved the indorsement by the Allies of any incidental opinion so expressed. So emphatic a change in international treaty rights could not have been made sub silentio and

without a formal and specific provision to that effect.

7. Your Excellency states that your Government did take occasion to cause attention to be drawn to the claims of the United States. His

Majesty's Government assume that this is a reference to Your Excellency's letter of August 5th, 1924, to the London Conference. They have been unable to trace any earlier communication from your Government on the subject to the Governments concerned, and having regard to the testimony given by General Dawes in the introduction to his report to the complete independence of the members of the Dawes committee, it would seem clear that no formal intimation could have been made to them. As regards the London Conference the allocation of the annuities was in fact a matter with which the conference not only did not concern itself but which it expressly reserved for consideration by a later meeting of Finance Ministers, the British delegation making it perfectly clear at the time that, by so referring the matter, they were not committing themselves to acceptance of the United States claim. I may remind Your Excellency that at the plenary session of the 12th August to which you refer Mr. Snowden, then Chancellor of the Exchequer and a delegate of Great Britain, said on this very matter 'It must be distinctly understood from the British point of view that we do not accept the interpretation that the United States Ambassador has put upon the report' and he added that the United States Government had 'made a treaty of their own with Germany. Therefore the United States cannot be regarded as being in the same position as the Allied Powers in regard to the disposal of the reparation payments under the Dawes agreement'. It would therefore be incorrect to say that the United States claim was admitted at the London Conference or that 'provision was made' for it.

8. If I have dwelt for a moment on that part of Your Excellency's note which deals with the past intentions of the United States Government to make claims against Germany, it is only in order to avoid future misunderstandings and to show that those intentions were unknown to or not understood by His Majesty's Government. No doubt the Spa Conference of 1920 could not deprive the United States Government of any existing rights. But the inference to be drawn from Mr. Boyden's declaration to the Reparation Commission on August 5th, 1920, clearly is that the United States intended to claim the reimbursement costs of occupation rather than to make a claim for reparation. This point will be evident if the whole of the declaration made by Mr. Boyden is read, and a copy is therefore attached to this

note for convenience of reference.16

¹⁵ Great Britain, Cmd. 2270, Miscellaneous No. 17 (1924), p. 78.
¹⁶ The text of Mr. Boyden's statement as transmitted in telegram no. 1507, Aug. 5, 1920, from the Chargé in France (Foreign Relations, 1920, vol. II, p. 417) reads as follows: "In view of the arrangements between the Powers concerned as to the priority to be afforded their advances under the terms of the Spa protocol, the United States Unofficial Delegate makes no protest or reserve, merely pointing out that the [these] decisions to which the United States is not a party do not [affect] the position of the United States. With respect to the course [costs] of the United States army of occupation he adds that the United States obviously understands and expects that it will be reimbursed in cash for the actual cost and that it will be notified at once if its army is not wanted on these terms. In this connection he refers to the letter from the American Delegation to the O[rganization] C[ommittee,] R[eparation] C[ommission], dated November 28, 1919, with its accompanying memorandum."

I also enclose a copy of the resolution of the Reparation Commission of September 10th, 1920,17 the concluding words of which are understood to refer to Germany, Jugoslavia, Roumania and Greece, and not to the United States. It is to be observed that Mr. Boyden's statement was made, and the Reparation Commission resolution passed, after the United States Senate had refused in March 1920 to ratify the Treaty of Versailles. The declaration on the 5th August in effect was that the United States unofficial delegate made no protest or reservation in view of the arrangement between the powers concerned as to the priority to be afforded to the advances which, under the terms of the Spa protocol, they were to make to Germany in order to facilitate the delivery of coal. Mr. Boyden pointed out 'that these decisions' (that is the decisions as to the priority of coal advances) 'to which the United States is not a party do not affect the position of the United States,' and he added a statement as to the understanding of the United States that it would be reimbursed for the costs of the United States Army of Occupation—an understanding which the British Government has never sought in any way to put in doubt. In any case 'these decisions' had nothing to do with any share in reparation percentages.

The reference to the American note of November 28, 1919,18 which the United States unofficial delegate added to his reservation emphasized the point that what was then referred to was the question of these Army costs; that note had reference to those costs and nothing but those costs. Similarly, it would appear from the minutes of the Reparation Commission of September 10th, 1920, that the resolution of the commission of that date to which allusion is made in the American note, had reference to the reservation of 'the rights and interests of other powers signatory to the respective treaties which were not parties' to the Spa Agreement of July 16th, 1920. The debate in the commission had reference solely to the rights of Germany and those of the minor powers (Greece, Roumania, Jugoslavia) which had not at that time accepted the Spa Agreement. The resolution of the commission, when it speaks of 'other powers signatory to the respective treaties' certainly did not refer to the United States. As the United States Senate had at that date rejected the treaty the signature of the President of the United States to that

The text of the resolution as printed in S. Doc. 173, 69th Cong., 2d sess., p. 65, reads as follows: "The Reparation Commission takes note of the Agreement arrived at between the Governments of Belgium, France, Great Britain, Italy, Japan and Portugal at Spa, on the 16th July, 1920, with regard to the distribution of receipts from Germany, Austria, Hungary and Bulgaria, under the reparation provisions of the Treaties of Versailles, St. Germain, Trianon, and Neuilly, methods of valuation for the purposes of the accounts as between those governments and procedure in connection with the settlement of such accounts and it will cause the necessary steps to be taken to give effect thereto, due regard being paid to the rights and interests of other powers signatory to the respective treaties which are not parties to the above-mentioned agreement."

For variant texts of the resolution, see Foreign Relations, 1920, vol. 11, pp. 432, 439.

18 Not printed; the note contained a memorandum regarding costs of the

American Army of Occupation submitted to the Supreme Council by Mr. Henry White and placed on record with the Reparation Commission by Mr. Albert Rathbone, American unofficial representative on the Reparation Commission.

treaty could not be considered to be any longer effective and the United States could no longer properly be termed a 'signatory' power.

9. I have felt it necessary to state once more in some detail the legal position as it appears to His Majesty's Government only because the United States Government have themselves given prominence to the legal aspect of the matter. His Majesty's Government do not however desire to take their stand merely on legal points,

and I therefore turn to the consideration of equity.

10. Your Excellency was good enough in your note of the 10th, December to give an estimate of the United States claims at \$350,000,000. It is known that these claims included not merely (1) claims for damages while the United States was actually at war with Germany, but also (2) claims in respect of pre-war debts, and (3) claims in respect of damages suffered by United States citizens before the United States was a belligerent. Your Excellency does not state in what proportion the total of \$350,000,000 is divisible between these three heads. It appears however to His Majesty's Government to be of the first importance to know this proportion. The United States, they understand, desire to be treated pari passu with the Allies enjoying rights under the Treaty of Versailles. Under that treaty, however, claims under heads (2) and (3) are not recoverable as part of the Dawes annuities. Under the specific provisions of part X of the treaty, claims for payment of debts unpaid owing to the war and claims growing out of acts committed by the German Government or any German authority between July 31st, 1914, and the moment when the particular power concerned entered the war against Germany, are chargeable and only chargeable against German property sequestrated in the country of which the claimant is a national. His Majesty's Government assume that the United States Government do not propose that these claims should not be treated by the United States Government in like manner as all similar claims under the treaty, and that they will be met from German property in the United States hands. Any other method would result in giving the United States a privileged position over other claimants on Germany, a position which His Majesty's Government are loath to believe that the United States Government desire to claim. That the United States Government themselves recognize the bearing of this consideration upon their contention is shown by the assurance given at the end of the 8th paragraph of Your Excellency's note, that they of course intend, with respect to such (German) property or proceeds as may be finally retained, to give appropriate credit upon their claims.

11. Reparation claims comprise damage to civilians and their property done by military action in a wide sense. Claims which are permissible under this head are described in detail in annex I to part

VIII of the Treaty of Versailles.

12. According to the Treaty of Versailles the assessment of the reparation claims of the Allies is the exclusive business of the Reparation Commission which is not merely an 'exclusive collecting agency' as the United States Government appear to suppose, but on the contrary is a general controlling agency set up by the treaty with jurisdiction over all the reparation claims of the powers contracting with Germany so as to ensure fairness and impartiality. If therefore the United States Government are to be admitted to a

share in the Dawes annuities, they will doubtless accept the view that such of their claims as may fall within annex I to part VIII of the Treaty of Versailles should, in equity, be fixed by the Reparation Commission in accordance with the rules on which all other reparation claims have been assessed. His Majesty's Government do not suppose that the United States Government wish to claim the benefit of the Treaty of Versailles without its obligations, or to deprive the Allied Powers of a guarantee that the American reparation claims against Germany possess the same measure of validity and have been adjusted on the same principles as the Allied claims already admitted or to be admitted.

13. The view of the United States Government seems to be that there is no occasion for a reduction in respect to the limited classes of claims for which the United States seeks participation in the Dawes annuities. Even if limited to claims which would in the case of a party to the Versailles Treaty be admissible as reparations this view appears to His Majesty's Government to be based upon a complete misapprehension, and on the hypothesis that the payments made under the Dawes Plan will suffice to satisfy in full the claims of the Allies for material damage. But this is not the case. The Dawes annuities, added to the sums already paid by Germany, will in fact not suffice to meet one-third of the assessed claims of the Allies, viz. 132 milliard gold marks. The United States Government refer in this connection to the attitude they have taken in not claiming payment for war pensions and separation allowances. It is certainly true that the action of the United States Government in this matter, had they remained parties to the treaty, would have had the effect of increasing the share of the other signatory powers just as the action of the British Government in accepting the French scale of pensions and separation allowances greatly increased the shares of the other Allies. But such decisions when once formally taken are not subject to revocation and His Majesty's Government cannot conceive that the United States Government, having granted this concession to Germany, now desire to withdraw it as against the Allies.

14. In fact, however, the claim submitted by the United States Government goes considerably beyond a mere request that their claim for damages should be met in like manner as the similar claims of the Allies. Future German payments will be insufficient by a wide margin to meet the Allied claims, so that the United States Government, if their claim were to be met in full, would be obtaining a substantially higher share of German payments than would have been due to them had they ratified the Treaty of Versailles. Even were the American general contention on the score of equity to be admitted, the most that the United States could ask for would be a percentage of the annuities based on a comparison of their total claim for reparations, when assessed, with the claims of the Allies.

15. Further it would be only equitable that the United States should account in the same way as Great Britain has accounted for the German ships detained by her. It will be recalled that the late President Wilson, while reserving the assent of Congress, accepted in May 1919 the agreement under which the excess value of ships so retained would be paid over to the Reparation Commission for the

credit of Germany. This agreement expressly stated that the United States did not claim to take over these ships without payment. And yet the actual situation is that whilst Great Britain under the ton-for-ton agreement retained 30 percent of her war losses in tonnage, the United States has received 164 percent of her tonnage losses.

16. His Majesty's Government in all these circumstances find it difficult to regard the United States Government's claim as at present formulated as good in equity, any more than they are prepared to recognize it as just in law, and they sincerely regret that no specific proposal has been made by the United States Government for

an amicable settlement of the matter in dispute.

17. Although the problem with which this note attempts to deal is difficult and complicated, I feel convinced that with the good will on both sides which I am sure exists, it ought to be possible to come to a fair arrangement satisfactory to both our Governments. It seems hardly possible, however, that the Allied Finance Ministers will be able to deal adequately with the question in Paris in the limited time at their disposal having regard to the urgency of decisions on general questions of distribution necessary for the success of the Dawes Plan. His Majesty's Government therefore suggest that the best and most expeditious method of reaching a solution would be to submit the whole question to some body of impartial and independent persons mutually acceptable, such as a joint commission of three neutral persons to be nominated by the President of the Permanent Court at The Hague, which could review all the circumstances from the broadest points of view and come to equitable decisions on the various questions of fact and principle involved. If this suggestion were to commend itself to the United States Government His Majesty's Government would lose no time in seeking the concurrence of their allies so that the actual constitution and terms of reference of such a commission might be determined".

Annexes mentioned not transmitted since you must have them in the Department.

Kellogg

462.00 R 296/802 : Telegram

The Secretary of State to the Ambassador in Great Britain (Kellogg)

[Paraphrase]

Washington, December 31, 1924-7 p. m.

495. I shall answer the British note as soon as possible.²⁰ Under the circumstances I desire you to go to Paris to attend the Finance Ministers' conference, for we cannot consider allowing question to rest, and we should meet the British at Paris and show our readi-

¹⁹ Foreign Relations, 1920, vol. II, p. 512. ²⁰ See telegram no. 546, Dec. 31, from the Ambassador in Great Britain, supra.

ness for full discussion and insistence on our rights. To do this can hardly fail to strengthen our position while to acquiesce in delay would seem to aid British plan of shelving discussion. We should make opposition of the British as inconvenient for them as possible—being ready, at the same time, to reach an amicable adjustment on a reasonable basis. To accomplish results desired your presence in Paris seems to be absolutely necessary. If deemed advisable there is no objection to having Logan and Herrick associated with you. Department is informing both Ambassador Herrick and Logan.²¹

HUGHES

462.00 R 296/814: Telegram

The Ambassador in France (Herrick) to the Secretary of State

Paris, January 3, 1925—11 a.m.

[Received 2:43 p. m.]

7. Your 3, January 2, 6 p. m.^{21a} Note accepting invitation to finance conference was delivered on December 31st in form telegraphed in Department's 492, December 30, 7 p. m.

HERRICK

462.00 R 296/816: Telegram

The Ambassador in France (Herrick) to the Secretary of State
[Paraphrase]

Paris, January 3, 1925—5 p. m. [Received 11:20 p. m.]

11. L-301, from Logan. I doubt whether Bradbury ²² had seen final text of British note, ²³ though I am satisfied that he knew the general nature as the context indicates that it was drafted largely by Leith-Ross and Fisher Williams of Bradbury's staff. Bradbury's comment, expressed somewhat cynically, was (1) that the Army Costs Agreement of May 25, 1923, was extremely difficult for the Allies in that it would absorb all the foreign exchange that transfer committee would probably be able to accumulate in the next 10 years, a longer time, in his opinion, "than Dawes Plan would last"; (2) that our willingness to extend period of the Army Costs Agreement and thereby to reduce the annual cash priority in exchange for recognition

 $^{^{21}}$ Similar instructions sent Dec. 31 to Ambassador Herrick and to Logan (file nos. 462.00~R~296/807~a,~b) . 21a Not printed.

 ²² Sir John Bradbury, British representative on the Reparation Commission.
 ²³ See telegram no. 546, Dec. 31, from the Ambassador in Great Britain, p. 119.

of our claims position carrying with it only reichmark [payment?] was too good a business arrangement to be ignored, and that this was the only basis of his support and the reason why the British Treasury officials had taken more kindly to our importunities.

Kellogg agrees to the presentation of the memorandum ²⁴ and in modified form it was handed in my name today to Leith-Ross in London by the Embassy. I presumed that this action was approved by the Department; I had felt some embarrassment from the fact that we had not previously presented some definite scheme of settlement. Logan.

HERRICK

462.00 R 296/803: Telegram

The Secretary of State to the Ambassador in Great Britain (Kellogg)

Washington, January 3, 1925—7 p.m.

9. Please make the following reply to note contained in your No. 546, December 31, 4 p. m.:

"My Government has instructed me to make reply to Your Excellency's note of December 29, 1924, in relation to the participation of the United States in the payments to be made by Germany under the Dawes Plan.

My Government must express its disappointment at the tenor of Your Excellency's communication, which is the more surprising in the light of the American contribution to insure the establishment of the Dawes Plan and thus to afford a basis for recoveries from Germany instead of a hopeless strife, and of the readiness of my Government, which I have heretofore stated, to make an arrangement whereby the total annual payments to the United States for army costs and claims will not much exceed if at all the annual payments necessary to fulfill the present Army Cost Agreement. I may also observe, in relation to the matter of army costs, that while the American Army of Occupation was maintained at the request of the Allied Powers and with the clear right on the part of the United States to reimbursement under the Armistice Agreement, to say nothing of the provisions of the Treaty of Versailles, it was not until May, 1923, and after a prolonged negotiation that the United States was able to obtain an arrangement for its reimbursement. And then, in deference to the exigencies of the Allied Powers, my Government extended the time for the payment of these costs over a period of twelve years, without interest except with respect to arrears after 1927 of the promised annual installments. Notwithstanding the right of the United States to be paid its army costs on the same footing as the Allied Powers, the latter, including His Majesty's Government, took for themselves the funds available for this purpose. Thus, by the arrangement of 1922 between the Allied Powers, Great

²⁴ See telegram 606, Dec. 29, 1924, from the Ambassador in France, p. 117. For text of memorandum of Jan. 3, 1925, see p. 132.

Britain received 500 million gold marks in cash to apply on her army costs which had accrued prior to May 1, 1921. And, as I have said, this was taken with definite notice of the claim of my Government which, however, for all practical purposes, was ignored. I have no desire to review the course of the later negotiations which were due to the insistence of the United States that its right and equity should be respected or to the difficulties raised by His Majesty's Government in the course of the negotiations which finally resulted in the Army Cost Agreement of May 25, 1923, but I think it but fair that the forbearance of the United States in this matter and the fact that its appropriate reimbursement was withheld and finally extended by agreement over a period of years should receive appropriate consideration in determining its general equity.

I find no question raised in Your Excellency's communication as to the all-embracing character of the payments contemplated by the Dawes Plan, which by its terms are to 'comprise all amounts for which Germany may be liable to the Allied and Associated Powers for the costs arising out of the war, including reparation, restitution, all costs of all armies of occupation', et cetera. I have not failed to note that Your Excellency insists that the Dawes committee had no power or competence to deal with the allocation of the annuities prescribed. It was not my purpose to contend that this committee had the power of allocation, but they certainly had the authority, and it was appropriate for them, in making the recommendation as to the extent of the payments to be made by Germany, to state that they made their calculations on the basis that these payments would include all the amounts for which Germany may be liable to the Allied and Associated Powers, obviously including the United States. The question raised by Your Excellency as to the allocation of the Dawes annuities would thus appear to mean nothing else than that the United States should be denied a share in the contemplated payments by Germany to apply upon the just claims of the United States, although these payments are all that Germany will be able to make. In the view of my Government, the allocation of the payments is a matter of plain justice when it appears that the determination of the amount of the payments has been thus based.

My Government believes that important progress has been made in reaching a basis of agreement when it is found, as Your Excellency states, that it is not the British contention 'that one or more of the Allied and Associated Powers could properly make a separate agreement by which that Power or Powers would be entitled not simply to recover upon its own claims but to provide for the deprivation of co-belligerent states of satisfaction or remedy, nor that it is open to Powers who negotiated an earlier treaty lawfully to deprive third parties of their rights'. Yet it could hardly be denied that this would be the effect, if the Allied Powers under the Treaty of Versailles were to obtain a first and exclusive lien in their favor upon all the assets and revenues of Germany and thus leave the United States without any recourse to such assets for the satisfaction of its claims. My Government is unable to perceive the cogency of the reasoning by which it is admitted that it was not open to Powers who negotiate an earlier treaty lawfully to deprive third parties of their rights and yet it is attempted to assert that effect for the Treaty of Versailles. The argument appears to

be that the United States was compelled to ratify the Treaty of Versailles in order to retain its rights; or that the Allied Powers could accomplish the result of securing all the assets of Germany for their exclusive benefit by inviting the United States to join in a treaty containing unacceptable terms. The question is not one of assuming obligations under a treaty relative to the benefits it confers. is safe to assume that the Allied Powers would not have made any treaty which failed to recognize the obligations of Germany for just claims of the classes put forward by the United States. Germany's responsibility for these claims antedated the Treaty and the Allied Powers were not in a position, as my Government views it, to attempt to secure an exclusive charge upon all the assets of Germany for such claims by insisting that the United States should join in obligations or commitments not necessary to the enforcement of such claims separately considered but assumed for other purposes. If the Allied Powers were not in a position to make a treaty with Germany to deprive the United States of its rights, these Powers could not demand that the United States in order to safeguard these rights should join in a treaty upon terms satisfactory to them but not satisfactory to the United States.

It is unnecessary to consider the fact that the Treaty of Versailles was signed by representatives of the United States, for that Treaty by its terms was subject to ratification, and the Allied Powers were bound, in the case of the United States, to take note of the constitutional conditions of ratification. The Treaty itself contemplated the failure of ratification by the Powers whose representatives had signed it and it provided that it should become effective, as between the ratifying Powers, when it had been ratified by Germany and

three of the Principal Allied and Associated Powers.

I must repeat that my Government is unable to reach any other conclusion than that the Allied Powers have no right in law or equity to take for their own benefit all the payments that Germany can make and deny participation to the United States for its proper claims. In this view, it is hardly necessary to consider the question of the effect of the various reservations heretofore made as to the rights of the United States. It cannot be said that the United States has released its rights. The question is not as to payments heretofore made but as to participation in payments to be made in the future under the Dawes Plan. It was my purpose in my previous communication to point out that the Dawes Plan contemplated payments which comprised all the amounts for which Germany may be liable to the United States as well as to the Allied Powers and that the Allied Powers adopted the plan at the London Conference with knowledge of this explicit provision and with full notice of the claims of the United States. I do not find in Your Excellency's note anything in contravention of that statement.

It is noted that Your Excellency admits that 'the Spa Conference of 1920 could not deprive the United States Government of any existing rights'. This being so, the question of reservations made in behalf of the United States with respect to the arrangements made at that Conference is not important. But my Government is unable to take the limited view of these reservations that Your Excellency suggests. Mr. Boyden's statement to the Reparation

Commission on August 5, 1920,²⁵ was specifically that the decisions at Spa to which the United States was not a party did 'not affect the position of the United States.' This was plainly as much so in one particular as in another. And it is not deemed to be open to argument that if these decisions did not affect the position of the United States as to army costs they would affect it in other respects. The sufficient answer is that they did not affect the rights of the United States at all, and Mr. Boyden so stated. With respect to the resolution of the Reparation Commission of September 10, 1920,²⁶ it appears from the minutes to which Your Excellency directs attention that Sir John Bradbury, in discussing the resolution drafted by him, made the following statement:

'The intention of the formula was in fact to indicate that the Spa arrangement would be binding on those Powers which had signed it as regarded their relations with each other, but would have no force with regard to those Powers which were not signatories.'

And the Chairman of the Commission stated that

'it was clearly understood that if the Reparation Commission perceived that the application of one of the clauses of the Spa Arrangement was calculated to injure the rights and interests of the Powers which had not signed the Arrangement, this clause would not be carried out.'

My Government concludes that not only was it beyond the competency of the Powers in their arrangements at Spa to affect the rights of the United States, but it was clearly stated in the meetings of the Commission that this was well understood by the Powers and had not been their intention.

Apart from the question of the legal rights of the United States, my Government does not believe that its equity with respect to all the classes of its claims under consideration can successfully be con-With respect to the method of adjudication which has been adopted in relation to these claims, it may be said that my Government does not recognize the competency of the Allied Powers to constitute the Reparation Commission as an exclusive adjudicating agency. The comparison in equity, as it appears to my Government, should be with respect to the substantial justice of the method adopted. The claims of the United States are in process of determination by a Mixed Claims Commission constituted by agreement with Germany and in which Germany is represented. These claims have been subjected to a rigorous examination, to which the awards abundantly testify, and the United States does not shrink from a comparison of this method of adjudication with that adopted by the Reparation Commission in fixing the total of 132 milliards of gold marks as the amount to be paid by way of reparation to the Allied

In relation to particular categories of claims presented by the United States, it may be said that the item of pre-war debts is a relatively small one, embracing, it is believed, not more than 10 percent of the total amount of the claims of the United States in question, that is, irrespective of army costs. In this connection it may be observed that under the Treaty of Versailles an optional

See footnote 16, p. 121.
 See footnote 17, p. 122.

provision was made for what are called 'clearing house' payments by which balances of debts owing by German nationals to nationals of the Allied Powers have been discharged. It is understood that about 600 million gold marks have been paid through this method to nationals of the Allied Powers of which Great Britain has received for its nationals considerably more than one-half.

This method, however, as I have said, was optional under the Treaty and those Powers who did not avail themselves of it could resort to an arbitral tribunal. A tribunal for this purpose has been set up under agreement between the United States and Germany and in asking appropriate allowance for the debts thus adjudicated my Government is unable to see that it is seeking to take any

improper advantage of the Allied Powers.

As to the category of claims for damages to persons and property sustained before the United States was at war with Germany, there can hardly be a question that these constitute claims which the United States is entitled to enforce against Germany and that the Allied Powers by their Treaty with Germany are not entitled to deprive the United States of its rights of recourse. The Treaty of Versailles in permitting the resort to sequestered private property for the payment of such claims did not provide an exclusive remedy and it may be repeated that in the view of my Government it was not competent for the Allied Powers to insist upon recourse by the United States to such property. In its Treaty with Germany the United States has not forgone its claims of this category and it is believed that their justice is not open to dispute. I have pointed out in my previous note that with respect to sequestered private property the Treaty of Versailles gave an option to retain or to release it, as the Allied and Associated Powers might respectively determine, and I may add, by way of example, that I am advised that the Union of South Africa to a very considerable extent did release or otherwise made provision for the reimbursement to the owners of such property. Referring to your Excellency's observa-tion as to the German ships taken by the United States, I may repeat what I said in my communication of December 10, 1924, 27 that my Government will give appropriate credit upon its claims for such property or proceeds as may be finally retained.

I have not failed to observe Your Excellency's statement that the Dawes annuities added to the sums already paid by Germany would not suffice to meet one-third of the assessed claims of the Allies, that is 132 milliards gold marks. I may say, however, that if the United States had embraced in its claims the categories of pensions, allowances, et cetera, described in paragraphs 5, 6 and 7 of Annex I of Part 8 of the Treaty of Versailles, its claims would have been much more than three times the amount of the American claims in

question.

My Government has at all times been ready to consider an arrangement which would be relatively fair and reasonable. I may repeat what I said in my memorandum under date of November 15th, 1924,28 that it is the desire of the United States to facilitate in every way the settlement of the reparation question and therefore

²⁸ Ante, p. 85.

²⁷ See telegram no. 457, Dec. 9, to the Ambassador in Great Britain, p. 102.

¹⁰⁸⁸⁴⁻Vol. II-39----15

that it is willing to recast the Army Cost Agreement and to make an extension of the time of payments provided a reasonable allowance is made upon its other claims. Thus it would appear to my Government to be practicable, and it would be willing, to make an arrangement (For possible insert here see end of [this] message) by which through a recasting of the Army Cost Agreement for an extended period with appropriate provision for priority as to the reduced annual payments the total amount of the annual payment to be made to the United States for army costs and on account of the claims in question would be substantially equivalent to the annual payment likely to be required under the present Army Cost Agreement. My Government is hopeful that, with good will on both sides, as Your Excellency suggests, a satisfactory arrangement can be reached on these lines.

It is not perceived that it would be necessary or appropriate to resort to arbitration. My Government would be unwilling to overlook the equities involved and notwithstanding its confidence in its legal position would be unwilling to limit itself to a discussion of merely legal questions appropriate to arbitral determination. An equitable arrangement mutually satisfactory should be more readily reached as between two Governments enjoying such friendly relations as happily exist between the United States and Great Britain. My Government believes that a resort to arbitral procedure would simply invite unnecessary delay, and my Government sees no reason why the matter cannot be dealt with adequately at the coming con-

ference."

If Logan's memorandum has been handed to Leith-Ross, and if you see no objection, please insert at point indicated above the following:

("as indicated in Mr. Logan's memorandum recently handed to Mr. Leith-Ross" 29.)

HUGHES

462.00 R 296/866

The American Representative at the Preliminary Meeting of Experts (Logan) to the British Representative (Leith-Ross)²⁰

[London,] January 3, 1925.

Subject to the following observations, our position is that set forth in your letter of December 23, 1924 31:

²⁰ The clause as inserted in the note was made to read as follows: "as indicated in Mr. Logan's memorandum of January 3rd handed to Mr. Leith-Ross."
⁵⁰ Copy transmitted to the Department by the Ambassador in London in his despatch no. 978, Jan. 5, 1925. This memorandum, handed to Mr. Leith-Ross by the Ambassador, Jan. 3, 1925, is substantially the same as the draft (not printed) telegraphed to the Department by Mr. Logan, Dec. 29, 1924, except for slight modifications of the text, chiefly verbal, made by the Department.
⁵¹ See telegram no. 606, Dec. 29, 1924, from the Ambassador in France, p. 117.

- 1. United States Army cost claims: The following statement in your letter under reference is noted:
- (a) "The U. S. Army Costs arrears should be met by an annuity spread over 24 years from the 1st January, 1923, which would be a prior charge on future cash receipts and which would amount to from 45 to 50 million gold Marks per annum."

We are prepared to recast the Wadsworth Agreement, provided the Finance Ministers Conference agrees to accord our Army Costs claims an absolute foreign exchange cash priority annuity of 65 million gold Marks over a period of approximately 19 years from September 1, 1924, the date of the commencement of the first Dawes annuity. The balances which have already accrued to our Army Cost account through payments falling due before the going into effect of the Dawes Report are not to be considered as Annuities, but are to be credited to the capital amount of our Army Cost claims.

The foregoing proposition is advanced solely on the condition that satisfaction is given with respect to other American claims.

As already admitted by all concerned, our Army Cost annuities have a priority immediately after the cash priorities incident to the service of the recent 800 million gold Marks loan and after such limited amounts of foreign exchange as may be necessary to meet the cost of the Reparation Commission including the Dawes organizations, the Inter-Allied Rhineland High Commission and the Military Control Commissions, and immediately before any other priorities. This priority and the provision that any arrears after 1927 shall bear interest will, of course, be maintained. As the amount of foreign exchange available during the first one or two years of the operation of the Dawes Plan will in all probability be limited, which might possibly mean that the United States would not receive in these two years the full annuities in respect of the American Army Costs, it is felt that the figure of 65 million is fair and reasonable.

- 2. Other American claims: With respect to other American claims, the following statement in your letter is noted:
- (b) "The other claims would be met by an annuity not exceeding 40 to 50 million gold Marks per annum, expressed as a percentage of the Dawes annuity, i. e., as the annual payments in the normal year are fixed at 2½ milliards, the percentage required would not exceed 2%. These payments would not be entitled to any priority and would be transferred pari passu with the reparation shares of the Allied Powers."

You are quite correct in your statement that we do not ask any priority in payment of these claims over the so-called "Reparation"

claims of the Allies. We do, however, expect to participate in the annuities on as favorable a basis as that accorded the Allied Powers.

Our claims, other than Army Costs, are, as you know, in the neighborhood of 350 million dollars. In respect of these claims, it is intended that they should be met by an annual payment of about 60 million gold Marks per annum, expressed as a percentage of the net Dawes Annuities after allowing for priorities. The exact percentages cannot, of course, be determined at this time, in view of the unsettled position of the various priorities. It naturally follows that any decision reached relating to priorities must be in agreement with the United States, and, in addition, we must be in a position similarly to consider any foreign exchange priorities that may be accorded.

- 3. Belgian War debt: We are naturally interested in any arrangement made for payments on account of the Belgian War Debt. In the absence of definite instructions from Washington, this point must be reserved for later.
- 4. Remarks: The fact must not be overlooked that under the Wadsworth Agreement we are entitled to the benefit of 21 million dollars (i. e., approximately 88 million gold marks) per annum during a period of 12 years from January 1, 1923. Attention is also invited to the fact that any arrears in the payments during the first four years of the currency of the Wadsworth Agreement, must be made good in the last 8 years. As such arrears have actually occurred and as they probably will reoccur in the next one or two years, we would be entitled from January 1, 1927, to a total annual amount in respect of Army Costs of between 30 and 32 million dollars (i. e., between 126 and 134 million gold marks). In view of this latter situation it will be noted that the amount requisite for payment of all our claims under the Dawes Annuities, as outlined above, would be less annually than the amounts provided for under the Wadsworth Agreement for our Army Costs alone, although extended over a longer period of time. Furthermore, (so far as the Dawes Annuities are concerned), we would not claim an absolute priority for the total of these annuities as is the case of the annuities payable under the Wadsworth Agreement, but only a priority for the portion received in respect of Army Costs. fore, in its entirety, and vis a vis the payments which we would otherwise be entitled to under the Wadsworth Agreement, we consider the foregoing entirely fair and in fact a liberal concession in deference to the Allies.

APPOINTMENT OF AN AMERICAN AS AGENT GENERAL FOR REPARA-TION PAYMENTS UNDER THE DAWES PLAN

462.00 R 296/384: Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

Paris, June 25, 1924—7 p. m. [Received June 26—4:15 p. m.³³]

313. L-179, from Logan.

- (1) The American Embassy in London has telephoned that full report of the results of the Herriot-MacDonald conversations were cabled to you and that I shall have a copy tomorrow; after seeing it I shall cable my further recommendations.
- (2) In a confidential conversation on the set-up of the personnel of controls provided for in the experts' report, Bradbury 34 stated that the present British attitude is that the Agent General is to be an American; he intimated that the city of London is pushing Dwight Morrow. At risk of being misunderstood I venture nevertheless to suggest that an eminent banker, especially from Wall Street, is not the best choice for the post, if present political psychology in Europe with strong socialist and anti-capitalist trend be taken There is already a not inconsiderable attack, into consideration. only partly veiled, on the experts' plan on general ground that it represents capitalistic dictation of Wall Street and city of London. This criticism would be crystallized and confirmed by banker's appointment from Great Britain or the United States. Poincaré has been particularly outspoken about such influences. I fully appreciate Morrow's special and undoubted equipment for the job, and the effect that his appointment might have on the flotation of a loan in the United States.

It is, however, a question whether even these advantages are not counterbalanced by risk of future trouble not merely in Germany but also in the Allied countries where socialistic tendencies are quick to attack anything which has a semblance of capitalistic domination. The plan will be difficult enough to work out without any handicaps of this nature. I feel confident that the Department will appreciate that I am endeavoring to express a wholly impersonal view, that Morrow is a personal friend and that the objects of my remarks are best interests of the plan and of American unofficial participation therein as I see them. . . .

⁸³ Telegram in two sections.

³⁴ Sir John Bradbury, British representative on the Reparation Commission.

From what I gather from talking with Bradbury, the designation of the Agent General would practically be arranged in London within the coming week and the other appointments would follow shortly thereafter. Logan.

HERRICK

462.00 R 296/384: Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

Washington, June 29, 1924—4 p. m.

207. L-92, for Logan. Referring to last paragraph your L-179, June 25, 7 p. m., Owen Young has cabled to Kindersley 35 as follows: 36

"Hope my suggestion of selecting all personnel at one time after plan is accepted may be adopted and I will come over if that will help. Most important that name should emerge from discussions between Germans, French, English and other allies as their unanimous choice. If you agree can you see that Paris and Berlin avoid personnel discussion for the present. Please answer fully. Young."

HUGHES

462.00 R 296/393: Telegram

The Ambassador in Paris (Herrick) to the Secretary of State

[Extract]

Paris, July 2, 1924-7 p.m. [Received July 3—3:50 a. m.⁸⁷]

324. L-185 [from Logan].

(1) Reference my L-179,38 Department's L-92.39 Barthou 40 called unofficial and confidential meeting commission delegates his office this morning. Stated purpose of meeting was to discuss choice of individuals and nationality for principal offices control personnel contemplated by Dawes report. It developed during meeting that there was unanimous desire, with Governments also agreeing, for appointment of an American as Agent General. Barthou predicated French agreement to American Agent General and all other appointments on condition that French national, agreeable to French

³⁵ Sir Robert Molesworth Kindersley, British member of the first committee of experts.

³⁶ Quotation not paraphrased. ⁸⁷ Telegram in three sections.

Ante, p. 135.
 Supra.

Louis Barthou, French representative on the Reparation Commission.

Government, receive office Railway Commissioner. Previous arrangement that such office not within gift of commission but by "appointment by a majority vote of the foreign members of the board of directors" of the railways. Barthou said the French Government does not want any other of the principal positions under plan for its nationals but that before accepting other nationals to offices within gift of commission would require assurances of other Governments through delegates on commission of their support of Frenchman's nomination by the board of directors of the railways to the post of Railway Commissioner. Bradbury said this support would be forthcoming from British provided Leverve were nominated, to which Barthou replied that Leverve would be the French nominee. The Italian and Belgian delegates intimated that their Governments were ready to support Leverve and that the necessary assurances for such appointment would be forthcoming at an early date. . . .

(5) [Paraphrase.] Referring particularly to Department's L-92, I am satisfied that discussion and decision on personnel, except Morrow and Leverve, can be postponed until after July 15, and in this way Morrow will be given the opportunity he will need of practically passing on the persons for the other principal posts within limits only of agreed program of personnel. Logan. [End paraphrase.]

HERRICK

462.00 R 296/393: Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

Washington, July 3, 1924—4 p.m.

213. L-94, for Logan. Your L-185, July 2, 7 p.m. Morrow finds it impossible, for personal reasons, to consider appointment, and his name will be withdrawn from consideration. The present prospect is that Owen Young will be willing to accept appointment, under certain conditions, for a definite time. Question of appointment should be held in abeyance until London Conference, when whole situation will be discussed. Owen Young sails July 5 on the Leviathan. During the conference in London I do not desire that there be any announcement with respect to appointment of an American Agent, although for your information and discreet use I may say that this Government has no objection to such an appointment.

Department wishes you to arrange to be in London when Young arrives.

HUGHES

462.00 R 296/504: Telegram

The Secretary of State to President Coolidge 41

Washington, August 16, 1924.

Kellogg telegraphs that Norman 42 and Lamont 43 now intend suggesting Gilbert, recently Under Secretary of Treasury, for Agent General. Young feels that this is excellent suggestion but in view of his own commitment does not wish to change position without approval here. If you approve I shall telegraph Kellogg that there is no objection here to this appointment provided the suggestion comes in the proper way from the Governments represented on the Reparation Commission and has the approval of Germany.

Kellogg states that the above is strictly confidential and desires earliest possible reply.

HUGHES

462.00 R 296/511 : Telegram

The Secretary of State to the Ambassador in Great Britain (Kellogg)

[Paraphrase]

Washington, August 17, 1924—noon.

302. Following has been received from the President: "I would prefer Young but entirely satisfied with Gilbert." Of course it is understood that suggestion should come in the proper way from Governments represented on Reparation Commission and should have approval of Germany.

Permit me once more to express my hearty congratulations on outcome of conference at London 44 and very important service you have rendered. Please convey to Logan my deep appreciation of his invaluable work.

HUGHES

⁴¹ At Ludlow, Vt.

⁴² Montagu Norman, Governor of the Bank of England.

⁴³ Thomas W. Lamont, member of the banking firm of J. P. Morgan & Co., New York City.
44 See pp. 24-55 passim.

462.00 R 296/512: Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

[Paraphrase]

London, August 18, 1924-noon.

[Received August 18—8:10 a.m.]

354. I think Young should accept position of Agent General even if he has to retire within a few months. There is no opposition from any Government to him, and he will be of the greatest use in starting the plan. I believe he will be satisfactory to all the financial interests.

Kellogg

462.00 R 296/512: Telegram

The Secretary of State to the Ambassador in Great Britain (Kellogg)

[Paraphrase]

Washington, August 18, 1924-1 p.m.

305. I am in entire accord with your point of view. I think Owen Young's appointment is highly desirable if it can be effected.

HUGHES

462.00 R 296/522: Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

[Paraphrase]

London, August 19, 1924—1 p.m.

[Received August 19—8:38 a.m.]

359. Young canceled his sailing reservations for tomorrow. He will go to Paris and work out plan of reparations as Agent General. I think that it will be arranged to carry out your original program for his temporary appointment to start the Dawes Plan in operation. He hopes that arrangement as to permanent Agent General may be reached as soon as possible.

Kellogg

462.00 R 296/567: Telegram

The Chargé in France (Whitehouse) to the Secretary of State

Paris, September 3, 1924-5 p.m.

[Received September 3—2:09 p.m.]

399. L-217. Gilbert's formal appointment as Agent General for reparation payments announced by Reparation Commission 4 o'clock this afternoon. Logan.

WHITEHOUSE

PAYMENT BY BELGIUM OT THE UNITED STATES ON ACCOUNT OF THE COSTS OF THE AMERICAN ARMY OF OCCUPATION IN GERMANY

462.00 R 294/365: Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

Paris, May 13, 1924—3 p.m. [Received 7:15 p.m.⁴⁵]

255. L-161, from Logan. The Belgian representative on the Reparation Commission has approached me on the following matter:

(1) The sum of approximately 100,000,000 gold marks is on deposit at Coblenz as the net product of the Ruhr occupation obtained jointly by Belgium and France. France is agreeable to handing this sum over to Belgium directly for application on Belgian priority, deeming it to be reparation money.

(2) To avoid at this important juncture raising difficult questions of the legality of the Ruhr occupation and Belgian accounting for Ruhr army costs, etc., both Belgium and France prefer not to put this money through the Reparation Commission in the regular course. Bradbury 46 thinks it highly desirable to avoid raising issues such as these at present and does not object to the proposed disposition of funds.

(3) Belgian representative states it is feeling of Prime Minister Theunis that in fact and in equity even if not technically the payment does constitute a cash reparation payment and thereby falls within intent of language of Army Costs Agreement.⁴⁷

(4) In spite of fact that Army Costs Agreement has not been ratified, Belgian representative says that his Government, following broad policy outlined in Bemelmans' letter of November 22, 1923, which I forwarded to Department in December, 1923, feels bound morally to put aside 25 percent of amount it receives in a blocked or special account which will be available to Government of the United States in part payment of American Army costs if and when Army Costs Agreement is ratified.

(5) I do not see any objection, under the circumstances, to our Government's accepting special agreement, and I feel that the possible chance of our getting several million dollars should not be lost. We shall not be entangled indirectly in Ruhr controversy because funds would not be specifically set aside for us as Ruhr proceeds, but

⁴⁵ Telegram in three sections.

48 Not printed.

Sir John Bradbury, British representative on the Reparation Commission.
 Foreign Relations, 1923, vol. II, p. 180.

instead would be merely a cash reparation settlement received from Germany by Belgium without regard to the immediate source.

(6) I suggest that the Department authorize me to communicate with the Belgian representative in terms substantially as follows (if place of deposit or method of withdrawal is unsatisfactory, a change in either instance would readily be made): 49

"I have not failed to communicate to my Government the generous proposal which you have made that 25 percent of a cash sum of approximately 100 million gold marks which the Belgian Government expects shortly to receive upon the reparation account of Germany should be set aside in some special or blocked account for the ultimate benefit of the United States in view of the fact that by the terms of the pending agreement relative to the reimbursement of the costs of the American Army of Occupation to which Belgium is a signatory, the United States would be entitled to 25 percent of the cash reparation receipts subject to certain modifications which are not material for the present purposes. It is understood that although the agreement is not yet effective, the Belgian Government is ready to set aside 25 percent of the sum in question for payment to the United States as soon as the agreement shall have been ratified.

I have the honor to advise last [you?] that the Government of the United States accepts the proposal which you have made and appreciates the liberal attitude of the Belgian Government in spontaneously suggesting this action. My Government will be pleased should the Belgian Government see fit to carry its suggestion into effect by causing the Banque Nationale de Belgique to open a special account in the Federal Reserve Bank of New York to be known as the 'American Army costs account' into which shall be deposited in dollars the proper proportion of the cash reparation payments now under consideration and withdrawals from which shall be made upon the order of the Treasurer of the United States if and when the agreement relative to the reimbursement of the costs of the American Army of Occupation is ratified and pending such ratification shall be effected only by a specific decision of the Reparations Commission in each case.

Accept, etc., etc."

(7) The method set forth above of creating deposits follows line taken with respect to relinquishment of all cash payments subject to requirements of Reparation Commission in regular course. To introduce Reparation Commission as protective medium against the withdrawal of money for purposes besides payment of American Army costs does not involve commission in decision of any question about the Ruhr, for by that time money will have lost entirely its identity as a Ruhr product and will be merely the property of the Belgian Government in dollars which is put aside for the benefit of the Government of the United States upon ratification of the Army

Proposed communication not paraphrased.

Costs Agreement. The Reparation Commission, having in view the fiduciary nature of its prerogative, would not in practice permit withdrawals from account unless it were clear that the Army Costs Agreement was to fail of ratification, and I could always keep an eye upon any proposed decision secured by this account to be made by the commission.

(8) I believe that the creation of deposit will be effective moral force in bringing about ratification of the agreement. Logan.

Copies sent to Great Britain, Italy, and Belgium.

HERRICK

462.00 R 294/365: Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

Washington, May 28, 1924—6 p.m.

171. L-76, for Logan. Your L-161, May 13, 3 p.m. The Department has noted your statement that British member of Reparation Commission does not object to proposed disposition of funds in question which you state will constitute a cash reparation payment by Germany. The Department assumes that the Belgian Government has already obtained or will obtain assent of the other Governments concerned to the special agreement, that is, to the payment of this money directly to Belgium to apply on Belgian priority, and that, furthermore, those Governments having an interest have consented or will consent to the Belgian proposal to set aside 25 percent of the amount in a blocked account for American Army costs to await ratification of the Army Costs Agreement. Of course you will realize that the Government of the United States would not desire to be thought of as expressing any opinion either in regard to the special agreement proposed or to the funds in question.

On the understandings set forth above, the Government of the United States would have no objection were the Belgian Government, in view of Bemelmans' letter of November 22, 1923,50 to set up a special account in favor of American Army costs. You may state this orally to your Belgian colleague in reply to his oral inquiry and you may confirm your statement in writing within the foregoing limits in answering any written proposal by him along lines of his statement to you reported in your telegram of May 13, 3 p.m. Before you make any reply, telegraph text of any communication you receive from him and text of reply you propose to make.

HUGHES

⁵⁰ Not printed.

462.00 R 294/364: Telegram

The Ambassador in France (Herrick) to the Secretary of State
[Paraphrase]

Paris, June 16, 1924—5 p. m. [Received 8:11 p.m.⁵¹]

302. L-175, from Logan.

1. Reference to Department's telegram L-76, May 28, 6 p.m. I am in receipt of the following letter from Gutt, the Belgian assistant delegate on the Reparation Commission, dated June 14, 1924:52

"As I told you the other day, La Comptabilité des Gages at Coblenz is in the possession of certain sums which in ordinary course

should be deposited with the Reparation Commission.

In order that this deposit may not give rise to discussions which everyone agrees are superfluous at this time and inasmuch as it appears certain that the Reparation Commission itself would allocate these sums to the Belgian priority under reserve of such rights as may accrue to the United States under the agreement of May 25, 1923, it has been decided that the sums in question shall be turned over directly to Belgium, Belgium remaining accountable for them to the Reparation Commission and eventually to the United States for the portion which may be payable to it.

In conformity with the letter which Mr. Bemelmans addressed to you on November 22, 1923, the Belgian Government is ready to deposit in a special blocked account 25 per cent of the cash above

referred to.

I shall be obliged to you if you will kindly inform me of the desires of your Government and indicate the manner in which you wish the account to be opened.

Accept, etc."

2. Unless I shall receive instructions to the contrary, I shall reply using language reported in my L-161, May 13, 3 p. m., paragraph 6, except that it now seems likely that the first paragraph will be eliminated entirely and the second paragraph will contain the following clause:⁵⁸

"In acknowledging your courteous letter of June 14, 1924, relative to the pending American Army Cost Agreement and the establishment of a special blocked account into which should be deposited 25 percent of the cash sum which you inform me the Belgian Government is about to receive upon the reparation account of Germany, I have the honor, etc."

3. The Department will observe that Belgian letter states that Belgium will in any event be accountable to Reparation Commission for the funds. Taking into consideration this assurance as well as

Telegram in three sections.

⁵² Quoted letter not paraphrased. ⁵³ Quotation not paraphrased.

the individual informal approval of the delegates to present procedure and also the further fact that under the existing agreements it seems clear that the Belgians are entitled to priority on this payment, I do not see how our Government can be prejudiced by acquiescing in opening of this account. The suggestion made in Department's telegram L-76, May 28, 6 p. m., that the Belgians be requested to obtain advance consent of all interested Governments in opening this special account, is not practicable, for to obtain this formal consent would of necessity bring up very discussion which both Belgians and individual delegates wish wholly to avoid, that is, question of source of the funds. If, as is virtually certain, the Belgians are entitled to this money, it is somewhat anomalous, moreover, for them to ask permission of the other powers to dispose of their own funds in legitimate ways as they deem proper. Furthermore, the French Parliament not yet having ratified the Army Costs Agreement, the new French Government might hesitate to commit itself so definitely before obtaining legislative opinion. For these reasons I suggest that the Department waive this proposed step.

4. If the experts' plan is put into execution, as appears more probable daily, I feel reasonably confident that the Ruhr episode will give rise to no further discussion by the Allies among themselves and that past differences will not be reawakened. The only effect will be that in rearrangement of financial payments for the future, naturally some weight will be given to fact that Belgium has received some proceeds from this source. In the state of feeling here at present, I think that no one would object to allocation of portion of this sum to American Army costs, particularly as this would be helpful to all the Allies by reducing the amount due to us. If we do not accept the Belgian offer or if we bring forward conditions and qualifications to put off acceptance, it is my opinion that we would merely be throwing away the first excellent opportunity we have had to obtain real money. Logan.

HERRICK

462.00 R 294/364 : Telegram

The Secretary of State to the Ambassador in France (Herrick)

Washington, June 24, 1924—5 p. m.

196. L-89, for Logan. Your L-175.54 Department after careful consideration of your suggested reply, desires you to reply as follows to the Belgian letter:

"I beg to acknowledge your courteous letter of June 14 relative to certain sums on deposit with La Comptabilité des Gages which

⁵⁴ Supra.

you state should, in the ordinary course, be deposited with the Reparation Commission. You state that 'In order that this deposit may not give rise to discussions which every one agrees are superfluous at this time and inasmuch as it appears certain that the Reparation Commission itself would allocate these sums to the Belgian priority under reserve of such rights as may accrue to the United States under the agreement of May 25, 1923, it has been decided that the sums in question shall be turned over directly to Belgium, Belgium remaining accountable for them to the Reparation Commission and eventually to the United States for the portion which may be payable to it'. You add that in conformity with the letter which Mr. Bemelmans addressed to me on November 22, 1923, the Belgian Government is ready to deposit in a special blocked account 25 percent of the cash above referred to, and you request to be informed of the desires of my Government in the matter.

My Government, understanding from your letter that the Allied Governments signatories of the Army Cost Agreement are agreeable to the proposed disposition of the funds in question, is prepared to accept the suggestion which you have made concerning the amount which it is proposed to set aside for payment in due course to the credit of the American Army Cost account. My Government will be pleased should the Belgian Government see fit to carry its suggestion into effect by causing a special account to be opened in the Federal Reserve Bank of New York to be known as the 'American Army Costs Account' in which shall be deposited in dollars the proper proportion of the sums in question and withdrawals from which shall be made upon the order of the Treasurer of the United States as soon as the agreement relative to the reimbursement of the costs of the American Army of Occupation becomes effective or prior thereto in accord with the Reparation Commission or the governments signatories of the Army Cost Agreement.["]

HUGHES

462.00 R 294/367: Telegram

The Ambassador in France (Herrick) to the Secretary of State

Paris, July 5, 1924—1 p.m. [Received 3:05 p.m.]

329. L-188 [from Logan].

1. Reference Belgian allocation for Army costs, account of 25 percent of deposit in Caisse des Gages, have just received letter from assistant delegate offering to deposit in proposed special [account] the following sum: 188,199,000 [88,199,000?] French francs; 8,275,000 Belgian francs; 303,000 Swiss francs; 2,900,000 [2,902,000?] florins; 29,000 pounds; 203,000 lire; and \$1,170,000.55

⁵⁵ These figures are incorrect; see last paragraph, Department's telegram no. 225, L–100, *infra*, and Department's telegram no. 207, L–103, p. 147.

- 2. Belgian letter states, however, that it considers that the exchange rate should be computed as of the day currencies were received by Belgium and credited at the same value as they were debited to Belgium. The sums above referred to were received on May 25, June 16 and June 26, three-fourths of the total on the first date and approximately one-eighth on each succeeding date. There was debited to Belgium on May 25, 91,000,000 gold marks, on June 16, 16,000,000 gold marks, on June 29, 20,000,000 gold marks. Total debited 127,000,000 gold marks. Belgium wishes to debit our contingent Army costs account 31,750,000 gold marks in return for the deposit in the special account of all the foreign moneys listed above. Belgian letter points out that they have long been ready to deposit these sums and that therefore they should not suffer any loss because of falling exchange. Also understand that foreign treasuries would like to avoid the extensive effect on exchange of the immediate conversion of the sums mentioned above.
- 3. First request has some plausibility in view of the fact that had we previously accepted Belgian offer sums would have been deposited as received. Perhaps situation could be somewhat reconciled by crediting Belgium as requested but crediting Germany only with dollar values actually received. The request concerning delaying conversion is somewhat inconsistent but suggest that this subject be referred to the Treasury to determine whether there is not some method of exchanging the funds with minimum effect on market.
- 4. Have expressed no views to Belgian authorities on either of foregoing requests and am conducting all subjects relative to this proposed special deposit by correspondence, in instant case [present instance?] merely acknowledging letter and stating that response will be made upon receipt of instructions. Logan.

HERRICK

462.00 R 294/352a: Telegram

The Acting Secretary of State to the Ambassador in France (Herrick)

Washington, July 8, 1924—6 p. m.

225. For Logan: L-100. Your L-188.56

- 1. Department had understood from paragraph 7th your L-161, May 13, and from your draft reply in paragraph 6 that money was being set aside in dollars.
- 2. Department is not aware of any means whereby there could properly be credited against American army cost claim amounts in

⁵⁶ Supra.

excess of the sums actually received in dollars or their equivalent. It appears that question of amounts to be debited to Belgium does not directly concern the United States. Nevertheless, if certain sums are actually set aside for conditional payment to the United States this Government is interested as are Allied Governments in maintaining their dollar value intact, and to this end it is desirable that sums in paper currencies should forthwith be converted to avoid possible loss by depreciation. It is noted, however, that foreign treasuries are understood to wish to avoid immediate conversion because of possible effect on exchange. As a practical means of effecting conversion, Federal Reserve Bank of New York would be prepared to accept blocked account to its credit in local currencies with state banks of various countries, with right to convert to dollars when deemed advisable by it protecting exchange so far as pos-Amount involved should not create much difficulty in exchange, and our interest would be to convert without undue loss. Belgium presumably could be credited with sums set aside at their value when received by Belgium, and when sums ultimately received by our Treasury American Army cost account will be credited with dollar value of currencies at time credited to Federal Reserve Bank. If right to convert to dollars at option Federal Reserve Bank not accorded, credit on American Army cost account can only be given at value of foreign currencies in dollars when received by our Treasury.

If sums credited to Federal Reserve Bank, it should be authorized to invest funds abroad pending conversion, or here after conversion, at risk of United States, awaiting final disposition and interest earned to follow funds.

3. Please repeat figures your first paragraph since figures as received are equivalent at present exchange to about 51,500,000 gold marks, not 31,750,000.

GREW

462.00 R 294/352b: Telegram

The Acting Secretary of State to the Ambassador in Great Britain (Kellogg)

Washington, July 12, 1924—2 p. m.

207. For Logan. L-103. Department's L-100.⁵⁷ Treasury has today received cablegram from Brussels signed bankionale apparently Belgian National Bank, translation as follows:

⁵⁷ Supra.

"Order Belgian Treasury we deposit this day to your account 88,199,252 French francs Bank of France, 203,750 lire Bank of Italy, \$1,170,833 Federal Reserve Bank, New York, 2,902,083 florin Netherlands bank, 303,333 Swiss francs National Bank Berne, 29,278 pounds 10 shillings Bank of England, 8,275,000 with ourselves bankionale".

Department has received no official advices. Please communicate at once with Belgian authorities and report to Department indicating particularly understanding pursuant to which funds are being deposited. Matter is urgent, particularly as Reserve Bank has been tendered above mentioned dollar sum and must keep it in suspense until definite advices received. If you cannot deal with matter at London suggest handling it through Amembassy Brussels.

GREW

462.00 R 294/353: Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

London, July 14, 1924—6 p. m. [Received July 14—2:30 p. m.]

254. L-197 [from Logan].

- 1. Answering Department's L-103.58 Action of Belgian National [Bank] is consequence of Department's L-100, July 8th, substance of which communicated through Belgian assistant delegate.
- 2. Due absence from Paris have just received assistant delegate's reply, dated July 12th, which accepts our conditions concerning conversion and investment of funds and states in pertinent part as follows:

"I note that the United States is agreed that Belgium will be credited with the amount that she will transfer the value to be taken at the time of its receipt by Belgium. I note also the desire of the American Government to be debited on the account of the Armies of Occupation with the value of this currency at the time of its conversion into dollars. My Government is quite disposed to back up this request as far as it is in its power".

3. In my letter to Belgian assistant delegate paraphrasing your L-100 I copied verbatim so much of your cable as read, "Belgium presumably could be credited with sums set aside at their value when received by Belgium; and when sums ultimately received by our Treasury, American Army costs account will be credited with dollar value of currency at time credited to Federal Reserve Bank".

⁵⁸ Supra.

4. Understand that Belgium is accepting all our conditions and that purport of remark about "backing up request" is that she feels that alone is not competent in view of co-interest of the Allies to give a final declaration binding on all concerned as to the amount which should be debited on our Army costs.

5. Under all the circumstances believe money should be accepted in special account and procedure of your L-100 followed with reference to conversion. Logan.

Kellogg

462.00 R 294/353: Telegram

The Acting Secretary of State to the Ambassador in Great Britain (Kellogg)

Washington, July 15, 1924—7 p. m.

213. For Logan. L-104. Your L-197.59

1. Department's L-100 60 suggested deposits to the credit of Federal Reserve Bank, New York, which would hold as third person until agreement effective or until withdrawn prior thereto in accord with Commission or governments, but from cables received it is apparent deposits have been made to the credit of Treasury of the United States. Treasury can hold this as special deposit account but should have the authority to invest and convert into dollars which Department's L-100 suggested for Federal Reserve Bank.

2. Department's L-100 suggested credit on army cost account at dollar value of various currencies when credited abroad to Federal Reserve Bank. Your quotation from reply of Belgian Assistant Delegate mentions value at time of conversion into dollars which would necessarily be later. The latter more favorable to the United States if fully understood by all parties.

3. Department does not understand from your third paragraph L-197 to what extent you informed Belgians of statements contained paragraph 2 Department's L-100, particularly since Belgian reply states "that the United States is agreed that Belgium will be credited with the amount that she will transfer the value to be taken at the time of its receipt by Belgium." As stated paragraph 2 Department's L-100 question of amounts to be debited to Belgium does not directly concern the United States. Subsequent statement that "Belgium could presumably be credited with sums set aside at their value when received by Belgium" was not intended and should

⁵⁹ Supra.

⁶⁰ Ante. p. 146.

not be taken to modify previous proposition that this does not directly concern the United States. Please make clear to Belgians our position. We are not concerned with amounts to be credited to Belgium, but with actual amount to be paid into blocked account for which Treasury will be accountable. Our complete proposition which you should make clear to Belgians is this: The Treasury will accept special blocked account to be held until Army cost agreement effective or until withdrawn prior thereto for the United States in accord with Commission or governments. If funds go to the United States, Treasury will credit to army cost account funds so deposited to its credit in New York and in national banks of various countries at the present dollar value of the currencies at the date of such deposits to its credit; Treasury to have the right to convert foreign currencies into dollars at its option and to invest funds abroad or here; interest earned to follow final disposition of funds. If funds do not go to United States, Treasury would be relieved by pavment of funds in currencies originally credited to it or by payment of dollars for all or part of the funds which may have been converted into dollars plus interest earned, if any.

4. Please telegraph full text of all letters exchanged or that may be exchanged with Belgium on this subject except those already telegraphed.

GREW

462.00 R 294/361 · Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

London, August 8, 1924—4 p. m. [Received August 8—3:55 p. m.]

332. L-203 from Logan.

1. Just received following letter from assistant Belgian delegate:

"I acknowledge your further letter July 29. I observe with pleasure that one of the possible difficulties is adjusted inasmuch as the Treasury of the United States agrees to credit on account of the costs of Armies of Occupation the gold value of the currencies which we turned over to it, such gold value to be calculated at the time of our deposit. I am in accord with you also as to the use which the United States Treasury may make of these funds.

There remains the question of the difference in exchange upon

There remains the question of the difference in exchange upon the first sums which we received, a difference which arose between the time when we received and put these funds at your disposition and the time when you accepted the deposit. You do not put any objection to the suggestion that we should not suffer any loss in

exchange upon these deposits. This is especially logical because in reality we have acted for and on behalf of the Reparation Commission which in ordinary course would have received the total amount of German payments and would have turned over to you 25 percent thereof so that Belgium on this head would not have suffered any

loss or any profit.

The current exchange movements make us hope that no question of loss will in fact arise but we anticipate should there be any loss that the United States will support the Belgian point of view before the Reparation Commission to the effect that the common pool should bear such loss instead of the Belgian Government which is wholly without fault in the matter. On the other hand should the Reparation Commission for any reason consider that the United States should be debited with 25 percent of the funds as of their value when received by Belgium, Belgium would equally support the point of view that the United States should be debited only with what it received and that the common pool should bear the differential."

2. My letter of July 29 called attention to the fact that we were awaiting answer. Hope it will be possible to act on present Belgian letter. Consider last paragraph principally for home use. Should Reparation Commission at any time endeavor to charge us with more than we receive we can always deny its jurisdiction.

KELLOGG

462.00 R 294/361: Telegram

The Secretary of State to the Ambassador in Great Britain (Kellogg)

Washington, August 15, 1924—2 p. m.

298. For Logan. L-112. Your L-203, August 8, 4 p. m. Please inform Belgian Assistant Delegate that the Treasury understands that Belgium has accepted proposition submitted in paragraph 3 of Dept's telegram of July 15 and that the Treasury is acting in accordance with this understanding. In case you feel that a further statement is necessary you may add that the Government of the United States notes that Belgium is in accord with the view that the Government of the United States should be debited only with what it may actually receive, and you may state further that the Government of the United States, as previously indicated, is not directly concerned with the question of amounts to be debited to Belgium by the Reparation Commission, but that this Government sees no objection to the suggestion that Belgium should not suffer any loss by exchange upon these deposits.

HUGHES

CLAIM BY THE UNITED STATES OF THE RIGHT TO BE REIMBURSED OUT OF BULGARIAN REPARATION PAYMENTS FOR COSTS OF THE AMERICAN ARMY OF OCCUPATION IN GERMANY

462.00 R 294/316: Telegram

The Ambassador in France (Herrick) to the Secretary of State

[Paraphrase]

Paris, February 1, 1924-5 p. m. [Received 11:45 p. m.]

54. L-86, from Logan. 61 Reference Department's telegram December 13, 1923, 3 p. m.⁶²

- 1. Am I to understand that if Bulgarian payment is to be credited to reparation account of Germany, I am to claim participation by United States therein under article 2 of Army Costs Agreement? 63
- 2. Personally I hold strongly to the view that if funds are not to be used for cost of Armies of Occupation in Bulgaria or for Bulgarian commissions of control, they must be credited on Bulgarian reparation account; and if they are so credited they must at the same time be credited to Germany's reparation account and so to reduction of the 132 billion gold marks.
- 3. See in this connection paragraph 11, Finance Ministers' Agreement, March 11, 1922,64 which relates to the German C bonds:65 "The Powers receiving payments in cash or in kind from Austria, Hungary and Bulgaria, shall return to the Reparation Commission for cancellation series C bonds of the nominal value of these payments."
- 4. Even if reparation payment made by Bulgaria last October should be used for commissions of control or for Army of Occupation costs, some of the future payments to come from Bulgaria undoubtedly will be applied to reparation. It follows that in any event Department must take definite position on asserting right to participation for our Army costs in Bulgarian payments which are applied to reparations.
- 5. I fear that though the Bulgarian payment is at present in a blocked account, the blockade might be lifted suddenly, and the funds distributed in the customary fashion, and should that happen we would be faced with a fait accompli, which would provide the Allies with a strong tactical position. Past experience demonstrates amply that once cash has been distributed it is almost impossible

os Quoted sentence not paraphrased.

⁶¹ American unofficial representative on the Reparation Commission.

Foreign Relations, 1923, vol. II, p. 190.
 Agreement of May 25, 1923; see *ibid.*, p. 180.
 British and Foreign State Papers, 1922, vol. cxvI, p. 612.

to recover it, but if I have clear instructions ahead of time on Department's attitude, I shall be able to take appropriate conservatory action when the blockade on the payment is lifted, or at any other time that seems most opportune so that our claim will be given full consideration.

6. I do not think the Reparation Commission is competent to interpret the Army Costs Agreement without a mandate from the powers and the United States. The powers might tacitly assent to the action of their delegates. If the delegates oppose claim of our Government, I would reserve all rights. The Department should be prepared on the next step to take, that is, either reference for arbitration to some personage or body, or diplomatic parleys with the Allied Powers. The latter course would, however, doubtless make for delay. Logan.

HERRICK

462.00 R 294/316: Telegram

The Secretary of State to the Ambassador in France (Herrick)

[Paraphrase]

Washington, February 7, 1924—7 p. m.

48. L-47, for Logan. Your L-86, February 1, 5 p. m. If, as appears to be the fact, the amount of reparation assessed against Germany also includes the amount for damages caused by her allies, then obviously any payments made by the latter on their reparation accounts should be set down as credits against Germany's obligations. This principle is implicit in article 1 (c), Schedule of Payments, and in paragraph 11, Finance Ministers' Agreement. The Department believes, therefore, that unless Bulgarian payments are used to cover Army of Occupation costs in Bulgaria, or costs of commission of control, or possibly the service of the external Ottoman debt referred to in the Treaty of Neuilly, article 135, they should be credited to the reparation account of Germany; and if these payments are credited in this way then the charge created in favor of the Government of the United States by paragraph 3 under article 2 of the Army Costs Agreement would apply when the agreement goes into effect.

If Bulgarian payments are credited to the reparation account of Germany and should the question of American participation therein arise, the Department desires, in accordance with the facts set forth in the above paragraph, that you support our right to participation before the commission in such manner as to indicate that this Government has taken it for granted that the Army Costs Agreement would be held to apply, and that a share of the Bulgarian payments

would be set aside for payment to the United States when the Army Costs Agreement is finally ratified.

The Department agrees with you that the Reparation Commission is not competent to settle any disputed question of interpretation of the Army Costs Agreement without a specific mandate from the signatory powers, and should the commission oppose our participation under that agreement in Bulgarian reparation payments credited to Germany, you should, as you stated, reserve all rights for the United States.

If an attempt should in the meantime be made to release the blocked Bulgarian account, you may take appropriate steps to prevent this, and advise Department promptly.

HUGHES

462.00 R 294/335: Telegram

The Ambassador in France (Herrick) to the Secretary of State

Paris, May 14, 1924—noon. [Received 12:24 p. m.]

261. [From Logan.]

- 1. Supplementing my L-86, February 1. By an agreement signed March 28th, 1924, between the Bulgarian Government and the representatives of Great Britain, Italy and France, subject to ratification of all four Governments, it has been stipulated that the cost of the Armies of Occupation in Bulgaria shall be fixed at an all inclusive sum of 25 million gold francs and that payment therefor shall be spread over a period of 10 years commencing on September 30, 1924, with a payment of 1,250,000 gold francs. The Bulgarian Government assigns the revenues of the customs to discharge of these costs.
- 2. The agreement has been submitted to the Reparation Commission for its information by the inter-Allied commission at Sofia and the inter-Allied commission expresses the view that the agreement will satisfy the proviso of that part of [Reparation] Commission's decision number 2493 66 which preserves the priority in favor of army costs upon the semiannual payments which are being made by Bulgaria in adjustment of her reparation obligations "unless and until claims of the creditor powers are otherwise provided for."
- 3. If the agreement is ratified, it seems almost certain that Bulgaria's other payments will be wholly free for application to reparations and consequently, as hitherto outlined, this will involve a credit on Germany's reparation account by reduction of C bonds. Finance Service of commission is now working on question of proper

⁶⁶ Not printed.

distribution amongst powers. Probable that some powers which were not signatories to or adherents of Army Costs Agreement will be allocated part of this money. Seems likely that United States can only claim participation in sums received by those countries who were signatories to or adherents of Costs Agreement.

4. When the subject of distribution comes before commission, I shall take necessary action to carry out instructions of the Department in Department's L-47, February 9th [7th], concerning our claiming participation Bulgarian payments. Logan.

HERRICK

462.00 R 294/344: Telegram

The Ambassador in France (Herrick) to the Secretary of State

Paris, June 27, 1924—5 p. m.

[Received 7:10 p. m.]

319. L-181 [from Logan]. Your L-47.67 Question of repartitioning of Bulgarian payments discussed by commission today as presented in annex 2099 A B C D mailed to the Department June 2nd.68 Commission decided request delegates to refer this question to their respective Governments. In view of your L-47 and relation to question to [of] army costs I made following statement:

"The report of the Finance Service now under consideration states that it has not taken into account the possibility of any claim being made by the United States Government against the Bulgarian payments since the agreement of May 25, 1923 has not yet been ratified.

I permit myself to call the attention of the commission to decision number 2751 of December 16, 1923 by which the commission took conservative measures and created a special blocked account into which was to be deposited that proportion of all accruing cash payments which are available for the reimbursement of the American Army costs.

Pursuant to the terms of that decision, therefore, it would appear that even though the American Army Cost[s] Agreement has not yet been ratified, the proper proportion of all accruing cash payments applicable to those costs under the terms of the agreement should

be placed in this account.

Upon the instructions of my Government I desire to say that the Bulgarian payments are considered by it as applicable to the American Army costs pursuant to the ratification of the pending Army Cost[s] Agreement, particularly paragraph 3 of article 2 thereon. If credited to Bulgaria's reparation account as now contemplated it would seem that they must simultaneously and automatically be applied to the reparation account of Germany and as such fall within the scope of Army Cost[s] Agreement.

⁶⁷ Ante, p. 153. 68 Not printed.

I desire to make the position of the United States a formal matter of record and to state that the Bulgarian cash payments if credited on Germany's reparation account should in the proper proportion be placed in the special account created by decision 2751 when they

are released from the account where they now are.

I note the decision just taken by Reparation Commission and I will be obliged if the delegates in referring this matter to their respective governments would at the same time call the attention of these governments to the remarks which I have just made. Furthermore I would appreciate it were the decision of the commission to be so worded as to contain an invitation to the delegates to follow the course I have just suggested."

The commission decided accordingly. Logan.

HERRICK

PROPOSALS FOR A COMPROMISE SETTLEMENT OF THE DISPUTE BETWEEN THE STANDARD OIL COMPANY AND THE REPARATION COMMISSION OVER THE DISPOSAL OF THE D. A. P. G. TANK SHIPS*

362.115 St 21/337: Telegram

The Secretary of State to the Ambassador in France (Herrick)

Washington, January 12, 1924-6 p. m.

15. L-39. For Logan. Your L-69, December 29.70

1. While Department agrees that stockholders have no legal title to the assets of a corporation, it is entirely unable to concur in intimated decision of Tribunal that stockholders have no equitable or beneficial interest in corporation's assets. Not only have text writers and the courts repeatedly recognized the beneficial interest of shareholders in corporation's assets, but governments have repeatedly lent diplomatic assistance to support such beneficial interest. As to the position of governments in this respect, see cases cited in Section 20, pages 58 to 74 of first brief filed with Tribunal by Standard Oil. See quotations in Section 19 from Morawetz and German Text Writers. See also German and American cases cited in that section, and particularly the opinion of the Supreme Court in Bacon v. Robinson [Robertson], page 46, wherein the court in part stated that it was the tendency of the courts of the United States and Great Britain:

"to concede the existence of a distinct and positive right of property in the individuals composing the corporation, in its capital and business, which is subject in the main to the management and control of the corporation itself; but that cases may arise where the

 $^{^{60}}$ For previous correspondence concerning disposal of the D. A. P. G. tank ships, see Foreign Relations, 1923, vol. 11, pp. 209 ff. 70 Ibid., p. 217.

corporators may assert not only their own rights but the rights of the corporate body."

Attention is also called to the following American decisions:

"The stockholders... are the ultimate or equitable owners of its (the corporation's) assets." *Brock* v. *Poor*, 216 New York, 387.

"The share holders are the owners of the corporate property in equity. When the corporation is dissolved and its debts paid, the former corporate property belongs to them as individuals, and, while the corporation exists and does business, the share holders are entitled to control its affairs, in the proportion to the number of their shares, through the instrumentalities which the laws provide for their management." Doherty and Company v. Rice 186 Fed.

Rep. 212.

"It is true that a corporation holds the legal title of, and the right to manage, control, and convey, its property, and that a stockholder is without that title and right. But, after all, the corporation is nothing but the hand or tool of the stockholders, in which they hold its property for their benefit. They are the equitable and beneficial owners of all its property, and it is the mere holder and manager of it for them. The benefit of every increase in the value of its property is their benefit, and the injury or every decrease of the value of its property is their injury. They may, by appropriate action [at] any time require and compel it to sell all its property and to distribute its proceeds among them. . . . So in reality, as against its stockholders, a corporation has no, and they have all the beneficial interest in its property." Lynch v. Turrish, 236 Fed. Rep. 656.

These decisions establish very clearly that stockholders are the equitable or beneficial owners of the corporation's assets.

- 2. The intimated decision of the Tribunal is diametrically opposed to the action taken by the French and British Governments subsequent to the outbreak of the war with respect to tankers belonging to the D. A. P. G. As indicated in the Department's L-20,⁷¹ these Governments, in view of the recognized beneficial ownership of the Standard Oil, permitted the tankers to be transferred to the American flag. In fact, in the case of the *Leda* the bond required by the British Government expressly recited that application had been made on the ground of "beneficial ownership" and that on said application the King had agreed to release the ship to the Standard Oil Company.
- 3. In view of the position taken by courts and governments as above indicated, Department does not perceive how the Tribunal could decide as intimated. Furthermore, such a decision would be precluded by the recognition by the British and French Governments, with respect to this very company, of the principle of beneficial ownership in the stockholders.

⁷¹ Ibid., p. 213.

- 4. Throughout the negotiations the principle of beneficial interest was never in any way questioned, although it is true Bradbury⁷² objected to the Agreement 78 specifically defining what should be considered beneficial ownership. This objection it seems was largely based on the fear of such a definition creating a precedent which might embarrass the Reparation Commission in other cases, while the tanker case was considered to be a special one. The fact that the wording of the Agreement was modified from time to time in no way indicated a change in the views of the United States. These were consistently maintained. See Boyden's B-56, April 29, 1920,74 paragraphs fifth to twelfth. Note particularly that, notwithstanding Bradbury's statement of his understanding in paragraph eighth, Boyden reiterated that the understanding of the United States was that tankers were to be surrendered in proportion to ownership of securities. Note also paragraph ninth, and Bradbury's view in paragraphs tenth and eleventh. For subsequent discussion of Agreement see Boyden's B-77, B-92, B-94, and B-109;75 and Department's 934 of May 14 and 1006 of May 26, 1920.76
- 5. Department again calls attention to the fact that all those concerned in reaching tanker agreement considered applicable paragraph 20 of Annex II 77 and paragraph 5 of the Wilson-Lloyd George Agreement. 78 Indeed this Government has previously pointed out that both paragraphs were adopted in contemplation of tanker situation. Note in this respect Department's 3532, October 22, 1919.79 to American Mission. It is clear from a review of the tanker discussion that neither United States nor other negotiators considered that paragraph 20 had limited meaning apparently given it by Reparation Commission. Neither the United States nor the Tribunal in any way bound by Commission's interpretation. In fact, the Commission expressly recognized its decision without prejudice to tanker case. It was because this Government was not represented on the Commission and therefore had no voice in its decisions that the tanker case was submitted to a special tribunal. The Tribunal may have a tendency to lose track of these facts and to follow too closely the decisions of the Commission.
- 6. Aside from the question of beneficial ownership: paragraph G of the Agreement, as stated in Department's L-20, contains ample

⁷⁹ Ibid., p. 554.

Sir John Bradbury, British representative on the Reparation Commission.
 Tanker Agreement, see Foreign Relations, 1920, vol. II, p. 598.

⁷⁴ Not printed.

Telegrams nos. B-77, B-94, and B-109, not printed; telegram no. B-92 printed in Foreign Relations, 1920, vol. II, p. 592.

Ibid., pp. 590 and 595, respectively.
 Of part VIII of the Treaty of Versailles. ⁷⁸ Foreign Relations, 1920, vol. II, p. 512.

provision for award of tankers to Standard Oil Company to extent of its proved interest in German company, with any necessary accounting to the Reparation Commission for any amounts that may have been received by the latter company from the German Government. It must be borne in mind that not only does the Agreement contemplate compensation to the Standard Oil Company for any loss that it might sustain by reason of the transfer of the tankers, but that such compensation shall be made in tankers rather than money. This was insisted upon by the United States in view of the fact that the tankers are necessary to the conduct of the business. It is inconceivable that Tribunal would ignore clear meaning of the Agreement and render a decision which would have the effect of causing financial loss to the American corporation.

HUGHES

362.115 St 21/343: Telegram

The Ambassador in France (Herrick) to the Secretary of State
[Paraphrase]

Paris, April 28, 1924—5 p. m. [Received 7 p. m. so]

232. L-151, from Logan.

1. Referring to Standard Oil tanker arbitration, am confidentially advised that Lyon and Bayne 81 disagree. Lyon takes the view as to paragraph F of the agreement that a shareholder in a corporation is not the beneficial owner of the corporation's assets. He supports his view by many precedents, particularly in French jurisprudence, under which the corporation itself was considered the only legal, the only equitable, and the only beneficial owner of its own assets. He emphasizes "beneficial ownership" as distinguished from beneficial interest. Bayne, on the other hand, considering the history of making of the arbitration agreement, holds that the agreement, though expressed obscurely, was endeavoring to convey the idea that if the Standard Oil Company owned all or practically all of the shares in its German subsidiary, then for the purpose of the agreement it was to be considered beneficial owner of the tank steamers. Lyon and Bayne concur that paragraph G of the agreement virtually incorporates by reference the provisions of paragraph 20 of annex 2, part VIII of Treaty of Versailles which states that Reparation Commission "shall have due regard for any legal or equitable interests of the Allied or Associated Powers." 82 They

Telegram in two sections.
 Jacques Lyon and Col. Hugh A. Bayne, members of the independent tribunal for the Reparation Commission.
 Quotation not paraphrased.

consider that the commission has shown due regard for these interests by asking Germany to offer compensation therefor so that the ships could be delivered clear and free; and inasmuch as Germany treated the Standard's German subsidiary exactly the same way as all other German ship companies without regard to nationality of their shareholders and accorded compensation in no way discriminatory but precisely the same as that accorded corporations in which French and English nationals were stockholders, therefore "due regard" does not necessitate an exception and the rendition of tankers themselves in this particular case.

- 2. The situation resulting from the disagreement of Bayne and Lyon may be handled in one of two ways. First, Dr. Sjoeborg, a Swedish lawyer now in Stockholm, the third arbitrator, can be called in. This of course means additional expense and delay. Secondly, the Standard Oil Company might be willing to suggest as a compromise that it retain half of the tonnage but turn over to or buy from the Reparation Commission the other half. If it retains half and delivers the balance, the company might ask to select its own tonnage.
- 3. Personally, I strongly believe that a compromise is advisable because I am afraid that if the case goes to the third arbitrator for decision on its merits, the Standard Oil Company, because of obscure and technical wording of the arbitration agreement, will suffer an [adverse] decision which means that it will have no tonnage. Am confidentially advised that Lyon would be willing to join Bayne in recommending to the Reparation Commission a compromise and the division of the tonnage on half and half basis, and also that Bayne thinks that the third arbitrator, if the case goes to him for opinion, will agree with Lyon that the company is not in law the beneficial owner. I have arranged for sufficient delay to enable the Department to consult Standard Oil Company and decide on suggested compromise before the third arbitrator is called upon. Because of his distance from Paris, he may decline the task which would involve the selection of a new arbitrator. Logan.

HERRICK

362.115 St 21/343: Telegram

The Acting Secretary of State to the Ambassador in France
(Herrick)

[Paraphrase]

Washington, June 19, 1924—6 p.m.

187. L-85, for Logan. Your L-151 of April 28. Standard Oil Company suggests a compromise based in principle upon equal divi-

sion of proceeds from sale at auction of five tank steamers and of balance remaining in operator's fund after reimbursement of all of Company's expenditures made under the Tanker Agreement. Montagu Piesse ⁸⁴ has been instructed to discuss the question with you and Leon Fraser. ⁸⁵ Copies of Standard Oil Company's letters to Department and to Piesse were mailed to you on June 17. ⁸⁶ The proposal is silent in regard to disposition of sum paid by German Government to D. A. P. G.; but aside from this point, on which further inquiry is being made of Standard Oil, the proposal is evidently within scope of the agreement as amended and decisions of the Reparation Commission.

GREW

362.115 St 21/351

The Unofficial Representative on the Reparation Commission (Logan) to the Secretary of State

Paris, *July 3*, 1924. [Received July 14.]

My Dear Mr. Secretary: I have the honor to enclose herewith, in triplicate, copies of the official report of the Arbitrators appointed in the matter of the Standard Oil tank steamers. The report was circulated to the Reparation Commission yesterday.

Faithfully yours,

Not printed.

JAMES A. LOGAN, JR.

[Enclosure]

The Members of the Arbitral Tribunal (Bayne, Lyon) to the Secretary General of the Reparation Commission

Sir: By Reparation Commission Decision No. 1577 of October 13, 1921 (Annex 1100 a, b), the undersigned were constituted members of an independent Tribunal to adjudicate the questions defined by the Arbitral Agreement between the United States of America and the Reparation Commission, signed June 7th, 1920 (Annex 287) relative to the claim of the Standard Oil Company of New Jersey, an American national, for the transfer to it of certain tank steamers delivered by the German Government under Annex III of Part VIII of the Treaty of Versailles as vessels of upward of 1600 tons burden flying the German flag and registered in the name of the Deutsche Amerikanische Petroleum Gesellschaft, a German national.

Legal representative in London of the Standard Oil Co.
 General counsel for the Dawes Plan and representative in Paris of the Agent General, reparation payments.

The claim of the Standard Oil Company was, substantially, that it owned all, or practically all, of the shares of the Deutsche Amerikanische Petroleum Gesellschaft at the material dates and all, or practically all, of the outstanding bonds of that Company at the material dates and that, consequently, it was the "beneficial owner" of the tank steamers of the Deutsche Amerikanische Petroleum Gesellschaft or that, in any event, it was entitled to financial reimbursement because of the cession of the vessels registered in the name of the D. A. P. G.

The essential provisions of the Agreement, which was referred to the undersigned arbitrators for adjudication, read as follows:—

"Paragraph F. As soon as the Reparation Commission or Independent Tribunal mentioned in paragraph "I" has declared its decision upon the claim of the Standard Oil Company, the United States will transfer tankers in accordance with such decision, it being agreed, however, that if Standard Oil Company makes good its claim to beneficial ownership of all or any of the tankers in question, then such tankers shall by the terms of the decision be awarded to that

company and transferred to the United States flag.

"Paragraph G. If Standard Oil Company fails to make good its claim to beneficial ownership of tankers but is found to be entitled to financial reimbursement, then Standard Oil Company shall be entitled to liquidation of the award by transfer of tankers to a value equal to the award, the tankers to be valued by the Reparation Commission or independent tribunal in its award, and the particular tanker or tankers to be selected by the Standard Oil Company and accepted by the Company at the valuation aforesaid. Any award of tankers, other than to the D. A. P. G. under either Paragraph F or Paragraph G, shall be conditional upon compliance by the Standard Oil Company with any order for repayment to Germany, or payment to the Reparation Commission, of the compensation, if any, paid by Germany to the D. A. P. G. or other owners in respect of the cession of the tankers covered by the award, or with any such order for obtaining and delivering to Germany or the Reparation Commission, a release, or assignment, or agreement of indemnity, covering claims against Germany or the Reparation Commission which may arise out of such cession, provided that the Reparation Commission or independent tribunal shall decide such order to be necessary for the purpose of protecting or indemnifying the Reparation Commission or Germany against claims arising out of the cession of the tankers covered by the award."

To aid them in their adjudication of the issues above outlined, the parties to the arbitration have supplied the undersigned with extensive briefs, memoires and counter-memoires. The undersigned also had the advantage of the oral presentation of the opposing views, and arguments thereon, during hearings conducted in Paris at which the Standard Oil Company was represented by Mr. Montagu Piesse, its London Solicitor, and the Reparation Commission by Mr. M. G. Gwyer, a London Barrister. The Tribunal did not

prescribe technical rules as to the presentation of proof and arguments but permitted each side fully to introduce all the facts and arguments respectively desired. In addition, opinions of a German lawver were secured on certain relevant questions of German law.

The Reparation Commission in designating the members to serve upon the independent Tribunal, with the approval of the Unofficial Delegate of the United States, decided in part as follows:—

"3. That Messrs. Lyon and Bayne shall, before commencing their other duties as members of said independent tribunal, name a disinterested person to serve as a member thereof in the event that Messrs. Lyon and Bayne fail to agree upon a decision; and that, in case they fail to agree upon a decision said third person so named shall thereupon become a member of said independent tribunal and the decision of the majority of the members of the independent tribunal so constituted shall be final." (Decision 1577).

After thorough consideration of the complicated questions of fact and the involved issues of international law raised by the arbitration, the arbitrators regret to report to the Reparation Commission that they have failed to agree upon a decision. Pursuant to the literal terms of the action of the Reparation Commission just quoted above, it would appear that Dr. S. Sjoeborg, the disinterested person named by the undersigned to serve as a member of the independent Tribunal in the event of such disagreement, who at the time of his designation and acceptance was President of a Section of the Mixed Arbitral Tribunal sitting in Paris, should become a member of the Tribunal and that the decision of the majority of the Tribunal so constituted should be final. Dr. Sjoeborg, however, has terminated his connection with the Mixed Arbitral Tribunal and is now in Stockholm and whether it is still possible for him to serve, or whether another member must be named-with the consequent delay and expense in either event-has not yet been ascertained, and before ascertaining, the present arbitrators desire to present certain observations to the Reparation Commission.

During the course of their deliberations they have been impressed by the fact that the close issues of the present arbitration between the parties were such as eminently lent themselves to compromise and friendly adjustment and that such a step, indeed, would perhaps result in a more equitable solution of the problem than an attempt to apply strict, and often conflicting, rules of law to an involved international situation.

In this spirit, therefore, without proceeding further with the formal arbitration which for various reasons has already been unduly prolonged, the undersigned desire to suggest that the parties arrive if possible at a compromise, and they suggest that this compromise

take the form of an equal division of the subject matter of the arbitration. That subject matter consists of:

(a) five tank steamers—the Niobe, Pawnee, Hera, Loki and Wotan,

aggregating 41,000 tons D. W.

(b) the proceeds of the sale of three tank steamers—the *Helios*, the *Mannheim* and the *Sirius*. These vessels were originally included in the Arbitral Agreement for disposition in kind but their sale was authorised by Reparation Commission decision No. 946, as amended by decision No. 960 (Annex 653), and the net proceeds are held in trust for disposition in accordance with the ultimate results of the arbitration as to the transfer of the five vessels unsold.

(c) the net proceeds of the operation of the tank steamers since the date of their delivery by Germany. The arbitrators understand that there is a credit balance in the operating fund, but should the final approved accounting indicate a deficit, such deficit would, of course, be a charge against the value of the eight tank steamers.

The division upon an equal basis of the subject matter described in subparagraphs (b) and (c) above presents no difficulties, but the equal division of the five tank steamers presents certain complications because of the varying displacement of the individual steamers and because of the fact that it is understood that the value per ton is not uniform. To avoid this involved adjustment, and to arrive at a result which would appear equitable to both parties, the Tribunal ventures to suggest the following procedure which seems to be in conformity with the spirit of the provisions of paragraph [article] 6 of the Spa Agreement of July 16th, 1920.87

If the United States of America, acting in behalf of its national, is in accord, the Reparation Commission might direct the sale by auction—either upon the British or American market—of the five tankers, it being expressly provided that any of the Allied Governments, or their nationals, or the Reparation Commission might bid for the vessels. It should also be provided that the Deutsche Amerikanische Petroleum Gesellschaft (but no other German national) should be permitted to bid for the tankers.

The net proceeds of the sale, after deduction of a deficit in the operating fund (should there be any), might be divided into two parts, one of which would be allocated to the Deutsche Amerikanische Petroleum Gesellschaft providing the German Government was willing to agree that it would claim credit on reparation account for only one-half of the total value of the tankers. The other half of the proceeds of the sale should be retained by the Reparation Commission for the credit of the Power, or Powers, entitled to the tank steamers themselves were they to be allocated in kind. Germany should be credited as of the date of delivery for the then value of one-half the tankers and the Reparation Commission should decide

⁸⁷ Foreign Relations, 1920, vol. II, p. 406.

what value should be debited against the Power, or Powers, receiving one-half of the proceeds above described. The net receipts of the sale of the vessels *Mannheim*, *Helios* and *Sirius* should be handled both as to debit and credit in a manner similar to that already outlined for the proceeds of the proposed auction. The net operating proceeds, if any, of the five tank vessels hitherto unsold should be allocated in the same way as the proceeds of the sale of those vessels, except that in this instance there would be no question of a credit to Germany for any earnings during the period after their transfer.

The undersigned, therefore, before taking further action in the matter of calling upon a third arbitrator, recommend that the Reparation Commission take a decision upon the compromise above outlined, and, should that decision be favourable to the recommendation of the present members of the independent Tribunal, it is further recommended that the decision and this recommendation be communicated to the Unofficial Delegate of the United States of America for transmission to the Standard Oil Company for its acceptance. Should the Standard Oil concur in the recommendation, the details of execution, particularly as regards the adjustment of the operating account, will be a matter for administrative arrangement between the claimant and the Reparation Commission.

The present members of the arbitral tribunal hold themselves ready to assist in arranging such details or endeavouring to reconcile any difficulties which may arise in carrying out the compromise settlement which they jointly and earnestly recommend.

HUGH A. BAYNE

JACQUES LYON

June 28th, 1924.

362.115 St 21/353: Telegram

The Chargé in France (Whitehouse) to the Secretary of State

[Paraphrase]

Paris, September 17, 1924—9 p. m. [Received September 18—7:38 a. m.]

408. L-221, from Logan.

1. Since July 8 when the case of the Standard Oil tankers and arbitrators' report was withdrawn from the agenda of the Reparation Commission upon British delegate's request, I have at appropriate opportunities sounded out Bradbury on possibility of accepting arbitrators' recommendation of equal division but he has been reluctant to accede. He keeps stating that he considers arbitration should be proceeded with and that in their recommendation the two

arbitrators exceeded their functions. He is now awaiting his Government's instructions. The Department may desire to consider exercising pressure in London.

2. The other delegates seem somewhat indifferent to the subject because the real loser would be Great Britain who would, it is understood, receive the tankers under existing arrangements. The French arbitrator, Lyon, states that he has advised Barthou to vote for compromise. If the issue were forced I do not know how delegates would vote. Please instruct as to whether to accede to continuation of arbitration or to endeavor to force a vote. The outcome of the latter is now uncertain. Logan.

WHITEHOUSE

362.115 St 21/354: Telegram

The Chargé in France (Whitehouse) to the Secretary of State

[Paraphrase]

Paris, October 8, 1924—11 a. m. [Received 5:15 p. m.]

432. L-230, from Logan.

- 1. Assistant general counsel of Standard Oil Company, Mr. Guy Wellman, called and made following request upon which I recommend Department's favorable action. He expects to be in London next week.
- 2. Following out the suggestion in my L-221 of September 17 that there be exercised some sort of pressure in London where the key of the solution of the tanker compromise lies, Wellman suggests that Ambassador Kellogg be advised of his coming and be requested to make a démarche at the appropriate Ministry or at the Foreign Office in the endeavor to get the British Government to instruct Bradbury to vote in the Reparation Commission for the proposed compromise. If he would do so it is almost certain that the compromise would be accepted. I have several times expressed grave doubts lest the Standard Oil receive nothing, if the compromise is not accepted. At least two features should appeal to the British Government from the practical and diplomatic point of view: First, this dispute has been dragging for almost five years and it is not desirable to continue it further, particularly since it is said that the value of the vessels is continually deteriorating. Second, whatever may be the strict law of the case the fact is that American capital was invested in the German corporation and that every ton of the tankers was built directly with funds which Standard Oil Company contributed and for which it [received] bonds of the German corpo-Therefore from the point of view of the business world the

tankers represented [American] money whether or not they flew the German flag. It seems highly inequitable that to pay German reparations an ally should seize what really represents American capital.

3. If the Department concurs with suggestion of asking Kellogg to intervene I recommend that he await arrival of Wellman for an

explanation of the equities of the case. Logan.

WHITEHOUSE

362.115 St 21/351: Telegram

The Acting Secretary of State to the Ambassador in Great Britain (Kellogg)

[Paraphrase]

Washington, October 14, 1924—2 p. m. 360. It is probable that Wellman of the Standard Oil Company of New Jersey will call this week to discuss the D. A. P. G. tanker case. These tankers belonged to German subsidiary of which practically all the securities and stock were owned by the Standard Oil Company. In February 1917, shortly before the United States en-Company. In February 1917, shortly before the United States entered the war, the company, to prevent seizure of tankers by Germany, endeavored to transfer voting shares valued at 9,000,000 marks to Germans. The American Alien Property Custodian held that the transfer was illegal. The Standard Oil Company retained, however, nonvoting shares valued at 21,000,000 marks and 31,000,000 marks of debentures, and even if the transfer of voting stock were legal, Standard's financial interest in the German company was vastly prepared event. Because of this prepared event interest, the United ly preponderant. Because of this preponderant interest, the United States, under an agreement of June 7, 1920, with interested Allied Governments and Reparation Commission, obtained temporary allocation of tankers pending decision as to their final disposition by a tribunal created under the agreement. Hugh Bayne, American member of the tribunal, and Jacques Lyon, the member appointed by Reparation Commission, have not been able to agree that the stockholders as beneficial owners are entitled to property of a corporation. They have agreed, however, to a compromise which they submitted to the Reparation Commission on June 28, last. The Standard Oil Company has informally accepted this compromise which the members of the tribunal considered would perhaps result in a more equitable solution of the problem than an attempt to apply strict, and often conflicting, rules of law to an involved international situation. Briefly, it envisages a 50-50 division between the company and the Reparation Commission of the proceeds of the sale of the tankers and their earnings. Logan advised that Bradbury was disposed to raise technical objections against approval of the proposed compromise by the Reparation

Commission and had consulted his Government. He now reports receipt of a letter of October 9 from the British delegation stating that they have decided not to accept the compromise and that they believe that the referee should be called in as originally arranged. The Department considers that while possibly technically the two members of the tribunal had no authorization to make such a recommendation and the case should have been referred to the umpire for determination in the event of a disagreement between them, nevertheless a settlement of the nature they indicate appears clearly to come within the scope of the Tanker Agreement, and particularly within the spirit of paragraph G, which contemplates that the Standard Oil be paid compensation, even if it did not establish beneficial ownership, and even if, as is the case, Germany had paid some compensation to the German subsidiary. Logan has been instructed to send you a brief statement of the status of the case, also copies of documents mentioned above and Department's L-20 of December 12 88 and L-39 of January 12, last. After consulting these documents and after consultation with Wellman, you may, at his request, urge that the British Government reconsider, with a view to instructing its delegation on the Reparation Commission to approve the proposed compromise. In view of the obvious equities in the case and the undisputed preponderant financial interest of Standard Oil Company in the tankers, Department considers that Reparation Commission would be warranted in accepting the compromise proposed, thereby obviating necessity of referring case to the umpire for decision.

GREW

362.115 St 21/358: Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

[Paraphrase]

London, October 21, 1924—4 p. m. [Received October 21—2:38 p. m.]

432. Referring to Department's 360, October 14, have studied documents supplied by Logan and have consulted Wellman. Because of absence of Prime Minister and indisposition of Sir Eyre Crowe, the Foreign Office suggested that I consult Niemeyer in the Treasury. I presented the case fully to him and stated that both my Government and Standard Oil Company would accept the compromise suggested by arbitrators.

He stated his firm belief that as a matter of principle the agreed arbitration ought to be completed. Although there was further

⁸⁸ Foreign Relations, 1923, vol. II, p. 213.

discussion, there was no change of position. He agreed finally to discuss the case within the next few days with Sir John Bradbury, but I incline to the belief that both have their minds made up. Have informed Logan.

Kellogg

362.115 St 21/358: Telegram

The Secretary of State to the Ambassador in Great Britain (Kellogg)

[Paraphrase]

Washington, November 8, 1924—2 p. m. 398. Your telegram 432, October 21. The Department did not expect favorable action from Bradbury as it understands he is inclined to raise technical objections. You may consider it advisable to bring the matter to the attention of the Foreign Office shortly after the new government is formed.

Even if the attempted transfer of voting stock in the D.A.P.G. by the Standard Oil Company could be considered valid, it still owned securities of the subsidiary totaling nearly five times the value of the voting shares. Included in the securities it held were share warrants to over twice the number and value of the voting shares which were of exactly the same nature as the latter, except that they carried no voting right. Obviously, this voting right has no bearing upon the equitable or beneficial interest of the stockholder. The Department considers that the compromise suggested by the arbitrators is more than fair to the Reparation Commission and the interested Allied States, in view of this undisputed preponderant financial interest. It is believed that if the matter were referred to the umpire the Standard Oil might well expect to obtain a greater portion. In view of the equities in the case and because a settlement of the nature indicated appears clearly to come within the scope of the Tanker Agreement, and practically within the spirit of paragraph G, as indicated in Department's 360 of October 14, the Department is of the opinion that you may be able to persuade the British Foreign Office to instruct the British representative on the Reparation Commission to approve of the compromise. This would obviate the delay and expense incident to the reference of the case to the umpire for decision.

The foregoing is to be read in connection with Department's 368 of October 21.89 Take no action which you feel might weaken the strength of any representations you may make in regard to our

⁸⁹ Not printed.

participation in the Dawes Plan annuities.^{89a} Department leaves the matter wholly to your discretion.

HUGHES

DELIVERY OF THE GERMAN AIRSHIP "ZR-3" TO THE UNITED STATES **

811.348 Z 4/44

The Secretary of State to the Chargé in Great Britain (Wheeler) 91

Washington, September 18, 1923.

SIR: The Department has been informed by the Secretary of the Navy that the rigid airship ZR-3, now building in Friedrichshafen, Germany, for the Government of the United States, will fly to Lakehurst, New Jersey, sometime between the fifteenth of November and the first of December, 1923. The probable route of the ship will be from Friedrichshafen across France to the Bay of Biscay, thence across Cape Finisterre, the Azores and possibly the Bermuda Islands. It appears that the route cannot be absolutely determined at this time, however, and it is possible that the airship may fly over The Netherlands, Belgium, Switzerland, France, Spain, Portugal and Great Britain before crossing the Atlantic Ocean.

You are requested to advise the Government to which you are accredited of this proposed flight with a view to securing its permission for the airship to pass over its territory, and to report by cable.

I am [etc.]

For the Secretary of State:

LELAND HARRISON

811,348 Z 4/45: Telegram

The Chargé in France (Whitehouse) to the Secretary of State

[Paraphrase]

Paris, September 28, 1923—7 p. m.

[Received 10:10 p. m.]

393. Reference Department's unnumbered despatch of September 18, flight of Zeppelin to New Jersey.

Before action is taken on instruction referred to, may I suggest that from here the safer course and one less likely to raise difficul-

⁸⁹ⁿSee pp. 1 ff. ⁹⁰ For correspondence concerning the construction in Germany of a dirigible for the United States, see *Foreign Relations*, 1921, vol. Π, pp. 58 ff.

⁹¹ The same instruction, mutatis mutandis, was sent to the diplomatic representatives in Belgium, France, Portugal, Spain, Switzerland, and the Netherlands.

ties would be to wait until the route is definitely determined and then to approach the Government or Governments concerned, taking the attitude of assuming as a matter of course that as necessary consequence of Allied Powers having consented to construction of our Zeppelin, authorization for its flight will be given.

WHITEHOUSE

811.348 Z 4/47 : Telegram

The Ambassador in Belgium (Fletcher) to the Secretary of State

Brussels, October 1, 1923—1 p. m. [Received October 1—10:24 a. m.]

113. Department's unnumbered instructions September 18th last. Minister of Foreign Affairs states Belgian Government will grant desired permission for passage of airship mentioned over Belgian territory.

FLETCHER

811.348 Z 4/49: Telegram

The Minister in Switzerland (Grew) to the Secretary of State

Berne, October 10, 1923-6 p. m. [Received October 11—7:18 a. m.]

- 88. Department's unnumbered mail instruction of September 18th. Swiss Government authorizes voyage of ZR-3 across Switzerland
- without landing, on the following conditions.

 1. The dirigible shall be subject to Swiss law respecting aerial navigation (Swiss regulations on the subject will be forwarded to the Department under cover of Legation's despatch number 1199 92).

 2. The United States shall be responsible for any damage caused
- by the dirigible or by any person aboard.
- 3. In the event of a forced landing the captain shall immediately inform the Federal aerial office and the customs authorities through the local authorities and should see to it that the occupants and objects on board remain at the disposal of the authorities.

 4. No photographs whatsoever shall be taken during the voyage.
- 5. The political department shall be notified several hours before the departure of the dirigible.

GREW

⁹² Not printed.

811.348 Z 4/52: Telegram

The Minister in Portugal (Dearing) to the Secretary of State

Lisbon, October 16, 1923—11 a.m.

[Received 7:35 p. m.]

63. Department's instruction of September 18th. Portuguese Government authorizes flight of ZR-3 across Portugal and Azores.

DEARING

811.348 Z 4/60

The Ambassador in Spain (Moore) to the Secretary of State

No. 132

Madrid, November 6, 1923.

[Received November 22.]

SIR: With reference to the Department's unnumbered Instruction of September 18th last, asking me to advise the Spanish Government of the proposed flight of the Rigid Airship ZR-3, with a view to securing permission for the airship to pass over Spanish territory, I have the honor to report that the Spanish Foreign Office stated, in reply to my request in this regard, that, in order to secure the desired permission, the following information must be given: the place at which the airship will enter Spain; the object of the voyage; the place where the airship will desire to land; the time that it will remain in Spanish territory; the place at which the airship will leave Spanish territory to return to the United States; the name of the pilot of the airship; its cargo, with details as to weight and quality; mark of nationality and registration number; and the type of the airship and motor.

I at once replied to the Foreign Office giving them the information at my disposal, but I have the honor to ask that the requested details be forwarded to me.

I am communicating the above information by despatch rather than by cable as I have been informed that the date of the airship's journey has been postponed.

I have [etc.]

ALEXANDER P. MOORE

811.348 Z 4/133 : Telegram

The Minister in the Netherlands (Tobin) to the Secretary of State

THE HAGUE, November 19, 1923—11 a. m. [Received November 19—11:02 a. m.]

62. Your September 18th. Foreign Office grants permission for ZR-3 to fly over Dutch territory.

TOBIN

811.348 Z 4/139 : Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

London, February 13, 1924—1 p. m.

[Received 2:22 p. m.]

56. My 434, October 11, 4 p. m., ⁹³ re flight of airship ZR [-3]. Foreign Office desires to know nationality and ownership of airship and [at?] the time of her flight from Friedrichshafen to the United States and whether she is to be considered a civil or military airship.

KELLOGG

811.348 Z 4/139 : Telegram

The Secretary of State to the Ambassador in Great Britain (Kellogg)

Washington, February 18, 1924—3 p. m.

41. Your 56, February 13, 1 p. m. Contract with German authorities provides specifically for delivery of ZR-3 to this Government at Lakehurst, New Jersey. Until such delivery it will be operated by German crew. During trial and transatlantic flight, however, there will be on board several United States Navy and Army Officers to observe operations.

This Government has already stated that this Zeppelin is to be employed for commercial and not military purposes (See minutes of 138th and 141st meetings of Conference of Ambassadors ⁹⁴). The Navy Department has been delegated to act on behalf of this Government in matters dealing with the construction, acceptance and maintenance of the airship and for that reason the Zeppelin will be incorporated in the naval establishment of the United States until such time as its final disposition is determined upon. Zeppelin is to be considered a civilian airship.

HUGHES

811.348 Z 4/140

The Secretary of State to the Chargé in Spain (Johnson)

No. 73

Washington, March 10, 1924.

Sir: In reply to your despatch No. 132 of November 6, 1923, relating to the proposed flight of the airship ZR-3, the Department

 $^{^{98}}$ "Your unnumbered instruction September 18. The Foreign Office desires to know whether $ZR\!-\!3$ will be delivered to the United States in Germany or in America. Harvey." (File no. 811.348 Z 4/50.) 98 Not printed.

transmits the following information furnished by the Navy Department to be communicated to the Spanish Government:

"The airship ZR-3 will enter Spanish territory in the vicinity of Gijon, will proceed in a straight line for Cape Finisterre, and will leave Spanish territory at Cape Finisterre, the passage from point to point taking approximately three and one-half hours.

"The purpose of the voyage is the transfer of the airship from the German contractors to the United States Government.

"The airship will be commanded by Dr. Hugo Eckener of the

Zeppelin Company.

The airship will carry no cargo other than its own spare parts, baggage of the personnel, oil and fuel for the ship, and food for

the personnel.

"In all probability the airship will bear no other mark than U. S. Navy ZR-3. If this mark is not carried, it is probable that she will bear the Zeppelin Company's manufacturing designation L.Z. 126. It is not believed that the nationality and registration marks in accordance with the International Convention for Air Navigation will be carried.

"The airship is of the type L.Z. 126 and has a capacity of 2,400,000 cu. ft. Its motive power consists of five 400 h. p. Maybach engines."

I am [etc.]

For the Secretary of State: LELAND HARRISON

811.348 Z 4/142: Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

London, April 7, 1924-11 a.m.

[Received April 7—9 a. m.]

119. Your 41, February 18, 3 p. m. Foreign Office advises that Government propose to grant special and temporary authorization permitting flight of ZR-3 within the limits Great Britain and Northern Ireland in course of journey to Lakehurst.

Information is requested as to when flight will take place approximately so that appropriate dates may be inserted in authorization.

The Governor of Bermuda has been instructed to issue a similar authorization and the Irish Free State have been approached; the latter's decision will be communicated in due course.

Kellogg

811.348 Z 4/143

The Ambassador in Spain (Moore) to the Secretary of State

No. 307

MADRID, April 8, 1924.

[Received April 22.]

Sir: With reference to the Department's instruction No. 73 of March 10th last, I have the honor to report that Major General Julio de Ardanaz has informed this Embassy that there is no objection on the part of the Government to the flight of the airship ZR-3 across Spanish territory on her voyage to the United States. The General has also stated that the Aeronautics Section would take pleasure in aiding the crew of the airship with whatever materials or information may be necessary to make its voyage completely successful.

I have [etc.]

ALEXANDER P. MOORE

811.348 Z 4/151: Telegram

The Secretary of State to the Ambassador in France (Herrick)

Washington, August 29, 1924—5 p. m.

280. Your 393, September 28, 1923. For your information. Navy Department states that Zeppelin is expected to start transatlantic flight on or about September 25 and that route will probably be over some part of France, Belgium, Holland, England and the Occupied Territory of Germany. It is also possible that Zeppelin may pass over Ireland and Canada.

You will approach Foreign Office and ask for authority for flight over French territory in the sense of your telegram under reference and of penultimate paragraph of memorandum as quoted in your 412, October 17, 1923.96 Authority requested should include flight over Occupied Territory of Germany.

London and Brussels are being similarly instructed.

Please report by telegraph.

HUGHES

⁹⁶ Not printed; in the paragraph referred to, the view was expressed that art. 5 of the Aerial Navigation Convention of Oct. 13, 1919, and protocol of May 1, 1920, amending art. 5, did not apply to the present question; see Malloy, *Treaties*, 1910–1923, vol. III, pp. 3768 and 3817. The convention was not ratified by the United States.

811,348 Z 4/151: Telegram

The Secretary of State to the Minister in the Netherlands (Tobin)

Washington, August 29, 1924-5 p. m.

36. Your 62, November 19, 1923. For your information. Navy Department states that Zeppelin is expected to start transatlantic flight on or about September 25 and that route will probably be over some part of France, Belgium, Holland, England and the Occupied Territory of Germany. It is also possible that Zeppelin may pass over Ireland and Canada.

Please inform Foreign Office of probable date of flight.

Department understands that authority for flight is unconditional. Please confirm by telegraph.97

HUGHES

811.348 Z 4/151: Telegram

The Secretary of State to the Ambassador in Belgium (Phillips)

Washington, August 29, 1924-5 p. m.

61. Your despatch 399, October 8, 1923.98 For your information. Navy Department states that Zeppelin is expected to start transatlantic flight on or about September 25 and that route will probably be over some part of France, Belgium, Holland, England and the Occupied Territory of Germany. It is also possible that Zeppelin may pass over Ireland and Canada.

Department understands that authority granted by Belgian Government is unconditional. In notifying Foreign Office of probable date of flight it should be made clear that authority shall include flight over occupied territory of Germany.

London and Paris are being similarly instructed.

Please report by telegraph.

HUGHES

811.348 Z 4/151: Telegram

The Secretary of State to the Chargé in Germany (Robbins)

Washington, August 29, 1924-5 p. m.

100. Your despatch 421, October 5, 1923.99 For your information. Navy Department states that Zeppelin is expected to start transat-

Not printed; it was a confirmation of telegram no. 113, Oct. 1, 1923, from the Ambassador in Belgium, p. 171.

**Not printed:

on Sept. 3, the Minister informed the Department that the Foreign Office stated authority for the flight was unconditional (file no. $811.348 \times 4/152$).

lantic flight on or about September 25 and that route will probably be over some part of France, Belgium, Holland, England and the Occupied Territory of Germany. It is also possible that Zeppelin may pass over Ireland and Canada.

Inasmuch as Zeppelin contract provides specifically for acceptance of airship by this Government only upon delivery in the United States, it is clear that German Government should not be requested to authorize flight over German territory on airship's transatlantic trip. The consideration that trial flights over German territory are apparently causing no difficulty lends weight to this view.

You should, however, notify Foreign Office of probable date of transatlantic flight and Department leaves manner of notification to your discretion provided only that it shall not assume the form of asking authority or permission for the flight.

Please report by telegraph.

HUGHES

 $811.348 \mathbf{Z} 4/151 : Telegram$

The Secretary of State to the Ambassador in Great Britain (Kellogg)

Washington, August 29, 1924-5 p. m.

313. Your Telegram 119, April 7, 11 a. m., and despatch No. 516, of June 20, 1924.

For your information. Navy Department states that Zeppelin is expected to start transatlantic flight on or about September 25 and that route will probably be over some part of France, Belgium, Holland, England and the Occupied Territory of Germany. It is also possible that Zeppelin may pass over Ireland and Canada.

You will approach Foreign Office and request definitive authority for flight over territory of Great Britain and of Ireland. This authority should include flight over Occupied Territory of Germany. Paris and Brussels are being similarly instructed.

Question of possible flight over Canada is being taken up through British Embassy here.

It is assumed that your notification to Foreign Office that probable date of flight will be "on or about September 25" will satisfy British requirements as to insertion of appropriate dates in authorization referred to in your telegram under reference. Unless you report to the contrary Department assumes that this definitive authority will be unconditional.

Please report by telegraph.

HUGHES

¹ Despatch not printed.

811.348 Z 4/156: Telegram

The Ambassador in Belgium (Phillips) to the Secretary of State

Brussels, September 10, 1924—3 p. m. [Received September 10—2:36 p. m.]

90. Department's 62, September 9, 7 p. m.² Have not been able to obtain reply before today. Belgian Government accords permission for ZR–3 to fly over Belgian territory and German zone occupied by Belgian troops on condition that no photographs are taken of military establishments.

PHILLIPS

811.348 Z 4/161: Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

London, September 13, 1924—noon. [Received September 13—11:15 a. m.]

377. My 373, September 10, 11 a. m.² The Foreign Office has transmitted to me a permit for the flight of the ZR-3 for passage over Great Britain and Northern Ireland. The permit which must be carried in the airship is valid from the 10th of September to December 31st next.

I am transmitting it today to the naval officer in charge at Friedrichshafen via the naval attaché at Paris.

The British High Commissioner at Coblenz has granted the necessary authority for the flight over British occupied territory in Germany.

The Foreign Office has not yet received authorizations from the Irish Free State and Bermuda but are pressing for their reply.

Kellogg

811.348 Z 4/162: Telegram

The Chargé in France (Whitehouse) to the Secretary of State

Paris, September 17, 1924—6 p. m. [Received September 17—2:12 p. m.]

407. Your [My] 404, September 13, 1 p. m.² Permission granted but French authorities request that certain fortified seaports be avoided and suppose Zeppelin will have American officers on board and will fly the American flag.

WHITEHOUSE

² Not printed.

811.348 Z 4/163 : Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

London, September 18, 1924—11 a.m. [Received September 18—10:15 a.m.]

379. My 377, September 13, noon. I am now in receipt of a permit for the flight of the ZR-3 over the Irish Free State which I shall transmit immediately to Friedrichshafen as before. The Foreign Office states that the Government of Bermuda has undertaken to publish an order authorizing the flight over its territory between September 25th and October 24th and if the need arises the Government will be requested to extend this time.

Kellogg

811.348 Z 4/162 : Telegram

The Secretary of State to the Chargé in France (Whitehouse)

Washington, September 19, 1924-4 p.m.

293. Your 407, September 17, 6 p. m.

- 1. Contract with German authorities provides specifically for delivery of ZR-3 to this Government at Lakehurst, New Jersey. Until such delivery it will be operated by German crew. During transatlantic flight, however, there will be on board several United States Navy and Army officers to observe operations. It follows that as the status of these officers is more that of passengers the American flag will not be flown.
- 2. Inform French authorities of substance of foregoing adding that their desires as to avoiding certain areas will of course be complied with.
- 3. Telegraph what areas are to be avoided and Navy will issue instructions accordingly.

HUGHES

811.348 Z 4/166: Telegram

The Chargé in France (Whitehouse) to the Secretary of State

Paris, September 25, 1924—3 p. m. [Received September 25—11:43 a. m.]

416. Your 293, September 19, 4 p. m. Foreign Office states that permission for Zeppelin to fly over France even though operated by German crew will certainly be granted but definite reply is promised within a few days. There might, however, be some objection to the Zeppelin flying the German flag and it will therefore be preferable that no flag should be flown while crossing French ter-

ritory. Naval attaché has already written to Captain Steele at Friedrichshafen in regard to the flag.

Seaports specifically mentioned in French note are Dunkirk, Cherbourg, Brest and Rochefort.

WHITEHOUSE

811.348 Z 4/166a

The Secretary of State to the British Ambassador (Howard)

Washington, September 26, 1924.

EXCELLENCY: I have the honor to inform you that the dirigible airship now being constructed for this Government at Friedrichshafen, Germany, has completed various trial flights and is about to sail for America in the near future, possibly next week. Authorizations for the flight of this airship over their territories have been granted by the Governments of Great Britain (including Northern Ireland), the Irish Free State, Bermuda, France, Belgium and Holland.

It is not intended that in her transatlantic flight the ZR-3 shall pass over the territory of Canada or Newfoundland and such territory will only be flown over in the event of stress of weather or other unforeseen circumstances. I trust that if such a contingency should arise the Governments of Canada and Newfoundland would extend to the ZR-3 and her occupants the kind reception usually accorded mariners in distress, and I should be greatly obliged if you would confirm this assumption.

Accept [etc.]

CHARLES E. HUGHES

811.348 Z 4/166 : Telegram

The Secretary of State to the Chargé in France (Whitehouse)

Washington, September 26, 1924-3 p. m.

300. Your 416, September 25, 3 p. m. states that permission for Zeppelin to fly over France even though operated by German crew will certainly be granted, whereas your 407, September 17, 6 p. m., states "permission granted." Please clarify.

The possible objection you mention to the Zeppelin flying the German flag seems unreasonable to the Department, but if the Foreign Office is insistent upon it, you are instructed to risk no further delay by insisting on this point.

The Department understands that the duration trial flight is just now in process of completion and therefore the transatlantic flight may be possible at any day; accordingly, Department requests you to secure and to telegraph immediately unequivocal authorization for the flight from the French Government.

HUGHES

811.348 Z 4/167: Telegram

The Chargé in France (Whitehouse) to the Secretary of State

Paris, September 29, 1924—noon. [Received September 29—8:50 a. m.]

421. Your 300, September 26, 3 p. m. French Government granted permission on the basis of two assumptions, one of which was incorrect. On being informed that Zeppelin could not fly the American flag permission was again subject to review. I am now in receipt of a note dated September 27 replying memorandum of this Embassy in which Foreign Office states that it must be understood that the airship will not fly any flag in the course of its flight over French territory.

Naval attaché has informed Captain Steele.

WHITEHOUSE

811.348 Z 4/169 : Telegram

The Chargé in Germany (Robbins) to the Secretary of State

Berlin, October 2, 1924—4 p. m.

[Received October 2-2:54 p. m.]

200. Embassy's 188, September 10, 3 p. m.⁵ Foreign Office now states informally that presumably Zeppelin will fly to the United States under German flag and that consequently German authorities should procure necessary permissions for flight over foreign territories. In reply to verbal inquiry the Embassy has informally expressed concurrence in the foregoing.

ROBBINS

811.348 Z 4/169: Telegram

The Secretary of State to the Chargé in Germany (Robbins)

Washington, October 2, 1924-7 p. m.

115. Your 200, October 2, 4 p.m. Although Zeppelin contract provides specifically for acceptance of airship by this Government only upon delivery in this country, nevertheless, it was this Government which secured permission for its construction and it is for this Government that it is being built. Authorization for flight of Zeppelin over foreign territories to United States is necessary consequence of permission for construction, and accordingly the United States has approached the governments whose territory may be traversed. The necessary authorizations have been obtained and no action by the German Government appears necessary in the premises. You will

Not printed.

immediately inform Foreign Office of substance of foregoing in correction of verbal opinion expressed by you.

[Paraphrase.] The French Government has attached to the permission granted for crossing its territory the condition that the Zeppelin shall not fly the German flag while in transit over French territory.

It is the Department's understanding that the representatives of the Navy Department at Friedrichshafen have attended to this matter and that German flag will not be flown over French territory. Any attempt by German authorities to raise the question of authorization in general or of German flag in particular would be most unfortunate. [End paraphrase.]

Please cable report immediately.6

HUGHES

811.348 Z 4/167 : Telegram

The Secretary of State to the Chargé in France (Whitehouse)

Washington, October 3, 1924-6 p. m.

314. Your 421, September 29, noon. Inform Foreign Office that Embassy Berlin is informally advised that airship will not fly any flag in course of its flight over French territory.

Department assumes that on above understanding and avoidance of seaports mentioned in your 416, September 25, 3 p. m., Zeppelin is now free to cross French territory on its Transatlantic flight.

Please confirm telegraphically.7

HUGHES

811.348 Z 4/174

The British Ambassador (Howard) to the Secretary of State

No. 913

Washington, October 7, 1924.

Sir: I have the honour to refer to the note which you were so good as to address to me on the 26th ultimo regarding the trans-Atlantic flight of the United States dirigible airship Z.R. 3, and I take pleasure in informing you that in the unhappy event of the vessel above-mentioned being compelled through accident or stress of weather to fly over or alight in Canada or Newfoundland, the Governments of those Dominions will be pleased to extend every courtesy and render every assistance possible to the Z.R. 3 and her crew.

I have [etc.]

ESME HOWARD

On Oct. 4, 1 p. m., the Chargé telegraphed that the airship was now free to cross French territory (file no. 811.348 Z 4/172).

 $^{^6}$ On Oct. 3, 2 p. m., the Chargé informed the Department that the Zeppelin would fly no flag except on leaving Friedrichshafen and on arrival at destination (file no. 811.348 Z 4/170).

811.348 Z 4/185: Telegram

The Secretary of State to the Chargé in Germany (Robbins)

Washington, November 13, 1924-5 p. m.

147. Please inform Foreign Office that Navy Department on behalf of the United States Government officially accepted the ZR-3 on November 10 pursuant to terms of Article 9 of Agreement of June 26, 1922 between the United States and the German Government.⁸ Request Foreign Office officially to notify Zeppelin Company of this acceptance in accordance with Article 19 of contract of June 26, 1922 between Captain Upham, representing Navy Department, and Zeppelin Company.⁹

HUGHES

LETTER FROM THE SECRETARY OF STATE TO SENATOR LODGE URGING RATIFICATION OF THE TREATY BETWEEN THE UNITED STATES AND GERMANY SIGNED ON DECEMBER 8, 1923 10

611.6231/189a

The Secretary of State to the Chairman of the Senate Committee on Foreign Relations (Lodge)

Washington, March 13, 1924.

MY DEAR SENATOR LODGE: I understand that questions have been raised with respect to certain clauses in the treaty with Germany now pending before your Committee. In view of the importance of these clauses, I desire to emphasize the considerations which led to their inclusion in the treaty.

It is hardly necessary for me to refer to the general situation with respect to our commercial treaties. With a number of countries we have no commercial treaties, and the treaties we have should be supplemented and brought up to date. Important subjects are not covered and as to other subjects more precise and definite provisions are required. We are therefore faced with the necessity of negotiating commercial treaties which should be responsive to our needs, and to this end there has been a most careful study of the questions presented. In this examination we have been led to consider the fundamental policies which our commercial treaties should embody. The result of this examination appears in the pending treaty with Germany.

⁸ Not printed; the agreement was signed by Ambassador Houghton and Herr von Haniel to carry into effect the resolution adopted by the Conference of Ambassadors, Paris, at its 157th meeting, Dec. 16, 1921 (see Foreign Relations, 1921, vol. II, p. 69).

⁹ Contract not printed.

The for text of treaty, see Foreign Relations, 1923, vol. п. р. 29.

I understand that the difficulties, which your Committee has met, relate to two classes of provisions,—(1) those providing for "national" treatment, and (2) those providing for "most-favored-nation" treatment.

First. National treatment. These provisions give to the nationals of the contracting Powers reciprocally the same privileges which the contracting Powers respectively accord to their own nationals in relation to the subject described. Thus the pending treaty with Germany provides in Article VII as follows:

"Article VII. . . . All the articles which are or may be legally imported from foreign countries into ports of the United States, in United States vessels, may likewise be imported into those ports in German vessels, without being liable to any other or higher duties or charges whatsoever than if such articles were imported in United States vessels; and, reciprocally, all articles which are or may be legally imported from foreign countries into the ports of Germany, in German vessels, may likewise be imported into these ports in United States vessels without being liable to any other or higher duties or charges whatsoever than if such were imported from foreign countries in German vessels." . . . "Article VIII. The nationals and merchandise of each High Con-

"Article VIII. The nationals and merchandise of each High Contracting Party within the territories of the other shall receive the same treatment as nationals and merchandise of the country with regard to internal taxes, transit duties, charges in respect to warehousing and other facilities and the amount of drawbacks and

bounties.

"Article IX. No duties of tonnage, harbor, pilotage, lighthouse, quarantine, or other similar or corresponding duties or charges of whatever denomination, levied in the name or for the profit of the Government, public functionaries, private individuals, corporations or establishments of any kind shall be imposed in the ports of the territories of either country upon the vessels of the other, which shall not equally, under the same conditions, be imposed on national vessels. Such equality of treatment shall apply reciprocally to the vessels of the two countries respectively from whatever place they may arrive and whatever may be their place of destination."

The policy reflected in these articles is not new. Thus Article II of the Treaty of 1815 with Great Britain provides:

"No higher or other duties or charges shall be imposed in any of the ports of the United States on British vessels than those payable in the same ports by vessels of the United States; nor in the ports of any of His Britannick Majesty's territories in Europe on the vessels of the United States than shall be payable in the same ports on British vessels.

"The same duties shall be paid on the importation into the United States of any articles the growth, produce or manufacture of His Britannick Majesty's territories in Europe, whether such importation shall be in vessels of the United States or in British vessels, and the same duties shall be paid on the importation into the ports of any of His Britannick Majesty's territories in Europe, of any article

the growth, produce or manufacture of the United States, whether such importation shall be in British vessels or in vessels of the United

States.

"The same duties shall be paid, and the same bounties allowed, on the exportation of any articles the growth, produce or manufacture of His Britannick Majesty's territories in Europe to the United States, whether such exportation shall be in vessels of the United States or in British vessels; and the same duties shall be paid, and the same bounties allowed, on the exportation of any articles the growth, produce or manufacture of the United States, to His Britannick Majesty's territories in Europe, whether such exportation shall be in British vessels or in vessels of the United States.

"It is further agreed that in all cases where drawbacks are or may be allowed upon the re-exportation of any goods the growth, produce or manufacture of either country, respectively, the amount of the said drawbacks shall be the same, whether the said goods shall have been originally imported in a British or an American vessel; but when such re-exportation shall take place from the United States in a British vessel, or from the territories of His Britannick Majesty in Europe in an American vessel, to any other foreign nation, the two contracting parties reserve to themselves, respectively, the right of regulating or diminishing, in such case, the amount of the said drawback." (Malloy's *Treaties*, Vol. I, 625, 626.)

There are similar provisions in Articles IV, V and VI of our Treaty of 1853 with the Argentine Republic, as follows:

"Article IV. No higher or other duties shall be imposed on the importation into the territories of either of the two contracting parties of any article of the growth, produce or manufacture of the territories of the other contracting party, than are, or shall be, payable on the like article of any other foreign country; nor shall any other or higher duties or charges be imposed in the territories of either of the contracting parties, on the exportation of any article to the territories of the other, than such as are, or shall be, payable on the exportation of the like article to any other foreign country; nor shall any prohibition be imposed upon the importation or exportation of any article of the growth, produce or manufacture of the territories of either of the contracting parties, to or from the territories of the other, which shall not equally extend to the like article of any other foreign country.

"Article V. No other or higher duties or charges, on account of tonnage, light or harbor dues, pilotage, salvage in case of average or shipwreck, or any other local charges, shall be imposed in the ports of the two contracting parties on the vessels of the other,

than those payable in the same ports on its own vessels.

"Article VI. The same duties shall be paid, and the same draw-backs and bounties allowed, upon the importation or exportation of any article into or from the territories of the United States, or into or from the territories of the Argentine Confederation, whether such importation or exportation be made in vessels of the United States or in vessels of the Argentine Confederation." (Malloy's Treaties, Vol. I, 21, 22.)

Similar provisions for reciprocal national treatment are found in our Treaty of 1826 with Denmark; of 1827 with Norway (Sweden and Norway); of 1846 with Colombia (New Granada); of 1851 with Costa Rica; of 1852 with the Netherlands; of 1858 with Bolivia; of 1859 with Paraguay; of 1864 with Honduras; of 1871 with Italy; of 1875 with Belgium; of 1902 with Spain; and of 1911 with Japan.

It is manifest that to refuse to provide for such reciprocal national treatment in the negotiation of our new commercial treaties would be a clear departure from our policy embodied in these existing treaties. Further, there is no provision in many of these existing treaties for the abrogation of the provisions in question without abrogating the whole treaty. Some of our treaties, as those with Great Britain and the Argentine Republic, have no provision for termination and, assuming that they could be terminated on reasonable notice, they could be terminated in this way only as a whole and not in part. It would, however, be a serious thing for us to dispose of all our commercial treaties without negotiating new treaties to take their place. If we were to abrogate existing treaties before undertaking such negotiations we should be in an unfortunate situation, and, if we were to undertake to negotiate substitute treaties without such abrogation, we should not be likely to get terms more favorable to the United States than the terms of the existing treaties unless we paid for them with substantial concessions.

On the other hand, if we continue to be bound by the provisions for national treatment in the existing treaties, there would seem to be little in the point that we should reserve in relation to other countries rights of discrimination by refusing national treatment. This would practically be a threat of discrimination against certain countries, inviting reprisals, while at the same time our hands would be tied in carrying out a similar policy as to the countries with which we have treaties of the sort above described.

Apart from these considerations the policy of giving reciprocal national treatment as embodied in existing treaties so far as they go, and as defined in the clauses in the pending treaty with Germany, is believed to be a sound one.

Take, for example, the case of a tonnage duty. This is imposed upon a vessel entering a port and is measured according to the net registered tonnage of the vessel. It is a duty on the ship as such, and is the price exacted by the territorial sovereign for the privilege given the vessel to enter with its cargo. It becomes of the highest importance to the shipowner, foreign or domestic, that his vessel be not subjected to a heavier tax than that imposed upon rival vessels under any flag. The rivals of an American vessel entering, for example, a European port called X, are not merely the vessels of third States but the vessels of X itself. Thus, in entering into a

treaty providing for tonnage duties, the problem is not to secure such benefits as the other contracting party may yield to third States, but rather to safeguard one contracting State (such as the United States in its treaty) against special concessions or discriminations which the other contracting State might otherwise make in favor of its own vessels. The manifest reason for this policy is that the ships of each contracting party are competitors of the ships of the other. This fact has led to the practice of the United States, evidenced by the treaties above described, in providing for reciprocal national treatment of tonnage duties in treaties with maritime States. This has the sanction of our statutory law in relation to tonnage duties. (U. S. Rev. Stat. sec. 4219; Act of June 26, 1884, c. 121, sec. 14, 23 Stat. 57; June 19, 1886, c. 421, sec. 11, 24 Stat. 81; April 4, 1888, c. 61, sec. 1, 25 Stat. 80; August 5, 1909, c. 6, sec. 36, 36 Stat. 111.)

If the United States is to have its proper place as a maritime Power and its vessels are to enter the ports of the world, it must insist upon freedom from discriminations in such ports by the respective sovereigns in relation to their own vessels. How is the United States to obtain such freedom from discrimination? It is said that it may retaliate, but, in this sense, retaliation is only a means to an end, and the end is to obtain the desired freedom from discrimination. The way to assure this freedom is by agreement and, of course, what the United States asks it must give. Thus we have, as a natural result, the historic provisions of our commercial treaties with respect to reciprocal national treatment. Provisions of this type have become common to and appear in the treaties of practically all nations.

Again, a cargo duty represents the effort of a State to exact a charge by reason of the carriage of a cargo of a vessel under a particular flag. A State doubtless may, in the absence of a treaty, impose cargo duties that discriminate in its own favor by exacting a heavier charge on cargoes carried in foreign bottoms than on those carried in its own ships. Here again it appears, as in the case of tonnage duties, that a maritime State about to contract with another finds its competitor in the State with which it deals and must be on its guard lest that State be left free to discriminate in favor of its own shipping through impositions of cargo duties which place a heavier burden on cargoes carried in foreign vessels than on those carried in its own. This danger has led to the practice of the United States in incorporating in its treaties provisions for reciprocal national treatment of cargo duties. This policy is supported by the provisions aimed at securing protection from discrimination which are found in Article 317 of the Tariff Act of 1922.11 In this

^{11 42} Stat. 858, 944.

case, as in the case of tonnage duties, the object is attained when another State is willing to agree not to impose discriminatory exactions upon our commerce and this, of course, calls for similar agreement upon our part. Either we are to have a policy of discriminations or a policy of obtaining immunity from discriminations. If the latter policy is adopted, then we achieve our purpose in securing agreements by which States will not discriminate against us.

I should hardly think it necessary to argue the question whether a policy of discriminations, as an end in itself, would be in our interest, for our history would seem sufficiently to show that it would not. Discrimination in favor of our own vessels will certainly produce retaliation by foreign States whose tonnage is adversely affected by the American discriminatory action. If we impose discriminatory tonnage or cargo duties, they will be imposed by foreign Powers against our vessels. The effect of such retaliatory measures would probably be that if American ships coming from abroad entered American ports with full cargoes they would go back empty. Any attempt by Congress to alleviate the situation by lessening charges for transportation could be met by like action on the part of the foreign State to which exports from the United States were destined. A policy of discrimination and retaliation, as an end in itself, would be a policy fatal to our interest, not only in the highest degree embarrassing so far as our shipping interests are concerned, but having by-products in resentment and ill-will and in the encouragement of other efforts to cripple our trade which would make us pay dearly for our experiment. A policy of discrimination and retaliation, not as an end in itself, but merely to enforce proper regard for our own interests by freeing us from discriminations abroad would find its aim achieved in agreements such as the pending treaty with Germany and other treaties of like import, under which discriminations would be impossible.

That a policy of discrimination if entered upon by this Government in favor of national shipping would certainly be met by retaliation is a conclusion fortified by recent events. The British Imperial Conference which recently met in London is understood to have adopted the following Resolution:

"In view of the vital importance to the British Empire of safeguarding its overseas carrying trade against all forms of discrimination by foreign countries, whether open or disguised, the representatives of the Governments of the Empire declare—

"(1). That it is their established practice to make no discrimination between the flags of shipping using their ports, and that they have no intention of departing from this practice as regards countries which treat ocean-going shipping under the British flag on a footing of equality with their own national shipping.

"(2). That in the event of danger arising in future to the overseas shipping of the Empire through an attempt by a foreign country to discriminate against the British flag, the Governments of the Empire will consult together as to the best means of meeting the situation."

The Statute with respect to the International Regime of Maritime Ports approved by the Second General Conference on Communications and Transit at Geneva in December, 1923, contained the following provision in the first paragraph of Article VIII:

"Each of the Contracting States reserves the power, after giving notice through diplomatic channels, of suspending the benefit of equality of treatment from any vessel of a State which does not effectively apply, in any maritime port situated under its sovereignty or authority, the provisions of this Statute to the vessels of the said Contracting State, their cargoes and passengers."

It may be observed that Article II of the same Statute contemplates reciprocal national treatment of vessels in the following terms:

"Subject to the principle of reciprocity and to the reservation set out in the first paragraph of Article 8, every Contracting State undertakes to grant the vessels of every other Contracting State equality of treatment with its own vessels, or those of any other State whatsoever, in the maritime ports situated under its sovereignty or authority, as regards freedom of access to the port, the use of the port, and the full enjoyment of the benefits as regards navigation and commercial operations which it affords to vessels, their cargoes and passengers.

"The equality of treatment thus established shall cover facilities of all kinds, such as allocation of berths, loading and unloading facilities, as well as dues and charges of all kinds levied in the name or for the account of the Government, public authorities, concession-

aries or undertakings of any kind."

The abandonment of reciprocal national treatment with the design of permitting discriminatory tonnage and cargo duties favorable to American shipping would mark the beginning of a bitter strife in which reprisal would follow reprisal and the very interests sought to be benefited would be jeopardized. To seek such a war as an end in itself would seem to be a desperate recourse. It is believed that American shipping will prosper far more greatly by a policy which ensures for it through appropriate international agreements immunity from unjust discriminations.

Second. Most-favored-nation treatment. I suppose that no one would object to the inclusion of the usual most-favored-nation provisions in our commercial treaties. I take it for granted that we desire to obtain in our treaties the same benefits for the United States that the other contracting Powers give to third States. The

question which has arisen, with respect to the most-favored-nation clauses in the pending Treaty with Germany grows out of the fact that these clauses provide reciprocally for most-favored-nation treatment without regard to the question whether a favored third State shall have been accorded the favor gratuitously or in return for special compensation. In other words, the pending Treaty applies what is termed the "unconditional" most-favored-nation principle. This is indeed a departure from our former practice but it is believed to be a wise departure.

The traditional policy of the United States in respect to most-favored-nation treatment was developed on the theory that privileges and concessions in the field of duties on imports or exports should be granted only in return for privileges and concessions reciprocally accorded. Thus there was almost uniformly written into the treaties to which we became a party the provision that most-favored-nation treatment should be conditional: The benefit of concessions or reductions of duties made to third States by either contracting Power should accrue to the other contracting Power freely, if freely made to the third State, but only in return for an equivalent if made to the third State for a reciprocal concession or reduction.

In practice, the application of the principle of granting special concessions in return for special concessions involved the upsetting of the equilibrium of conditions which it was in the interest of this country to maintain. It was the interest and fundamental aim of this country to secure equality of treatment but the conditional mostfavored-nation clause was not in fact productive of equality of treatment and could not guarantee it. It merely promised an opportunity to bargain for such treatment. Moreover, the ascertaining of what might constitute equivalent compensation in the application of the conditional most-favored-nation principle was found to be difficult or impracticable. Reciprocal commercial arrangements were but temporary makeshifts; they caused constant negotiation and created uncertainty. Under present conditions, the expanding foreign commerce of the United States needs a guarantee of equality of treatment which cannot be furnished by the conditional form of the most-favored-nation clause.

While we were persevering in the following of the policy of conditional most-favored-nation treatment, the leading commercial countries of Europe, and in fact most of the countries of the world, adopted and pursued the policy of unconditional most-favored-nation treatment: Each concession which one country made to another became generalized in favor of all countries to which the country making the concession was obligated by treaty to extend most-favored-nation treatment. As the United States attained to a position of first rank as a World Power, we, in defence of our essential interests,

became an active champion, in fact the foremost champion of the principle of the "open door" in the field of international commercial relations. To be consistent with our professions, and to conserve our interests it has become important that we make our commercial practice square in fact with the theory upon which our policy has been based. This explains the reason why, having examined with most minute care the history of the application of our conditional most-favored-nation principle, the Administration decided to abandon this practice and in its place to adopt the practice of unconditional most-favored-nation treatment. After the matter had been presented to President Harding he wrote me as follows, on February 27, 1923:

"I am well convinced that the adoption of [the] unconditional favored nation policy is the simpler way to maintain our tariff policy in accordance with the recently enacted law and is probably the surer way of effectively extending our trade abroad. If you are strongly of this opinion, you may proceed with your negotiations upon the unconditional policy."

The Tariff Act of 1922 contains provisions which differentiated it from previous tariff legislation. Articles 315, 316 and 317 show that Congress realized that we had entered upon a new era, calling for new methods and a new attitude. The time has come for demanding that conditions of commercial competition be placed upon a basis which will both assure our own interests and contribute to the peace of the world by eliminating unnecessary economic contentions. As we seek pledges from other foreign countries that they will refrain from practicing discrimination, we must be ready to give such pledges, and history has shown that these pledges can be made adequate only in terms of unconditional most-favored-nation treatment. We should seek simplicity and good will as the fundamental conditions of international commerce.

There is one apparent misapprehension which I should like to remove. It may be argued that by the most-favored-nation clauses in the pending treaty with Germany we would automatically extend privileges given to Germany to other Powers without obtaining the advantages which the treaty with Germany gives to us. This is a mistake. We give to Germany explicitly the unconditional most-favored-nation treatment which she gives to us. We do not give unconditional most-favored-nation treatment to other Powers unless they are willing to make with us the same treaty, in substance, that Germany has made. Most-favored-nation treatment would be given to other Powers only by virtue of our treaties with them, and these treaties, so far as we have them, do not embrace unconditional most-favored-nation treatment. We cannot make treaties with all the

Powers at the same moment, but if the Senate approves the treaty which we have made with Germany we shall endeavor to negotiate similar treaties with other Powers and such other Powers will not obtain unconditional most-favored-nation treatment unless they conclude with us treaties similar to the one with Germany.

In the same line I may observe, recurring to what I have said above with regard to national treatment of shipping, that the provisions of the treaty with Germany for such national treatment will not accrue to the benefit of other Powers with whom we do not make, or have not made, a treaty similar to the treaty with Germany and I may repeat that our existing commercial treaties contain provisions, so far as they go, for national treatment of shipping.

In short, if the treaty with Germany is approved, we shall be in a position to conclude negotiations with other Powers upon the same basis and in this way most effectively to remove whatever discriminations may now exist to the prejudice of the United States.

I remain [etc.]

CHARLES E. HUGHES

GREAT BRITAIN

NEGOTIATIONS TO ENSURE BY TREATY THE RIGHTS OF THE UNITED STATES IN CENTRAL AFRICAN TERRITORIES UNDER BRITISH MANDATE 1

800.01 M 31/186: Telegram

The Secretary of State to the Ambassador in Great Britain (Kellogg)

Washington, February 16, 1924-7 p. m.

39. Your despatch 3181, November 30, 1923,2 regarding mandates. You will acknowledge appropriately Lord Curzon's note of November 26, 1923,3 and reply as follows:

"The Government of the United States understands that, except as to the text of the preambles, there is now complete agreement between it and His Majesty's Government with respect to the terms of the proposed treaties affecting the former German territories in central Africa now administered by His Majesty's Government under

mandate on behalf of the League of Nations.

As explained in its previous notes on this subject, the Government of the United States, in proposing the text of the preambles in question, followed substantially the same form as has been accepted in the treaties with Belgium 4 and France 5 covering territories in tropical Africa under mandate to those Governments and in the treaty with Japan 6 covering the former German territories in the North Pacific Ocean under mandate to that Government, believing it to be desirable in the interest of uniformity to incorporate in the treaties proposed for negotiation between Great Britain and the United States substantially the same preambles as those incorporated in the other treaties mentioned above.

The Government of the United States adheres to the position it has heretofore taken, namely, that the right to dispose of the overseas possessions of Germany was acquired only through the victory of the Allied and Associated Powers, and that there can be no valid or effective disposition of these territories without the assent of the United States as one of the participants in that victory. tion of the United States is not opposed, but is confirmed, by the Treaty of Versailles, by which Germany renounces in favor of the Principal Allied and Associated Powers, of which the United States was one, all her rights and titles over her overseas possessions. It

² Ibid., p. 230. 3 Ibid.

¹ For previous correspondence, see Foreign Relations, 1923, vol. 11, pp. 228 ff.

⁴ Ibid., vol. I, p. 433. ⁵ Ibid., vol. II, p. 8. ⁶ Ibid., 1922, vol. II, p. 600. ⁷ Malloy, Treaties, 1910-1923, vol. III, p. 3329.

may further be observed that in providing (Article 440) that the Treaty when ratified by Germany and three of the Principal Allied and Associated Powers should come into force between the ratifying Powers, it was manifestly not the intention that on such ratification by three Powers there should still remain in Germany any undivided share of right, title or sovereignty in the overseas possessions described. It would seem to be clear that the renunciation set forth in Article 119 of the Treaty was not intended to be divisible. In consequence, had the Treaty come into force on the ratification by only three of the Principal Allied and Associated Powers, the renunciation would still have been completely effective, disposing of the entire interest of Germany, and Article 119 would necessarily have thus become effective according to its express terms, that is, in favor of the five Principal Allied and Associated Powers and not otherwise. The three ratifying Powers could have claimed no greater right or title than the Treaty gave and no exclusive right or title which the Treaty by its terms did not confer. was the same result on the actual ratification of the Treaty and the failure of the United States to ratify did not qualify the terms of Germany's renunciation. Any different terms would necessarily require the agreement of the parties concerned, including Germany herself, and no such agreement was made. Subsequently, it may be added, Germany by her treaty with the United States 8 confirmed to the United States the rights and benefits accruing to it under Article 119 of the Treaty of Versailles. Thus, it must be insisted that both by virtue of the participation of the United States in the common victory and by the explicit terms of Germany's renunciation of her overseas possessions, no valid disposition of the territories in question can be made without the consent of the United States, and, as has already been pointed out, this consent can only be granted through a duly negotiated treaty ratified with the advice and consent of the Senate of the United States. The Government of the United States cannot depart from this fundamental position and consequently is unable to admit that four of the five Principal Allied and Associated Powers can accord to themselves or to others any privileged position or any advantages not equally accorded to the United States in the former German overseas possessions title and right to which, as a result of the common victory, were renounced by Germany in favor of the five Principal Allied and Associated Powers.

Although, as stated above, the Government of the United States believes that it would be desirable in the interest of uniformity if the preambles of the treaties which it is negotiating with His Majesty's Government could follow substantially the form of the preambles accepted by the Governments of Belgium, France and Japan in the treaties concluded between those countries and the United States, nevertheless, the Government of the United States, while it maintains unqualifiedly the position it has taken with regard to its rights in mandated territories, is not disposed to insist unduly upon the mere form of the preambles heretofore suggested for incorporation in the pending treaties with Great Britain. Ac-

⁸ Foreign Relations, 1921, vol. II, p. 29.

cordingly, the Government of the United States submits for the consideration of His Majesty's Government the following alternative form of preamble which, it is hoped, satisfactorily meets the objections of the latter Government.

'Whereas His Britannic Majesty has accepted a mandate for the administration of part of the former colony of Blank, the terms of which have been defined by the Council of the League of Nations as follows: (Insert terms of mandate except for preamble.)

And,

WHEREAS the Government of the United States of America and the Government of His Britannic Majesty are desirous of reaching a definite understanding as to the rights of their respective Governments and of their nationals in the said territory:

The President of the United States of America and His Britannic Majesty have decided to conclude a convention to this effect and have nominated as

their plenipotentiaries et cetera.'

The Government of the United States is willing to proceed immediately to the signature of these proposed treaties with the preambles modified as suggested herein."

Department would be glad to have you proceed as soon as possible to signature of these treaties and will be prepared to telegraph you the necessary full powers when a favorable response is received from the Foreign Office. Senate Committee on Foreign Relations has reported favorably two French B mandate treaties and Belgian mandate treaty has been sent to Senate.

HUGHES

800.01 M 31/201

The Ambassador in Great Britain (Kellogg) to the Secretary of State

No. 623

LONDON, July 31, 1924.

[Received August 11.]

Sin: I have the honor to enclose a copy, in triplicate, of a note dated July 29, 1924, from the Foreign Office regarding the proposed treaties affecting the former German territories in Central Africa (B Mandates)....

I have [etc.]

For the Ambassador:

F. A. Sterling Counselor of Embassy

[Enclosure]

The British Secretary of State for Foreign Affairs (MacDonald) to the American Ambassador (Kellogg)

No. W5896/23/98

LONDON, July 29, 1924.

YOUR EXCELLENCY: You recently enquired whether His Majesty's Government were in a position to reply to Your Excellency's note

of the 18th February last ' regarding the proposed treaties affecting the former German territories in Central Africa now administered by His Majesty's Government under mandate on behalf of the League of Nations, and to proceed to the conclusion of those treaties.

2. I have the honor to state that His Majesty's Government would prefer to postpone their final answer to the note in question until a more advanced stage has been reached in the negotiation of the treaty relating to the British mandate in Palestine. on the latest proposals of the United States Government in regard to that matter were communicated to you in my note of the 17th instant.10

I have [etc.]

(For the Secretary of State), G. H. VILLIERS

800.01 M 31/204: Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

London, December 30, 1924—3 p. m. [Received December 30—1:39 p. m.]

541. A note from the Foreign Office states that the British Government are now prepared to conclude with the United States Government treaties in the terms of the draft enclosed in Mr. Harvey's note March 24, 1923, concerning the former German territories in Central Africa now administered under mandate by His Majesty's Government; and that the preamble suggested in my note of February 18 last is acceptable to the British Government subject to the substitution in the case of the Cameroons and Togoland of the word "protectorate" for "colony," the former being the designation given to those territories by the German Government at the outbreak of the war. The note concludes by stating that I will be informed as soon as the necessary documents are ready for signature.

Mr. Harvey's note above referred to was based on your telegram 61, March 21, 5 p. m., 1923.11 My note of February 18th above referred to was based on your telegram 39, February 16, 7 p. m., 1924. Please instruct.

KELLOGG

See telegram no. 39, Feb. 16, to the Ambassador in Great Britain, p. 193. ¹⁰ Post, p. 208. ¹¹ Foreign Relations, 1923, vol. 11, p. 228.

EFFORTS TO MAINTAIN AMERICAN CAPITULATORY RIGHTS IN PALESTINE PENDING AGREEMENT BY TREATY REGARDING THE BRITISH MANDATE ¹²

367n.1121 Hanovich, Israel/2: Telegram

The Secretary of State to the Ambassador in Great Britain (Kellogg)

Washington, April 15, 1924—2 p. m.

99. Following telegram received from Consul Jerusalem:

"April 11, 10 a. m. Referring to Department's telegram of November 2, 2 p. m.¹³ Israel Hanovich, American citizen, has been fined ten pounds sterling by a court at Jaffa and imprisoned notwithstanding protest and the demand that he be given into our possession for trial. Local courts insist that they have same jurisdiction over American citizen as natives, and resist all efforts of the Consulate to assume jurisdiction in civil or criminal proceedings brought against American citizens. Unless necessary representations come from Foreign Office, London, to the Government of Palestine, there is no prospect of change in the situation on the part of judicial authorities. Two native judges always overrule British judge on questions concerning American claims to capitulations and the agreement reached between the Consulate and the Legal Secretary is ignored by the courts and not enforced by this government. Heizer."

In this connection see Department's written instruction 977, October 4, 1923 ¹⁴ and British Foreign Office reply of November 29, 1923 (your written despatch 3180, November 30, 1923). ¹⁵

Please bring to attention of Foreign Office substance of Heizer's telegram. With reference to Department's telegram 85, April 4, 4 p. m., 16 you may state to Foreign Office that Department hopes to take up correspondence with regard to Palestine Mandate Convention within a few days and that it trusts that pending the conclusion and ratification of such an agreement, measures will be taken to avoid raising an issue by the insistence of the local courts upon jurisdiction over American citizens.

In connection with reference in above telegram to two native judges always overruling British judge, Department would call your attention to assurances in British Foreign Office note of December 29, 1921, your written despatch 831, December 30, 1921, from which it was understood here that even after Palestine Convention

¹² Continued from Foreign Relations, 1923, vol. 11, pp. 218–228.

¹⁸ Not printed.

¹⁴ Foreign Relations, 1923, vol. II, p. 222. ¹⁵ Ibid., p. 225.

¹⁶ Not printed.

¹⁷ Foreign Relations, 1921, vol. II, p. 115.

went into effect foreign nationals, including citizens of the United States, would have the right to be tried by a court with a majority of British judges except in trivial cases.

HUGHES

367n.1121 Hanovich, Israel/6: Telegram

The Secretary of State to the Ambassador in Great Britain (Kellogg)

WASHINGTON, April 18, 1924—7 p. m.

104. Department's 99, April 15. Following telegram received from Consul Jerusalem:

"April 14, 8 a.m. Referring to my telegram of April 11, 10 a.m. Attorney General now declares the Government of Palestine, in accordance with instructions received from the Secretary of State, cannot admit the American Consulate has any longer jurisdiction over American citizens in Palestine, whether in cases civil or criminal. Department's instruction regarding course to be taken desired. Heizer."

Department desires you to make appropriate representations to the British Foreign Office in the sense outlined in Department's 99. Inform Department by telegraph of action taken and of attitude of Foreign Office.

HUGHES

367n.1121 Hanovich, Israel/12: Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

London, May 13, 1924—1 p. m. [Received May 13—11:48 a. m.]

180. Your 99, April 15, 2 p. m. I have received a note from the Foreign Office of which the following are the pertinent portions:

"The information now received from Sir Herbert Samuel ¹⁸ is to the following effect: Israel Hanovich, who resides at Telaviv, was convicted in his absence by a magistrate of contravening the town planning law and sentenced to a fine. In default of payment, the accused was imprisoned. Hanovich did not appear before the court to lodge opposition and did not appeal after judgment had been notified to him, nor did he ever raise the plea of United States citizenship. Subsequently, however, representations were received by the attorney general of the Palestine Administration from the United States consul, whereupon the attorney general informed the United States consul of the facts of the case and Israel Hanovich was immediately released."

¹⁸ British High Commissioner for Palestine.

The note concludes by expressing the pleasure of the Government in receiving the information from the Embassy that it is the intention of the American Government to resume negotiations immediately for the conclusion of a convention in regard to the Palestine mandate.

KELLOGG

367n.1121 Hanovich, Israel/14: Telegram

The Consul at Jerusalem (Heizer) to the Secretary of State

JERUSALEM, May 21, 1924-10 a. m. [Received May 21—9:23 a. m.]

Referring to Department's telegram May 19, 3 p. m.¹⁹ Hanovich released on bail. Court now pressing him to pay fine which he refuses reiterating at every step from the beginning his citizenship American and demanding to be heard in the Consular Court. be imprisoned again unless he pays. Should a protest be made by me to the Government of Palestine in all cases heard in the courts locally versus American citizens who refuse to submit in writing to local jurisdiction?

HEIZER

367n.1121 Hanovich, Israel/15: Telegram

The Secretary of State to the Consul at Jerusalem (Heizer)

Washington, May 24, 1924—3 p. m.

Your May 21, 10 a. m. Pending recognition of British mandate over Palestine protest should be made in any case where local courts assume jurisdiction over American citizens. If further action taken against Hanovich in other than Consular Court strong protest should be lodged and matter immediately reported to Department.20

HUGHES

667n.003/15: Telegram

The Consul at Jerusalem (Heizer) to the Secretary of State

JERUSALEM, August 19, 1924—11 a.m. [Received 11:47 a. m.]

New customs duties amendment ordinance increasing considerably rate on imported articles published August 15th, and duty collected under new schedule from August 18th. Some instances of special

²⁰ The consul at Jerusalem reported in despatch no. 211, July 15, 1924, that Hanovich had not been required to pay the fine (file no. 367n. 1121 Hanovich, Israel/16).

interest are herewith: coffee 150 piastres; flour 17.5 piastres; vegetable fats 75 piastres; margarine 125 piastres per hundred kilograms; kerosene, [omission?] .6 piastres gallon; motor spirits 4 piastres gallon; Diesel solar crude oil 60 piastres ton; confectionery, jam, preserved fruit, 20 percent; wood for furniture 100 piastres cubic meter; sole leather Egyptian 130, other countries 200 piastres per hundred kilograms; matches 20 piastres gross of boxes of 10 thousand; pure alcohol and spirits, 60 piastres gallon; charcoal and anthracite 50 piastres; other coal 30 piastres ton; mother of pearl shells 8 percent; bicycles, motor cycles, trucks, carts, automobiles, tires, accessories, musical instruments, photographic apparatus, typewriters, all 15 percent; snuff 15 piastres; tobacco uncut 50 piastres, manufactured and cigarettes 60 piastres; cigars, chewing tobacco 65 piastres per kilogram. Cereals and building material about the same. Most other goods not mentioned 12 percent ad valorem plus 1 percent octroi.

HEIZER

667n.113/1: Telegram

The Secretary of State to the Ambassador in Great Britain (Kellogg)

Washington, September 2, 1924-4 p.m.

315. The American Consul at Jerusalem, under date of August 19, 1924, telegraphed the Department "New customs duties amendment ordinance increasing considerably rate on imported articles published August 15th, and duty collected under new schedule from August 18th".

As you are aware, this Government has consistently taken the position that pending the final determination of the status of the territories detached from the Ottoman Empire, and in the absence of the assent of the interested Powers to the suspension or modification of the rights derived from the capitulations, the authorities administering territories detached from the Ottoman Empire are bound by the obligations incident to the existence of the capitulatory regime. By virtue of the capitulations American citizens in Palestine are entitled to exemption from all taxes except such as are approved by this Government.

You should call the foregoing to the attention of the British Government and say that this Government would be pleased to receive an expression of the views of the British Government with respect to the situation in Palestine which has arisen as a result of the reported attempt to collect from American citizens an increased customs duty to which the assent of this Government had not been previously requested.

You may likewise inform the British Government that the Department has forwarded to you by mail a note to be communicated

to the British Government assenting, except as regards certain minor points, to the proposals made by the British Government in its note of July 17, 1924 enclosed with your despatch No. 606 of July 24, 1924.²¹ You may add that this Government confidently expects that it will be possible to sign the proposed Palestine Mandate convention at an early date. Repeat to American Consul Jerusalem for his information only.

HUGHES

367n.1141 Sk 5/2 : Telegram

The Acting Secretary of State to the Ambassador in Great Britain (Kellogg)

Washington, October 18, 1924—2 p. m.

365. American Consul Jerusalem reports that Messrs. Berlin and Pacowsky, Russian nationals who have opted for Palestinian nationality have brought suit against Philip Skora an American in the Magistrate's Court at Tel-Aviv, which has seized the bank account of Skora for a sufficient sum to meet the judgment. Consul protested to the Chief Secretary of the Government of Palestine who replied that the Palestinian Government had no power by administrative order to remove the attachment. The judgment in this case was handed down by a local court in disregard of the rights of the American Consular Court.

The Department desires you to bring this case to the attention of the Foreign Office and call attention to the position of this Government that, pending conclusion of the proposed agreement between Great Britain and the United States, with reference to Palestine, the capitulatory rights of the United States persist. This Government trusts that appropriate instructions in this matter will be issued to the officials in Palestine.

See Department's 99 April 15, 2 p. m. and 357 October 13, 7 p. m.²² Report result of this action.

GREW

867n.01/410: Telegram

The Secretary of State to the Consul at Jerusalem (Heizer)

Washington, December 6, 1924-7 p. m.

Palestine Mandate Treaty was signed at London December 3d.²⁸
As treaty does not enter into effect until exchange of ratifications you

²¹ Post, p. 207.

²² Latter not printed.

²⁸ Post, p. 212.

should maintain, pending such exchange, the same position as heretofore with respect to rights and duties of Consulate. Embassy London is being instructed to forward copy of treaty direct to you.

HUGHES

667n.113/3: Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

London, December 11, 1924—4 p. m. [Received December 11—2:23 p. m.]

516. The Foreign Office inquires whether in view of the signature of the Palestine mandate convention you now desire to pursue the questions raised concerning increased customs duty in Palestine and the attachment of the bank account of Skora; see your telegrams 315, September 2, 4 p. m. and 365, October 18, 2 p. m. The Foreign Office suggests that although the points raised are still under consideration by His Majesty's Government, their importance is no longer such as to warrant continuance of the correspondence.

Kellogg

667n.113/3: Telegram

The Secretary of State to the Ambassador in Great Britain (Kellogg)

Washington, December 17, 1924—4 p. m.

473. Your 516, December 11, 4 p. m.

- 1. This Government's position regarding the indispensability of its assent to any dues or taxes to be imposed upon Americans in Palestine prior to the coming into effect of the Mandate Convention has not been changed by the signature of that convention. Meanwhile the Department would, however, be disposed to give favorable consideration to any reasonable request of the Mandatory Power that the United States assent to the collection of increased dues or taxes from Americans in Palestine as from the date of the communication of its assent to the British Government. A similar procedure was followed with respect to a contemplated increase of customs dues in Syria shortly after signature of the Syrian mandate convention between the United States and France.
- 2. Inasmuch as the capitulatory rights of the United States in Palestine will continue in force until the coming into effect of the mandate convention, this Government cannot recede from the position it has taken with reference to the Skora case and other cases involving the exercise of judicial functions by American Consuls. This Government relies upon the Mandatory Power to take appropriate measures to the end that judgments rendered against Ameri-

can citizens by Palestinian courts prior to the suspension of American capitulatory rights and in disregard of those rights shall not be enforced by the Palestinian authorities either before or after the coming into effect of the mandate convention.

HUGHES

CONVENTION BETWEEN THE UNITED STATES AND GREAT BRITAIN RELATING TO RIGHTS IN PALESTINE, SIGNED DECEMBER 3, 1924

867n.01/371: Telegram

The Secretary of State to the Ambassador in Great Britain (Kellogg)

Washington, April 28, 1924-5 p. m.

108. Department's 85, April 4, 4 p. m.²⁴ Your written despatch 3180, November 30, 1923.²⁵

Department desires you to address to British Foreign Office a communication substantially as follows:

"I have the honor to acknowledge the receipt of the communication of His Britannic Majesty's Government of November 29, 1923,²⁶ proposing the conclusion of the convention with respect to the British Mandate in Palestine which was the subject of a communication from the Embassy to the Foreign Office of July 14, 1922,²⁷ and of a communication addressed by Lord Curzon to my predecessor under date of October 2, 1922.²⁸ There was also received, under date of November 29, 1923,²⁹ a second communication from the Foreign Office which adverted to certain difficulties resulting from the exercise of extraterritorial jurisdiction by the American Consular Court and suggested that the early conclusion of a convention for the recognition of the British Mandate over Palestine would provide the most satisfactory solution of the difficulties in question.

Under instructions, I take pleasure in informing you that my Government concurs in the desirability of an early conclusion of the convention with respect to Palestine and has authorized me to submit to you for your confidential information a copy of the convention recently signed with the Government of France relating to the Mandate for Syria and the Lebanon ³⁰ and also to communicate to you copies of certain correspondence exchanged with the French Gov-

ernment in connection with this convention.

In view of the fact that the subject matter to be dealt with in the case of the Palestine Convention is similar to that involved in the negotiations in the case of the Syrian Mandate, there would appear to be obvious advantages in preparing conventions in the two cases as nearly alike as possible.

Not printed.

Foreign Relations, 1923, vol. II, p. 225.
 Ibid., p. 228.

²⁷ Not printed; see Department's memorandum of July 12 to the British Embassy, *ibid.*, 1922, vol. II, p. 287.

²⁸ *Ibid.*, р. 304. ²⁰ *Ibid.*, 1923, vol. п, р. 225. ³⁰ Vol. I, р. 741.

My Government however has not overlooked the fact that three previous drafts of the Palestine Mandate convention have already been prepared; namely, that submitted with the communication of the British Foreign Office June 20, 1922, ³¹ a second draft communicated to the Foreign Office by this Embassy under date of July 14, 1922, and a third draft of October 2, 1922, to which reference was made in Lord Curzon's communication of November 29, 1923. The convention recently concluded with France with respect to Syria and the Lebanon follows on essential points the proposals which were considered in July 1922 and taking this convention as a basis for negotiation, would not involve any material divergence from the earlier proposals.

With respect to the preamble to the Convention, I am instructed to express the hope of my Government that objection will not be raised to the formula which has already been adopted in the case of the convention relating to Syria and the Lebanon. If this result would be facilitated by my Government's concurrence in incorporating not only the text of the Mandate but also the Preamble to the Mandate in the Preamble to the Convention, my Government is pre-

pared to accept this modification.

As your Excellency will note, my Government suggested to the French Government the inclusion in the Convention with respect to Syria of a provision extending to Syria and the Lebanon the provisions of the existing Extradition and Consular Treaties and Conventions between France and the United States. For reasons which appear in the annexed correspondence, the French Government, while quite willing to extend to the United States the privileges of these treaties, preferred to effect this by an exchange of notes rather than by the addition of an Article in the Convention itself. It is suggested that in the Palestine Convention express provision be made for the application to Palestine of the extradition treaties in force between the two countries along the lines proposed in the British draft of October 2, 1922. The first paragraph of Article VI of the draft convention contains an appropriate provision to this effect.

With regard to the privileges and immunities of Consuls in the mandated territory, your attention is directed to the assurances in this respect which have been given by the French Government in its correspondence with regard to Syria and the Lebanon. Under the capitulatory regime in Palestine the position of Consular Officers and the prerogatives of their offices were safeguarded. As it is contemplated that, in view of the terms of the mandate, capitulatory rights should be suspended, it will be particularly important to my Government that the British Government give assurances that American Consular Officers in the mandated territory would enjoy all the immunities and privileges accorded by international law and custom or as may be granted to the consuls of any other power by treaty or otherwise. In view of the insufficiency of the existing treaty provisions with Great Britain relating to consular rights, a stipulation to this effect as well as for the application to the mandated territory of the provisions of any treaties in

³¹ Apparently the draft enclosed with despatch no. 512, July 5, 1922, from the British Chargé; Foreign Relations, 1922, vol. 11, p. 281.

force between the two countries which relate to consular rights, is contained in the proposed Article VI.

The text of Article VI which my Government proposes would

read as follows:

'The extradition treaties and conventions in force between the United States and Great Britain and the provisions of any treaties in force between the two countries which relate to extradition or consular rights shall apply to the Mandated territory.

American Consular Officers shall enjoy in the Mandated territory all the rights, privileges and immunities now accorded or hereafter to be accorded by

treaty or otherwise to the consular officers of any other country.'

Your Excellency will note that the eight articles of the convention of which I enclose a draft are substantially those proposed in the British Foreign Office draft of October 2, 1922, with the exception of the article given above and article V, with regard to the establishment and maintenance of American educational and philanthropic institutions in the mandated territory. It is hoped that the British Government will not raise objection to the provisions of Article V which have already been accepted by the French

Government with regard to Syria and the Lebanon.

My Government's attention has been called to a note of the Secretary General of the League of Nations dated September 23, 1922 (C 667.M396.1922 VI)³² relating to Article 25 of the Palestine Mandate which indicated that the Council of the League of Nations had approved a memorandum submitted by the British representative outlining the provisions of the mandate for Palestine which are not to be applicable to the territory known as Transjordan as therein defined. In this memorandum it is stated that His Majesty's Government accept full responsibility as mandatory for Transjordan and that such provision as may be made for the administration of that territory, in accordance with Article 25 of the mandate, shall be in no way inconsistent with those provisions of the mandate which are not, by the resolution, declared inapplicable.

Upon the conclusion of the convention between the United States and Great Britain with respect to Palestine it is my Government's understanding that the convention will be applicable to such territory as may be under British mandate to the east as well as to the west of the River Jordan and that in view of the provisions of Article VII as proposed no further change would be made with respect to the conditions of the British administration of the territory known as Transjordan without the previous assent of my Government. I am instructed to inquire whether the British Government

is in accord with this view.

In a communication of August 15 [11], 1922, **s the Foreign Office brought to the attention of the Embassy a communication of the British Government to the Italian Government outlining the privileges which the British Government indicated its willingness to extend to Italy in respect of Palestine. You will note in the enclosures hereto annexed the views which my Government has expressed to the

French Government with respect to the somewhat similar assurances given to Italy by France with respect to Syria. It will also be noted that the French Government has undertaken in this correspondence to assure to my Government most-favored-nation treatment with respect to the agreement between France and Italy and any other agreements relating to Syria and the Lebanon which may be entered into by France with any other government. In concluding an agreement with respect to Palestine, my Government trusts that the British Government will be prepared likewise to give in an exchange of notes the assurance of most-favored-nation treatment with respect to the arrangement reached by Great Britain with Italy or any other agreements relating to Palestine which have been or may in the future be reached affecting the Mandated territory." End of Note.

In addition to draft text of Convention, the Department also desires you to enclose with this note a copy of Syrian Mandate Convention and copies of four communications exchanged between Embassy Paris and French Foreign Office, as follows:

(1) Foreign Office to Embassy November 2, 1923; 35 (2) Embassy to Foreign Office December 18, 1923;36

(3) and (4) Communications exchanged between Embassy and Foreign Office at time of signature of Treaty on April 4.37

Department understands that Embassy Paris has communicated this correspondence to you and Department has already received French Foreign Office's consent to bringing the correspondence to attention of British Government.

With reference to the statement in the concluding paragraph of the note quoted above as to the assurances desired by this Government in the case of Palestine, it is believed that reference to the note itself and to the correspondence with the French Government with respect to the Syrian Mandate will sufficiently indicate the nature of the assurances which the Department desires. The two situations are quite similar, as the undertakings which Great Britain has given to Italy with respect to Palestine are similar to those given by France to Italy with respect to Syria.

In the negotiations with the French Government it was found convenient to agree, prior to formal communication, upon the text of notes to be exchanged at the time of the signature of the convention. and in case the British Foreign Office is agreeable to this procedure, and would be willing to submit in draft form a communication embodying the assurances they are prepared to give, the Department will also communicate a draft reply. If agreement can be reached upon the text of the Mandate Convention and upon the two com-

Foreign Relations, 1923, vol. II, p. 4.
 See telegram no. 466, Dec. 17, 1923, 8 p. m., to the Ambassador in France, *ibid.*, p. 6.

⁸⁷ Vol. 1, pp. 738 ff.

munications to be exchanged, it will be possible to proceed to the early signature of the Convention for which full powers will be sent you.

Draft text of Convention to be annexed to this note should follow text given in Department's 201, July 12, 4 p. m. 1922, 38 and British

draft October 2, 1922 39 in the form indicated below:

(a) Preamble as given in Department's telegram July 12, with following changes:

(1) After fourth paragraph of Preamble, insert "(terms of Mandate)" not "(terms of Mandate without Preamble)".

- (2) Paragraph of Preamble immediately following text of Mandate should read: "Whereas the mandate in the above terms came into force on September 29, 1923."
- (b) Articles of convention, as follows: (1) Articles I to IV inclusive of convention similar to corresponding article of British draft of October 2, 1922, except that concluding word of Article I "hereto" should be replaced by "recited above". (2) Article V identical with corresponding article in Department's telegram July 12, 1922. (3) Article VI, as quoted above in text of note. (4) Article VII identical with Article VI of British draft October 2. (5) Article VIII identical with first paragraph Article VII of British draft October 2. No second paragraph.

This draft convention as above described is, as you will note, similar to Syrian Mandate Treaty with the exception that text of Mandate with Preamble may be quoted in Preamble to Convention, a slight change of phraseology is made in Article I and Article VI is added.

From above analysis you will be in a position to draw up and submit with your note a draft of the proposed convention. Department will mail copy to permit you to verify text.

HUGHES

867n.01/400

The Ambassador in Great Britain (Kellogg) to the Secretary of State

No. 606

LONDON, July 24, 1924.

[Received August 4.]

Sir: Referring to the Department's telegraphic instruction No. 108, April 28, 5 p.m., 1924, and the Department's mail instruction No. 182 of May 2, 1924, 40 concerning the proposed convention between the United States and Great Britain respecting Palestine, I have the honor to enclose a copy, in triplicate, of the reply of the

40 Not printed.

³⁸ Not printed.

³⁹ Foreign Relations, 1922, vol. II, p. 304.

British Government, under date of July 17, 1924, to my representations in the premises.

In this connection I am informed orally by the Foreign Office that the reply of His Majesty's Government with regard to the proposed B Mandate Convention will be forthcoming shortly.

I have [etc.]

For the Ambassador:

F. A. Sterling Counselor of Embassy

[Enclosure]

The British Secretary of State for Foreign Affairs (MacDonald) to the American Ambassador (Kellogg)

No. E 5825/1354/65

[London,] 17th July, 1924.

Your Excellency, His Majesty's Government have given their attentive and sympathetic consideration to the draft convention respecting the British Mandate in Palestine enclosed in Your Excellency's note No. 187 of the 30th of April,⁴¹ and I am now happy to inform you that they accept, subject to certain minor textual amendments, the United States Government's draft of the convention, with the exception of the second half of article 6, dealing with the privileges to be accorded to United States consular officers in Palestine. His Majesty's Government regret that they do not see the necessity for the insertion in the convention of any such stipulation as that proposed, since the Palestine Administration have every intention of treating United States consular officers in as favorable a manner as the consular representatives of other states.

- 2. As regards the remainder of the draft, I beg leave to suggest certain slight alterations in the wording to avoid all risk of ambiguity. It would be preferable that the second paragraph of the preamble should be amended to read "... Covenant of the League of Nations in the Treaty of Versailles". Article 1 would also be clearer if it were worded "Subject to the provisions of the present convention the United States consent to the administration of Palestine by His Britannic Majesty, pursuant to the mandate recited above". The first half of article 6 might with advantage be altered to "... and conventions which are or may be in force between the United States and Great Britain and the provisions of any treaties which are or may be in force ...". Lastly I suggest that the final sentence of article 8 should begin "The present Convention shall take effect ..."
- 3. As regards the penultimate paragraph of your note, His Majesty's Government agree that the present convention shall be ap-

⁴¹ See telegram no. 108, Apr. 28, to the Ambassador in Great Britain, p. 203.

plicable to such territory as may be under British mandate to the east as well as to the west of the River Jordan. They regret, however, that they cannot concur in the interpretation put by the United States Government on article 7 of the draft convention as regards changes in the administration of Trans-jordania, as it is essential that they be allowed latitude to make changes in the administration of that territory in such manner as may appear necessary, provided that such action does not conflict with the terms of the mandate.

4. The concluding paragraph of your note dealt with the question of most-favoured-nation treatment. I desire to assure the United States Government that American nationals in Palestine will receive most-favoured-nation treatment, but as no exchange of notes has yet taken place as regards the proposed assurances to be given to the Italian Government I regret that His Majesty's Government are not in a position to give the specific assurance asked for in the last sentence of your note.

I have [etc.]

J. RAMSAY MACDONALD

867n.01/400

The Secretary of State to the Ambassador in Great Britain (Kellogg)

No. 325

Washington, August 22, 1924.

Sir: The Department has received your despatch No. 606 of July 24, 1924, enclosing a copy of the reply of the British Government of July 17, 1924 to the communication which you addressed to the British Foreign Office pursuant to the Department's instructions under date of April 30 last.

I desire that you reply to the British Foreign Office communication of July 17 in the following sense:

My Government has instructed me to acknowledge the receipt of Your Excellency's communication of July 17th with regard to the Convention respecting the British Mandate in Palestine. In this communication it is indicated that, subject to certain minor textual changes and subject to the omission of the second paragraph of Article 6 the British Government is prepared to accept the draft

convention communicated in my note of April 30.

(2) In view of the assurances contained in the first paragraph of Your Excellency's note that the Palestine administration have every intention of treating American consular officers in as favorable a manner as the consular representatives of other States, my Government does not consider that the retention of the second paragraph of Article 6 is essential. Further, my Government assents to the minor textual amendments suggested in the second paragraph of Your Excellency's note save that the phrase "the United States consent," should read "the United States consents," since my Government regards the term "United States" as singular

and not plural.

(3) With regard to the third paragraph of Your Excellency's communication which relates to the territory of Transjordania, I desire to make it clear that it was not my Government's intention to suggest the necessity of consultation in matters relating to minor administrative changes in Transjordania. Its attention, however, had been called to the communication of the League of Nations of September 23, 1922 which indicated that the British Government, after a consultation with the States represented on the Council of the League of Nations, had reached an agreement as to the Articles of the Mandate in addition to Articles 15, 16 and 18 mentioned in Article 25, which are in any case applicable, which would control the character of the British administration of Transjordania. It is my Government's view, as briefly set forth in my communication of April 30 last, that it would be entirely consistent with the general policy which is followed by States enjoying mandatory administration over territories relinquished by the Central Powers as a result of the late war to consult with this Government as well as with the States represented on the Council of the League of Nations in connection with any general changes in the form of the Mandatory administration of Transfordania.

(4) My Government had, however, noted the statement contained in Your Excellency's communication that the Palestine Convention shall be applicable to territory under British Mandate to the east as well as to the west of the River Jordan and, the further statement, that the changes which may be made in the administration of the territory will not be of a character to conflict with the terms of the Mandate. My Government is not therefore disposed to delay the conclusion of the Palestine Convention for the purpose of entering into a further discussion of the questions relating to Transjordania, since the essential points in which my Government is interested appear to be safeguarded by the assurances already given, which are understood also to embody the undertaking that the changes which may be made in the administration of the territory will not be of such a character as to conflict with the terms of the

Convention.

(5) I am further instructed to inform you that my Government is gratified to note the assurance contained in Your Excellency's communication of July 17 that American nationals in Palestine will receive most-favored-nation treatment. This assurance satisfactorily meets the point raised in my note of April 30 with respect to agreements which the Mandatory might reach with other powers if my Government's understanding is correct that the benefits of any agreements, such for example as that outlined in the communication from the British Foreign Office of August 15 [11], 1922 22 would, if definitely concluded, automatically be extended to the United States and its nationals in the Mandate territory of Palestine.

(6) In view of the fact that full agreement has now been reached as to the provision of the Convention to be concluded with respect

⁴² Not printed.

to Palestine and in the event that my Government's understanding of the British Government's position, as outlined in paragraphs 2 to 5 is correct, I am happy to state that my Government is prepared to proceed promptly to the signature of the Convention and will send me full powers for this purpose.

The Department desires you to present the above note to the British Foreign Office at the earliest possible moment and to ascertain whether the British Government has any comment to make with respect to the interpretation which this Government places upon the assurances contained in the British note of July 17. In the event that no objection is raised the Department desires that you inform it by telegraph and full powers will be sent for the signature of the Convention which should follow the draft communicated to you in the Department's written instruction No. 182 of May 2, 1922 [1924],⁴³ as amended by the suggestions contained in the British note of July 17, 1924, with the exception noted in the concluding sentence of paragraph two of the communication quoted above.

For the purpose of verification there is enclosed a draft of the

Convention 44 as now understood by the Department.

I am [etc.]

CHARLES E. HUGHES

867n.01/407

The Ambassador in Great Britain (Kellogg) to the Secretary of State

No. 850

London, November 12, 1924.

[Received November 24.]

Sir: In accordance with my telegram No. 466 of November 11, 5 p. m.,⁴⁴ I have the honor to transmit herewith a copy, in triplicate, of the note dated November 10, 1924, from the Foreign Office, together with its enclosure, the printed proof of the proposed Convention between the United States and British Governments respecting the British Mandate in Palestine.⁴⁵

I have [etc.]

For the Ambassador:

F. A. Sterling Counselor of Embassy

⁴⁸ Not printed; substantially the same as draft contained in telegram no. 108, Apr. 28, 5 p. m., to the Ambassador in Great Britain, p. 203.

⁴⁸ Not printed.

⁴⁵Subenclosure not printed. In telegram 436, Nov. 25, the Ambassador was instructed to accept the draft convention, subject to minor changes in form and the correction of a clerical error, and was given full powers to sign (file no. 867n.01/407).

[Enclosure]

The British Secretary of State for Foreign Affairs (Chamberlain) to the American Ambassador (Kellogg)

No. E9780/1354/65

London, November 10, 1924.

Your Excellency, I have the honour to refer to the note No. 415 which Your Excellency was so good as to address to my predecessor on the 2nd September ⁴⁷ regarding the proposed Convention between the United States Government and His Majesty's Government respecting the British Mandate in Palestine. I am happy to note that the United States Government is prepared to proceed promptly to the signature of the Convention and will send you full powers for that purpose.

- 2. In that note you state that the United States Government desire an assurance that His Majesty's Government will consult them, as well as the Powers represented on the Council of the League of Nations, regarding any alteration in the administration of Transjordania for which His 'Majesty's Government may decide to seek the approval of the Council: this assurance His Majesty's Government have no hesitation in giving. With regard to paragraph 5 of your note, I am happy to state that the interpretation placed by the United States Government on paragraph 4 of my predecessor's note of July 17th 48 is correct, and that any special privileges granted to the subjects of any other Power will automatically be acquired by United States citizens in Palestine.
- 3. A proof of the proposed Convention in form suitable for signature has now been printed and a copy is enclosed herein for examination by you.⁴⁹ I shall be glad to learn in due course on what date it will be convenient for you to sign the Convention.

I have [etc.]

For the Secretary of State

D. G. OSBORNE

Treaty Series No. 728

Convention between the United States of America and Great Britain, Signed at London, December 3, 1924 50

Whereas by the Treaty of Peace concluded with the Allied Powers, Turkey renounces all her rights and titles over Palestine; and Whereas article 22 of the Covenant of the League of Nations in

⁴⁷ In compliance with Department's instruction no. 325, Aug. 22, p. 209.

⁴⁸ Ante, p. 208. ⁴⁹ Not printed; see signed text, infra.

^{**} Ratifications advised by the Senate, Feb. 20, 1925; ratified by the President, Mar. 2, 1925; ratified by Great Britain, Mar. 18, 1925; ratifications exchanged at London, Dec. 3, 1925; proclaimed by the President, Dec. 5, 1925.

the Treaty of Versailles provides that in the case of certain territories which, as a consequence of the late war, ceased to be under the sovereignty of the States which formerly governed them, mandates should be issued, and that the terms of the mandate should be explicitly defined in each case by the Council of the League; and

Whereas the Principal Allied Powers have agreed to entrust the

mandate for Palestine to His Britannic Majesty; and

Whereas the terms of the said mandate have been defined by the Council of the League of Nations, as follows:—

"The Council of the League of Nations:

"Whereas the Principal Allied Powers have agreed, for the purpose of giving effect to the provisions of article 22 of the Covenant of the League of Nations, to entrust to a Mandatory selected by the said Powers the administration of the territory of Palestine, which formerly belonged to the Turkish Empire, within such boundaries

as may be fixed by them; and

"Whereas the Principal Allied Powers have also agreed that the Mandatory should be responsible for putting into effect the declaration originally made on the 2nd November, 1917, by the Government of His Britannic Majesty, and adopted by the said Powers, in favour of the establishment in Palestine of a national home for the Jewish people, it being clearly understood that nothing should be done which might prejudice the civil and religious rights of existing non-Jewish communities in Palestine, or the rights and political status enjoyed by Jews in any other country; and

"Whereas recognition has thereby been given to the historical connection of the Jewish people with Palestine and to the grounds for

reconstituting their national home in that country; and

"Whereas the Principal Allied Powers have selected His Bri-

tannic Majesty as the Mandatory for Palestine; and

"Whereas the mandate in respect of Palestine has been formulated in the following terms and submitted to the Council of the League

for approval; and

"Whereas His Britannic Majesty has accepted the mandate in respect of Palestine and undertaken to exercise it on behalf of the League of Nations in conformity with the following provisions; and

"Whereas by the aforementioned article 22 (paragraph 8), it is provided that the degree of authority, control or administration to be exercised by the Mandatory, not having been previously agreed upon by the members of the League, shall be explicitly defined by the Council of the League of Nations;

"Confirming the said mandate, defines its terms as follows:-

"Article 1

"The Mandatory shall have full powers of legislation and of administration, save as they may be limited by the terms of this mandate.

"Article 2

"The Mandatory shall be responsible for placing the country under such political, administrative and economic conditions as will secure the establishment of the Jewish national home, as laid down in the preamble, and the development of self-governing institutions, and also for safeguarding the civil and religious rights of all the inhabitants of Palestine, irrespective of race and religion.

"Article 3

"The Mandatory shall, so far as circumstances permit, encourage local autonomy.

"Article 4

"An appropriate Jewish agency shall be recognised as a public body for the purpose of advising and co-operating with the Administration of Palestine in such economic, social and other matters as may affect the establishment of the Jewish national home and the interests of the Jewish population in Palestine, and, subject always to the control of the Administration, to assist and take part in the development of the country.

"The Zionist organisation, so long as its organisation and constitution are in the opinion of the Mandatory appropriate, shall be recognised as such agency. It shall take steps in consultation with His Britannic Majesty's Government to secure the co-operation of all Jews who are willing to assist in the establishment of the Jewish

national home.

"Article 5

"The Mandatory shall be responsible for seeing that no Palestine territory shall be ceded or leased to, or in any way placed under the control of, the Government of any foreign Power.

"Article 6

"The Administration of Palestine, while ensuring that the rights and position of other sections of the population are not prejudiced, shall facilitate Jewish immigration under suitable conditions and shall encourage, in co-operation with the Jewish agency referred to in article 4, close settlement by Jews on the land, including State lands and waste lands not required for public purposes.

"Article 7

"The Administration of Palestine shall be responsible for enacting a nationality law. There shall be included in this law provisions framed so as to facilitate the acquisition of Palestinian citizenship by Jews who take up their permanent residence in Palestine.

"Article 8

"The privileges and immunities of foreigners, including the benefits of consular jurisdiction and protection as formerly enjoyed by Capitulation or usage in the Ottoman Empire, shall

not be applicable in Palestine.

"Unless the Powers whose nationals enjoyed the aforementioned privileges and immunities on the 1st August, 1914, shall have previously renounced the right to their re-establishment, or shall have agreed to their non-application for a specified period, these privileges and immunities shall, at the expiration of the mandate, be immediately re-established in their entirety or with such modifications as may have been agreed upon between the Powers concerned.

"Article 9

"The Mandatory shall be responsible for seeing that the judicial system established in Palestine shall assure to foreigners, as

well as to natives, a complete guarantee of their rights.

"Respect for the personal status of the various peoples and communities and for their religious interests shall be fully guaranteed. In particular, the control and administration of Wakfs shall be exercised in accordance with religious law and the dispositions of the founders.

"Article 10

"Pending the making of special extradition agreements relating to Palestine, the extradition treaties in force between the Mandatory and other foreign Powers shall apply to Palestine.

"Article 11

"The Administration of Palestine shall take all necessary measures to safeguard the interests of the community in connection with the development of the country, and, subject to any international obligations accepted by the Mandatory, shall have full power to provide for public ownership or control of any of the natural resources of the country or of the public works, services and utilities established or to be established therein. It shall introduce a land system appropriate to the needs of the country, having regard, among other things, to the desirability of promoting the close settlement and intensive cultivation of the land.

"The Administration may arrange with the Jewish agency mentioned in article 4 to construct or operate, upon fair and equitable terms, any public works, services and utilities, and to develop any of the natural resources of the country, in so far as these matters are not directly undertaken by the Administration. Any such arrangements shall provide that no profits distributed by such agency, directly or indirectly, shall exceed a reasonable rate of interest on the capital, and any further profits shall be utilised by it for the benefit of the country in a manner approved by the Administration.

"Article 12

"The Mandatory shall be entrusted with the control of the foreign relations of Palestine and the right to issue exequaturs to consuls appointed by foreign Powers. He shall also be entitled

to afford diplomatic and consular protection to citizens of Palestine when outside its territorial limits.

"Article 13

"All responsibility in connection with the Holy Places and religious buildings or sites in Palestine, including that of preserving existing rights and of securing free access to the Holy Places, religious buildings and sites and the free exercise of worship, while ensuring the requirements of public order and decorum, is assumed by the Mandatory, who shall be responsible solely to the League of Nations in all matters connected herewith, provided that nothing in this article shall prevent the Mandatory from entering into such arrangements as he may deem reasonable with the Administration for the purpose of carrying the provisions of this article into effect; and provided also that nothing in this mandate shall be construed as conferring upon the Mandatory authority to interfere with the fabric or the management of purely Moslem sacred shrines, the immunities of which are guaranteed.

"Article 14

"A special Commission shall be appointed by the Mandatory to study, define and determine the rights and claims in connection with the Holy Places and the rights and claims relating to the different religious communities in Palestine. The method of nomination, the composition and the functions of this Commission shall be submitted to the Council of the League for its approval, and the Commission shall not be appointed or enter upon its functions without the approval of the Council.

"Article 15

"The Mandatory shall see that complete freedom of conscience and the free exercise of all forms of worship, subject only to the maintenance of public order and morals, are ensured to all. No discrimination of any kind shall be made between the inhabitants of Palestine on the ground of race, religion or language. No person shall be excluded from Palestine on the sole ground of his religious belief.

"The right of each community to maintain its own schools for the education of its own members in its own language, while conforming to such educational requirements of a general nature as the Administration may impose, shall not be denied or impaired.

"Article 16

"The Mandatory shall be responsible for exercising such supervision over religious or eleemosynary bodies of all faiths in Palestine as may be required for the maintenance of public order and good government. Subject to such supervision, no measures shall be taken in Palestine to obstruct or interfere with the enterprise of such bodies or to discriminate against any representative or member of them on the ground of his religion or nationality.

"Article 17

"The Administration of Palestine may organise on a voluntary basis the forces necessary for the preservation of peace and order, and also for the defence of the country, subject, however, to the supervision of the Mandatory, but shall not use them for purposes other than those above specified save with the consent of the Mandatory. Except for such purposes, no military, naval or air forces shall be raised or maintained by the Administration of Palestine.

"Nothing in this article shall preclude the Administration of Palestine from contributing to the cost of the maintenance of the

forces of the Mandatory in Palestine.

"The Mandatory shall be entitled at all times to use the roads, railways and ports of Palestine for the movement of armed forces and the carriage of fuel and supplies.

" Article 18

"The Mandatory shall see that there is no discrimination in Palestine against the nationals of any State member of the League of Nations (including companies incorporated under its laws) as compared with those of the Mandatory or of any foreign State in matters concerning taxation, commerce or navigation, the exercise of industries or professions, or in the treatment of merchant vessels or civil aircraft. Similarly, there shall be no discrimination in Palestine against goods originating in or destined for any of the said States, and there shall be freedom of transit under equitable conditions across the mandated area.

"Subject as aforesaid and to the other provisions of this mandate, the Administration of Palestine may, on the advice of the Mandatory, impose such taxes and customs duties as it may consider necessary, and take such steps as it may think best to promote the development of the natural resources of the country and to safeguard the interests of the population. It may also, on the advice of the Mandatory, conclude a special customs agreement with any State the territory of which in 1914 was wholly included in Asiatic

Turkey or Arabia.

"Article 19

"The Mandatory shall adhere on behalf of the Administration of Palestine to any general international conventions already existing, or which may be concluded hereafter with the approval of the League of Nations, respecting the slave traffic, the traffic in arms and ammunition, or the traffic in drugs, or relating to commercial equality, freedom of transit and navigation, aerial navigation and postal, telegraphic and wireless communication or literary, artistic or industrial property.

"Article 20

"The Mandatory shall co-operate on behalf of the Administration of Palestine, so far as religious, social and other conditions may permit, in the execution of any common policy adopted by the

League of Nations for preventing and combating disease, including diseases of plants and animals.

"Article 21

"The Mandatory shall secure the enactment within twelve months from this date, and shall ensure the execution of a Law of Antiquities based on the following rules. This law shall ensure equality of treatment in the matter of excavations and archæological research to the nationals of all States members of the League of Nations.

"(1)

"'Antiquity' means any construction or any product of human activity earlier than the year A. D. 1700.

"(2)

"The law for the protection of antiquities shall proceed by en-

couragement rather than by threat.

"Any person who, having discovered an antiquity without being furnished with the authorisation referred to in paragraph 5, reports the same to an official of the competent Department, shall be rewarded according to the value of the discovery.

"(3)

"No antiquity may be disposed of except to the competent Department, unless this Department renounces the acquisition of any such antiquity.

"No antiquity may leave the country without an export licence

from the said Department.

"(4)

"Any person who maliciously or negligently destroys or damages an antiquity shall be liable to a penalty to be fixed.

"(5)

"No clearing of ground or digging with the object of finding antiquities shall be permitted, under penalty of fine, except to persons authorised by the competent Department.

"(6)

"Equitable terms shall be fixed for expropriation, temporary or permanent, of lands which might be of historical or archæological interest.

"(7)

"Authorisation to excavate shall only be granted to persons who show sufficient guarantees of archæological experience. The Admin-

istration of Palestine shall not, in granting these authorisations, act in such a way as to exclude scholars of any nation without good grounds.

"(8)

"The proceeds of excavations may be divided between the excavator and the competent Department in a proportion fixed by that Department. If division seems impossible for scientific reasons, the excavator shall receive a fair indemnity in lieu of a part of the find.

"Article 22

"English, Arabic and Hebrew shall be the official languages of Palestine. Any statement or inscription in Arabic on stamps or money in Palestine shall be repeated in Hebrew, and any statement or inscription in Hebrew shall be repeated in Arabic.

"Article 23

"The Administration of Palestine shall recognise the holy days of the respective communities in Palestine as legal days of rest for the members of such communities.

"Article 24

"The Mandatory shall make to the Council of the League of Nations an annual report to the satisfaction of the Council as to the measures taken during the year to carry out the provisions of the mandate. Copies of all laws and regulations promulgated or issued during the year shall be communicated with the report.

"Article 25

"In the territories lying between the Jordan and the eastern boundary of Palestine as ultimately determined, the Mandatory shall be entitled, with the consent of the Council of the League of Nations, to postpone or withhold application of such provisions of this mandate as he may consider inapplicable to the existing local conditions, and to make such provision for the administration of the territories as he may consider suitable to those conditions, provided that no action shall be taken which is inconsistent with the provisions of articles 15, 16 and 18.

"Article 26

"The Mandatory agrees that if any dispute whatever should arise between the Mandatory and another member of the League of Nations relating to the interpretation or the application of the provisions of the mandate, such dispute, if it cannot be settled by negotiation, shall be submitted to the Permanent Court of International Justice provided for by article 14 of the Covenant of the League of Nations.

"Article 27

"The consent of the Council of the League of Nations is required for any modification of the terms of this mandate.

"Article 28

"In the event of the termination of the mandate hereby conferred upon the Mandatory, the Council of the League of Nations shall make such arrangements as may be deemed necessary for safeguarding in perpetuity, under guarantee of the League, the rights secured by articles 13 and 14, and shall use its influence for securing, under the guarantee of the League, that the Government of Palestine will fully honour the financial obligations legitimately incurred by the Administration of Palestine during the period of the mandate, including the rights of public servants to pensions or gratuities.

"The present instrument shall be deposited in original in the archives of the League of Nations, and certified copies shall be forwarded by the Secretary-General of the League of Nations to

all members of the League.

"Done at London, the 24th day of July, 1922;" and

Whereas the mandate in the above terms came into force on the 29th September, 1923; and

Whereas the United States of America, by participating in the war against Germany, contributed to her defeat and the defeat of her Allies, and to the renunciation of the rights and titles of her Allies in the territory transferred by them but has not ratified the Covenant of the League of Nations embodied in the Treaty of Versailles: and

Whereas the Government of the United States and the Government of His Britannic Majesty desire to reach a definite understanding with respect to the rights of the two Governments and their respective nationals in Palestine;

The President of the United States of America and His Britannic Majesty have decided to conclude a convention to this effect, and have named as their plenipotentiaries:—

The President of the United States of America:

His Excellency the Honourable Frank B. Kellogg, Ambassador Extraordinary and Plenipotentiary of the United States at London:

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India:

The Right Honourable Joseph Austen Chamberlain, M.P., His Majesty's Principal Secretary of State for Foreign Affairs:

who, after having communicated to each other their respective full powers, found in good and due form, have agreed as follows:—

ARTICLE 1

Subject to the provisions of the present convention the United States consents to the administration of Palestine by His Britannic Majesty, pursuant to the mandate recited above.

ARTICLE 2

The United States and its nationals shall have and enjoy all the rights and benefits secured under the terms of the mandate to members of the League of Nations and their nationals, notwithstanding the fact that the United States is not a member of the League of Nations.

ARTICLE 3

Vested American property rights in the mandated territory shall be respected and in no way impaired.

ARTICLE 4

A duplicate of the annual report to be made by the Mandatory under article 24 of the mandate shall be furnished to the United States.

ARTICLE 5

Subject to the provisions of any local laws for the maintenance of public order and public morals, the nationals of the United States will be permitted freely to establish and maintain educational, philanthropic and religious institutions in the mandated territory, to receive voluntary applicants and to teach in the English language.

ARTICLE 6

The extradition treaties and conventions which are, or may be, in force between the United States and Great Britain, and the provisions of any treaties which are, or may be, in force between the two countries which relate to extradition or consular rights shall apply to the mandated territory.

ARTICLE 7

Nothing contained in the present convention shall be affected by any modification which may be made in the terms of the mandate, as recited above, unless such modifications shall have been assented to by the United States.

ARTICLE 8

The present convention shall be ratified in accordance with the respective constitutional methods of the High Contracting Parties. The ratifications shall be exchanged in London as soon as practicable. The present convention shall take effect on the date of the exchange of ratifications.

In witness whereof, the undersigned have signed the present convention, and have thereunto affixed their seals.

Done in duplicate at London, this 3rd day of December, 1924.

[SEAL] FR

Frank B. Kellogg

[SEAL] AUSTEN CHAMBERLAIN

CONTINUED NEGOTIATIONS TO ENSURE RECOGNITION OF THE PRINCIPLE OF THE OPEN DOOR IN THE TURKISH PETROLEUM COMPANY'S CONCESSION IN IRAQ 51.

890g.6363 T 84/126

The Associate General Counsel of the Standard Oil Company of New Jersey (Guy Wellman) to the Secretary of State

> New York, January 16, 1924. [Received January 18.]

My Dear Mr. Secretary: Referring further to the Department's letter of December 18, 1923, its file NE 890g.6363,T/84/123,⁵² and to the copy of our cablegram to Mr. H. E. Nichols of the 19th of that month,⁵³ a copy of which was sent to the Department on the latter date, we are just in receipt of a cablegram from Mr. H. E. Nichols addressed to Mr. Teagle,⁵⁴ dated January 15, 1924, with reference to Article 34 of the Draft Convention between the Iraq Government and the Turkish Petroleum Company, Limited.⁵⁵ This telegram is in reply to our telegram of December 19th above-mentioned, and reads as follows:

"Referring to your telegram December 19th and 4 conditions therein.

"1. We guarantee operation subleasing system will not be defeated by collateral understanding. No provision is made in agreement for application of British law but as Iraq law still in process of evolution we can obviously give no guarantee as to its final scope.

⁵¹ For previous correspondence, see *Foreign Relations*, 1923, vol. 11, pp. 240 ff. ⁵² *Ibid.*, p. 262.

⁵³ Ibid., p. 263; Mr. Nichols was the managing director of the Turkish Petro-

W. C. Teagle, president of the Standard Oil Co. of New Jersey.
 For text of draft convention, see Foreign Relations, 1923, vol. II, p. 247.

"2. Amendment has not been submitted Iraq Government and withdrawn.

"3. Turkish Petroleum Company guarantee carry out open door policy and would try to secure from Iraq Government on disclosure

of policy undertaking to safeguard its application.

"4. Turkish Petroleum Company offer required assurance but we have not approached foreign office and seriously doubt wisdom and utility of asking them undertake suggested responsibility. Position now extremely critical and further complicated by fact that Iraq Government now pressing strongly acceptance Sassoon's amendments article 34 though Keeling 56 suggests they might accept in lieu thereof right to disapprove any particular sublessee.

To avoid absolute dead-lock would you accept this if Keeling can

secure it. Having regard to all circumstances do you definitely advocate immediate disclosure open door notwithstanding all risks this would in my opinion entail. Alternatively would you advocate disclosure open door at later stage when convention ready for signatures, when risks might be less. Telegraph your views urgently as until this point settled progress in our negotiations is impossible."

Unless the Department views the matters differently, we are disposed to accept, as a sufficient compliance, the various assurances and guarantees given in this telegram from Mr. Nichols, as Managing Director of the Turkish Petroleum Company Limited, although it is to be noted that no assurances are forthcoming from the Foreign Office.

Referring to the statement that the Iraq Government is now pressing strongly for acceptance of Sassoon's amendment to Article 34, as reported to us this amendment contemplates that each sublease or transfer of areas, covered by the principal Convention made by the Turkish Petroleum Company Limited shall be subject to the approval of the Iraq Government, on the condition that such approval shall not be unreasonably withheld and shall not embody conditions not contained in the concession. In response to the proposal for this amendment, we urged on behalf of the American Group that a reservation of this right of approval by the Government might, in practice, absolutely vitiate or nullify the practical operation of the Open Door Plan. In this connection it is to be noted that the last cablegram from Mr. Nichols states that Mr. Keeling suggests that the Iraq Government might accept in lieu of the right of approval of subleases, the right to disapprove any particular sublessee.

Subject to the Department's wishes in respect to this important matter, we are considering making a proposal to Mr. Nichols whereby the contentions of the Iraq Government might be met by a provision that it should have the right of disapproval in respect to any particular sublessee where the Government could reasonably contend

⁵⁶ E. H. Keeling, representative of the Turkish Petroleum Co. in negotiations at Bagdad with the Government of Iraq.

that the proposed sublessee or sublease would impair its sovereign rights.

It is also our view that the Turkish Petroleum Company Limited should disclose to the Iraq Government the plan for subleasing under Article 34 in accordance with its accepted Open Door Policy, and that, as to whether this should be done immediately, or at any time before the execution of the Convention, those in charge of the negotiations should determine.

Respectfully,

GUY WELLMAN

890g.6363 T 84/128

Memorandum by the Chief of the Division of Near Eastern Affairs, Department of State (Dulles)

[Washington,] January 22, 1924.

When Mr. Wellman called at the Department on January 22nd I took up with him his letter of January 16th which particularly dealt with the reported insistence of the Iraq Government upon the right to approve companies which, under Article 34 of the proposed concession, might desire to qualify as sublessees of the Turkish Petroleum Company. I said that the Department fully appreciated the importance of this question in its bearing on the future of the subleasing plan which had been formulated by the company and that for this reason the Department felt it was wise to take this opportunity to discuss this matter with him informally before making any reply to his letter. It was appreciated that the Iraq Government, jealous as it would probably be of its newly gained or partially gained sovereignty, might take a strong stand in demanding a right to pass upon companies which were to develop its oil resources. At the same time on the rather meager information which was available it was difficult for the Department, and possibly also for the American Group, to judge to what extent the opposition to the unqualified right to sublease was shared by the British interests in the Turkish Petroleum Company and by Mr. Keeling, the negotiator for the company in Bagdad.

The Department did not desire to make unreasonable conditions or to take a position which would render negotiation impossible. At the same time it was necessary to face the facts. If the Iraq Government had the qualified right of passing upon sublessees that government would be in a position to prevent the realization of the subleasing plan which would alter the general understanding upon which the Department's recent correspondence with the American Group had been carried on.

Mr. Wellman then stated that he had been considering the desirability of action by the American Group to clarify the situation with respect to the attitude of the Iraq Government towards the plan of subleasing. This was a matter in which the companies themselves were deeply interested. If this plan were not carried out it is doubtful whether the proposed 25 per cent. participation of the American Group would justify the initial expenditures which the development of the oil resources of Mesopotamia would require. The various American companies desired to qualify as sublessees as well as to have their percentage participation in the Turkish Petroleum Company. The subleasing plan, under the terms of the proposed concession, might not be put into effect for four years and the companies therefore had a natural interest in satisfactory assurances at the time of their participation that the subleasing plan would be put into effect. To my inquiry whether it was therefore correct that the companies themselves were very directly interested in the realization of the subleasing plan from the practical business standpoint as well as on account of their desire to work out an arrangement which would obviate the monopolistic features of the proposed concession, Mr. Wellman answered in the affirmative.

After further conversation during which the above points were developed, it was my understanding of Mr. Wellman's views that a telegram would be sent to Mr. Nichols by the American Group indicating it to be the position of the American Group that the right of the Turkish Petroleum Company to make subleases should not be unduly restricted and that the American Group would again suggest the desirability of retaining the present wording of Article 34 and of explaining to the Iraq Government the details of the subleasing plan. The result of this would be to bring to an immediate issue the question of the attitude of the Iraq authorities towards this plan. While this might result in an interruption of the negotiations and an invitation on the part of the British interests that the American Group should see what they could do through direct negotiations with the Iraq authorities, Mr. Wellman indicated that they would not be unprepared to face this eventuality, although they were not seeking or desiring to eliminate the present British negotiations.

In the light of this conversation it was understood that no immediate reply to Mr. Wellman's letter of January 16 would be awaited by the American Group and that the latter would inform the Department of the telegram which they would send to the Turkish Petroleum Company outlining their views as above indicated.

890g.6363 T 84/136

The Associate General Counsel of the Standard Oil Company of New Jersey (Guy Wellman) to the Chief of the Division of Near Eastern Affairs, Department of State (Dulles)

> New York, January 29, 1924. [Received January 30(?).]

DEAR MR. DULLES: This will confirm my reading to you over the telephone this morning a telegram from Mr. Nichols of the 28th instant as follows:

"Keeling reports Iraq Government committee have commenced by rejecting Article 34 even with Sassoon amendment. Without disclosing open door formula April 12th ⁵⁷ he argued power sublet usual and absolutely essential for attaining maximum development. Committee adamant however saying essence preference exploitation by Turkish Petroleum Company was belief adequacy its resources etcetera. Committee strongly objected sub-lessee except for drilling contracts. Keeling adds: 'I will make effort persuade King Feisal veto opposition and if you can suggest other argument or find alternative formula telegraph promptly.' We have reached temporary impasse and shall appreciate any suggestions regarding solution."

While this message contains the words "commenced" and "temporary", and therefore lacks finality, it indicates a possibly serious situation so far as the Open Door Policy of the State Department regarding Mesopotamia is concerned. The subleasing plan of the Turkish Petroleum Company Limited, which is the practical application of the Open Door Policy of the Department, would be made impossible of operation by the Turkish Petroleum Company Limited if Article 34 is rejected by the Iraq Government. On the assumption that this proposed convention would constitute a new grant by the Iraq Government to the Turkish Petroleum Company Limited, the question of the invalidity of the Turkish Petroleum Company claims founded on the Turkish grants would seem to be eliminated.

We have just telegraphed Mr. Nichols asking him the meaning of the phrase "except for drilling contracts," and pointing out to him that in this country the phrase has two meanings, one which is that of the independent contractor who engages to drill wells upon a property and has no interest in the oil production from the wells, and the other, which contemplates that an operator will take a contract to drill wells and have the right to take a share from all of the oil produced from the wells.

In order to facilitate the acceptance of Article 34 by the Iraq Government, we may suggest to Mr. Nichols on behalf of the American Group, subject to the approval of the Department, that the

⁵⁷ Foreign Relations, 1923, vol. 11, p. 243.

American Group would approve Article 34 with a reservation to the Iraq Government of the right of disapproval as to any particular sublessee where his financial responsibility is not adequate to develop and operate a sublease, or where, after determination by arbitration if necessary, the sublessee is found to be undesirable from the standpoint of the Iraq Government owing to past or anticipated political activities hostile to the Iraq Government. However, this suggestion would not meet the position apparently taken by the Iraq Government committee, which is that its preference for exploitation by the Turkish Petroleum Company is based upon its belief in the adequacy of that company's financial and technical resources.

The American Group will appreciate having the Department's views on the subject matter of this letter, with any additional suggestions that may occur to it, to the end that the Open Door Policy of the Department may be adequately realized through the pending negotiations.

I shall get in communication with you tomorrow.

Very truly yours,

GUY WELLMAN

890g.6363 T 84/138

The Associate General Counsel of the Standard Oil Company of New Jersey (Guy Wellman) to the Chief of the Division of Near Eastern Affairs, Department of State (Dulles)

> New York, February 5, 1924. [Received February 9.]

Dear Mr. Dulles: Referring to my letter to you of January 28th [29] quoting telegram received from Mr. Nichols of [on?] that date, further consideration has been given to the questions raised by this cablegram in regard to the possible deletion of Article 34 from the proposed convention between the Government of Iraq and the Turkish Petroleum Company, Limited. Mr. Teagle is sending a cablegram today to Mr. Nichols, of which a copy is enclosed for your files.

You will note the importance attached to the retention of Article 34. The so-called subleasing plan of the Turkish Petroleum Company, as proposed by the American Group, is in its opinion necessary for the proper realization of the Open Door Policy of the State Department.

We are sincerely hopeful that the position taken in this reply to Mr. Nichols will result in the acceptance by the Iraq Government of that Article, and feel confident that if Mr. Keeling's efforts in

this direction have the full and hearty support and backing of the British Foreign Office that this will be done.

Yours very truly,

GUY WELLMAN

[Enclosure—Telegram]

The President of the Standard Oil Company of New Jersey (W. C. Teagle) to the Managing Director of the Turkish Petroleum Company (H. E. Nichols)

[New York,] 5 February, 1924.

Referring your cables January 28th and 30th Article 34 is only one in proposed convention which gives full effect to open door formula which was the fundamental principle accepted by partners in Turkish Petroleum Co. prior to a discussion and agreement with American Group of the other details. Deletion of Article 34 might result in elimination of American Group's participation in Turkish Petroleum Co. We are absolutely confident that if your Foreign Office will support Keeling in his contention that Article 34 is essential that present impasse will be successfully overcome. As to possible disclosure of Open Door plan we confirm views expressed in our cable January 23rd and our letter October 25th. We are ready to send someone from here to cooperate with Keeling if you decide it is desirable that this disclosure should be made at Bagdad and you desire such cooperation on our part in the matter.

TEAGLE

890g.6363 T 84/152

The Associate General Counsel of the Standard Oil Company of New Jersey (Guy Wellman) to the Chief of the Division of Near Eastern Affairs, Department of State (Dulles)

New York, March 10, 1924.

[Received March 11.]

DEAR MR. DULLES: A letter under date of the 29th ultimo received today from our representative, Mr. Piesse, in London, states that he had just had a long interview with Mr. Nichols; that Mr. Nichols impressed him with the idea that Article 34 in the Iraq Convention will ultimately be agreed to by the Iraq Government in some form or other acceptable to the American Group. Mr. Nichols admits that there has been considerable delay, but says that this has been caused largely by the change of Government in England, for the permanent officials were not prepared to do anything, or discuss the question with him, until the new Government had decided whether or not it

would follow the policy of its predecessors in regard to Mesopotamia generally, and in particular the oil question. Mr. Nichols now says that the Government has indicated that it proposes to follow its predecessors in this respect, and that he had a meeting only on the previous Monday with representatives of the Foreign and Colonial Offices at which he was informed unofficially that the Government would be prepared to instruct the British High Commissioner at Bagdad to support Mr. Keeling in his negotiations with the Iraq Government, and in particular he was to inform the Iraq Government that the British Government was in accord with, and recommended, the Open Door Formula, a complete copy of which has been handed to the British Government, although Mr. Nichols says the Iraq Government has not yet had a copy of it but has been informed of its nature.

Mr. Nichols stated also that the French have practically accepted the general scheme for the American participation, including the plan for the Working Agreement; 50 that he was to go to Paris the following week to meet the Directors of the new French company which has been formed for the purpose of taking over the French interest under this plan; and that, within the next few weeks, he hopes to have the Working Agreement signed by the French interests.

The foregoing is for the information of the Department.

Sincerely yours,

GUY WELLMAN

890g.6363 T 84/167

Memorandum Prepared by Mr. Teagle and Mr. Thompson of the Standard Oil Company and Mr. Wadsworth of the Division of Near Eastern Affairs, Department of State

[Washington,] September 18, 1924.

Under what is known as the Foreign Office Agreement, dated March 19, 1914, Mr. G. S. Gulbenkian, a naturalized British citizen, is accorded in the Turkish Petroleum Company, Ltd. a beneficial 5% interest, without voting rights, all upon terms and conditions as covered by Section 9 of this agreement.

The interests of the American Group in the development of a possible oil production in Iraq have been with the sole object that, should a large production be developed there, the American interests would be able to use their proportionate part of this production in the carrying on of their business either at home or abroad. They are interested in Crude Oil as such, as distinct from a financial investment in a com-

⁵⁹ See telegram dated Dec. 12, 1922, from the London representative of the Standard Oil Co. of New Jersey to the president of the company, *Foreign Relations*, 1922, vol. II, p. 348.

pany organized under the laws of a foreign country and the control of which, owing to their preponderant stock interest, would be with foreigners.

With this object in view, the American Group proposed to the other three partners, a proposal accepted in principal by them, that the activities of the Turkish Petroleum Company should be limited to the production of the Crude Oil and its delivery to a seaboard terminal where it would be offered for sale as "Crude" to the four Groups, in proportion to their respective stock interests, at a price which should not exceed 7s. per ton above the actual cost of production and delivery at such seaboard terminal.

The practical carrying into effect of this plan is now blocked by Mr. Gulbenkian, the owner of the 5% interest, who takes the position that he is not an oil trader, doesn't want oil, is not interested from the international viewpoint but simply from that of his own personal business interest and profit, and that, in the protection of his own interest, he now insists that the Company should be operated as a complete unit, i. e. engaged, in addition to the production and transporting of the oil to seaboard, in the refining and sale of the products wherever markets could be found for them. This would mean that the American Group would obtain merely a share interest in a foreign company and, as such, entitled merely to participate in profits. The American Group would obtain no Crude Oil direct from such arrangement.

For the past two years the British partners in the Turkish Petroleum Company have been endeavoring to negotiate with Mr. Gulbenkian in the hopes of reaching a basis of settlement with him which would be acceptable to all. Up to July, last, no settlement with him had been reached, and the representatives of the American Group then in London were asked by the other three partners to take up, on behalf of the Turkish Petroleum Company, negotiations direct with Mr. Gul-The discussions by the American Group's representative with Mr. Gulbenkian have been unsuccessful. The position which the representative of the American Group has taken is that the American Group had been invited to participate in the Turkish Petroleum Company by the other international groups who had advised the American Group that Mr. Gulbenkian had a 5% non voting share interest in the Company, that the American Group had not been advised that he had any other claims against the Company of any shape or form other than his 5% share interest, and that in so far as this 5% share interest was concerned the American Group were entirely willing that it should be placed on an absolute parity with the share interest of the four Groups. This being the case, the American Group were quite willing to fairly compensate him for his consent to limiting the operations of the Turkish Petroleum Company to production and transportation, that this was absolutely as far as the American Group could go, that it was impossible for us to compensate him for moral claims which he felt he had against the two English partners.

Under date of September 13 the American Group's representative in London cables that if the original plan of the American Group to receive Crude Oil instead of merely making an investment in an oil company is to be carried out, Mr. Gulbenkian demands

(1) that he be carried by the other four groups for 5% share interest, with an option on his part to take up this interest at any time that he might so elect and dispose of it in any way that he might consider advantageous,

(2) that he have at all times one director on the Board (making nine (9) instead of eight (8) Directors, thus giving him the controlling vote in the event of an equal division),

(3) that he receive on all oil produced a royalty of 1s. per ton, this royalty to be paid him not only from the areas operated by the Turkish Petroleum Company itself but on all oil produced from the (a) areas covered by the concession and sublet in accordance with the terms of the concession to other producing companies and (b) any oil produced elsewhere by the Company or its sub-lessees in Turkey in Asia.

All of the partners in the Turkish Petroleum Company, including the American Group, considered Mr. Gulbenkian's proposals so unreasonable and burdensome as to preclude their acceptance.

In summary of the foregoing the American Group is faced with two alternative proposals

(1) to accept an investment in a producing, transporting, refining and marketing, foreign oil company or

(2) to accept a thoroughly unbusinesslike arrangement for the obtaining of a share of the Crude Oil to be produced in Mesopotamia.

The first of these alternatives is unacceptable because the American Group thereby would be unable to obtain Crude Oil, its sole object in desiring to participate in the development of the potential oil resources of Iraq being to secure Crude Oil and to dispose thereof as it might see fit.

The second alternative is as a business proposition unacceptable because what Mr. Gulbenkian demands is entirely out of proportion to what he is entitled to from the standpoint of his 5% non-voting share interest.

On the assumption that the American Group refuses both of these alternatives it is probable that the three foreign groups would continue the negotiations with Iraq and unless the State Department intervenes obtain the concession. The American Group has been told by the British partners that the Articles of Incorporation of the Company which would exploit this concession would include the

Open Door (Subleasing) formula ⁶⁰ which would enable an American Group or company to sub-lease from the exploiting company possible oil producing territories in those portions of Iraq covered by the concession other than the 24 areas reserved to the exploiting company.

The American Group's position is that in the event of its withdrawal under the circumstances above outlined, the mere inclusion of the Open Door (Subleasing) formula in the Articles of Incorporation of the exploiting company would not guarantee to American interests equal participation in the development of the natural resources of Iraq. As already pointed out, the reason for the formation of the American Group and its continued object throughout the negotiations has been to obtain a proportionate share of such Oil as might be produced in Iraq. The Group was not formed with any idea of becoming merely an investor in a foreign oil company. Its sole object was to obtain actual Crude petroleum. The realization of this object, it holds, is the sole condition which would have as its effect fair participation of American interests in the development of the natural resources of Iraq. The State Department has stood for such participation. It is therefore the desire of the Group that the State Department facilitate the realization of its object. This realization, it suggests, can be obtained by the addressing to the Ambassador at London of an instruction directing him to make the necessary representations to the British Foreign Office to this end. This apparently cannot be brought about unless Mr. Gulbenkian, a naturalized British subject, accept on a reasonable basis the principle that the oil produced in Iraq shall be divided amongst the partner companies or groups, rather than that the profits of any joint enterprise entered into should be so divided.

890g.6363 T 84/162a: Telegram

The Secretary of State to the Ambassador in Great Britain (Kellogg)

[Paraphrase]

Washington, September 20, 1924—2 p. m.

331. 1. The Department has been informed by representatives of the American group of oil companies that according to advices from London it is probable that a conclusion will soon be reached in the negotiations now pending at Bagdad by which the interests represented by the Turkish Petroleum Company hope to obtain the grant of a concession from the Government of Iraq. The Department is also informed that the terms upon which the American group is to

⁶⁰ Foreign Relations, 1923, vol. II, p. 243.

participate in the company have not yet been fully agreed upon. Obstacles to an agreement have been created recently by Gulbenkian, an Armenian naturalized in Great Britain, who holds a stock interest of five per cent in the company as organized in 1914. The position taken by Gulbenkian has apparently prevented an arrangement for the division of any crude oil which the Turkish Petroleum Company may produce in Mesopotamia under the new concession which it may obtain. Gulbenkian's position is considered unreasonable by the American group. The latter have indicated that during more than two years of negotiation with the Turkish Petroleum Company they have steadily maintained that their object is to obtain their proper share of the actual oil produced, and that a mere stock participation in the Turkish Petroleum Company does not interest them. They have further stated that their British and French associates understood this position perfectly and had accepted it before the late difficulties arose with Gulbenkian in arranging a settlement. Apparently those difficulties have brought up again the question of participation through stock ownership between the American and foreign groups. The American group has indicated that if this position is insisted upon by the other interests they may themselves withdraw from participation.

- 2. The Standard Oil Company is instructing Mr. Wellman, who is representing the American group in London, to explain the situation fully to the Embassy.
- 3. In matters of business negotiation the Department could not, of course, properly intervene, and with regard to the negotiations of the American group this principle has been consistently maintained. The American group has, however, kept the Department in touch with the course of affairs. The position of this Government has been already fully communicated to the Embassy in the pertinent correspondence, and is briefly recapitulated below:
- (a) This Government has contributed to the common victory, and has a right, therefore, to insist that American nationals shall not be excluded from a reasonable share in developing the resources of territories under mandate. In this view the British Government has concurred.

(b) In Mesopotamia the principle of equality of commercial opportunity and of the Open Door should be maintained. The British

Government does not dissent from this view.

(c) This Government regards as invalid the alleged rights of the Turkish Petroleum Company as based on negotiations before the war. If claims should be advanced on the strength of those negotiations, it has been suggested by this Government that they be submitted to arbitration for settlement.

(d) More than two years ago the Department was informed that the American group included all American companies which wished

to participate. The Department felt, therefore, that, having regard to the practical requirements of the case, it should not oppose an attempt of the Turkish Petroleum Company to obtain a new concession provided that under the new arrangement a fair participation should be accorded to the interested American companies.

- 4. The sole object of the Department in concerning itself with the negotiations of the American companies has been to secure recognition of the principles for which this Government has stood throughout. Since the negotiations among the various groups interested in the Turkish Petroleum Company have looked toward arriving at a basis for American participation in Mesopotamian development, the Department has felt that if the arrangements arrived at were properly drawn up progress would have been made toward meeting the views which this Government has steadily advanced in its representations to the British Government regarding the rights of American nationals.
- 5. It is possible, however, that these negotiations may break down through no failure of the American companies to accept reasonable terms of participation. And inasmuch as the British interests hold a special position in negotiating with Iraq, since the British Government is the mandatory there and possesses special prerogatives in Iraq under treaties concluded with the Government of Iraq, it is also possible, therefore, that the British interests may try to obtain concessionary rights in Mesopotamia without according a fair share in them to the American companies ready and willing to participate. In that case the Department would carefully consider what steps it should take under the altered circumstances in order to protect American interests. This Government might be compelled to revert to the position it assumed in correspondence with the British Government, and to oppose resolutely any plan which did not give adequate recognition to the principle of the Open Door and which did not afford an application of this principle in the treatment of American companies which for more than two years have shown a steady and serious desire to participate on any just and reasonable terms in the development of Mesopotamian oil fields.
- 6. You should bring at once to the attention of the Foreign Office the views set forth in the three preceding paragraphs. This may be done orally, but you should indicate that while the Department contemplates addressing the British Government formally on the subject, you have been instructed to discuss it informally in the first instance as it is the belief of this Government that the British Government has no desire to see anything done which might end in an attempt to exclude American interests from a proper participation in developing Mesopotamian resources.

- 7. The outcome of your interview, as also the precise status of Wellman's negotiations with the Turkish Petroleum Company, should be promptly telegraphed to the Department. As soon as the Department has received your report it will consider what further steps should be taken. If a satisfactory agreement can be reached in consequence of the representations you make and without resorting to more formal measures, it would, of course, be a source of gratification to the Department. But it is very important that matters should not be permitted to arrive at the stage at which we would be faced by the accomplished fact of an agreement between the Turkish Petroleum Company and the Government of Iraq before the American companies have secured their own interests under a proper agreement.
- 8. You should read again the Department's instructions 630 of August 31, 1922, and 809 of February 10, 1923, and as also the Monthly Political Reports of April, November, and December, 1923, and of February, 1924, for their references to Mesopotamia.

HUGHES

890g.6363 T 84/163: Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

[Paraphrase]

London, September 24, 1924—4 p.m. [Received 4:33 p.m.]

393. The matter referred to in the Department's 331, of September 20, was discussed in detail today with an official of the Foreign Office, and an intimation was given of our hope that we could reach a settlement through informal discussion rather than by making formal representations to the Foreign Office. Mr. Wellman had already several times conferred with me. At the Foreign Office I received positive assurance that they have a sincere desire to see a fair participation given to the American interests and to expedite the conclusion of arrangements already drawn up and agreed to by the four groups concerned. Nichols of the Turkish Petroleum Company had already brought to the attention of the Foreign Office the obstructive attitude of Gulbenkian, and at interview today the Foreign Office official intimated on his own initiative that he would try to find out whether Gulbenkian's attitude might not somehow be altered.

Kellogg

⁶¹ Neither printed.

⁶² Reports not printed.

890g.6363 T 84/169: Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

LONDON, October 14, 1924-2 p.m. [Received October 14—1:17 p.m.]

424. My 393, September 24, 4 p.m. I had applied for interview recently with the Foreign Office regarding Turkish petroleum matter. It appears that the Foreign Office has had several conferences with Gulbenkian or his representative, obtaining his point of view in the differences between him and the groups, and after careful consideration is of the opinion that Gulbenkian's contentions are founded on practical and legal grounds not to be disregarded. The policy of the Foreign Office is similar to that of the Department in that it will not intervene in business negotiations or disputes, but is ready to use all good offices in order to compose if possible differences between parties concerned. Foreign Office feels that recent offers of Turkish Petroleum Company to Gulbenkian are quite reasonable and hopes that latter will see his way clear to accepting them. On the other hand the intention of the Foreign Office is to urge the British group to use moderation and deal with Gulbenkian reasonably. It is hoped that the Department will correspondingly urge this attitude upon the American group.

I was again assured most emphatically that the British Government desires that United States nationals should have equal representation in the exploitation of the Mesopotamian oil fields and that the "working agreement" should become effective. Foreign Office understands clearly the Department's view as to the consequences which might arise from the failure of the "working agreement" to be concluded.

Wellman tells me that while Gulbenkian has so far refused the offers of the Turkish Petroleum Company, negotiations are continuing and that there is hope of a settlement this week. The heads of the several groups, as well as Gulbenkian, are now in London.

KELLOGG

890g.6363 T 84/184

The President of the Standard Oil Company of New Jersey (W. C. Teagle) to the Chief of the Division of Near Eastern Affairs, Department of State (Dulles)

New York, November 28, 1924.

[Received December 1.]

DEAR MR. DULLES: The following are two cables just received late this afternoon from Mr. Wellman:

"Procedure now agreed on by all groups is:

1st: Turkish Petroleum Company Anglo-Persian Oil Co., Ltd. and
Americans will enter into one contract which I am initialing whereby

open door plan is adopted and 10% free oil will be delivered by Turkish Petroleum Company to Anglo-Persian Oil Company Limited as nominee of American Group in consideration its support and cooperation at Bagdad and as shareholders and further 2334% of Turkish Petroleum Company share will be transferred to American group by Anglo-Persian Oil Company, Limited after concession is granted. 10% free oil is limited to 24 areas to be selected by Turkish

Petroleum Company under open door plan.

2nd: Supplementary agreement likewise being initialled to be signed by all groups including Anglo-Persian Oil Co. Ltd. whereby in the event of invalidity above mentioned royalty contract four groups will pro rata to their holdings of voting shares buy 91/3% oil from Turkish Petroleum Company and deliver same freely to Anglo-Persian Oil Co. Ltd. and this obligation attaches only to voting shares so that holder may by transferring its shares to Anglo-Persian Oil Co. Ltd. free of cost be released from this contract. Separate contracts will provide that article 10 foreign office agreement is to be cancelled thus leaving all groups free as far as former Turkey in Asia is concerned except Mosul and Bagdad as bounded prior to the war this being area of existing claim of Turkish Petroleum Co. and in addition whatever other territory comes under Irak Convention. As to Mosul in Turkey, if any we have made our participation conditional upon acceptance for purpose Anglo-Persian Oil Co. Ltd. and N. Gulbenkian royalty and of self denying ordinances that either first Irak Convention must apply to such part Mosul or second that Turkish Petroleum Company shall obtain from Turkey by virtue of its existing claim concession not worse as to royalty than proposed Irak Convention and if higher royalty necessary then Anglo-Persian Oil Co. Ltd to assume excess with regard to its 10% free oil and further if Turkey rejects claim and will grant concession 4 groups they are to take it and operate it on equal terms through another corporation and finally if Turkey unwilling to grant such joint concession all groups to be free to act individually. Both these agreements are void if Irak concession not granted by December 31st, 1925. Provision is also to be made for equal groups voting rights under first agreement and also for transfer of additional 14% shares and for putting working agreement into effect if and when N. Gulbenkian settlement made. Now planned that Turkish Petroleum Co. directors shall authorize first contract next Tuesday and that four groups shall thereafter sign second contract. time French group now expected to agree settlement N. Gulbenkian on the basis of 1 shilling per ton whereupon discussion with N. Gulbenkian will be resumed. Pressure for early granting of concession seems to be relieved and Keeling advises that concession will not be granted before Dec. 15th. M. Piesse concurs in foregoing procedure. Guy Wellman has arranged to sail Dec. 9th Majestic please advise his office."

"Other groups urge American group to become participant in Turkish Petroleum Co. and to agree to take shares as soon as same are available even though Irak concession shall not have been granted. In view of previous position American group on this point please telegraph me whether or not it can now make such an agreement."

To the second cablegram, we have replied this afternoon as follows:

"Have called meeting of American Group for Monday afternoon. It is my understanding that American Group can not safely agree to take Turkish Petroleum Company shares before Irak concession is granted because of attitude State Department which requires that its open door policy shall be definitely realized through actual grant of proposed concession permitting open door plan before American Group can take its shares in company."

We have called a meeting of the American Group to discuss the same on Monday next, at two o'clock. I shall greatly appreciate it if you will call me on the telephone on Monday morning in the event of your having any comments or suggestions to make in connection therewith.

Yours very truly,

W. C. TEAGLE

890g.6363 T 84/186

The Chief of the Division of Near Eastern Affairs, Department of State (Dulles) to the Secretary of State

[Washington,] December 1, 1924.

Mr. Secretary: While I did not myself telephone Mr. Teagle in reply to the inquiry in his letter of November 28th, he called me on the telephone this afternoon and asked whether the Department had any comment to make on his letter. I told him, in reply, that while the Department would not, of course, desire to advise the Group in connection with a business matter, such for example as their taking shares in the Turkish Petroleum Company, the Department's view that the Turkish Petroleum Company had no valid concession had undergone no change whatever and that therefore if American companies participated in the Turkish Petroleum Company they would, so far as we were concerned, be participating in a company which had acquired no valid concessionary rights as yet. Mr. Teagle said he fully appreciated this position and that it appeared to be the opinion of the Group, which was then meeting, that they should maintain their position that they would not take shares in the Company until the concession were actually granted.

Mr. Teagle then asked whether the Department had any comment to make on the longer telegram quoted in his letter of November 28th. I said that, as I recalled, this telegram related largely to business matters and that I did not believe that there was any point therein upon which the Department would desire to comment. Mr. Teagle said that the Group would probably agree to the arrangement outlined in this telegram.

A. W. D[ULLES]

890g.6363 T 84/190

The Associate General Counsel of the Standard Oil Company of New Jersey (Guy Wellman) to the Chief of the Division of Near Eastern Affairs, Department of State (Dulles)

> New York, December 17, 1924. [Received December 19.]

DEAR MR. DULLES: Since my return from London on Tuesday last, Mr. Dodge told me of his recent conference with you and your inquiry regarding the phraseology of Article 34 of the proposed concession from the Iraq Government to the Turkish Petroleum Com-

pany, with particular reference to the subleasing plan.

In order to ensure the adoption of the plan against any objecting minority shareholder of the Turkish Petroleum Company, we proposed that the elements of the subleasing plan should be embodied in the draft concession as a condition of the grant. This suggestion was adopted, and Mr. Keeling at Bagdad was instructed to endeavor to bring this about by agreement with the Iraq Government. While we have not been advised as to the definite acceptance of this suggestion by the Iraq Government, the proposed draft concession contains, in Articles 5 and 6, the definite obligation of the Turkish Petroleum Company to select its twenty-four plots of eight square miles each not later than the third 31st of October after the date of the convention, and to construct a pipe line as soon as it shall become commercially justifiable. In Article 6 it is also stipulated that the Company shall, not later than four years after the date of the convention, and annually thereafter, carry out the provision of offering not less than twenty-four plots of eight square miles each, "subject to the provisions of Article 34 hereof," for competitive bidding between all responsible corporations, firms and individuals without distinction of nationality. The other provisions regarding the right of the prospective operator to select plots, and of the furnishing of geological information, together with the provision of 30% of the capacity of the Company's pipe line for the transportation of oil on subleases at a cost not exceeding ½ of one anna per barrel per mile, are included. The sublease shall bind the operator of each plot to drill not less than 1500 feet during the three years after the execution of the sublease, and thereafter not less than 500 feet each year until the plot shall have been fully tested.

With reference to Article 34, the Iraq Government has consistently insisted, as a matter of national dignity, that it must have some supervision over the transfer, by way of subleases, of the area covered by the concession. We have continued our insistence that the phrase-ology of Article 34 should be retained, whereby the right of rejection

of a sublessee by the Iraq Government should be limited to the objection of the proposed sublease on the ground that it would be prejudicial to Iraq political independence or territorial integrity, or that the sublessee is an unreliable person. The Iraq Government has served, in effect, an ultimatum that it must have the right of rejection of a sublessee upon reasonable grounds, and that the other restrictions above-referred to which we proposed must be deleted. The other three groups acquiesced in this change, and the American Group, as a matter of necessity, has also consented to the following phraseology:

"The Company shall have the right from time to time to underlet or transfer any part or parts of its rights and obligations hereunder with respect to portions of the defined area on such terms as it may think fit, provided always that the Company shall not transfer its obligations under article 5 hereof, and that the Company shall give the Government written notice of any intended underletting or transfer, and the Government shall have the right on reasonable grounds, to be stated in writing, within 60 days of receipt of such notice, to notify the Company in writing that they object to such proposed underletting or transfer, and if such notification be given the Company shall not proceed with such underletting or transfer; and provided also that the Company shall accept full responsibility to the Government for the performance by underlessees and transferees of all obligations due hereunder."

In view of the provision of Article 6 requiring that a sublease be made to a person without restriction as to nationality, there is no objection to be feared on the ground of nationality, at least so far as Americans are concerned.

It is also to be noted that the Turkish Petroleum Company must guarantee to the Iraq Government the performance by each sublessee of all the provisions of the concession applicable to the subleased area in question. Hence, a trivial objection on the ground of lack of financial responsibility or operating experience could hardly be raised by the Iraq Government.

While Article 34 is not in exactly the form which I personally would select in order to avoid any delays or complications in the operation of the sub-leasing plan, yet it is essential to recognize that this concession, if granted, is coming from a sovereign government which may properly insist upon some degree of supervision of transfers of the territory under the subleasing plan. In fact, it is also to be noted that in almost all cases of concessionary grants, the right of transfer of the grant or any territory under it is subject to the approval of the granting government.

The concession was, when I left London on the 8th instant, still under discussion at Bagdad by Mr. Keeling on behalf of the Turkish Petroleum Company, with the Iraq Government.

Mr. Nichols has given me his personal assurance that Mr. Keeling has been instructed that, if the phraseology of Article 34 as above-quoted be adopted, it must be with the concurrent adoption of Articles 5 and 6 which embody, as conditions of the concession, the provisions for carrying out the subleasing plan of the Company.

With best wishes [etc.]

GUY WELLMAN

REPRESENTATIONS BY THE UNITED STATES AGAINST TRADE DISCRIMINATION BY NEW ZEALAND IN SAMOA, AND COUNTER-COMPLAINT BY NEW ZEALAND

611.62 m 31/23: Telegram

The Secretary of State to the Ambassador in Great Britain (Kellogg)

Washington, April 8, 1924-3 p. m.

89. Department's telegram 1155, November 17, 1920.63 Despite repeated requests which Department has made to British Government through Embassy for an indication of the attitude of the British Government with respect to the preferential tariff now in force in Samoa, in contravention of the Tripartite Convention between Great Britain, Germany and the United States, of 1899,64 nothing has been received except statement that the matter was under consideration and that it would be dealt with as quickly as possible. The last word from the British Government was contained in Ambassador Harvey's telegram No. 236 of June 2, 1 p. m. 1922 63 to the effect that the Colonial Office would be pressed for an early decision.

The Department learns that the New Zealand Order in Council of September 3, 1923 which modified customs regulations in Samoa reiterates the position of the New Zealand Government with respect to American goods which by the above mentioned Order are subjected to the same duties as all goods of origin other than British. Furthermore, an Order in Council of September 25, 1923 admits the entry free of duty of German Austrian products. This Government has consistently objected to this discrimination against United States products. At present, articles of British origin enjoy 7½% preference in tariff over American goods.

It is obviously desirable that this matter be adjusted at the earliest possible moment in view of the severe losses resulting to American firms having business with Samoa. Department is informed that one large American firm in Samoa has retired from business, the owner attributing his action to the preferential duties established by New Zealand in Western Samoa. It is assumed that you have all the pertinent facts relating to the case at your disposal and that you are thoroughly familiar with this Government's attitude. If not, the

⁶⁸ Not printed.

⁶⁴ Foreign Relations, 1899, p. 667.

Department will be glad to cable a summary of its position in the matter.

You will please avail yourself of the first appropriate opportunity to take this matter up personally with the Secretary of State for Foreign Affairs pointing out that the action of the New Zealand Government is clearly in violation of Article III of the Convention of 1899, and that the government's action has resulted in serious loss to American commercial interests. You will also point out the very considerable period of time which has elapsed since this Government first instituted representations, and you will earnestly request that some arrangement may be promptly arrived at which will provide for United States goods being granted complete equality of treatment with British products as provided for in the Tripartite Convention.

HUGHES

611.62 m 31/24 : Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

London, April 10, 1924—5 p. m. [Received April 10—2:25 p. m.]

123. Your 89, April 8, 3 p. m. I had a personal conference today with the Secretary of State for Foreign Affairs in relation to discriminatory tariff imposed by New Zealand. I explained to him provisions of tripartite convention of 1899 which is still in force, also that the imposition of this tariff was in violation of the principle of mandated German territory which had been conceded by Japan, France, Belgium and by the British Government in exchange of communications in reference to Central African treaty. He said he would take the matter up and insist on an adjustment at an early date; that while he was not familiar with the details occurring during previous administrations he thought delay was due largely to having to deal with colonial governments and the imperial conference which took place last autumn; that he understood that New Zealand claimed some discrimination by the United States in the imposition of port duties against British ships in Samoa. I informed him that I had no knowledge of such discrimination unless it was the collection of fees for issuing consular bills of health for ships clearing from Apia to Pago Pago which were subsequently refunded as not being in accordance with the treaty of 1899. (See enclosures to Department's instruction No. 833 [883], August 18th, 1920, report of Mason Mitchell, Consul.) 65 Definitely promised early action. Will keep Department advised.

KELLOGG

⁶⁵ Not printed.

611.62 m 31/27

The Ambassador in Great Britain (Kellogg) to the Secretary of State

No. 537

London, July 2, 1924. [Received July 11.]

Sir: In connection with my despatch No. 503, of June 17, 1924, 68 I have the honor to enclose a copy, in triplicate, of a note from the Foreign Office dated June 30, 1924, together with its enclosures, concerning the subject in hand, namely the question of the discriminatory tariff imposed by New Zealand on American goods in the British mandate territory of Samoa. It appears that the Government of New Zealand would be willing to accede to the request of the United States Government for national treatment for its commerce and commercial vessels in Western Samoa, provided that the United States Government on its part is willing to give a specific assurance of its understanding that Article 3 of the Convention of 1899 ensures to British commerce and commercial vessels national treatment in that part of Samoa under United States administration.

An examination of the full text of the note will show that this raises the question of whether under our Coastwise Trading Act British ships bound for the United States may call at Tutuila and carry goods and passengers between that port and the United States under the same condition as our coastwise ships. I have not had time to examine this question but am sending the note on for your inspection.

I have [etc.]

FRANK B. KELLOGG

[Enclosure]

Mr. G. R. Warner of the American and African Department of the British Foreign Office to the American Ambassador (Kellogg)

No. A3920/2287/45

London, June 30, 1924.

YOUR EXCELLENCY: With reference to our conversation on the 10th April last, ⁶⁷ I have the honour to inform Your Excellency that His Majesty's Government have discussed with the Government of New Zealand the question dealt with in previous correspondence ending with Mr. Harvey's note No. 1071 of the 20th [25th] October, 1923, ⁶⁶ with regard to the rights claimed by the United States in Western Samoa under article 3 of the Convention concluded at Washington on the 2nd December, 1899, between the United Kingdom, Germany and the United States.

⁶⁶ Not printed.

⁶⁷ See telegram no. 123, April 10, from the Ambassador in Great Britain, p. 242.

- 2. You will observe that it is provided in the same article of that convention that each of the three signatory powers shall continue to enjoy in respect of their commerce and commercial vessels in all the islands of the Samoan group privileges and conditions equal to those enjoyed by the sovereign power in all ports which may be open to the commerce of either of them. It will be remembered that in 1911 the United States authorities had exercised some discrimination against British ships trading between Pago Pago and Leone in Tutuila. On that occasion inquiries were made of your government, who stated that Leone was not a port of entry; but in the course of the correspondence which ensued the United States Government admitted that British ships were entitled to the same treatment as United States and German ships in this respect (in this connection I would refer you to the note from the State Department to His Majesty's Ambassador at Washington of the 5th February, 1912, et cetera 69). In the same year also a complaint was made by a British firm that bills of health were being issued gratis by the United States Consul at Apia to United States vessels trading between Apia and Pago Pago, while a charge was made for similar bills of health issued to British vessels trading on the same route. This complaint being brought to the notice of the United States Government, it was decided by the State Department in 1913 that the exaction of fees from British vessels while United States vessels were exempt was contrary to article 3 of the Convention of 1899, and instructions were accordingly given for the collection of such fees to be discontinued (see note from the State Department to His Majesty's Ambassador at Washington, 15th October, 1913 69). The United States Government were thus, in 1913, of opinion that the convention prevented preference in this respect being given to United States ships trading with American Samoa.
- 3. The Government of New Zealand have also called my attention to the fact that, owing to the operation of the United States coast-wise laws, British ships trading from New Zealand to San Francisco are no longer able to call at Honolulu and to carry goods and passengers between that port and San Francisco. Consequently, British ships can no longer call at Honolulu except those on the Vancouver mail service. It is, therefore, a matter of considerable importance to the Government of New Zealand that British ships trading between New Zealand and the United States should be able to call at Tutuila and, if necessary, to carry goods and passengers between that port and the United States under the same conditions as United States ships.
- 4. In the circumstances the Government of New Zealand would be willing to consider the request of the United States Government for

⁶⁹ Not printed.

national treatment for their commerce and commercial vessels in Western Samoa, provided the United States Government on their part are willing to give a specific assurance of their understanding that article 3 of the Convention of 1899 ensures to British commerce and commercial vessels national treatment in that part of Samoa under United States administration.

- 5. At the request of the Government of New Zealand, I have the honour to append a communication received from them by His Majesty's Government stating their position in this matter.
- 6. I beg leave further to refer you to your personal letter to me of April 10th, giving the only case which you have been able to trace of any case of discrimination against British vessels in ports of Samoa under United States administration. In this connection I have the honour to point out that the discrimination of which complaint is made by His Majesty's Government is rather that involved by the extension to American Samoa of the coast-wise laws restricting trade between United States ports to vessels of United States registry, which was provided for by section 21 of the United States Merchant Marine Act of June 5th, 1920.70
- 7. With regard to the statement contained in the aide-memoire which you were so good as to leave with me on April 10th last, to the effect that an Order in Council of September 25th, 1923, admits the entry free of duty into Western Samoa of German and Austrian goods, I have the honour to enclose herein a copy of the Order in Council in question, and of that of the 3rd September, 1923, which it amended.⁷¹ You will observe that the Order in Council of the 25th September only dispensed with the necessity for a licence in respect of German and Austrian goods imported into Western Samoa after April 1st, 1924, and did not provide for their entry free of duty.

I have [etc.]

G. R. WARNER

[Subenclosure-Telegram]

The Governor General of New Zealand to the British Secretary of State for the Colonies

- 1. The New Zealand Government acting by His Majesty's delegation as mandatory authority of Western Samoa regrets any apparent delay in reply to the representation of the United States Government on the subject of British preferential duties in Western Samoa.
- 2. This Government had, however, believed that the United States Government understood the points of difference and this Government were awaiting an intimation from the United States Govern-

 ⁴¹ Stat. 988.
 Neither printed.

ment that the Tripartite Treaty of 1899 prevented the United States from restrictions upon British shipping in American Samoa.

- 3. The New Zealand Government has recognised that the question whether obligations of Tripartite Treaty are still imposed on Western Samoa, notwithstanding its transition from German Sovereignty to mandatory authority, is one to be determined by the Law Officers of the Crown in England and in deference to their advice has not contended that it is free from those obligations.
- 4. But this government has maintained that Tripartite Treaty is equally binding upon the Government of American Samoa and therefore that restrictions upon British shipping in American Samoa are at least as inconsistent with Tripartite Treaty as are the British preferential duties in Western Samoa.
- 5. If the Government of the United States definitely concede that New Zealand ships and all British ships are entitled to carry goods and passengers between American ports and ports of American Samoa, and that British shipping will receive exactly the same treatment in all other respects in such trade as American ships, both in American Samoa and in United States ports, then the New Zealand Government will reciprocally legislate to place American imports in the same position as the British imports in Western Samoa.

ANNOUNCEMENT BY THE BRITISH GOVERNMENT OF THE DECISION TO ACCREDIT A MINISTER TO REPRESENT IN THE UNITED STATES THE INTERESTS OF THE IRISH FREE STATE

701.4111/487

The British Ambassador (Howard) to the Secretary of State

No. 564

Washington, June 24, 1924.

Sir: Under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, I have the honour to inform you that His Majesty's Government have come to the conclusion that it is desirable that the handling of matters at Washington exclusively relating to the Irish Free State should be confided to a Minister Plenipotentiary accredited to the United States Government. Such a minister would be accredited by His Majesty The King to the President of the United States and he would be furnished with credentials which would enable him to take charge of all affairs relating only to the Irish Free State. He would be the ordinary channel of communication with the United States Government on these matters.

Matters which are of Imperial concern or which affect other Dominions of the Commonwealth in common with the Irish Free State will continue to be handled as heretofore by this Embassy.

The arrangements proposed by His Majesty's Government would not denote any departure from the principle of the diplomatic unity of the Empire. The Irish Minister would be at all times in the closest touch with His Majesty's Ambassador and any question which may arise as to whether a matter comes within the category of those to be handled by the Irish Minister or not would be settled by consultation between them. In matters falling within his sphere the Irish Minister would not be subject to the control of His Majesty's Ambassador nor would His Majesty's Ambassador be responsible for the Irish Minister's actions.

In communicating to you these proposals, which His Majesty's Government trust will promote the maintenance and development of cordial relations between the British Empire and the United States, I have been instructed to express the hope that the United States Government will concur in the appointment of an Irish Free State Minister at Washington on the footing I have indicated above. As regards questions such as the precedence to be attributed to the Irish Minister or any other points which the United States Government may desire to raise in connection with the appointment, His Majesty's Government will await the views of the United States Government.

I have [etc.]

ESME HOWARD

701.4111/487

The Secretary of State to the British Ambassador (Howard)

Washington, June 28, 1924.

EXCELLENCY: I have the honor to acknowledge the receipt of your note Number 564 of June 24, 1924, by which, under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, you inform me of the conclusion which His Majesty's Government has reached that it is desirable that the handling of matters at Washington exclusively relating to the Irish Free State should be confided to a Minister Plenipotentiary accredited by His Majesty The King with credentials which would enable him to take charge of all affairs relating only to the Irish Free State.

Responding to the hope which you express on behalf of Your Government that the Government of the United States will concur in the appointment of an Irish Free State Minister at Washington in conformity with the proposals of His Majesty's Government as set out in your note, I have the honor and the pleasure to inform you that the President, always happy to meet the wish of His Majesty's Government in every proper way, will be pleased to receive a duly

accredited Minister Plenipotentiary of the Irish Free State, on the footing you indicate.72

Accept [etc.]

CHARLES E. HUGHES

APPLICATION TO THE IRISH FREE STATE OF THE PROPERTY CON-VENTION OF MARCH 2, 1899, BETWEEN THE UNITED STATES AND GREAT BRITAIN

811.5241 d/7

The Ambassador in Great Britain (Kellogg) to the Secretary of State

No. 1019

London, January 26, 1925.

[Received February 6.]

Sir: Referring to the Department's instruction No. 414 dated October 31, 1924,78 I have the honor to enclose copies, in triplicate, of a note dated November 17, 1924, which the Embassy addressed to the Foreign Office, and the latter's reply dated December 12, 1924, concerning the application to the Irish Free State of the provisions of the Property Convention concluded between the United States and Great Britain on March 2, 1899.74 I am informed by the Foreign Office that His Majesty's Government have no objection to the publication of this exchange of notes.

I have [etc.]

For the Ambassador:

F. A. STERLING Counselor of Embassy

[Enclosure 1]

The American Ambassador (Kellogg) to the British Secretary of State for Foreign Affairs (Chamberlain)

No. 568

London, November 17, 1924.

SIR: Under instructions of my Government I have the honor to enquire whether, as a result of the creation of the Irish Free State, the British Government consider that the provisions of the Property Convention of March 2, 1899, are still binding on Ireland without notice, as provided for by Article 4, Paragraph 1.75

I have [etc.]

FRANK B. KELLOGG

⁷² Timothy A. Smiddy presented his credentials as Minister to the President on Oct. 7, 1924.

Not printed.

Malloy, Treaties, 1776–1909, vol. I, p. 774.

The paragraph reads: "The stipulations of the present Convention shall not be applicable to any of the Colonies or foreign possessions of Her Britannic Majesty unless notice to that effect shall have been given, on behalf of any such Colony or foreign possession by Her Britannic Majesty's Representative at Washington to the United States Secretary of State, within one year from the date of the exchange of the ratifications of the present Convention."

[Enclosure 2]

The British Secretary of State for Foreign Affairs (Chamberlain) to the American Ambassador (Kellogg)

No. A6753/984/45

[London,] 12th December, 1924.

YOUR EXCELLENCY, With reference to Your Excellency's note of November 17th, I have the honour to inform you that the establishment of the Irish Free State is not regarded as affecting the position in connection with the applicability to Ireland of the convention of the 2nd March, 1899, relative to the disposal of real and personal property.

I have [etc.]

(For the Secretary of State)

G. R. WARNER

SETTLEMENT OF THE DISPUTE WITH THE BRITISH GOVERNMENT REGARDING WITHDRAWAL OF RECOGNITION OF AMERICAN CONSULAR OFFICERS AT NEWCASTLE-ON-TYNE ⁷⁰

125.655/122: Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

[Paraphrase]

London, March 26, 1924—noon. [Received March 26—8:50 a. m.]

102. Embassy was told informally and confidentially yesterday by the Foreign Office that the Secretary of State for Foreign Affairs had agreed to have the Newcastle case settled on the lines which the Department had suggested, that the appointment of Brooks as vice consul at Belfast would be acceptable to the British Government, and that the Foreign Office had instructed the British Embassy at Washington to inquire whether you wished to have the notes exchanged at London or Washington.

Kellogg

125.655/122: Telegram

The Secretary of State to the Ambassador in Great Britain (Kellogg)

Washington, March 27, 1924—5 p. m.

74. Your 102, March 26, noon.

The Department is gratified to learn that there is good prospect of settling the Newcastle case along lines previously agreed on.

¹⁶ For previous correspondence concerning withdrawal of recognition of American consular officers at Newcastle-on-Tyne, see *Foreign Relations*, 1923, vol. II, pp. 306 ff.

I wrote you letter March 25, in answer to your letter February 27, regarding the case.⁷⁷ My letter was sent by pouch yesterday and reiterates Department's position in the matter.

In discussing the case you should reiterate understanding already reached which has been fully covered in previous telegrams and instructions.

(1) Publication of the notes shall immediately follow the exchange. It is the opinion of the Department that this exchange should occur in London, but that publication should be simultaneous in London and in Washington.

(2) That at the time of publication the Department will also announce that the British Government has agreed that Slater and Brooks may be assigned to posts within the British Empire and will shortly

be sent to such posts.

(3) That the British Government agrees to issue the necessary exequatur and recognition to Slater and Brooks when they are sent to Fort William and Port Arthur and to Belfast, respectively.

I have today had a conversation with the British Ambassador on this subject and have read to him the text of this instruction.

HUGHES

125.655/124: Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

London, March 31, 1924—6 p. m. [Received 8:15 p. m.]

112. The following exchange of notes has been made today.

"His Excellency the Honorable Frank B. Kellogg. Your Excellency: I have the honor to inform you that after further consideration His Majesty's Government are prepared not to insist upon the charge of exceeding their consular authority laid about a year and a half ago against the then American consul and vice consul at Newcastle-on-Tyne and it has therefore been recalled. I have the honor to be with the highest consideration Your Excellency's obedient servant. (Signed) J. Ramsay MacDonald."

"The Right Honorable J. Ramsay MacDonald. Sir: I am instructed to inform you that it is the intention of my Government to reopen the consulate at Newcastle-on-Tyne and I have the honor to state that Mr. Charles Roy Nasmith has been appointed as consul of the United States at that port. I beg therefore to request you to be good enough to take the steps necessary for his recognition in that capacity in case the appointment be found agreeable to His Majesty's Government. I have the honor to be with the highest consideration, Sir, your most obedient humble servant. (Signed) Frank B. Kellogg."

[&]quot;Neither printed.

While the above notes signed by me and the Minister for Foreign Affairs have been exchanged they are undated to be held in abeyance and not put on record until you signify your approval when the dates will be inserted.

I am also addressing the Minister for Foreign Affairs the following note:

"The Right Honorable J. Ramsay MacDonald. Sir: I have the honor to refer to the exchange and simultaneous publication of the notes between ourselves wherein the charge against the American consul and vice consul at Newcastle-on-Tyne which was brought about a year and a half ago has been recalled and the appointment of Mr. Charles Roy Nasmith as American consul at that port was made known to you together with the request that he be recognized in that capacity. In this connection I desire to state, confirming my conversation of this morning with Sir Eyre Crowe, that the Department of State at Washington will announce at the time of the publication of the notes that the British Government has agreed that Messrs. Slater and Brooks formerly consul and vice consul at Newcastle-on-Tyne may be assigned to posts within the British Empire and will shortly be sent to such posts. Confirming also the conversation above referred to, it is my understanding that the notes shall be released simultaneously in London and Washington for publication in the morning newspapers of April 3d, 1924. I have the honor to be with the highest consideration, Sir, your most obedient humble servant. (Signed) Frank B. Kellogg."

And I have received the following note from the Foreign Office.

"March 31st, 1924. Immediate and confidential. Your Excellency. With reference to Your Excellency's note number 125 of today's date I have the honor to inform you that I shall be happy to take steps with a view to the issue of the King's exequatur to Mr. Slater as United States consul at Fort William and Port Arthur, Canada, and to the formal recognition of Mr. Brooks as United States vice consul at Belfast so soon as Your Excellency has put forward the necessary request to this Department. (Signed) For the Secretary of State for Foreign Affairs. G. R. Warner."

If the notes quoted above and the memorandum contained therein are satisfactory please send me your approval immediately.

KELLOGG

125.655/124 : Telegram

The Secretary of State to the Ambassador in Great Britain (Kellogg)

Washington, April 1, 1924—1 p. m.

81. Your 112, March 31, 6 p. m. Department approves of text of Notes to be exchanged. It is suggested that Notes be dated April 2, 1924 and that they be released for publication in the morning newspapers of April 3rd.

Unless a telegram to the contrary is received from you before noon to-morrow, it will be assumed that this course meets with the approval of the British Government and the Department will proceed with the arrangements for the release of Notes, preceded by the following statement:

"The United States Government having reached an understanding with the British Government with regard to the United States Consulate at Newcastle-on-Tyne, England, which was closed in 1922, the following Notes were exchanged yesterday between the British Secretary of State for Foreign Affairs and the American Ambassador at London. The British Government has agreed that Messrs. Slater and Brooks, formerly Consul and Vice Consul respectively at Newcastle may be assigned to posts within the British Empire and will shortly be sent to such posts."

HUGHES

REPRESENTATIONS BY THE BRITISH GOVERNMENT ON BEHALF OF BRITISH INDIANS INELIGIBLE TO CITIZENSHIP IN THE UNITED STATES

130Hindu/orig.

The British Chargé (Chilton) to the Acting Secretary of State

No. 812

Washington, September 19, 1923.

SIR: Under instructions from my Government, I have the honour to bring to your notice the effect on certain British subjects, natives of India resident in the United States, chiefly in the State of California, of the decision rendered by the United States Supreme Court on the 19th of February last in the case of Bhagat Singh Thind.78 The Court ruled that a Hindu, of whatever caste, of full Indian blood, was ineligible for United States citizenship.

In certain States, notably California, aliens who are ineligible for citizenship are unable under the local law to possess real property, and it is fully realised by His Majesty's Government that British Indians resident in these States will thus in future be unable legally to acquire title to real property. I need hardly add that His Majesty's Government have of course no desire to impugn the right of the United States Government to determine what persons are eligible for United States citizenship.

His Majesty's Government desire me, however, to point out that a serious and altogether unwarranted hardship will be imposed on a large number of British subjects if the Supreme Court decision is immediately put into effect, and, still more, if it is given retroactive force. His Majesty's Government are advised that real property legally acquired by British Indians in California, (in which State the majority of the British subjects affected are situated), prior to

^{78 261} U. S. 204.

the passage of the first California Alien Land Law on May 19th, 1913, will not be liable to confiscation in consequence of the Supreme Court decision, inasmuch as its owners were not ineligible for citizenship when they acquired the property. His Majesty's Government trust that the United States Government will concur in this view. On the other hand, it would appear that real property acquired since that date is technically subject to escheat as from the date on which the Supreme Court ruling becomes effective, so my present representations are especially directed towards the attainment of some alleviation for British Indian property owners in this latter category.

I have further the honour to point out that there are certain British treaty rights which affect this question. In Article V of the Convention between the United States and Great Britain of March 2nd, 1899,79 it is provided that most favoured nation treatment may be applied in all that concerns the disposal of real property. most favoured nation in this case would appear to be Colombia; by the treaty between the United States and Colombia of December 12th, 1846,⁸⁰ it is provided, (Article XII,):—"The citizens of each of the contracting parties shall have power to dispose of their personal goods or real estate within the jurisdiction of the other by sale, donation, testament or otherwise". His Majesty's Government feel that although, as regards California, under the recent Supreme Court ruling British Indians have technically no title to retain real property acquired since May 19th, 1913, they should certainly obtain the benefit of Article V of the Convention of March 2nd, 1899, by being permitted a reasonable period of exemption from the operation of the Supreme Court decision within which to dispose privately of their property. His Majesty's Government consider that even apart from these treaty stipulations the grant of such a period of respite would be only reasonable, and that it should be accorded to all British Indians who own such property (whether or not escheat proceedings have already been instituted against them), in all cases where the property was acquired in good faith and legally according to the laws in force at the time of its acquisition. Majesty's Government suggest that this period of respite should amount to two years (thus coinciding with the period specified in Section 7 of the Alien Land Law of California of 1920) and that the Supreme Court decision should be held operative only as from January 1st, 1925.

In communicating to you the above considerations, I would also draw your attention to another aspect of the matter involving hardship to British Indian subjects who have come to the United States

80 Ibid., p. 302.

⁷⁹ Malloy, Treaties, 1776-1909, vol. 1, p. 774.

to study. Here again I refer more especially to the conditions obtaining in California. In that State British Indian subjects who are students are affected by the Supreme Court decision owing to the fact that they are classified as non-resident if they are ineligible to citizenship and are thus obliged to pay the comparatively heavy fees demanded of non-resident students. While His Majesty's Government are aware that intervention in a question of this kind by the Federal Government may be a matter of some difficulty and delicacy, yet they feel sure that if the matter was put to the authorities responsible for determining students' fees in California and elsewhere through your kind intermediary, they would appreciate the hardship involved to British Indian students if they are suddenly to be called upon to pay greatly increased dues. It would seem not unreasonable that the students already attending courses should be allowed to retain their present status as resident students until their conclusion, and thus not be penalised by being compelled at once to pay the fees required from non-resident students.

His Majesty's Government suggest, as a fair and practical solution of these difficulties, that the date on which the Supreme Court ruling of February 19th, 1923, shall be deemed to become effective, shall be January 1st. 1925. Such a solution will involve a triple alleviation of the hardship caused by the Supreme Court ruling to British Indian residents in this country,—hardship which His Majesty's Government feel sure the United States Government would be reluctant to inflict. In the first place, British Indians who have acquired real property lawfully and in good faith will have the opportunity, to which by treaty they are entitled, to dispose of it without incurring the undeserved total loss which would attend escheat proceedings. In the second place, British Indians who have contemplated immigration to this country with the intention of acquiring real property, and those who may be already in this country and may have possessed such intentions, will have ample warning of the legal disability which would attend such a project. In the third place, British Indian students now resident in the United States, and more especially in California, will be enabled to finish their courses of study under the same conditions in which they commenced them, and due warning will be afforded to British Indians intending to come to study in this country, and more especially in California, that they will, after January 1st, 1925, be liable to the increased fees required from non-resident students.

His Majesty's Government feel sure that it is not the intention of the United States Government that British subjects who have, in a bona fide manner and in violation of no Federal or State law, acquired real property in this country, should, through no fault of their own, and owing to the operation of a decision which they could not possibly have anticipated, be penalised by confiscation to the extent of the entire value of their property or be obliged to suffer a financial burden which might easily entail the abandonment of their studies. His Majesty's Government have the greater confidence in appealing to the United States Government for a reasonable and equitable solution of this question such as I have suggested above, because His Majesty's Government understand that it is the policy of the United States Government to resist any measures taken in foreign countries, which would involve confiscation, without due warning, of American property. In particular, I would refer in this connection to the communiqué issued by the Department of State to the press in November last, 81 in which, with reference to the American interests in Mexico, the following passage occurred:--"We have said that, when a nation has established laws under which investments have been lawfully made, contracts entered into and property rights acquired by citizens of other jurisdictions, it is an essential condition of international intercourse that there shall be no resort to confiscation and repudiation". In view of this attitude in the matter of American property and interests in foreign countries, I feel sure that the United States Government will not be averse to affording, in the case of British Indians in the United States and more especially in California, a similar measure of protection for their property and interests. Moreover, the fact that many of the British Indians in question obtained their United States naturalization while serving as United States soldiers during the war will, I feel sure, render the competent authorities of the United States Government the more sympathetic to their case and the more favourably disposed to ensure that equitable treatment shall be afforded to them in this matter.

In conclusion I have the honour to point out that inasmuch as in several cases in California the Attorney General has already begun proceedings for the escheat of the property of British Indians in execution of the Supreme Court ruling, the matter is one of considerable urgency if an equitable settlement is to be reached before these unfortunate British Indians are called upon to incur the grave financial loss and hardship inseparable from the confiscation of their property. The case of British Indian students in California is also urgent as I understand that as far as the University of California is concerned, it is intended to exact non-resident fees from British Indians at the beginning of the approaching semester.

In these circumstances I have the honour, under instructions from my Government, to ask you to be so good as to draw the

 $^{^{\}rm n}$ See telegram no. 171, Nov. 20, 1922, to the Chargé in Mexico, Foreign Relations, 1922, vol. 11, p. 703.

urgent attention of the competent authorities to these questions in order that they may take into immediate consideration the solution I have suggested above, and I trust that having regard to the treaty rights involved and in the interests of equity and justice, they may see their way to concur in the proposals put forward by His Majesty's Government and to take action without delay with a view to their execution.

I have [etc.]

H. G. CHILTON

130Hindu/5

The British Chargé (Chilton) to the Secretary of State

No. 1110

Washington, December 28, 1923.

Sir: In my note No. 812 of September 19th last I submitted to you certain considerations regarding the hardship which will be inflicted upon British Indian subjects resident in the United States, and especially in California, if the Supreme Court decision of February 19th last in regard to the ineligibility of British Indians for United States citizenship is to be enforced immediately or made retroactive, and I enquired whether it would not be possible to postpone the date of enforcement in order to minimize this hardship.

His Majesty's Consul-General at San Francisco now informs me that a report has appeared in the press to the effect that United States Judge William P. James of Los Angeles has already cancelled the naturalization certificate of Mr. Tulsa Ram Mamdal, a Hindu residing in Fresno County, California. On the other hand, information has reached me to the effect that the confiscation, under the terms of the Supreme Court decision, of certain property belonging to a British Indian at Orange Vale Colony, Fairoaks, California, has been postponed until April in order to give the owner more time to dispose of his property.

I have the honour to enquire whether the report as to the cancellation of T. R. Mamdal's naturalization is correct and, in view of the leniency displayed in the matter of the confiscation of the property mentioned above, which I am sure will be greatly appreciated by His Majesty's Government, I would express the hope that, in the light of the arguments put forward in my note under reference, it may also be possible to defer the operation of the Supreme Court decision in the matter of the cancellation of naturalizations.

You will appreciate that the present uncertainty as regards the status of these Indians and their property places them in a position of considerable difficulty, and I have the honour to request that you will be so good as to communicate to me, at your earliest convenience, the decision of the United States Government on this question.

I have [etc.]

H. G. CHILTON

130Hindu/6

The Secretary of State to the British Ambassador (Howard)

Washington, April 2, 1924.

EXCELLENCY: Referring to the Department's note dated February 2, 1924, ⁸² with regard to the report which your Embassy had received that United States Judge William P. James, of Los Angeles, California, had cancelled the naturalization certificate of Mr. Tulsa Ram Mamdel, a Hindu residing in Fresno County, California, I have the honor to state that a communication has been received from the appropriate authority of this Government stating that a decree of cancellation of this man's naturalization certificate was entered by the United States District Court, Los Angeles, California, on November 17, 1923.

With respect to the matter of deferring proceedings to cancel naturalization in accordance with the decision of the Supreme Court of the United States in the case of Bhagat Singh Thind, I have the honor to state that the appropriate authority of this Government has informed me that a recommendation was contained in the last Annual Report of the Commissioner of Naturalization that Congress should pass a law relieving from doubt the title to citizenship acquired by Asiatic aliens who served in the armed forces of the United States during the World War and who were naturalized under the provisions of the Act of May 9, 1918. It is further stated that with the exception of a test case now pending in Boston, involving a Japanese subject who was in the Navy during the war and who obtained naturalization under the provisions of the Act of Congress approved May 9, 1918 (40 Stat. L. 542), cancellation proceedings have not been instituted in the cases of members of Asiatic races who acquired naturalization through this means.

The only cases that remain are those of Hindus who were naturalized under the provisions of the general naturalization laws, against whom cancellation suits have been filed as a result of the decision of the Supreme Court in the Thind case. According to information furnished by the Commissioner of Naturalization, approximately fifty cases are involved in this category and of these approximately fifteen cases have already been terminated by decrees of cancellation and of the remaining cases cancellation suits have already been begun and are now pending in the courts. About one-third of the total number of Hindu cancellation suits arose in California, and as it is considered unlikely that all of the California Hindus have acquired real property, it is believed that the total number of those who might be adversely affected by the proceedings is small.

⁸² Not printed.

With respect to the postponement of cases involving Hindus now pending, as well as any cases falling within this class that may hereafter arise, in order that these persons may have until January 1, 1925 to protect property rights which they believed they acquired, it is stated that it is doubted whether this action would have the desired effect, because under the decision of the Supreme Court in the Thind case, these persons were never eligible for naturalization and, hence, their naturalization was void ab initio.

I shall appreciate it if you will be so good as to furnish detailed information concerning the names of British Indians whose property rights are involved and the extent of their holdings of land in the various States. Upon receipt of this information further consideration will be given to the matter.

Accept [etc.]

CHARLES E. HUGHES

811.5245/6

The British Ambassador (Howard) to the Secretary of State

No. 495

Washington, June 2, 1924.

SIR: In the note which you were so good as to address to me on April 2nd last regarding the property rights acquired by British Indians in certain States of the Union, you enquired whether detailed information could be furnished to you concerning the names of the persons involved, and the extent of their holdings in land: you added that on the receipt of this information, further consideration would be given to the whole matter.

I have made the necessary enquiries from His Majesty's Consular officers in the States involved, and as a result of their reports I have the honour to enclose a list comprising the names of 95 Indians, sa who hold either jointly or individually, separate tracts of land of a total area of 1868 acres valued at approximately \$1,328,000. In this connection I would however point out that the list is still incomplete for not only does it not include property holders in the Imperial Valley, Southern California, but also because, in several cases, only the name is given of one of the joint owners: but on the other hand, I must add that the names therein included are to the best of my knowledge those of bona fide property holders, the valuation of whose estates has been made on very conservative premises.

In the note which he addressed to you on September 19th last, Mr. Chilton made it clear that my Government in no way desired to impugn the right of the United States Government to determine what persons are eligible for United States citizenship, nor to con-

⁸⁸ Not printed.

test the validity of the laws in force in certain States by which aliens who are ineligible for citizenship are unable to possess real property. The suggestions of His Majesty's Government, to which Mr. Chilton gave expression, were to the effect that the inevitable hardships, ensuing from the decision of the United States Supreme Court of February 19, 1923, might possibly be mitigated if the competent United States authorities could see their way to extending the period of time within which the properties held by British Indians should be liquidated: and in this hope, His Majesty's Government ventured to propose, as a fair and practical solution of these difficulties, that the date on which the Supreme Court ruling shall be deemed to become effective, should be January 1st, 1925.

While still adhering to the views expressed in September, His Majesty's Government now feel that as the United States authorities have not yet found it possible to give a final decision in this matter, the delay, within which the ruling should be made effective, might with fairness to all parties concerned be extended for a further period of twelve months and become January 1st, 1926. Majesty's Government cannot but reiterate that they do not wish to lay emphasis on questions of naturalization, or of eligibility or ineligibility for citizenship through naturalization, but rather on the patent hardship accruing to those Indians who have continuously retained their British nationality and who are now threatened with the forfeiture of legally acquired property rights. From the merely practical point of view, the British Indians in question will in any case be faced with conditions which will adversely affect their chances of selling their property at fair prices: the fact that these various Estates will be thrown upon the market more or less simultaneously will tend to reduce prices, at a time when there is likely to be a period of agricultural depression in California owing to the abnormally dry winter and to the serious outbreak of Foot and Mouth disease, and when the leases of land held under cropping contracts (amounting in the case of British Indians to 86,340 acres in 1920) will also be falling in.

My Government hopes therefore that the United States Government will see its way to considering as favourably as possible the views expressed above on the general question, and will urge upon the State authorities involved the possibility of alleviating, within the limits suggested, the hardships which the British Indians in this country are being unexpectedly called upon to face.

At the same time I should be glad to learn whether or not the

At the same time I should be glad to learn whether or not the United States Government concurs in the views expressed in the third paragraph of Mr. Chilton's note above-mentioned, to the effect that real property legally acquired by British Indians in California, prior to the passage of the first Californian Alien Land Law on

May 19, 1913, will not be liable to confiscation for the reasons therein adduced. An expression of your views on this question would be of particular value, because certain of the British Indians who figure in the attached list did in fact purchase land before May 19, 1913: namely No. 9, Fattu Peero purchased 10 acres at Orangevale. California, in 1910; No. 10, Charles Sri Ram purchased 10 acres in 1912, No. 21, Budh Singh purchased 20 acres, out of the 75 now jointly held, prior to 1913. In this connection I would observe that Charles Sri Ram was threatened with the confiscation of his holding in 1922 (at a date prior to the ruling of the Supreme Court) on the ground of his ineligibility to citizenship, but because purchase of part of his holding had been effected in 1912, the State Court dismissed the case. Moreover, you will observe that No. 8 on the attached list, Ram Nath Puri, holder of 10 acres of agricultural land, was naturalized in 1916 as a citizen of this country, and you will doubtless concur with me in considering that his is a case deserving the most sympathetic treatment prior to expropriation.

In conclusion, I have the honour to reiterate my request that you will be so good as to draw the urgent attention of the competent authorities to these questions, in order that they may consider with the least delay possible the solution which I have suggested above. I venture to hope that they will see their way to concur in His Majesty's Government's proposals in the interest of equity and justice.

I have [etc.]

ESME HOWARD

811.5245/10

The Secretary of State to the British Ambassador (Howard)

Washington, September 16, 1924.

EXCELLENCY: I have the honor to refer to my note of September 5, 1924,84 concerning real estate acquired by British Indians in certain States of the United States, and to inform you that a communication has now been received from the Governor of California, enclosing a copy of a letter he had received from the Attorney General of that State, dealing with this matter. The letter from the Attorney General of California reads in part as follows:

"In reply to your request for my views on this subject, I would say, first, that it is of course clear that there can be no postponing of the date when the United States Supreme Court decision referred to becomes effective. It is now effective and controlling with reference both to all public officials, and also to the various land holders of this state.

"I would say, however, that it has been the view of this office from the very inception of the alien land legislation that the spirit and

⁸⁴ Not printed.

purposes of that legislation will be best carried out if we encourage the sale by ineligible aliens of such land as they might hold. This will not only carry out the purposes of the act but will be aiding in the solution of this question in a way that will obviate unnecessary

hardships.

"I am pleased to be able to state that, generally speaking, there has been an active cooperation on the part of the various district attorneys of the state in pursuing a policy which will lead to the desired result of so accomplishing the fundamental purposes of our alien land legislation. I am, therefore, prepared to state that so far as the attitude of this office is concerned we would be pleased, under the circumstances, to cooperate with your office in urging that the general policy requested by the British Embassy be carried out, to the end that unnecessary hardships be avoided, and to the further end that the real interests of the state be served by permitting the title to these lands to be finally vested in those qualified, under our law, to hold the same. The right of such persons so holding the legal title to lands to sell and convey good title to the same at any time prior to the institution of proceedings for escheat is generally conceded.

"With reference to the question of the right to escheat those lands which were lawfully acquired prior to the enactment of our Alien Land Act in 1913, I am of the opinion that the lands so lawfully acquired are not subject to escheat under the terms of our Alien

Land Act.

"With reference to the other question of the rights of a Hindu who was naturalized as a citizen of the United States, it is, of course, clear that this naturalization was not lawful under the rule now established by the United States Supreme Court. I realize that several United States District Courts did in fact grant naturalization to these Hindus under a mistaken impression that they were 'white persons', as that expression is used in the United States Naturalization Statute. These decisions were subject to final review by the Supreme Court. This review has been had and the decision of the Supreme Court has shown that the attempt to naturalize these people was unauthorized by law.

"I do believe, however, that there is an element of justice here to be considered, and that so far as possible reasonable time should be extended to these aliens, who were so erroneously naturalized, within which to dispose of their property. These questions can be solved in accordance with law and at the same time accomplish the real ends of the state, without visiting harsh or unnecessary hardships upon individuals who in good faith accepted privileges which

were erroneously granted to them."

Accept [etc.]

CHARLES E. HUGHES

GREECE

RECOGNITION OF THE GREEK GOVERNMENT BY THE UNITED STATES 1

711.67/48a: Telegram

The Acting Secretary of State to the High Commissioner in Turkey (Bristol)

[Extracts]

Washington, January 23, 1924—1 p. m.

17. In a speech to be delivered today January 23, before the Council on Foreign Relations of New York, the Secretary is dealing with recent questions and negotiations and is devoting the concluding half of his speech to the consideration of Near Eastern questions. The Sections relating to the Near East are quoted below in full.²

Greece.—The death of the late King Alexander of Greece was followed in December, 1920, by the return to Athens of Constantine. In accordance with the usual practice in the case of monarchial countries, the Greek representative in Washington tendered new letters of credence the acceptance of which would have constituted formal recognition of the new government. In view of the special circumstances which attended Constantine's return to Athens, it was deemed important, before according recognition, to take into account not only the part that Constantine had played in the war but also the policy of the new regime with regard to the acts and obligations of its predecessor and the attitude of the associates of the United States in the war. With respect to Constantine's attitude toward the engagements of the former Government, there was for a time an uncertainty whether Constantine considered the government of King Alexander as a de jure government. This was important, for if the Government of the United States had extended recognition it might have put itself in a position of acquiescing in a possible review of the acts of King Alexander's Government which had borrowed substantial sums from the United States. It will also be recalled that none of the principal Allied Powers recognized Constantine subsequent to his return.

¹For previous correspondence regarding attitude of United States toward recognition of the Greek Government, see *Foreign Relations*, 1922, vol. II, pp. 409 ff.

² Section dealing with Turkey is printed in another extract from this telegram, post, p. 709.

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So far as the records indicate, these considerations controlled the policy of the United States Government during the period subsequent to Constantine's return and prior to March, 1921. Upon the change of administration the question arose whether there was a sufficient reason for changing this policy and for taking a course of action different from that followed by the Allied Powers. Other considerations had intervened making affirmative action in the matter of recognition undesirable. Constantine developed a militaristic policy in Asia Minor, in which Greece was already engaged, by

which he desired to justify his hold upon the throne.

Separate action by the United States at this time could hardly have been interpreted otherwise than as an expression of sympathy and support by this Government for this policy of Constantine and as an indirect participation in the politics of the Near East which it was desired to avoid. The wisdom of refusing recognition was indicated by the overthrow of Constantine when Greek military plans in Asia Minor failed, an overthrow which was attended by a complete revolution. It will be recalled that Constantine fled the country and that his prominent supporters and cabinet ministers were arrested and after summary trials were executed. The British Government, which previously had maintained a chargé d'affaires in Athens, although not recognizing Constantine, withdrew this representative, while the representatives of other powers, including that of the United States, took occasion to interpret to the Greek authorities the unfortunate impression which the execution of the Greek ministers had caused.

The régime which succeeded that of Constantine was frankly based on military power and did not regularize its position by holding elections. Meanwhile the negotiation of a treaty of peace between the Allied Powers, Greece and Turkey, was undertaken at Lausanne, and it seemed undesirable, pending the conclusion of these negotiations, for the United States to take separate action in

the matter of recognition.

The situation has now materially changed. The Lausanne negotiations have been concluded, peace has now been ratified by Greece and Turkey, and elections were held in Greece on December 16, 1923. These elections, it is hoped, will result in the establishment of a government which will enable this Government to extend formal recognition. The fact that recognition has not been extended during the past three years does not indicate an attitude of unfriendliness toward the Greek people. What American agencies have done in assisting the refugees in Greece is clear evidence to the contrary, and this humanitarian work could not have been carried out more effectively even if formal relations had been resumed, thanks to the initiative of American agencies and the helpful cooperation of the Greek authorities.

868.01/196a

The Secretary of State to President Coolidge

Washington, January 25, 1924.

MY DEAR MR. PRESIDENT: I feel that the time has come to take such action as is possible to resume, on a more formal basis, the diplomatic relations between this country and Greece. On pages 17–19 of my address on January 23d before the Council of Foreign Relations of New York, of which I enclose a copy, I briefly outlined our recent relations with Greece. In concluding I referred to the changed conditions resulting from the conclusion of the Lausanne Treaty and the recent elections in Greece, adding "these elections, it is hoped, will result in the establishment of a government which will enable this Government to extend formal recognition."

On January 13th Mr. Atherton, our representative at Athens, was informed by Mr. Roussos, Greek Minister for Foreign Affairs, formerly Greek Minister in Washington, of the formation of a Cabinet under the Presidency of Mr. Venizelos. On January 15th the British representative in Athens, under instructions from his government, informed the Minister for Foreign Affairs of his Government's pleasure in renewing normal diplomatic relations, adding that his Government hoped shortly to be able to appoint a Minister to Athens and asking that meanwhile he be recognized as Chargé d'Affaires. On January 24th Mr. Atherton telegraphed 4 that the Greek Government had been informed that the British Government was immediately sending a Minister to Athens accredited to the King.

The treatment of American interests in Greece by the Greek authorities has been satisfactory. While there are a number of outstanding questions between the two countries, particularly the question of the 1918 Loan Agreement with Greece and the funding of Greek indebtedness to the United States, these are questions which have been held in abeyance in the absence of formal recognition and do not afford at this time adequate ground for withholding recognition. It would be desirable to negotiate a commercial treaty with Greece but this again is a matter which would naturally follow rather than precede recognition.

In view of this situation I wish to suggest for your consideration the desirability of resuming, on a formal basis, the relations between the United States and Greece. This could be done by the accrediting to the Greek Government of a Chargé d'Affaires ad interim and by the reception of the Greek Chargé d'Affaires in Washington. No

See telegram no. 17, Jan. 23, to the High Commissioner in Turkey, supra.
 Telegram not printed.

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change in personnel would be necessary. Mr. Atherton, who has been acting as our representative in Greece, could be instructed to take up formal relations with the Greek Minister for Foreign Affairs pending the appointment of a Minister. This action would be similar to that recently taken in the case of Mexico.⁵

The appointment of a Minister, in my opinion, should be delayed until Greece has determined the question which is now being agitated as to whether the country shall continue as a Kingdom or become a Republic. The King of Greece has recently left the country pending the decision of this question, a Regent is functioning in his place. The ultimate decision as to the form of government is one with which I feel we should in no way interfere but this does not preclude the resumption of formal relations with the Greek Government through a Chargé d'Affaires ad interim, postponing the formal accrediting of a Minister to the head of the State until Greece has herself decided—and Mr. Venizelos has proposed a plebiscite to decide the question—whether there shall be a Kingdom or a Republic.

I may add that I consider it particularly important to take whatever action is possible to regularize our relations with Greece before the consideration of the Turkish Treaty is taken up by the Senate and for this as well as for the other reasons outlined above I feel that the resumption of diplomatic relations is desirable.

In case you concur in the above recommendation I shall be glad to see that the necessary instructions are sent to the Legation at Athens.

I am [etc.]

CHARLES E. HUGHES

868.01/197

President Coolidge to the Secretary of State

Washington, January 25, 1924.

My Dear Mr. Secretary: The recommendations you make in your communication of January 25th, concerning the relations between this country and Greece, are approved.

Very truly yours,

CALVIN COOLIDGE

868.01/197: Telegram

The Secretary of State to the Chargé in Greece (Atherton)

Washington, January 26, 1924—6 p. m.

13. You are instructed to deliver a formal communication to the Greek Minister of Foreign Affairs at noon, Tuesday, January 29, in which you will quote the following letter accrediting you as Chargé

⁵ See Foreign Relations, 1923, vol. II, pp. 522 ff.

d'Affaires ad interim of the United States at Athens, from the Secretary of State to Minister Roussos.

"Department of State, Washington, January 29, 1924. Excellency: I have the honor to inform you that Mr. Ray Atherton, a Secretary of Legation in the Diplomatic Service of the United States, has been ordered to assume the duties of Chargé d'Affaires ad interim of the United States at Athens. I accordingly hereby accredit Mr. Atherton in the foregoing capacity and ask that you will give credence to what he shall say on the part of the Government of the United States. My knowledge of Mr. Atherton's qualifications encourages the hope that he will conduct the affairs of the Legation at Athens in a manner gratifying to the Government of Greece.

Accept, Excellency, the assurances of my most distinguished consideration. Signed Charles E. Hughes, Secretary of State of the United States of America. To His Excellency, the Minister of

Foreign Affairs of Greece."

In presenting this communication to the Minister for Foreign Affairs you will request him to accept it as sufficient warrant for your recognition pending receipt of autographed credence which goes to you by first mail for delivery.

[Paraphrase.] The action which you are instructed to take will constitute formal recognition of the Greek Government by the United States. The American Government, in accrediting you to the Greek Minister for Foreign Affairs, wishes to avoid interfering in the decision of the constitutional issue at present under consideration in Greece and it is our intention to await the decision on this matter by Greece before accrediting a Minister to the head of the State. If the Greek Government wishes to grant letters of credence to the Greek representative in Washington the Secretary of State will be pleased to receive them. The recognition of the Greek Government will be made public in the morning papers of January 30. [End paraphrase.]

HUGHES

868.01/199: Telegram

The Chargé in Greece (Atherton) to the Secretary of State

[Paraphrase-Extract]

Athens, January 29, 1924—5 p. m. [Received January 29—4:07 p. m.]

29. . . . This morning I delivered letter to Minister for Foreign Affairs.6 He expressed his gratification and stated that similar instructions would be sent to the Greek Chargé in Washington.7 . . .

ATHERTON

⁶ See telegram no. 13, Jan. 26, to the Chargé in Greece, supra.

The note verbale from the Greek Chargé presenting his letter of credence to the Secretary of State is dated Feb. 4, 1924 (file no. 701.6811/158).

868.01/201: Telegram

The Chargé in Greece (Atherton) to the Secretary of State

[Paraphrase]

ATHENS, February 5, 1924—4 p. m. [Received 7:10 p. m.]

33. Venizelos overestimated his political strength and consequently has found it necessary to take advantage of temporary illness to retire from an active part in public life. He will, however, remain in Greece. Cafandaris, who has been Minister of Justice in the Venizelos cabinet, is trying to form a coalition cabinet but is finding it difficult because of the varying attitude of political factions in the Assembly toward declaring the throne vacant.

This morning I was informed by the Minister of Foreign Affairs that the Greek Ambassador in London, Caclamanos, would probably replace him.

ATHERTON

868.002/79: Telegram

The Chargé in Greece (Abbott) to the Secretary of State

Athens, February 6, 1924—10 p. m. [Received February 6—9:40 p. m.]

35. Legation's 33 February 5, 4 p. m. New Cabinet under the Presidency of Cafandaris, who has taken Ministry of Foreign Affairs, took oath today.

ABBOTT

868.00/471: Telegram

The Chargé in Greece (Abbott) to the Secretary of State

[Paraphrase]

ATHENS, March 8, 1924—11 a. m. [Received 7:57 p. m.]

43. This morning I received reliable information that as the Cafandaris cabinet is unable to maintain program because of strong republican pressure it is about to resign.

The republicans are demanding of the Assembly a declaration that the Glücksburg dynasty is abolished and a pronouncement in favor of a republic, the latter question, however, to be referred to a plebiscite which from present indications will be held in May.

Up to now the political situation has been completely indeterminate. A crisis is at hand, however, and it is not at all improbable

that there will be a *coup d'état* by the republican army group under General [Condylis?] unless an agreement is reached within a few

days.

Sir Milne Cheetham, the British Minister, arrived at Athens February 26 but did not present his letters of credence until today at noon. The other countries represented here by Minister are Bulgaria, Jugo-Slavia and Spain. I am informed by the Italian Chargé that for all practical purposes his relations with the cabinets of Venizelos and Cafandaris have been such as to constitute recognition of the Greek Government. I learn from French representative that attitude of France has not changed and that the Greek Government has not received French recognition.

ABBOTT

868.002/81: Telegram

The Chargé in Greece (Abbott) to the Secretary of State

ATHENS, March 9, 1924—10 p. m. [Received 11:40 p. m.]

44. Legation's 43, March 8, 11 a.m. Cafandaris cabinet resigned yesterday morning. Reliably informed tonight Regent has asked Papanastasiou, republican leader, to form government.

ABBOTT

123 L 36/153d: Telegram

The Secretary of State to the Chargé in Greece (Atherton)

[Paraphrase]

Washington, March 10, 1924-4 p. m.

32. The President wishes to appoint Irwin B. Laughlin, formerly Counselor of our Embassy at London, as Minister to Greece. See Register of the Department of State or Who's Who in America, vol. 12, p. 1863, for biographical sketch.

Make customary inquiry at Foreign Office as to whether appointment is acceptable and report by telegraph. You may orally inform Foreign Office that it has not been determined definitely when Mr. Laughlin will leave for Greece if an *agrément* is accorded.

You are informed confidentially that the inquiry which you are asked to make should not be interpreted as at all related to present Greek political developments. For some time the President has wished to nominate Mr. Laughlin and the appointment of a Minister has been made possible by the recent recognition given to the Greek Government.

As before stated, the time of Mr. Laughlin's departure has not been determined. It would be a cause for regret should the Greek

Government interpret this step as implying our approval of any particular tendency in the political developments in Greece or give publicity to such an interpretation. Such a situation might delay the Minister's departure.

The President wishes to have Mr. Laughlin's nomination presented to the Senate soon, but should you see serious objection to immediately requesting *agrément* in view of change in Cabinet reported in your telegrams 43 of March 8 and 44 of March 9 you may delay action and telegraph for instructions.

HUGHES

868.002/82: Telegram

The Chargé in Greece (Atherton) to the Secretary of State

Athens, March 12, 1924—8 p.m. [Received March 13—9:40 a. m.]

49. Legation's 44, March 9, 10 p. m. Papanastasiou assumed office today as Prime Minister, temporarily Minister for Foreign Affairs and temporarily Minister of Finance; General Condylis, Minister of War; and Captain Iakyriakos [Hadjikyriakos], Minister of Marine. Former Minister of Public Assistance has been replaced by Pazis from Macedonia. New government represents military democrats and its alleged policy is to declare Glücksburg dynasty dethroned by vote of National Assembly and to declare a republic to be approved by a plebiscite. It is very much doubted locally whether the new government after having assumed the responsibility and accomplishing the formation of a republic will be permitted to continue long in office by its many strong political opponents.

Subsequent to the resignation of Cafandaris on March 8th and the attendant failure of all Venizelos policies and attempts at a last minute compromise with republicans, Venizelos left Greece for France on March 10th with consequent disintegration of his prestige and influence.

ATHERTON

123 L 36/154: Telegram

The Chargé in Greece (Atherton) to the Secretary of State
[Paraphrase]

Athens, March 12, 1924—10 a. m. [p. m.] [Received 9:37 p. m.]

50. Your telegram 32 of March 11 [10], 4 p. m. Legation's telegram 49 of March 12, 8 p. m. This afternoon new Minister of

Foreign Affairs took office. There is little doubt that if I inquire immediately regarding acceptability of Laughlin as Minister such an inquiry would be made use of for political purposes. For this reason I venture to recommend that pending further instructions I be authorized to delay action.

Dynamiting of the entrance to the British Legation last night is indication of local political tension. Royalist sympathizers are alleged to have perpetrated this outrage on account of rumors current locally that republican form of government is favored by the new British Minister.

ATHERTON

123 L 36/154: Telegram

The Secretary of State to the Chargé in Greece (Atherton)

[Paraphrase]

Washington, March 17, 1924-4 p. m.

37. Our no. 32 of March 10, 4 p. m. and your no. 50 of March 12, 10 p. m. The Department approved your suggestion for short delay in requesting agrément for Laughlin, but considering time which has passed since the change of Ministry and since events reported in your telegram no. 50, you are now instructed to carry out the instructions given in our telegram no. 32.

HUGHES

123 L 36/155: Telegram

The Chargé in Greece (Atherton) to the Secretary of State
[Paraphrase]

Athens, March 20, 1924—2 p. m. [Received March 20—noon.]

53. Your 32, March 10, 4 p. m. This morning Minister of Foreign Affairs, who also is Prime Minister, informed me that he was pleased to agree to the appointment of Laughlin as Minister and that he will send me a note tomorrow in confirmation.

ATHERTON

868.01/211: Telegram

The Chargé in Greece (Atherton) to the Secretary of State

Athens, March 25, 1924—10 p. m. [Received March 25—8 p. m.]

57. By large majority Deputies today voted dethronement of Glücksburg dynasty and the establishment of a republic, this latter

to be confirmed by plebiscite on or about April 13th. Very little enthusiasm.

I am advised [Roussos?] will become Minister for Foreign Affairs at the end of this week.

ATHERTON

868.01/213: Telegram

The Chargé in Greece (Atherton) to the Secretary of State

ATHENS, April 14, 1924—7 p. m. [Received April 14—5:15 p. m.]

62. Legation's 57, March 25, 10 p.m. General surprise at plebiscite return indicating as many as 65 to 70 percent of voters favor republic.

Royalists will probably develop into bitter and increasingly strong political party not advocating return to monarchy but opposing radical democrats.

ATHERTON

123 L 36/159: Telegram

The Chargé in Greece (Atherton) to the Secretary of State

ATHENS, April 16, 1924—6 p. m. [Received April 16—4:02 p. m.]

63. Department's number 45, April 15, 6 p. m.* General belief new regime will be immediately recognized. However, my colleagues are asking instructions for reply to Foreign Office note just received by all Legations stating that on March 25th the National Assembly voted: first, the dethronement of the Glücksburg dynasty and, second, establishment of a republic which latter has been ratified by a plebiscite. Note ends

"The new regime in Greece having thus taken definite form Admiral Coundouriotis by decree dated April 14th has just been designated Provisional President of the Republic until formal election of a President which will be carried out according to the constitutional method to be elaborated by the constitutional assembly."

I request instructions.

National Assembly is not scheduled to meet until early May and it seems impossible that with the constitutional changes contemplated, including the creation of a senate, an elected president could be inaugurated before late summer.

⁸ Not printed.

A new Italian Minister, Brambilla, is due the end of this month but the Italian Legation is without information as to his letters of credence.

ATHERTON

868.01/218: Telegram

The Secretary of State to the Chargé in Greece (Atherton)

[Paraphrase]

WASHINGTON, April 17, 1924-5 p. m.

46. The establishment of a new regime in Greece, in the opinion of the Department, will not make necessary any change in the instructions given you in our telegram 13, January 26, 6 p. m. Your diplomatic relations with the Greek Government should continue, therefore, on the same basis as for the last two months. The Department will decide to whom Laughlin's letter of credence should be addressed when the time comes for him to present it. It is presumed that it will be to the Provisional President in case a president has not been elected by that time.

You may therefore address to the Minister of Foreign Affairs a formal communication in the following sense:

"I have the honor to acknowledge the receipt of your Excellency's communication of April (blank) informing me of the establishment of the new regime, of the designation of Admiral Coundouriotis as provisional President, and of the plans for holding formal elections according to the constitutional method to be elaborated by the constitutional Assembly. I have been instructed to inform you of my Government's pleasure in carrying on with your government the official relations which I was authorized to take up in the communication addressed to Your Excellency by the Secretary of State under date of January 29."

The Department has drafted the foregoing communication with the understanding that the Minister for Foreign Affairs to whom you addressed your communication of January 29, Roussos, is still in office. If he is not, you will change the wording of your note where necessary.

Should recognition be generally withheld by the other powers or should you foresee any serious objection to the Department's policy as stated above, you may refrain from making your communication to the Minister for Foreign Affairs and at once report to the Department your precise objections to the action contemplated.

The Department sees in principle no reason for delaying recognition and does not wish that our formal relations with the Greek

Quotation not paraphrased.

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Government should be interrupted unless there are considerations which the Department cannot judge by the information which it has at present.

Telegraph report of action taken.

HUGHES

868.01/219: Telegram

The Chargé in Greece (Atherton) to the Secretary of State

Athens, April 19, 1924-1 p. m.

[Received 1:50 p. m.]

65. Department's 46, April 17, 5 p. m. Note forwarded Minister for Foreign Affairs Roussos according to Department's instructions.

ATHERTON

EXCHANGE OF NOTES BETWEEN THE UNITED STATES AND GREECE ACCORDING MUTUAL UNCONDITIONAL MOST-FAVORED-NATION TREATMENT IN CUSTOMS MATTERS

611.6831/40

The Greek Chargé (Xanthopoulos) to the Secretary of State

[Translation]

No. 934

Mr. Secretary of State: In the absence of a Treaty of Commerce between Greece and the United States, the Hellenic Government has been giving American products the benefit of the Conventional tariff on condition of reciprocity.

It has, however, become impossible to continue thus owing to the fact that the tariff now in force is to be superseded in the early future by another tariff which provides for a maximum and a minimum rate. Moreover, for this reason and also in order to harmonize its regime of commerce, navigation and customs, with new economic requirements, the Hellenic Government has just denounced by general measure the treaties by which it was bound to other allied and neutral countries, the state of war having rendered inoperative the treaties with enemy countries.

I am therefore, by order of my Government, directed to inform you that the *de facto* condition above referred to will come to an end on December 10 next.

I am glad to assure you, Mr. Secretary of State, that my Government is quite ready immediately to enter upon negotiations for the framing of a commercial treaty on the basis of the new tariff, and

that it will do so with the sincere wish of arriving at a result satisfactory to both countries.

Be pleased [etc.]

CONSTANTIN D. XANTHOPOULOS

Washington, September 10, 1924.

611.6831/40

The Secretary of State to the Greek Chargé (Xanthopoulos)

Washington, November 6, 1924.

Sir: I beg to acknowledge the receipt of your note No. 934 of September 10, 1924, in which you were good enough to inform me of the adoption by the Hellenic Government of a tariff policy which is to be realized through the imposition, in the near future, of maximum and minimum customs duties. I note your statement that in the absence of a treaty of commerce between the United States and Greece the Hellenic Government has heretofore accorded to American products the benefit of the conventional tariff on condition of reciprocity, but that this regime will come to an end on December 10, 1924.

I am glad to be informed, however, that the Hellenic Government is prepared immediately to enter upon negotiations for the framing of a commercial treaty on the basis of the new Greek tariff policy and with the sincere desire of arriving at a result satisfactory to both governments.

The Government of the United States desires in the near future to conclude with the Hellenic Government a comprehensive treaty of friendship, commerce and consular rights which may serve as a lasting basis for economic and other intercourse between the two countries and their nationals. Pending the conclusion of such a treaty, however, the Government of the United States desires to propose to the Hellenic Government the immediate conclusion of a modus vivendi, to be effected through an exchange of notes, by means of which each country may assure to the commerce of the other unconditional most favored nation treatment.

The Tariff Act of 1922,¹⁰ at present in force in the United States, provides for a regime which may appropriately be compared to a policy of maximum and minimum tariff schedules. Heretofore the minimum tariff only has been in force and has been invariably applied to products originating in Greece. The President is authorized, however, in the event that any country shall fail to accord its lowest rates to products of the United States, to invoke additional duties, which may constitute a sort of maximum tariff against the products of such country.

^{10 42} Stat. 858.

In view of the existing laws and policies of the United States and of Greece, it seems fitting to propose a modus vivendi by the terms of which each country shall accord to the other its lowest rates. Upon assurance of a reply in like terms, therefore, I am prepared to sign and to deliver to you a note setting forth the understanding and intentions of the Government of the United States in this sense. The proposed text of such a note is transmitted herewith in draft form.¹¹

Accept [etc.]

CHARLES E. HUGHES

611.6831/43: Telegram

The Secretary of State to the Minister in Greece (Laughlin)

Washington, November 8, 1924—3 p. m.

80. Your 100, October 25, 4 p. m.¹² The Department has just transmitted to the Chargé d'Affaires of Greece the following note:

[Here follows text of note of November 6, printed *supra*, and text of the note drafted for the proposed exchange.]

The Chargé has been informed that you are being instructed to deliver a copy of this draft note to the Foreign Office. You may explain orally that the Department desires at an early date to enter into a comprehensive treaty of friendship, commerce and consular rights with Greece. There is pending before the Senate a commercial treaty signed with Germany on December 8, 1923,¹³ the terms of which the Department desires to incorporate in treaties with other countries. Accordingly it is deemed necessary to await the approval of this treaty by the Senate before negotiating similar treaties with other countries. Modi vivendi similar to that now proposed with Greece have recently been concluded with Brazil,¹⁴ Czechoslovakia,¹⁵ Dominican Republic,¹⁶ Guatemala,¹⁷ and Nicaragua ¹⁸ and are under negotiation with several other countries both American and European. See Monthly Political Reports.¹²

Endeavor to expedite favorable consideration of the proposed exchange of notes and prompt forwarding to Washington of telegraphic instructions by the Greek Government. Report by telegraph all important developments.

HUGHES

¹¹ Not printed; the draft text is the same, with minor changes, as that of the note no. 74, Dec. 9, 1924, from the American Minister to the Greek Minister for Foreign Affairs, p. 279.

Not printed.
 Foreign Relations, 1923, vol. 11, p. 29.

¹⁴ *Ibid.*, vol. 1, pp. 461–463. ¹⁵ *Ibid.*, pp. 873–875.

¹⁸ Vol. 1, pp. 666–670.

¹⁷ *Post*, pp. 290–292. ¹⁸ *Post*, pp. 510–517.

611.6831/45: Telegram

The Minister in Greece (Laughlin) to the Secretary of State

ATHENS, November 19, 1924—4 p. m. [Received 6:15 p. m.]

104. When I carried out the instructions contained in your number 81 November 10, 6 p. m. 19 Snipesos [Roussos] said that the Greek Government had decided to apply minimum tariff rates for three months after December 10 pending conclusion of new treaty and that this time might be extended if negotiations were not then concluded. He said he had already telegraphed Greek Legation to communicate this to you.

On looking over your proposed draft he added that it seemed to him to follow the lines acceptable to his Government and that he would hasten the consultations necessary for acting upon it.

LAUGHLIN

611.6831/45: Telegram

The Secretary of State to the Minister in Greece (Laughlin)

Washington, December 3, 1924-4 p. m.

87. Department's 85, November 26, 7 p. m.²⁰ Your 104, November 19, 4 p. m. Note of September 10, last formal communication from Greek Legation, indicates that Greece will consider itself free to discriminate after December 10. Department has received no communication from Legation confirming statement of Snipesos [Roussos] to you. Moreover this statement related only to a three months' period with possible extension. It is considered necessary to conclude modus vivendi now as proposed for the sake of maintaining confidence in business relations and because there may not be time to obtain consent of Senate to ratification of a treaty even if one could be negotiated and signed within the next three months. The Senate will adjourn March 4 and may not re-convene until December, 1925.

You should press the Greek Government for immediate instructions to its Chargé in Washington to conclude proposed exchange of notes. Please keep Department promptly and fully informed by telegraph.

HUGHES

^{19 &}quot;81. Department's 80, November 8, 3 P. M. Please informally give to the Foreign Office a copy of the text of Department's note to the Chargé d'Affaires of Greece, replying to his note No. 934 of September 10, as well as the text of the draft note proposed for exchange. Hughes." (File no. 611.6831/43.)

20 Not printed.

611.6831/60

The Minister in Greece (Laughlin) to the Secretary of State

No. 197

ATHENS, December 9, 1924.
[Received January 5, 1925.]

Sir: My telegram No. 111, December 8th, 9 P.M.,²¹ will have informed you that I had found reason to believe that Mr. Roussos had not carried out the promise I reported in my No. 110, December 5th, 5 P. M.,²¹ to instruct the Greek Legation in Washington to effect the exchange of notes you desired for establishing a modus vivendi to cover the period between the lapse on the 10th instant of the commercial treaty with Greece and the conclusion of another treaty to replace it.

I confirmed this by questioning the Chief of the Treaty Section of the Foreign Office, as I was unable to have immediate access to the Foreign Minister, and after making clear to him my feelings and intentions he consented to accompany me forthwith to the Minister whom I found assisting at the sitting of the National Assembly

then in progress.

I succeeded without much difficulty in convincing Mr. Roussos of your fixed desire to arrange the modus vivendi according to the draft note you had communicated to him through the Greek Legation in Washington and through this Legation, and expressed my surprise at his failure to fulfil the promise I had had the honor to report to you. In these circumstances I felt it necessary to insist that he rectify the omission forthwith, but as the telegram he wrote in my presence and read to me seemed to me not altogether certain to bring about the result you desired, since it was susceptible of the construction that the instructions to make the exchange of notes in Washington might be dependent upon future action by the Greek National Assembly, I expressed my dissatisfaction so forcibly that he himself proposed to reassure me by making the exchange in Athens to-day after the action he affirmed the Assembly was on the point of taking to postpone the operation of the new customs tariff for some weeks.

Being convinced of your anxiety to arrange definitely a modus vivendi before December 10th apart from any problematical Greek legislative action, I felt that this was the only way to make sure of such a result and I therefore took it upon myself to make the exchange with him to-day, not contingent upon any action of the Greek Assembly, but as a positive engagement, subject however to your subsequent confirmation since I had to take account of the

²¹ Not printed.

arrangement you expected to carry out of exchanging the notes in Washington. I felt that in view of this intention you perhaps had omitted to inform me as fully as you might have done had your original desire been for me to conclude the business here, so I took the precaution of stating that I would make the exchange subject to your later approval.

The exchange of notes was accordingly effected this morning as reported in my No. 112, December 9th, 4 P. M.,²³ and I have the honor to enclose herewith the two notes establishing the *modus vivendi* of which the Greek note is the original and mine the copy, and the copy of the note by which I provided for your explicit assent to it.

I also enclose the copy of a Greek note ²³ presented to me at the time of the exchange which tells of the passage last night by the National Assembly of a bill giving the Government power to negotiate with other countries commercial agreements to have a maximum duration of six months. During the discussion of this bill the Finance Minister stated that he had no objection to the postponement of the new tariff until the 1st of March, the Assembly thereafter deciding to follow that course. The Department will form its own conclusion as to the bearing, if any there be, that this note may have upon the *modus vivendi* just concluded. My telegram No. 113, December 9th, 5 P.M., ²³ reported this tariff postponement.

In view of the many objections to the new duties raised during the discussion in the Assembly yesterday evening the Government as well as the party leaders agreed to the appointment of a Parliamentary Committee to study the matter and to make any changes they might consider necessary. One of the reasons for the delay in the application of the tariff is the necessity of giving this Commission a reasonable time for the completion of its work.

I take the liberty, in concluding, to express the hope that in examining my action in this case you will consider the fact that it was determined by your anxiously expressed desire to establish a modus vivendi without fail on or before December 10th and that in making the exchange of notes here without your instructions, and in fact with the knowledge that it should have been done in Washington, I knew that unless I assumed this responsibility your wishes could not be carried through.

I have [etc.]

IRWIN LAUGHLIN

²³ Not printed.

[Enclosure 1]

The American Minister (Laughlin) to the Greek Minister for Foreign Affairs (Roussos)

No. 73 ATHENS, December 9, 1924.

Your Excellency: As your Excellency is aware the Secretary of State has communicated to the Hellenic Chargé d'Affaires in Washington the desire of the Government of the United States to conclude in the near future with the Hellenic Government a comprehensive treaty of Friendship, Commerce and Consular Rights which may serve as a lasting basis for economic and other intercourse between the two countries and their nationals.

Your Excellency has also been apprised that pending the conclusion of such a treaty the Government of the United States desires to effect with the Hellenic Government a modus vivendi by means of an exchange of notes.

I have therefore the honor to make to your Excellency the communication embodied in my note No. 74 of to-day's date which is identical with the text I have received from my Government of the draft note proposed to the Hellenic Legation in Washington, and to add that I propose that this exchange of notes be effected in Athens to-day in default of the exchange of notes that might have taken place in Washington before the 10th day of December 1924, or in addition to such exchange there, should it occur, with the understanding that in the former case the exchange is effected subject to the confirmation of the Secretary of State in Washington and that in the latter case the exchange of notes in Washington is to be regarded as superseding that of to-day in Athens.

I embrace this opportunity to renew to your Excellency the assurances of my highest consideration.

IRWIN LAUGHLIN

[Enclosure 2]

The American Minister (Laughlin) to the Greek Minister for Foreign Affairs (Roussos)²⁴

No. 74 Athens, December 9, 1924.

Your Excellency: I have the honor to make the following statement of my understanding of the agreement reached through recent conversations held at Washington on behalf of the Government of the United States and the Government of Greece with reference to the treatment which the United States shall accord to the commerce

The Greek Minister for Foreign Affairs replied in note no. 44543, Dec. 9, 1924, which differed only on very minor points from the note presented by the American Minister. The French text of the Greek note is printed in Treaty Series No. 706.

of Greece and which Greece shall accord to the commerce of the United States:

These conversations have disclosed a mutual understanding between the two governments which is that in respect to import, export and other duties and charges affecting commerce as well as in respect to transit, warehousing and other facilities and the treatment of commercial travelers samples, the United States will accord to Greece and Greece will accord to the United States, its territories and possessions, unconditional most favored nation treatment, and that in the matter of licensing or prohibitions of imports and exports, each country, so far as it at any time maintains such a system, shall accord to the commerce of the other treatment as favorable, with respect to commodities, valuations and quantities, as may be accorded to the commerce of any other country. It is understood that no higher or other duties shall be imposed on the importation into or disposition in the United States, its territories or possessions, of any articles, the produce or manufacture of Greece, than are or shall be payable on like articles, the produce or manufacture of any foreign country; no higher or other duties shall be imposed on the importation into or disposition in Greece of articles, the produce or manufacture of the United States, its territories or possessions than are or shall be payable on like articles, the produce or manufacture of any foreign country; similarly, no higher or other duties shall be imposed in the United States, its territories or possessions, or in Greece on the exportation of any articles to the other or to any territory or possession of the other than are payable on the exportation of like articles to any foreign country; every concession with respect to any duty, charge or regulation affecting commerce now accorded or that may hereafter be accorded by the United States or by Greece, by law, proclamation, decree or commercial treaty or agreement, to any third country will become immediately applicable without request and without compensation to the commerce of Greece and of the United States and its territories and possessions respectively:

Provided that this understanding does not relate to

1) The treatment which the United States accords or may hereafter accord to the commerce of Cuba, or any of the territories or possessions of the United States, or the Panama Canal Zone, or to the treatment which is or may hereafter be accorded to the commerce of the United States with any of its territories or possessions, or to the commerce of its territories or possessions with one another;

2) Prohibitions or restrictions of a sanitary character or designed to protect human, animal or plant life or regulations for the enforce-

ment of police or revenue laws.

The present arrangement shall become operative on the day of signature, and, unless sooner terminated by mutual agreement, shall

continue in force until thirty days after notice of its termination shall have been given by either party, but should either party be prevented by future action of its legislature from carrying out the terms of this arrangement, the obligations thereof shall thereupon lapse.

I shall be glad to have your confirmation of the accord thus

reached.

I avail myself [etc.]

IRWIN LAUGHLIN

611.6831/51: Telegram

The Secretary of State to the Minister in Greece (Laughlin)

Washington, December 16, 1924-6 p. m.

95. Your 112 December 9, 4 p. m.,²⁵ 113 December 9, 5 p. m.²⁵ In note of December 9 ²⁵ Greek Minister confirmed information in your telegram with regard to postponement of the application of the new tariff until March 1st and added that the Greek Government was therefore ready to extend the status quo as to commercial matters until that date. Greek note further indicates that in this interval the Greek Government proposed to negotiate a provisional convention of a duration of six months to be tacitly renewable on the basis of the new customs tariff, such temporary convention to be eventually replaced by a treaty of commerce of long duration as soon as Greek commercial policy is definitely fixed. It is to such provisional convention that the Minister evidently referred in conversation reported in Department's 89, December 9, 4 p. m.²⁵

It is Department's understanding and desire, and it is suggested that you confirm this understanding if possible, that the exchange of notes recently effected, so far as the commercial relations between United States and Greece are concerned, will take the place of any provisional convention such as that mentioned above, since, for the reasons already indicated, the early notification and ratification of a convention is impracticable.

HUGHES

611.6831/60 : Telegram

The Secretary of State to the Minister in Greece (Laughlin)

Washington, January 16, 1925—5 p. m.

2. Your confidential despatch No. 197, December 9, 1924, and enclosure No. 3; ²⁶ your telegram No. 117, December 19, noon. ²⁵

Your action in exchanging notes is approved and the text of the notes confirmed. Department will promptly publish text in Treaty Series.

²⁵ Not printed.

²⁶ Printed as enclosure 1, p. 279.

As suggested in your telegram of December 19th, Department authorizes you when informing Minister for Foreign Affairs of formal confirmation by this Government of exchange of notes to include paragraph in following sense:

"In instructing me to apprise you of his formal confirmation of this exchange the Secretary of State desires me to express his satisfaction at the conclusion of this arrangement which renders unnecessary at this time the consideration of the suggestion of the Greek Government with respect to a provisional convention, as communicated to my Government in a note of December 9, 1924 by the Hellenic Minister in Washington." 27

HUGHES

611.6831/63: Telegram

The Minister in Greece (Laughlin) to the Secretary of State

Athens, January 20, 1925—1 p. m.

[Received 1:55 p. m.]

5. Your 2, January 16, 5 p. m. I confirmed exchange in formal note dated January 19th.

LAUGHLIN

CONSENT BY THE UNITED STATES TO THE PLEDGE OF FURTHER SECURITIES BY GREECE FOR THE GREEK REFUGEE LOAN OF 1924 28

868.51Refugee Loan, 1924/28

The French Ambassador (Jusserand) to the Secretary of State

[Translation]

Washington, January 4, 1924.

Mr. Secretary of State: I have the honor to inform your Excellency that the Hellenic Government has just inquired of the French Government whether it would be disposed, in order to promote the conclusion of the loan for the establishment of Greek refugees mentioned in the Embassy's note of August 9 last to the Department of State,²⁹ to waive the right of veto conferred upon it by the Anglo-Franco-American Financial Agreement of February 10, 1918,³⁰ relative to the granting of any new pledge for a Hellenic foreign loan.

²⁷ Not printed.

²⁸ For previous correspondence regarding American relief activities in behalf of Greek refugees, see *Foreign Relations*, 1923, vol. II, pp. 318 ff.
²⁰ Ibid., p. 363.

wo Printed in Greek Debt Settlement: Hearings before the House Committee on Ways and Means, 70th Cong., 1st sess., on H. R. 10760 (Washington, Government Printing Office, 1928), p. 51.

Considering the object of the Hellenic Government in this instance, the French Government proposes to act favorably on that request if it hears that the American Government for its part is ready not to avail itself of that right inasmuch as the British Government has already manifested its intention to do so with the same reservations.

In instructing me to ask your Excellency kindly to let me know your views on this, the President of the Council, Minister of Foreign Affairs, wishes me to draw your attention to the remarks formulated by the Hellenic International Financial Commission, to which, under the Protocol signed October 17th last, at Geneva, with regard to the establishment of Greek refugees, the service of the contemplated loan should be turned over.

The above named Commission first expressed a regret that there was not inserted in the protocol of October 17th any clause providing sanctions for failure on the part of the Greek Government to abide by the provisions of the law creating the international control.

It further remarked that the guarantees to be delivered by the Hellenic Government were fixed upon the mere declarations of that Government without the Commission being enabled to find whether they would be satisfactory. The members of the Commission believe that they could not accept the trust under consideration except after examination of these guarantees and with the reservation that in the case arising they could call for more.

Finally, the French delegate to the Commission points out that it would, in his opinion, be well as was done in preceding negotiations of the same kind to bring about an understanding between the Financial Commission and the Hellenic Minister of Finance before the final conclusion of the loan for the refugees.

The President of the Council would wish to know whether the Government of the United States would not hold as the French Government does, that it is advisable to put as a condition on the possible assent of the three powers to the Hellenic Government's request that the last named Government would take into account the above stated reservations and remarks.

I should be thankful to your Excellency if you would kindly put me in a position to report to my Government on this question at the earliest possible date.

Be pleased [etc.]

JUSSERAND

³³ The Minister in Switzerland in telegram no. 8, Jan. 30 (file no. 868.51 Refugee Loan 1924/33), reported that the protocol referred to was apparently that of Sept. 29, to which was appended a declaration signed the same day on behalf of Great Britain, France, and Italy, and published by the League of Nations under date of Oct. 17. See League of Nations Official Journal, October 1923, pp. 1138 ff. (C. 660, M. 263, 1923, II) and Official Journal, November 1923, pp. 1506 ff. (C. 655, 1923).

868.51Refugee Loan, 1924/28

The Secretary of State to the French Ambassador (Jusserand)

Washington, February 26, 1924.

Excellency: I have the honor to acknowledge the receipt of Your Excellency's communication of January 4, 1924 in which you state that the Government of Greece has inquired of the French Government whether it would be disposed, in order to promote the conclusion of a loan and the establishment of the refugees in Greece, to waive the right of veto provided by the so-called Tripartite Financial Agreement of February 10, 1918. You indicate that in view of the particular circumstances of the case the French Government is disposed to act favorably upon such a request if it learns that the American Government is for its part prepared not to avail itself of the right conferred by Article 4, the British Government, you state, having already manifested its intention to assume a similar attitude under the same reservation.

The Greek representative in Washington on July 24, 1923 communicated with the Department ³² with regard to the flotation of a loan, under guarantees to be given by Greece, in connection with the financing of further relief work and inquired concerning the granting of assent by the Government of the United States as contemplated in the Financial Agreement of February 1918. In reply the Greek representative was informed that this Government desired to see the exigency for work of relief in the Near East properly met and that the question which he had raised had received and would continue to receive most careful and sympathetic consideration.³³

Under date of September 18th an inquiry was received from the British Government ³⁴ of a somewhat similar nature to that contained in your note under reply. The American Embassy in London on October 12 indicated to the British Foreign Office ³⁵ that the Government of the United States would not be disposed to offer any objection to the pledging of security by Greece in connection with a loan at that time for the purpose of dealing with the refugee situation, provided the governments of Great Britain and France should likewise agree to raise no objection.

I may add that the view of this Government in the matter, anxious as it is to facilitate in any proper way the solution of the refugee problem in Greece, has not undergone any change. This Government is, moreover, of the opinion that any foreign loan

³² Foreign Relations, 1923, vol. II, p. 356.

See Department's communication of Aug. 7, 1923, *ibid.*, p. 360.

See telegram no. 401, Sept. 19, 1923, from the Ambassador in Great Britain,

ibid., p. 375.

so See telegram no. 278, Oct. 10, 1923, to the Ambassador in Great Britain, ibid., p. 377.

which may be floated by Greece under the present circumstances could best be utilized for the purpose of the settlement of the refugees. It would desire therefore to place no impediment in the way of the Greek Government's furnishing security for any credits that may be obtained by Greece for such a purpose.

In the concluding paragraphs of the Embassy's communication the Department's attention is directed to the observations of the Greek International Financial Commission with regard to the Protocol of October 17th 36 and the desirability of sanctions in case of the failure of the Greek Government to meet the dispositions of the law setting up an international control. While the Department is not in possession of information on this point sufficient to justify a detailed expression of opinion with regard to the observations of the Commission, it is felt that the control which might be exercised over the expenditure of any advances obtained by Greece for the purposes of refugee relief is a matter which the agencies making the advances to Greece would be most competent to deter-

Accept [etc.]

CHARLES E. HUGHES

868.48/879

The Greek Chargé (Xanthopoulos) to the Secretary of State

Washington, October 9, 1924.

EXCELLENCY: The Greek Legation had the honor to address, on July 24, 1923, a letter to the Department of State 37 referring to the contemplated Loan, to be granted, under the auspices of the League of Nations, to Greece in order to make possible the completion of the constructive work required in the settlement and rehabilitation of the refugees. In conformity with the financial agreement of February, 1918, the Legation had asked, in this note, for the consent of the United States necessary to Greece to pledge securities for this loan.

The State Department, by its letter of August 7, 1923,38 was kind enough to give the assurance that the Government of the United States was desirous to see the exigency as to the work of relief in the Near East properly met, and that the question raised in the Legation's note would receive the most careful and sympathetic consideration.

I am now informed by my Government that the Council of the League of Nations will approve certain modifications to the Protocol of Geneva of September 29, 1923, relative to the loan in These modifications concern the guarantees to be given

88 Ibid., p. 360.

See footnote 31, p. 283.
 Foreign Relations, 1923, vol. II, p. 356.

by the Greek Government for the loan, and its amount, which is now authorised up to ten million pounds sterling. Of this sum, at least two million pounds must be subscribed by Greek bankers or Greek financial groups.

The modifications to Article V. which relates to the guarantees to be given, as understood, are as follows:

(a) The proceeds of the monopolies in New Greece, (i. e. the territories annexed to Greece after the Balkan Wars) viz: salt, matches, playing cards and cigarette paper.

(b) The proceeds of the Customs at Canée (Candie), Samos,

Chio, Mitylène and Syra.

(c) Taxes on tobacco in New Greece.
(d) Revenue stamps (droit de timbre) in New Greece.
(e) Taxes on alcohol (in all Greek territory).
(f) Surplus of the proceeds of revenues already assigned to the International Financial Commission with reservation of charges already existing against same.

The modifications to Article VI. are as follows:

The Greek Government retains the right to mortgage any surplus from the revenues or the surplus of revenues assigned to this loan, in excess of the amount necessary for its service. The Greek Government pledges itself not to mortgage other revenues, except those assigned to the refugees loan, without the advice of the International Financial Commission.

Moreover, the Greek Government pledges itself to balance its budget as soon as possible.

As a consequence of the terms of the Financial Agreement signed at Paris, February, 1918, the consent of the United States, Great Britain and France being necessary to Greece to pledge securities for external loans, and the consent of Great Britain and France having been obtained, I have the honor to ask, in behalf of my Government and in view of the great humanitarian purpose of the loan, the object of which is the rehabilitation of the refugees, that the Government of the United States give the necessary consent to enable my Government to provide the securities required to complete this loan, which, without such consent, will be impossible.

Accept [etc.]

CONST. D. XANTHOPOULOS

868.48/879

The Secretary of State to the Greek Chargé (Xanthopoulos)

Washington, November 14, 1924.

Sir: I have the honor to acknowledge the receipt of your note of October 9, 1924, with regard to the loan which, it is indicated, your Government desires to arrange through the League of Nations, for

the purpose of making possible the completion of the work required for the settlement of the refugees. You refer to the Legation's previous communication of July 24, 1923, in which, as contemplated in the Financial Agreement of February 1918, inquiry was made whether the assent of the United States Government would be given to the pledging of further security by Greece for the purpose of raising the loan.

In its reply of August 7, 1923, the Department, as you point out, stated that it was desirous of seeing the exigency as to the work of relief in the Near East properly met and that the question raised in your letter had received and would receive the most careful and sympathetic consideration.

In your communication of October 9, under acknowledgment, you raise again, on behalf of your Government, the question of the consent of this Government to the pledging by Greece of security which will make it possible to raise the contemplated loan. You also enumerate certain suggested modifications of the Protocol of Geneva of September 29, 1923, relative to the loan. These modifications concern the guarantees to be given by the Greek Government and provide that the total amount authorized should be ten million pounds sterling.

I wish to point out in reply that the view of this Government as indicated in the letter of August 7, 1923, referred to above, has not undergone any change. The Department of State is in entire sympathy with the object to which it is contemplated the proceeds of the loan will be put. This Government will therefore place no impediment in the way of the Greek Government's furnishing security for the loan now contemplated for the purpose of refugee relief.

It should be understood, however, that the consent which this Government hereby gives relates only to the pledging of the security specifically mentioned in the note of October 9 for the purpose of floating the refugee relief loan which you have described. This Government should not therefore be understood to have acquiesced in the view set forth in the paragraph of your note, which reads as follows:

"The Greek Government retains the right to mortgage any surplus from the revenues or the surplus of revenues assigned to this loan, in excess of the amount necessary for its service. The Greek Government pledges itself not to mortgage other revenues, except those assigned to the refugees loan, without the advice of the International Financial Commission."

It should also be understood that the present consent by the Government of the United States is given with full reservation of all questions with respect to the agreement of February 1918.

Accept [etc.]

CHARLES E. HUGHES

868.51Refugee Loan, 1924/54

Speyer & Co. to the Secretary of State

New York, December 12, 1924. [Received December 13.]

SIR: Referring to the Department's request that American bankers furnish information regarding loans that they may be negotiating with foreign governments, we beg to submit the following concerning the loan to the Greek Government, for participation in which we are in negotiation:

The Greek Government proposes to issue \$11,000,000 principal amount of its Forty-Year 7% Secured Sinking Fund Gold Bonds, being part of an International Loan known as the Refugee Loan of 1924, of an authorized amount of approximately £12,500,000 (to yield the Greek Government, say, £10,000,000). Of the Bonds constituting this loan, £7,500,000 principal amount have been sold, through public subscription, in London by Hambros Bank, Limited, and £2,500,000 principal amount are being offered in Greece by a group of banks, headed by the National Bank of Greece. Of the proposed Dollar issue, it is expected that \$5,000,000 will be placed in London and the balance in the United States.

The purpose of this loan is to provide funds for the reestablishment in Greece of Greeks who lived in Turkey and who, in accordance with the Treaty of Peace with that country, are returned to Greece.

The entire loan will be issued under the auspices of the League of Nations.

We enclose a preliminary descriptive circular ³⁹ and trust that the Department will agree with us in believing that the participation of American bankers and the American public in this loan will be in harmony with the policy of our Government, to encourage our people to assist in the rehabilitation of European countries.

We call your attention to the fact that the amount of the Dollar issue has been increased to \$11,000,000 principal amount from \$10,000,000, which was the amount in contemplation when our Mr. Millhauser communicated with Dr. Young over the telephone yesterday.

Respectfully yours,

SPEYER & Co.

³⁹ Not printed.

868,51Refugee Loan, 1924/54

The Secretary of State to Speyer & Co.

Washington, December 18, 1924.

Sirs: I beg to acknowledge the receipt of your letter of December 12, 1924, and its enclosure, regarding your interest in a proposed issue of \$11,000,000 principal amount of the 40-Year, 7%, Secured Sinking Fund Gold Bonds of the Greek Refugee Loan of 1924 for the purposes and under the terms set forth in your letter under acknowledgment, of which it is contemplated that \$6,000,000 will be placed in the United States.

I take pleasure in confirming the statement made to a representative of your firm by a representative of this Department over the telephone that, in the light of the information before it, the Department of State offers no objection to the flotation of the above-mentioned sum of \$6,000,000 in the American market.

I am [etc.]

For the Secretary of State:

Leland Harrison
Assistant Secretary

GUATEMALA

EXCHANGE OF NOTES BETWEEN THE UNITED STATES AND GUA-TEMALA ACCORDING MUTUAL UNCONDITIONAL MOST-FAVORED-NATION TREATMENT IN CUSTOMS MATTERS

611.1431/28a

The Acting Secretary of State to the Guatemalan Minister (Latour)

Washington, August 14, 1924.

Sir: I have the honor to make the following statement of my understanding of the agreement reached through recent conversations held at Washington by representatives of the Government of the United States and the Government of the Republic of Guatemala with reference to the treatment which the United States shall accord to the commerce of Guatemala and which Guatemala shall accord to the commerce of the United States.

These conversations have disclosed a mutual understanding between the two Governments which is that, in respect to import, export and other duties and charges affecting commerce, as well as in respect to transit, warehousing and other facilities, the United States will accord to Guatemala and Guatemala will accord to the United States, its territories and possessions unconditional most-favored-nation treatment.

It is understood that

No higher or other duties shall be imposed on the importation into or disposition in the United States, its territories or possessions of any articles the produce or manufacture of Guatemala than are or shall be payable on like articles the produce or manufacture of any foreign country;

No higher or other duties shall be imposed on the importation into or disposition in Guatemala of any articles the produce or manufacture of the United States, its territories or possessions than are or shall be payable on like articles the produce or manufacture of any foreign country;

Similarly, no higher or other duties shall be imposed in the United States, its territories or possessions or in Guatemala on the exportation of any articles to the other, or to any territory or possession of the other, than are payable on the exportation of like articles to any foreign country;

Every concession with respect to any duty or charge affecting commerce now accorded or that may hereafter be accorded by the United States or by Guatemala, by law, proclamation, decree or commercial treaty or agreement, to the products of any third country will become immediately applicable without request and without compensation to the commerce of Guatemala and of the United States, its territories and possessions, respectively:

Provided that this understanding does not relate to

(1) The treatment which the United States accords or may hereafter accord to the commerce of Cuba or any of the territories or possessions of the United States or the Panama Canal Zone, or to the treatment which is or may hereafter be accorded to the commerce of the United States with any of its territories or possessions or to the commerce of its territories or possessions with one another;
(2) The treatment which Guatemala may accord to the commerce of Costa Rica, Honduras, Nicaragua and/or El Salvador;

(3) Prohibitions or restrictions of a sanitary character or designed to protect human, animal or plant life or regulations for the enforcement of police or revenue laws.

The present arrangement shall become operative on the day of signature and, unless sooner terminated by mutual agreement, shall continue in force until thirty days after notice of its termination shall have been given by either party; but should either party be prevented by future action of its legislature from carrying out the terms of this arrangement, the obligations thereof shall thereupon lapse.

I shall be glad to have your confirmation of the accord thus

reached.

Accept [etc.]

JOSEPH C. GREW

611.1431/33

The Guatemalan Minister (Latour) to the Acting Secretary of State

Washington, August 14, 1924.

EXCELLENCY: I have the honour to acknowledge the receipt of Your Excellency's esteemed note of the 14th. day of August, 1924, containing a statement of Your Excellency's understanding of the agreement reached through recent conversations held at Washington by representatives of the Government of the United States and the Government of Guatemala with reference to the treatment which the United States shall accord to the commerce of Guatemala and which Guatemala shall accord to the commerce of the United States.

These conversations have disclosed a mutual understanding between the two Governments which is that, in respect to import, export and other duties and charges affecting commerce, as well as in respect to transit, warehousing and other facilities, the United States will accord to Guatemala and Guatemala will accord to the United States its territories and possessions unconditional mostfavored-nation treatment.

It is understood that

No higher or other duties shall be imposed on the importation into or disposition in the United States, its territories or possessions of any articles the produce or manufacture of Guatemala than are or shall be payable on like articles the produce or manufacture of any foreign country:

No higher or other duties shall be imposed on the importation into or disposition in Guatemala of any articles the produce or manufacture of the United States, its territories or possessions than are or shall be payable on like articles the produce or manufacture of any foreign country:

Similarly, no higher or other duties shall be imposed in the United States, its territories or possessions or in Guatemala on the exportation of any articles to the other, or to any territory or possession of the other, than are payable on the exportation of like articles to any foreign country:

Every concession with respect to any duty or charge affecting commerce now accorded or that may hereafter be accorded by the United States or by Guatemala, by law, proclamation, decree or commercial treaty or agreement, to the products of any third country will become immediately applicable without request and without compensation to the commerce of Guatemala and of the United States, its territories and possessions, respectively:

Provided that this understanding does not relate to

(1) The treatment which the United States accords or may hereafter accord to the commerce of Cuba or any of the territories or possessions of the United States or the Panama Canal Zone, or to the treatment which is or may hereafter be accorded to the com-merce of the United States with any of its territories or possessions or to the commerce of its territories or possessions with one another.

(2) The treatment which Guatemala may accord to the commerce

of Costa Rica, Honduras, Nicaragua and/or El Salvador.

(3) Prohibitions or restrictions of a sanitary character or designed to protect human, animal or plant life or regulations for the enforcement of police or revenue laws.

The present arrangement shall become operative on the day of signature and, unless sooner terminated by mutual agreement, shall continue in force until thirty days after notice of its termination shall have been given by either party; but should either party be prevented by future action of its legislature from carrying out the terms of this arrangement, the obligations thereof shall thereupon lapse.

I beg to inform Your Excellency that I have received instructions from my Government to confirm our agreement and to send Your Excellency this note in answer to yours.

I avail myself [etc.]

FRANCISCO SÁNCHEZ LATOUR

HAITI

REQUEST BY THE BANK OF THE UNION PARISIENNE FOR ARBI-TRATION OF THE QUESTION OF GOLD PAYMENTS ON HAITIAN BONDS 1

838.51/1608

The Secretary of the French Embassy (Henry) to the Chief of the Division of Latin American Affairs, Department of State (White)

Washington, January 4, 1924.

MY DEAR MR. WHITE: I beg to refer to the conversation we just had concerning the payment of the interest on the bonds of the Haitian 5 percent Foreign Gold Loan of 1910.

You will recall that on May 12, the Secretary of State, replying to the French Ambassador's note of April 10, 1923,2 stated the reasons why, in the opinion of the American Government, the interest of the loan should not be paid in gold coin or in paper francs in an amount based on the current rate of exchange of the dollar, as claimed by the Bank of the Parisian Union acting as the fiscal agent of the loan.

I beg to confirm to you that this Embassy has just received a communication from the French Foreign Office informing us that the Bank of the Parisian Union, not having been able to reach an agreement on the subject with the Haitian Government, recently wrote a letter to the Minister of Finance in Haiti requesting that the difference be submitted to an arbitration.

It is the opinion of the French Government that bonds-holders cannot be deprived from asking for that legal way of settling the difference with the Haitian Government and that, consequently, they approve of the request made by the Bank of the Parisian Union.

JULES HENRY Believe me [etc.]

loan, see Foreign Relations, 1923, vol. 11, pp. 411 ff.
² French Ambassador's note not printed. For text of the Secretary's reply of May 12, 1923, see ibid., p. 415.

¹ For previous correspondence concerning the redemption in gold of the 1910

838.51/1608

The Chief of the Division of Latin American Affairs, Department of State (White) to the Secretary of the French Embassy (Henry)

Washington, January 8, 1924.

My Dear Monsieur Henry: I beg to acknowledge the receipt of your letter of January 4, 1924, informing me that the Bank of the Parisian Union has requested that the question of the redemption of the Haitian loan of 1910 in gold coin should be submitted to arbitration. I have noted your statement that the French Government approves of the request made by the Bank of the Parisian Union.

I may say for your information that the Department has already had occasion to consider the question whether the Bank of the Parisian Union might properly demand an arbitration of the question of the payment of the 1910 bonds under the provisions of the loan contract.3 It has expressed to the Haitian Government its opinion that the holders of the bonds of the 1910 loan, since they are presumably not parties to the contract, would not be in a position to request arbitration of the question whether the outstanding bonds should be redeemed in gold or paper francs, and that it would not seem that the Fiscal Agent under the 1910 contract could properly advance a claim for arbitration on behalf of the bondholders. It would seem that the Fiscal Agent's function in paying the bonds as agent of the Haitian Government is a purely ministerial one. The Fiscal Agent would not appear to have any right to raise an objection to the mandate which might be received from the Government in the matter, or to do otherwise than to apply for the purpose specified any funds which it might receive.

I am [etc.]

FRANCIS WHITE

838,51/1687

The French Ambassador (Jusserand) to the Secretary of State
[Translation 4]

Washington, June 12, 1924.

Mr. Secretary of State: Your Excellency was pleased to let me know on the 12th of May of last year 4 that the Government of the United States thought it must side with the Government of Haiti with regard to the payment of the interests and amortization of the gold loan of 1910, which is now effected in paper, and did not share the opinion of the Bank of the Union Parisienne, according to which the sums appropriate for such payments must be paid in gold francs.

Text of loan contract printed in Le Moniteur, Oct. 26, 1910, p. 608.

File translation revised.

⁴ⁿ Foreign Relations, 1923, vol. II, p. 415.

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My Government, to which a copy of the above-mentioned note from Your Excellency was forwarded, instructed the Embassy some time in January last to inform the State Department that under those conditions the Bank of the Union Parisienne asked to have the difference which had arisen between the French bondholders and the Haitian Government referred to arbitration in accordance with the positive provisions of article 30 of the contract for the issue of the loan, and that the French Government approved such a proceeding.

The Chief of the Division having the matter in charge in the Department of State, with whom the matter was broached in that sense, answered that the question whether under the terms of the loan contract the said bank would be justified in asking arbitration had been looked into previously and that the American Government had expressed to the Haitian Government the opinion that the holders of the bonds of that loan, not being a party to the contract, were not competent to resort to such proceeding.

Since then my Government has heard that the Government at Port-au-Prince had not failed, after consulting with the American Financial Adviser, to reject the request for arbitration and declare that its rejection of the request of the French bondholders was final.

In compliance with instructions just received on the subject, I have the honor to inform Your Excellency that the Government of the Republic finds it impossible to accept the refusal of Haiti. There is no question indeed that a contract was entered into by Haiti and the Bank of the Union Parisienne and that the contract expressly provides for arbitration as a means to adjust "disputes that might arise concerning its execution." Whether the claims of the bondholders to the amount to be paid in gold are well- or ill-founded is not the question now at stake. The arbitrators are to pass upon that point. It is merely a question of procedure which is clearly regulated by the contract signed by the Haitian Government and the execution of which it could not evade in law or equity. It is further proper to note that the Bank of the Union Parisienne does not act in the case as the institution in charge of the financial service of the loan but in its capacity as the bank which issued the 1910 loan and is therefore responsible to the bondholders for the conditions of payment.

My Government, therefore, holding that the intervention of the Bank of the Union Parisienne is fully warranted, instructs me once more to intervene with Your Excellency in order to have the question reexamined with a view to a mode of settlement, which the French interested parties have surely a right to expect and which has never been held to be in disfavor with the American authorities. My Government would be very glad to hear that, taking into con-

sideration the foregoing remarks, Your Excellency will be pleased to direct that new instructions be sent to the American Financial Adviser at Port-au-Prince.

Be pleased [etc.]

JUSSERAND

838.51/1707

The French Chargé (Laboulaye) to the Secretary of State
[Translation *]

Washington, September 5, 1924.

Mr. Secretary of State: In a letter dated June 12 last, and afterward in a conversation he had with Your Excellency on the 30th of the same month, the Ambassador called your attention to the difficulties raised by the Haitian Government on the question of the payment of interest and amortization of the gold loan of 1910 of Haiti.

As is known to Your Excellency the Government at Port-au-Prince disputes the right claimed by the Bank of the Union Parisienne to refer to arbitration the question of the service of the said loan in gold. By a note dated July 10, 1924, the Secretary of State for Foreign Relations of Haiti notified the Minister at Port-au-Prince that such a proceeding could only be considered in the relations between the Government of Haiti and the three banks that were parties to the said contract. The bondholders not being parties to the contract could not under the theory upheld by the Haitian Government be allowed to present in their own name any claim on the point of the redemption of the securities in gold or paper francs. The Secretary of State added that he cannot admit that the Union Parisienne is qualified to lay before the Haitian Government any claim whatsoever in the name of the French bondholders, as the 1910 contract concerning the relations between the said bank and the State of Haiti for the service of the loan does not confer upon the bank any such rights. In its capacity of agent of the Haitian Government, so ends the communication, the Union Parisienne is under the obligation to act for the interest of the Republic of Haiti and not that of the bondholders.

After reading the communication above summed up, the President of the Council, Minister of Foreign Affairs, advised the Minister of France at Port-au-Prince that he could not in any way concur in the views of the Minister of Foreign Affairs of Haiti as the argument followed by him seemed to be without juridical foundation.

Indeed the Haitian Government's main argument comes to this: The borrowers of the 1910 loan, not being parties to the loan contract, "cannot be allowed to lay before the Haitian Government in their

File translation revised.

HAITI 297

own behalf any claim on the point as to whether the securities must be redeemed in gold or paper francs." This is a purely gratuitous assertion, to the support of which there is brought no legal consideration of any kind, and furthermore, it rests on a misapprehension which the Government of the Republic wishes to dispel.

It is any creditor's natural and obvious right to be allowed to look to his debtor when he believes his interests are injured on the strength of the very text of the instrument which constitutes the debt, that is to say, in this case, on the wording of the bond. Leaving aside the contract of loan to which they were not a party and by which they cannot in any way be bound, the bondholders are therefore in no way powerless to claim from their debtor the execution of engagements entered into by the said debtor. They always have at their command, since an action at law cannot be brought against a sovereign state, the facility of applying to their Government, which is qualified to vindicate their rights by all means placed at its disposal by the law of nations.

But in this case this question does not arise. The bondholders indeed are not concerned in the case for the present. The dispute is merely between the borrowing Government and one of the banks of issue, bound to each other by a contract entered into on August 29, 1910.6 In the exercise of the right conferred upon it by article 30 of that contract, the Union Parisienne asks that the question of service of the loan in gold be referred to arbitration. In the letter which it addressed on this subject to the Minister of Finance of Haiti, it specified that it acted "in its capacity as bank of issue" and therefore as party to the contract. The Haitian Government has therefore no ground on which it can assert that the bank is acting "on behalf of the holders" and on that account deny it the right to intervene. The Union Parisienne claims a right which is positively conferred upon it by the contract of issue. The fact that this intervention happens to subserve at the same time the interests of the Union Parisienne and that of the bondholders is one that cannot make any difference as to the rights in the question. That action is absolutely independent of any recourse which in common law the bondholder may have against his debtor.

The Minister of Foreign Affairs of Haiti, on the other hand, declares that "in its capacity as agent of the Haitian Government, the Union Parisienne is under the obligation to act in the interests of the Republic of Haiti and not in that of the lenders".

There is nothing in the contract of issue to support that pretension. The banks of issue, of which the Union Parisienne is one, under-

The loan contract, authorized by the Council of the Secretaries of State on Aug. 29, 1910, was signed Sept. 5, 1910.

took (article 24) to "buy outright" 130,000 five-hundred-franc bonds. By way of compensation for that undertaking, the banks of issue reserved to themselves certain advantages. For instance, under article 13, the Union Parisienne has charge of the service of the loan for the consideration of a fixed commission of ½ percent of the sums needed for the service. The contract determines the rights and obligations of each party in connection with one special operation, the issue of the loan, but goes no further. The above-mentioned commission, which is customary in such cases, does not place the Union Parisienne under any obligation to the Haitian Government of a general nature that would not be expressly provided by the contract.

Mr. Camille Léon's argument would further lead to the unacceptable conclusion that article 30 (providing for arbitration) could never be invoked by the Union Parisienne and would exist for the benefit of the Haitian Government alone.

In directing me to lay before Your Excellency the foregoing remarks, my Government instructs me to inform you of the great value which would attach to having the Government of the United States intervene so as to induce the Haitian Government to desist from its refusal to let the Bank of the Union Parisienne avail itself of the right which lawfully results from the contract signed by the two parties on August 29, 1910.

Be pleased [etc.]

André de Laboulaye

838.51/1707

The Secretary of State to the French Chargé (Laboulaye)

Washington, September 25, 1924.

SIR: I beg to acknowledge the receipt of your Embassy's notes of June 12, 1924 and September 5, 1924, discussing in detail your Government's views with regard to the request of the Bank of the Parisian Union that the question of redeeming in gold rather than in francs the bonds issued by the Republic of Haiti in 1910 be submitted to arbitration. The considerations which you present have received the most careful study in the Department of State.

This Government had hitherto understood that the Bank of the Parisian Union had requested arbitration in this matter on behalf of certain holders of the bonds of 1910. As you have already been informally advised, this Government has expressed the opinion that the holders of the bonds of 1910, since they were presumably not parties to the loan contract, would not be in a position to demand arbitration under the provisions of Article 30 of that contract, and that the Fiscal Agent under the contract could not properly advance

HAITI 299

a claim for arbitration on their behalf. This Government has also expressed the opinion that the Fiscal Agent would not appear to have any right to raise an objection to the mandate which might be received from the Haitian Government in the matter of redeeming bonds upon presentation, or to do otherwise than to apply for the purpose specified any funds which it might receive.

It is realized, however, that a new question would be presented for consideration if the Bank of the Parisian Union on its own account should present a demand for arbitration under the provisions of Article 30 of the loan contract. It appears from your communications above referred to that the Bank has now presented such a demand in its capacity as purchaser and distributor of the 1910 loan. In order that the question thus presented may receive appropriate consideration, therefore, I have caused copies of your notes of June 12 and September 5 to be transmitted to the American Legation at Port au Prince, with instructions to discuss the matter with the Financial Adviser and other appropriate officials of the Haitian Government, and to report his views thereon at his early convenience.

Accept [etc.]

For the Secretary of State:

JOSEPH C. GREW

HONDURAS

EFFORTS BY THE UNITED STATES AND THE CENTRAL AMERICAN REPUBLICS TO REESTABLISH CONSTITUTIONAL GOVERNMENT IN HONDURAS ¹

815.00/3077a: Telegram

The Secretary of State to the Commissioner in the Dominican Republic (Welles)

Washington, April 8, 1924-6 p. m.

14. Due to a three-cornered revolution in Honduras the situation there is chaotic and there appears no hope of a solution within the near future. Revolutionists are besieging Tegucigalpa and it has been necessary to send a landing force to protect American Minister and American colony. No faction appears able to dominate the situation and a condition of anarchy seems likely to develop.

Under these conditions the Department finds it necessary to ask you to proceed at once to Tegucigalpa to report what steps should be taken to bring about a solution which will prevent further bloodshed and destruction of property. Guatemala, Salvador and Nicaragua have discussed offering joint mediation but their efforts in this direction have so far been fruitless because of failure to agree among themselves on plan. Department has expressed sympathy with their efforts but desires to be in a position to offer assistance whether these efforts result in holding a conference or not. Consequently it desires that you should be in Tegucigalpa or Amapala to assist at conference if that should be held, or possibly to offer direct mediation of the United States. Further instructions will be sent you by wireless.

A destroyer is being ordered to proceed to Santo Domingo at once from Guantanamo to take you to Honduras. Please proceed as soon after her arrival as is physically possible.

HUGHES

¹ Continued from Foreign Relations, 1923, vol. 11, pp. 424-449.

815.00/3077a supp.: Telegram

The Secretary of State to the Commissioner in the Dominican Republic (Welles)

Washington, April 9, 1924-4 p. m.

1. Supplementing the Department's cable of April 8, 6 p. m., the following is sent for your information:

In the elections in Honduras last October none of the three candidates, Carias, Arias and Bonilla, received a majority and the Congress also failed to select a President, because of obstructive maneuvers by the various factions. When the President's term expired on February 1 Lopez Gutierrez established a dictatorship as a provisional measure. This Government proposed that changes in the cabinet should be made to make possible the holding of new elections which would be free and fair. Lopez Gutierrez agreed to this but failed to make satisfactory changes, and Carias refused to accept the Department's proposal and started a revolution. The United States therefore announced that it did not recognize any government in Honduras and would continue to conduct necessary business informally.

Recently the generals controlling the several revolutionary armies, the most important of whom are Tosta, Ferrera and Carias, agreed to proclaim Fausto Davila as provisional President. This group now controls the entire north coast and the greater part of the Republic and has been besieging Tegucigalpa for four weeks without success. Lopez Gutierrez died of illness on March 10 and the Council of Ministers, headed by Zuniga Huete, succeeded to his authority in Tegucigalpa. Very recently Dionisio Gutierrez is reported to have started another revolutionary movement on behalf of Bonilla in southern Honduras. The President made unlawful the shipment of arms and munitions of war to Honduras by a proclamation dated March 22.2

Since the end of February Guatemala, Salvador and Nicaragua have been making efforts to agree on a plan for joint mediation, but these efforts have failed apparently because of inability to agree upon a place for holding the conference. The Department expressed its sympathy with the plan, and upon being invited to send a representative indicated that it would do so if invited by all three participants. The Department has little hope that the three countries can agree between themselves upon any plan for joint action. The President of Salvador has stated that he has abandoned the plan, and Nicaragua has asked the United States to take independent action.

² Post, p. 322.

The American Minister at Tegucigalpa is being informed of your approaching arrival and is being instructed, unless he deems it inadvisable or impracticable, to inform the leaders of all factions that a representative of this Government is being sent with special instructions to offer the friendly assistance of the United States in finding a solution which will bring about the establishment of peace in Honduras, and to propose an armistice for ten days.

The Department is endeavoring to arrange for transportation by airplane from the north coast of Honduras to Tegucigalpa. If such arrangements can not be made you will be informed by wireless and the ship will be diverted to Panama.

HUGHES

815.00/3077a supp.: Telegram

The Secretary of State to the Commissioner in the Dominican Republic (Welles)

Washington, April 10, 1924-6 p. m.

2. Supplementing Department's April 9, 4 p. m. The Department desires that you should proceed at once to Tegucigalpa and ascertain what steps can most profitably be taken to establish peace. You may exercise your friendly offices on behalf of this Government alone if that step seems advisable to save time and avoid other difficulties.

The Department has today received the following telegram dated April 9 from the American Minister at Guatemala:

"The President of Guatemala told me today that mediation in Honduras is a duty, that the United States should participate, that he prefers participation by all republics bordering on Honduras but that if either believes that moment is not opportune then Guatemala would be happy to act in conjunction with the United States. Repeated Salvador and Nicaragua."

The Department has replied as follows:

"The Department earnestly desires to be of assistance in establishing peace in Honduras, and the Honorable Sumner Welles is being sent as the President's special representative to offer friendly offices for this purpose. You may inform President Orellana of this fact and say that while this Government has received most sympathetically President Orellana's suggestion it would prefer to postpone any decision upon a definite course of action until it receives a report from Mr. Welles, who will reach Puerto Cortes on April 12. Welles is being instructed to recommend whether it would be better, in order to avoid loss of time and other difficulties, for this Government to act alone in exercising its friendly offices, or whether it would be preferable that the Central American countries should participate in a joint offer of friendly offices. If he decides upon the latter course he will communicate with the Department, and the

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Department, if it concurs, will authorize you to extend to the Government of Guatemala an invitation to act with the United States".

If you consider it preferable that the Central American countries should participate in any effort of friendly offices, you will at once inform the Department, which will instruct the Legations at Managua, San Salvador and Guatemala, to cooperate with you and to extend an invitation for joint action with this Government. It does not appear necessary to include Costa Rica, which has shown little interest in proposals for friendly offices. The Department fears, however, that any effort at joint action with the Central American countries would result in loss of time, and would possibly create complications due to the fact that Guatemala is thought to sympathize with the Arias faction, and Nicaragua with the Carias faction. On the other hand, the Department desires to show a courteous regard for the Central American Governments and particularly for the Government of Guatemala which has been very active in trying to find means to compose Honduran difficulties. Furthermore, you may find that your efforts would be more successful if seconded by the Central American neighbors of Honduras. leaves this matter to your judgment.

There are two American warships in the Gulf of Fonseca, one of which could be used for the purpose of holding a conference on neutral ground if desired. You are authorized to offer one of the warships for this purpose if you find it advisable.

The Department must also leave to you the character of the solution to be proposed, but it desires that you should bear in mind the importance of bringing about the eventual establishment of a Government in Honduras which can properly be recognized by the United States. In a public declaration of June 30, 1923,8 this Government stated that its attitude with respect to the recognition of new governments in Central America would be consonant with the provisions of Article II of the General Treaty of Peace and Amity signed at Washington in 1923.4 Under the circumstances in Honduras it would appear that the most appropriate solution would be either (1) the election of a constitutional President by the existing Congress, if that can be arranged, or (2) the establishment of a provisional government of such a character as to give assurance that new elections could be held under conditions of freedom and fairness. The Department, however, will not make recognition by this Government conditional upon any particular solution so long as the

³ See telegram no. 26, June 30, 1923, to the Minister in Honduras, Foreign Relations, 1923, vol. 11, p. 432.

⁴ Conference on Central American Affairs, Washington, December 4, 1922–February 7, 1923 (Washington, Government Printing Office, 1923), p. 287.

new administration could be defended as constitutionally established and fairly representative of the will of the people. It would, in fact, be prepared to give an appropriate indication of its sympathy and moral support to any provisional government which gave satisfactory evidence of an intention to reestablish constitutional order.

Please keep the Department fully informed of all steps taken. The Department desires that you should work in close cooperation with Minister Morales, who has conducted the affairs of the Legation satisfactorily under exceedingly trying and difficult conditions. Mr. Morales has been informed that the Department is sending you to Honduras, not because of any lack of confidence in him, but because it seems necessary to have two properly qualified representatives of this Government on the ground, so that Mr. Morales himself may remain in Tegucigalpa to protect American lives and property there, and because the Department realizes that his perfectly proper compliance with the Department's instructions has possibly created enmities toward him personally which would make more difficult any efforts on his part at mediation.

The President has designated you as his personal representative.

Hughes

815.00/3089 : Telegram

The President's Personal Representative in Honduras (Welles) to the Secretary of State

On Board the U. S. S. "Richmond", *April* 11, 1924—10 a. m. [Received 9:15 p. m.]

Department's April 9, 4 p. m. It appears to me highly desirable that action by the United States in suggesting a peaceful solution of the present situation in Honduras be taken jointly with all the other Central American States. Such a course would not only avoid present suspicion and prevent future misunderstanding, but would also be entirely in keeping with our policy as made manifest in the Central American Conference.

I am not clear from the Department's cable under reference whether the Government of Costa Rica has been approached in this matter or why the initiative in suggesting the holding of a conference to consider joint action has not been taken by the United States rather than by the three Republics mentioned.

Unless the Department has objections of which I am not advised to the pursuit of such a course, I beg to suggest the advisability of cabling urgent instructions to the American Ministers in the other four Central American countries to request the Governments to which they are accredited to send representatives at once to Amapala to consider the steps which should be taken jointly by the United States

and the Central American countries to end the present state of anarchy in Honduras.

Such a conference in addition to being in harmony with the purposes of the Central American Conference, would be a practical demonstration of the intention of the President of the United States and the Central American States to ensure the maintenance of peace and the safeguarding of orderly government by constitutional methods in Central America.

WELLES

815.00/3096: Telegram

The President's Personal Representative in Honduras (Welles) to the Secretary of State

TEGUCIGALPA, April 14, 1924—4 p. m. [Received April 15—6:41 a. m.]

3. I arrived at the radio station in the outskirts of Tegucigalpa an hour ago. The American Minister advises me by radio he cannot leave the city to meet me until tomorrow "for lack of sufficient guarantees." I cannot consequently have an interview with those in control of the dictatorship today as I intended.

On my way through the revolutionary lines I had a long conference with Generals Carias and Tosta, the only two of the revolutionary leaders now near the Capital. I explained to them fully the purpose of the mission. I discussed with them in detail the bases of an agreement providing for an immediate cessation of hostilities and for the government of the country until new elections can be held and a constitutional government be installed. I was favorably impressed with their attitude. I determined to refrain from proposing an armistice until some definite agreement in principle has been reached between the contending factions, after which an armistice can be proclaimed to continue until such time as the agreement takes definite shape. Upon two previous occasions when an armistice was declared the revolutionary forces were attacked and it appears to be unwise to suggest utilization of one except with the certainty that an agreement will be reached.

I proceeded here overland from Puerto Cortes. The civil war has left the country utterly destitute. The north coast and the interior and all communications are in the control of the revolution. The situation wherever I passed appeared quiet, order being maintained by patrols, duty being undertaken by volunteers.

I beg to request as soon as possible a reply to my cable April 11, 10 a.m., since my negotiations here will be in large part determined by the Department's decision.

Welles

815,60/3096: Telegram

The Secretary of State to the President's Personal Representative in Honduras (Welles)

Washington, April 15, 1924-3 p. m.

4. Your April 14, 4 p. m. Department did not reply to your April 11, 10 a. m., because it assumed that you had subsequently received Department's April 10, 6 p. m., and that you would communicate fully your views regarding advisability of Central American conference after your arrival in Tegucigalpa. In view of possible difficulties attending Central American effort at mediation the Department would prefer to have an expression of your considered views after discussing situation with leaders of all factions and with American Minister. If thereafter you still feel that joint action of Central American republics is advisable Department will extend suitable invitation upon the receipt of your recommendation. It desires, however, that you should carefully consider the possible objections to such action as set forth in Department's April 10, 6 p. m. The Department would not wish to lose reasonable opportunity to bring about immediate termination of hostilities by waiting for convening of Central American Conference which would entail considerable delay and might inject partisan influences into the deliberations.

HUGHES

815.00/3102: Telegram

The President's Personal Representative in Honduras (Welles) to the Secretary of State

TEGUCIGALPA, April 16, 1924—5 p. m. [Received April 17—8:54 p. m.]

- 5. My April 14, 4 p. m. I entered Tegucigalpa with the American Minister yesterday. Immediately thereafter a conference was held between the Minister and myself and the Ministers of the Dictatorship. I proposed to them the bases of a settlement which had been previously agreed upon by the chiefs of the revolution and myself. These bases comprised:
- 1. The selection of a Provisional President by the leaders of both factions with the understanding that the Executive so selected must be chosen from a list of persons acceptable to the leaders of the revolution. The citizens proposed for this office by the revolutionary leaders are in the aggregate honest and efficient.

ary leaders are in the aggregate honest and efficient.

2. Freedom of selection of the members of his Cabinet by the Provisional President with the stipulation that the posts of Fomento

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and Public Instruction should be filled with persons not identified with the Revolutionary Party.

3. Each Cabinet Minister to have complete control of his depart-

ment subject only to the instructions of the President.

4. The Provisional Government to undertake the necessary modification of the election law, the convocation of a constituent assembly for the reform of the Constitution and the holding of new elections for the Presidency and Congress, after which the Government would be at once transferred to the newly elected Executive.

5. The remaining bases were those which the American Minister

had already succeeded in inducing two factions to accept.

The members of the Council of Ministers demonstrated with the exception of the Ministers of War and Finance the utmost unwillingness to enter into any agreement except one which provided for complete equality of treatment as between the two contending factions. They likewise refused to accept the sole mediation of the United States, insisting that any agreement must be reached at Amapala with the additional mediation of delegates of the Central American Republics. In conclusion they refused to agree to the immediate reaching of an agreement but insisted that the negotiations must take place at Amapala.

After a very long discussion a compromise suggestion was framed providing for the immediate signing of a preliminary agreement containing approximately the bases presented by the leaders of the revolution, both parties subsequently to send delegates to a conference at Amapala at which representatives of the United States and the Central American Republics would be present, where a definite agreement based upon the preliminary pact could be effected.

This morning delegates of the Council of Ministers accompanied the American Minister and myself to the radio station where the chiefs of the revolution were waiting. I had thereupon a conference apart with the chiefs of the revolution to explain to them the changes which had been made in their proposals. They were at first entirely unwilling to consider the proposals of the Council of Ministers but finally consented to all save the proposal to postpone the selection of the Provisional President until the conference at Amapala could be held on the ground that the object sought by the dictatorship was the indefinite prolonging of negotiations, pending which it hoped a movement of reaction could be promoted against the revolution with assistance from adjacent countries, upon which negotiations would be broken off by the dictatorship and that revolution would lose all the advantages acquired during the past months. They therefore demanded agreement upon the Provisional President prior to the holding of any conference at Amapala as a sign of good faith on the part of the dictatorship.

When the Department takes into consideration that with the capture of Choluteca yesterday the revolutionary leaders control the entire Republic except the Capital, have now all the arms and ammunition necessary as well as all the funds needed to besiege the Capital indefinitely, whereas the dictatorship has a scant seven or eight hundred troops in the Capital and no apparent means of paying them, the attitude of the leaders of the revolution appear[s] conciliatory. I have impressed upon them the fact that satisfactory elections cannot be held here under a provisional government controlled only by one party. It was for this reason that they agreed to permit the Provisional President to give representation to all factions in his government.

It is the intention of the Minister and myself to communicate the decision of the revolutionary chiefs to the Council of Ministers to-night and urge acceptance to avoid inevitable capture of the Capital with consequent loss of life and destruction of property.

Department's April 15, 3 p. m. The Department's cable of April 10, 6 p. m. was only received by me yesterday and in such condition that it could not be deciphered. Repetition has been requested.

WELLES

815.00/3105: Telegram

The President's Personal Representative in Honduras (Welles) to the Secretary of State

TEGUCIGALPA, April 19, 1924—4 p. m. [Received April 20—1:30 p. m.]

- 7. My 5, April 16, 5 p. m. After repeated conferences between the American Minister and myself and the members of the Council of Ministers the following solution was yesterday definitely accepted by them:
- "I. Immediate conference on board the United States ship Milwaukee in Amapala with the assistance of the special representation of the Government of the United States, delegates of the revolution and of the Council of Ministers, in the course of which a provisional president will be selected and a preliminary pact will be signed which will contain all the points already agreed upon.

II. Suspension of hostilities immediately after the preliminary

pact mentioned in article I is signed.

III. Negotiation in Amapala of a final agreement founded upon the points established in the preliminary pact with the mediation of the delegates of the United States and of all the Central American Republics."

As soon as this written proposal was signed by the Council of Ministers I called a meeting of the chiefs of the revolution, who had HONDURAS 309

the afternoon previous signified their willingness to agree to the solution proposed. The meeting was attended by Generals Carias, Tosta and Martinez Funes. All indicated their approval but refused to sign the written proposal until the agreement of General Ferrera, the remaining leader, now absent in San Lorenzo, was obtained. am today certain General Ferrera is in accord with the solution above referred to except that he insists upon the selection of Dr. Fausto Davila as Provisional President and will not agree to the selection of a Provisional President from list of names presented by all the delegates present at the initial conference suggested. I have fixed the next meeting with the chiefs of the revolution for tomorrow afternoon when General Ferrera will be able to attend. I shall then advise him as I have already advised the three other chiefs that in the opinion of the Government of the United States a provisional government presided over by the titular head of one of the political parties, as is Dr. Davila, and entirely controlled by one of the political parties, cannot guarantee the holding of fair elections in which the adherents of all candidates would have equal rights; that it is for that reason that I have proposed the selection of the Provisional President from a list of names determined upon by the delegates of both factions and representatives of all parties in the Cabinet of the Provisional President.

In view of the urgency of the situation here, it has appeared best to hasten the suspension of hostilities by proposing the selection of the Provisional President and the signing of a preliminary pact on an American warship in Amapala with the sole mediation of the United States. I have, however, favored the additional mediation of the Central American republics in the negotiation of the final agreement since in my opinion Central American participation in the solution of the problem will be of great value. Central American mediation in the negotiation of the final agreement . . . will attach [sic] the criticism that the coming government was placed in power by the United States. Furthermore, while I [am?] informed [by?] the Minister that the better class of Honduraneans welcomed the entrance of American marines into the Capital and believed it justifiable and necessary as I myself understand it to guarantee [sic] from all information at my disposal, the measure has undoubtedly caused bitter protests among certain elements in the Republic which will certainly be subsequently disrepute [sic] throughout Latin America. For this reason in particular I believe it desirable that our responsibility in effecting a satisfactory and equitable settlement of the present difficulties in this Republic be shared by all the countries represented in the last Central American conference. This opinion is concurred in by the American Minister.

I shall advise the Department by cable immediately should General Ferrera's approval be obtained to the agreement proposed, in order that the Department may cause the necessary invitations to be extended to the Governments above indicated.

WELLES

815.00/3112: Telegram

The President's Personal Representative in Honduras (Welles) to the Secretary of State

TEGUCIGALPA, April 21, 1924—6 p. m. [Received April 23—7:06 a. m.]

9. My 7, April 19, 4 p. m. The agreement signed by the Council of Ministers and quoted textually in my cable under reference was today signed also by the four leaders of the revolution including General Ferrera after conference with the American Minister and myself.

I shall proceed tomorrow morning with the delegates, the Council of Ministers direct to Amapala. The delegates of the revolution will proceed at the same time. It is my hope that the initial conference specified in the first article of the now official information [sic] the leaders of both factions will take place on the U.S.S. Milwaukee in the morning of April 23rd.

The Council of Ministers has named as its delegate Dr. Francisco Bueso, Minister of Gobernacion, and General Roque Lopez, Minister of War; the chiefs of the revolution have named as their delegates Dr. Salvador Aguirre and Dr. Francisco Lopez Padilla.

In view of the agreement reached, I beg to request that all the Central American Governments be invited to send delegates with the utmost expedition to attend the conference specified in the third article of the agreement referred to in order that they may participate in this joint mediation which it is hoped will bring about the definite and formal solution of the problems presented by the state of anarchy now existing in this Republic.

The American Minister will receive instructions from [the Department for me?] in Tegucigalpa where I shall be able to communicate with him with facility by radio. Repeated to all missions in Central America.

WELLES

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815.00/3105: Circular telegram

The Secretary of State to the Minister in Guatemala (Geissler)⁵

[Paraphrase]

Washington, April 23, 1924—1 p. m.

The four chiefs of the revolution and council of Ministers have signed an agreement along the following lines:

Inform Guatemalan Government that the President's personal representative has arranged for a meeting on board the U.S.S. Milwaukee of the chiefs of all Honduran factions. The object of this meeting is to come to an arrangement whereby hostilities will be suspended and a subsequent settlement of present difficulties made through a joint mediation. The representatives of all the other Central American countries, and of the United States, will be invited to participate. You will add that the United States is pleased to participate in this joint mediation and will be represented by Sumner Welles. It trusts that Guatemala will also appoint one or more representatives to take part, and hopes that those representatives will come to Amapala as soon as possible. The Department hopes that the conference can start as soon as the representatives have arrived.

Use all proper means to induce Guatemala to participate and to send delegates with utmost dispatch.

HUGHES

815.00/3114: Telegram

The President's Personal Representative in Honduras (Welles) to the Secretary of State

TEGUCIGALPA, April 23, 1924—7 p. m. [Received April 24—2:45 p. m.]

10. My 9, April 2 [21]. The initial conference mentioned in my cipher telegram under reference took place with the delegates present at 3 o'clock this afternoon on the U.S.S. Milwaukee. In the course of the conference all the articles of the preliminary pact were agreed to unanimously. Each faction presented two candidates for the Provisional Presidency. The revolution's delegates presented the names of Dr. Fausto Davila and General Vicente Tosta. Dictatorship presented the names of Dr. Alberto Ucles and Dr. Federico

 $^{^{5}\,\}mathrm{The}$ same, $mutatis\ mutandis,$ to the representatives in Costa Rica, Nicaragua, and Salvador.

⁶ For the main points of the agreement, see telegram no. 7, Apr. 19, from the President's Personal Representative in Honduras, p. 308.

Canalerz. It was determined to postpone consideration of these candidates until tomorrow morning at 10 o'clock.

I beg to request information at the earliest opportunity concerning the replies received from the Governments of the other Central American States with regard to the joint mediation proposed in connection with the negotiation of the final convention between the two factions here.

Welles

815.00/3124: Telegram

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

San José, *April 26*, 1924—9 a. m.

[Received 3:47 p. m.]

25. Department's April 23, 1 p. m. received evening April 24th badly garbled. Please repeat by cable direct.

President Acosta in favor of participation of Costa Rica in the Amapala conference. On account of political conditions due to uncertainty in connection with change of administration May 1st the President is apparently encountering some difficulty in a representative. He hopes however to announce nomination soon. Repeated to Central American missions.

DAVIS

815.00/3118: Telegram

The Secretary of State to the President's Personal Representative in Honduras (Welles)

Washington, April 26, 1924—11 a. m.

9. The following telegrams are repeated for your information:

From Guatemala

"In a conference which I have just had with the President of Guatemala, he accepted the Department's invitation and requested that he be informed of the date on which the conference of mediation will probably convene. Geissler."

From Managua

"President Martinez states that Government of Nicaragua will gladly participate in proposed conference and has designated Dr. Jose Andres Urtecho, Minister for Foreign Affairs, to represent Nicaragua. Dr. Urtecho leaves Managua tomorrow for Amapala where he should arrive April 26 or 27. Ramer."

From San Salvador

"President Quinonez informed me today that he intends to appoint Martinez Suarez, President of the Supreme Court and former delegate to recent Washington Conference on Central American Affairs, as Salvadorean delegate to Conference. Taylor."

The following reply is being sent to Guatemala:

"Please inform President of Guatemala that the Presidents of Nicaragua and Salvador have agreed to participate in the proposed conference. The Nicaraguan delegate, Dr. Jose Andres Urtecho, is expected in Amapala April 26 or 27. The delegate of Salvador will be Señor Martinez Suarez. In view of the urgent necessity that the conference should meet at the earliest possible moment, you will urge the President of Guatemala to send a delegate as soon as possible, in order that the conference may meet as soon as the delegates, at least from the three countries which have accepted, reach Amapala. You will note in this connection the latter part of the Department's telegram of April 23, 1 p. m.

Your April 24, 6 p. m. The Department considers it advisable that the conference should meet at Amapala, because delegates of both factions in Honduras can reach there more rapidly than they can reach Guatemala, and because it has been clearly evident from previous negotiations that it would be difficult for the Governments of the other Central American countries to agree to hold the conference in the capital of one of the other countries. The Department does not understand that the conference will necessarily meet on one of the American warships, but this point, together with other

questions involved, is left to the discretion of Mr. Welles."

The following telegram has been sent to San José:

"The Governments of Guatemala, Nicaragua and Salvador have agreed to participate in the proposed conference, and the two latter have named delegates. The Nicaraguan delegate is expected in Amapala April 26 or 27. In view of the urgency of bringing about an agreement which will stop bloodshed and put an end to the horrible condition now existing in Tegucigalpa, the Department hopes that the conference may meet at a very early date and that the Costa

Rican Government may be represented.

If there is no commercial steamer available for transportation of Costa Rican delegate the Department will endeavor to have American war vessel carry the delegate to Amapala. It does not, of course, wish to do this unless necessary and you will, therefore, not suggest it if any other transportation is immediately available. Since the arrival of the Costa Rican delegate may be delayed it may seem advisable to start discussions as soon as the delegates from the other three countries arrive, but it is hoped that every effort will be made to expedite the acceptance of Costa Rica and the appointment of a delegate."

The following telegram has been sent to San Salvador:

"You will inform the President of the gratification with which this Government has learned that Salvador will participate in the proposed conference, and you will discreetly urge upon him the advisability of having the Salvadorean delegate proceed to Amapala at the earliest possible moment."

Repeat to Tegucigalpa.

Hughes

⁷ Not printed.

815.00/3139: Telegram

The President's Personal Representative in Honduras (Welles) to the Secretary of State

> Амараца, April 28, 1924—2 р. т. [Received April 30—1:40 р. т.]

14. At 10 o'clock this morning the delegates at the preliminary conference unanimously elected General Vincente Tosta Provisional President and signed the preliminary peace convention of which the following is the literal translation.

[Here follows the text of the preliminary agreement. For final text of the Pact of Amapala signed on May 3, see post, page 317.]

While the final session of the conference was continuing the troops of the revolution were entering the Capital having now, from advices received from the American Minister, complete control. The victory of the revolution does not in my opinion affect the validity of the agreement reached, signed as it is by the fully authorized delegates of both factions. Moreover the carrying out of this agreement will prevent long-drawn-out counterproposals, for the majority of the dictatorship troops have escaped from the Capital; it will avert a break between Carias and Ferrera which otherwise appears imminent; it will permit the neighboring Republics through their representatives at the final conference to declare their moral support of this Provisional Government; and most important of all it will assure the Department that the Provisional Government will be one to which can be accorded immediate moral support since it will be presided over by General Tosta who has no political antecedents nor ambitions, who remained loyal to the last constitutional government and only headed a revolution after the dictatorship was installed, and who is a man of sufficient energy and integrity to maintain order and to guarantee the holding of free elections. Equally important is the fact the Provisional Government constituted in accordance with this agreement will be installed by the vote of delegates representing all the political parties in Honduras and that all political parties will be represented in the Cabinet. I beg to request the Department's approval of the steps taken and of the policy indicated above. I also request immediate authorization to state that a provisional government headed by General Tosta and constituted in accordance with the agreement above quoted will receive the moral support of the Government of the United States.

It is my hope that the first session of the full conference may take place April 30th.

815.001 T 63/-: Telegram

The President's Personal Representative in Honduras (Welles) to the Secretary of State

TEGUCIGALPA, April 30, 1924—9 a. m. [Received May 1—1:45 p. m.]

15. General Tosta will take office at 10 a.m. today as Provisional President. His election and the provisions of the preliminary pact as signed at Amapala on April 28 have now been definitely accepted by all elements. A state of peace obtains throughout the Republic.

WELLES

815.00/3139: Telegram

The Secretary of State to the President's Personal Representative in Honduras (Welles)

Washington, May 1, 1924-2 p. m.

12. Your 14, April 28, 2 p. m. Department approves of steps taken by you and of the policy indicated. You are authorized to state that this Government will lend its moral support to the Provisional Government of General Tosta constituted in accordance with the agreement quoted in your telegram. The Department takes this opportunity to commend you for bringing about a satisfactory solution of the Honduran difficulties.

HUGHES

815.00/3148: Telegram

The President's Personal Representative in Honduras (Welles) to the Secretary of State

AMAPALA, May 1, 1924—3 p. m. [Received May 2—8:40 p. m.]

19. My number 18, May 1, 9 a. m.* The first session of the conference took place this morning. The discussion was limited to a consideration of the articles of the preliminary agreement between the two factions in Honduras signed in Amapala on April 28th. It is my belief that the formal and definite arrangement between the two parties will be concluded in the second session which will take place this afternoon. All the Central American delegates are in entire accord with the provisions contained in the preliminary agreement.

I had last night an informal conference with the Central American delegates. I suggested that the conference undertake to make two formal declarations binding upon the nations represented: (1)

⁸ Not printed.

that the Governments here represented declare their entire neutrality and impartiality as between the various political parties in Honduras and obligate themselves during the life of the Provisional Government not to favor any political party or candidate in the coming national elections by the exertion of influence or by the use of any other means; (2) that the conference declare that the Governments represented believe in the efficacy of the treaties and conventions signed as a result of the last Central American Conference as means of preserving peace, of favoring government by constitutional and orderly methods and as conducive to the development of general prosperity in Central America. That this declaration should likewise contain the expression of the hope that the signatory Governments would bring about the speedy ratification of these instruments.

The delegate from Nicaragua proposed the negotiation of a convention providing for the appointment of a standing commission of mediation in which all the nations here represented would participate through delegations to provide for joint mediation in all cases similar to that recently existing in Honduras. It is my opinion that the negotiation of such a convention might with advantage be postponed until the next government. I beg to request the Department's instructions on this point.

WELLES

815.00/3152: Telegram

The President's Personal Representative in Honduras (Welles) to the Secretary of State

Amapala, May 2, 1924—3 p. m. [Received May 5—5:42 a. m.]

20. The final form of equitable definite agreement between the two factions in Honduras was formally approved by all the delegates at this morning's session of the conference. The definite agreement closely follows the form of the preliminary pact, the only changes of importance being the adoption of my suggestions providing for substitution of the Provisional President in case of death or resignation and for a more definite wording of article III of the preliminary pact incorporationg the provision that in the case of the removal of any Cabinet minister, he must be replaced by a member of the same political group. The definite agreement will be signed tomorrow in Amapala and not on the *Milwaukee*.

The Pact of Amapala, Signed May 3, 1924°

[Translation 10]

In the city of Amapala, Republic of Honduras, at eleven o'clock of the third day of May one thousand nine hundred and twenty-four. Taking into consideration the proposals of the Honorable Messrs. Sumner Welles, Personal Representative of His Excellency the President of the United States of America, Attorney Mariano Cruz, Delegate for the Republic of Guatemala, Dr. Francisco Martinez Suarez, Delegate for the Republic of Salvador, Engineer J. Andres Urtecho, Delegate for the Republic of Nicaragua, and Attorney Pedro Perez Zeledon, Delegate for the Republic of Costa Rica, whose powers were examined and found to be in due form, for the purpose of reestablishing and permanently consolidating peace in the Republic of Honduras, the undersigned Delegates of the Council of Ministers, Messrs. Attorneys Alberto Rodriguez and Roque J. Lopez, of the Chiefs of the Revolution, Messrs. Attorneys Salvador Aguirre and Francisco Lopez Padilla, with full powers and after due deliberation, have agreed to celebrate the following definitive pact.

ART. 1. General Vicente Tosta C. is declared elected Provisional President of the Republic. The Provisional President will immediately take possession of his office and will continue in the exercise of its functions until the date fixed by the National Constituent Assembly for the inauguration of the Constitutional President elected. The person who exercises the Provisional Presidency may in no case be a candidate for the Constitutional Presidency of the Republic for the next term.

ART. 2. In case of absolute or temporary absence of the Provisional President, the Council of Ministers will exercise the Executive power until the National Constituent Assembly meets. The decisions of the Council will be taken by majority of votes.

ART. 3. The Provisional President is obligated to convoke elections for a National Constituent Assembly 30 days after having taken possession of the Presidency. The Decree of Convocation for the election of Deputies to the Constituent [Assembly] shall fix a period not to exceed 30 days, in which they are to be held, and the Constituent Assembly shall meet thirty days after the election.

Copy transmitted to the Department by the Minister in Honduras as an enclosure to his despatch no. 609, May 30, 1924; received June 20, 1924.

¹⁰ File translation revised after comparison with authoritative copy of the original Spanish text supplied by the Honduran Government and transmitted to the Department by the Minister in Honduras as an enclosure to his despatch no. 108, Nov. 30, 1937 (file no. 026 Foreign Relations /1286).

- ART. 4. The Ministers of the Cabinet of the Provisional Government shall be freely chosen by the Provisional President. Each Minister shall have under his control the appointment of the employees of the corresponding department, subject solely to the approval of the Provisional President. In the designation of the members of the Cabinet and in the appointments made in each department of the Public Administration, just representation shall be granted to all political parties of the Republic, the integrity and aptitudes of the persons to be appointed being always taken as the essential basis. In case of the resignation of a member of the Cabinet of the Provisional Government, the Provisional President must fill the vacancy with a person who belongs to the same political party to which his predecessor belonged.
- ART. 5. The Provisional President is empowered to appoint the Magistrates of the Supreme Court of Justice. The duration of office of the Magistrates appointed by the Provisional President shall be for the time that the latter exercises his functions, at which time the officials appointed in the Provisional Court shall likewise cease their functions.
- ART. 6. The Provisional President and other officials of the Public Administration, as well as the Judicial power, shall exercise their functions in conformity with the laws in force in the Republic.
- ART. 7. The election of the Constitutional President shall in any case be effected by popular vote. The Provisional President shall guarantee to all citizens, without distinction of political affiliation, the most absolute freedom in the popular elections of the Constitutional President of the Republic for the next term, which shall be held in conformity with the new Constitution to be issued.
- ART. 8. The Provisional President, as soon as he takes possession of the Presidency of the Republic, shall issue a Decree of Amnesty for all political and military offenses and for all civil crimes connected with political offenses committed up to this date.
- ART. 9. The Provisional Government accepts the responsibility for the acts of the revolution, of the dictatorship, and of the Council of Ministers, provided that these are not injurious to the vital interests of the country, which character shall be declared by the corresponding Legislative Assembly.
- ART. 10. The Provisional President shall organize departmental commissions to take cognizance of losses, in order that those prejudiced by the revolution may make due claims in conformity with the corresponding law.
- ART. 11. The Provisional President shall effectively guarantee the personal security and property of the military chiefs, officers, and troops that remained in the service of the dictatorship and of the Council of Ministers, as well as for those of the revolution.

ART. 12. Immediately after the Provisional President enters upon the exercise of his functions, he shall assume the command of the armies of the dictatorship and of the revolution. The President shall likewise determine the form in which the army is to be disbanded, which procedure must be carried out in the shortest period possible. The military forces of both parties which remain in Tegucigalpa or in other places shall continue under the command of their respective chiefs until they are entirely disbanded.

ART. 13. The present definitive agreement shall be signed by the Honorable Personal Representative of His Excellency the President of the United States and by all the Honorable Delegates of the Central American Republics, whose signatures shall be considered by both parties as a moral guarantee for its fulfilment.

ALBERTO A. RODRIGUEZ R. J. LOPEZ SALVADOR AGUIRRE F. LOPEZ PADILIA

Witnessed by:

SUMNER WELLES

MARIANO CRUZ J. A. URTECHO N. MARTINEZ SUAREZ P. PEREZ ZELEDON

815.00/3151: Telegram

The President's Personal Representative in Honduras (Welles) to the Secretary of State

Amapala, May 3, 1924—2 p. m. [Received May 5—9:42 a. m.]

22. The final session took place this morning in Amapala. The formal convention in the form indicated in my number 20 of May 2, 3 p. m., was signed by the representatives of both political factions in Honduras and signed as witnesses by all the delegates of the other nations represented.

In addition the delegates of Guatemala, of Salvador, of Nicaragua, and of Costa Rica signed a formal declaration of which the following is a literal translation:

"Before concluding their task, the delegates of the Central American Union present at this conference, by unanimous vote, have resolved to express through their worthy champion, the Honorable Sumner Welles, to His Excellency the President of the United States their most sincere thanks for the speedy and generous assistance lent by him since his invaluable mediation was accepted by both of the contending parties in the Republic of Honduras in reestablishing completely peace and public tranquillity and in the establish-

ment of a basis which will permit the reorganization of a stable constitutional government to be placed in power by the free vote of

the people of Honduras.

It is a pleasant duty for the delegates at the same time to evidence in this final declaration the expression of their gratitude to the personal representative of the President of the United States, chairman of this conference, for the perfect tact, entire rectitude and impartiality and breadth of vision which he has contributed in the successful carrying out of his difficult task.

At the same time the conference desires to congratulate the delegates of the parties formerly at war in Honduras for their patriotic attitude which has greatly assisted in the achievement of the lofty

purposes of the conference.

And since in the attainment of these purposes it has not been possible to employ the means provided in the international comity agreements now awaiting the ratification of certain of the signatory powers which would so greatly have assisted the completion of this difficult task, it resolved that:

A unanimous vote of recommendation is hereby agreed upon, addressed to the said Governments that they consider at once the treaties and conventions referred to, in order that, should an emergency occur in the future similar to that which recently took place in Honduras, steps to reestablishment immediately constitutional government may more easily and rapidly be taken."

The delegates of the Central American States likewise addressed a telegram to the Provisional President declaring the intention of the Governments which they represent to lend their moral support simultaneously with the United States, to a provisional government of Honduras constituted in strict accordance with the terms of the agreement signed today.

With the completion of today's session of the conference consider my mission here concluded. It is therefore my intention to leave tomorrow on the *Milwaukee* for Santo Domingo via Panama. I am advised from reliable sources that the Provisional President will make the necessary changes in his Cabinet in the course of the coming week, and the American Minister, who leaves at once for the Capital, will properly insist on this after his return to Tegucigalpa.

I desire to take this opportunity of advising the Department of my appreciation of the effective and wholehearted cooperation given me by the American Minister throughout the course of my mission in this Republic.

Welles

HONDURAS 321

815.00/3155: Telegram

The Minister in Honduras (Morales) to the Secretary of State

TEGUCIGALPA, May 5, 1924—2 p. m. [Received May 9—1:33 a. m.]

98. On May 2nd the Provisional President in accordance with the Amapala peace pact issued a decree convoking a national constituent assembly to meet in Tegucigalpa to promulgate the fundamental and organic law of the Republic, the date of meeting and number of representatives to be determined in a later decree. Pending the beginning of the new constitutional regime the Provisional President is to assume all powers of the state and the courts are to act in conformity with the laws of the country but in agreement with the requirements of the regulations of public order.

MORALES

815.00/3160: Telegram

The Minister in Honduras (Morales) to the Secretary of State

TEGUCIGALPA, May 9, 1924—5 p. m.

[Received 9:37 p. m.]

103. The decree declaring general amnesty was promulgated this afternoon.

MORALES

PROCLAMATION BY PRESIDENT COOLIDGE PROHIBITING THE EXPORTATION OF ARMS AND MUNITIONS OF WAR FROM THE UNITED STATES TO HONDURAS

815.113/50

The Secretary of State to President Coolidge

Washington, March 22, 1924.

My Dear Mr. President: The Department has just received a telegram from Stauffer, Eshelman and Company, Limited, of New Orleans, stating that a representative of the revolutionary forces in Honduras has placed an order with them for twenty-six thousand dollars worth of rifles and ammunition. The Company inquired whether it could make delivery of these rifles and ammunition to the representative of the revolutionary forces at shipside, New Orleans, or could make shipment direct to Honduras. It is impossible to stop the shipment of such arms to Honduras unless a proclamation prohibiting the exportation of arms and munitions of war is issued. A Joint Resolution of Congress approved January 31, 1922, authorizes

the President to make such a proclamation and this was done in the case of Mexico on January 7, of this year.²⁴

In view of the present chaotic conditions existing in Honduras I feel that such a proclamation should immediately be issued and I am enclosing such a proclamation herewith for your signature,²⁵ should it meet with your approval.

Faithfully yours,

CHARLES E. HUGHES

815.113/52

Proclamation No. 1689, March 22, 1924, Prohibiting Exportation of Arms and Munitions of War to Honduras

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS, Section I of a Joint Resolution of Congress, entitled a "Joint Resolution to Prohibit the Exportation of Arms or Munitions of War from the United States to Certain Countries, and for other Purposes", approved January 31, 1922, provides as follows:

"That whenever the President finds that in any American country, or in any country in which the United States exercises extraterritorial jurisdiction, conditions of domestic violence exist, which are or may be promoted by the use of arms or munitions of war procured from the United States, and makes proclamation thereof, it shall be unlawful to export, except under such limitations and exceptions as the President prescribes, any arms or munitions of war from any place in the United States to such country until otherwise ordered by the President or by Congress."

And whereas, it is provided by Section II of the said Joint Resolution that "Whoever exports any arms or munitions of war in violation of section I shall on conviction be punished by fine not exceeding \$10,000, or by imprisonment not exceeding two years, or both."

Now, therefore, I, Calvin Coolidge, President of the United States of America, acting under and by virtue of the authority conferred in me by the said Joint Resolution of Congress, do hereby declare and proclaim that I have found that there exist in Honduras such conditions of domestic violence which are or may be promoted by the use of arms or munitions of war procured from the United States as contemplated by the said Joint Resolution; and I do hereby admonish all citizens of the United States and every person to abstain from every violation of the provisions of the Joint Reso-

²⁴ Post, p. 428.

See signed text, infra.

lution above set forth, hereby made applicable to Honduras, and I do hereby warn them that all violations of such provisions will be

rigorously prosecuted.

And I do hereby enjoin upon all officers of the United States, charged with the execution of the laws thereof, the utmost diligence in preventing violations of the said Joint Resolution and this my Proclamation issued thereunder, and in bringing to trial and punishment any offenders against the same.

In Witness Whereor, I have hereunto set my hand and caused

the seal of the United States to be affixed.

Done at the City of Washington this twenty-second day of March in the year of our Lord one thousand nine hundred and [SEAL] twenty-four and of the Independence of the United States of America the one hundred and forty-eighth.

CALVIN COOLIDGE

By the President:

CHARLES E. HUGHES

Secretary of State.

815.113/68a

The Secretary of State to President Coolidge

Washington, May 14, 1924.

Dear Mr. President: On March 22, 1924 you issued a proclamation forbidding the exportation of arms or munitions of war to Honduras, in accordance with the provisions of a joint resolution of Congress approved January 31, 1922. As this proclamation made no provision for permitting the shipment of arms for commercial purposes, or for other shipments which it might prove advisable to allow to proceed, I wish to suggest that a supplementary proclamation be issued prescribing as an exception to the provisions of the joint resolution above referred to such arms and munitions of war as may from time to time be exported with the consent of this Department. I am transmitting herewith a draft of such a proclamation for your approval.²⁶

A proclamation of this nature will make it possible to grant licenses for the shipment of arms and ammunition for commercial and industrial purposes and also, should it appear advisable, to permit shipments of arms to the provisional government which has recently been established in order to assist the new authorities to maintain order.

aintain order. I am [etc.]

CHARLES E. HUGHES

²⁶ See signed text, infra.

815.113/77

Proclamation No. 1697, May 15, 1924, Prescribing as an Exception to the Provisions of Proclamation of March 22, 1924, Arms and Munitions Exported with Consent of Secretary of State

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

Whereas, by a Proclamation of the President issued March 22, 1924, under a Joint Resolution of Congress approved by the President January 31, 1922, it was declared that there existed in Honduras conditions of domestic violence which were or might be promoted by the use of arms or munitions of war procured from the United States; and

Whereas, by the Joint Resolution above mentioned, it thereupon became unlawful to export arms or munitions of war to Honduras except under such limitations and exceptions as the President should prescribe.

Now, therefore, I, Calvin Coolidge, President of the United States of America, do hereby prescribe as such an exception and limitation, such arms and munitions as may from time to time be exported with the consent of the Secretary of State.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this 15th day of May in the year of our Lord one thousand nine hundred and twenty-four [SEAL] and of the Independence of the United States of America

the one hundred and forty-eighth.

CALVIN COOLIDGE

By the President:

Joseph C. Grew

Acting Secretary of State.

HUNGARY

CONSENT BY THE UNITED STATES THAT THE PRIORITY OF RELIEF BONDS BE SUBORDINATED TO A NEW INTERNATIONAL LOAN TO HUNGARY FOR RECONSTRUCTION

864.51/222

The Hungarian Minister (Széchényi) to the Secretary of State

AIDE MÉMOIRE

The program made by the League of Nations for the financial reconstruction of Hungary expresses the necessity that the priority of the international loan to be granted to Hungary must be assured over all of Hungary's assets and against all existing encumbrances. The Hungarian Government has therefore been invited to take appropriate steps to assure this end as regards governments which hold relief bonds against the Hungarian Government.

In pursuance of previous conversations on this subject, I take the liberty therefore to express the request of my Government that the Government of the United States be good enough to suspend during the period of amortization of the reconstruction loan to be given to Hungary, viz. twenty years, the priority provisions of the relief bonds held by the American Government against Hungary.

My Government has instructed me in particular to assure the American Government that in making this request it does not mean in any way to ask the Government of the United States to yield the privileged position of relief bond holders with respect to priority over reparation payments.

[Washington,] January 2, 1924.

864.51/222

The Secretary of State to the Hungarian Chargé (Pelényi)

Washington, February 16, 1924.

My Dear Mr. Chargé d'Affaires: In reply to the Aide Memoire handed to me on January 3rd by Count Széchényi and containing the request of the Hungarian Government that the Government of the United States suspend during the twenty-year period of amortization of the proposed reconstruction loan for Hungary, the priority

enjoyed by the Hungarian Relief Bond held by this Government, I desire to inform you that, while this Government, as in the case of Austria, would be ready to give sympathetic consideration to any appropriate plan for the financial rehabilitation of Hungary, it will be necessary to receive certain additional information and assurances before proceeding further in the matter.

I have noted your Government's statement that in making this request it does not mean in any way to ask the Government of the United States to yield the privileged position of relief bond holders with respect to priority over reparation payments. It appears, however, that the proposed plan for the Hungarian Reconstruction Loan contemplates annual reparations payments by Hungary amounting to not more than ten million gold crowns and commencing after the year 1926, such payments to be made from revenues not specifically assigned to the service of the loan. Were such a plan put into operation and were the holders of Hungarian Relief Bonds to waive the priority enjoyed by such bonds for the full term of the reconstruction loan, it would appear that reparation payments would in fact be accorded a priority over relief bond obligations. This Government could not assent to such an arrangement and would not waive in favor of the proposed reconstruction loan the priority enjoyed by the relief bond which it holds, unless satisfied that its relief bond would at all times be entitled to priority over reparation payments in accordance with the original agreement under which relief advances were made to Hungary.

In this same connection permit me to call to your attention the assurances given in Mr. Daruváry's Note of November 14, 1923,¹ to the American Minister at Budapest with reference to the "error in connection with the interest due on the United States Relief Bond" to the effect that the Hungarian Government would inform the Finance Committee of the League of Nations that the proportion of back interest due the United States on its relief bond must be made a first charge against the proceeds of any foreign loan contemplated under the League of Nations' plan. No information has reached this Department that the proposed League of Nations' plan has made definite provision for the payment of this back interest. This Government feels, therefore, that it should be assured that this action which would place it on a basis of equality with other holders of Hungarian relief obligations has been taken and that the charge referred to has been created.

I should also be grateful if you would find it possible to inform me whether any special arrangements with other nations in respect of debts owed to private individuals or state claims arising out of

¹ Not printed.

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the Treaty of Trianon have been made by Hungary and if so, whether they would in effect cause such creditors to receive payments from the Hungarian Government to the prejudice of the priority enjoyed by the terms of the relief bond held by this Government.

I might add for your information that this Government could in no case consider the waiver desired unless substantially all other creditor nations of Hungary having a lien upon either the assets or revenues of Hungary should take similar action with respect to their claims. Moreover, the period of the waiver could extend only to a date mutually agreed upon by substantially all the other creditor nations or until the date of repayment by Hungary of the proposed reconstruction loan, whichever date should be the earlier.

I am [etc.]

CHARLES E. HUGHES

800.51 W 89 Hungary/13

The Hungarian Minister (Széchényi) to the Secretary of State

AIDE MÉMOIRE

[Washington,] March 27, 1924.

My Government has authorized me to enter into negotiations with the end in view to bring about a debt funding agreement between the United States and Hungary, following substantially the lines of the one concluded between the United States and Finland.²

The conclusion of such debt funding agreement with the United States would necessitate, of course, the negotiating of corresponding agreements on the part of Hungary with other governments holding relief bonds.

While my Government stresses the desirability of proceeding with the drafting of the proposed American-Hungarian agreement with the utmost dispatch, it emphasizes the fact that any debt funding agreement with the United States would prove truly valuable for Hungary only in such case as with the conclusion of the agreement in question the United States Government were willing to return its relief bonds, waiving thereby the legal priority assured to same at present.

The Hungarian Government feels all the more confident that the United States will be willing to adopt such a course, since the Reparation Commission at its meeting held on February 21, 1924, has explicitly recognized the priority of payments on relief bonds as against reparations.

Concerning reparations to be paid by Hungary, my Government begs to point out that all payments en charge du traite de paix

² For text of the agreement with Finland, see Combined Annual Reports of the World War Foreign Debt Commission, etc. (Washington, Government Printing Office, 1927), p. 120.

would depend on the discretion of the Commissioner General, inasmuch as such payments are to be made only and in so far as the Commissioner General would deem it compatible with Hungary's capacity to pay and as not endangering the stability of Hungary's budget and finances.

The Hungarian Government trusts therefore that the American Government will see its way clear to yield the present legal priority of its relief bonds in favor of the proposed international loan to Hungary, as the actual priority of payments on relief bonds over reparations is already assured.

800.51 W 89 Hungary/21: Telegram

The Secretary of State to the Ambassador in France (Herrick)

Washington, April 29, 1924-3 p. m.

138. L-68 for Logan.³ Refunding agreement signed April 25th by Hungarian Minister ⁴ provides for repayment of Hungarian Relief Bond and accrued interest in 62 years by installments increasing from \$9,600 to \$75,000 annually with interest at 3 percent to December 15th, 1933 and thereafter at 3½ percent per annum. Sections 7 and 9 of this agreement are as follows:

"7. Security. The payment of the principal and interest of all bonds issued or to be issued hereunder shall be secured in the same manner and to the same extent as the obligation of Hungary in the principal amount of \$1,685,835.61, described in the preamble to this Agreement; that is to say, shall be 'a first charge upon all the assets and revenues of Hungary and shall have a priority over costs of reparation under the Treaty of Trianon or under any treaty or agreement supplementary thereto, or under arrangements concluded be-tween Hungary and the Allied and Associated Powers during the armistice signed on November 3, 1918; Provided, however, That all or any part of such security may be released by the Secretary of the Treasury of the United States on such terms and conditions as he may deem necessary or appropriate in order that the United States may cooperate in any program whereby Hungary may be able to finance its immediate needs by the flotation of a loan for reconstruc-tion purposes, if and when substantially all other creditor nations holding obligations of Hungary similar to that held by the United States and described in the preamble to this Agreement, to wit, Denmark, France, Great Britain, Holland, Norway, Sweden and Switzerland, shall release to a similar extent the security enjoyed by such obligations. The Secretary of the Treasury of the United States shall be authorized to decide when such action has been substantially taken."

⁹ James A. Logan, Jr., American unofficial representative on the Reparation Commission.

For text of agreement, see Combined Annual Reports of the World War Foreign Debt Commission, p. 132.

HUNGARY 329

"9. Cancellation and Surrender of Relief Obligation. Upon the execution of this Agreement, the payment to the United States of cash in the sum of \$753.04 as provided in paragraph 1 of this Agreement and the delivery to the United States of the \$1,939,000 principal amount of bonds of Hungary first to be issued hereunder, together with satisfactory evidence of authority for the execution of the Agreement and the bonds on behalf of Hungary by its Envoy Extraordinary and Minister Plenipotentiary at Washington, and of appropriate action by the Reparation Commission so as to assure by its approval to the bonds of Hungary to be issued hereunder the same priority over reparations as that now enjoyed by the obligation of Hungary in the principal amount of \$1,685,835.61 described in the preamble to this Agreement, the United States will cancel and surrender to Hungary, at the Treasury of the United States in Washington, the obligation of Hungary last described."

Agreement has been approved by the President and submitted to Congress and upon approval by that body Secretary of the Treasury will under the conditions stipulated in Sections 7 and 9 release for the purpose of Hungary's reconstruction loan the prior lien enjoyed by the Relief Bond and retained in favor of the refunding bonds which, however, are to continue to have priority over reparations both as to security and payment.

Copy of agreement and other papers are being forwarded to you by pouch.

As you will note proposed action is conditioned in part upon prior appropriate action by Reparation Commission to assure by its approval to the refunding bonds the same priority now enjoyed by the Relief Bond. The Hungarian Government will present this matter to the Reparation Commission and you are authorized to cooperate in every proper way with the Hungarian representatives in their endeavor to obtain Commission's approval. Please keep Department fully informed of Commission's action and telegraph also any information you may obtain regarding definitive release of relief bond priorities by other Governments concerned.

Repeat to Amlegation Budapest as Department's 18 substituting following for last paragraph:

As you will note this action is conditioned in part upon presentation of satisfactory evidence of authority for the execution of the agreement and the bonds on behalf of Hungary by its Minister. In this connection reference is made to Department's 15, April 21st, 5 p. m.⁵

HUGHES

⁵ Not printed.

800.51 W 89 Hungary/23: Telegram

The Ambassador in France (Herrick) to the Secretary of State

Paris, May 14, 1924—5 p. m. [Received 9:12 p. m.]

263. L-164.

- 1. Reference Department's L-68 April 29 concerning refunding of Hungarian relief bond and subordination of its priority in favor of reconstruction loan. Am advised that Hungarians are now in London negotiating for loan and that Governor of Bank of England is now favorable thereto. Nothing in the nature of actual contracts can be consummated with the banking interests until the status of the American relief bond is ascertained. For this reason am requested ask you whether Congress has yet taken necessary action as required by article 12 of pending agreement dated April 25, 1924. I am asked to urge you employ every proper effort to cause action to be speedily taken. It is thought that negotiations will be completed during present month.
- 2. Financial Service of Reparation Commission today unanimously recommended that commission accord to the new bonds to be issued in substitution for the old relief bond the same priority over reparations which that enjoys. Anticipate that commission at next meeting will take this action to be effective providing Congress has taken or shall take necessary steps.
- 3. With respect to similar action granting priority to reconstruction loan over relief bonds which must be taken by other powers holding relief bonds before the Secretary of the Treasury waives relative existing priority. Am informally advised that Hungary has already been informed by all countries except France that they are willing to subordinate their relief bond priority in favor of reconstruction loan. France has informally indicated her adherence and states that formal letter will be forthcoming this week. Have recommended that certified copies of original letters from the various powers addressed to Hungary be immediately despatched to Washington for the information of the Secretary of the Treasury.
- 4. Kindly keep me advised of any progress on subject especially as to congressional authorization. It will be remembered that the United States caused some delay in connection with its action regarding Austrian relief bond ⁶ and it is to be hoped that this can be avoided in the present instance. Hungarians fear a collapse of the Crown and every day counts.⁷

Repeated to Budapest. Logan.

HERRICK

⁶ For measures taken to suspend financial claims against Austria by the United States and other creditor nations, see *Foreign Relations*, 1922, vol. I, pp. 613 ff.
⁷ Mr. Logan was informed on May 21, 1924, of the passage of the refunding agreement by the House, May 12, and by the Senate, May 17.

HUNGARY 331

800.51 W 89 Hungary/40: Telegram

The Ambassador in France (Herrick) to the Secretary of State

Paris, May 26, 1924—4 p.m.

[Received 11:30 p.m.]

- 280. L-170. Hungarian Legation Paris has supplied me with certified copies of letters from the Ministries of Foreign Affairs of France, Switzerland and Holland addressed to the Hungarian Government consenting to the subordination of the prior liens enjoyed by their relief bonds to the Hungarian reconstruction loan. Have also been supplied with copies uncertified of similar letters from Foreign Offices of Great Britain, Norway, Sweden and Denmark. Advised that certified copies of letter will be forwarded promptly. This comprises all countries holding relief bonds except United States.
- 2. Action of all countries except France is expressly conditioned upon similar action of other countries. Norway, Sweden and Denmark further condition their agreement upon the understanding that Hungary will after loan is floated resume payment of interest on relief bonds commencing with January 1, 1923. All countries except France and Great Britain state that the suspension of the privilege is for 20 years, that being the duration of the loan. Great Britain and France merely waive priority in favor of the loan.
- 3. In view of desire immediate action hope Secretary of the Treasury can accept foregoing as evidence of action of other powers. As safeguard however the formal waiver by the Secretary of the Treasury might follow formula adopted by most other powers, namely, providing all the other governments holding relief bonds agree to a similar waiver of their prior charge in favor of Hungarian reconstruction loan. Such action by the United States would close the whole matter if as appears to be the fact this condition is satisfied.

Mailed to Budapest. Logan.

HERRICK

800.51 W 89 Hungary/43: Telegram

The Secretary of State to the Ambassador in France (Herrick)

Washington, May 29, 1924-6 p. m.

173. L-78 for Logan. Your L-170, May 26, 4 P. M. regarding Hungarian Reconstruction Loan.

Department has received letter from Secretary of the Treasury dated May 29th, 1924, containing following statement:

"Acting, therefore, under the authority conferred on me as Secretary of the Treasury of the United States by the Act above referred to, I advise you that the lien of the obligations of the Government

of the Kingdom of Hungary in the principal amount of \$1,939,000, issued under the terms of the agreement dated April 25th, 1924, between the Government of the Kingdom of Hungary and the Government of the United States of America, providing for the refunding of the indebtedness of the former to the latter, is hereby subordinated to that of the loan for reconstruction purposes, in the amount of 250,000,000 gold crowns, contemplated by the plan approved by the Reparation Commission under date of February 21, 1924, without prejudice, however to the priority over costs of reparation to which such obligations are entitled."

Treasury letter also states:

"From your letter dated May 24, 1924, it is understood that on May 20, 1924, the Reparation Commission unanimously adopted a vote providing in effect that the bonds to be issued pursuant to the agreement in question shall be secured in the manner above indicated, having priority over all costs of reparation, in accordance with the understanding throughout the negotiations between the Hungarian Minister at Washington and the World War Foreign Debt Commission, forming the basis of the agreement reached. The bonds to be issued pursuant to the agreement in question have this day been received from the Hungarian Minister at Washington in exchange for the obligation of the Government of Hungary designated as Relief Series C of 1920, above referred to, in accordance with the provisions of paragraph 9 of the agreement in question."

Please repeat foregoing to Budapest as Department's 24. Department advising Hungarian Minister in Washington.

Please forward certified copies of letters referred to your paragraph 1 as soon as possible as Treasury desires copies for its files.*

HUGHES

⁸The copies requested were forwarded by Mr. Logan on June 6, 1924, and transmitted by the Department to the Secretary of the Treasury on June 21 (file no. 800.51 W 89 Hungary/53).

JAPAN

RESTRICTION OF JAPANESE IMMIGRATION BY ACT OF CONGRESS, AND THE ABROGATION OF THE GENTLEMEN'S AGREEMENT

811.5294/430

The Chargé in Japan (Caffery) to the Secretary of State

No. 211-E

Tokyo, January 11, 1924. [Received January 30.]

Sir: With reference to my Despatch No. 179-E, of December 31. 1923,¹ and to previous despatches reporting a recrudescence of agitation over the recent Supreme Court decisions in the West Coast land cases,² I have the honor to report that, in answer to an interpellation (Enclosure 1¹) by Mr. Kayose Kikuo, a member of the Seiyukai party, the Government made the following written statement:

"1—Immediately after the United States Supreme Court's decision regarding the alien landownership dispute was made known, the Imperial Government took steps to call the serious attention of the United States to its grave consequences and is now awaiting a reply from that Government.

2—The time is still premature for disclosing full details of the

steps taken.

3—The Japanese agriculturists in America are bestowing their best consideration on the steps to be taken to save the situation. In view of this fact, the Government intends to wait and see the result of their deliberations, while causing the Japanese Consulates in the affected districts to give such help as is deemed appropriate.

4—All circumstances must be fully considered in deciding the propriety or otherwise of revising the Japanese-American treaty of commerce and navigation in force, and the Government is not yet in a

position to state whether to revise it or not.

5—For the above-mentioned reason, the Government has not yet approached the United States Government on the matter, but it is now studying the problem.

DOUBLE NATIONALITY

6—The Government recognises the need for enabling those who have secured foreign nationality by virtue of their having been born in those foreign countries to forsake Japanese nationality even in

¹ Not printed.

² See Foreign Relations, 1923, vol. II, pp. 458 ff. ³ See memorandum of Dec. 4, 1923, from the Japanese Embassy, *ibid.*, 460.

the case of men of over seventeen years old, and investigations are now being made with this end in view.

Japan's Alien Land Law

7—The Government intends to enforce the alien landownership law promulgated in 1910 after due revision and the matter is now being studied."

It is significant that the answer of the Government to the interpellation was subscribed to by the Foreign Office, the Home Office, and the War and Navy Departments which thus put themselves on record for the first time as being prepared to concede their claims for military service on children born in America of Japanese parents.

I have [etc.]

JEFFERSON CAFFERY

711.945/1063

The Japanese Embassy to the Department of State

MEMORANDUM

The Japanese Ambassador at his interview with the Honorable the Secretary of State on December 13th, 1923, took occasion to call the Secretary's attention to certain provisions of the bill which was introduced in the House of Representatives on December 5, 1923, by Mr. Johnson of Washington, entitled "A Bill to limit the immigration of aliens into the United States, and to provide a system of selection in connection therewith, and for other purposes," in their relations to the existing commercial treaty between Japan and the United States and to certain understandings of the two Governments. A similar measure is before the Senate also, which was introduced in that body on December 6, 1923 by Mr. Lodge of Massachusetts.

In the bill there is, among other provisions, one which excludes from admissible classes aliens not eligible to United States citizenship (Sec. 12, b, H. R. 101).

By the decision of the United States Supreme Court of November 13, 1922 in the case *Takao Ozawa* vs. the United States, anneligibility of Japanese nationals to United States citizenship is determined.

If therefore the provision above-referred to is to be permitted to remain in the measure when it becomes a law, it means an open declaration on the part of the United States, that Japanese nationals as such, no matter what their individual merits may be, are

⁴²⁶⁰ U.S. 178.

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inadmissible into the United States, while other alien nationals are admissible on certain individual qualifications equally applicable to them all. It is not easy to understand that this would not be an arbitrary and unjust discrimination reflecting upon the character of the people of a nation, which is entitled to every respect and consideration of the civilized world. Nor does it seem to harmonize with the well-known principles of America's foreign policy, which stands for international justice and is opposed to discriminations against American nationals.

It may be recalled that in concluding the so-called "Gentleman's Agreement" of 1907, which involved no small sacrifices on the part of the Japanese Government, and in making the Declaration of February 21, 1911 between Japan and the United States, the sole desire of the Japanese Government was to relieve the United States Government from the painful embarrassment of giving offence to the just national pride of a friendly nation, which is ever so earnest and has spared no effort in preserving the friendship of the United States.

In agreeing to the terms of the so-called Gentleman's Agreement, which were arranged in deference to the suggestions and wishes of the United States Government, and in concluding the Commercial Treaty of 1911, one important object of which for Japan was, it will be remembered, to avoid such discriminatory legislation as that now under consideration, the American Government showed that it fully understood and appreciated the Japanese opposition to any form of discrimination against Japanese people as such, and virtually assured the Japanese Government that, in return for these sacrifices, made in order to preserve the self-respect of their nation, the United States Government will see to it that there shall be no discriminatory legislation on the part of the United States against Japanese people as such.

For instance in the note of February 25, 1911,7 informing the Japanese Ambassador at Washington of the ratification of the Treaty of Commerce and Navigation between the United States and Japan, the Secretary of State stated in part as follows:—

"By the Resolution of the Senate the advice and consent of the Senate to the ratification of the Treaty is given with the understanding, which is to be made a part of the instrument of ratification, that the Treaty shall not be deemed to repeal or affect any of the provisions of the Act of Congress entitled "An Act to regulate the Immigration of Aliens into the United States", approved February 20, 1907.' 8

⁵ Foreign Relations, 1911, p. 319.

⁶ *Ibid.*, p. 315. ⁷ Not printed. ⁸ 34 Stat. 898.

Inasmuch as this Act applies to the immigration of aliens into the United States from all countries and makes no discrimination in favor of any country, it is not perceived that your Government will have any objection to the understanding being recorded in the instrument of ratification."

The meaning of the last paragraph above quoted seems to require no elucidation.

To speak frankly, the mere fact, that such a provision is introduced in the proposed measure, in apparent disregard of these most friendly and effective endeavors on the part of the Japanese Government to meet the needs and wishes of the American Government and people, is mortifying enough to the Government and people of Japan. They are however exercising the utmost forbearance at this moment, and in so doing they confidently rely upon the high sense of justice and fair-play of the American Government and people, which, if properly approached, will readily understand why no such discriminatory provision as above-referred to should be allowed to become a part of the law of the land.

It is needless to add that it is not the intention of the Japanese Government to question the sovereign right of any country to regulate immigration to its own territories. Nor is it their desire to send their nationals to the countries where they are not wanted. On the contrary the Japanese Government showed from the very beginning of this problem their perfect willingness to cooperate with the United States Government to effectively prevent by all honorable means the entrance into the United States of such Japanese nationals as are not desired by the United States, and have given ample evidences thereof, the facts of which are well-known to the United States Government. To Japan the question is not one of expediency, but of principle. To her the mere fact that a few hundreds or thousands of her nationals will or will not be admitted into the domains of other countries is immaterial, so long as no question of national susceptibilities is involved. The important question is whether Japan as a nation is or is not entitled to the proper respect and consideration of other nations. In other words the Japanese Government ask of the United States Government simply for that proper consideration ordinarily given by one nation to the self respect of another, which after all forms the basis of amicable international intercourse throughout the civilized world.

The undersigned begs to request, under instructions from His Majesty's Minister for Foreign Affairs, that the Secretary of State will be good enough to give his early and sympathetic consideration to the matter as above presented. Further the undersigned ventures to hope that the memorandum which he had the honor of handing

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the Secretary of State on December 4, 1923,9 may be considered in connection with the present one, for while they relate to two distinct matters, in their essence both representations may be applied with equal cogency to the one as to the other.

M. HANIHARA

Washington, January 15, 1924.

711.945/10421/2

Memorandum by the Secretary of State of a Conversation with the Japanese Ambassador (Hanihara), March 27, 1924

IMMIGRATION.—The Ambassador said that he was not at all excited in consequence of the report made by the Committee on Immigration of the House of Representatives 10 as he understood that the Bill had not yet been passed, but that it was his duty to inform his Government as to every stage in the progress of the measure and his Government did not understand the situation as well as he did and would be likely to be somewhat aroused by the statements contained in the report. He called attention to what was said in the report on pages 7 and 8, that the Department of Labor had stated that it was not in possession of the Gentlemen's Agreement and other references in the report, criticizing the action of Japan in relation to the Agreement. He also pointed out the statement on page 9 of the report that Japan was excluding the Chinese and Koreans and discriminating thereby against people of her own color. The Ambassador said that these statements were not accurate. He said that there was no such discrimination as was charged.

The Secretary said that he felt there were two points in connection with the report of the Committee upon the Gentlemen's Agreement that disturbed him. The one was the statement that it was a secret Agreement the terms of which had not been disclosed. The Secretary said that it was necessary to meet this point, but the so-called Gentlemen's Agreement was contained in long correspondence and it would not be satisfactory merely to produce the correspondence. Further, the Secretary said that he did not like the suggestion that the Agreement had not been effective for the purpose to which it was applied. The Secretary felt that some rejoinder should be made to these statements. It was difficult for him, however, to make an adequate rejoinder for the reason that in the first place the disclosure of a voluminous correspondence would only give opportunities for further discussion and that so far as the action of Japan was concerned under the

⁹ Foreign Relations, 1923, vol. II, p. 460. ¹⁰ H. Rept. 350, 68th Cong., 1st sess., committed to the Committee of the Whole House, Mar. 24, 1924.

Agreement it would be appropriate that Japan should make that statement for herself.

The Secretary said that he had an idea,—he did not wish to make a definite proposal,—that possibly the Ambassador could write a letter to the Secretary referring to these points in the report and stating that the Gentlemen's Agreement was contained in a considerable correspondence, but that the Japanese Government understood its intent and effect to be as stated. Then the Agreement could be summarized in a brief and definite fashion and could be presented authoritatively. Similarly, Japan could state the course that she had taken under the Agreement in the actual control of emigration to the United States. It might be possible also in such a letter for the Ambassador to correct the statement to which he had referred with respect to the point of discrimination against Chinese in her own case. That might be a matter for further consideration, but it occurred to the Secretary that there was an opportunity to take the Gentlemen's Agreement out of obscurity and of voluminous correspondence and put the matter in a direct and simple form. The Secretary said he would be glad to collaborate with the Ambassador in dealing with the matter in this way, if the Ambassador thought the suggestion could be followed up.

The Ambassador indicated his interest in the suggestion and seemed inclined to favor it, but said he would have to communicate with his Government, of course, before he could attempt it. The Secretary suggested that before the Ambassador communicated with his Government it might be well for the Ambassador to think the matter over and have another talk with the Secretary for the purpose of considering more definitely what such a communication should contain, so that the Ambassador could present a concrete suggestion to his Government which would not be misunderstood. The Ambassador said that he would give the matter further thought.

711.945/1042

Memorandum by the Division of Far Eastern Affairs, Department of State 12

[Washington, undated.]

RÉSUMÉ OF THE ADMINISTRATIVE MEASURES PROPOSED BY UNITED STATES GOVERNMENT FOR ADOPTION BY JAPANESE GOVERNMENT, AND ACCEPTANCE THEREOF OR COUNTER PROPOSALS BY JAPANESE GOVERNMENT, 1907-1908 ("THE GENTLEMEN'S AGREEMENT")

References, following quotations, are to the following documents: 18

(1) Secretary of State Root to Mr. O'Brien, American Ambassador at Tokyo (Telegram), November 18, 1907,14 communicated to Japanese Foreign Office, November 27.

(2) Secretary of State Root to Mr. O'Brien, American Ambassador at Tokyo (Telegram), January 23, 1908, 15 communicated to Japanese Foreign Office, January 25, 1908.

(3) Memorandum of Japanese Foreign Office to American Ambassador, Tokyo, December 30, 1907.16

(4) Memorandum of Japanese Foreign Office to American Ambassador, Tokyo, February 23, 1908.17

(5) Memorandum of Japanese Foreign Office to American Ambassador, Tokyo, February 18, 1908. 18

Proposition of United States No. 1

"The Imperial Japanese Government to continue to require all Japanese or Korean subjects who leave their countries to have passports; all such passports to be written on distinctive, durable paper; to be dated the day of issue; to be signed by a regularly designated official, of whom there shall be a limited number, so that there may be no difficulty in promptly recognizing such a signature; and to describe the person to whom granted and his occupation in such detail as to make his identification as the rightful holder thereof both easy and certain." (1)

Modifications of Proposition No. 1

"Passports should be exact and specific and be [sic] issued with the greatest care to prevent forgery and false personation." (2)

RESPONSE OF JAPAN TO PROPOSITION No. 1

The Japanese Government feels that there has been some misunderstanding on the part of the American authorities regarding the

¹² A copy of this résumé was given to Mr. Taketomi, Secretary of the Japanese

Embassy, Apr. 8, 1924.

13 The documents listed, together with a Japanese Foreign Office memorandum of Dec. 31, 1907, are printed, infra, as annexes to this memorandum.

Annex A, post, p. 345.
 Annex D, post, p. 359.

¹⁸ Annex B, post, p. 347.

¹⁷ Annex F, post, p. 367. ¹⁸ Annex E, post, p. 361.

Japanese passport system. (3) The Japanese Government will "introduce certain modifications into passport form now employed, including various matters of detail.["] No safeguards to be omitted against fraud. (3) [5] But such Government is not willing to print on the passport a warning against improper use thereof or even to print such warning on a separate slip of paper to be attached to the passport. Said Government is ready, however, to give instructions under which persons to whom passports are granted will be warned in clear and unmistakable terms, orally, at the time the passport is delivered or to have the prefectural authorities issue general official notices admonishing applicants regarding false representations and fraudulent use of passports. (4)

The Japanese Government does not question the utility of a rule permitting the issuance of passports by a limited number of specially authorized officials only; in fact, such a rule is already followed to a certain extent, the practice being to require local officials to refer to the Foreign Office all cases involving serious doubt, and instructions have been issued widening the scope of this rule. If certain plans receive legislative sanction, the clerical force of the Foreign Office will be sufficiently increased to permit of a still further application of said rule. (4)

Proposition of the United States No. 2

"The Imperial Japanese Government to continue its declared policy of issuing no passports good for the continental territory of the United States to Japanese or Korean laborers, skilled or unskilled, and hereafter likewise invariably to refuse such passports to all those who from choice or from force of circumstances are likely to become laborers if they enter the United States. The economic status after arrival in the United States to be carefully investigated in advance and [sio] to determine the classification irrespective of previous occupation." (1)

Modifications of Proposition No. 2

- (a) "The issuance of passports to laborers who have formerly been in American territory, or to the parents, wives, or children of laborers already there, to [should] be carefully safeguarded and limited." (2)
- (b) "It is quite important also that the Japanese Government's definition of 'laborer' should [sic] be conformable to our own." (Rule 21-j) (2)
- (c) "It is understood that a 'settled agriculturist' is a small farmer-capitalist, and not merely a farm laborer paid under contract out of the produce of his agricultural work, and that with this criterion a reasonable number of passports only to be issued

to persons of such economic status... Unless the alleged character of farmer is accompanied with [by] actual title to land it is quite likely to be merely a cover for a violation of our contract-labor laws, and this should be specifically guarded against." (2)

RESPONSE OF JAPAN TO PROPOSITION No. 2

"The Japanese Government are determined to continue their announced policy of issuing no passports good for the mainland of the United States for either skilled or unskilled Japanese laborers, except those who have previously resided in the United States, and the parents, wives, and children of Japanese residents in America." (3)

Said Government intends, however, to continue to grant passports to settle[d] agriculturists, but will continue to exercise a careful and rigorous supervision and restriction. (4)

"As for the latter part of Section II, i. e., the proposal to decline to issue such passports to all such as it is [sic] likely to become laborers on entering the United States, the Japanese Government have decided and have already instructed the local authorities to make the strictest and most minute investigation in each case of application for a passport by students or merchants or persons belonging to other classes than laborers." (3)

Passports to laborers previously domiciled in the United States will be issued "upon the production... of the certificate of a (Japanese) consular officer in the United States," and will be issued to the parents, wives, and children of laborers resident in United States "upon the production of such certificate and of a duly certified copy of the official registry of the members of the family in Japan." No local official in Japan will be allowed to issue a passport except upon the presentation of such certificate or certificates, and both consular officers and local officials have been instructed to guard against fraud in the exercise of these duties. (5)

All applicants for passports as settled agriculturists must pass through the Foreign Office, and detailed reports of consular officers cognizant with the circumstances, as well as certificates of notaries attesting the bona fides of the necessary land titles, are required. (4) (5)

"The definition of 'laborer, skilled and unskilled,' given in the executive order of April 8, 1907, . . . contains no particular which the Imperial Government can regard as inapplicable in determining the status of persons of that class." (5)

Proposition of the United States No. 3

"The Imperial Japanese Government not to issue to laborers or to those of the economic status above indicated more than 1,000 passports per year good for the Hawaiian Islands." (1)

RESPONSE OF JAPAN TO PROPOSITION No. 3

For various considerations "based upon fundamental differences existing between the Hawaiian Islands and the mainland of the United States... the Japanese Government earnestly desire that the territory of the Hawaiian Islands be set outside the scope of the present discussion." (3)

"It is the present intention of the Imperial Government experimentally to stop all emigration to those islands for some time to come, except in isolated cases of returning emigrants and of the parents, wives, and children of those already resident in the islands." (3)19

"If at any time hereafter it should appear desirable to depart from the present policy of prohibition, that step should only be taken after ascertaining through an American official source the labor conditions prevailing in the islands and the need thereof." (4)

Proposition of the United States No. 4

"The Imperial Japanese Government to consider as having forfeited his rights under his passport anyone to whom they shall hereafter grant a passport as a nonlaborer and who may engage within continental American territory or the Hawaiian Islands in manual labor, in contravention of the provisions of his passport, or any person holding a passport as a laborer, not good for such American territory, and who attempts to enter or succeeds in surreptitiously entering such territory." (1)

Modifications of Proposition No. 4

"With regard to the fourth suggestion, it has not for one moment been contemplated that the holder of a passport should be deprived of any of his general rights thereunder, but only that the passport under the circumstances mentioned should not suffice to enable him to remain in American territory in violation of the conditions of emigration originally imposed by his own Government—that is to say, that successful evasion of the limitations imposed by the Government of Japan upon its own subjects should not be held to create a right to be relieved from those limitations." (2)

RESPONSE OF JAPAN TO PROPOSITION No. 4

"The domestic control and restriction of emigration are purely administrative functions, and confer no power on the Japanese Government to agree in advance that the evasion of such control, and

¹⁹ Quotation is not from the Japanese Foreign Office memorandum of Dec. 30, 1907, as indicated, but from the memorandum of Dec. 31, 1907, post, p. 352.

restriction at home, or the violation of similar laws or regulations abroad, shall deprive the offender *in toto* of the protection guaranteed to him by treaty." (3)

"It is therefore highly desirable that any rigorous measures of restriction or control over Japanese immigration to the United States shall stop with the landing of the passenger, relying upon the effective administration of the precautionary measures adopted by the Japanese Government to prevent the occurrence of fraud." (3)

"It is the intention of the administrative authorities, in every case of evasion of the limitations under which passports are issued, that comes to their knowledge, to refuse further applications for passports from the persons guilty of the fraud, and to extend the prohibition to applications for passports for the parents, wives, and families of such persons." (5)

Japan has no objection, once a month to the exchange of statistics covering incoming and outgoing Japanese. (4)

Proposition of the United States No. 5

"In order to protect those laborers already legally within, respectively, the continental territory of the United States or the Hawaiian Islands, to distinguish them from those who are there in violation of their passports, and to protect them in their privilege of returning, after absence, to such residence, the Imperial Japanese Government to instruct its consular officers in such American territory to keep a register of Japanese and Korean laborers legally within their consular districts, and for the period of one year only, beginning January 1, 1908, to issue to each such laborer, upon application, a certificate of registration, with complete English translation, prepared on distinctive and durable paper, under seal, and visaed by the proper American authority and showing his name, age, sex, place of birth, date, and place of entry into American territory, number of previous passport, height, and physical marks or peculiarities; and to cooperate with the proper American officials in obtaining data when necessary for the identification of Japanese or Koreans engaged in labor. After the lapse of one year from January 1, 1908, the possession of the certificate above described to be regarded by the Japanese Government as the only and indispensable evidence that a Japanese or Korean is engaged in labor in the American territory concerned without violation of his Government's original passport, provided that in the Hawaiian Islands passports need not be replaced by certificates during one year after the arrival of those laborers to whom passports may be issued within the annual limit of 1,000." (1)

Modifications of Proposition No. 5

"With regard to the fifth suggestion, . . . the need of identification therein contemplated . . . exists only in the case of those who are engaged in manual labor, and in no case would a non-laboring Japanese be concerned. The Government of the United States, however, does not wish to press any of the ideas contained in the fifth suggestion to an extent not agreeable to the Government of Japan. The Government of the United States entertains the hope, however, that the Imperial Japanese Government will take satisfaction in providing in its own way for some such systematic preservation of data as to its subjects who come to the United States with the permission of their own Government as may enable the two Governments acting in harmony to prevent violation of the limits fixed by Japan upon emigration." (2)

RESPONSE OF JAPAN TO PROPOSITION No. 5

"The Imperial Government . . . have now the intention of establishing a system for the registration of Japanese resident[s] in the United States as nearly similar to that described in the ambassador's note as circumstances will permit. Certain practical difficulties to which attention has already been drawn will have to be overcome, such, for example, as our [are] incident to the large areas included within the jurisdiction of the Imperial consular establishments in the United States, the widely scattered places of residence of Japanese residents, the nomadic habits which the occupations of laborers in particular frequently entail, and the absence of anything in the nature of a legal sanction whereby registration may be rendered absolutely obligatory. ... The Imperial Government, as a matter of principle, were and still are averse to adding to the obligations already incumbent on such Japanese subjects another obligation which might under easily supposable circumstances work unmerited hardship. At the same time they fully realize the value of frank and harmonic [harmonious] cooperation by the officials of the respective Governments in this as well as in all other matters connected with emigration, not only as one of the most effective means of preventing fraud, but also as the strongest safeguard of the rights of those mistakenly accused of it. . . . While no effort will be spared to make the registration as complete as possible, the Imperial Government will not consider that the absence of registration constitutes a reason for the forfeiture of residential rights." (5)

Proposition of United States No. 6

"The Imperial Japanese Government, in enforcing the purposes of its passports and of the certificates above mentioned, to cooperate with

the Government of the United States, and, by such system of surety or other arrangement as it may deem proper, to join in compelling the steamship company concerned to return at its own expense, within three years of his arrival, any Japanese or Korean person who in entering or laboring in American territory has violated the conditions of his emigration; or in any event, and at any time when it is found that such person has violated the conditions of his emigration, to share equally with the United States in the expense of returning such person." (1)

Modification of Proposition No. 6

"With regard to the sixth suggestion, the United States is easily able to impose upon companies whose steamships touch American ports the duty of returning at any time within three years aliens who enter American territory in violation of American law. By existing agreements this duty is assumed also by British lines to Canada. The Government of the United States hopes that the Imperial Japanese Government, upon reexamining the technical legal bearings of this question, may after all find it possible either to induce the Japanese steamship companies to join in such agreements, or else may discover administrative means to obtain the cooperation of the companies." (2)

RESPONSE OF JAPAN TO PROPOSITION No. 6

"In order to compel a steamship company to carry back, without expense to the Japanese Government, any Japanese subjects who may have acted in contravention of any regulations . . . legislation will be necessary. The Japanese Government can entertain no hope that such legislation, if submitted to the Diet, will receive its approval." (3)

[Annex A-Telegram]

The Secretary of State to the Ambassador in Japan (O'Brien) 20

Washington, November 18, 1907.

Our immigration authorities believe that the following administrative measures on the part of Japan would be effective:

"1. The Imperial Japanese Government to continue to require all Japanese or Korean subjects who leave their countries to have passports, all such passports to be written on distinctive, durable paper, to be dated the day of issue, to be signed by a regularly designated official, (of whom there shall be a limited number, so that there may be no difficulty in promptly recognizing such a signature), and to describe the person to whom granted and his occupation in such detail as to make his identification as the rightful holder thereof both easy and certain.

²⁰ Filed separately under file no. 2542/164a. Copy transmitted to the Japanese Foreign Office Nov. 27, 1907.

2. The Imperial Japanese Government to continue its declared policy of issuing no passports good for the continental territory of the United States to Japanese or Korean laborers, skilled or unskilled, and hereafter likewise invariably to refuse such passports to all those who from choice or from force of circumstances are likely to become laborers if they enter the United States. The economic status after arrival in the United States to be carefully investigated in advance to determine the classification irrespective of previous occupation.

3. The Imperial Japanese Government not to issue to faborers or to those of the economic status above indicated more than 1,000 pass-

ports per year good for the Hawaiian Islands.

4. The Imperial Japanese Government to consider as having forfeited his rights under his passport any one to whom they shall hereafter grant a passport as a non-laborer and who may engage, within continental American territory or the Hawaiian Islands, in manual labor, in contravention of the provisions of his passport, or any person holding a passport as a laborer, not good for such American territory, and who attempts to enter or succeeds in surrep-

titiously entering such territory.

5. In order to protect those laborers already legally within, respectively, the continental territory of the United States or the Hawaiian Islands; to distinguish them from those who are there in violation of their passports; and to protect them in their privilege of returning, after absence, to such residence, the Imperial Japanese Government to instruct its consular officers in such American territory to keep a register of Japanese and Korean laborers legally within their consular districts, and for the period for one year only, beginning January 1, 1908, to issue to each such laborer, upon application, a certificate of registration, with complete English translation, prepared on distinctive and durable paper, under seal, and visaed by the proper American authority, and showing his name, age, sex, place of birth, date and place of entry into American territory, number of previous passport, height, and physical marks or peculiarities: and to cooperate with the proper American officials in obtaining data when necessary for the identification of Japanese or Koreans engaged in labor. After the lapse of one year from January 1, 1908, the possession of the certificate above described to be regarded by the Japanese Government as the only and indispensable evidence that a Japanese or Korean is engaged in labor in the American territory concerned without violation of his Government's original passport, provided, that in the Hawaiian Islands passports need not be replaced by certificates during one year after the arrival of those laborers to whom passports may be issued within the annual limit of 1,000.

6. The Imperial Japanese Government in enforcing the purposes of its passports and of the certificates above mentioned, to cooperate with the Government of the United States and by such system of surety or other arrangement as it may deem proper to join in compelling the steamship company concerned to return at its own expense, within three years of his arrival, any Japanese or Korean person who in entering or laboring in American territory violated the conditions of his emigration; or, in any event, and at any time when it is found that such person has violated the conditions of his

emigration to share equally with the United States in the expense of returning such persons [sic]."

You will discreetly and informally place the foregoing suggestions in the hands of the Minister for Foreign Affairs and at the same time hand him a memorandum in the following sense:

"In a communication to the Embassy on February 23, the Imperial Japanese Government expressed confident belief that their settled policy of not issuing passports good for the mainland of the United States, to Japanese and Korean laborers, complemented by the amendment and the Executive Order of last March, would work satisfactorily and make further measures unnecessary. It was further stated that if this belief were not realized, the Imperial Japanese Government would be prepared to consider with the United States the question of a new treaty.

Official statistics, the gist of which has already been communicated, prove conclusively that the existing arrangements have been quite futile in their utter failure to prevent, in accordance with the policy of the two Governments, the increase of the number of Japanese laborers arriving in the United States, and of Japanese who have left Japan as non-laborers but have become laborers after entering

this country.

It is evident, therefore, that the moment contemplated in the Foreign Office's communication above referred to has now arrived.

Understanding, however, that the Imperial Japanese Government is averse at this time to making the matter of immigration the subject of further conventional agreement, although discouraged by the complete failure of the administrative measures hitherto taken, still, in deference to the attitude of the Japanese Government and believing that there is no real divergence of policy in the premises, this Government invites Japan to join in fresh efforts adequately to meet the situation by frank and cordial cooperation expressed in really effective administrative measures, which alone, if promptly adopted and strictly enforced, may make the alternative, legislation by Congress, unnecessary."

ROOT

[Annex B]

The Japanese Foreign Office to the American Embassy 21

[MEMORANDUM]

Although the Imperial Government, as has already been explained, cannot enter into any fresh conventional agreement regarding the emigration of Japanese laborers to the United States, they are willing to meet the situation to which their attention has been called by the American Ambassador by frank and cordial cooperation with a view to the adoption of more effective administrative measures.

¹¹ Filed separately under file no. 2542/331-334. Copy transmitted to the Department with the Ambassador's despatch no. 120, Jan. 2, 1908.

They are not prepared to admit without qualification, however, that the administrative measures at present enforced by both Governments to prevent the emigration of Japanese laborers to the American mainland have been so complete a failure as the communications of the Ambassador would seem to indicate. Their belief is that the partial failure of those measures to secure the results hoped and expected has been due to causes which, for the sake of convenience, may be divided into two categories, first, those which are of a temporary nature; and, second, those which, with the experience gained, can be eliminated by the adoption of more stringent precautions hereafter.

In the first category may be included the migration of laborers from the Hawaiian Islands to the United States by the way of British Columbia, and from Mexico to adjacent American territory. The Imperial Government are confident that it can be shown to the satisfaction of the American Government that this movement was of an entirely temporary nature, which was unanticipated at the time the present administrative measures were adopted, but the continuation of which under new arrangements now in contemplation and soon to be adopted will be practically impossible.

The second category has reference to Japanese subjects claiming to belong to the commercial and student classes to whom passports to the American mainland have been given. It is true that it has come to the knowledge of the Japanese Government that in certain cases of this kind persons not entitled to the privilege, that is to sav. laborers in the guise of merchants or students, have obtained passports. But in justice to the officials charged with the duty of issuing such passports it should be pointed out that in the beginning the enforcement of administrative measures necessitating a great deal of careful investigation rendered some mistakes both natural and inevitable. The just conclusion is that these mistakes were due to inexperience and most emphatically not to wilful dereliction of duty on the part of the officials concerned. The Imperial Government are of opinion that with the experience already gained the observance of their strict instructions in the premises would be assured and causes for complaint reduced to a minimum, even under existing circumstances. But in order to set at rest all possible doubt upon the subject they are prepared to adopt additional precautionary measures which will be explained in due course.

It seems appropriate in this connection to draw attention to the fact that the number of Japanese laborers alleged to have entered the United States in violation of existing administrative measures appears to be exaggerated. It is not meant by this to impugn the motives of the officials responsible for these statements, presumably the Bureau of Immigration, but Japanese official statistics clearly

show that the figures given are too high. In some cases they appear to be estimates merely, and aside from the specific cases of violation which are comparatively few in number, there is nothing to show that the other immigrants referred to, even admitting the numbers given to be correct, should properly be included in the prescribed class. The Imperial Government have no desire, however, to take advantage of mistakes of this kind, or to cite them as a reason for nonaction. They quite agree that the situation calls for some effective remedy in the interests of both countries. They call attention to this phase of the subject because they feel sure the American Government will agree with them that overstatements of this nature, even when unintentional and made in complete good faith, can have no other effect than to further complicate the delicate and difficult situation which confronts the two Governments.

The following comments have reference to matters referred to in the memorandum enclosed with the American Ambassador's note of November 26th [27th?], last.²²

THE HAWAIIAN ISLANDS

The immigration of Japanese laborers to the Islands of Hawaii has hitherto been regulated in accordance with the labor conditions actually prevailing in those islands. The Planters Association from time to time informs the Japanese Consul-General of the actual condition of labor on the various plantations, and, the latter communicates to the Japanese Government the estimated number of laborers who may be needed. In response the Japanese Government grants passports and permits only up to the limit of such number. Even in this case they have from other considerations reduced the number in many instances to one half or even one third of that suggested by the Consul-General. These steps, being in accord with the economic law of supply and demand, have generally speaking proved successful. It is a matter of common knowledge that American labor never has been, and is not now employed in the sugar industry, the predominant industry of the Islands and consequently the argument advanced in His Excellency the American Ambassador's despatch dated November 16th, last, 28 based upon the so called ruinous competition of labor can hardly apply so far as labor conditions there are concerned.

From these and other considerations based upon fundamental differences existing between the Hawaiian Islands and the mainland of the United States, economically, geographically and historically, the Japanese Government earnestly desire that

²² See instruction of Nov. 18, 1907, to the Ambassador in Japan, *supra*.
²² Not printed.

the territory of the Hawaiian Islands be set outside the scope of the present discussion. It is by no means their intention however to insist upon the permanent continuation of the present system for those islands. On the contrary they will be prepared to take into careful consideration any special condition which makes it desirable to take certain measures with a view to regulate Japanese immigration into such islands. Their only desire is that the question concerning the Hawaiian Islands be separated from the question under consideration.

SECTION I

There appears to be some misunderstanding of the Japanese system of passports on the part of the American authorities which an explanation of the processes pursued may clear away. All passports issue originally from the Foreign Office. They are not signed by the Minister for Foreign Affairs, but bear the seal of his office. Passports for intending emigrants are sent as required to the Governors of the various prefectures. Such passports are consecutively numbered and a list is kept of all which are issued. At regular intervals reports are required from prefectural offices, all passports issued must therein be accounted for and every passport not used must be returned. Upon the arrival of the emigrant at the port of embarkation he is again examined by the local authorities on land and shipboard. If everything is found to be in order his passport is viséd, the date of his departure being stamped upon the document with a perforating stamp. These various examinations. verifications and other precautionary measures may, however, be taken if it is found upon examination that they are practically applicable.

SECTION II

The Japanese Government are determined to continue their announced policy of issuing no passports good for the mainland of the United States for either skilled or unskilled Japanese laborers except those who have previously resided in the United States, and the parents, wives and children of Japanese resident in America. It is understood, moreover, that it is their intention to continue to grant passports to settled agriculturists, i. e. farmers owning or having an interest or share in the produce of crops of agricultural lands under the same measure of control as was explained to Mr. O'Brien's predecessor on May 26th last. As for the latter part of Section II, i. e. the proposal to decline to issue such passports to all such as it is [sio] likely to become laborers on entering the United States, the Japanese Government have decided and have already instructed the

local authorities to make the strictest and most minute investigation in each case of application for a passport by students or merchants or persons belonging to other classes than laborers. They are confident that under administrative measures amended and strengthened as suggested by the experience already gained, and through the strict observance of precise instructions issued in accordance therewith, the occurrence of cases of fraud from this source will be rendered extremely improbable.

SECTION III

As this section relates exclusively to the Hawaiian Islands, it is proposed to set aside its consideration apart from the question herein considered.

SECTION IV

As His Excellency the American Ambassador is doubtless aware, the context of the passports issued by the Japanese Government consist of an expression of the desire that the bearers, subjects of His Majesty the Emperor of Japan, shall be accorded proper protection in the foreign countries through which they may pass or where they may stay. This is a general right guaranteed to Japanese subjects by existing treaty stipulations. It is a right upon which all Governments are wont to insist as regards their subjects or citizens abroad even where the latter are accused of violations of the law. The domestic control and restriction of emigration are purely administrative functions, and confer no power on the Japanese Government to agree in advance that the evasion of such control, and restriction at home, or the violation of similar laws or regulations abroad, shall deprive the defender [offender?] in toto of the protection guaranteed to him by treaty.

SECTIONS V AND VI

1. The Japanese Consulate-General in New York has seventeen states and one district within its Consular district; the Consulate at Chicago has twenty states and one district; the Consulate-General at San Francisco has four states and two districts, while the Consulate at Seattle has six states in its district. Most of these states and districts extend over several hundred miles, and Japanese residents in the United States, more than one hundred thousand in number, are scattered over these great areas. The Japanese Consuls can have no exact knowledge as to the whereabouts of these Japanese residents or means of communicating with them all. The result will be that with the suggested system of registry most, if not all, of these residents will find themselves after one year from January 1, 1908, unqualified to remain le-

gally in the United States and may be dealt with accordingly, without the least fault on their part.

- 2. In order to compel a steamship company to carry back, without expense to the Japanese Government, any Japanese subjects who may have acted in contravention of any regulations, possibly it may be months or years after the alleged offense is said to have occurred, legislation will be necessary. The Japanese Government can entertain no hope that such legislation, if submitted to the Diet, will receive its approval.
- 3. The suggestions made by the American Government under sections V and VI would appear therefore wholly impracticable if not entirely impossible, to say nothing of the indignity and humiliation to which Japanese residents in the United States would be liable at any moment. The Japanese Government are afraid moreover that if those Japanese who have entered the United States and are peacefully earning their livelihood were to be subjected to the same rigorous measures of personal examination, and vexatious identification as on the occasion of entry an almost intolerable amount of injustice and humiliation would be inflicted upon Japanese residents other than laborers. A number of unfortunate instances in the past where Japanese gentlemen and sometimes even members of the Embassy have been the victims of wholly unwarrantable treatment at the hands of the American immigration officials justifies this apprehension on the part of the Japanese Government. It is therefore highly desirable that any rigorous measures of restriction or control over Japanese immigration to the United States shall stop with the landing of the passenger, relying upon the effective administration of the precautionary measures adopted by the Japanese Government to prevent the occurrence of fraud.

Tokyo, December 30, 1907.

[Annex C]

The Japanese Foreign Office to the American Embassy 24

MEMORANDUM

The personal conference which took place at the Foreign Office on the 30th instant having placed His Excellency the American Ambassador in possession of the views of the Imperial Government upon the question of Japanese emigration to the United States, and having, it is hoped, demonstrated to His Excellency their earnest wish to arrive at a mutually satisfactory understanding, the moment

²⁴ Filed separately under file no. 2542/331-334. Received by the American Ambassador as an enclosure to a note of Dec. 31, 1907, from the Japanese Foreign Office; copies transmitted to the Department by the Ambassador in his despatch no. 120, Jan. 2, 1908.

seems opportune for more detailed comment upon the Ambassador's communications relating to the subject than was possible upon that occasion, as well as for a formal statement of the measures which the Imperial Government are prepared to adopt in order effectively to meet the situation.

It affords Count Hayashi sincere pleasure to express at the outset his appreciation of the genuinely friendly and conciliatory spirit which is so conspicuously present in the Ambassador's official and personal utterances regarding this subject. The importance His Excellency naturally attaches to the reasons which prompt the American Government to desire the removal of what is deemed to be a possible cause of grave economic embarrassment has manifestly not led him to lose sight of the countervailing difficulties with which the Imperial Government have to contend. Fully realizing as they do the weighty character of the considerations which influence the opinions of the American Government, the Imperial Government are gratified to perceive in the views expressed by the Ambassador on behalf of his Government reciprocal recognition of the delicate and difficult nature of the problem which confronts Japan. Count Hayashi is confident that he does not err in believing that this mutual acknowledgment of the difficulties to be overcome on both sides will aid materially in reaching a satisfactory settlement of the matters at issue.

Count Hayashi has noted with interest the Ambassador's remarks in the letter of November 16th 25 concerning several of the collateral issues connected with the question under consideration, and craves indulgence for some allusion thereto. For example, as regards the San Francisco school question, the attitude of the Imperial Government may be briefly summed up in the statement that they had no desire to secure special or unusual privileges for children of Japanese parentage, but only the privileges voluntarily and without question generally accorded to other children of alien parentage. Those privileges they were convinced were assured to them by the letter and spirit of the Treaty, and while it was far from their intention to raise any question, which either on account of the relations existing between the Federal and State and Municipal Governments in the United States, or because of the condition of affairs then prevailing at San Francisco, could prove a source of embarrassment to the Government at Washington, they adopted the only course which appeared to be open to them and to be justified by precedent. Ambassador is apparently inclined to the belief that this incident has an important bearing upon the agitation regarding Japanese immigration. To that view there is no objection to be urged if the incident is regarded as a phase merely of that agitation, but not, if

Not printed.

it is to be considered as a cause thereof. Unfortunately the agitation hostile to Japanese immigration, and in fact to Japanese interests generally, had been set on foot and had gained considerable headway at San Francisco and elsewhere in California long before the school question was raised. Happily then, as always, the Imperial Government found the Federal Government prompt and active in applying measures of relief dictated by the traditional American policy of justice and right dealing, and the incident was duly closed. It is alluded to here somewhat at length, not because of its intrinsic importance, but for the purpose merely of emphasizing its symptomatic character, and on account, moreover, of the Ambassador's remarks concerning alien attendance in Japanese schools, in particular those in Formosa. It should be explained that in the latter case the practice followed, so far from being an example of discrimination, was adopted entirely out of consideration for the wishes of Chinese parents. Chinese children may attend the Japanese schools if the parents so desire, but the majority of the latter prefer education according to Chinese methods, and accordingly the two systems are maintained side by side. The schools of the Empire itself are open to all aliens and the large number of foreign students in attendance in public institutions of learning bears witness to the liberality with which this privilege is accorded.

The phase of the subject which the Ambassador aptly describes as vastly more far reaching and difficult than the foregoing, namely, the question of labor conditions in America is one of such purely domestic concern that any expression of opinion on Count Hayashi's part, no matter how innocently intended, might seem out of place. The Imperial Government recognize as a matter of course the right of the American Government to regulate such matters in the manner best calculated to promote American interests. They are confident, however, that the Government at Washington, while acting upon this principle, will deal with the situation to which the Ambassador refers in the same liberal and enlightened spirit which has been such a marked characteristic of American intercourse with Japan. Whether that situation is sporadic rather than general; and whether, so far as Japan is concerned, it demands a special remedy which, even though it has technical sanction, cannot fail to be regarded as detracting from the parity of intercourse so essential to the genuine cordiality of international relations, are matters concerning which Count Hayashi would prefer to express no opinion. It is sufficient for the purpose which both Governments have in view to assure the Ambassador that the Imperial Government, appreciating the manifest intention of his communications and of the views of his Government as explained therein. are desirous by frank and cordial cooperation to reach an understanding which will eliminate all the difficulties of the present situation.

Count Hayashi has already had the honor personally to explain to the Ambassador several of the other matters touched upon in his communication. For the sake of the record the salient features of those explanations may be briefly recapitulated. The most important point had reference to the belief evidently entertained by the American authorities that existing administrative regulations have proved inadequate for the regulation of the influx of Japanese laborers to the American mainland. As Count Hayashi stated, the Imperial Government are not prepared to admit without qualification that this view is entirely correct. They believe that the partial failure of the measures in question to accomplish the results hoped and expected has been due partly to causes of a temporary nature, the recurrence of which will be rendered extremely improbable in the future; and partly to causes which the measures which they are willing to adopt will wholly remove.

Count Hayashi also drew the Ambassador's attention to what appeared to him to be some inaccuracy in the figures reported by the American immigration authorities. To illustrate, it is stated that the number of Japanese coming to the United States, instead of decreasing, has largely increased—12,407 having arrived during the last twelve months, as against 6,454 during the preceding year, and that the number of laborers coming in has increased, 1,858 Japanese laborers having passports for the continental territory of the United States having been admitted during the six months ending September 30th.

As regards the first of these statements it may be noted that the official Japanese statistics show that the total number of passports issued to persons of all classes proceeding to American territory in 1906 was 19,888, of whom 14,726 went to the Hawaiian Islands, and 5,162 to the mainland, the latter number including all persons in transit to other countries. In 1907 from January to October, inclusive, the total number was 15,168, of whom 10,732 went to the Hawaiian Islands and 4,436 to the mainland.

Of the latter 3,648 belonged to the non-laboring classes and 752 were laborers, either persons returning to the United States, the members of the families of laborers already resident there, or agricultural settlers. Count Hayashi is at a loss to account for the discrepancies thus disclosed, but believes it may confidently be stated that the number of passports alleged to have been granted to laborers emigrating to the mainland in 1907 cannot possibly be correct. It is true that it has come to the knowledge of the Japanese Government that some laborers in the guise of merchants or students have obtained passports to the American mainland, but making reasonable allowance for all cases of that description the total number must fall far short of that reported to the Ambassador.

Count Hayashi desires it to be well understood, however, that the Imperial Government have no wish to take advantage of mistakes of this character or to cite them as a reason for non action. They quite agree that the situation calls for some remedy in the interests of both countries, and only call attention to this phase of the subject because they feel assured that the American Government will agree with them that overstatements of this kind, even when unintentional and made in complete good faith, can have no other effect than further to complicate and embarrass their joint efforts to reach a reasonable and adequate understanding.

The Ambassador states in his communication of November 16th that it is the opinion of his Government that,

"The great number of Japanese coming to the Pacific Coast constitutes a case of emigration in mass, which is entirely different from that of ordinary and incidental travel and residence contemplated in the treaty, and injurious to the working people of the Pacific Coast, due to the lower standard of wages and cost of living of the Japanese, which enables them to supplant the American workman."

To this statement His Excellency adds the following comment:

"I need not point out that Japan not only recognizes the right to protect her own laboring people against competition from foreign laborers, but in the late instance has shown such activity to make exclusion effective as to leave no doubt of her intention in the future. I have in mind the exclusion of the Chinese, and the enacting of certain ordinances excluding foreign workmen from the interior, except on special permit."

These paragraphs are quoted in juxtaposition because it appears to Count Hayashi, with all deference to the views expressed, that the premise contained in the one hardly bears out the conclusion implied in the other. As a matter of fact, the ordinance referred to in the latter paragraph concerns only laborers from non-treaty States, or States which do not concede to Japanese subjects the privilege to go and carry on their avocations outside of certain specified treaty limits. It in no way implies the adoption of a policy of exclusion regarding laborers generally, or, in fact, regarding labor from the countries in question when the formalities required by law are observed. The large number of Chinese laborers of all classes in Japan, among them nearly 9,000 in the island of Formosa alone who go there annually under the terms of the ordinance, is proof of the fact that a policy of exclusion is not enforced against Chinese labor in the Empire.

Count Hayashi confesses to a certain degree of hesitancy in recurring to the paragraph first quoted, as it comes within the category of matters of domestic concern about which, as stated in another place, he would prefer to refrain from comment. The mention of the

subject in the particular connection in which it appears will, he trusts, be regarded as sufficient warrant for mentioning certain reflections which suggest themselves. The interests which Japan and the United States have in common, their geographic neighborhood, the tempting opportunities which the as yet only partly developed natural resources of the Pacific Coast offer to all forms of legitimate enterprise, and the scarcity of labor would seem, a priori, to render Japanese immigration welcome. As a matter of fact that immigration has never, at its highest flood, equalled in one year the number of immigrants who frequently enter in one day at the port of New York, and Count Hayashi believes it may be stated without fear of authoritative contradiction that among the latter will be found a much larger number of persons whose standard of living and of wages is no higher than, or even so high as that of a greater number of Japanese from the same class of life. Nor, in Count Hayashi's opinion, has it ever been clearly shown that the presence of Japanese in large numbers upon the Pacific Coast has lowered those standards for the American workman. The wages of the latter are nowhere higher than there, and the rates have steadily increased during the years when the influx of Japanese laborers was greatest. The latter have themselves profited by securing the highest obtainable payment for the forms of labor in which they are engaged. In fact it is one of the peculiar ironies of the situation that while they have been charged, on the one hand, with injuring the American workman by competition with which he cannot cope, they have been persistently accused, on the other, of greed in demanding the highest market rates

These are, however, details upon which it serves no useful purpose to dilate. The immediate object which the Imperial Government have in view is to overcome the practical difficulties of the situation by meeting the wishes of the American Government so far as it can be done with due regard for Japan's interests and the dignity of the State. It was for this purpose that Count Hayashi had the honor yesterday frankly to explain the views of the Imperial Government both verbally and in the form of the notes pro memoria handed to His Excellency the Ambassador.

By way of recapitulation and of additional explanation Count Hayashi now begs to present, for the information of the American Government, the following summary of the views of the Imperial Government and of the measures they are prepared to take.

1. The Imperial Government are determined to continue their announced policy of issuing no passports good for the American mainland to either skilled or unskilled Japanese laborers, except to those who have previously resided in the United States, or the parents, wives or children of Japanese residents.

- 2. They intend, however, to continue to grant passports to settled agriculturists. As was known to the predecessor of His Excellency the Ambassador on the 26th of May last the Japanese Government have exercised with reference to those persons very careful and rigorous supervision and restriction. The privilege has only been granted to bona fide agriculturists intending to settle in certain specified localities. In order to avoid all possible subterfuge, the central administration will continue rigidly to apply the precautionary measures set forth in the explanatory memorandum of May 26th.^{25a}
- 3. The Imperial Government have formulated instructions to local Governors that in every case of application for a passport to the United States by a student, merchant, tourist or the like, thorough investigation must be made to determine whether the applicant is not likely to become a laborer after reaching the United States. A material and indispensable part of this investigation relates to the financial status of the applicant. If he is not rich enough in his own right to assure the permanence of his status as a student, merchant or tourist, surety will be required of his family or special patron in the case of a student, or of his firm or company in the case of a merchant or mercantile employe, guaranteeing the payment of expenses and a monthly allowance of say 40 yen; and, in the case of tourists, the payment of sufficient travelling expenses. The passport applied for will only be issued after this surety has been given. As a further precaution in the case of students no such passports will be issued except to students who have passed through the middle schools.
- 4. So far as concerns the Hawaiian Islands, which it is proposed to set aside from the scope of the questions under consideration, it is the present intention of the Imperial Government experimentally to stop all emigration to those islands for some time to come, except in isolated cases of returning emigrants and of the parents, wives and children, of those already resident in the Islands.
- 5. The Imperial Government intend to take measures regarding the emigration of Japanese laborers to foreign territory adjacent to the United States, which, in their opinion, will effectually remove all cause for complaint on that account.

Count Hayashi sincerely trusts that His Excellency the Ambassador and his Government will find in the foregoing recapitulation ample evidence of the desire and the intention of the Imperial Government to adopt administrative measures of regulation and control which will effectually meet the requirements of the situation.

²⁵a Not printed.

[Annex D-Telegram]

The Secretary of State to the Ambassador in Japan (O'Brien)26

Washington, January 23, 1908.

Reply formally in the following words to Foreign Office communications reported by telegraph January 1st.27

"The Government of the United States has received a telegraphic summary of His Excellency the Minister for Foreign Affairs two memoranda and is very sensible of the spirit of mutual helpfulness and frank and cordial cooperation in which the Imperial Japanese Government has received and commented upon the administrative measures which in November last the United States ventured to suggest in the same spirit and in hope of the speedy accomplishment in the manner most agreeable to Japan of a result equally recognized

by the two governments as essential to their best interests.

Feeling unjustified in the assumption that the measures contemplated, when reduced to definite and detailed form and placed in actual operation, will cover the ground of the first three of the suggestions submitted, it is still impossible for the United States to lay aside the conviction that an application in principle of some measures such as the fourth and fifth measures suggested would contribute to the practical effectiveness of the others and to the enforcement in this country of the Japanese Government's own passport system, to which object alone have been addressed the steps hitherto taken.

It is quite evident that the meaning of these two suggestions has not yet been made clear, and entire confidence is felt that upon further sympathetic examination of the subject the Imperial Japanese Government will find it possible to concur in the substance of these suggestions or to devise alternative measures designed to aid in at-

taining the ends which they were intended to subserve.

With regard to the fourth suggestion it has not for one moment been contemplated that the holder of a passport should be deprived of any of his general rights thereunder, but only that the passport under the circumstances mentioned should not suffice to enable him to remain in American territory in violation of the conditions of emigration originally imposed by his own Government: that is to say that successful evasion of the limitations imposed by the Government of Japan upon its own subjects should not be held to create a right to be relieved from those limitations.

With regard to the fifth suggestion there is evidently a misunderstanding, for the need of identification therein contemplated as a matter of course exists only in the case of those who are engaged in manual labor and in no case would a non-laboring Japanese be concerned. The Government of the United States, however, does not wish to press any of the ideas contained in the fifth suggestion to an extent not agreeable to the Government of Japan. The Government of the United States entertains the hope, however, that the

²⁶ Filed separately under file no. 2542/258.

²⁷ Telegram not printed; it transmitted substance of Japanese Foreign Office memoranda of Dec. 30 and Dec. 31, 1907, printed ante, pp. 347 and 352.

Imperial Japanese Government will take satisfaction in providing in its own way for some such systematic preservation of data as to its subjects who come to the United States with the permission of their own Government as may enable the two governments acting in harmony to prevent violation of the limits fixed by the Government of Japan upon emigration. The Government of the United States is now calling upon its citizens in all foreign countries to register at the United States consulates in the Districts where they reside, and has authorized its consuls to issue to them certificates of registration which are designed to be used by the citizens registered as readily producible evidence of their status and treaty rights. Executive Order April 8, 1907, amending paragraph 172, consular regulations, and Department circular, April 19, 1907).²⁸

The fact that it has been found expedient and unobjectionable to apply such a policy to American citizens was in mind when the fifth suggestion was made. It may well be that the United States will find it necessary for the enforcement of the numerous provisions of its immigration laws, which there are frequent attempts to violate on the part of immigrants from all parts of the world, to adopt more stringent general provisions for the purpose of enabling American governmental officers to ascertain what aliens are lawfully and what aliens are unlawfully within American territory. In that event the Government of the United States will expect to proceed in entire harmony in every case with the government of the country of origin. In the meantime, however, the Government of the United States will be much gratified if the Imperial Japanese Government will give the subject its serious consideration.

With regard to the sixth suggestion, the United States is easily able to impose upon companies whose steamships touch American ports the duty of returning at any time within three years aliens who enter American territory in violation of American law. By existing agreements this duty is assumed also by British lines to The Government of the United States hopes that the Imperial Japanese Government, upon re-examining the technical legal bearings of this question, may after all find it possible either to induce the Japanese steamship companies to join in such agreements, or else may discover administrative means to obtain the cooperation

of the companies.

As to the discrepancies discovered between the Japanese and American statistics, the Government of the United States can only say that its official statistics have been most carefully compiled from the manifests of incoming vessels and from actual count of arriving immigrants and their passports, and that these bear certainly every internal evidence of correctness. Under these circumstances there would seem to be some ground for the fear that fraud on no inconsiderable scale may have been practised by unscrupulous persons upon the passport system of the Imperial Japanese Government."

In an aide-mémoire after a conversation you may also lay before the Minister for Foreign Affairs the following points as requiring emphasis with reference to our suggestions.

²⁸ Foreign Relations, 1907, pt. 1, pp. 6 and 8.

"1st. Passports should be exact and specific and issued with the

greatest care to prevent forgery and false personation.

2d. The issuance of passports to laborers who have formerly been in American territory or to the parents, wives, or children of laborers already there, should be carefully safeguarded and limited, otherwise

abuses are, it is feared, certain.

3d. With reference to settled agriculturists, the gist of the precautionary measures to be taken is noted and it is understood that a settled agriculturist is a small farmer capitalist and not merely a farm laborer paid under contract out of the produce of his agricultural work, and that with this criterion a reasonable number of passports only will be issued to persons of such economic status. It is to be observed that unless the alleged character of farmer is accompanied by actual title to land it is quite likely to be merely a cover for a violation of our contract labor laws and this should be specifically guarded against.

4th. It is quite important also that the Japanese Government's definition of laborer be conformable to our own. (See rule 21, J.)²⁹ For illustration, from December 27 to January 10 there arrived at Pacific ports 118 Japanese who were laborers according to our rules but who had obtained passports otherwise than as laborers. During

that period only four arrived with passports as laborers."

We cannot believe that the Imperial Japanese Government will find serious difficulty in devising some quite unobjectionable system of registration or of certificates, or of renewed passports, or other evidence by which may be identified those engaged in manual labor in American territory lawfully and without violation of their passports.

We hope that you will be able to secure agreement upon the four points as specified at the close of yours of January 1st.

Root

[Annex E]

The Japanese Foreign Office to the American Embassy 30

MEMORANDUM

In the memorandum ³¹ accompanying Count Hayashi's note of December 31st, he outlined the additional administrative measures for the regulation and control of emigration which the Imperial Government are prepared to enforce. The necessary steps are being taken to put those measures into effective operation, and Count Hayashi is confident that they will be found to cover the ground of

²⁸ See *Immigration Laws and Regulations of July 1, 1907*, Department of Commerce and Labor, doc. no. 78 (Washington, Government Printing Office, 1908), p. 42

p. 42.

**O Filed separately under file no. 2542/453-455. Received by the American Ambassador as an enclosure to a note dated February 18, 1908, from the Japanese Foreign Office; copies transmitted to the Department by the Ambassador in his despatch no. 197, Feb. 19, 1908.

**Lante, p. 352.

the first three of the suggestions made in the memorandum transmitted with the Ambassador's note of November 26th [27th?].³² In the meantime, as His Excellency is aware, the Imperial Government have anticipated the enforcement of these additional measures by strictly limiting emigration to the American mainland and by suspending for the time being fresh emigration to the Hawaiian Islands.

So far as concerns the fourth and fifth suggestions embodied in the Ambassador's memorandum above cited, the Imperial Government still find it impracticable to agree to the adoption in their entirety of the measures therein proposed.

There seems to be some misapprehension on the part of the American Government regarding the Japanese passport system, arising apparently from the belief that the passports themselves contain conditions the violation of which would justify the infliction of a penalty. This is not, however, the case. Passports are issued in all cases under fixed limitations, that is to say, only to persons possessing certain special qualifications, which must be proved to the satisfaction of the responsible authorities, who are instructed to exercise the most careful scrutiny, and who, by aid of the new administrative measures, will have additional and it is hoped more effective means of determining the actual status of applicants. But while by these means it may be confidently expected that the number of evasions will be reduced to a minimum, the passports themselves contain no conditions for the violation of which the Imperial Government can inflict a penalty after the offender has passed beyond their jurisdiction.

But even if it were possible to exact such a penalty there are cases where its imposition might amount to a positive injustice. It may happen, for example, that the bearer of a student's or merchant's passport, obtained in good faith, may be reduced through some unanticipated misfortune to the necessity of manual labor.

Moreover there is another class of cases, also, in connection with which a declaration of that kind might create embarrassment. This includes a large number of Japanese laborers in the United States with passports for the Hawaiian Islands, British Columbia and Mexico who entered prior to the promulgation of the executive order of March 14th, 1907.³³ It is quite apparent that the suggestion in the Ambassador's memorandum was not intended to be retroactive and consequently has no reference to cases of this kind. But from circumstances which have occurred since the issuance of the order and from the greatly exaggerated statements which continue to appear in the public press concerning the number of surreptitious

See telegram of Nov. 18, 1907, to the Ambassador in Japan, p. 345.
 See Reports of the Department of Commerce and Labor, 1908 (Washington, Government Printing Office, 1909), p. 221.

entries alleged to have taken place since then, it is evident that serious confusion has arisen between those laborers who violated no law when they entered the United States and the much smaller number of persons possessing similar passports who have evaded the prohibitions of the executive order and administrative regulations. While the Imperial Government sincerely deprecate the complications which have resulted, they fear that a declaration on their part invalidating a certain class of passports, even if they had the power to make it, so far from remedying the situation might even lead to fresh complications. With the enforcement of the precautionary measures now in contemplation or in actual operation it may reasonably be expected that similar causes of complaint will be of very rare occurrence. As an additional precaution it is the intention of the Administrative Authorities in every case of evasion of the limitations under which passports are issued that comes to their knowledge to refuse further applications for passports from the persons guilty of the fraud, and to extend the prohibition to applications for passports for the parents, wives and families of such persons. This is the only practicable sanction which can be imposed, but experience will doubtless prove its value, in cooperation with other preventive measures, as a deterrent to fraud.

For these reasons, the Imperial Government believe they have good ground for hesitating to declare in advance that all acts in contravention of the representations upon which passports were secured shall per se be tantamount to a forfeiture of any right guaranteed by treaty or otherwise, the passport itself, as has hitherto been explained, being merely the expression of the request of the Japanese Government that the bearer, a Japanese subject, shall be accorded the enjoyment of such rights.

Count Hayashi begs to thank His Excellency for the copy of the Order establishing the registration of American citizens abroad and notes with pleasure the considerate attitude of the American Government with reference to the suggestion. The Imperial Government have studied the subject with great interest, and have now the intention of establishing a system for the registration of Japanese residents in the United States as nearly similar to that described in the Ambassador's note as circumstances will permit. Certain practical difficulties to which attention has already been drawn will have to be overcome, such, for example, as are incident to the large areas included within the jurisdiction of the Imperial Consular establishments in the United States; the widely scattered places of residence of Japanese residents, the nomadic habits which the occupations of laborers in particular frequently entail, and the absence of anything in the nature of a legal sanction whereby registration may be rendered absolutely obligatory. This latter obstacle may in a measure

be overcome, by refusing certain privileges to non-registered persons which it is optional to accord, but even under the most favorable circumstances the task of establishing and keeping such a record will be a difficult one. It was not this circumstance alone, however, which at first inclined the Imperial Government to regard the suggestion as unacceptable, but the apprehension that the adoption of such a system might be regarded as equivalent to an admission that Japanese subjects not registered, although entitled to be, might be held to have forfeited their right of residence in the United States, or might at least be subjected to trouble and expense difficult to bear. words, the Imperial Government, as a matter of principle, were and still are averse to adding to the obligations already incumbent on such Japanese subjects another obligation, which might under easily supposable circumstances work unmerited hardship. At the same time they fully realize the value of frank and harmonious cooperation by the officials of the respective Governments in this, as well as in all other matters connected with emigration, not only as one of the most effective means of preventing fraud, but also as the strongest safe-guard of the rights of those mistakenly accused of it. Recognizing in the explanations of His Excellency the importance which his Government attach to procedure thus inspired, and highly appreciating, also, the cordially conciliatory spirit which his comments display, the Imperial Government have modified their opinion as above indicated, and will establish a system of registration as soon as practicable. It should be added, however, that while no effort will be spared to make the registration as complete as possible, the Imperial Government will not consider that the absence of registration constitutes a reason for the forfeiture of residential rights.

With regard to the sixth suggestion, that the Imperial Government shall cooperate with the Government of the United States to compel steamship companies to carry back ineligible emigrants, Count Hayashi regrets to say that there is no provision in Japanese law, similar to that in force in the United States, granting this power to the Administrative Authorities, and that at the present juncture it would be useless to attempt to secure the passage of such a measure by the Diet. It occurs to him, however, that by reason of the measures of restriction upon emigration to territories adjacent to the United States the cause for anxiety on this score will disappear.

Since the receipt of the Ambassador's note of the 25th ult.,³⁴ Count Hayashi has caused renewed and thorough examination to be made of the statistics of emigration during the past two years. This investigation has not only included the official statistics but also the passenger lists of steamship companies. The result confirms in

²⁴ See telegram of Jan. 23, 1908, from the Department to the Ambassador in Japan, which was communicated to the Foreign Office Jan. 25, 1908, p. 359.

all essential details the statement made in his memorandum of December 31st. He is quite at a loss to account for the discrepancies thus disclosed, although possibly a partial explanation may be found in the fact that the American annual statements are for the year ending September 30th, while the Japanese statistics are for the calendar year; and, also, as regards the respective monthly statements, in the differences incident to the enumeration at the time of the arrival in the one case and of departure in the other. However that may be, Count Hayashi begs to repeat that the Imperial Government have no wish to lay undue stress upon any mistakes of this kind which may have occurred, particularly since at the present time the subject possesses more interest as a matter of record than as one of practical moment.

His Excellency the Ambassador did Count Hayashi the favor to transmit with his note of the 25th ultimo a copy of the Executive Order of April 8, 1907, defining the term "laborer, skilled and unskilled", and also certain supplementary measures, the administration of which, in conjunction with those already proposed, it is thought "will make still more effective the policy of the Japanese Government in respect to the subject under discussion."

Taking these measures in the order in which they are stated in the enclosure with His Excellency's note, Count Hayashi beg[s] to submit the following observations:

First. The passports of foreign countries, some fifteen in number, have been examined and compared and as a result it has been resolved to introduce certain modifications into the passport form now employed including various matters of detail embodied in most foreign passports. The Ambassador no doubt understands from the explanations already made to him that the forgery of the passports at present in use is thought to be virtually a negligible danger. That, however, will not be regarded as a reason for omitting whatever additional safeguards the above changes may afford against the perpetration of fraud of all descriptions.

Second. Passports to laborers who have already been in America and to the parents, wives and children of laborers resident there, are issued upon the production, in the former case, of the certificate of a Consular officer in the United States and, in the latter, upon the production of such certificate and of a duly certified copy of the official registry of the members of the family in Japan. No passport can be issued by any local official in Japan except upon the presentation of such certificate or certificates, duly authenticated, and both Consular Officers and local officials are instructed to omit no precaution against possible fraud in the exercise of the duties entrusted to them.

Third. With reference to the term "settled agriculturist" the understanding expressed in the Ambassador's memorandum virtually agrees with that of the Imperial Government as explained in the note to His Excellency's predecessor dated May 16 [267], 1907.35 The settled agriculturist must in every case be a person who has invested capital in the enterprise, and whose share of its proceeds, if it is carried on in partnership, will of course be in proportion to the amount of his investment. Nor is any such undertaking sanctioned unless title to the land, whether by leasehold or in fee simple, has actually been acquired. The greatest care is exercised with reference to this point and not only are detailed reports required from Consular officers cognizant with the circumstances, but also the certificates of Notaries Public attesting the bona fides of the transaction. Local officials are not authorized to issue passports in this class of cases, but all applications therefor, as well as all other applications relating to the matter, must pass through the Foreign Office and receive its direct sanction.

Fourth. The definition of "laborer, skilled and unskilled" given in the Executive Order of April 8, 1907, (a copy of which was transmitted with the Ambassador's note), contains no particular which the Imperial Government can regard as inapplicable in determining the status of persons of that class. Count Hayashi notes, however, that it is stated in the Order that the definition is subject to change, and consequently he cannot go so far as to say that the meaning attached by the Imperial Government to the term will always conform to the definition as thus amended.

Fifth. In the informal memorandum which Count Hayashi had the honor to hand to His Excellency on the 30th of December 36 the system hitherto followed with reference to Japanese emigration to the Hawaiian Islands was explained, and it was added that from considerations based upon the fundamental differences between the Hawaiian Islands and the American mainland, economic, geographic and historical "The Imperial Government earnestly desire that the territory of Hawaii be set outside the scope of the present discussion." It was added that this desire by no means implied an intention on the part of the Imperial Government to insist upon the permanent continuation of the present system. It signified merely, as the context indicated, the belief that the exceptional labor requirements of the Hawaiian Islands and the equally exceptional circumstances under which Japanese emigration thither originated and reached its present proportions differentiated the question from that of ordinary emigration and rendered its separate consideration both logical and

⁸⁵ Not printed.

³⁶ Memorandum, ante, p. 347.

mutually desirable. As was also explained, Japanese emigration to Hawaii has hitherto been almost exclusively in response to the requirements of the industry to which the Territory owes its present high standard of wealth and prosperity, in other words, to the operation of the law of demand and supply. Recognizing the value of the mutual benefits which have followed in such full measure, the Imperial Government have no other wish than that future emigration to Hawaii shall proceed upon the same lines, but in no case in excess of natural and legitimate demands, since it is self-evident that excessive emigration would be as harmful to the interests of the emigrants themselves as it could possibly be to any other.

[Annex F]

The Japanese Foreign Office to the American Embassy in Japan 37

MEMORANDUM

With reference to the question of embodying in the context of passports to Japanese subjects proceeding abroad some form of warning against false representations in obtaining them, Count Havashi has already had the honor to explain to His Excellency the American Ambassador the reasons why the Imperial Government object to such a departure from ordinary usage. His Excellency now suggests that such warning, if not made a part of the text of the passport itself, might without objection, be placed upon a separate piece of paper attached to, or delivered with the document. Count Hayashi believes, however, that the end in view can be attained by other means as effectively as in the manner suggested. The requisit[e] warning, for example, can be given in clear and unmistakable terms to the applicant at the time the passport is issued: or the prefectural authorities can issue general official notices admonishing applicants regarding false representations and the fraudulent use of passports. By these means it may be confidently expected that there will be left no room for reasonable doubt that persons obtaining passports will clearly comprehend the nature and scope of the obligations they assume.

The Ambassador refers to certain features embodied in his note of December 25th [26th?] last,38 and afterwards made the subject of personal conferences, but which he remarks are not embodied in either of Count Hayashi's notes. Count Hayashi begs to state that this omission on his part formally to reply to the suggestions in

²⁷ Filed separately under file no. 2542/471-474. Received by the American Ambassador as an enclosure to a note dated February 23, 1908, from the Japanese Foreign Office; copies transmitted to the Department by the Ambassador in his despatch no. 204, Feb. 25, 1908.

²⁸ Not printed.

question was due to the impression that the explanations already given had apprised His Excellency of his views regarding them.

The first of these matters has relation to the suggested issuance of passports by a limited number of officials especially designated for the purpose. The Ambassador now calls attention to the desirability, "at least in respect to all cases of doubt, notably small merchants, students and others of like type, as well as settled agriculturalists", of having passports issued directly by the Foreign Office, Count Hayashi does not question the utility of such a rule, particularly under existing circumstances. As a matter of fact it is already followed to a certain extent, the practice being to require the reference to the Foreign Office by local officials of all cases involving serious doubt of the qualifications of applicants for passports. the way of additional precaution, having in view exigencies arising from the enforcement of new administrative measures, instructions have been issued to local officials widening the scope of this rule. One of the obstacles to its application in all cases is the great amount of additional labor which that would entail, but a plan for the increase of the clerical force of the Foreign Office has been formulated, which, if it receives legislative sanction, will make it possible to bring all cases involving questions of doubt within the sphere of the department's direct action.

The observation of His Excellency the Ambassador concerning the advisability of strictly scrutinizing the qualifications of settled agriculturalists are quite in harmony with the views and intentions of the Imperial Government as explained in Count Hayashi's previous communications. It may be added however that while settled agriculturalists are laborers in the same sense as farmers, they are also, from the other point of view different to ordinary laborers, since it is an absolute prerequisite that they must have a bona fide pecuniary interest in the enterprises in which they engage apart from the returns derived from their own manual labor.

In conformity with the verbal assurances already given to the Ambassador, Count Hayashi has the honor to state that there is no objection to the proposal that the two Governments should furnish each other, as promptly as possible, after the first of each month, statistics as to Japanese subjects belonging to the classes to whom this correspondence refers going to, or returning from the ports of the respective countries.

Count Hayashi has hitherto refrained from alluding formally to the proposal that Japanese subjects should be registered at the ports of arrival, because he had hoped that the plan of registration he had the honor to suggest in his note of the 18th instant ²⁰ would

ante, p. 361.

meet the requirements of the situation; and because, moreover, the proposal appeared to him to be open to objections which rendered its adoption unadvisible. Among these might be mentioned the additional serious detention to which Japanese passengers of all classes would be subjected if the registration were carefully performed, and the very probable contingency that it might not after all be final as the destinations of the immigrants might be other Consular districts where the process would have to be repeated.

Count Havashi observes in the Ambassador's note of the 22nd [21st?] instant 40 indications of a certain degree of disappointment because the plan of legislation [registration?] proposed in his note of the 18th instant was not of a more positive and affirmative character. As was explained in that communication, however, it is the only plan which it is in the power of the Imperial Government to put into operation. The efficiency of such a plan must of course depend upon the sanction enforcing compliance with its provisions. In this case, although the Imperial Government are unable directly to compel the Japanese subjects to register as desired, they can indirectly make registration highly desirable if not indispensable in the majority of instances, by refusing to grant certain consular certificates to non-registered persons. These include certificates relating to conscription and various matters affecting personal rights and status the possession of which, in view of the processes of Japanese law, is of great importance to most Japanese residents abroad.

Count Hayashi is gratified to find in the Ambassador's statement with reference to the course to be adopted in the event of future renewal of Japanese emigration to Hawaii substantial accord with the opinion entertained by the Imperial Government, which is that if at any time hereafter it should appear desirable to depart from the present policy of prohibition, that step should only be taken after ascertaining through an American official source the labor conditions prevailing in the Islands and the need thereof.

711.945/1043

The Japanese Ambassador (Hanihara) to the Secretary of State

Washington, April 10, 1924.

Sir: In view of certain statements in the report of the House Committee on Immigration—"Report No. 350, March 24, 1924"—regarding the so-called "Gentlemen's Agreement", some of which appear to be misleading, I may be allowed to state to you the purpose and substance of that agreement as it is understood and per-

⁴⁰ Not printed.

formed by my Government, which understanding and practice are, I believe, in accord with those of your Government on this subject.

The Gentlemen's Agreement is an understanding with the United States Government by which the Japanese Government voluntarily undertook to adopt and enforce certain administrative measures designed to check the emigration to the United States of Japanese laborers. It is in no way intended as a restriction on the sovereign right of the United States to regulate its immigration. This is shown by the fact that the existing Immigration Act of 1917,41 for instance, is applied to Japanese as to other aliens.

It was because of the fact that discriminatory immigration legislation on the part of the United States would naturally wound the national susceptibilities of the Japanese people that, after thorough but most friendly and frank discussions between the two Governments, the Gentlemen's Agreement was made for the purpose of relieving the United States from the possible unfortunate necessity of offending the natural pride of a friendly nation.

The Japanese Government have most scrupulously and faithfully carried out the terms of the Agreement, as a self-imposed restriction, and are fully prepared to continue to do so, as officially announced at the time of the conclusion of the present Treaty of Commerce and Navigation between Japan and the United States. return the Japanese Government confidently trust that the United States Government will recommend, if necessary, to the Congress to refrain from resorting to a measure that would seriously wound the proper susceptibilities of the Japanese nation.

One object of the Gentlemen's Agreement is, as is pointed out above, to stop the emigration to the United States of all Japanese laborers other than those excepted in the Agreement, which is embodied in a series of long and detailed correspondence between the two Governments, publication of which is not believed to serve any good purpose, but the essential terms and practice of which may be summed up as follows:

(1) The Japanese Government will not issue passports good for the Continental United States to laborers, skilled or unskilled, except those previously domiciled in the United States, or parents, wives, or children under twenty years of age of such persons. The form of the passport is so designed as to omit no safeguard against forgery, and its issuance is governed by various rules of detail in order to prevent fraud.

The Japanese Government accepted the definition of "laborer" as

given in the United States Executive Order of April 8, 1907.

(2) Passports are to be issued by a limited number of specially authorized officials only, under close supervision of the Foreign Office, which has the supreme control of the matter and is equipped

^{4 39} Stat. 874.

with the necessary staff for the administration of it. These officials shall make thorough investigation when application for passports is made by students, merchants, tourists, or the like, to ascertain whether the applicant is likely to become a laborer, and shall enforce the requirement that such person shall either be supplied with adequate means to insure the permanence of his status as such or that surety be given therefor. In case of any doubt as to whether such applicant is or is not entitled to a passport, the matter shall be referred to the Foreign Office for decision.

Passports to laborers previously domiciled in the United States will be issued only upon production of certificate from Japanese Consular officers in the United States, and passports to the parents, wives and children of such laborers will be issued only upon production of such consular certificate and of duly certified copy of official registry of members of such laborer's family in Japan. Utmost cir-

cumspection is exercised to guard against fraud.

(3) Issuance of passports to so-called "picture brides" has been stopped by the Japanese Government since March 1, 1920, although it had not been prohibited under the terms of the Gentlemen's Agreement.

(4) Monthly statistics covering incoming and outgoing Japanese are exchanged between the American and Japanese Governments.

(5) Although the Gentlemen's Agreement is not applicable to the Hawaiian Islands, measures restricting issuance of passports for the Islands are being enforced in substantially the same manner as those for the Continental United States.

(6) The Japanese Government are further exercising strict control over emigration of Japanese laborers to foreign territories contiguous to the United States in order to prevent their surreptitious entry into the United States.

A more condensed substance of these terms is published in the Annual Report of the United States Commissioner-General of Immigration for 1908, 1909 and 1910 on pages 125-6, 121, and 124-5, respectively.

As I stated above, the Japanese Government have been most faithfully observing the Gentlemen's Agreement in every detail of its terms, which fact is, I believe, well known to the United States Government. I may be permitted, in this connection, to call your attention to the official figures published in the Annual Reports of the United States Commissioner-General of Immigration, showing the increase or decrease of Japanese population in the Continental United States by immigration and emigration. According to these reports * in the years 1908–1923 the total numbers of Japanese admitted to and departed from the Continental United States were respectively 120,317 and 111,636. In other words the excess of those admitted over those departed was in fifteen years only 8,681, that is to say, the annual average of 578. It is important to note that in these 8,681 are included not only those who are covered by the

^{*} See "Table B" of the Annual Reports. [Footnote in the original.]

terms of the Gentlemen's Agreement, but all other classes of Japanese such as merchants, students, tourists, Government officials, etc. These figures collected by the United States Immigration authorities seem to me to show conclusively the successful operation of the Gentlemen's Agreement. Besides this there is, of course, the increase through birth of the Japanese population in the United States. This has nothing to do with either the Gentlemen's Agreement or the Immigration laws.

I may add in this connection that if the proposition were whether it would not be desirable to amend or modify some of the terms of the Agreement, the question would be different, and I personally believe that my Government would not be unwilling to discuss the matter with your Government, if such were its wishes.

Further, if I may speak frankly, at the risk of repeating what, under instructions from my Government, I have represented to you on former occasions, the mere fact that a certain clause, obviously aimed against Japanese as a nation, is introduced in the proposed immigration bill, in apparent disregard of the most sincere and friendly endeavors on the part of the Japanese Government to meet the needs and wishes of the American Government and people, is mortifying enough to the Government and people of Japan. They are, however, exercising the utmost forbearance at this moment, and in so doing they confidently rely upon the high sense of justice and fair-play of the American Government and people, which, when properly approached, will readily understand why no such discriminatory provision as above-referred to should be allowed to become a part of the law of the land.

It is needless to add that it is not the intention of the Japanese Government to question the sovereign right of any country to regulate immigration to its own territories. Nor is it their desire to send their nationals to the countries where they are not wanted. On the contrary the Japanese Government showed from the very beginning of this problem their perfect willingness to cooperate with the United States Government to effectively prevent by all honorable means the entrance into the United States of such Japanese nationals as are not desired by the United States, and have given ample evidences thereof, the facts of which are well-known to your Government. To Japan the question is not one of expediency, but of prin-To her the mere fact that a few hundreds or thousands of her nationals will or will not be admitted into the domains of other countries is immaterial, so long as no question of national susceptibilities is involved. The important question is whether Japan as a nation is or is not entitled to the proper respect and consideration of other nations. In other words the Japanese Government ask of the United States Government simply that proper consideration

ordinarily given by one nation to the self respect of another, which after all forms the basis of amicable international intercourse throughout the civilized world.

It is indeed impossible for my Government and people, and I believe it would be impossible also for your Government and for those of your people who had made a careful study of the subject, to understand why it should be necessary for your country to enact as the law of the land, such a clause as Section 12 (b) of the House Immigration bill.

As is justly pointed out in your letter of February 8, 1924, to the Chairman of the House Committee on Immigration,42 it is idle to insist that the provision is not aimed at the Japanese, for the proposed measure (Section 25) continues in force your existing legislation regulating Chinese immigration and the barred-zone provisions of your immigration laws which prohibit immigration from certain other portions of Asia-to say nothing about the public statements of the sponsors and supporters of that particular provision as to its aim. In other words the manifest object of the said Section 12 (b) is to single out Japanese as a nation, stigmatizing them as unworthy and undesirable in the eyes of the American people. And yet the actual result of that particular provision, if the proposed bill becomes the law as intended, would be to exclude only 146 Japanese per year. On the other hand the Gentlemen's Agreement is, in fact, accomplishing all that can be accomplished by the proposed Japanese exclusion clause except for those 146. It is indeed difficult to believe that it can be the intention of the people of your great country, who always stand for high principles of justice and fair-play in the intercourse of nations, to resort-in order to secure the annual exclusion of 146 Japanese-to a measure which would not only seriously offend the just pride of a friendly nation. that has been always earnest and diligent in its efforts to preserve the friendship of your people, but would also seem to involve the question of the good faith and therefore of the honor of their Government, or at least of its executive branch.

Relying upon the confidence you have been good enough to show me at all times, I have stated or rather repeated all this to you very candidly and in a most friendly spirit, for I realize, as I believe you do, the grave consequences which the enactment of the measure retaining that particular provision would inevitably bring upon the otherwise happy and mutually advantageous relations between our two countries.

Accept [etc.]

M. HANIHARA

⁴² Vol. I, p. 214.

711.945/1043

The Secretary of State to the Japanese Ambassador (Hanihara)

Washington, April 10, 1924.

EXCELLENCY: I have the honor to acknowledge the receipt of the note of April 10, in which, referring to the recent Report of the Committee on Immigration and Naturalization of the House of Representatives (Report No. 350, March 24, 1924), you took occasion to state your Government's understanding of the purport of the socalled "Gentlemen's Agreement", and your Government's practice and purposes with respect to emigration from Japan to this country.

I am happy to take note of your statement concerning the substance of the so-called "Gentlemen's Agreement" resulting from the correspondence which took place between our two Governments in 1907-8, as modified by the additional undertaking of the Japanese Government with regard to the so-called "picture brides" which became effective four years ago. Your statement of the essential points constituting the Gentlemen's Agreement corresponds with my own understanding of that arrangement.

Inasmuch as your note is directed towards clearing away any possible misapprehension as to the nature and purpose of the "Gentlemen's Agreement", I am taking occasion to communicate copies of it, as also of my present reply, to the Chairman of the appropriate Committees of the two Houses of Congress.

Accept [etc.]

CHARLES E. HUGHES

711.945/1045: Telegram

The Ambassador in Japan (Woods) to the Secretary of State

Токуо, April 15, 1924-1 р. т. [Received April 15-6:54 a. m.]

69. My 68, April 14, 2 p. m. 43 Although Japanese public in general and newspapers in particular apparently expected the House of Representatives to pass the Johnson bill,44 and yesterday the press comments in that connection were surprisingly moderate, this morning it is apparent that over night they have experienced a change of feeling as a resentful tone has crept into newspaper articles which express considerable apprehension over the status of the immigration question. The Jiji, not accustomed to speaking rashly on questions of foreign relations, says: "No nation retaining the

⁴² Not printed. ⁴ The bill was passed by a vote of 323 yeas, 71 nays (Congressional Record, Apr. 12, 1924, p. 6257).

least trace of its self-respect could tolerate the discrimination aimed at by the Johnson bill. The bill strikes at the very foundation of American-Japanese friendship." While the chauvinist Yorodzu says: "America is now taking advantage of the weakness of the Japanese brought about by the earthquake and intends to insult our nation."

Woods

711.945/1043: Telegram

The Secretary of State to the Ambassador in Japan (Woods)

Washington, April 15, 1924-1 p. m.

54. Department's telegram No. 53, April 11, 6 p. m. 45

The concluding paragraph of the Ambassador's note read as follows:

"Relying upon the confidence you have been good enough to show me at all times, I have stated or rather repeated all this to you very candidly and in a most friendly spirit, for I realize, as I believe you do, the grave consequences which the enactment of the measure retaining that particular provision would inevitably bring upon the otherwise happy and mutually advantageous relations between our two countries".

Detaching the phrase "grave consequences" from its context in which it manifestly conveys only an innocuous expression of the regret that would be felt in the event of any impairment of the happy relations between the two countries, a certain section of the press at once gave great prominence to these words as implying a threat, although it is manifest that this was not the intention.

In the discussion of the matter in the Senate yesterday this view of the Japanese note quite unexpectedly prevailed with the result that even those senators who had supported the Department's view as to the desirability of retaining the Gentlemen's Agreement withdrew their support, and the bill reported by the Senate Immigration Committee, making provision by which the present practice in regard to the Gentlemen's Agreement could be continued, was defeated by a vote of 76 to 2. It now appears inevitable that the Senate will adopt in regard to this matter the provisions of the Johnson Bill passed by the House on April 12, which denies admission to immigrant aliens ineligible to citizenship.

Quotations representing the view of this matter upon which the Senate acted will be sent you in a later telegram.

HUGHES

⁴⁵ Not printed.

711.945/1043: Telegram

The Secretary of State to the Ambassador in Japan (Woods)

Washington, April 15, 1924—7 p. m.

55. Supplementing the Department's No. 54, April 15, 1 p. m., the following are excerpts from the *Congressional Record* ⁴⁶ indicating the viewpoint of several senators who participated in the debate on the question of retaining the Gentlemen's Agreement.

"Mr. Lodge. I regret to say that the letter addressed to our State Department by the Ambassador from Japan seems to me a letter improper to be addressed by the representative of one great country to another friendly country. It contains, I regret much to say, a veiled threat. Now, Mr. President, the United States can not legislate by the exercise by any other country of veiled threats. Owing to this, what we are now doing assumes the character of an international precedent; and I think it should be understood, and understood by the whole world, that the United States alone is to say who shall come into the United States to form part of its citizenship. What our country determines as to its immigration is neither a just cause of offense nor a subject for war or threats of war. It is an undoubted sovereign right and nothing else."

"Mr. Moses. May I inquire of the Senator why he repeatedly uses the words 'veiled threat'? The Senator knows perfectly well that in the composition of diplomatic communications the two words 'grave consequences' are not veiled. They are well known in their

implication."

"Mr. Lorge. They are just as well known as the phrase 'the United States could not regard with indifference' the violation of the Monroe doctrine. Everybody knows what 'can not regard with indifference' means. Both phrases are the well-recognized language of diplomacy.

"The letter of the Japanese Ambassador, Mr. President, has created a situation which makes it impossible for me to support the pending amendment. When I was interrupted I was about to say that this amendment has now assumed the dignity of a precedent, and I never will consent to establish any precedent which will give any nation the right to think that they can stop by threats or by compliments the action of the United States when it determines who shall come within its gates and become part of its citizenship. That is a decision which belongs to the United States alone, and from that decision there can be no appeal."

"Mr. Reed. I think I speak the feeling of the entire Committee on Immigration when I say that one of the principal points we had in mind was to do nothing offensive to the Japanese; that one of our purposes in putting this amendment in was to recognize the Gentlemen's Agreement; and that we felt, further, that the restriction of Japanese immigration could best be accomplished by combining the Gentlemen's Agreement with a very rigid quota law which would hold down the number of Japanese to the minimum, for at the same time we would thus get the cooperation of the Japanese Government

in applying that quota law.

⁴⁶ Of Apr. 14, 1924, p. 6305 passim.

"It was our feeling that that would be more effective than such an exclusion section as has been offered by the Senator from California. It was a choice of methods. To our mind one was a friendly method and the other was at least open to the charge of being an unfriendly method involving some racial discrimination. It was with that

thought that the committee offered the amendment.

"Now, however, Mr. President—and I am speaking only for my-self in this—I think the situation has changed. I think it ceases to be a question whether this is a desirable method of restricting Japanese immigration. The letter of the Japanese Ambassador puts the unpleasant burden upon us of deciding whether we will permit our legislation to be controlled by apprehensions of 'grave consequences' with other nations if we do not follow a particular line of legislative conduct. I, for one, feel compelled, on account of that veiled threat, to vote in favor of the exclusion and against the committee amendment.

"I say that with deep regret, because I believe that this action, which is forced upon us, means the waste of much of the results of 20 years of excellent diplomacy. It means the waste of much of the good feeling that followed the ratification of the four-power treaty, 47 and it means a loss of part of the good relations that followed the prompt and friendly action of America after the Japanese earthquake of last year. When I vote against the committee amendment I expect to do so with a sad heart."

"MR. Pepper. Mr. President, I wish to direct attention to one aspect of this matter which seems to me to have been insufficiently emphasized. As I understand the Gentlemen's Agreement, it is an agreement between parties neither of whom make reference to force, to pressure, or to the gravity of the consequences which will ensue if the agreement is not made, or, if it is in existence, whether it

should be abrogated.

"As long as the Gentlemen's Agreement between Japan and the United States was left in the atmosphere in which it was generated, I was prepared to vote for its continuance. But the proposition which I wish to submit to the Senate is that the Gentlemen's Agreement has been abrogated, and not by the United States. The instant the Japanese Ambassador makes a formal communication to this Government suggesting, through proper diplomatic channels, that unless certain legislative action is taken by us the gravest consequences are likely to ensue, at that moment the whole matter passes out of the sphere of a Gentlemen's Agreement, and it becomes necessary for us to act, as it seems to me, in the colder and perhaps calmer atmosphere which characterizes mere legislative deliberations."

"I am not insensible to what has been said by my colleague, the junior Senator from Pennsylvania (Mr. Reed), about his apprehension of unhappiness, ill feeling, and dissatisfaction; and yet it sometimes happens that where one is compelled to recognize that such a relation as has existed can no longer exist, where one must take a clean-cut and definite position respecting the terms and consequences of which there can be no misunderstanding—it sometimes happens, I say, that the air is cleared, that the atmosphere ceases to be sur-

^{**} Foreign Relations, 1922, vol. I, p. 33.

charged with doubt, with uncertainty, and suspicion, and that the way is open to a more permanent and more satisfactory international

relationship even than that which has theretofore existed.

"Therefore I am one of those, Mr. President, who very earnestly hope that this action will not be misinterpreted by our Japanese friends as an evidence on our part of a lack of appreciation of them, of their many fine and noble qualities, and of the many admirable features of their civilization, and that they will not regard us as having forgotten the closeness of the tie which has bound us in the past, but rather that it will be recognized that, perhaps out of deference to their great and exceptional position in the family of nations, it has been necessary for us to pass beyond the realm of 'Gentlemen's Agreements' and to mark legislatively the line which, after all, exists in fact, whether any act of the legislature recognizes it or not, between oriental civilization and that which we express.

"I am going to vote, therefore, Mr. President, otherwise than I had originally intended to vote; and I am going to do it not in heat, not in irritation, not as a protest against what has been written by the Japanese Ambassador, but rather because I recognize what he has written as of itself terminating the status that has heretofore

existed."

"Mr. Willis. Mr. President, I desire to say only a brief word upon the pending question. As a member of the Committee on Immigration, I agreed to the action which the Committee took, and of course expected to support the committee amendment which, in substance, recognizes the 'Gentlemen's Agreement' with Japan. I was one of those who believed that if substantially, as I thought, the same result could be obtained under that agreement as could be had from stringent limitation upon Japanese immigration without disturbing the status quo, it would be better so to do. It was, therefore, the effort of the committee—an effort which met with my approval—so to shape the legislation as to let this situation alone.

"I accordingly expected, as I have said, to support the committee recommendation; but, Mr. President, I think a new situation has arisen, not because of any action of our Government, but, as the Senator from Pennsylvania (Mr. Pepper) has said, I must say without bitterness or ill feeling, it is a fact, that this situation that is new and quite unusual has been created by the letter that has come to the Senate from the Ambassador representing the great

Empire of Japan.

"Therefore, Mr. President, because of this new situation that has been created, I do not see how there is anything left for the Senate to do other than to announce by its action in unmistakable terms that we regard the question of immigration as an American question; that we do not concede that any Nation anywhere upon the earth has the right to say to the United States what our policy in that behalf shall be. Therefore, calmly and deliberately and without any bitterness toward our Japanese friends or feeling against the Japanese Government, with which I trust the United States may always remain on the most friendly terms, I shall cast my vote against the pending amendment."

711.945/1057

Memorandum by the Chief of the Division of Far Eastern Affairs, Department of State (MacMurray) of a Conversation with the Japanese Ambassador (Hanihara), April 15, 1924

[Washington,] April 16, 1924.

Mr. Hanihara called on me, on the afternoon of April 15, to discuss informally the adverse action taken by the Senate on April 14 with reference to the Gentlemen's Agreement. He said that he came not as Japanese Ambassador to make any representations or any inquiries, but simply to talk the matter over frankly and outspokenly as between personal friends. He stated that in any case he would not be prepared to speak as Ambassador, since he was expecting instructions from his Government on the subject which had not yet arrived.

He was obviously very greatly distressed by the action of the Senate, and found some difficulty in expressing his disappointment and chagrin at the construction which had been placed upon his note. He had with him a copy of the Congressional Record containing the record of the debate in which his note had been described as a veiled threat; and pointing to the marked passages in the Record, he said that he was altogether unable to understand how the Senators had been able to misconstrue his meaning in that way. He insisted that such an idea as a threat was the furthest thing from his mind—that the implication of ill will towards the United States on his part was wholly without justification—that he had not "in any part of his body" any feeling of unfriendliness or of antagonism—that, on the contrary, his experience and his associations with this country were such that he felt it was the real mission of his life to contribute what he could to a better understanding between Japan and America.

He went back to the subject of the entirely friendly intentions of his note, and asked if that had not been quite clear to us. He seemed to be disturbed by a fear that the Secretary might share the feeling that his note had in fact conveyed a threat; so I took it upon myself to relieve his mind on this point by saying that I would read to him the substance of the telegram which the Secretary had just sent for the information of our Ambassador at Tokyo (No. 54, April 15, 1 p. m.), from which he would see that the Secretary had not misunderstood him as intending anything in the note as a threat. He seemed very much relieved by this evidence of the Secretary's understanding of his position.

He spoke casually on the possibility that this incident would react unfavorably upon himself personally, saying that there were

many people in Japan who did not like him or his ideas who would of course make this the occasion for attacks upon him; but he went on to say that this personal aspect of the matter was of no importance to him in comparison with the question of the effect upon the relations between the two countries. He said that the passage of an exclusion law would of course have a bad effect upon those relations, and undo much of the feeling of confidence that had been built up in Japan. He was afraid, also, that the reports of the attitude taken by the Senate would leave upon the minds of the American people the impression that Japan had aggressively and highhandedly interfered in our affairs. Even though his note had been published he apprehended that people in general, merely reading the newspaper headlines or brief summaries of the remarks made in the Senate, would derive an impression that he had addressed the Congress directly upon a matter of pending legislation, and in a minatory tone. He therefore suggested whether it might not be well to correct this impression by a statement, to be issued either by himself or by the Secretary, as might be judged most fitting, pointing out that the note had been directed to the Secretary of State in the usual way, and did not in fact contain any such implications as the Senate had read into it. I said that of course there were no two ways of thinking about the desirability of clearing up any misunderstanding but that the suggestion that this be done by means of a published statement involved estimates of its practicability and probable effectiveness, as to which I could not venture an opinion. He then said that he would like to talk this matter over with the Secretary, upon his return from New York, today. I said that I felt sure the Secretary would be glad to discuss the whole matter with him in an understanding and sympathetic spirit.

In conclusion, I took occasion to say that I trusted he would not consider it presumptuous if I were to express my hope that he would not be made to bear the responsibility for this misunderstanding, for which it seemed to me that he was not at all to blame. He thanked me rather warmly, and proceeded to say that he felt his own conscience was clear and would not be greatly concerned about the personal consequences in comparison with the wider issues involved. I added that while he and we were alike clear in our consciences about the matter, it would be all the more regrettable if any injustice to him were to follow from his effort to further the views on this question which we had advocated in the interest of both countries.

MacM[urray]

711.945/1051

The Japanese Ambassador (Hanihara) to the Secretary of State

Washington, April 17, 1924.

MY DEAR MR. SECRETARY: In reading the Congressional Record of April 14, 1924, I find that the letter I addressed to you on April 10, a copy of which you sent to the Chairman of the Senate Committee on Immigration, was made a subject of discussion in the Senate. In the Record it is reported that some of the Senators expressed the opinion, which was apparently accepted by many other members of that body, that my letter contained "a veiled threat." As it appears from the Record that it is the phrase "grave consequences", which I used in the concluding part of my letter that some of the Senators construed as "a veiled threat", I may be permitted to quote here full text of the sentence which contained the words in question.

"Relying upon the confidence you have been good enough to show me at all times, I have stated or rather repeated all this to you very candidly and in a most friendly spirit, for I realize, as I believe you do, the grave consequences which the enactment of the measure retaining that particular provision would inevitably bring upon the otherwise happy and mutually advantageous relations between our two countries."

Frankly, I must say I am unable to understand how the two words, read in their context, could be construed as meaning anything like a threat. I simply tried to emphasize the most unfortunate and deplorable effect upon our traditional friendship which might result from the adoption of a particular clause in the proposed measure. It would seriously impair the good and mutually helpful relationship and disturb the spirit of mutual regard and confidence, which characterizes our intercourse of the last three quarters of a century and which was considerably strengthened by the Washington Conference as well as by the most magnanimous sympathy shown by your people in the recent calamity in my country. Whereas there is otherwise every promise of hearty coöperation between Japan and the United States, which is believed to be essential to the welfare not only of themselves, but of the rest of the world, it would create, or at least tend to create, an unhappy atmosphere of ill-feeling and misgiving over the relations between our two countries.

As the representative of my country, whose supreme duty is to maintain and if possible to draw still closer the bond of friendship so happily existing between our two peoples, I honestly believe such effects, as I have described, to be "grave consequences." In using

these words, which I did quite ingenuously, I had no thought of being in any way disagreeable or discourteous, and still less of conveying "a veiled threat." On the contrary it was in a spirit of the most sincere respect, confidence, and candor that I used these words, which spirit I hope is manifest throughout my entire letter, for it was in that spirit that I wrote you. I never suspected that these words, used as I used them, would ever afford an occasion for such comment or interpretation as have been given them.

You know, I am sure, that nothing could be further from my thought than to give cause for offence to your people or their Government, and I have not the slightest doubt that you have no such misunderstanding as to either the spirit in which I wrote the letter in question to you or the meaning I intended for the phrase that I used therein.

In view, however, of what has transpired in the course of the public discussion in the Senate, I feel constrained to write you, as a matter of record, that I did not use the phrase in question in such a sense as has been attributed to it.

I am [etc.]

M. HANIHARA

711.945/10471/2

Memorandum by the Secretary of State of a Conversation with the Japanese Ambassador (Hanihara), April 17, 1924, at 6 p. m.

The Japanese Ambassador called at six o'clock and left with the Secretary a memorandum of the expression "grave consequences" used in his former note which was transmitted by the Secretary to the Senate Committee. The Ambassador said that if the Secretary decided to publish the note he would be glad to be advised so that he could inform his Government and he hoped that if the Secretary did decide to publish the note he would make a reply which could be published at the same time. The Secretary expressed his appreciation. The Secretary said that he had not any idea that the Ambassador had intended a threat by the language used in the former The Secretary said that, when he had received the note and read the last paragraph, for a moment his attention was at once arrested by the use of the words "grave consequences", but as he read the context he thought he saw clearly what the Ambassador meant in his allusion to the effect on the otherwise happy and mutually advantageous relations of the two countries. The Secretary felt quite sure that the Ambassador did not intend any threat and was very sorry that such a construction had been placed upon his language. The Ambassador again said that such an interpretation had not entered his mind.

711.945/1051

The Secretary of State to the Japanese Ambassador (Hanihara)

Washington, April 18, 1924.

MY DEAR MR. AMBASSADOR: I am gratified to receive your letter of the seventeenth instant with your frank and friendly explanation of the intent of your recent note in relation to the pending Immigration Bill. It gives me pleasure to be able to assure you that reading the words "grave consequences" in the light of their context, and knowing the spirit of friendship and understanding you have always manifested in our long association, I had no doubt that these words were to be taken in the sense you have stated, and I was quite sure that it was far from your thought to express or imply any threat. I am happy to add that I have deeply appreciated your constant desire to promote the most cordial relations between the peoples of the two countries.

With high esteem [etc.]

CHARLES E. HUGHES

711.945/1059 : Telegram

The Ambassador in Japan (Woods) to the Secretary of State

Токуо, April 22, 1924—2 р. т. [Received April 22—9:34 а. т.]

79. With but few exceptions, Japanese press comment on the exclusion question is now maintaining dignified tone marked by an absence of the abuse which has characterized similar crises in the past but expressing the keenest regret and disappointment. Indicative of the present Japanese attitude of hopeful waiting are the resolutions passed separately yesterday by the leading political parties after consultation among leaders regretting the situation created by the Senate action but united in expressions of hope that in some way remedial action will be taken. The Seiyukai, the principal party of the opposition, while subscribing to these views, forwarded a separate resolution to the Foreign Office declaring the Government responsible for the present state of affairs. resolution of the 15 principal Tokyo newspapers published this morning was likewise marked by a tone of restraint. It expressed the belief that the excluding vote did not represent the principles of the majority of the American people; that it was highly painful to contemplate any circumstance that would tend to weaken Japanese-American friendship, and that Japan was watching developments in America with the keenest interest. This afternoon Dr. Soyeda, president of the Japanese Emigration Society, left with me a resolution adopted by the society, expressing similar sentiments.

Despite the mildness of these resolutions and the tone of restraint in which the various comments have been couched, it would be entirely erroneous to assume that Japan is already resigned to the situation or to underestimate the bitterness of the feeling of her resentment over an act which rankles all the more because it is realized that if this exclusion legislation is enacted, there is no recourse or redress.

Woods

711.945/1061: Telegram

The Ambassador in Japan (Woods) to the Secretary of State

Токуо, April 23, 1924—noon. [Received April 23—9:48 a. m.]

80. Minister of Foreign Affairs sent his private secretary to see me yesterday afternoon to say that he was sorry to hear that a news despatch had been telegraphed to the United States by American press correspondents purporting to report that following a decision reached yesterday at a meeting of the Cabinet, instructions had been sent to Hanihara "to use every proper means possible to induce President Coolidge to exercise his veto power when the immigration bill carrying Japanese exclusion clause finally reaches him for action." Baron Matsui asks me to let you know this report is "entirely false and misleading" because he fears otherwise that an erroneous impression might be created in the American press that the Japanese were attempting to interfere in American domestic affairs.

Woods

711.945/1062: Telegram

The President of the America-Japan Society (Kaneko) to the Secretary of State

Tokyo [undated]. [Received April 25, 1924—10:47 a. m.]

For consideration President Coolidge. The America-Japan Society, which has always taken the deepest interest in maintaining the friendly relation between the United States and Japan, hereby appeals to the President and through him to the members of Congress and the American people, for, should the discriminatory clause in the immigration bill be passed in the Congress, the friendly and amicable relation existing between the two countries ever since the opening of Japan will be seriously jeopardized and bring about a most lamentable result. While we understand fully the necessity of restricting the number of alien immigrants to the United States for her national welfare and are willing to submit to any restriction if applied to all

nations alike, we do ask your consideration on the discrimination clause which is a great and important question for Japan's honor. Therefore, we earnestly request you will endeavor to postpone the passage of the discriminative clause for the moment and find some method by which to solve this perplexing problem reasonably and satisfactorily for the two countries.

VISCOUNT KANEKO

711.945/1074: Telegram

The Ambassador in Japan (Woods) to the Secretary of State

Токуо, *May 1, 1924—11 а. т.* [Received May 1—7:30 а. т.]

88. During the past several weeks the Embassy has been receiving numerous protests from all over Japan by telegraph, letter, delegation and personal visit against the pending Japanese exclusion bill. These protests come from groups and organizations of varied character, educational, religious, social, political, commercial, industrial, financial, et cetera. For obvious reasons I am not forwarding copies to the Department.

Woods

711.945/10781/2

Memorandum by the Secretary of State of a Conversation with the Japanese Ambassador (Hanihara), May 1, 1924

Immigration. The Ambassador called attention to a statement in the report of the House Committee 48 with respect to the Treaty of 1911.49 The Ambassador referred to the Secretary's suggestion that there should be an amendment to the Immigration Bill so as to make an exception of "an alien entitled to enter the United States under the provisions of the treaty", and to the modification of this by the House Committee as stated on pages two and three of the House Committee's report as follows:

"An alien entitled to enter the United States solely to carry on trade under and in pursuance of the provisions of the present existing Treaty of Commerce and Navigation."

The Ambassador said he had been instructed by his Government to take up the question with the Secretary not by way of formal written representations but to indicate the view of his Govern-

 ⁴⁸ H. Rept. 350, 68th Cong., 1st sess.
 ⁴⁹ Foreign Relations, 1911, p. 315.

ment that this clause was not adequate to preserve the rights accorded by the treaty. The Ambassador referred to Article 1 of the treaty and to the first clause:

"The citizens or subjects of each of the High Contracting Parties shall have liberty to enter, travel and reside in the territories of the other to carry on trade, wholesale and retail," etc.

The Ambassador said that in view of what had taken place at the time of the negotiation of the Treaty of 1911 his Government were of the opinion that this part of the Treaty should be read as though there were a comma after the words "in the territories of the other", in other words that the clause gave an independent right "to enter, travel and reside" irrespective of the carrying on of trade. Ambassador referred to the provision in Article 2 of the Treaty of 1894 50 providing that it should not affect the laws with regard to the immigration of laborers and to the desire of Japan that this should be suppressed in the Treaty of 1911. The Ambassador also referred to the declaration which was signed at the same time as the Treaty of 1911, stating that the Japanese Government was prepared to maintain the control which they had exercised over the emigration of laborers to the United States. The Ambassador said that in view of the negotiations it was felt that the provision of Article 1 of the Treaty must be read as though there were a comma after the words "in the territories of the other," so that the right to enter and reside was not qualified, while on the other hand, the Japanese Government agreed to maintain its regulations to prevent the emigration to the United States of laborers.

The Secretary said that he hardly cared to discuss so important a matter as the construction of a treaty in an informal and casual way, as there was great danger of a misunderstanding; that he was prepared, on proper occasion, to state the views of this Government with regard to the interpretation of the treaty. He hoped, however, that a situation requiring such a discussion would not arise. In view of the statements made by the Ambassador, the Secretary felt that he must state in a general way the attitude of this Government in relation to the treaty, for he was bound to say that he could not agree with the construction which the Japanese Government seemed to place upon it. The Secretary said that in saying this he was not at all altering the views that he had expressed to the committees of Congress as to the policy to be pursued, but of course the Ambassador must understand that if the question of treaty obligation was brought up it would have to be discussed from a legal standpoint.

The Secretary said that he must call the attention of the Ambassador, in the first place, to the actual content of the Immigration Bill,

⁵⁰ Malloy, Treaties, 1776-1909, vol. 1, p. 1028.

to which the Ambassador had referred, as passed by the House. The exception in relation to the treaty was not the only exception; thus the Ambassador would find that in Section 3 there were excepted governmental officials and their families, etc, aliens visiting the United States as tourists or temporarily for business or pleasure, aliens in continuous transit through the United States, aliens lawfully admitted to the United States who later go in transit from one part of the United States to enter other foreign contiguous territory, and bona fide alien seamen as stated. To these provisions were added the exception of aliens entitled to enter the United States solely to carry on trade in pursuance of the provisions of a present existing Treaty of Commerce and Navigation. The Secretary read these provisions to the Ambassador and said that, taken as a whole, he could not admit that the Bill would establish any violation of treaty provisions and that he could not discuss the matter upon any such basis. The Secretary again stated that this did not affect at all his friendly attitude and his desire that the matter should be dealt with in a way that would maintain the most cordial relations between the two countries, but that if the question of treaty violation were raised it would be quite impossible for this Government to admit that its obligations were not fully met.

The Secretary then went on to say that while he did not wish to discuss at length the construction of the provision of the treaty to which the Ambassador had referred, he felt that it should be read as it stood and if it were necessary to consider the function of a comma the fact could not be overlooked that the comma was not there. The Secretary said, however, that the question was far more fundamental than that. The Secretary felt that an examination of the history of the negotiations and of the attitude of this Government made it abundantly clear that it was not at all the intention of this Government in making the Treaty of 1911 to surrender its control over immigration. This was a fundamental sovereign right and it could not be regarded as given up by implication or by anything short of explicit provisions. The Secretary said that this was true of all commercial treaties; these treaties related to intercourse between peoples. The control of immigration was essential to self-protection and commercial treaties must be construed with this in view. The Secretary called attention to the fact that the introduction of immigrants, of settlers, of those who would become a permanent part of the population of the country was a very serious matter. No nation could be regarded as having surrendered the right to control such immigration without an express provision to that effect. Such control was consistent with the regulation of intercourse or with the sort of intercourse that was incident to commercial relations. Our commercial treaties should be read in this sense.

The Secretary said that he must again express the hope that it would not be necessary for the two countries to discuss the questions which had been raised from a standpoint of any charge of violation of treaty in the proposed Bill, as he did not believe that such a charge could properly be made.

The Ambassador thanked the Secretary for his statement and said

that he understood the Secretary's position.

The Ambassador then referred to a statement in the House Committee's report with regard to the Japanese treatment of Chinese and Koreans which seemed to indicate that the view was held that the Japanese were guilty of inconsistency. The Ambassador said that this was based upon a misapprehension. He said that in fact the action taken by Japan had been to reduce the restrictions that had previously been maintained as to settlements and residences of foreigners rather than the reverse; in other words, the Japanese had been lifting restrictions and modifying them.

711.945/1092a: Telegram

The Secretary of State to the Ambassador in Japan (Woods)

Washington, May 8, 1924-6 p. m.

69. Conferees on the Immigration Bill have reported the measure with the exclusion clause identical with the Johnson Bill retained, but with the following additional proviso:

"Provided, That this subdivision shall not take effect as to exclusion until March 1, 1925, before which time the President is requested to negotiate with the Japanese Government in relation to the abrogation of the present arrangement on this subject."

It is understood that the conferees' report will be submitted to and considered by the House today and in the Senate later, perhaps tomorrow. If a point of order, which it is understood may be made against the amendment, should be made and sustained it is possible that the bill will be recommitted to the conferees for further consideration.

[Paraphrase.] The President has succeeded in the face of great difficulty in having the above clause inserted with a view to gaining an opportunity for negotiations with the Japanese for the placing of immigration on the basis of a reciprocal arrangement. [End paraphrase.]

HUGHES

711.945/1092 supp.: Telegram

The Secretary of State to the Ambassador in Japan (Woods)

Washington, May 10, 1924-noon.

70. Department's 69 May 8, 6 P. M. The House late yesterday afternoon recommitted the bill to the Committee of Conference, with instructions to the conferees on the part of the House not to agree to the proviso reported in the bill, and which is quoted in the Department's telegram above mentioned. A motion to recommit the bill without instructions to the conferees was offered by Mr. Sabath, which motion was amended by a motion by Mr. Raker to instruct the conferees as above indicated, the final vote for recommitment being ayes 191, nays 171, divided as follows: To recommit: Republicans, 22; Democrats, 166; Farm Labor, 2; Socialists, 1; against recommitment: Republicans, 160; Democrats, 11.

HUGHES

711.945/1089: Telegram

The Ambassador in Japan (Woods) to the Secretary of State

Токуо, May 10, 1924—4 р. т. [Received May 10—6:33 a. m.]

97. It may interest the Department to know that Ambassador Shidehara ⁵¹ has recently been taken from the waiting list and he, together with Saburi, ⁵² have been assigned to the Foreign Office to take active direction of negotiations with the United States on the immigration question.

In view of this fact, therefore, it is highly significant that, since the announcement of the action of the congressional conferees, the Japanese press in special articles dwell on the fact that the Foreign Office regards the Morris-Shidehara draft ⁵³ as the most acceptable basis for any future negotiations.

It would seem from the press that suggestion on the part of the United States of the surrender of immigration rights to the United States under existing arrangements without compensation in the form of an assurance that Japanese now resident in the United States would not be subjected to discriminatory treatment, would be vigorously opposed.

Woods

⁵¹ Former Japanese Ambassador to the United States.

⁵² Former Counselor of the Japanese Embassy at Washington. ⁵³ See report by the Ambassador in Japan, Jan. 25, 1921, Foreign Relations, 1921, vol. Π , p. 323.

711.945/1089: Telegram

The Secretary of State to the Ambassador in Japan (Woods)

Washington, May 14, 1924—4 p. m.

72. Supplementing Department's No. 70, May 10, noon. The Conferees on the Immigration Bill on May 12 brought in a report recommending *inter alia* adoption of the exclusion clause substantially in the form embodied in the Johnson Bill, i. e., without the proviso quoted in Department's telegram No. 69, May 8, 6 p. m. It seems probable that the Conference report will be adopted by both Houses before the end of the week.

For your strictly confidential information and guidance in connection with your No. 97, May 10. The apparent disposition of Congress at the present and as it may be foreseen to remain indefinitely is to assert complete legislative control over immigration matters. While it is possible that this might prove consistent with the negotiation of a treaty by which the United States and Japan would reciprocally establish exclusion on the basis contemplated by the law which will doubtless soon be enacted, it would seem that that represents the utmost limit to which the Executive could safely go in adjusting or palliating the difficulty with Japan created by the enactment of exclusion. It is in any case practically certain that no arrangement on the basis of the Morris-Shidehara draft could be expected to receive the necessary ratification of the Senate. believed that Saburi fully understands the situation hitherto existing in that regard, and you may find it expedient to convey through him to the Japanese Government a discreet intimation that recent political developments have made such a solution more than ever out of the question, and that no useful purpose could be served by proposing an arrangement which would so inevitably fail of acceptance by the requisite two-thirds majority in the Senate.

HUGHES

711.945/1089: Telegram

The Acting Secretary of State to the Ambassador in Japan (Woods)

Washington, May 16, 1924—6 p. m.

73. The Conference report, in the form indicated in the Department's 72, May 14, 4 p. m., was adopted yesterday in the House, yeas, 308; nays, 62: also in the Senate, yeas, 69; nays, 9.

Repeat to Peking as Department's 98.

GREW

150.01/886

The Secretary of State to President Coolidge

Washington, May 23, 1924.

MY DEAR MR. PRESIDENT: In reply to the letter of Mr. Slemp, under date of May 17, 1924,54 enclosing, by your direction, the bill

"H. R. 7995, An Act to limit the immigration of aliens into the United States, and for other purposes,"55_____

and requesting that I should advise you whether I know of any objection to its approval, I beg to say:

The provisions of the bill which are of special interest to the Department of State are (1) the administrative provisions, (2) those defining the basis upon which the immigration quotas are to be determined, and (3) the provision of Section 13 (c) excluding aliens ineligible to citizenship, except as stated.

The administrative provisions of the bill have been framed in consultation with representatives of the Department of State and largely embody the Department's recommendations. I do not desire to interpose any objection to the bill upon this score.

The census of 1890 is taken as the basis for determining the quotas of immigrants. This has the effect of reducing the number of immigrants from certain countries as compared with others, because of the smaller number of their nationals embraced within the population of the United States at the time of that census. Representations against this basis upon the ground of discrimination were made by certain foreign governments and were communicated by the Department of State to the Committees of Congress. In view of the fact that Congress, in its discretion, after full consideration has selected the basis stated in the bill, I do not desire to urge the objection further.

Section 13 (c) providing for the exclusion of aliens ineligible to citizenship affects especially the Japanese inasmuch as Section 25 of the bill continues the exclusion provisions of prior enactments which cover immigration from China and from the Eastern areas falling within the so-called barred zone. Since 1908 there has been an understanding with Japan, evidenced by communications between the Department of State and the Japanese Government, called the "Gentlemen's Agreement", under which Japan has undertaken to limit the immigration into the United States of laborers. Through this arrangement this Government has had the benefit of coöperation with Japan in excluding such immigrants. It is believed that Japan

Mot printed.

⁵⁵ Approved May 26, 1924; 43 Stat. 153.

has faithfully performed her voluntary undertaking. From the reports of the Commissioner General of Immigration it appears that for the fifteen years after the Gentlemen's Agreement was made, 1908 to 1923, taking the total admissions and departures of Japanese, including tourists, students, professional persons, merchants, et cetera, there was an excess of admissions over departures in continental United States of only 8,681 Japanese, or an average annual increase in Japanese population, through immigration, of 578. In seven of the fifteen years there was a net decrease, and in eight of the fifteen years a net increase. The greatest net increase in any one year was in 1917 to 1918 when it amounted to 3,452. the last three years there has been a net decrease. In the year 1921-22 this net decrease amounted to 2,192. It may further be observed that in 1919 when this Government brought to the attention of the Japanese Government the bringing over of so-called "picture brides" to the United States the Japanese Government undertook to issue no passports for continental United States to women falling within this description.

Hawaii was not included in the Gentlemen's Agreement as the Governor of Hawaii did not desire to have it included, but the Japanese Government undertook to apply the same rules to those islands until notified that a labor shortage existed there. From the report of the Commissioner General of Immigration it appears for the fifteen years, 1908–1923, there was a net increase in the Japanese population in Hawaii, through immigration, of 6903 or an average net increase of 460. In six of the fifteen years there was a net increase, and the largest net increase in any one year was in the year 1912–1913 of 2108.

Further, the Japanese Government has expressed its readiness to discuss with this Government modifications of the Gentlemen's Agreement.

Under the present bill, without Section 13 (c), the quota which would be available to Japan on the basis of the census of 1890 would be 100 (Section 11 (b). And even the admission of this small number would be controlled by the operation of the Gentlemen's Agreement.

It thus appears, in my opinion, that the exclusion provision of Section 13 (c) is entirely unnecessary, and indeed, by the loss of the coöperation of Japan through the abrogation of the Gentlemen's Agreement, it will probably facilitate the surreptitious entry of Japanese so that the result of this provision of the bill will probably be to increase rather than to diminish the actual Japanese immigration.

While this exclusion provision, from the standpoint of the restriction of immigration, is deemed to be unnecessary, it unques-

tionably will be resented by Japan. The Japanese Government has not questioned the sovereign power of the United States to control immigration but has sought to attain the desired result through coöperation and friendly arrangements with our Government. It is most unfortunate, from the standpoint of our foreign relations and especially in view of the attitude taken by Japan at the Conference on the Limitation of Armament held at Washington, and the spirit of friendship and mutual confidence then evoked, that the question of immigration of Japanese should not have been left to be dealt with by satisfactory mutual agreement, which could have been entered into without derogating in the slightest degree from our full authority to act if any exigency requiring such action should at any time arise.

I elaborated these views in communications addressed to the committees of Congress and the questions involved have been fully discussed in my interviews with you in relation to the pending measure. If the exclusion provision of Section 13 (c) stood alone I should unhesitatingly recommend its disapproval. It is fully realized, however, that the bill before you is a comprehensive immigration measure of which the provision in question is only a part, and that it is necessary for you to consider the policy represented by the bill as a whole, the necessity of an immigration measure to take the place of the existing law which expires on June thirtieth, and also the preponderant sentiment expressed in Congress. For this reason I return the bill without recommendation.

Faithfully yours,

CHARLES E. HUGHES

711.945/11031/2

Memorandum by the Secretary of State of a Conversation with the Japanese Ambassador (Hanihara), May 23, 1924, 4 p. m.

The Ambassador called at the Secretary's request.

The Secretary said that he desired to speak of the Immigration Bill which had been passed by both Houses of Congress and was now before the President. The Secretary called attention to the efforts which he had made and which the President had made to secure the elimination or modification of the provision relating to the exclusion of aliens ineligible for citizenship. The Secretary said that despite these efforts the overwhelming opinion of Congress was in favor of the retention of the provision. This was not due to a lack of friendship on the part of the American people toward the Japanese people. That friendship and cordial interest had been abundantly demonstrated. It was due to the strong sentiment in

Congress that the question of immigration should not be dealt with by international agreements or understandings but by legislation enacted by Congress. Congress was intent upon asserting its prerogative in this matter and had rejected all overtures of the President and the Secretary for securing opportunity for mutually satisfactory agreements by which the question of admission could be dealt with.

The Secretary said that he wished to call the attention of the Ambassador to the exact situation with which the President was now confronted. The exclusion provision was not before him as a separate matter. If it were, the President would unhesitatingly disapprove it. But this exclusion provision was part of a comprehensive immigration bill. While the Secretary believed that there was strong sentiment throughout the country supporting the position taken by the President and the Secretary as to the exclusion provision, it was also true that there was a very strong sentiment demanding general legislation in restriction of immigration. Bill was a comprehensive measure dealing in great detail with this subject and providing the necessary administrative machinery. It was necessary that legislation should be passed of this sort before the expiration of the present law on June 30th. It was necessary that such legislation should be passed well in advance of that date so that instructions could be given to consuls. If the President disapproved this measure there would be great confusion and the most serious difficulties might result. On the other hand, the sentiment in Congress was so strong, as the Ambassador had observed from the votes already taken, that there was very little doubt but that if the bill were vetoed, it would be passed over the veto, and no good would have resulted but there would be considerable bitterness and probably acrimonious debate. The President felt in view of all these considerations that he could not properly disapprove the Bill. But he desired that the Japanese Government should know that his approval of the Bill did not imply any change in his sentiment with regard to this provision or any lack of cordial feeling toward Japan. The President had fully endorsed the position the Secretary had taken.

The Secretary then referred to the retirement of Ambassador Woods; that this was not due to the immigration question but solely to the illness of his wife's mother. The Ambassador emphasized strongly the high esteem in which Ambassador Woods was held by the Government and people of Japan. . . .

The Ambassador expressed his appreciation of what the Secretary had said. He said that he could understand the Secretary's

view and that he would try to make it clear to his Government, but that while the Foreign Office might appreciate the difficulties of the situation, he was quite sure that the Japanese people would not understand it and would be greatly disappointed. The Japanese people were now basing their hope upon the President's action and if the President approved the Bill it would cause the keenest disappointment. The Ambassador hoped that there would be no disorder but feared that there would be violent manifestations of that disappointment. The Ambassador said that he would try to explain the matter and thanked the Secretary for the information he had given.

The Ambassador then asked if the President would make a statement in connection with the approval of the Bill. The Secretary said that he did not know, and asked the Ambassador whether he thought a statement would do any good. The Ambassador said that he did not know, but merely asked for information. Ambassador said that there had been reports in the press that the President might send the Bill back with a recommendation as to the exclusion provision. The Secretary said that this would serve no useful purpose; that the President had talked fully and earnestly with the representatives of the House and the Senate and had made certain suggestions; that these suggestions had been modified and limited and in this form had been proposed and accepted by the Conference Committee; that then the Conference Committee had reported to both Houses and these had turned down the suggestions by overwhelming votes. It would not be of any use for the President to renew a recommendation upon this point as to which both Houses of Congress had taken a determined position. The Ambassador asked the Secretary when it was likely that the President would approve the Bill and the Secretary said that he could not say, but that he thought in the very near future.

711.945/1105a supp.: Telegram

The Secretary of State to the Ambassador in Japan (Woods)

Washington, May 26, 1924-noon.

81. My telegram No. 80, May 23, 6 p. m. 56 The President today signed the Immigration Bill, and is issuing a public statement in regard to it which will be telegraphed to you as soon as possible.

HUGHES

⁵⁶ Not printed.

711.945/1111a: Telegram

The Secretary of State to the Ambassador in Japan (Woods)

Washington, May 26, 1924—1 p. m.

82. Supplementing Department's No. 81, May 26, noon. The following is the text of the public statement issued by the President in reference to his approval of the Immigration Bill:

"In signing this Bill, which in its main features I heartily approve, I regret the impossibility of severing from it the exclusion provision which, in the light of existing law, affects especially the Japanese. gladly recognize that the enactment of this provision does not imply any change in our sentiment of admiration and cordial friendship for the Japanese people, a sentiment which has had and will continue to have abundant manifestation. The Bill rather expresses the determination of the Congress to exercise its prerogative in defining by legislation the control of immigration instead of leaving it to international arrangements. It should be noted that the Bill excepts from the exclusion provision government officials, those coming to this country as tourists or temporarily for business or pleasure, those in transit, seamen, those already resident here and returning from temporary absences, professors, ministers of religion, students, and those who enter solely to carry on trade in pursuance of existing treaty provisions. But we have had for many years an understanding with Japan by which the Japanese Government has voluntarily undertaken to prevent the emigration of laborers to the United States. and in view of this historic relation and of the feeling which inspired it, it would have been much better in my judgment, and more effective in the actual control of immigration, if we had continued to invite the coöperation which Japan was ready to give and had thus avoided creating any ground for misapprehension by an unnecessary statutory enactment. That course would not have derogated from the authority of the Congress to deal with the question in any exigency requiring its action. There is scarcely any ground for disagreement as to the result we want, but this method of securing it is unnecessary and deplorable at this time. If the exclusion provision stood alone I should disapprove it without hesitation, if sought in this way at this time. But this Bill is a comprehensive measure dealing with the whole subject of immigration and setting up the necessary administrative machinery. The present Quota Act, of 1921, will terminate on June 30th next. It is of great importance that a comprehensive measure should take its place, and that the arrangements for its administration should be provided at once in order to avoid hardship and confusion. I must therefore consider the Bill as a whole, and the imperative need of the country for legislation of this general character. For this reason the Bill is approved."

You may communicate a copy of this statement unofficially to the Minister for Foreign Affairs for his information.

HUGHES

711.945/1110 : Telegram

The Ambassador in Japan (Woods) to the Secretary of State

Токуо, *May 26*, *1924*—8 *p. m.* [Received May 26—12:36 p. m.]

122. Baron Matsui requested me informally this morning to say to you that he hopes that the President if he signs the immigration bill will find it possible to issue an explanatory statement covering the Japanese clause as the Japanese people are still counting on him to veto the measure and if he does not are going to be bitterly disappointed and he believes that such a statement coming from the President would somewhat relieve the tension that is sure to arise when news of his signing the bill reaches here.

Woods

711.945/1113: Telegram

The Ambassador in Japan (Woods) to the Secretary of State

[Paraphrase]

Токуо, *May 28*, *1924—4 р. т.* [Received May 28—8:45 a. т.]

125. The news that the President has signed the immigration bill aroused the deepest resentment and bitterness here as was expected. This morning the press contains very caustic comments. The statement issued by the President has tended to lessen the resentment in some measure but from the extent of the bitterness shown it is apparent that the Japanese, including those in the Ministry of Foreign Affairs, for some unexplainable reason had never abandoned hope that the bill would be vetoed.

I am assured, however, both by the Minister for Foreign Affairs and by Baron Shidehara that the Government is making every effort to prevent popular outbreaks and to allay public feeling. They do not think, therefore, that any anti-American demonstrations will take place.

Woods

711.945/1115: Telegram

The Ambassador in Japan (Woods) to the Secretary of State

Tokyo, May 28, 1924—5 p. m. [Received May 28—12:23 p. m.]

126. My number 14[114], May 23, 6 p. m.⁵⁷ I understand that the Cabinet at a meeting held this morning approved the draft of

⁵⁷ Not printed.

an instruction to Hanihara to "lodge a solemn protest." An official statement in this connection to be issued this afternoon will be cabled by the Associated Press.

Woods

711.945/1124

The Japanese Ambassador (Hanihara) to the Secretary of State

No. 50 Washington, May 31, 1924.

Sir: In pursuance of instructions from my Government, I have the honor to present to you herewith a memorandum enunciating the position of Japan on the subject of the discriminatory provisions against Japanese which are embodied in Section 13 (c) of the Immigration Act of 1924, approved May 26, 1924.

MEMORANDUM

"The Japanese Government are deeply concerned by the enactment in the United States of an act entitled the 'Immigration Act of 1924'. While the measure was under discussion in the Congress they took the earliest opportunity to invite the attention of the American Government to a discriminatory clause embodied in the Act, namely Section 13 (c), which provides for the exclusion of aliens ineligible to citizenship, in contradistinction to other classes of aliens, and which is manifestly intended to apply to Japanese. Neither the representations of the Japanese Government, nor the recommendations of the President and of the Secretary of State were heeded by the Congress, and the clause in question has now been written into the statutes of the United States.

It is, perhaps, needless to state that international discriminations in any form and on any subject, even if based on purely economic reasons, are opposed to the principles of justice and fairness upon which the friendly intercourse between nations must, in its final analysis, depend. To these very principles the doctrine of equal opportunity now widely recognized, with the unfailing support of the United States, owes its being. Still more unwelcome are discriminations based on race. The strong condemnation of such practice evidently inspired the American Government in 1912 in denouncing the commercial treaty between the United States and Russia, pursuant to the resolution of the House of Representatives of December 13, 1911, as a protest against the unfair and unequal treatment of aliens of a particular race in Russia.58 Yet discrimination of a similar character is expressed by the new statute of the United States. The Immigration Act of 1924, considered in the light of the Supreme Court's interpretation of the naturalization laws, clearly establishes the rule that the admissibility of aliens to the United States rests not upon individual merits or qualifications, but upon the division of race to which applicants belong. In particular, it appears that such racial distinction in the Act is directed essentially against Japanese, since persons of other Asiatic races are

ss See Foreign Relations, 1911, pp. 695-699.

excluded under separate enactments of prior dates, as is pointed out in the published letter of the Secretary of State of February 8, 1924, to the Chairman of the Committee on Immigration and Nat-

uralization of the House of Representatives.59

It has been repeatedly asserted in defence of these discriminatory measures in the United States that persons of the Japanese race are not assimilable to American life and ideals. It will however be observed, in the first place, that few immigrants of a foreign stock may well be expected to assimilate themselves to their new surroundings within a single generation. The history of Japanese immigration to the United States in any appreciable number dated but from the last few years of the nineteenth century. The period of time is too short to permit of any conclusive judgment being passed upon the racial adaptabilities of those immigrants in the matter of assimilation, as compared with alien settlers of the races classed as eligible to American citizenship.

It should further be remarked that the process of assimilation can thrive only in a genial atmosphere of just and equitable treatment. Its natural growth is bound to be hampered under such a pressure of invidious discriminations as that to which Japanese residents in some states of the American Union have been subjected, at law and in practice, for nearly twenty years. It seems hardly fair to complain of the failure of foreign elements to merge in a community, while the community chooses to keep them apart from the rest of its membership. For these reasons the assertion of Japanese non-assimilability seems at least premature, if not fundamentally unjust-

assimilability seems at least premature, if not fundamentally unjust. Turning to the survey of commercial treaties between Japan and the United States, Article II of the Treaty of 1894 60 contained a

clause to the following effect:-

'It is, however, understood that the stipulations contained in this and the preceding Article do not in any way affect the laws, ordinances and regulations with regard to trade, the immigration of laborers, police and public security which are in force or may hereafter be enacted in either of the two countries.'

When the Treaty was revised in 1911,⁶¹ this provisory clause was deleted from the new Treaty at the request of the Japanese Government, retaining the general rule which assures the liberty of entry, travel, and residence; and, at the same time, the Japanese Government made the following declaration, dated February 21, 1911,⁶² which is attached to the Treaty:—

'In proceeding this day to the signature of the Treaty of Commerce and Navigation between Japan and the United States, the undersigned, Japanese Ambassador in Washington, duly authorized by his Government, has the honor to declare that the Imperial Japanese Government are fully prepared to maintain with equal effectiveness the limitation and control which they have for the past three years exercised in regulation of the emigration of laborers to the United States.'

In proceeding to the exchange of ratifications of the revised Treaty, the Acting Secretary of State communicated to the Japanese

⁶¹ Foreign Relations, 1911, p. 315. ⁶² Ibid., p. 319.

Vol. I, p. 214.
 Malloy, *Treaties*, 1776–1909, vol. I, p. 1028.

Ambassador on February 25, 1911, that 'the advice and consent of the Senate to the ratification of the Treaty is given with the understanding, which is to be made part of the instrument of ratification, that the Treaty shall not be deemed to repeal or affect any of the provisions of the Act of Congress entitled "An Act to regulate the Immigration of Aliens into the United States", approved February 20, 1907.' The Acting Secretary of State then added:—

'Inasmuch as this Act applies to the immigration of aliens into the United States from all countries and makes no discrimination in favor of any country, it is not perceived that your Government will have any objection to the understanding being recorded in the instrument of ratification.'

[Relying upon the assurance thus given by the American Government of the absence of any statutory discrimination against Japanese, the Japanese Government consented to have the above quoted

understanding recorded in the instrument of ratification.] 68

The foregoing history will show that throughout these negotiations, one of the chief preoccupations of the Japanese Government was to protect their nationals from discriminatory immigration legislation in the United States. That position of Japan was fully understood and appreciated by the American Government, and it was with these considerations in view that the existing Treaty was signed and the exchange of its ratifications effected. In this situation, while reserving for another occasion the presentation of the question of legal technicality, whether and how far the provisions of Section 13 (c) of the Immigration Act of 1924 are inconsistent with the terms of the Treaty of 1911, the Japanese Government desire now to point out that the new legislation is in entire disregard of the spirit and circumstances that underlie the conclusion of the Treaty.

With regard to the so-called 'Gentlemen's Agreement' it will be recalled that it was designed on the one hand, to meet the actual requirements of the situation as perceived by the American Government, concerning Japanese immigration, and, on the other, to provide against the possible demand in the United States for a statutory exclusion which would offend the just susceptibilities of the Japanese people. The arrangement came into force in 1908. efficiency has been proved in fact. The figures given in the Annual Report of the United States Commissioner General of Immigration authoritatively show that during the fifteen years from 1908 to 1923, the excess, in number, of Japanese admitted to continental United States, over those who departed was no more than 8681 altogether,including not only immigrants of the laboring class, but also merchants, students, and other non-laborers and non-immigrants, the numbers which naturally increased with the growth of commercial, intellectual, and social relations between the two countries. If even so limited a number should in any way be found embarrassing to the United States, the Japanese Government have already manifested their readiness to revise the existing arrangement with a view to further limitation of emigration.

⁶⁸ This sentence does not appear in the note presented by the Japanese Ambassador, but is contained in a copy of the instructions to the Japanese Ambassador, as communicated on June 4 by K. Matsui of the Japanese Foreign Office to the American Ambassador in Japan (file no. 711.945/1156).

Unfortunately, however, the sweeping provisions of the new act, clearly indicative of discrimination against Japanese, have made it impossible for Japan to continue the undertakings assumed under the Gentlemen's Agreement. An understanding of friendly cooperation reached after long and comprehensive discussions between the Japanese and American Governments has thus been abruptly overthrown by legislative action on the part of the United States. The patient, loyal, and scrupulous observance by Japan for more than sixteen years, of these self-denying regulations, in the interest of good relations between the two countries, now seems to have been wasted.

It is not denied that, fundamentally speaking, it lies within the inherent sovereign power of each state to limit and control immigration to its own domains, but when, in the exercise of such right, an evident injustice is done to a foreign nation in disregard of its proper self-respect, of international understandings or of ordinary rules of comity, the question necessarily assumes an aspect which justifies

diplomatic discussion and adjustment.

Accordingly, the Japanese Government consider it their duty to maintain and to place on record their solemn protest against the discriminatory clause in Section 13 (c) of the Immigration Act of 1924 and to request the American Government to take all possible and suitable measures for the removal of such discrimination."

I am instructed further to express the confidence that this communication will be received by the American Government in the same spirit of friendliness and candor in which it is made.

Accept [etc.]

M. Hanihara

711.945/11233/

Memorandum by the Secretary of State of a Conversation with the Japanese Ambassador (Hanihara), May 31, 1924, 11:30 a.m.

Immigration. The Ambassador presented a note ^{63a} setting forth a Memorandum of his Government by way of protest at the passage of the Immigration Bill containing the exclusion provision. The Ambassador said he hoped the Secretary would appreciate the friendly spirit in which he presented it. He emphasized the fact that his Government fully understood the position which the Secretary had taken and were gratified at the statement made by the President in relation to the exclusion provision.

The Secretary reiterated his desire by which he had been animated throughout the conduct of his office, to promote the most cordial friendship between the two peoples and the other Governments. The Secretary said that he would continue his work in the same spirit. The Ambassador again expressed his appreciation and said this feeling was reciprocated.

⁶⁸a Supra.

The Secretary said that he did not care to comment upon the note but he would refer informally to two or three phases of the matter. In the first place it should be noted that the exclusion provision was not to go into effect until the thirtieth of June. therefore, not in effect as a law at this time and there would be opportunity before it came into force for the Department of State to communicate with the Japanese Government formally the fact that it had been enacted and that the Japanese Government was released from further application under the Gentlemen's Agreement. The Secretary pointed out that this was a unilateral arrangement, and not bi-lateral, and that it required no united action to deal with it. The Secretary, however, said that as a matter of courtesy there would be opportunity before the new law went into effect to give the notice as already stated. The Secretary called attention further to the fact that at the time the Treaty of 1911 was negotiated this Government had stated distinctly that it reserved all its rights with respect to the control of immigration and that this was fully understood by the Japanese Government.

The Secretary said that so far as the point of discrimination was concerned it should be borne in mind that the Bill related to aliens who were not eligible to citizenship; that the point of discrimination, which did not apply solely to the Japanese but to the orientals generally, was that they did not come within the classes of aliens who were entitled to naturalization under our laws. The point of distinction was thus made by our naturalization laws which had long been in existence. This was quite apart from any question of the ability or character of a particular race, but that Congress had not desired to facilitate the introduction of those who were not eligible to citizenship under our laws. The Secretary again referred to the fact that under our naturalization laws this distinction was of long standing.

711.945/1123: Telegram

The Ambassador in Japan (Woods) to the Secretary of State

Токуо, *May 31*, *1924—2 р. т.* [Received May 31—6:30 a. т.]

130. Due to the attitude of the Government as set forth in the last paragraph of my 125, May 28, 4 p. m., there have been no popular anti-American outbreaks but this does not signify that there has been any lessening of deep-seated resentment and bitterness throughout Japan. The nation can be considered to be behind the Government in any protest they may make at Washington and it would

be a mistake to interpret their protest as actuated by mainly domestic political urgency.

Woods

711.945/1127 : Telegram

The Ambassador in Japan (Woods) to the Secretary of State

Токуо, June 4, 1924—4 р. т. [Received June 4—9:35 а. т.]

132. Department's telegram no. 88, May 31, 3 p. m. 64 The vernacular press have not given overmuch prominence to the recent Japanese protest on exclusion and their comments are confined to entire approval of the Government's action and express satisfaction that Japan has based her protest on the spirit underlying the treaty rather than upon legal technicalities. The tone of the press while giving in no way any indication of resignation tends to confirm the belief that there is a general realization here now of the fact that no immediate action favorable to Japan can be expected; also that violence looking to this end could have no beneficial result; and that Japan's best course under the circumstances is to adopt an attitude of restraint in the discussion of the situation hoping in this way to effect a change favorable to Japan through appeals to the sense of fair play of the American people realizing at the same time that this course will be most profitable to Japan through its beneficial effect on world opinion coming as it does at time when general outbreaks of violence might have well been expected.

In the meantime today's press reports two more suicides in protest against exclusion and the growth of the movement for the boycotting of American goods while unlikely to prove very serious to American trade relations nevertheless are indicative of the extent of the bitterness felt.

Woods

711.945/1124

The Secretary of State to the Japanese Ambassador (Hanihara)

Washington, June 16, 1924.

EXCELLENCY: I have the honor to acknowledge the receipt of your note under date of May 31st containing a memorandum stating the position of the Japanese Government with respect to the provision of Section 13 (c) of the Immigration Act of 1924. I take pleasure in noting your reference to the friendliness and candor in which your communication has been made and you may be assured of the

⁶⁴ Not printed.

¹⁰⁸⁸⁴⁻Vol. II-39-32

readiness of this Government to consider in the same spirit the views vou have set forth.

At the time of the signing of the Immigration Bill, the President issued a statement, a copy of which I had the privilege of handing to you, gladly recognizing the fact that the enactment of this provision "does not imply any change in our sentiment of admiration and cordial friendship for the Japanese people, a sentiment which has had and will continue to have abundant manifestation." Permit me to state briefly the substance of the provision. Section 13 (c) related to all aliens ineligible to citizenship. It establishes certain exceptions, and to these classes the exclusion provision does not apply, to wit:

Those who are not immigrants as defined in Section 3 of the Act, that is "(1) a government official, his family, attendants, servants, and employees, (2) an alien visiting the United States temporarily as a tourist or temporarily for business or pleasure, (3) an alien in continuous transit through the United States, (4) an alien lawfully admitted to the United States who later goes in transit from one part of the United States to another through foreign contiguous territory, (5) a bona fide alien seaman serving as such on a vessel arriving at a port of the United States and seeking to enter temporarily the United States solely in the pursuit of his calling as a seaman, and (6) an alien entitled to enter the United States solely to carry on trade under and in pursuance of the provisions of a present existing treaty of commerce and navigation."

Those who are admissible as non-quota immigrants under the provisions of subdivision (b), (d) or (e) of Section 4, that is "(b) An immigrant previously lawfully admitted to the United States, who is returning from a temporary visit abroad"; "(d) An immigrant who continuously for at least two years immediately preceding the time of his application for admission to the United States has been, and who seeks to enter the United States solely for the purpose of, carrying on the vocation of minister of any religious denomination, or professor of a college, academy, seminary, or university; and his wife, and his unmarried children under 18 years of age, if accompanying or following to join him; or (e) An immigrant who is a bona fide student at least 15 years of age and who seeks to enter the United States solely for the purpose of study at an accredited school, college, academy, seminary, or university, particularly designated by him and approved by the Secretary of Labor, which shall have agreed to report to the Secretary of Labor the termination of attendance of each immigrant student, and if any such institution of learning fails to make such reports promptly the approval shall be withdrawn."

Also, the wives, or unmarried children under 18 years of age, of immigrants admissible under subdivision (d) of Section 4, above

auoted.

It will thus be observed that, taking these exceptions into account, the provision in question does not differ greatly in its practical operation, or in the policy which it reflects, from the understanding

embodied in the Gentlemen's Agreement under which the Japanese Government has coöperated with the Government of the United States in preventing the emigration of Japanese laborers to this country. We fully and gratefully appreciate the assistance which has thus been rendered by the Japanese Government in the carrying out of this long established policy and it is not deemed to be necessary to refer to the economic considerations which have inspired it. Indeed, the appropriateness of that policy, which has not evidenced any lack of esteem for the Japanese people, their character and achievements, has been confirmed rather than questioned by the voluntary action of your Government in aiding its execution.

The point of substantial difference between the existing arrangement and the provision of the Immigration Act is that the latter has expressed, as the President has stated, "the determination of the Congress to exercise its prerogative in defining by legislation the control of immigration instead of leaving it to international arrangements." It is not understood that this prerogative is called in question, but, rather, your Government expressly recognizes that "it lies within the inherent sovereign power of each state to limit and control immigration to its own domains," an authority which it is believed the Japanese Government has not failed to exercise in its own discretion with respect to the admission of aliens and the conditions and location of their settlement within its borders. President would have preferred to continue the existing arrangement with the Japanese Government, and to have entered into negotiations for such modifications as might seem to be desirable, this Government does not feel that it is limited to such an international arrangement or that by virtue of the existing understanding, or of the negotiations which it has conducted in the past with the Japanese Government, it has in any sense lost or impaired the full liberty of action which it would otherwise have in this matter. On the contrary, that freedom with respect to the control of immigration, which is an essential element of sovereignty and entirely compatible with the friendly sentiments which animate our international relations, this Government in the course of these negotiations always fully reserved.

Thus in the Treaty of Commerce and Navigation concluded with Japan in 1894 it was expressly stipulated in Article II:

"It is, however, understood that the stipulations contained in this and the preceding Article do not in any way affect the laws, ordinances or regulations with regard to trade, the immigration of laborers, police and public security which are in force or which may hereafter be enacted in either of the two countries."

It is true that at the time of the negotiation of the treaty of 1911 the Japanese Government desired that the provision above quoted should be eliminated and that this Government acquiesced in that proposal in view of the fact that the Japanese Government had, in 1907-8, by means of the Gentlemen's Agreement, undertaken such measures of restriction as it was anticipated would prove adequate to prevent any substantial increase in the number of Japanese laborers in the United States. In connection with the treaty revision of 1911, the Japanese Government renewed this undertaking in the form of a Declaration attached to the Treaty. In acquiescing in this procedure, however, this Government was careful to negative any intention to derogate from the full right to exercise in its discretion control over immigration. In view of the statements contained in your communication with respect to these negotiations I feel that I should refer to the exchange of views then had. You will recall that, in a memorandum of October 19, 1910,65 suggesting a basis for the treaty revisions then in contemplation the Japanese Embassy stated:

"... The measures which the Imperial Government have enforced for the past two and a half years in regulation of the question of emigration of labourers to the United States, have, it is believed, proved entirely satisfactory and far more effective than any prohibition of immigration would have been. Those measures of restraint were undertaken voluntarily, in order to prevent any dispute or issue between the two Countries on the subject of labour immigration, and will be continued, it may be added, so long as the con-

dition of things calls for such continuation.

"Accordingly, having in view the actual situation, the Imperial Government are convinced that the reservation in question is not only not necessary, but that it is an engagement which, if continued, is more liable to give rise to misunderstandings than to remove difficulties. In any case it is a stipulation which, not unnaturally, is distasteful to national sensibilities. In these circumstances the Imperial Government desire in the new treaty to suppress entirely the reservation above mentioned, and to leave, in word as well as in fact, the question to which it relates, for friendly adjustment between the two Governments independently of any conventional stipulations on the subject. In expressing that desire they are not unmindful of the difficulties under which the United States labour in the matter of immigration and they will accordingly, if so desired, be willing to make the proposed treaty terminable at any time upon six months' notice.

"The Japanese Embassy is satisfied that in the presence of such a termination clause the Contracting States would actually enjoy greater liberty of action so far as immigration is concerned, than under the existing reservation on the subject, however liberally

construed."

Replying to these suggestions the Department of State declared in its memorandum sent to the Japanese Ambassador on January 23,

^{*} Not printed.

1911,66 that it was prepared to enter into negotiations for a new treaty of commerce and navigation on the following bases:

"The Department of State understands, and proceeds upon the understanding, that the proposal of the Japanese Government made in the above-mentioned memorandum is that the clause relating to immigration in the existing treaty be omitted for the reason that the limitation and control which the Imperial Japanese Government has enforced for the past two and a half years in regulation of emigration of laborers to the United States, and which the two Governments have recognized as a proper measure of adjustment under all the circumstances, are to be continued with equal effectiveness during the life of the new treaty, the two Governments when necessary coöperating to this end; the treaty to be made terminable upon six months' notice.

"It is further understood that the Japanese Government will at the time of signature of the treaty make a formal declaration to the above effect, which may in the discretion of the Government of the United

States be made public.

"In accepting the proposal as a basis for the settlement of the question of immigration between the two countries, the Government of the United States does so with all necessary reserves and without prejudice to the inherent sovereign right of either country to limit and control immigration to its own domains or possessions."

On February 8, 1911,⁶⁶ in a memorandum informing the Department of State of the readiness of the Japanese Government to enter upon the negotiations which had been suggested by the Embassy and to which the Department had assented subject to the reservation above quoted, the Japanese Embassy stated that

"the Imperial Government concur in the understanding of the proposal relating to the question of immigration set forth in the above mentioned note of January 23 last."

It was thus with the distinct understanding that it was without prejudice to the inherent sovereign right of either country to limit and control immigration to its own domains or possessions that the Treaty of 1911 was concluded. While this Government acceded to the arrangement by which Japan undertook to enforce measures designed to obviate the necessity of a statutory enactment, the advisability of such an enactment necessarily remained within the legislative power of this Government to determine. As this power has now been exercised by the Congress in the enactment of the provision in question, this legislative action is mandatory upon the executive branch of the Government and allows no latitude for the exercise of executive discretion as to the carrying out of the legislative will expressed in the statute.

⁶⁶ Not printed.

It is provided in the Immigration Act that the provision of Section 13 (c), to which you have referred, shall take effect on July 1, 1924. Inasmuch as the abstention on the part of the United States from such an exercise of its right of statutory control over immigration was the condition upon which was predicated the undertaking of the Japanese Government contained in the Gentlemen's Agreement of 1907–08 with respect to the regulation of the emigration of laborers to the United States, I feel constrained to advise you that this Government cannot but acquiesce in the view that the Government of Japan is to be considered released, as from the date upon which Section 13 (c) of the Immigration Act comes into force, from further obligation by virtue of that understanding.

In saying this, I desire once more to emphasize the appreciation on the part of this Government of the voluntary coöperation of your Government in carrying out the Gentlemen's Agreement and to express the conviction that the recognition of the right of each Government to legislate in control of immigration should not derogate in any degree from the mutual goodwill and cordial friendship which have always characterized the relations of the two countries.

Accept [etc.]

CHARLES E. HUGHES

711.945/1189

The Chargé in Japan (Caffery) to the Secretary of State

No. 571-E

Токуо, July 8, 1924.

[Received July 25.]

Sir: Referring to the Embassy's telegram No. 174, of July 2, 1924, ⁶⁸ I have the honor to transmit herewith the full text of the speech delivered by Baron Shidehara at the opening of the Diet on July 1, 1924.

I have [etc.]

JEFFERSON CAFFERY

[Enclosure-Extract]

Speech by the Japanese Minister for Foreign Affairs (Shidehara) at the Opening of the Japanese Diet, July 1, 1924 60

As you are aware, a new Immigration Act recently passed the United States Congress, and having been approved by the President, it has been finally written into the statute-books of the country. As to the genesis of this Act, you will recall that of late years in the United States, immigration from foreign countries, especially from Southern and Eastern Europe, has been showing a marked increase. It has come to be generally believed that it will

Not printed.

Translation as printed in The Japan Advertiser, Tokyo, July 2, 1924.

be a matter of practical difficulty to merge these foreign elements in the homogeneous community of original Americans. It has accordingly been felt necessary to impose a more rigorous restriction upon foreign immigration. As for the emigration of Japanese laborers to the United States, an arrangement popularly called the Gentlemen's Agreement has long been in force. Under that arrangement the Japanese Government has been exercising a prohibitory control over the departure to the United States of all classes of laborers except certain relatives of those living in the United States and persons who are returning to that country after a temporary visit to Japan. Consequently, the increase of new Japanese immigrants in the United States has not been, in fact, of any appreciable number. It is believed that the new Immigration Act was originally intended to institute a rigorous restriction of immigration in general, and that there was no reason for embodying in the Act a provision designed specifically to exclude Japanese immigrants. is sincerely to be regretted that while the Bill was under discussion in Congress, certain leaders of anti-Japanese persuasions should have succeeded in putting through a clause to the effect that aliens ineligible to citizenship should, as a rule, be denied admission into the United States.

In reviewing the development of this question, there are three points which engage our attention.

First, no intimation has lately been made, even by the exclusionists, of any inferiority of the Japanese race. Their contention is in effect that the Japanese are to the Americans what oil is to water. Neither oil nor water can be said to be superior or inferior to the other, but the fact is that in no case can oil dissolve and merge in water. In other words, they say, Japanese are unassimilable to American life, and the introduction of such alien elements will prove a source of danger to the United States. Such an argument formed one of the essential phases for the exclusion of Japanese; it was not on the ground of the inferiority of the Japanese race that the exclusion clause was adopted. It should, however, be pointed out that the plea of Japanese unassimilability is no more than an arbitrary presumption unsupported by any evidence of facts. Our views on this point have been already roughly set forth in the Note of May 31 last addressed by the Japanese Government to the Government of the United States.

Secondly, it has always been consistently maintained by the United States, that the liberty to limit and control immigration is one of the essential attributes of the inherent sovereign rights of each nation. The same argument was repeatedly invoked with special emphasis in the discussion of the exclusion clause. We understand that the importance placed on this point by the United States is due to the

special conditions of that country. But we have no intention of calling this doctrine in question. The recognition, however, of such principle does not lead to any conclusion that the exclusion clause is in no respect repugnant to the Treaty of Commerce and Navigation between Japan and the United States.

Thirdly, it should be appreciated that the President and the Secretary of State of the United States have from the outset shown their opposition to the exclusion clause, and have made all possible efforts to have it eliminated from the Act. Public opinion in the United States, as reflected by a great section of the American press, also appears to be sympathetically disposed to Japan's position in the matter. It is a significant fact that the legislation in question has met with uniform disapproval by many influential newspapers of the United States.

Our protest against the exclusion clause is based upon the conviction that a discriminatory treatment, as laid down in that clause, is contrary to the dictates of justice and fairness, and is imposed upon us in disregard of the ordinary rules of international comity. The legislation is now an accomplished fact in the United States, but we can by no means concede that the question is closed. Until our just contentions shall have been given satisfaction, we shall maintain our protest, and shall use our best possible endeavors to seek an amicable adjustment of the question and to ensure forever the traditional friendship between the two nations.

711.945/1213a: Telegram

The Secretary of State to the Chargé in Japan (Caffery)

Washington, September 11, 1924—4 p. m.

152. Associated Press despatch from Tokyo published this morning states:

"The strong frank tone of Ambassador Hanihara's immigration note to the American Government in which the term 'grave consequences' was used was due to the insistence of Secretary of State Charles E. Hughes who wanted a note 'with teeth' Bishop Charles F. Reifsnider said today in an address before the Tokyo Rotary Club".

When this was shown to me I said that it was absurd and that there was no truth in it. I did not discuss the despatch as it seemed unworthy of further notice. I send this for your information and guidance and not for the purpose of provoking discussion.

JAPAN 411

711.945/1251: Telegram

The Ambassador in Japan (Bancroft) to the Secretary of State

Tokyo, January 22, 1925—noon. [Received January 22—5:53 a. m.]

10. As indicated in my telegram number 9, January 21 [20], 11 p. m.⁷¹ Foreign Minister made today before the Diet a fair and judicious statement regarding immigration question as follows:

"As for our relations with the United States, it is evident that the two nations should live in cordial friendship for all time and cooperate with each other in the great mission of promoting the peace and security of the Pacific Regions and of the world. We are confident that the views are shared by the vast majority of the

American people.

With regard to the discriminatory clause against Japanese in the Immigration Act of the United States of 1924, which we regret, I explained in the last session of the Diet the circumstances attending the insertion of that clause and the views of the Government on the subject. The question still remains unadjusted. It should however be remembered that a law cannot be modified except by law and that under the constitutional system of the United States the legislature is entirely independent of the Executive. It is obvious therefore that the continuance of discussions between the two Governments at this time will not in itself serve any useful purpose. What is really important in the final analysis of the question is that the American people shall come to have a correct understanding of our people and of our points of view. Impetuous mood or impassioned utterances will not conduce to international understanding. There is no doubt that the same love of justice that kindled American independence still continues to inspire the minds of the American people. The day will come when this fact will be fully demonstrated."

BANCROFT

JAPANESE LEGISLATION TO PROVIDE FOR THE EXPATRIATION OF CHILDREN BORN TO JAPANESE PARENTS IN THE UNITED STATES AND IN CERTAIN OTHER COUNTRIES

894.012/13

The Chargé in Japan (Caffery) to the Secretary of State

No. 581-E

Tokyo, *July 17*, *1924*. [Received August 7.]

Sir: I have the honor to enclose herewith a translation of a bill,⁷¹ which has recently passed both Houses of the Diet, amending the

[&]quot; Not printed.

Law of Nationality. This measure represents an effort towards solving the question of dual nationality, in which Japanese who have acquired foreign nationality by reason of birth are involved.

As indicated in the enclosed translation of Diet proceedings,⁷² two bills relating to this subject were introduced; one by the Government, and the other by the Chairman of the Special Committee to which both bills were referred. The latter bill was distinctly far-reaching. It sought to effect the automatic cancellation of the Japanese nationality of Japanese who acquired foreign nationality either by birth or naturalization. Due to the particular opposition of the Army, which feared the provisions by which persons could evade conscription by becoming naturalized in a foreign country until after their thirty-seventh year, when they would be no longer of military age, it was set aside in favor of the Government bill. It did not, however, have much support at any time, as it was too complete and abrupt a departure from the principle of blood, which obtains in Japanese law.

The Law of Nationality, as it now stands, permits Japanese, who have acquired foreign nationality by birth, to cancel, with the approval of the Minister of the Interior, their Japanese nationality before reaching their seventeenth year, when male subjects become liable for military service. It will be noted that the bill which was adopted is not a full acquiescence in "the principle of the sun"; for, while it provides that those born in certain countries (to be designated by imperial decree ⁷³) and who have thus acquired the nationality of the country of birth, may be regarded as having lost their Japanese nationality from the moment of birth, unless, however, a desire to preserve Japanese nationality has been formally expressed, it affords no relief for Japanese who have acquired foreign nationality by processes of naturalization. Thus, the Japanese Government inferentially reiterates its claim to the continued allegiance of all of its nationals born under the Japanese flag.

The attention of American officials in Japan is frequently drawn to Japanese, born in the United States and who have elected to claim American citizenship, who have been conscripted upon their arrival in Japan. In a number of such cases, it was ascertained that these persons were possessed of the belief that the Japanese

⁷² Not printed.

¹⁸ By Imperial Ordinance No. 262, Nov. 14, 1924, a translation of which was enclosed with the despatch no. 17, Dec. 1, 1924, from the Ambassador in Japan, it was specified that this amendment to the Nationality Law should apply to the United States, Argentina, Brazil, Canada, Chile, and Peru, effective Dec. 1, 1924.

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authorities could not regard them as Japanese subjects, as the fact of their birth had not been registered in Japan and they were without a Japanese census domicile. The Minister of the Interior pointed out in the Diet that this belief could only be based on ignorance, as the Census Domicile Law, which is also being amended to accord with the Law of Nationality, invests all Japanese with Japanese nationality, whether they have been registered or not. Upon the promulgation of the amendments and of the decree provided for in the amendment to the Law of Nationality, persons of Japanese stock born in certain foreign countries will be presumed to have acquired the nationality of the country in which they were born, and, therefore, to have divested themselves of their Japanese nationality at the time of birth.

I have [etc.]

JEFFERSON CAFFERY

894.012/15

The Ambassador in Japan (Bancroft) to the Secretary of State

No. 175

Tokyo, *March 24*, 1925. [Received April 16.]

Sir: With reference to the new Expatriation Law which the Japanese Government put into effect on December 1, 1924, by which all children born to Japanese parents in the United States and certain other countries after December 1, 1924, shall be regarded as citizens of these countries unless their parents, within fourteen days after their birth, reserve Japanese citizenship for them by registering their names at a Japanese Consulate, I have the honor to report that according to press statements not one of the forty children born to Japanese parents in Hawaii since December first has been registered at the Japanese Consulate-General.

In commenting on the new Expatriation Law the Japanese Consul-General at Honolulu, Mr. Keichi Yamazaki, is reported to have said that the new law represents the desire of the Japanese Government to remove all objections which were raised to the former system of dual citizenship and that to this end he is personally urging the parents of those Japanese who are to reside in Hawaii to refrain from registering their children at a Japanese Consulate and thus define their status clearly as American citizens over whom the Japanese Government has relinquished all claim to citizenship.

I have [etc.]

EDGAR A. BANCROFT

OPPOSITION BY THE UNITED STATES AND GREAT BRITAIN TO THE JAPANESE PROPOSAL TO ASSIMILATE THE SOUTH MANCHURIA RAILWAY ZONE WITH JAPANESE TERRITORY FOR TARIFF PURPOSES

741.942/22: Telegram

The Secretary of State to the Ambassador in Great Britain (Kellogg)

Washington, July 11, 1924—5 p. m.

203. Following telegram, dated July 8, received from Legation Peking:

"Despatch number 43, June 27, from American Consulate General at Mukden reports acting British Consul General there states he has received instructions from his government that new commercial treaty now being negotiated in London between Great Britain and Japan, that a clause has been proposed presumably by Japan providing that Chosen, Kwantung Leased Territory and South Manchuria Railway Zone are to be placed on same status as Japan for purposes of new treaty, that the clause related particularly to taxation of merchandise between Japan on the one side and South Manchuria Railway on the other, that it was specifically provided that British extraterritorial courts in railway zone would not be affected by proposed clause."

You may make discreet inquiries regarding this matter.

For your guidance you are informed that the assimilation of the South Manchuria Railway Zone to Japanese territory would establish a precedent which this Government could not but regard as an unfortunate impairment of the territorial and administrative integrity of China; that this Government has consistently opposed the exercise of political powers asserted to be derived from the concessions for the Chinese Eastern Railway and the South Manchuria Railway; and that, at the Washington Conference, the Japanese delegation, while claiming certain of such political powers in the zone of the latter Railway, did not go so far as to assimilate the zone to national territory as seems now to be proposed.

HUGHES

741.942/23: Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

London, July 14, 1924—2 p. m.

[Received 3:22 p. m.]

250. Your 203 July 11, 5 p. m. Foreign Office informs me that it is quite true that discussion is now proceeding with a view to negotiating a new commercial treaty between Great Britain and Japan

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but state[s] the suggestions that Kwantung Leased Territory and the South Manchuria Railway Zone are to be assimilated for the purposes of the treaty to Japanese territory, come entirely from the side of the Japanese Government and have not been agreed to by the Foreign Office. In fact the Foreign Office wholly agrees with the Department's attitude as contained in the telegram under reference and would be grateful if you would authorize me to give it an informal memorandum of your views . . .

Kellogg

741.942/23: Telegram

The Acting Secretary of State to the Ambassador in Great Britain (Kellogg)

Washington, July 17, 1924-6 p. m.

221. Your telegram No. 250, July 14, 2 p. m. You may give Foreign Office informal memorandum of views as suggested.

GREW

741.942/25: Telegram

The Ambassador in Great Britain (Kellogg) to the Secretary of State

London, July 18, 1924—6 p. m. [Received July 18—2:36 p. m.]

265. Your 221, July 17, 6 p. m. It appears that it is not a new commercial treaty which is being negotiated. The Japanese Government is asking for amendments or interpretations (which would be in the form of an exchange of notes) of the existing treaty of 1911 4 with particular reference to the importation of products especially raw materials such as coal, iron and soya beans into Japan from the railway zone. The assent of the British Government is sought in order that Great Britain may not invoke the most-favored-nation clause of the treaty for British importations into Japan when the duties are lowered between the railway zone and Japan.

The Foreign Office asserts that it is entirely in accord with your views and will make no agreement which would impair the territorial and administrative integrity of China, and it is seeking some means which while admitting the right of Japan to lower the duties on products between the zone and Japan will not impinge on that principle.

⁷⁴ British and Foreign State Papers, 1911, vol. civ. p. 159.

As to the Kwantung Leased Territory Great Britain has tacitly admitted for some time past that [the?] right of Japan to fix a tariff between that territory and Japan.

. . . China I am told imposes both export and import on products going into or coming out of the zone.

The Foreign Office promises to keep me informed.

Kellogg

741.942/25 : Telegram

The Acting Secretary of State to the Ambassador in Great Britain (Kellogg)

Washington, July 26, 1924-3 p. m.

238. Your telegram No. 265, July 18, 6 p. m.

- 1. Do the proposals now made by the Japanese to the British contemplate only a reduction of the Japanese tariff rates, or have they in contemplation a reciprocal downward revision of both Chinese and Japanese import and/or export duties by agreement between the Chinese and Japanese Governments? If the latter, the plan would appear to involve inconsistency with the purpose of Articles V and VI of the Washington Treaty relating to Chinese customs tariff.⁷⁵
- 2. Department knows of no legal basis for a suggestion or arrangement which would constitute the Railway Zone a separate customs area.
- 3. With regard to your penultimate sentence, it is the Department's understanding that China imposes no import or export duties upon traffic between the Railway Zone and other Chinese territory, but only upon goods crossing boundary of the Kwantung Leased Territory.
- 4. No change in the existing treaty provisions establishing the Chinese import and export duties upon goods crossing inwards or outwards over the boundary of the Leased Territory can be made without giving rise to rights on the part of other countries under the most-favored-nation clauses in their treaties with China or with Japan. If by virtue of such changes advantages should be accorded to the trade either of China or of Japan, this Government would probably feel obligated to ask that the same advantages be accorded to its nationals.
- 5. The Department sees no reason for considering the trade of Manchuria entitled to treatment on a different basis from that of

¹⁵ Foreign Relations, 1922, vol. 1, p. 282.

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the trade of any other part of China. Such trade is, in international contemplation, Chinese trade, regardless of the nationality or place of domicile of the producers or distributors. Any concessions made in regard to it would fall within the scope of the most-favored-nation provisions of the treaties to which the country making the concession is a party.

6. Following is the substance of a telegram dated July 23, 9 a. m., from Chargé d'Affaires at Tokyo: "Several days ago I informally asked Baron Shidehara ^{75a} if there was any truth in the newspaper reports that the Japanese Government contemplated any change in the status of the South Manchuria Railway Zone and he said he did not know but promised to look into the matter; today he told me there was no truth in these reports. He said also that the Japanese Government did not intend to insist, in connection with the negotiations now going on in London, that for tariff purposes the South Manchuria Railway Zone be assimilated to Japanese territory."

Department hopes this is a correct statement of the situation.

GREW

FINANCIAL SETTLEMENT BY JAPAN FOR THE FATAL SHOOTING OF LIEUTENANT WARREN H. LANGDON, U. S. NAVY, AT VLADIVOSTOK BY A JAPANESE SENTRY, JANUARY 8, 1921 76

494.11 L 25/4

The Secretary of State to the Chargé in Japan (Wilson)

No. 170

Washington, March 19, 1923.

Sir: The Department desires that you take up at once with the Japanese Government the matter of pecuniary reparation for the unlawful killing of Lieutenant W. H. Langdon, engineer officer of the U. S. S. Albany, who was shot by a Japanese sentry at Vladivostok, Siberia, while returning to his ship on the night of January 8, 1921, the injury resulting in the death of the officer on the following day. The complete story of the tragedy is told in a communication of the American Consul at Vladivostok of January 22, 1921, to the American Chargé d'Affaires ad interim, Tokyo, Japan, as follows:

"Lieutenant Langdon was returning to ship on the sidewalk opposite from Japanese Division Headquarters on Peter-the-Great Street at about four o'clock in the morning of January eighth. Owing to the street being very steep, and the sidewalk terraced, and quite slippery with ice, Lieutenant Langdon was using his electric

⁷⁵a Japanese Minister for Foreign Affairs.

¹⁶ For previous correspondence regarding the shooting of Lieutenant Langdon, see *Foreign Relations*, 1921, vol. II, pp. 354 ff.

hand lamp during the entire descent, in accordance with the general practice of the American naval officers here. Lieutenant Langdon passed beyond the front of Division Headquarters and was near the turn of the street when a sentry ran across the street, pursued Lieutenant Langdon, and stopped about six feet in front of and to the left of him at position charge bayonets and said, "Amerikansky?" Lieutenant Langdon said, "Da", and walked on. When Lieutenant Langdon was about six feet ahead of the sentry the sentry fired from his rifle. The ball entered near the middle of the back and passed out through the chest above the heart. After Lieutenant Langdon was shot he turned and fired two shots from his revolver at the sentry, and then returned to ship."

The Department is informed that, at the time of his death, Lieutenant Langdon was unmarried, and that his surviving dependent relatives consist of a father and mother; that the mother was practically wholly dependent upon him for support, and the father partly so; that Lieutenant Langdon had for four years allotted from his pay a certain monthly sum to his mother and frequently sent home gifts of money; and that the father and mother had no resources other than their own labor and his assistance.

Lieutenant Langdon was thirty-two years and ten months old at the time of his death and was a Lieutenant (T) with pay at the rate of \$324 per month. According to the American actuaries tables he had a normal expectation at the time of his death of 33.21 years of life, during which his pay and allowances, so this Department is informed by the Navy Department, could be expected to increase to approximately \$7000 a year up to the probable time of his retirement, after which his retired pay would be \$4500 per annum, under existing laws. This expectation of advancement in rank and pay was practically assured by reason of his efficiency, sterling character and exemplary habits. The Navy Department has submitted a statement to this Department in which are set forth the salient facts pertaining to the service record of Lieutenant Langdon, together with information as to the dependency of his surviving relatives and the approximate loss occasioned to them by his untimely death. The Navy Department concluded that in all the circumstances \$40,000 would constitute a just and reasonable reparation.

Considering the circumstances under which Lieutenant Langdon was killed, his usefulness, expectancy of life, and financial prospects, and the dependent state of his aged parents, the Department feels that indemnification in the amount of \$40,000 would be reasonable. Please present the matter to the Japanese Foreign Office and endeavor to obtain settlement on that basis, keeping the Department informed of developments.

I am [etc.]

The Secretary of State to Senator Henry Cabot Lodge

Washington, August 11, 1923.

SIR: I have the honor to acknowledge the receipt of your letter of July 27, 1923,77 in which you request to be advised of the status of the case of Lieutenant Warren H. Langdon, Chief Engineer Officer of the U. S. S. Albany who was shot by a Japanese sentry at Vladivostok, Siberia, while returning to his ship on the night of January 8, 1921, the injury resulting in the death of the officer on the following day. You state it to be your understanding that the Navy Board recommended reparation in the sum of \$85,000.

On March 19, 1923, the American Embassy at Tokyo was instructed to take up with the Japanese Government the matter of securing pecuniary indemnity in the sum of \$40,000 for the surviving relatives of Lieutenant Langdon to reimburse them for the loss sustained due to his untimely death. Considering the circumstances under which Lieutenant Langdon was killed, his usefulness, expectancy of life and financial prospects and the dependent state of his aged parents, this Department together with the Navy Department felt that the sum of \$40,000 would constitute a just and reasonable reparation. The sum of \$85,000, so far as I am aware, was never recommended.

The presentation of this claim was deferred, pending the settlement, by this Government, of claims presented by the Japanese Government, for the deaths of two Japanese subjects; one, Uratake by name, was accidentally killed by an American soldier in Honolulu, and the other, Saito by name, was killed during the operations of the Mexican Punitive Expedition. Congress appropriated \$5,000 to settle the Uratake case, but did not act upon the Saito claim, as it appeared that Saito had been engaged in selling alcoholic beverages.

No report has been received from the Embassy at Tokyo with regard to the developments in this case and the Department has requested the Embassy to submit an immediate report as to its present status. The Department will not fail to communicate with you further when this report is received.

I have [etc.]

CHARLES E. HUGHES

⁷⁷ Not printed.

494.11 L 25/13: Telegram

The Ambassador in Japan (Woods) to the Secretary of State

Токуо, April 1, 1924—2 р. т. [Received April 1—8:35 а. т.]

60. Your instruction no. 110, March 4th.⁷⁸ As previously reported, I have been urging upon Foreign Office the settlement of Langdon case and today have received a lengthy communication on the subject from the Minister for Foreign Affairs, copies of which will be forwarded in the next pouch. In this note he says:

"The Japanese Government have no objection whatever to giving a sum of money to the surviving relatives of Lieutenant Langdon as an expression of their condolence and consolation if so desired by them. If, however, the payment of a considerable amount is now to be demanded by way of indemnification, it would compel us to go back into and discuss the causes and circumstances leading to this unfortunate affair. In that event a considerable length of time will further be required in order to achieve its settlement with the result of this unhappy incident provoking afresh the irritation of public opinion in our two countries.

Accordingly the Japanese Government, wholly actuated by a spirit of genuine friendship, proposes to present a sum of \$15,000 to the surviving relatives of Lieutenant Langdon as an expression of condolence and consolation with a view to arriving at a speedy settlement of the present case. I beg to express the hope that in full appreciation of the foregoing circumstances, your Government will

see their way to accept this proposal."

[Paraphrase.] My opinion is that it will be expedient for obvious reasons to accept this offer.

Woods

494.11 L 25/13: Telegram

The Secretary of State to the Ambassador in Japan (Woods)

Washington, April 8, 1924—4 p. m.

49. Your 60, April 1, 2 p. m. Before communicating with the Navy Department and Langdon's relatives, Department desires to have your reasons for believing it would be expedient to accept offer.

Department does not view with favor any proposed compromise settlement under circumstances carrying any implication that this Government would be unwilling to confront a discussion of this case on its merits.

⁷⁸ Not printed.

JAPAN 421

494.11 L 25/15 : Telegram

The Ambassador in Japan (Woods) to the Secretary of State

Токуо, *April 28*, 1924—2 р. т. [Received April 28—9:28 а. т.]

86. Department's 49, April 8, 4 p. m., and my despatch no. 403-E, April 1, 1924.79 My recommendation was based on the assumption, which was clearly indicated in the Department's instruction no. 170, March 19, 1923, that what the Department primarily desired in making the claim originally was to obtain monetary assistance for Langdon's family to relieve their need. Knowing the temper of the Japanese War Office in regard to this case, and the difficulty I have experienced in getting them to take any action at all, it seemed to me that a refusal of the present offer would only result in [omission?] delay without any corresponding hope of securing an increase in the amount offered. This is particularly true at this juncture on account of the present feeling here over the immigration situation. If, however, as would now appear to be the case from the Department's telegram under reference, it was the intention of the Department to demand punitive damages for the purpose of establishing Japanese responsibility for the unfortunate affair, then the reply of the Foreign Office is obviously unsatisfactory. However, I declined [decline to?] regard the acceptance of the settlement proposed by the Japanese Government as necessarily carrying the implication that our Government would be unwilling to confront a discussion of this case on its merits.

Woods

494.11 L 25/16: Telegram

The Secretary of State to the Ambassador in Japan (Woods)

Washington, June 21, 1924-2 p. m.

105. Embassy's number 60, April 1st, 2 p. m. You are authorized to accept \$15,000 United States currency offered by Foreign Office in settlement of Langdon claim. Endeavor effect prompt settlement. Telegraph when payment made.⁸⁰

You may explain to Foreign Office that offer is accepted because of willingness of parents of Langdon that matter be settled in that manner.

Hughes

Not printed.

The Chargé in Japan reported on July 5, 1924, that he had been handed on that date, by the Foreign Office, a draft for \$15,000 United States currency in settlement of the Langdon claim (file no. 494.11 L 25/18).

LITHUANIA

EXTRADITION TREATY BETWEEN THE UNITED STATES AND LITHUANIA, SIGNED APRIL 9, 1924

Treaty Series No. 699

Treaty between the United States of America and Lithuania, Signed at Kaunas, April 9, 1924 ¹

The United States of America and Lithuania desiring to promote the cause of justice, have resolved to conclude a treaty for the extradition of fugitives from justice between the two countries and have appointed for that purpose the following Plenipotentiaries:

The President of the United States of America:

Frederick W. B. Coleman, Envoy Extraordinary and Minister Plenipoteniary of the United States of America;

The President of the Republic of Lithuania:

Ernestas Galvanauskas, Prime Minister and Minister of Foreign Affairs;

Who, after having communicated to each other their respective full powers, found to be in good and due form, have agreed upon and concluded the following articles:

ARTICLE I

It is agreed that the Government of the United States and the Government of Lithuania shall, upon requisition duly made as herein provided, deliver up to justice any person, who may be charged with, or may have been convicted of, any of the crimes specified in Article II of the present Treaty committed within the jurisdiction of one of the High Contracting Parties, and who shall seek an asylum or shall be found within the territories of the other; provided that such surrender shall take place only upon such evidence of criminality, as according to the laws of the place where the fugitive or person so charged shall be found, would justify his apprehension and commitment for trial if the crime or offense had been there committed.

¹ Ratification advised by the Senate, May 19, 1924; ratified by the President, June 10, 1924; ratified by Lithuania, Aug. 12, 1924; ratifications exchanged at Kaunas, Aug. 23, 1924; proclaimed by the President, Sept. 29, 1924.

ARTICLE II

Persons shall be delivered up according to the provisions of the present Treaty, who shall have been charged with or convicted of any of the following crimes:

- 1. Murder, comprehending the crimes designated by the terms parricide, assassination, manslaughter when voluntary, poisoning or infanticide.
 - 2. The attempt to commit murder.
- 3. Rape, abortion, carnal knowledge of children under the age of twelve years.
 - 4. Abduction or detention of women or girls for immoral purposes.
 - 5. Bigamy.
 - 6. Arson.
- 7. Wilful and unlawful destruction or obstruction of railroads, which endangers human life.
 - 8. Crimes committed at sea:
- /a/ Piracy, as commonly known and defined by the law of nations, or by statute;
- /b/ Wrongfully sinking or destroying a vessel at sea or attempting to do so;
- /c/ Mutiny or conspiracy by two or more members of the crew or other persons on board of a vessel on the high seas, for the purpose of rebelling against the authority of the Captain or Commander of such vessel, or by fraud or violence taking possession of such vessel;
- /d/ Assault on board ship upon the high seas with intent to do bodily harm.
- 9. Burglary, defined to be the act of breaking into and entering the house of another in the night time with intent to commit a felony therein.
- 10. The act of breaking into and entering the offices of the Government and public authorities, or the offices of banks, banking houses, savings banks, trust companies, insurance and other companies, or other buildings not dwellings with intent to commit a felony therein.
- 11. Robbery, defined to be the act of feloniously and forcibly taking from the person of another goods or money by violence or by putting him in fear.
 - 12. Forgery or the utterance of forged papers.
- 13. The forgery or falsification of the official acts of the Government or public authority, including Courts of Justice, or the uttering or fraudulent use of any of the same.
- 14. The fabrication of counterfeit money, whether coin or paper, counterfeit titles or coupons of public debt, created by National, State, Provincial, Territorial, Local or Municipal Governments, bank notes or other instruments of public credit, counterfeit seals,

stamps, dies and marks of State or public administrations, and the utterance, circulation or fraudulent use of the above mentioned

objects.

15. Embezzlement or criminal malversation committed within the jurisdiction of one or the other party by public officers or depositaries, where the amount embezzled exceeds two hundred dollars or Lithuanian equivalent.

- 16. Embezzlement by any person or persons hired, salaried or employed, to the detriment of their employers or principals, when the crime or offense is punishable by imprisonment or other corporal punishment by the laws of both countries, and where the amount embezzled exceeds two hundred dollars or Lithuanian equivalent.
- 17. Kidnapping of minors or adults, defined to be the abduction or detention of a person or persons, in order to exact money from them, their families or any other person or persons, or for any other unlawful end.
- 18. Larceny, defined to be the theft of effects, personal property, or money, of the value of twenty five dollars or more, or Lithuanian equivalent.
- 19. Obtaining money, valuable securities or other property by false pretences or receiving any money, valuable securities or other property knowing the same to have been unlawfully obtained where the amount of money or the value of the property so obtained or received exceeds two hundred dollars or Lithuanian equivalent.
 - 20. Perjury or subornation of perjury.
- 21. Fraud or breach of trust by a bailee, banker, agent, factor, trustee, executor, administrator, guardian, director or officer of any company or corporation, or by any one in any fiduciary position, where the amount of money or the value of the property misappropriated exceeds two hundred dollars or Lithuanian equivalent.
 - 22. Crimes and offenses against the laws of both countries for the

suppression of slavery and slave trading.

- 23. Wilful desertion or wilful non-support of minor or dependent children.
- 24. Extradition shall also take place for participation in any of the crimes before mentioned as an accessory before or after the fact; provided such participation be punishable by imprisonment by the laws of both the High Contracting Parties.

ARTICLE III

The provisions of the present Treaty shall not import a claim of extradition for any crime or offense of a political character, nor for acts connected with such crimes or offenses; and no person surrendered by or to either of the High Contracting Parties in virtue of this Treaty shall be tried or punished for a political crime or offense.

When the offense charged comprises the act either of murder or assassination or of poisoning, either consummated or attempted, the fact that the offense was committed or attempted against the life of the Sovereign or Head of a foreign State or against the life of any member of his family, shall not be deemed sufficient to sustain that such crime or offense was of a political character; or was an act connected with crimes or offenses of a political character.

ARTICLE IV

No person shall be tried for any crime or offense other than that for which he was surrendered.

ARTICLE V

A fugitive criminal shall not be surrendered under the provisions hereof, when, from lapse of time or other lawful cause, according to the laws of the place within the jurisdiction of which the crime was committed, the criminal is exempt from prosecution or punishment for the offense for which the surrender is asked.

ARTICLE VI

If a fugitive criminal whose surrender may be claimed pursuant to the stipulations hereof, be actually under prosecution, out on bail or in custody, for a crime or offense committed in the country where he has sought asylum, or shall have been convicted thereof, his extradition may be deferred until such proceedings be determined, and until he shall have been set at liberty in due course of law.

ARTICLE VII

If a fugitive criminal claimed by one of the parties hereto, shall be also claimed by one or more powers pursuant to treaty provisions, on account of crimes committed within their jurisdiction, such criminal shall be delivered to that State whose demand is first received.

ARTICLE VIII

Under the stipulations of this Treaty, neither of the High Contracting Parties shall be bound to deliver up its own citizens.

ARTICLE IX

The expense of arrest, detention, examination and transportation of the accused shall be paid by the Government which has preferred the demand for extradition.

ARTICLE X

Everything found in the possession of the fugitive criminal at the time of his arrest, whether being the proceeds of the crime or offense, or which may be material as evidence in making proof of the crime, shall so far as practicable, according to the laws of either of the High Contracting Parties, be delivered up with his person at the time of surrender. Nevertheless, the rights of a third party with regard to the articles referred to, shall be duly respected.

ARTICLE XI

The stipulations of the present Treaty shall be applicable to all territory wherever situated, belonging to either of the High Contracting Parties or in the occupancy and under the control of either of them, during such occupancy or control.

Requisitions for the surrender of fugitives from justice shall be made by the respective diplomatic agents of the High Contracting Parties. In the event of the absence of such agents from the country or its seat of Government, or where extradition is sought from territory included in the preceding paragraphs, other than the United States or Lithuania, requisitions may be made by superior consular It shall be competent for such diplomatic or superior consular officers to ask and obtain a mandate or preliminary warrant of arrest for the person whose surrender is sought, whereupon the judges and magistrates of the two Governments shall respectively have power and authority, upon complaint made under oath or in any other judicially prescribed form to issue a warrant for the apprehension of the person charged, in order that he or she may be brought before such judge or magistrate, that the evidence of criminality may be heard and considered and if, on such hearing, the evidence be deemed sufficient to sustain the charge, it shall be the duty of the examining judge or magistrate to certify it to the proper executive authority, that a warrant may issue for the surrender of the fugitive.

In case of urgency, the application for arrest and detention may be addressed directly to the competent magistrate in conformity to the statutes in force.

The person provisionally arrested shall be released, unless within two months from the date of arrest in Lithuania, or from the date of commitment in the United States, the formal requisition for surrender with the documentary proofs hereinafter prescribed be made as aforesaid by the diplomatic agent of the demanding Government or, in his absence, by a consular officer thereof.

If the fugitive criminal shall have been convicted of the crime for which his surrender is asked, a copy of the sentence of the court before which such conviction took place, duly authenticated, shall be produced. If, however, the fugitive is merely charged with crime, a duly authenticated copy of the warrant of arrest in the country where the crime was committed, and of the depositions upon which such warrant may have been issued, shall be produced, with such other evidence or proof as may be deemed competent in the case. In either case a duly authenticated text of the law under which the charge is made shall be attached.

ARTICLE XII

In every case of a request made by either of the High Contracting Parties for the arrest, detention or extradition of fugitive criminals, the appropriate legal officers of the country where the proceedings of extradition are had, shall assist the officers of the Government demanding the extradition before the respective judges and magistrates, by every legal means within their power; and no claim whatever for compensation for any of the services so rendered shall be made against the Government demanding the extradition; provided, however, that any officer or officers of the surrendering Government so giving assistance, who shall, in the usual course of their duty, receive no salary or compensation other than specific fees for services performed, shall be entitled to receive from the Government demanding the extradition the customary fees for the acts or services performed by them, in the same manner and to the same amount as though such acts or services had been performed in ordinary criminal proceedings under the laws of the country of which they are officers.

ARTICLE XIII

The present Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional methods and shall take effect on the date of the exchange of ratifications which shall take place at Kaunas as soon as possible.

ARTICLE XIV

The present Treaty shall remain in force for a period of ten years, and in case neither of the High Contracting Parties shall have given notice one year before the expiration of that period of its intention to terminate the Treaty, it shall continue in force until the expiration of one year from the date on which such notice of termination shall be given by either of the High Contracting Parties.

In witness whereof the above-named Plenipotentaries have signed the present Treaty and have hereunto affixed their seals.

Done in duplicate at Kaunas this Ninth day of April, nineteen hundred and twenty-four.

[SEAL] F. W. B. COLEMAN [SEAL] GALVANAUSKAS

SUPPORT GIVEN BY THE UNITED STATES TO THE CONSTITUTIONAL GOVERNMENT IN MEXICO IN SUPPRESSING ARMED INSURRECTION

812.113/9383c: Telegram

The Secretary of State to the Chargé in Mexico (Summerlin)

Washington, January 7, 1924-6 p. m.

16. President today placed embargo on the shipment of arms or munitions of war from the United States to Mexico, excepting "such exportations of arms or munitions of war as are approved by the Government of the United States for shipment to the Government of Mexico which has been recognized by the Government of the United States, and such arms and munitions for industrial or commercial uses as may from time to time be exported with the consent of the Secretary of State."

Advise Foreign Office.

HUGHES

812.113/9398

Proclamation No. 1683, January 7, 1924, Prohibiting the Exportation of Arms or Munitions of War to Mexico ¹

By the President of the United States of America

A PROCLAMATION

WHEREAS, Section I of a Joint Resolution of Congress, entitled a "Joint Resolution To prohibit the exportation of arms or munitions of war from the United States to certain countries, and for other purposes," approved January 31, 1922, provides as follows:

"That whenever the President finds that in any American country, or in any country in which the United States exercises extraterritorial jurisdiction, conditions of domestic violence exist, which are or may be promoted by the use of arms or munitions of war pro-

¹The embargo proclaimed on July 12, 1919 (see Foreign Relations, 1919, vol. II, p. 551) was lifted in 1922 (see *ibid.*, 1922, vol. II, p. 717).

cured from the United States, and makes proclamation thereof, it shall be unlawful to export, except under such limitations and exceptions as the President prescribes, any arms or munitions of war from any place in the United States to such country until otherwise ordered by the President or by Congress."

And whereas, it is provided by Section II of the said Joint Resolution that "Whoever exports any arms or munitions of war in violation of Section I shall on conviction be punished by fine not exceeding \$10,000, or by imprisonment not exceeding two years, or both."

Now, therefore, I, Calvin Coolidge, President of the United States of America, acting under and by virtue of the authority conferred in me by the said Joint Resolution of Congress, do hereby declare and proclaim that I have found that there exist in Mexico such conditions of domestic violence which are or may be promoted by the use of arms or munitions of war procured from the United States as contemplated by the said Joint Resolution; and I do hereby admonish all citizens of the United States and every person to abstain from every violation of the provisions of the Joint Resolution above set forth, hereby made applicable to Mexico, and I do hereby warn them that all violations of such provisions will be rigorously prosecuted.

And I do hereby enjoin upon all officers of the United States, charged with the execution of the laws thereof, the utmost diligence in preventing violations of the said Joint Resolution and this my Proclamation issued thereunder, and in bringing to trial and punishment any offenders against the same.

And I do hereby prescribe as an exception and limitation to the foregoing restrictions such exportations of arms or munitions of war as are approved by the Government of the United States for shipment to the Government of Mexico which has been recognized by the Government of the United States, and such arms and munitions for industrial or commercial uses as may from time to time be exported with the consent of the Secretary of State.

In Witness Whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this seventh day of January in the year of our Lord one thousand nine hundred and [SEAL] twenty-four and of the Independence of the United States of America the one hundred and forty-eighth.

CALVIN COOLIDGE

By the President: CHARLES E. HUGHES

Secretary of State.

812.113/9423

The Chargé in Mexico (Summerlin) to the Secretary of State

No. 8208

Mexico, January 11, 1924. [Received January 19.]

Sir: In confirmation of the Department's telegram No. 16 January 7, 6 p. m., in regard to the embargo on the shipment of arms and munitions from the United States to Mexico, I have the honor to enclose herewith a copy and translation of Foreign Office note No. 261 of January 9, 1924, in reply to my note of the 8th instant.

I have [etc.]

GEORGE T. SUMMERLIN

[Enclosure-Translation 2]

The Mexican Acting Minister for Foreign Affairs (Saenz) to the American Chargé (Summerlin)

No. 261

Mexico, January 9, 1924.

Mr. Chargé d'Affaires: I have to acknowledge the receipt of your note no. 182, dated yesterday, in which by direction of your Government you inform me that the President of the United States established an embargo upon the shipment of arms and munitions from the United States to Mexico, excepting exportations of arms and war supplies made to the Government of Mexico which has been recognized by the Government of the United States.

The Mexican Government has taken note of the decision of the American Executive and through me expresses its satisfaction with the justice of this measure toward the rebels.

I take [etc.]

AARÓN SAENZ

812.113/9381: Telegram

The Secretary of State to the Consul at Vera Cruz (Wood)

Washington, January 16, 1924—6 p. m.

Following is for your further information and guidance in connection with paragraph 2 [3] of Department's January 11, 5 p. m.²

This Government is furnishing a limited quantity of war material to the Mexican Government because such action is in the interest of stability and orderly procedure. The attempt that is being made to overthrow the established government in Mexico has resulted from

² File translation revised.

⁸ Not printed.

the animosities and bitterness growing out of the presidential campaign to select a successor to President Obregon. It is highly important that Mexico should break away from a long series of unfortunate precedents and determine the succession to the presidency of that country by peaceful and constitutional methods. It seems that the Mexican Government fully realizes this fact.

A Government that has made a zealous effort to meet its obligations at home and abroad has been assailed and an attempt is being made to overthrow it by violence. It has appealed to this Government for aid to the end that order may be restored and preserved and constitutional procedure followed. This Government can not be insensible to such an appeal and it has responded with its support in behalf of stability and orderly constitutional procedure in the best interests of all concerned.

HUGHES

812.2311/430

The Secretary of State to the Mexican Chargé (Téllez)

Washington, January 19, 1924.

Sir: I am in receipt of your note of January 16, 1924,4 in which you request that permission be granted for your Government to transport approximately two thousand Mexican troops, together with their arms and ammunition and impedimenta from Naco, Arizona, across American territory to El Paso or Laredo, Texas, for service in regions in Mexico where they are needed for protective purposes.

In reply I beg to inform you that permission has today been granted for these troops to proceed over American soil from Naco to El Paso, with the understanding that they shall travel unarmed while in the United States, their arms and ammunition being sent as baggage.⁵

Accept [etc.]

For the Secretary of State:
WILLIAM PHILLIPS

⁴ Not printed.
⁵ Two similar requests were later granted by the Department.

EFFORTS BY THE UNITED STATES TO PROTECT AMERICAN LIVES AND COMMERCE AGAINST THE OPERATIONS OF INSURGENTS IN MEXICAN PORTS

812.00/26788: Telegram

The Consul at Vera Cruz (Wood) to the Secretary of State

VERA CRUZ, January 17, 1924—7 p. m. [Received January 18—9:50 a. m.]

Have received a circular letter from naval command of *de facto* government that it has been decided to mine ports of Frontera, Puerto Mexico and Vera Cruz as necessary measures in the present conflict. Admiral Magruder coming here, now on way, to enter port at night. Pilot should be taken on entering.

Wood

812.00/26763: Telegram

The Secretary of State to the Consul at Vera Cruz (Wood)

Washington, January 19, 1924—10 a.m.

With further reference to your January 12, 9 A. M., reporting that de la Huerta had issued a proclamation announcing that the port of Tampico would be blockaded on and after January 16, and to the Department's January 16, noon, in which you were instructed to advise the authority responsible for the proposed blockade that this Government confidently expects that immediate steps will be taken to remove this threat against the world's commerce by the adoption of measures which will permit its free and uninterrupted intercourse with Tampico, and in view of the fact that no such steps have been taken so far as this Government is informed, you will advise Mr. de la Huerta that the United States cruiser Richmond has been ordered to proceed to Tampico to protect adequately the peaceful and legitimate United States commerce going in and out of that port from interference under any assertions of blockade.

You will so advise Mr. de la Huerta immediately after the departure of the *Richmond* from Vera Cruz for Tampico.

⁶ John Q. Wood.

⁷ Not printed.

^{*}Adolfo de la Huerta, self-styled "Supreme Chief of the Liberating Movement."

812.00/26788: Telegram

The Secretary of State to the Consul at Vera Cruz (Wood)

Washington, January 19, 1924-6 p. m.

Your January 17, 7 P. M. You will lose no time in informally advising whoever may be responsible for the decision to mine the ports of Frontera, Puerto Mexico and Vera Cruz that your Government not only on its own behalf but on behalf of humanity most vigorously protests against this proposed measure as being an unwarranted threat against the commerce of the world involving grave danger to the lives of peaceful citizens of all nationalities and in wanton disregard of any serious sense of responsibility.

You will administer to him the solemn warning of your Government that, if the proposed measure is carried out or, in the event that it has already been partially or wholly carried out, if the mines and other such obstructions to navigation are not immediately removed from the ports in reference, your Government will be constrained to adopt appropriate measures to protect its commerce and its nationals from the grave and imminent danger involved.

HUGHES

812.00/26794: Telegram

The Secretary of State to the Vice Consul at Salina Cruz (Wood).

Washington, January 19, 1924-6 p.m.

Telegraph immediately whether rebels or Federal Government officials are placing mines reported in your January 18, 4 p. m. 10

HUGHES

812.00/26805: Telegram

The Consul at Vera Cruz (Wood) to the Secretary of State

Vera Cruz, January 19, 1924—7 p. m. [Received January 21—12:44 a. m.]

Department's January 15, 5 p. m., January 15, 7 p. m., January 16, noon.¹¹ Following vigorous representations made to Mr. de la Huerta in accordance with instructions, the Department of Marine informed me that the terms of the blockade decree will not go into effect until the end of the month.

 \mathbf{W} ood

⁹ Harold C. Wood.

¹⁰ Not printed.

[&]quot; None printed.

812.00/26803: Telegram

The Vice Consul at Salina Cruz (Wood) to the Secretary of State

Salina Cruz, January 20, 1924—9 a. m. [Received January 21—3:10 a. m.]

Your cable January 19, 6 p. m. Federal Government officials have mined the port.

Wood

812.00/26802: Telegram

The Secretary of State to the Vice Consul at Salina Cruz (Wood)

Washington, January 21, 1924-5 p. m.

Your January 20, 5 P. M. and January 21, 7 A. M.¹² The Department has sent the American Consul at Vera Cruz the following telegraphic instruction today:

"The American Consul Salina Cruz telegraphed the Department yesterday that the rebel gunboat *Progreso* proposed to bombard Salina Cruz this morning. The Consul reported today that Salina Cruz was taken by the rebel army this morning but he does not state whether the bombardment was executed as contemplated.

The Consul protested against the proposed bombardment but it does not appear that any measures were taken by those responsible to safeguard foreign life and property against the effects of the bombardment or that opportunity was afforded the Consul for ample

warning to American citizens.

You will informally bring the foregoing urgently to the attention of Mr. de la Huerta pointing out that the bombardment of a Mexican port such as was at least threatened in this instance is unqualifiedly condemned by your Government as an operation unwarrantably exposing the lives and interests of American citizens to grave danger.

You will informally bring the foregoing urgently to the attention against the threat or execution of such a bombardment of any

Mexican port."

You will informally make the same protest to the person claiming to exercise authority in your port.

HUGHES

812.00/26827: Telegram

The Consul at Vera Cruz (Wood) to the Secretary of State

Vera Cruz, January 21, 1924—11 p. m. [Received January 22—2:50 a. m.]

Department's January 15, 5 p. m., January 15, 8 [6] p. m., January 15, 7 p. m., January 16, 12 noon, 18 January 19, 6 p. m., January 19,

¹² Neither printed.
¹³ None printed.

10 a. m. have all been scrupulously brought to the attention of Mr. de la Huerta and the protests made by me to him in person as instructed. He will immediately reply to those not already reported upon.

Wood

812.00/26840 : Telegram

The Chargé in Mexico (Summerlin) to the Secretary of State

Mexico, January 22, 1924—noon.

[Received 7:08 p. m.]

46. Your telegram number 45, January 19, 7 p. m. Acting Minister of Foreign Affairs replies under date of January 21:

"The Mexican Government expects that the anomalous situation prevailing at Tampico will terminate very soon since it has already adopted the necessary measures, as your Government knows, not only to prevent the carrying out of the blockade at Tampico but also to protect the legitimate commerce of the countries friendly to Mexico. I expect therefore that the operations of the cruiser *Richmond*, which surely will be exercised only provisionally and outside of territorial waters, will cease to be necessary in a very short time".

Today's local press published articles to the effect that "the American war vessels must remain outside of the territorial waters of Mexico".

SUMMERLIN

812.00/26844: Telegram

The Consul at Vera Cruz (Wood) to the Secretary of State

Vera Cruz, January 23, 1924-9 a. m.

[Received 12:51 p. m.]

Department's January 19, 6 p. m. Am gratified to report that orders have been issued by *de facto* authorities dated this day for the removal of all mines and obstructions to [sic] from the ports of Frontera, Puerto Mexico and Vera Cruz.

Wood

812.00/26844: Telegram

The Acting Secretary of State to the Consul at Vera Cruz (Wood)

Washington, January 23, 1924—5 p. m.

Report immediately when all mines have been removed from ports mentioned in your January 23, 9 a. m.; also ascertain whether there

¹⁴ Not printed; it contained instructions similar to those sent the consul at Vera Cruz Jan. 19, 10 a. m., p. 432.

are any other ports where mines have been placed and if so, whether these will also be removed.

PHILLIPS

812.00/26848: Telegram

The Acting Secretary of State to the Chargé in Mexico (Summerlin)

Washington, January 24, 1924-7 p. m.

60. Your 46, January 22, noon. The American Consul at Vera Cruz has reported that Mr. de la Huerta has definitely abandoned his effort to blockade the port of Tampico.

You will advise the Acting Minister of Foreign Affairs of the foregoing and say that this action terminates the temporary mission of the United States cruiser *Richmond* to Tampico to protect adequately the peaceful and legitimate United States commerce going in and out of that port from interference under any assertions of blockade, and that the *Richmond* is being withdrawn from Mexican waters.

You will also say in this connection that the reopening of cable communication between Vera Cruz and the United States eliminates the emergency which necessitated the dispatch of the Tacoma to that port, that consequently the United States cruiser Omaha and six destroyers ordered to that port because of the disaster to the Tacoma will be withdrawn from the waters of the Gulf as soon as their services are no longer needed in connection with the rescue of the Tacoma's crew which probably will be terminated today and that the Prometheus and two tugs, auxiliary vessels of the United States Navy engaged in salvaging the Tacoma, will also be withdrawn as soon as that task is completed.

PHILLIPS

812.00/26862 : Telegram

The Consul at Vera Cruz (Wood) to the Secretary of State

VERA CRUZ, January 25, 1924—4 p. m. [Received 6:50 p. m.]

Department's January 21, 5 p. m.¹⁵ The instructions have been strictly observed. Mr. de la Huerta informs me that only the position of the Obregon forces was bombarded and the inhabitants were in no danger. He thoroughly realizes the justice of the Department's protest. In connection with the military operations at Salina Cruz Mr. de la Huerta states that it was mined by the Federal authorities.

Wood

¹⁸ See telegram of Jan. 21 to the vice consul at Salina Cruz, p. 434.

812.00/26904: Telegram

The Consul at Vera Cruz (Wood) to the Secretary of State

VERA CRUZ, January 31, 1924—2 p. m.

[Received 6:42 p. m.]

Department's telegram January 23, 5 p. m. All mines have been removed from ports in question. Am informed by Mr. de la Huerta that Salina Cruz was mined by Federal authorities. He feels that it was not asking too much in view of the removal of this protection he had against an attack by the Mexican gunboat *Bravo* now at New Orleans to entertain the hope that said gunboat will not be allowed to leave the port of New Orleans during this conflict.

Woon

812.00/26907: Telegram

The Secretary of State to the Chargé in Mexico (Summerlin)

Washington, February 2, 1924—5 p. m.

71. The cruiser *Omaha* and destroyer squadron have been relieved from duty in Mexican waters. However, in view of recent reports from Consul at Vera Cruz to the effect that the trend of developments there affecting American life and property is such as to make some precautionary measure advisable, the cruiser *Richmond* has been ordered to proceed to Vera Cruz and should reach there tomorrow.

HUGHES

812.00/26941: Telegram

The Consul at Vera Cruz (Wood) to the Secretary of State

VERA CRUZ, February 5, 1924-7 p.m.

[Received 11 p. m.]

The city has been entirely evacuated without disturbance although under panic by the De la Huerta forces both military and naval. All the Mexican ships have left port. The Richmond is in the harbor. The legally elected civil authorities are now functioning effectively due to the suggestions and moral support of the consular corps, the American and Spanish consuls playing the major part. The police force has been adequately organized. This office has furnished 48 rifles and ammunition upon the request of the local authorities through the helpful and necessary cooperation of Admiral Magruder. The situation is therefore under control and it is believed that no unpleasant incident will occur. The population has been reassured and is calm. It is expected the Federal troops will assume control tomorrow.

812.00/27002a: Telegram

The Secretary of State to the Chargé in Mexico (Summerlin)

Washington, February 6, 1924-1 p. m.

81. The Department hopes that the occupation of Vera Cruz by government forces will be speedily followed by the restoration of public order and the adoption of ample provisions for the protection of American lives and interests in that region. It is the Department's desire to withdraw the cruiser Richmond from further duty at Vera Cruz at the earliest possible moment, and the American Consul there has been instructed to keep the Department advised on this point.

Foregoing is for your information and guidance and for com-

munication to the Foreign Office in your discretion.

HUGHES

812.00/26975: Telegram

The Consul at Vera Cruz (Wood) to the Secretary of State

VERA CRUZ, February 9, 1924-3 p. m. [Received 7:40 p. m.]

Puerto Mexico has been evacuated by the De la Huerta forces. I have just been informed that the De la Huerta forces will leave this city today and that the Federal troops will reach here by tomorrow.16

Wood

PROTESTS BY THE UNITED STATES AGAINST DEMANDS UPON AMERI-CAN CITIZENS IN MEXICO FOR PAYMENT OF DUTIES AND TAXES ALREADY PAID TO REVOLUTIONARY AUTHORITIES

612.112/10: Telegram

The Consul at Vera Cruz (Wood) to the Secretary of State

VERA CRUZ, January 4, 1924-4 p. m. [Received 10:28 p. m.]

American interests desire Department's position as to whether they can export and import without being fined and treated as smugglers by the Obregon government in the event of its return here. They refer to article number 6 of Mexican customs regulations Código de Procedimientos Aduaneros Ordenanza General de Advanas, pages 6 and 7, edition 1912. Respectfully request instruc-

¹⁶ The consul reported on Feb. 11 that the Federal forces had arrived and on Feb. 17 that the Richmond had left.

tions by telegraph as large sums are involved covering coffee and sugar shipments awaiting reply.

Wood

612.112/10: Telegram

The Secretary of State to the Consul at Vera Cruz (Wood)

Washington, January 5, 1924-6 p. m.

Your January 4, 4 P. M. American citizens are entitled under generally recognized rules and principles of international law to transact business in relation to exports and imports with persons exercising de facto authority in Vera Cruz. However, in view of the possible difficulties that may be involved, the Department must leave it to interested Americans to determine for themselves whether they shall engage in this business.

HUGHES

612.0023/70

The Secretary of State to the Mexican Chargé (Téllez)

Washington, February 1, 1924.

Sir: I have the honor to acknowledge the receipt of your note of December 31, 1923,¹⁷ in relation to the closing of the ports of Vera Cruz and Manzanillo, Mexico. You say that those ports were declared closed to foreign commerce by your Government by the method provided for in the law of Mexico, namely, by means of a decree of the Mexican Executive, made known to this Government through your Embassy in compliance with the requirements of international usage.

You add that, as a consequence, those responsible for the mooring of vessels and the loading and landing of persons at those ports which have thus been closed by your Government will be subject to trial and punishment in accordance with the law of Mexico as having been done outside of the ports open to foreign trade, and that import, export and other duties paid at those places to private persons no matter what title they carry nor what character they assume shall be held as unpaid for the purposes of the revenue laws. Finally you say that the situation must be temporary and that you will take pleasure in letting the Department of State know when the ports will be reopened.

In reply I have the honor to inform you that this Government, with the friendliest disposition toward the Mexican Government, feels obliged, following a long line of precedents, to respect what

¹⁷ Not printed.

are believed to be the requirements of international law, to the effect that a port of a foreign country declared by the government thereof to be outside of its control, cannot be closed by such government save by an effective blockade maintained by it. Therefore, this Government takes the position that it cannot advise American citizens engaged in commerce with Mexico that they cannot have access to ports outside of the control of the Mexican Government and in fact controlled by insurgent forces. Moreover, this Government feels obliged to inform such American citizens that they may, in conformity with international law, deal with persons in authority in such ports with respect to all matters affecting commerce therewith.

It is earnestly hoped that the Mexican Government will appreciate the necessity which impels this Government to take this stand, and that it will accordingly consider the wisdom of the withdrawal of the decree of December 10 last and of other like orders, so that no divergence of opinion may be manifested between the two Governments respecting the law applicable to the situation.

In conclusion I desire to inform you that the position of this Government as above set forth has been communicated to the Foreign Office of your Government by the American Chargé d'Affaires ad interim at Mexico City in pursuance of telegraphic instructions sent to him under date of January 23, 1924.

Accept [etc.]

CHARLES E. HUGHES

612.112/45: Telegram

The Secretary of State to the Chargé in Mexico (Summerlin)

Washington, February 5, 1924-3 p. m.

77. Your despatch 8225 January 17 Esperanza case. Referring to your representations pursuant to Department's January 23 4 p. m. you will urgently request Foreign Office to take prompt action looking to remission of all further payment of duties by shippers on Esperanza, pointing out that under applicable rules and principles of international law these American citizens were entitled to pay charges to persons exercising de facto authority in Vera Cruz and having made such payment to be free from further obligations in the matter. You will add that if, as stated by Foreign Office, Mexican law requires exaction of a second payment of duties that law clearly conflicts with principles of international law which Mexican Government will doubtless be desirous of following and observing.

In this relation you will recall to attention of Foreign Office that *Esperanza* entered Vera Cruz and loaded her cargo there before receipt of any notice of refusal to clear vessels for that port and that

¹⁸ Not printed.

in order to proceed on her voyage she had no option but to pay charges exacted by de facto authorities.

HUGHES

812.00/27065

The Mexican Chargé (Téllez) to the Secretary of State
[Translation]

Washington, February 12, 1924.

Mr. Secretary: I have the honor of informing Your Excellency that the port of Vera Cruz having been occupied yesterday by the Government forces was immediately reopened to international traffic.¹⁹

I am [etc.]

MANUEL C. TÉLLEZ

812.512/3116: Telegram

The Chargé in Mexico (Summerlin) to the Secretary of State

Mexico, February 16, 1924—9 a.m.

[Received 1:40 p. m.]

82. Following from American consul at Guadalajara:

"February 14, 5 p. m. State authorities have issued a decree requiring the payment of taxes December, February inclusive, which the revolutionary government exacted while in power. What shall I advise American citizens as to repayment of these?"

SUMMERLIN

812.512/3116: Telegram

The Secretary of State to the Chargé in Mexico (Summerlin)

Washington, February 19, 1924-3 p. m.

100. Your 82, February 16, 9 a.m. Instruct Consul Guadalajara to advise American citizens not to repay taxes paid to persons in *de facto* authority, pointing out to them that under applicable rules and principles of international law having made such payment they should be free from further obligation in the matter and adding that Department has taken matter up with Mexican Government.

You will inform Foreign Office of foregoing and state that you do not doubt Mexican Government will desire to call attention of authorities State Jalisco to applicable rules and principles of international law.

¹⁹ By similar notes dated Mar. 19, Apr. 25, and May 31, the Mexican Embassy informed the Department of the opening of the ports of Acapulco, Progreso, and Frontera.

812.512/3120: Telegram

The Secretary of State to the Chargé in Mexico (Summerlin)

Washington, February 20, 1924-7 p.m.

106. Consul Vera Cruz reports that authorities have notified American citizens and others that payments of taxes made to persons recently exercising *de facto* authority there would be regarded as null and void and that such taxes must be repaid by the 25th or penalties will be exacted.

Department has directed Consul to advise interested American citizens not to make such repayments since under the applicable rules and principles of international law they are entitled to be free from further obligations in the matter after making payments to persons in *de facto* authority.

Bring foregoing to attention of Foreign Office, and state that you do not doubt that Mexican Government will instruct authorities in Vera Cruz to be governed by the applicable rules and principles of international law.

HUGHES

612.112/58: Telegram

The Secretary of State to the Chargé in Mexico (Summerlin)

Washington, February 21, 1924-3 p. m.

108. Consul Vera Cruz reports customs authorities refuse to permit Cuyamel Fruit Company to load cargo for New Orleans because it carried on its service with that port during revolutionary régime; that agent of national railways declines to allow Arbuckle Brothers and Westfeldt Brothers to ship coffee unless they repay freight charges already paid for transportation to railways while operated by revolutionists, and that local authorities claim that in these matters they are acting under instruction from Mexican Government.

Bring foregoing urgently to attention of Foreign Office and say that Government United States can hardly credit statement that Mexican Government is taking such a stand which is directly contrary to the applicable rules and principles of international law and sincerely hopes that Vera Cruz authorities are laboring under misapprehension which Mexican Government will hasten to remove thus doing away with the existing obstructions of international trade which are causing large losses to interested American citizens.

You will request to be advised promptly as to action taken by Mexican Government.

812.512/3129

The Chargé in Mexico (Summerlin) to the Secretary of State

No. 8341

Mexico, February 27, 1924.

[Received March 10.]

Sir: Complying with the Department's telegraphic instruction No. 100, dated February 19, 3 P. M., regarding instructions for the American Consul at Guadalajara that American citizens are not to repay taxes paid to persons in *de facto* authority, I have the honor to report that, in my note No. 271 of February 20, 1924, I brought this to the attention of the Mexican Foreign Office, stating that I had no doubt that the Mexican Government would desire to call the attention of the Jalisco State authorities to the applicable rules and principles of International Law. I am now in receipt of note No. 2214 of the Mexican Foreign Office, dated February 25, 1924, a copy in translation enclosed herewith, on which it is stated that the corresponding authorities have already been informed of my representation in the matter, to the end that they report on the subject and issue orders fitting to the case.

A copy of this despatch, together with its inclosure, has been forwarded to the American Consul at Guadalajara.

I have [etc.]

GEORGE T. SUMMERLIN

612.112/65: Telegram

The Secretary of State to the Chargé in Mexico (Summerlin)

Washington, March 6, 1924-7 p. m.

129. Department informed by Consul Vera Cruz that customs authorities issued circular February 29 requiring custom house agents and business men in general to report all goods with documents which were despatched during revolutionary control, that this action was taken under Article 6 of the customs regulations for the purpose of applying penalties, and that the Singer Sewing Machine Company, Sanborn Brothers, and the Mississippi Valley Trading Company, American concerns, state that customs authorities will not permit the record of goods before the payment of penalties.

Urgently request the foreign office to despatch prompt orders to Vera Cruz authorities to desist from this effort to penalize American citizens for transacting business relating to exports and imports with persons in *de facto* authority, as they were clearly entitled to do under the applicable rules and principles of international law.

²⁰ Not printed.

612.112/66: Telegram

The Secretary of State to the Chargé in Mexico (Summerlin)

Washington, March 15, 1924-5 p. m.

147. Department's 139, March 13, 6 p. m.²¹ Mexican Chargé d'Affaires called at Department this afternoon and stated that instructions had been sent through Treasury and Interior Departments to all customs authorities throughout Mexico to the effect that second payment of taxes should not be required in cases where the first payment had been made in good faith under compulsion to de facto authorities. He added that in cases where such payment had not been made in good faith each case would be considered on its merits after careful investigation.

HUGHES

612.112/68: Telegram

The Secretary of State to the Chargé in Mexico (Summerlin)

Washington, March 18, 1924-5 p. m.

152. Your despatch 8374, March 5²¹ and Department's 147, March 15, 5 p. m. Consul at Vera Cruz telegraphs as follows.

"Under pressure of de facto authorities most all goods affected were cleared from customs and stored in private warehouses and the railway terminal properties. They have been held up over a month awaiting permission of customs authorities to ship same to owners at interior points. It is respectfully suggested that the necessary steps be taken to have instructions issued to customs authorities to release such shipments at once."

You will bring this matter to the attention of the proper authorities and urge the immediate release of such shipments now awaiting permission of customs authorities to ship same to owners at interior points.

The Department assumes, from the assurances which have been recently received through the Mexican Chargé d'Affaires in Washington, that it is not the intention of the Mexican Government to interfere with legitimate American trade, and therefore confidently expects immediate release of all the shipments in question.

It would not be inappropriate for you to point out the extent of the material and moral assistance which this Government has rendered to the Mexican Government during the last few months. At the same time you should make it clear in no uncertain terms that this Government must insist that such restraint shall not be exercised upon legitimate American commerce.

²¹ Not printed.

812.512/3139: Telegram

The Secretary of State to the Chargé in Mexico (Summerlin)

Washington, March 22, 1924-8 p. m.

159. Consul Vera Cruz reports state treasury threatens to embargo property of Hard and Rand, and El Potrero Sugar Company, both American concerns unless taxes already paid to persons in de facto authority be repaid within three days.

Consul Guadalajara reports similar demand made upon National Paper and Type Company, an American concern, and that local authorities have gone so far as to close Post Office boxes on which rental was paid to revolutionists, unless repayments made, this including box rented by the Consulate, and that Government has assumed control of leading newspaper now known as El Radical and refuse[s] to recognize subscriptions theretofore paid.

In view of assurances given by Mexican Chargé this capital and of clear principles of international law with which these acts directly conflict, Department cannot suppose otherwise than that such acts have been committed by local authorities without the approval of the Central Government. You will therefore request that the Mexican Government issue definite instructions to all local authorities that they must not indulge in such proceedings against American citizens. You will bring this urgently to the attention of the Foreign Office, insisting that because of the urgency of the situation affecting many American citizens, appropriate action be taken at the earliest possible moment.

HUGHES

612.112/74: Telegram

The Ambassador in Mexico (Warren) to the Secretary of State

Mexico, March 26, 1924-1 p. m.

[Received 9:32 p. m.]

106. Foreign Office confirms the issuance of circular dated March 21st by General Director of Customs, the second and third paragraphs of which read as follows:

"[Second.] No form of customs' duties ordinary, extraordinary or port, or of penalties or pecuniary sanctions paid by parties to the rebels will be demanded again by customs offices.

Third. The period of rebel control of ports shall not be taken into

account in the calculation of legal periods of any kind."

WARREN

612.112/73: Telegram

The Secretary of State to the Ambassador in Mexico (Warren)

Washington, March 27, 1924-2 p. m.

170. Consul, Vera Cruz, reports that through influence of Governor repayment of taxes already paid to persons in *de facto* authority is still being threatened.

Urgently request that orders be promptly given to Governor to cease such threats and observe principles and rules of international law.

HUGHES

612.112/76: Telegram

The Ambassador in Mexico (Warren) to the Secretary of State

[Paraphrase]

Mexico, March 29, 1924—3 p. m. [Received March 30—1:03 a. m.]

113. Discussed matter customs duties with Foreign Minister yesterday. He confirmed position that Mexican Government would not insist upon repayment of customs duties already paid to *de facto* authorities in control of ports. . . .

I raised the question of duplicate tax payments to state authorities. He replied that it would not be the policy of the Mexican Government to insist upon repayment of state taxes already paid to de facto authorities. He said that the Secretary of the Interior would advise the state authorities to adhere to this rule. I made the suggestion that a general statement be issued by the President to the effect that if such taxes had been paid to the de facto authorities they would not have to be repaid. They are reluctant to assume such a bold position in a matter which they believe falls within the rights of the respective states. However, the Government will maintain the general policy set forth above and will request the state authorities not to collect taxes already paid to the de facto authorities.

WARREN

812.512/3171

The Secretary of State to the Ambassador in Mexico (Warren)

No. 89 Washington, May 31, 1924.

Sir: I have the honor to acknowledge the receipt of your despatch No. 8514, of May 14, 1924,²³ with reference to your telegram No. 118 of April 11th,²³ in regard to the method of obtaining relief by direct appeal to the Governors of the States after they have been advised by the Mexican Government of its decision, when demands are made

[&]quot; Not printed.

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for repayment by American citizens of taxes already paid to *de facto* authorities. You enclose a copy of despatch No. 504, of April 29th,²⁴ from the Consul at Guadalajara, submitting a list of nine cases involving matters of the repayment of taxes or expropriation which have already been settled. You say that from present indications it appears that the general question of double taxation, as it affects American citizens, has been satisfactorily settled.

In reply I beg to inform you that the Department is pleased with the gratifying results reported in your despatch.

I am [etc.]

For the Secretary of State:

JOSEPH C. GREW

EXPULSION OF THE BRITISH CHARGÉ FROM MEXICO, AND THE EXERCISE OF GOOD OFFICES BY THE UNITED STATES FOR THE PROTECTION OF BRITISH INTERESTS

701.4112/72: Telegram

The Chargé in Mexico (Schoenfeld) to the Secretary of State

[Paraphrase]

Mexico, June 4, 1924—3 p. m. [Received 8:55 p. m.]

198. I was informed confidentially by Cummins, who is in charge of the archives of the British Legation, that the Secretary of the Interior had sent him a note dated today stating that by virtue of orders from the President through the Minister for Foreign Affairs Cummins is required to leave Mexico within 10 days and that requisite measures will be taken if he does not leave.

SCHOENFELD

701.4112/91

The Chargé in Mexico (Schoenfeld) to the Secretary of State

No. 8570

Mexico, June 9, 1924.
[Received June 21.]

SIR: Referring to my telegram No. 198 June 4 3 P. M. regarding the effort of the Mexican Government to expel Mr. H. A. Cunard Cummins, who is in charge of the archives of the British Legation in this capital, I have the honor to inform the Department that at the request of Mr. Cummins, who is remaining for the present within the precincts of the British Legation, I called on him there this afternoon.

²⁴ Not printed.

Mr. Cummins' purpose in requesting me to call upon him was not made clear in the course of our conversation unless it was merely for the purpose of informing me of the status of his case.

It appears that the notice to leave the country which Mr. Cummins received from the Mexican Government on June 4 contemplated his departure on June 10 and not within ten days as reported in my telegram. The period in question would therefore expire tomorrow. Mr. Cummins informed me that he had telegraphed his Government the substance of the note of June 4 from the Mexican Minister of the Interior and had received from London instructions to reply to the note mentioned and to state that while the British Government was prepared to give Mr. Cummins leave of absence upon the arrival of Mr. Hohler, whose forthcoming journey to Mexico was announced some time ago for the purpose of submitting a report to the British Government on the situation here, any action on the part of the Mexican Government looking to the expulsion of Mr. Cummins would result in the immediate cancellation of Mr. Hohler's mission.

Mr. Cummins advised me further that about a month ago the Mexican Consul in London had complained to the British Government of the offensive tone of a note delivered by Mr. Cummins to the Mexican authorities in the case of Mrs. Rosalie Evans, a British subject whose property at San Martín de Texmelucan, Puebla, has been expropriated. He said that the British Government had informed the Mexican Consul at London that the statements made by Mr. Cummins in the note were fully justified by the facts. The British Government then obviously assumes responsibility for the note upon which, apparently, the Mexican Government seeks to base its action against Mr. Cummins.

This British official is evidently nervous as to the possibility that there may be an attempt on the part of the Mexican authorities actually to invade the British Legation, which is owned by the British Government.

Mr. Cummins seemed desirous of apprising me of the foregoing for my information, on which score I transmit it to the Department.

I have [etc.]

H. F. ARTHUR SCHOENFELD

701.4112/73: Telegram

The Chargé in Mexico (Schoenfeld) to the Secretary of State
[Paraphrase]

Mexico, June 13, 1924—11 a. m. [Received 6:15 p. m.]

212. Embassy's 198 dated June 4, 3 p. m. and despatch 8570 dated June 9. Cummins is virtually a prisoner in British Legation which

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is now under open surveillance by Mexican authorities. He fears an attempt may be made to enter Legation by force to take him. For that reason he is now in touch with the Chilean Minister, who in the absence of the American Ambassador is dean of the diplomatic corps. His purpose is to enter a vigorous protest before that body in case of a violation of the Legation. Please instruct me for such an eventuality.

As set forth in my above-mentioned despatch the British Government's position is that they will cancel the mission of Sir Thomas Hohler if orders to expel Cummins are carried out. Otherwise Cummins will be given leave when Hohler arrives. Cummins has informed me that Mexican Government is highly indignant because London is supporting him, but I personally doubt if Mexican Government will violate British Legation. Present situation is untenable.

SCHOENFELD

701.4112/73: Telegram

The Secretary of State to the Chargé in Mexico (Schoenfeld)

[Paraphrase]

Washington, June 14, 1924—1 p. m.

304. Embassy's 212 dated June 13, 11 a.m. If Mexican Government should violate British Legation the Department authorizes you to join with the diplomatic corps in a protest should that body determine upon such action.

HUGHES

701.4112/76: Telegram

The Chargé in Mexico (Schoenfeld) to the Secretary of State

[Paraphrase]

Mexico, June 14, 1924—6 p. m. [Received June 15—5:12 a. m.]

219. This afternoon Chilean Minister informed me that he had been unsuccessful in obtaining revocation of expulsion decree against Cummins. He read to me a long note which he had received from the Minister for Foreign Affairs in answer to his representations on behalf of the diplomatic corps. This note embodies the substance of a statement which Mexican missions abroad will issue tomorrow and sets forth the history of the case, denying the diplomatic character of Cummins and insisting on his expulsion. It is the belief of the Chilean Minister that the Mexican Government has determined to resort to drastic measures which even include entry into British Legation tomorrow. Late this afternoon Chilean Minister

intended to make another attempt to persuade Mexican Government not to resort to extreme measures. . . .

Minister said that this noon he had seen orders from President

to take immediate action to expel Cummins.

It might be desirable, although it may already be too late, to suggest to British Government the expediency of instructing Cummins to leave Mexico on receipt of passports in due form if Mexican Government can be induced to change its present attitude.

Cummins says that if Mexican Government attempts to enter Legation by force tomorrow he intends to remain until locked doors are forced. Then he will surrender quietly. Meanwhile he will continue to fly the British flag over the Legation.

SCHOENFELD

701.4112/86a: Telegram

The Acting Secretary of State to the Chargé in Mexico (Schoenfeld)

Washington, June 18, 1924—3 p. m.

312. Embassy at London has received note from British Foreign Office dated June 17th enclosing a copy of the Mexican reply rejecting the British offer. British note continues

"This reply leaves me no alternative but to request Mr. Cummins to withdraw and I venture to ask the good offices of the State Department (through the United States representative at Mexico) to communicate that decision to Mr. Cummins and to procure for him every facility to carry out his instructions.

At the same time I should be very grateful if your representative could assist Mr. Cummins by taking over from him the Legation

archives and effects.

I shall instruct Mr. King His Majesty's Consul General at Mexico to place himself at the disposal of the American Ambassador with a view to assisting him if necessary in the execution of his task."

You are instructed to take over from Mr. Cummins the British Legation archives and effects and to assist him in every proper way in his efforts to carry out his instructions. You will also inform Mexican Government of your instructions as an act of courtesy.

Text of Mexican reply is being sent you in separate telegram.25

GREW

²⁵ Not printed.

701.4112/87: Telegram

The Chargé in Mexico (Schoenfeld) to the Secretary of State

Mexico, June 18, 1924—9 p. m. [Received June 19—2:48 p. m.]

224. Department's 312, June 18, 4 [3] p. m. I personally delivered a note to the Under Secretary of Foreign Relations at 6:30 this evening informing the Mexican Government that I was taking over the archives and effects of the British Legation as from this day in pursuance of your instructions and soliciting the cooperation of the Minister for Foreign Affairs in facilitating the departure of Cummins. I suggested orally as Chilean Minister had done earlier in the afternoon that the Mexican guard at the British Legation be withdrawn and freedom of communications reestablished. I also addressed a note to Cummins conveying textually his instructions from the British Government and enclosing a copy of my note to the Foreign Office for his information.

On my return from Foreign Office I called on Cummins who informed me he was telegraphing his Government requesting detailed instructions as to what should be delivered to me and the procedure that should be followed and that corresponding instructions be sent to me. The Mexican guard had already been withdrawn.

I am now in receipt of a note from Cummins suggesting that as "Schoenfeld shall probably require a day or two to receive and act on" my [his] instructions and as "a packing and disposition of" his (Cummins') effects "must occupy a day or two" he expects to be able to leave here either on Saturday or Sunday next.

Meanwhile I am in receipt of a note from Minister for Foreign Affairs in acknowledgment of mine taking cognizance of my action and adding that Cummins will be given "usual facilities" to leave here up to 7 o'clock tomorrow evening. I am advising Cummins orally of this at once. I should however welcome earliest possible advices from the Department as to whether I should accept this statement without question, the more so since in my conversation with the Under Secretary of Foreign Relations I intimated that some slight delay might be necessary and he informed me Cummins' departure might be postponed to Friday 11th hour.

SCHOENFELD

701.4112/86: Telegram

The Chargé in Mexico (Schoenfeld) to the Secretary of State

Mexico, June 18, 1924—10 p. m. [Received June 19—2:07 p. m.]

225. Last paragraph my telegram 224, June 18, 9 p. m. Cummins informs me he can not leave until receives detailed instructions as to

disposition of archives and effects and staff British Legation and the manner in which he is to transfer them to this Embassy. He adds that he would have insufficient time until tomorrow evening to make necessary physical preparations for departure.

In view of the fact that Mexican Government has been advised that this Embassy has taken over archives and effects of British Legation as from this date, I urgently request instructions as to Embassy's proper attitude in the event an attempt is made to search Cummins after expiration of time limit set by Mexican Government. Instructions are desired as to detailed procedure I am to follow in taking over British Legation archives and effects; also whether, as Cummins expects, a member of this Embassy shall be installed there and if so when, in view of the situation which might arise should an attempt be made to seize Cummins while a member of the Embassy is on the premises.

SCHOENFELD

701.4112/88: Telegram

The Chargé in Mexico (Schoenfeld) to the Secretary of State

Mexico, June 19, 1924—noon.

[Received 10:51 p. m.]

226. My telegrams numbers 224, 225 last night. With a view to avoiding embarrassing situation which might arise from noncompliance on the part of Cummins with the demand of the Mexican Government that he depart by 7 this evening, and in view of material impossibility of carrying out final arrangements for delivery to me of the British Legation's archives and effects before that time, I have just called Subsecretary of State for Foreign Affairs and asked whether it would not be possible to grant an extension so that I can carry out my instructions with due completeness as well as obtain supplementary instructions already requested as to details of the transfer.

Subsecretary informed me that Chilean Minister as dean of the diplomatic corps had given guarantee yesterday that Cummins had promised to leave tonight though Cummins denies this and Chilean Minister does not admit having given such guarantee.

I pointed out to Subsecretary that in any case a new [situation?] arose upon arrival of my instructions to take over British Legation and I reiterated material impossibility of closing up affairs in the time given adding that as we were all agreed that Cummins should withdraw it seemed inexpedient to make a special point of the exact moment of his withdrawal. Subsecretary, after consulting Minister for Foreign Affairs who has been unable to receive me, promised to

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let me know his decision as soon as President could be consulted in the matter.

One p. m. I am just informed by Subsecretary of State for Foreign Affairs that out of consideration for this Embassy time limit for Cummins' departure is extended to 7 o'clock tomorrow, Friday evening. Cummins informed.

SCHOENFELD

701.4112/89: Telegram

The Chargé in Mexico (Schoenfeld) to the Secretary of State

Mexico, June 19, 1924—4 p. m. [Received 10:35 p. m.]

227. My telegram number 226, June 19, noon. Cummins states he will leave tomorrow evening for Laredo. Am signing today inventory of effects, oaths and receipt for strong room containing unknown archives to which King, British consul general, will have access. Clerical staff British Legation, consisting of two persons, will remain here.

SCHOENFELD

701.4112/87: Telegram

The Acting Secretary of State to the Chargé in Mexico (Schoenfeld)
[Paraphrase]

Washington, June 19, 1924-7 p. m.

319. Embassy's 224, June 18, 9 p. m., and 225, June 18, 10 p. m. Inform Cummins that it is important that he depart from Mexico at the earliest possible time in order to minimize possibility of friction which would be deplored.

Inform Minister for Foreign Affairs informally that the Department is gratified to learn that Cummins will be afforded "usual facilities", which means of course that he will be assured all usual diplomatic immunities in connection with his departure. At the same time you will say that it is the earnest hope and expectation of this Government that Cummins will be given the necessary time to pack his baggage and depart from Mexico. You will say further, if necessary, that this Government would regret to see any steps taken by the Mexican Government which would in any way restrict Mr. Cummins' personal liberty or comfort in Mexico during the time when he is making all reasonable efforts to depart from Mexico. You are instructed in particular to inform the Minister for Foreign Affairs of the unfortunate impression which such restriction would create on the mind of the American people, who are in full sympathy with the general aspirations of the Government of Mexico.

The Government of the United States would consider it indeed unfortunate if any circumstance should arise which would alienate American sympathy from the Government of Mexico.

It is to be hoped that the Government of Mexico will not under any circumstance violate the premises of the British Legation. Should such a violation appear to be imminent you will inform the Minister for Foreign Affairs of this Government's regret were the Government of Mexico to pursue such a course. You will explain that this Government bases its action on the fact that it is now in charge of the archives and effects of the Legation and incidental to that charge must protest. Of course it would be undesirable to intimate that such protest will be made, unless actual danger of violation is imminent.

The Department believes that your action as stated above must appeal to the good sense of the Government of Mexico and will prevent a situation which would be a cause of regret to all of Mexico's friends.

GREW

701. 4112/90: Telegram

The Chargé in Mexico (Schoenfeld) to the Secretary of State

Mexico, June 20, 1924-3 p.m.

[Received 8:37 p. m.]

228. Department's telegram 319 June 19, 7 p. m. In view of Cummins' departure for the United States via Laredo tonight as reported in my telegrams numbers 226 and 227 June 19, 12 noon and June 19, 4 p. m. I assume Department does not desire me to make representations set out in your telegraphic instructions mentioned.

As no instructions as to details of transfer have been received I am proceeding this afternoon to sign receipt for inventory and locked strong room of British Legation, it having been impossible to complete necessary work yesterday. Three and not two employees will remain at British Legation.

SCHOENFELD

701.4112/93: Telegram

The Chargé in Mexico (Schoenfeld) to the Secretary of State

Mexico, June 21, 1924—11 a.m.

[Received 2:04 p. m.]

229. Cummins left last night for Laredo having completed transfer of Legation to me yesterday afternoon. There was no hostile demonstration of any kind nor any show of force. Cummins informed me had received telegram from his Government intimating

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intention to ask that the Embassy also take over British interests in this country. I deem it worth considering whether such action on our part would be entirely prudent.

SCHOENFELD

701. 4112/90: Telegram

The Secretary of State to the Chargé in Mexico (Schoenfeld)

Washington, June 21, 1924-3 p. m.

326. Your 228, June 20, 3 p. m. Department assumes that Cummins is now en route to Laredo and therefore representations directed in Department's 319, June 19, 7 p. m. apparently need not be made. However, Department depends upon your discretion in case of emergency before Cummins leaves Mexican soil.

Hughes

701.4112/94

The Secretary of State to the British Ambassador (Howard)

Washington, June 27, 1924.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of June 23, 1924 ²⁶ in which you were good enough to convey to me the thanks and appreciation of His Majesty's Government for the assistance which this Government and its diplomatic representative at Mexico City were able to extend during the recent crisis in connection with Mr. Cummins. I furthermore note your request, on the instructions of His Majesty's Principal Secretary of State for Foreign Affairs, that for the time being this Government should take charge of British interests in Mexico.

In reply, I beg to inform you that in the absence of a British diplomatic representative in Mexico this Government will be glad to extend its appropriate good offices in relation to British interests in that country. I have instructed the American Ambassador at Mexico City to that effect and have directed him to advise the Mexican Government of the British Government's request.

Accept [etc.]

CHARLES E. HUGHES

²⁶ Not printed.

INVITATIONS FROM GREAT BRITAIN, FRANCE, AND SPAIN TO THE UNITED STATES TO ADHERE TO THE CONVENTION OF DECEMBER 18, 1923, REGARDING THE ORGANIZATION OF THE STATUTE OF TANGIER 1

881.00/916

The British Ambassador (Howard) to the Secretary of State

No. 481

Washington, May 29, 1924.

SIR: I learn from His Majesty's Principal Secretary for Foreign Affairs that His Majesty the King, the President of the French Republic and His Majesty the King of Spain have ratified the Convention of December 18th, 1923, regarding the statute of Tangier, and that the deposit of ratifications took place on May 14th at the Ministry for Foreign Affairs in Paris.

Under instructions from my Government and, in accordance with the terms of the first paragraph of Article 56 of the above Convention, I have the honour to ask, in concert with my French and Spanish colleagues, who are today addressing communications to you in the same sense,² the accession of the Government of the United States to this Convention, the text of which was, as a matter of courtesy, communicated before signature to the United States Ambassador at Paris.

If the United States Government can see their way to give favourable consideration to this request it will be greatly appreciated by His Majesty's Government.

I have [etc.]

ESME HOWARD

881.00/923c : Telegram

The Secretary of State to the Ambassador in Italy (Fletcher)*

Washington, June 4, 1924-5 p. m.

72. On May 14 the French, British and Spanish Governments deposited at Paris the ratifications of the Convention regarding the

¹ For previous correspondence concerning the status of Tangier, see Foreign Relations, 1923, vol. II, pp. 578 ff. The convention is printed in Great Britain, Cmd. 2096, Morocco No. 1 (1924): Convention Regarding Organisation of Statutes of the Tangier Zone, Signed at Paris, December 18, 1923.

⁸ Neither note printed.

The same, mutatis mutandis, to the representatives in Belgium (no. 45), the Netherlands (no. 23), and Portugal (no. 23).

Organization of the Statute of the Tangier Zone signed at Paris December 18, 1923, and they have now requested the adhesion of the Government of the United States as one of the signatories of the Act of Algeciras.4 Please endeavor informally to ascertain the attitude of the Italian Government towards this Convention, as well as to the Tangier Port Concession of December 11, 1923,5 and report as to whether the Italian Government appears disposed to adhere to the Convention with or without conditions or reservations.

HUGHES

881.00/925: Telegram

The Minister in Belgium (Phillips) to the Secretary of State

[Paraphrase]

Brussels, June 6, 1924-5 p. m. [Received June 6-4:01 p. m.]

64. Department's no. 45, June 4, 5 p. m.6 Belgian Government took occasion to transmit to British, French, and Spanish Governments certain observations, as follows, upon receipt of an invitation from them to nominate a Belgian with rank of captain to head Tangier gendarmerie:

1. Belgian Government of opinion that Belgian head of gendarmerie should have at least two Belgian lieutenants as his assistants

instead of one French assistant and one Spanish.

2. In opinion of Belgian Government the new convention did not give sufficient guarantees to countries besides the three mentioned above in regard to equality of economic opportunity and public works, and the countries asked to adhere to the new convention had no knowledge of the regulations which the new administration, which will be controlled by the three powers signatory to the convention, may put into effect.

3. As Belgium had no representative on the proposed Mixed Tribunals, the Belgian Government was not disposed to receive with favor the abolition of the rights of its nationals to be tried before Belgian consular courts. Belgian Government suggested that all countries which should adhere to the convention should be given

representation on the Mixed Tribunals.

The Belgian Government was then informed by identic notes from the French and British Governments that it was impossible to make any changes in the convention because of the difficulty which had been encountered in reaching an agreement. The Belgian Government is still considering form of reply to be made.

⁴ Foreign Relations, 1906, pt. 2, p. 1495. ⁵ Additions made to the original concession of June 2, 1921. For correspondence concerning the 1921 concession, see *ibid.*, 1922, vol. II, pp. 720 ff. See footnote 3, p. 456.

Belgian Government seems to feel that it will eventually be forced to adhere to the present convention. It has reached no decision in regard to the chief of the *gendarmerie*. If possible it will make a reservation in regard to the Mixed Tribunals as this is the article to which it chiefly objects. It will also endeavor to make some sort of reservation in regard to its second observation given above. Belgian Government feels that nation is too small to take any effective action against operation of this convention, and an article in the London *Times* criticizing Belgium's attitude toward the new convention has had a certain effect. In regard to the Tangier port concession, the Belgian Government has taken no action and is not yet in a position to comment.

PHILLIPS

881.00/926: Telegram

The Minister in Portugal (Dearing) to the Secretary of State

Lisbon, June 6, 1924—6 p. m. [Received 7:35 p. m.]

31. Department's 23, June 4, 5 p. m. Tangier convention. Confidentially informed by Foreign Office that Portuguese Government will presently "ratify" the convention without conditions or reservations and has same attitude toward port concession.

Foreign Office states that Portugal found convention unsatisfactory and would have preferred larger representation, at least two, but decided after careful study that under existing circumstances unconditional adhesion was best. . . .

DEARING

881.00/927: Telegram

The Ambassador in Italy (Fletcher) to the Secretary of State

Rome, June 7, 1924—1 p. m.

[Received 7:22 p. m.]

110. Your 72, June 4, 5 p. m. Foreign Office states that the attitude of the Italian Government on the subject has not been formulated in detail but that they are not disposed to adhere to the convention without reservations. They desire to act in complete accord in this matter with us and have promised to communicate to me their proposed reply before sending it with this end in view. Is this satisfactory?

I was asked what our attitude would be and replied that I had no definite instructions but explained the attitude of the Department

⁷ See footnote 3, p. 456.

during the course of the negotiations as set out in the enclosures to Department's instruction number 408, October 1923 and page 12 of confidential monthly political report for December 1923.

Please instruct.10

FLETCHER

881.00/931: Telegram

The Chargé in the Netherlands (Sussdorff) to the Secretary of State

THE HAGUE, June 16, 1924—1 p. m.

[Received June 16-9:43 a. m.]

29. Legation's 26, June 5, 4 p. m.⁹ I am forwarding in today's pouch five-page note from Netherlands Minister of Foreign Affairs ⁹ stating that his Government is disposed to adhere to the Tangier convention but that certain questions affecting protégés outside of Tangier Zone are causing it to delay (see paragraphs 1 and 2 of article 13). Only reservation likely is nonadhesion to article 9 due to the fact that the Netherlands is not a party to the Versailles, St. Germain, and Trianon peace treaties.

Minister of Foreign Affairs requests information regarding the United States Government's views concerning Tangier convention. If the United States [adheres] to the convention he inquires what conditions or reservations if any it will make.

SUSSDORFF

881.00/916

The Secretary of State to the British Chargé (Brooks)

Washington, July 11, 1924.

SIR: I have the honor to acknowledge the receipt of the Ambassador's note of May 29, 1924, informing me of the ratification by the Governments of Great Britain, France and Spain, of the convention signed by those Governments on December 18, 1923, regarding the statute of Tangier, and the deposit of such ratifications on May 14, 1924, at the Ministry for Foreign Affairs in Paris. The Ambassador states that he has been instructed by his Government to ask, in concert with his French and Spanish colleagues, the accession of the Government of the United States to this convention.

I beg to inform you that this Government has given careful consideration to the request and to the convention and related documents with reference to the proposed administration of the Tangier Zone.

Not printed; see instruction no. 432, Sept. 21, 1922, to the Chargé in France, Foreign Relations, 1922, vol. II, p. 723.
Not printed.

¹⁰ No reply appears to have been made.

It is observed that the representation which the three signatory Powers have assigned to this Government in the conduct of affairs in Tangier is of a far more limited character than that now enjoyed and quite disproportionate to that which the three Powers have allocated to themselves. This Government would not, therefore, care to assume the responsibility which it feels would of necessity devolve upon it from participation in the administration of the Zone, while having no appreciable part in formulating the policies or conducting the affairs of the Zone.

This Government has no political interest in Tangier and no desire or purpose to obtain any special rights or privileges which would abridge the rights of nationals of other states. Its interests, as was indicated in the reservation made at the time it signed the Act of Algerias in 1906, and in the Resolution by which the Senate gave its advice and consent to ratification thereof, lie in securing for all peoples the fullest measure of equality of opportunity for commerce and industry in Morocco and in the protection of the life, liberty and property of citizens of the United States going into or having interests in that country.

Having thus stated the reasons why this Government does not find it practicable to participate in the proposed administrative machinery of the Tangier Zone and the interests which it is this Government's purpose to protect, I shall indicate with more particularity this Government's position with respect to the establishment of a regime of the character contemplated.

It is evident from the text of the convention that notwithstanding the proposed participation of other Powers in governmental activities of the Zone, the principal control will be vested in the three signatory Powers, Great Britain, France, and Spain. In many respects the political status of the Zone will be anomalous. pears, for example, that responsibility for the maintenance of public order and the general administration of the Zone is, under delegation of authority by His Shereefian Majesty, to devolve upon the authority specified in the convention. Sovereignty over the Zone, however, is to remain in His Shereefian Majesty and diplomatic matters are specifically reserved to the Moroccan Government acting through the intermediary of France under Article 5 of the Protectorate Treaty of 1912. The Zone is not, therefore, to be an independent political entity, with an existence separate and apart from the parent State, but will on the contrary be in the nature of a municipality, granted limited legislative, executive and judicial powers, under a charter from the sovereign. So long as the convention shall remain in force (it specifies a period of twelve years), parties thereto apparently can look only to the administration of the Zone for the observance of treaty rights, and the satisfaction

of any claims, grievances, or wrongs of an international character. The administration being international in character would not, therefore, be accountable to any one Power, nor would any one Power be responsible for the acts of the administration. It is therefore conceivable that with no central authority responsible for acts of the Zone administration, difficulty may be experienced by aggrieved parties in obtaining proper recognition of rights, the violation of which, under ordinary conditions, might afford just grounds for international reclamation.

This Government being desirous, however, of placing no obstacle in the way of an honest effort to improve conditions in Tangier, would, after having had an opportunity to examine the regulations and codes referred to in Articles 32 and 48 respectively of the convention, consider the possibility of suspending the extraterritorial rights in the Zone to the extent that such rights appear to be safeguarded by the new regime on the following conditions:

1. That the meaning of the provisions concerning the observance of economic equality shall be explained with greater particularity, for the purpose of maintaining with no uncertainty the principle of the open door. This Government understands that the terms "economic equality among nations" and "regime of economic equality" used in Articles 7 and 30, respectively, of the convention, require, among other things, (a) that in all matters pertaining to customs or tonnage duties, warehousing, port dues, or other charges, or taxes of whatever character appertaining to industry, trade or commerce, there shall be no discrimination in law or in fact placing or tending to place the nationals, products or ships of one country at any disadvantage as compared with those of another country; (b) that in the right to acquire and hold property, in the pursuit of occupations, industry or professions, and in all that pertains to facilities of any kind, there shall be no discrimination; (c) that in the granting of concessions of all kinds as well as in the granting of contracts for public works and in the purchase of supplies, there shall be suitable opportunity for competition and open bidding free from any condition or provision calculated to give competitors of one nationality any advantage over those of another; and (d) that no monopoly or exclusive privilege shall be created or granted which would result in monopolization of the markets, resources, or facilities of the Tangier Zone for the benefit of any special interests, directly or indirectly, or in any exclusion or preferential advantage inconsistent with the principle of complete equality of opportunity.

2. That the signatories to the convention under consideration shall acknowledge to this Government, and assume full responsibility for any acts or omissions of the administrative authorities of the Zone which would ordinarily give rise to a right of international recla-

mation.

3. That in connection with the administration of justice, it shall be understood that this Government shall be free to designate the associate judge or judges to sit in any case in which an American

citizen is a party, from among the personnel of the American Con-

sulate in Tangier.

4. That this Government receive confirmation of its understanding that the provisions of Article 13 of the convention with respect to semsars are intended in no way to affect the existing rights with respect to semsars in other parts of Morocco.

5. That it be clearly understood with respect to the extension to the Tangier Zone of future international agreements concluded by His Shereefian Majesty with other Powers, that no such agreement shall be considered as abridging the rights of American citizens in Tangier without the consent of this Government.

Communications similar to this have been sent in response to the notes from the French and Spanish Ambassadors.12

Accept [etc.]

CHARLES E. HUGHES

881.00/953

Memorandum by the Under Secretary of State (Grew) of a Conversation with the French Chargé (Laboulaye)

[Washington,] July 14, 1924.

Mr. de Laboulaye said that he had been disturbed by the various and contradictory interpretations by the press of the meaning of our note on the Tangier Zone Convention. The New York Times, for instance, had stated that we refused definitely to accede to the Convention, while other papers had taken a contrary view. Mr. de Laboulave said that he himself was in some doubt as to the meaning of the note and it did not seem quite clear to him what we intended to do. He also thought that some of the phrases in the note were somewhat hard and he implied that he did not find it altogether satisfactory.

I told Mr. de Laboulaye that before definitely approaching the question of our adhesion to the Convention, we had first wished to consult the three governments with regard to the question of guarantees and safeguards as raised in our note. We believed that further correspondence would reveal the method by which those governments would assure us of the guarantees and safeguards which we desired and that the question of acceding to the Convention could then be approached. If these guarantees and safeguards were given us in a satisfactory manner, it was our intention to consider recommending to the Senate the suspension of our extraterritorial rights and our adhesion to the Convention with the reservation that we should not participate in the administration of the Zone. This of course implied that we should not wish to avail

¹² Not printed.

ourselves of appointing a representative to the Legislative Assembly

as provided for in the Convention.

Mr. de Laboulaye said that this explanation was fully satisfactory. He thought the desired guarantees could be given by an exchange of notes (I suggested also the possibility of a protocol) so that the text of the Convention itself need not be altered. It would remain with us to decide whether we wished to avail ourselves of filling the position accorded us on the Legislative Assembly. I repeated that we did not wish to assume any obligations in connection with the administration of the Zone, but added, as I had told him before, that our spirit in the matter was one of cooperation and that we desired to place no obstacles in the way of the proposed regime so long as our interests were properly safeguarded. J[OSEPH] C. G[REW]

881.00/970

The British Ambassador (Howard) to the Secretary of State

Washington, October 10, 1924. No. 935

SIR: I have the honour to inform you that His Majesty's Government have not failed to accord the most careful consideration to the note which you were so good as to address to Mr. Brooks on July 11th last containing the reply of the United States Government to the invitation extended to them by the Governments of Great Britain, France and Spain to accede to the Tangier Convention and to renounce their extra-territorial rights in the Tangier Zone.

I am now instructed by Mr. Secretary MacDonald to communicate to you the following expression of the views of His Majesty's Government upon the matters discussed therein.

His Majesty's Government wish at the outset to express their gratification at the friendly terms of your note above-mentioned and their appreciation of the desire avowed by the Government of the United States to place no obstacle in the way of an honest effort to improve existing conditions at Tangier.

At the conclusion of your note it is intimated that the United States Government will consider the possibility of returning a favourable response to the three Powers subject to the receipt of satisfactory assurances on five specific points. His Majesty's Government desire to offer the following observations on each of the points in question.

1. Definitions of the terms "economic equality among nations" and "regime of economic equality" were intentionally omitted from articles 7 and 30 of the Tangier Convention. It was thought that definitions might obscure rather than clarify the meaning of the terms. In deference to the wish of the Government of the United

States, His Majesty's Government are ready to declare that they interpret articles 7 and 30 of the Convention as requiring inter alia that

(a) in all matters relating to customs or tonnage duties, warehousing, port dues or other charges or taxes of whatever character pertaining to industry, trade or commerce there shall be no discrimination in law or in fact placing or tending to place the nationals, products or ships of one country at any disadvantage as compared with those of another country; (b) as regards the right to acquire and hold property, the pursuit of occupations, industry or professions, and all that pertains to facilities of any kind there shall be no discrimination; (c) in the granting of concessions of all kinds, as well as in the granting of contracts for public works and in the purchase of supplies there shall be suitable opportunity for competition and open bidding free from any condition or provision calculated to give competitors of one nationality any advantage over those of another; (d) no monopoly or exclusive privilege shall be created or granted which would result in monopolisation of the markets, resources or facilities of the Tangier zone for the benefit of any special interests, directly or indirectly or in any exclusion or preferential advantage inconsistent with the principle of complete equality of opportunity. In order to avoid any misunderstanding it should be added that under articles 8 and 9 of the Tangier Convention nationals of Germany, Austria and Hungary are excluded from the enjoyment

of economic equality as defined above.

2. There seems to be some misapprehension on this point in the mind of the United States Government. Under the terms of the Convention neither the internal nor external affairs of the zone are in the hands of the signatories, whose powers of intervention are limited to the functions assigned by articles 30 and 31 to the Committee of Control in which all the signatories of the Act of Algeciras are equally represented, and to which is entrusted the task of ensuring the observance of the regime of economic equality and the provisions of the Tangier Convention. The internal administration of the zone is in the hands of the Assembly which is composed of representatives of the various countries in proportion to their number, wealth and commerce and of administrative officials responsible only to the Assembly. The external affairs of the zone are dealt with in article 5 of the Convention, which provides that in diplomatic matters there shall be no derogation from the provisions of article 5 of the Protectorate Treaty of March 30th, 1912. Article 5 of the Protectorate Treaty lays down that the "Resident General is the only intermediary of the Sultan with foreign representatives and in the relations which these representatives have with the Shereefian Government. He is entrusted with the negotiation of all questions affecting foreigners in Morocco". The signatories of the Tangier Convention have thus recognised the special rights and with them the special responsibility of France in the Tangier zone in so far as diplomatic questions are concerned. It is the special duty of the Committee of Control, on which His Majesty's Government earnestly hope that the United States will be represented, to ensure that the Tangier administration is not guilty of acts or omissions which would ordinarily give rise to international representations. Should such a situation arise, however, the French Government are obliged

under the terms of the Convention to accept, and are understood in fact to be prepared to acknowledge, full responsibility towards the

United States or any other government.
3. In framing the Dahir establishing the Mixed Tribunal the representatives of the signatory states were actuated by the almost universally accepted principle of the divorcement of the judicial from the executive authority. For that reason it was provided in the Statute that the magistrates should be appointed by the Sultan on the recommendation of the government concerned without reference to the Tangier Assembly, and that no person holding an official position should sit on the tribunal as an associate judge. His Majesty's Government feel that a rigid adherence to the above provisions is in the best interests of Tangier. Nevertheless, in order to meet the wishes of the United States Government, they are willing to interpret the Convention as permitting the designation of an associate judge or judges from amongst the personnel of the United States Consulate at Tangier, excluding only consular officers de carrière and provided that the nominee be an American citizen. They trust that this solution will be satisfactory to the United States Government.

4. His Majesty's Government confirm that the provisions of article 13 of the convention with respect to semsars are intended in no way, and do not in fact, affect the existing rights of the powers in regard

to semsars in other parts of Morocco.

5. His Majesty's Government agree that the extension to the Tangier Zone of any future international agreement concluded by His Shereefian Majesty shall not in any way prejudice or abridge the rights of American citizens in Tangier without the consent of the United States Government.

His Majesty's Government note with regret that the United States Government do not propose to participate in the administration of the Tangier zone. They trust, however, that that decision does not mean that the United States Government will not be represented on the Committee of Control. His Majesty's Government do not aspire to a predominant position at Tangier. They sincerely desire the co-operation of all the powers to secure the principle of economic equality, the maintenance of which is the primary function of the Committee of Control and they believe that the representation of the United States on that body will be no less in the interests of the United States than in those of the inhabitants of the zone.

I should be grateful if you would give these observations of His Majesty's Government your careful consideration, and inform me at your early convenience of the decision of the United States Government in this matter. I need hardly say that if there is any question in connection with the Treaty requiring further elucidation, I am entirely at your disposal to give such explanation as I can or to make enquiries of the Foreign Office on such points.

I have [etc.]

ESME HOWARD

881.00/976

The French Ambassador (Jusserand) to the Secretary of State

[Translation]

Washington, October 31, 1924.

Mr. Secretary of State: My Government has considered very carefully and with the most sincere wish of arriving at a final understanding, as to the Statute of Tangier, with that of the United States the remarks contained in Your Excellency's note of July 11 last.¹³ That note made known the conditions under which the adhesion of the United States, so earnestly desired by us and the other principal Powers concerned, could be secured. Reverting to those various points, I have the honor, by order of my Government, to submit to Your Excellency the following remarks and explanations:

1st. (a) In all questions relating to customs duties and tonnage dues, warehouse dues, harbor dues, and other dues, no matter which, having to do with industry or commerce, no discrimination is contemplated, which will or can in law or in fact place the nationals, products or vessels of a country at a disadvantage as compared with the nationals, products or vessels of another country.

(b) With regard to the right to acquire and hold property, office seeking, practicing of professions, industrial activities and facilities

of various kinds, no discrimination shall be set up.

(c) In the concessions of all kinds, as well as in the awarding of contracts for public works and the purchase of supplies all will be allowed to compete on equal terms and submit proposals without setting up any conditions or provisions likely to secure to competitors of any one nationality any advantage over those of another.

(d) No monopoly or exclusive privilege shall be created or granted so as to bring about any monopolizing of the markets, resources or facilities of the Tangier zone for the advantage of any special interests, directly or indirectly, or that would lead either to any exclusion or preferential treatment inconsistent with the

principle of full equality of opportunity.

The foregoing, of course, cannot affect the provisions of Articles 8 and 9 of the Convention of Paris of December 18, last, relative to the Statute of Tangier. These Articles specify that in accordance with No. 141 and the following Articles of the Treaty of Versailles, the provisions of the said Statute cannot be claimed by the German, Austrian and Hungarian nationals.

2nd. The American Government asked that the signatories of the convention should undertake to assume full responsibility for all acts or omissions of the executive authorities of the zone which

would usually give birth to an international claim.

The Government of the United States will kindly remember in this connection that under Article 5 of the said Convention the Delegation given by the Sultan on the Tangier zone is permanent and general "except in diplomatic matters for which the provisions of Article 5 of the Protectorate Treaty of March 30, 1912, stand".

¹³ Not printed; see similar note of the same date to the British Chargé, p. 459.

Now this Article 5 of the Protectorate Treaty provides "that the Resident Commissioner General is the only intermediary of the Sultan with the foreign representatives and in the relations maintained by said representatives with the Shereefian Government. He has in particular charge of all questions concerning aliens in Morocco."

The signatories to the Tangier Convention have thus confirmed in diplomatic matters and for that zone the formal rights of France, the power which protects Morocco, and as a consequence the re-

sponsibility of France in such matters.

The above mentioned reservation in Article 5 of the Convention relative to the Statute is, furthermore reproduced in Article I, Second subsection of the draft of Dahir organizing the administration of the zone which confirms the general and permanent delegation given by the Sultan of the zone "does not apply to diplomatic matters in regard to which the provisions of Article 5 of the Treaty of March 30, 1912 are fully observed;"

(3) With regard to the administration of justice, the American Government would like to be at liberty to select from the staff of the American Consulate at Tangier the associate judge or judges who are to sit in all cases in which an American citizen is concerned.

By reason of the widely accepted principle of the separation of the Powers it does not seem possible to gratify that wish in the manner in which it is expressed. Acting upon the said principle, Article I of the Dahir concerning the organization of international justice at Tangier provides that unsalaried associate members of the court are free to engage in an occupation or profession "but not in public office". It is not easily seen how this provision could

reasonably be contravened.

If, however, the United States Government understood the phrase "staff of the Consulate" to mean the auxiliary members, exclusive of the career officials, the text might be interpreted so as to satisfy your Excellency, with the understanding that the associate judges so selected should be American citizens. This last reservation may be deemed unnecessary since Article I of the above mentioned Dahir provides that the associate members are "subjects or citizens of every one of the Powers signatory to the Act of Algeciras" and it so happens that the staff of the diplomatic agency of the United States now includes employes who are not Americans but belong to the Syrian or Moorish nationality.

4th. My Government is in position to give Your Excellency the assurance that there was no question of making any change whatsoever in the existing rights with regard to the protégés in other parts of Morocco through the provisions in Article 13 of the Con-

vention.

5th. It is expressly understood with regard to the extension to the zone of Tangier of the international agreements that may hereafter be made by his Shereefian Majesty with other powers that no agreement of that character shall be considered as restricting the rights of American citizens without the consent of their Government.

I am instructed to express in submitting the foregoing to Your Excellency for your benevolent consideration the wish that you would find sufficient grounds therein to agree to give your adhesion

to the Statute of Tangier which, as you know, we all earnestly desire and which would powerfully contribute to developing the region in the interest of all.

Be pleased [etc.]

JUSSERAND

881.00/979

The Spanish Ambassador (Riaño) to the Secretary of State
[Translation]

55-08

Washington, November 8, 1924.

Mr. Secretary: I have the honor to inform Your Excellency that I communicated to the Government of His Majesty in good time the contents of the note of July 11 last, by which Your Excellency answered mine of May 29, 1924, sadvising Your Excellency of the ratification by the Governments of Spain, Great Britain and France of the Convention signed by said Governments on December 18, 1923, concerning the Statute of Tangier and asking, jointly with my colleagues of France and England, the Government of the United States to adhere to that Convention.

The said note of July 11, 1924 from Your Excellency has been carefully examined by the Government of His Majesty and I am in receipt of instructions from the President of the Military Directorate to present to Your Excellency the viewpoint of the said Directorate about the contents of Your Excellency's note, which viewpoint can be summed up in the following remarks:

Regime of Free Economic Competition: Although the stipulations contained in the Spanish-Franco-English Convention relative to the Statute of Tangier on this point constitute a sufficiently full and clear guarantee of the regime of free economic competition, His Majesty's Government would have no objection whatsoever to giving the Washington Cabinet such concrete details and explanations as it might be pleased to ask on the subject.

His Majesty's Government is aware of the wording of the declarations and explanations furnished on the subject to the Government of the United States by that of the French Republic and fully agrees with its terms.

Personality and responsibility of the Tangier Administration: The American Government desires that the signatories to the Convention of Paris will assume full responsibility for any acts or omission on the part of the administrative authorities of the zone of the kind which under ordinary circumstances give right to international claims. The concern which seems to have prompted this demand

Not printed; see similar note of same date to the British Chargé, p. 459.
 Not printed; see similar note of May 29 from the British Ambassador, p. 456.

may easily be dispelled in the opinion of the Military Directorate by the statement that the part taken by the American Consul in the labors of the Control Committee and the special powers of that assembly constitute a sufficient guarantee for the Government of the United States in this respect.

There should also be taken into account with respect to the point here referred to, Article 6 of the Convention of Paris, to which His Majesty's Government is a signatory.

Administration of Justice: His Majesty's Government is of opinion that the power implied in the provision in Article 6, Paragraph 4 of the judicial Dahir constitutes a judicial guarantee as effective for North American citizens as the right to elect their assistants from among the officials assigned to the Consulate of their country in Tangier could be.

In any event the Military Directorate, moved by a spirit of friendly conciliation, is ready to accept, and even now does accept, the phrase "public function" contained in paragraph 4 of article 1 of the judicial Dahir be interpreted to mean that it does not include the subordinate bureaucratic functions discharged by European officials assigned to the foreign Consulates in Tangier.

By virtue of this opinion His Majesty's Government has no objection to admitting that in cases where there may be occasion to appoint an American assistant the choice may fall upon any of the subordinate officials assigned to the Consulate of the United States at Tangier provided he is an American citizen. This interpretation of the Convention shall not, however, apply to the Consular officers of career who may and do have in the Control Committee different powers and duties which are perfectly well defined in the Statute and which should not be confounded with or exercised at the same time as the administration of justice.

Régime of protection: The American Government desires that it be well understood that the provisions contained in article 13 relative to the suppression of the régime of protection exclusively referred to the city of Tangier and its Zone and that the international stipulations which govern the said régime of protection must be considered as subsisting in other parts of Morocco.

The Spanish Government, of course, would like the Government of the United States to waive, as a consequence of the United States giving up the régime of capitulations in the Tangier Zone, at the same time and voluntarily in the zone of the Spanish Protectorate, the benefits derived from the said régime which in the opinion of the Military Directorate surely does not constitute a supreme guarantee for a defense in the interests of any foreign subject residing in said zone since there are in that zone perfectly organized courts of justice officiating.

There is no objection, however, to declaring expressly that the stipulations of article 13 of the Spanish-Franco-English Convention of December, 1923, refer exclusively to the city of Tangier and its district, the consequence being that all that has to do with United States waiving the regime of capitulations and protection in any other zone of Morocco must be made the subject of separate negotiations.

It being the purpose and desire of His Majesty's Government to place upon the future administration of the Tangier Zone the stamp of an international character as sincere as is possible under the Convention of Paris, it would experience genuine pleasure in being able to rely upon the American cooperation as strong and as effective as the interests of its citizens in that port may suggest and even now with the honoring and efficient cooperation of the Consular officer of the United States on the Control Committee, the working of which justifies such great hopes with regard to the maintenance of the essential principles of the Statute.

The Government which I have the honor to represent trusts that the Washington Cabinet on the strength of the considerations here presented will give its adhesion to the Convention of December 18, 1923.

I avail myself [etc.]

Juan Riaño

881.00/970

The Secretary of State to the British Ambassador (Howard) 16

Washington, December 20, 1924.

EXCELLENCY: I have the honor to acknowledge the receipt of your courteous note of October 10, 1924, regarding the proposal of your Government and the Governments of France and Spain that the United States shall adhere to the Convention signed December 18, 1923, with reference to the Statute of Tangier.

I stated in my note of July 11, 1924, that this Government would, after having had an opportunity to examine the regulations and codes referred to in Articles 32 and 48, respectively, of the Convention, consider the possibility of suspending its extraterritorial rights in the Zone of Tangier, to the extent that such rights might appear to be safeguarded by the new régime on certain conditions specified in the note.

You have been good enough to favor me with the views of your Government on each of the points raised in my note. Those views, as well as the views expressed by the Governments of France and Spain on the same subject, have been given most careful considera-

¹⁶ The same note, *mutatis mutandis*, was sent to the French Ambassador; a similar note was sent to the Spanish Ambassador.

tion by this Government, and I beg now to submit the following comments thereon in the order in which the different subjects are discussed in your note.

1. I am pleased to note that your Government accepts this Government's understanding, as expressed in paragraph numbered 1 of my note of July 11, 1924, of the meaning of the terms "economic equality among nations" and "regime of economic equality" employed in Articles 7 and 30, respectively, of the Convention. replies of the French and Spanish Governments on this point are

likewise acceptable to this Government.

2. With respect to the condition indicated in paragraph numbered 2 of my note of July 11, 1924, that the signatories to the Convention shall assume responsibility for any acts or omissions of the administrative authorities of the Zone which would ordinarily give rise to a right of international reclamation, you state the French Government, as the only intermediary of the Sultan with foreign representatives and in the relations which those representatives have with the Shereefian Government, will assume full responsibility in the Tangier Zone toward the United States or any other government, in so far as diplomatic questions are concerned. A similar statement is contained in the notes which I have received from the French Ambassador.

It is not, however, entirely clear to this Government whether it is intended that the French Government should assume this responsibility or whether that Government is merely to act as the intermediary of the Moroccan Government in such matters. In view of this uncertainty I should be pleased to receive a further expression of

your Government's understanding of the situation.

3. With respect to the third point mentioned in my note of July 11 regarding the designation of associate judges from among the personnel of the American Consulate General at Tangier, to sit on the Mixed Courts in cases to which American citizens are parties, you state that in framing the dahir establishing the Mixed Tribunals, the representatives of the signatory states were actuated by the principle of the divorcement of the judicial from the executive authority, and that it was, therefore, provided in the statute that no person holding an official position should sit on the Tribunals as an associate judge. You express willingness to interpret the Convention as permitting the designation of an associate judge or judges from among the personnel of the American Consulate General exclusive of officers de carrière.

This Government's only purpose in desiring the privilege of selecting judges from among its consular personnel in Tangier is to insure proper representation on the Mixed Courts. There are, as your Government is aware, but few American citizens in Tangier and it is probable that at times it might be difficult to find outside of official circles a person suitable for the important duty of acting as associate judge. It is, therefore, considered that, with a view to assisting, in so far as may be practicable, in maintaining the courts on such a plane as will inspire confidence and promote a proper administration of justice, this Government should be free to designate for this duty any qualified citizen of the United States regardless of the fact that he may hold a position as consular officer de carrière.

I fully share the view of your Government, and this appears also to be the view of the French and Spanish Governments, concerning the desirability of separating the judicial from the executive authority, but I would respectfully suggest that since this Government does not contemplate taking any part in the administration of the Zone of Tangier and since its consular officers will not, therefore, occupy any executive position in connection therewith, not even on the Committee of Control to which you refer, the designation of such consular officers as associate judges would not seem to run counter to the purposes of the Convention in this respect.

I assume, therefore, that in the light of this explanation the objections voiced by the signatories to the Convention with respect to the designation of consular officers de carrière as associate judges will no longer obtain. I should be pleased if I might have the assur-

ance of your Government on this point.

4. I observe with satisfaction your Government's confirmation of this Government's understanding, stated in paragraph 4 of my note of July 11, that the provisions of Article 13 of the Convention with respect to semsars are intended in no way, and do not in fact affect the existing rights of the powers in regard to semsars in other parts of Morocco. Similar assurances have also been received from the Governments of France and Spain.

5. I also note with satisfaction that your Government agrees that the extension to the Tangier Zone of any future agreement concluded by His Shereefian Majesty with any other Power shall not in any way prejudice or abridge the rights of American citizens in

Tangier without the consent of this Government.

In addition to receiving further assurances on the points discussed in paragraphs numbered 2 and 3 above I should be pleased to be informed (1) whether the regulations and codes referred to above have been compiled and whether it is intended that this Government shall be given an opportunity to examine them before steps are taken to put them into operation, and (2) whether it is intended that the diplomatic agencies in Tangier, which it is provided in Article 49 of the Convention shall be replaced by consulates, shall be established elsewhere in Morocco and if not, by what method it is contemplated that diplomatic relations with the Shereefian Empire shall be maintained.

Upon receipt of satisfactory assurances on these remaining points, this Government will, as stated in my note of July 11, 1924, consider the possibility of suspending its extraterritorial rights in Tangier to the extent that they may appear to be adequately safeguarded by the proposed new régime. Your Government will, of course, understand that the Executive Branch of this Government cannot undertake to make the provisions of the Convention applicable to American citizens in Tangier without an appropriate Convention to that end with the approval of the Senate of the United States or appropriate legislative sanction of the suspension of extraterritorial rights.

Accept [etc.]

CHARLES E. HUGHES

NETHERLANDS

AGREEMENT BETWEEN THE UNITED STATES AND THE NETHER-LANDS FURTHER EXTENDING THE DURATION OF THE ARBITRA-TION CONVENTION OF MAY 2, 1908 ¹

711.5612/23a

The Secretary of State to the Netherland Minister (De Graeff)

Washington, January 3, 1924.

Sir: I have the honor to refer to your recent call at the Department, at which time you inquired whether the United States would be disposed to extend for the further period of five years the Convention of Arbitration concluded between the United States and the Netherlands, May 2, 1908, and extended by the operation of renewal agreements until March 25 next.

I am happy to assure you that the United States is ready to enter into a renewal agreement with the following understanding. On February 24 last the President proposed to the Senate ² that it consent under certain stated conditions to the adhesion by the United States to the Protocol of December 16, 1920, under which the Permanent Court of International Justice has been created at The Hague. In the event that the Senate gives its assent to the proposal, this Government would wish to be able to rely upon a previous assurance that the Government of the Netherlands would not be averse to considering a modification of the convention of arbitration to be renewed, or the making of a separate agreement, providing for the reference of disputes mentioned in the Convention to the Permanent Court of International Justice.

Upon the assurance from yourself that your Government is disposed to renew the arbitration convention now existing between the two countries with such an understanding, I shall at once arrange to have the draft of a convention prepared for your consideration and send you in advance a copy of my proposed note; and I should be glad in that event to receive a copy of your Government's proposed reply with respect to the understanding.

Accept [etc.]

CHARLES E. HUGHES

¹ For text of convention, see Foreign Relations, 1909, p. 442. ² Ibid., 1923, vol. 1, p. 17.

711.5612/24

The Netherland Minister (De Graeff) to the Secretary of State

No. 37

Washington, January 5, 1924.

Sir: Referring to your note of January 3, 1924 I am happy to assure you that the Royal Government will be pleased to renew the Arbitration Convention now existing between the United States and the Netherlands with the understanding that my Government at any time thereafter will be disposed to consider a modification of this Convention, or the making of a separate agreement, providing for the reference of disputes mentioned in the Convention to the Permanent Court of International Justice at The Hague.

I highly appreciate your intention to send me a draft of a convention for renewal of the existing convention and a copy of your proposed note with respect to the above mentioned understanding, and shall at once transmit these documents to my Government,

Accept [etc.]

DE GRAEFF

Treaty Series No. 682

Agreement between the United States of America and the Netherlands. Signed at Washington, February 13, 1924 3

The Government of the United States of America and Her Majesty the Queen of the Netherlands, desiring to extend for another five years the period during which the Arbitration Convention concluded between them on May 2, 1908, and extended by the Agreement concluded between the two Governments on May 9, 1914,4 and further extended by the Agreement concluded between the two Governments on March 8, 1919,5 shall remain in force, have respectively authorized the undersigned, to wit:

Charles Evans Hughes, Secretary of State of the United States of America, and

Jonkheer Dr. A. C. D. de Graeff, Envoy Extraordinary and Minister Plenipotentiary of Her Majesty the Queen of the Netherlands at Washington,

to conclude the following Agreement:

ARTICLE I

The Convention of Arbitration of May 2, 1908, between the Government of the United States of America and Her Majesty the Queen

⁵ Ibid., 1919, vol. 11, p. 651.

In English and Dutch; Dutch text not printed. Ratification advised by the Senate, Feb. 26, 1924; ratified by the President, Apr. 2, 1924; ratified by the Netherlands, Mar. 22, 1924; ratified to the Netherlands, Mar. 22, 1924; ratified to the Netherlands of the President, Apr. 7, 1924.

*Foreign Relations, 1915, p. 1099.

of the Netherlands, the duration of which by Article III thereof was fixed at a period of five years from the date of the exchange of ratifications, which period, by the Agreement of May 9, 1914, between the two Governments was extended for five years from March 25, 1914, and was extended by the Agreement between them of March 8, 1919, for the further period of five years from March 25, 1919, is hereby extended and continued in force for the further period of five years from March 25, 1924.

ARTICLE II

The present Agreement shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by Her Majesty the Queen of the Netherlands, and it shall become effective upon the date of the exchange of ratifications, which shall take place at Washington as soon as possible.

Done in duplicate in the English and Dutch languages at Washington this thirteenth day of February, 1924.

[SEAL] CHARLES EVANS HUGHES
[SEAL] DE GRAEFF

711.5612/24

The Secretary of State to the Netherland Minister (De Graeff)

Washington, February 13, 1924.

SIR: In connection with the signing today of an agreement for the renewal of the Convention of Arbitration concluded between the United States and the Government of the Netherlands, May 2, 1908, and renewed from time to time, I have the honor, in pursuance of our informal conversations, to state the following understanding which I shall be glad to have you confirm on behalf of your Government.

On February 24 last the President proposed to the Senate that it consent under certain stated conditions to the adhesion by the United States to the Protocol of December 16, 1920, under which the Permanent Court of International Justice has been created at The Hague. In the event that the Senate gives its assent to the proposal, I understand that the Government of the Netherlands will not be averse to considering a modification of the Convention of Arbitration which we are renewing, or the making of a separate agreement, providing for the reference of disputes mentioned in the Convention to the Permanent Court of International Justice.

Accept [etc.]

CHARLES E. HUGHES

500.C114/351

The Netherland Minister (De Graeff) to the Secretary of State

No. 475

Washington, February 13, 1924.

SIR: With reference to your note of today I have the honor to state that the Royal Government has instructed me to inform you that in the event of the adhesion by the United States to the Protocol of December 16, 1920 under which the Permanent Court of International Justice has been created at The Hague, the Government of the Netherlands will be willing to consider a modification of the Convention of Arbitration between the Government of the Netherlands and the United States, which we have renewed today, or to make a separate agreement, providing for the reference of disputes mentioned in the Convention to the Permanent Court of International Justice.

Accept [etc.]

DE GRAEFF

FAILURE TO CONCLUDE A TREATY OF FRIENDSHIP, COMMERCE, AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND THE NETHERLANDS

611.5631/85

The Minister in the Netherlands (Tobin) to the Secretary of State

No. 123

THE HAGUE, October 18, 1923.

[Received November 6.]

Sir: Referring to the Department's strictly confidential circular Instruction of August 18, 1923, entitled: "Proposed Inclusion of Unconditional Most-Favored-Nation Clauses in Commercial Treaties", (Diplomatic Serial No. 211, File No. 611.0031), I have the honor to report that Mr. Samuel H. Cross, Commercial Attaché of the Legation, had an occasion to bring this matter up discreetly in a private conversation to-day with Dr. J. A. Nederbragt, Chief of the Economic Section of the Netherlands Foreign Office.

Dr. Nederbragt stated that the question of some new arrangement with the United States had already come up in the Foreign Office committee dealing with tariff questions and that the Foreign Office would be extremely glad to negotiate an unconditional most-favored-nation clause with the United States, as all the Netherlands asks is competitive equality.

In view of the fact that Dr. Nederbragt has been charged with the work of preparing new commercial agreements with foreign countries, it seems fairly safe to assume that the Netherlands Govern-

⁶ Foreign Relations, 1923, vol. 1, p. 131.

ment would not be at all opposed to the suggestion made in the Department's Instruction.

I have [etc.]

RICHARD M. TOBIN

611.5631/85: Telegram

The Secretary of State to the Minister in the Netherlands (Tobin)

[Paraphrase]

Washington, November 21, 1923—3 p. m.

56. Legation's despatch 123 of October 18. Department is ready to negotiate a general treaty of amity, commerce, and consular rights with the Netherlands on the basis of unconditional most-favored-nation treatment.

You are instructed to inquire at the Foreign Office whether the Netherland Government would be willing to negotiate a treaty on this basis. Report to Department result of inquiry.

HUGHES

711.562/1: Telegram

The Minister in the Netherlands (Tobin) to the Secretary of State

[Paraphrase]

THE HAGUE, December 5, 1923—8 p. m. [Received December 5—6 p. m.]

65. Department's telegram 56, November 21, 1923, 3 p. m. Minister for Foreign Affairs has sent me a note stating that Netherland Government is disposed in principle to conclude a new general treaty of amity, commerce, and consular rights with the United States on basis of unconditional most-favored-nation treatment. He adds that he wishes at the proper time to be informed as to the views of the American Government with respect to the time for the negotiations.

The Minister wishes as soon as possible to announce the proposed negotiation of the treaty. In order to anticipate unauthorized announcement he thinks it wise to give the press an inspired announcement and suggests that the statement be issued for coincident publication in the United States and the Netherlands on Saturday, December 8. He suggests following text:

"The American Minister at The Hague has proposed to the Dutch Minister for Foreign Affairs to negotiate a new treaty of amity and commerce on the basis of unconditional most-favored-nation treatment. The Netherland Government has acceded to this proposal with pleasure."

TOBIN

Quotation not paraphrased.

711.562/1: Telegram

The Secretary of State to the Minister in the Netherlands (Tobin)

Washington, December 7, 1923—10 a.m.

60. Your 65, December 5, 8 p. m. You may inform the Minister for Foreign Affairs that this Government is disposed to begin negotiations at once and if agreeable to the Netherlands Government will forward a copy of the proposed draft to the Dutch Minister in Washington within the next ten or fifteen days. Copy will be sent you for your information.

Department for obvious reasons desires to conduct the negotiations in Washington and trusts that there will be no objection on the part of the Netherlands Government to having them conducted here.

The announcement regarding the negotiations suggested by the Minister for Foreign Affairs will be released for publication on December 8th.

HUGHES

711.562/3: Telegram

The Minister in the Netherlands (Tobin) to the Secretary of State

THE HAGUE, December 12, 1923—7 p. m. [Received December 13.]

68. Department's telegram 60, December 7, 10 a.m. Have just received the note from the Netherlands Minister for Foreign Affairs:

"I have great pleasure in informing you that on our side there is no objection to the new treaty of commerce being negotiated at Washington. We are informing Monsieur de Graeff. Signed Van Karnebeek."

TOBIN

711.562/3

The Secretary of State to the Netherland Minister (De Graeff)

Washington, January 9, 1924.

Sir: Following conversations which you recently had with officers of the Department and conversations which the American Minister at The Hague has had with officials of the Netherlands Government, I have the honor to inform you that this Government is cordially disposed to enter into negotiations with the Netherlands Government for the conclusion of a treaty of friendship, commerce and consular rights. As appropriate to that end there is submitted to you here-

with the draft of a proposed treaty * of which the text is self-explanatory.

You will observe from the preamble that the document embodies a treaty of friendship as well as of commerce and of consular rights. It is designed to promote the friendly intercourse between the peoples of the United States and the Netherlands. Through the text submitted it is sought to lay the foundation for a comprehensive arrangement responsive to the modern and exacting requirements of important maritime states. To that end the several Articles are expressed in terms which definitely and clearly set forth the principles involved. It is sought by this means to avoid as far as possible danger of conflicting interpretations.

You will be interested in noting that Article VII makes full provision for the enjoyment of the most favored nation clause in its unconditional form, as applied to persons, vessels and cargoes, and to articles the growth, produce or manufacture of the Contracting Parties. It will be seen, moreover, that the most favored nation clause is applied to duties on imports and exports and to other charges, restrictions and prohibitions on goods imported and exported.

It is provided by Article XXX of the draft that the Convention of Commerce and Navigation, concluded by the United States and the Netherlands on August 26, 1852 and the Consular Convention concluded January 22, 1855, will be supplanted from the date of the exchange of ratifications of the proposed treaty. This Government is hopeful that this proposal will meet with the approval of your Government.

The document in its present form may, of course, be subject to minor changes by the United States in the course of negotiations.

This Government is gratified to learn that it is agreeable to your Government that the negotiations shall be carried on at this capital.

Accept [etc.] Charles E. Hughes

Not printed; the draft treaty submitted to the Netherland Minister was the same, with a few modifications, as the draft treaty transmitted to the Ambassador in Spain in instruction no. 162, May 18, 1923, printed in *Foreign Relations*, 1923, vol. II, p. 831. The one important difference was the insertion in the draft treaty for the Netherlands of a paragraph in article VII reading as follows:

[&]quot;All articles which are or may be legally imported from foreign countries into ports of the United States in vessels of the United States may likewise be imported into those ports in vessels of the Netherlands, without being liable to any other or higher duties or charges whatsoever than if such articles were imported in vessels of the United States; and, reciprocally, all articles which are or may be legally imported from foreign countries into the ports of the Netherlands in vessels of the Netherlands, may likewise be imported into these ports in vessels of the United States without being liable to any other or higher duties or charges whatsoever than if such articles were imported from foreign countries in vessels of the Netherlands."

* Malloy. Treaties 1776-1909 vol 11, 1248

Malloy, Treaties, 1776–1909, vol. 11, p. 1248.
 Ibid., p. 1251.

711.562/12

The Netherland Minister (De Graeff) to the Secretary of State

No. 1346

The Minister of the Netherlands presents his compliments to the Honorable the Secretary of State and, acting upon instructions received from his Government, has the honor to inform him that the Royal Government, having taken cognizance of the draft of a Treaty of Amity, Commerce and Consular Rights proposed by the United States Government and submitted to the Royal Government by the note of the Secretary of State of January 9, 1924, wishes to give expression to her satisfaction and appreciation of the efforts of the United States Government to arrive at constructive work in the field of commercial treaties and of the liberal principles that guide her hereby.

This appreciation, however, does not prevent the Royal Netherland Government's having several objections against the proposed treaty, objections which are raised in a spirit of willingness to coöperate with the United States Government in the direction indicated by her.

In the first place the Royal Netherland Government in principle is not in favor of highly detailed treaties if not strictly necessary. If treaties intended to remain in force for a length of time enter into various details instead of limiting themselves to the basic principles of the understanding, there is in the opinion of the Royal Government, always a danger that their effect be contrary to that which they have in view, that in concrete questions which may arise they might easily cause controversies instead of avoiding them. Furthermore, detailed clauses sometimes go farther than conditions in the two countries demand. Even if such clauses could be accepted with regard to one certain country it would be inadvisable to have such stipulations inserted in a Treaty as the most-favored-nationclause perhaps might render such stipulations applicable also with regard to other countries with respect to which they could not be For Colonial Powers as the Netherlands a detailed treaty, moreover, always offers the difficulty that some clauses are undesirable for the Mother Country as they would stamp her more or less with backwardness, and other clauses could go too far where the Colonies are concerned, where the conditions are not yet developed in the same degree as in the Mother Country.

Besides objections of this more general character against the system which has been followed by the drafting of the treaty in question, the Royal Government has objections against several special clauses of the draft which in the course of further negotiations may be brought forward. For the present it seems sufficient to point out that for instance Article VII would put the Netherlands in a con-

siderably less favorable position than has been acquired by the treaty of August 26, 1852.

In connection with her objections against the system of the drafted treaty as well as against several special clauses thereof, the Royal Netherland Government foresees that negotiations about a more or less explicit commercial and consular treaty between the United States Government and the Royal Netherland Government will take a considerable length of time. Therefore the Royal Government being in full accordance with the desire of the United States Government to lay a foundation for the relations between both Governments as far as Commerce and Consular Rights are concerned, suggests that for the present time both parties satisfy themselves with entering into a simple agreement—either in the shape of an optima forma treaty or in the form of an exchange of notes—substantially limited to a reciprocal warrant of unconditional-mostfavored-nation-treatment and safeguarding the mutual rights of both countries as agreed upon by the above mentioned Treaty of 1852.

Jonkheer de Graeff would be glad to learn from the Secretary of State whether this suggestion of the Royal Government meets with the approval of the United States Government.

Washington, May 8, 1924.

711.562/12

The Secretary of State to the Netherland Minister (De Graeff)

The Secretary of State presents his compliments to the Minister of the Netherlands, and has the honor to acknowledge the receipt of the Minister's note of May 8, 1924, relating to the proposal made by the United States for the negotiation of a Treaty of Amity, Commerce, and Consular rights between the United States and the Netherlands.

Careful consideration has been given to the counter-proposal made by the Government of the Netherlands that for the time being the United States and the Netherlands enter into an agreement substantially limited to a reciprocal warrant of unconditional most-favorednation treatment and safeguarding the mutual rights agreed upon by the United States and the Netherlands in the Convention of Commerce and Navigation concluded on August 26, 1852.

Stipulations concerning many of the subjects included in the draft for a treaty which was transmitted to the Minister of the Netherlands on January 9, 1924, are in force on a reciprocal basis under treaties to which the United States is a party. The United States is not inclined to extend the benefits of certain of such provisions or of proposals which it made in the draft submitted to the Minister of the Netherlands to countries which do not accord to the United States treatment completely reciprocal, as might be the consequence if the United States should become a party to treaties containing a most-favored-nation clause applicable to those subjects instead of specific reciprocal stipulations concerning them.

It may be, however, that it is the intention of the Government of the Netherlands that the agreement for unconditional most-favored-nation treatment, which it suggested, shall relate only to commercial privileges. With respect to commercial privileges which are not covered by the Convention of 1852, the Secretary of State understands that the United States and the Netherlands now apply most-favored-nation treatment to the commerce between the two countries. The United States, for its part, does not contemplate making any departure from that principle.

Inasmuch as the Convention of 1852 is in full force the Secretary of State does not perceive the object that would be attained by including in a new instrument a provision purporting to safeguard the rights stipulated in that Convention as was suggested by the Government of the Netherlands.

It is not apparent to the Secretary of State in what particulars the Netherlands would be placed in a less favorable position under Article VII of the draft for a Treaty of Friendship, Commerce, and Consular Rights submitted to the Minister of the Netherlands on January 9, 1924, than has been acquired under the Convention of Commerce and Navigation concluded on August 26, 1852. The Secretary of State would be glad to receive information on this point, as well as information in regard to modifications of other clauses of the draft which it appears from the Minister's note the Government of the Netherlands may desire to suggest.

Washington, July 11, 1924.

711.562/13

The Netherland Minister (De Graeff) to the Secretary of State

No. 2649 Washington, October 9, 1924.

Sir: Referring to your note of July 11, 1924 I have the honor to inform you that the Royal Government although disappointed that the American Government cannot agree with the proposal made in my note of May 8, 1924 to enter for the time being in an agreement substantially limited to a reciprocal warrant of unconditional most-favored-nation treatment has instructed me to proceed with negotiations on the basis of the draft for a Treaty of Amity, Commerce

and Consular Rights as submitted to my Government on January 9, 1924.

Pursuant to these instructions I allow myself to broach in the first place two questions that in the opinion of my Government are of primary importance as the solution thereof may greatly influence her attitude toward the drafted treaty in general.

With a few words I mentioned already the first of these questions in fine of paragraph 4 of my aforesaid note of May 8, 1924, where I made the remark that Article VII of the draft would put The Netherlands in a considerably less favorable position than has been acquired under the Convention concluded between The Netherlands and the United States on August 6 [26], 1852.

The Royal Government is pleased by learning from your note of July 11, 1924 that it is not apparent to you in what particulars this would be the case, as this statement gives hope that there is some misunderstanding on our side on $[of^{\rho}]$ the real tenor of Article VII. In order to clear up such possible misunderstanding I take the liberty to explain further on what grounds my Government is under the impression that our position as it is under the treaty of 1852 would be injured by Article VII of the draft.

The letter and the whole spirit of the Convention of 1852 guarantee unconditionally and in all respects reciprocal equality in relation to the flags of the two countries.

This principle is maintained in paragraph 5 of Article VII of the draft but only as far as imports and import duties are concerned, in contrast to Article I of the Convention of 1852 where also exports and export duties are mentioned and to the paragraphs 3 and 6 of Article VII of the draft which extend most-favored-nation treatment also to goods exported.

Furthermore paragraph 5 of Article VII applies the principle of reciprocal equality in relation to the flags only to duties or charges and not to "bounties, drawbacks and other privileges of this nature" whereas the last paragraph of Article I of the Convention of 1852 explicitly stipulates that if such privileges are granted in the States of either of the contracting parties on goods exported or imported in national vessels, they shall also and in like manner be granted on goods exported or imported in vessels of the other country.

So, as paragraph 5 of Article VII passes over in silence export duties and the above mentioned privileges, the United States would be at liberty to levy higher duties on articles exported from the United States in vessels of The Netherlands than on the same articles exported in vessels of the United States and further to allow for instance special railroad fares in favor of goods having been imported or to be exported in vessels of the United States.

In both respects—if our conception of Article VII is correct—this article would place The Netherlands at a serious disadvantage in comparison with our position under the Convention of 1852.

This, however, being apparently not the intention of the American Government the Royal Government would appreciate a different wording of paragraph 5 of Article VII so as to exclude also in the future any possible misunderstanding. For this purpose my Government suggests to substitute for this paragraph the following two paragraphs:

"All articles which are or may be legally imported from foreign countries into ports of the United States or are or may be legally exported therefrom in vessels of the United States may likewise be imported into those ports or exported from those ports in vessels of The Netherlands without being liable to any other or higher duties or charges whatsoever than if such articles were imported or exported in vessels of the United States, and reciprocally, all articles which are or may be legally imported from foreign countries into ports of The Netherlands or are or may be legally exported therefrom in vessels of The Netherlands, may likewise be imported into these ports or exported from these ports in vessels of the United States without being liable to any other or higher duties or charges whatsoever than if such articles were imported or exported in vessels of The Netherlands.

"In the same manner there shall be perfect reciprocal equality in relation to the flags of the two countries with regard to bounties, drawbacks, and other privileges of this nature of whatever denomination which may be allowed in the territories of each of the Contracting Parties, on goods imported or exported in national vessels so that these bounties et cetera shall also and in like manner be allowed on goods imported or exported in vessels of the other

country."

The second question whereto I am instructed to draw your attention bears upon the last sentence of paragraph 1 of Article VII of the draft, where is stipulated that nothing in the treaty shall be construed to restrict the right of either High Contracting Party to impose, on such terms as it may seem fit, prohibitions or restrictions of a sanitary character designed to protect human, animal or plant life, or regulations for the enforcement of police or revenue laws.

The Royal Government naturally does not discuss the right of every Government to see that by importations no damage may be done to the sanitary conditions of human beings, animals or plants. My Government is convinced that precautions against such damage are fully justified but in her opinion it is a universally accepted principle that measures to this effect must be based on reasonable grounds and must be confined to such precautions as are strictly necessary for the purpose they intend to serve so that international trade is not affected in a higher degree than is demanded by the sanitary requirements of a country.

The Royal Government is under the impression that the policy followed by the Department of Agriculture with regard to the importation in the United States of plants, bulbs, et cetera from The Netherlands does not fully reckon with the principle promised. On several produces of our horticultural industry embargo has been laid and will be laid in the near future although in the opinion of my Government on account of the highly efficient phytopathological service in The Netherlands and the proper methods taken to deal with plant disease within our own borders less drastic measures would be sufficient for safeguarding plant life in the United States against eventual infection by importations from The Netherlands.

Moreover, the unaccountably extreme character of the measures taken by the American Government under the Plant Quarantine Act 1912,¹¹ as well as other circumstances give rise to serious doubt on the side of my Government whether these measures are solely based on the wish to protect sanitary conditions of plant life in the United States and have not at the same time the object to lend economical protection to horticulture in the United States by excluding all such foreign horticultural produces as might enter into active competition with home products. It seems obvious to my Government that measures if based on this motive and if taken to serve this purpose, cannot be considered as "prohibitions or restrictions of a sanitary character designed to protect plant life" and as such admissible under the above mentioned clause of paragraph 1 of Article VII of the drafted treaty.

For these reasons the Royal Government does not feel sure that as far as the United States is concerned the interests of her highly important foreign trade in horticultural produces will be sufficiently safe under the said clause, and feels obliged to emphasise the necessity of adding to the last sentence of paragraph 1 of Article VII another sentence of about the following sense:

"The High Contracting Parties, however, agree that the care for the sanitary conditions of plant life in either country shall not take such shape that for the purpose of barring the introduction of diseases, importation of plants, whether they are infected or not, is prohibited. On the contrary the importation in either country of plants and parts of plants in principle shall be allowed if reasonable guarantee is given that they are free from disease or noxious insects."

The exact wording of this addition may be susceptible of modification, on an addition of this tenor the Royal Government has to insist.

Before entering into a discussion of other articles of the drafted treaty my Government would appreciate to learn the opinion of the

^{11 37} Stat. 315.

American Government with regard to the two questions herefore dealt with and I have the honor to ask you to oblige me with your response at your earliest convenience.¹²

Accept [etc.]

DE GRAEFF

711.562/14

The Acting Secretary of Agriculture (Gore) to the Secretary of State

Washington, November 22, 1924.

DEAR MR. SECRETARY: Acting Secretary Joseph C. Grew's letter of October 24, 1924 (So 711.562/13), ¹³ addressed to the late Secretary of Agriculture, regarding the relation of plant quarantine regulations to treaties of amity, commerce, and Consular rights, has been received.

The change suggested by the Minister of the Netherlands appears to be unnecessary, and in its present wording, is entirely unsatisfactory to this Department. The promulgation of quarantines by this Department, as they apply to plants and plant products, is for the sole purpose of protecting this country from the entry and establishment of injurious insects and plant diseases. The dangers attending shipments of plants and plant products into the United States from the Netherlands have been repeatedly brought to the attention of inspection officials of that country, both directly and through your Department. Information on this subject will be found in the late Secretary Wallace's communications to you of April 8 and July 21, 1922. Accompanying the latter communication was a copy of a memorandum prepared by Dr. C. L. Marlatt, Chairman of the Federal Horticultural Board, which included a brief list of "European Bulb Pests which May Become General Crop Enemies". 13

The paragraph which you transmitted to the Minister of the Netherlands on January 9, 1924 appears to cover the subject fully, and is satisfactory to this Department. It is understood that the "prohibitions or restrictions of a sanitary character" are for the purpose of excluding insects and plant diseases, the entry and establishment of which would represent a menace to the country concerned.

Sincerely yours,

HOWARD M. GORE

¹² With the acknowledgment of this note by the Secretary of State on Oct. 24, 1924, the negotiations were discontinued.

¹³ Not printed.

NICARAGUA

REJECTION BY THE NICARAGUAN GOVERNMENT OF PROPOSALS BY THE UNITED STATES FOR THE SUPERVISION OF ELECTIONS IN NICARAGUA 1

817.00/3010: Telegram

The Secretary of State to the Minister in Nicaragua (Ramer)

Washington, January 5, 1924-4 p. m.

1. Please inform Hill 2 that Dodds 3 has agreed to go to Nicaragua in February at the Department's request and that he will be accompanied by about three assistants. It is understood that his contract will be similar to his former contract. The compensation of his assistants has not yet been fixed, but it is believed that Hill can estimate roughly the total amount which will be necessary to meet their salaries and expenses for about three months. The Department was most unfavorably impressed by the delay which occurred in the payment of Dodds' salary two years ago and it must insist on this occasion on the full cooperation of its appointee on the High Commission, in order to assure the prompt payment of all sums due both to Dodds and his assistants. Please show this cable to Hill and say that the Department desires that he should either recognize these charges as a definite obligation against the funds available to the High Commission or else arrange with the Government to have other funds set aside for this purpose in such manner that they will surely be available.

Please cable promptly what arrangement has been made.

HUGHES

817.00/3011: Telegram

The Minister in Nicaragua (Ramer) to the Secretary of State

Managua, January 9, 1924-4 p. m. [Received January 10-9:40 a.m.]

5. Department's January 5, 4 p. m. Hill informs me salary and expenses for about three months of Dodds and three assistants are accepted as an obligation of the High Commission.

RAMER

Continued from Foreign Relations, 1923, vol. II, p. 605.
 Roscoe R. Hill, American member of the High Commission of Nicaragua.
 Dr. Harold W. Dodds, electoral adviser to the Government of Nicaragua.

817.00/3025a

The Secretary of State to the Minister in Nicaragua (Ramer)

No. 127 Washington, February 15, 1924.

Sir: As you were informed in the Department's instruction No. 102, of October 8, 1923,4 the Department contemplates the withdrawal of the Legation Guard from Managua after the inauguration of the new administration in January, 1925. It is believed that the withdrawal of the Marines can be effected with less danger of disorder in Nicaragua if the forthcoming elections are conducted in a manner which leaves no room for doubt that the successful candidate has the support of a real majority of the people. It is therefore desired that the Legation should exert every proper influence to bring about the holding of free and fair elections under the new electoral law. The employment of Dr. Dodds and his assistants during the registration period will doubtless materially assist the Nicaraguan authorities in conducting this part of the elections in a satisfactory manner, and the Department hopes that the Nicaraguan Government may also decide to employ electoral experts at the time of the voting itself. It feels, however, that it will also be necessary that the Legation should cooperate with the electoral experts and the Nicaraguan authorities, and it desires to receive from the Legation frequent and full reports regarding all matters connected with the election and the campaign.

Since the preparation of the reports requires a very large amount of time and would involve a careful study of the electoral law and the electoral procedure, the Department suggests that you should instruct the Secretary of the Legation, Mr. Walter C. Thurston, to devote himself exclusively to the above described work until after the elections. In order to obtain the necessary information, it would seem desirable that Mr. Thurston should be in a position to communicate directly with the officials of the Nicaraguan Government regarding matters concerned with the elections. It is desired of course that Mr. Thurston should confer with you upon all questions which may arise and should keep you fully advised of his activities.

It is desired that Mr. Thurston should also keep in close touch with Dr. Dodds and his assistants during the approaching registration period, exerting any proper influence with the Nicaraguan officials to facilitate their work. After the registration period it is desired that he should obtain the fullest information about the manner in which protests arising in connection with the registration are dealt with, and about the methods employed by the various political parties in their campaigns. It is desired that you should transmit

^{*} Foreign Relations, 1923, vol. II, p. 607.

his reports fully and frequently to the Department, using the telegraph where necessary, advising the Department at the same time of such recommendations as he may deem advisable regarding action to be taken to insure the holding of free and fair elections. He may make his reports to you over his own signature.

The Department desires that the Legation should use its influence in an informal and friendly manner to obtain fair treatment for all parties in the forthcoming elections. It does not desire that either you or Mr. Thurston should make formal recommendations or protests to the Nicaraguan authorities without first transmitting all of the facts in the case to the Department and obtaining its instructions.

In order that the Government may be informed of the assignment of Mr. Thurston to this work, so that it may extend to him all necessary facilities, the Department desires that you should deliver the following note to the Minister of Foreign Affairs:

"In my note of (here insert date of note transmitted in accordance with Department's instruction of October 8) I referred to the gratification and sympathetic appreciation with which my Government had noted the steps taken by the Nicaraguan Government to assure freedom and fairness in the approaching elections, and I stated that my Government would be glad to be of assistance to the authorities of Nicaragua in procuring the services of experts to aid in the application of the new electoral law. I wish further to inform Your Excellency that my Government desires to cooperate with the Nicaraguan Government in making the work of these experts as fruitful as possible. With this end in view I have instructed the Secretary of this Legation, Mr. Walter C. Thurston, to make a careful study of the new electoral law and of the problems which may arise in its application.

"I hope that Mr. Thurston may be permitted to confer upon any questions which may arise, not only with Your Excellency and the other officials of the Ministry of Foreign Affairs, but also with other officials who may be more directly concerned with the conduct of the elections, in order that he may obtain all pertinent information and may be of any possible assistance in connection with the work of Dr. Dodds or in the solution of the problems which may arise after Dr. Dodds' departure."

A copy of this instruction has been given to Mr. Thurston for his information.

I am [etc.]

CHARLES E. HUGHES

817.00/3039: Telegram

The Secretary of State to the Minister in Nicaragua (Ramer)

Washington, March 18, 1924-7 p. m.

30. Your March 17, 4 p. m. 5 You may inquire of the Nicaraguan Government whether it would have any objection to the detail of four

Not printed.

Marines in civilian clothes to assist Dodds at Chinandega next Sunday, pointing out that the Nicaraguan Government's note of December 13 last 6 indicated that it would approve of the appointment of members of the Marine detachment as assistants to Dodds, should that prove necessary. If the Nicaraguan Government has no objection to this arrangement, you may ask the Commander of the Legation guard to detail four men of tact and discretion, with a good knowledge of Spanish, to work under Dodds' direction on Sunday next.

The Department assumes from your transmission of Dodds' request without comment that you approve of the same.

HUGHES

817.00/3043 : Telegram

The Minister in Nicaragua (Ramer) to the Secretary of State

Managua, March 22, 1924—11 a. m. [Received 6:35 p. m.]

44. The Department's 30 March 18, 7 p.m. A note from Nicaraguan Government states that it not only does not object to the use of marines at Chinandega but at this time expresses its consent to similar action in any other analogous case.

RAMER

817.00/3041: Telegram

The Secretary of State to the Minister in Nicaragua (Ramer)

Washington, March 28, 1924-4 p. m.

34. Your March 18, 11 a. m. and March 25, 10 a. m.⁷ This Government is gratified at the steps so far taken by the Nicaraguan Government to make possible the holding of free and fair elections next October. It has learned with pleasure of the satisfactory progress of the registration of voters and of the impartiality with which this registration appears to have been carried out. The prompt action of President Martinez in checking police interference and recruiting, which might have tended to intimidate opposition voters, shows his desire to comply strictly with his announced determination that his successor should be elected under conditions of absolute freedom.

It has been evident, however, that the unfamiliarity of the local electoral officials with the provisions of the new electoral law has created certain difficulties in the administration of the law which make evident the desirability of giving the national electoral board

⁶ Not printed; see telegram no. 93, Dec. 14, 1923, from the Minister in Nicaragua, Foreign Relations, 1923, vol. 11, p. 613.

⁷ Neither printed.

such technical assistance as will assure the proper execution of the law from a technical standpoint. The failure of some of the departmental boards to report the division of electoral cantons and organization of the local directorios within the time required by law, and the delay in printing and distributing the registration books, are examples of the administrative difficulties which have arisen. A repetition of difficulties of this nature during the preparations for the actual voting in October might easily defeat the Government's purpose to hold truly free elections and might thus cause some doubt as to whether the administration coming into office as the result of the elections was representative of the will of the majority of the people.

In its desire to assist President Martinez in holding the forth-coming elections under conditions which will make possible the withdrawal of the Legation Guard without danger of subsequent disturbances in Nicaragua, this Government desires to suggest to the Nicaraguan Government the advisability of retaining the services of one of Dr. Dodds' assistants as technical adviser to the electoral authorities from now until next October. It hopes that President Martinez may see fit to conclude arrangements to this end.

The Department desires that you should call upon President Martinez, accompanied by Thurston and Dodds, and present the above in the form of a memorandum, explaining the desirability of retaining one of Dodds assistants until the elections, and urging that this action be taken in order that all parties in Nicaragua may have adequate assurance that the electoral law will be satisfactorily complied with. Reply by cable.

HUGHES

817.00/3052 : Telegram

The Minister in Nicaragua (Ramer) to the Secretary of State

Managua, April 1, 1924—4 p. m.

[Received 11:45 p. m.]

57. Department's 34 March 28, 4 p.m. President Martinez agrees to retain one of Dodds' assistants throughout electoral period.

RAMER

817.00/3113a : Telegram

The Acting Secretary of State to the Chargé in Nicaragua (Thurston)

Washington, July 16, 1924-4 p. m.

82. You will please present the following note to the Minister for Foreign Affairs:

"I am instructed by my Government to state to Your Excellency that the Government of the United States has learned with much sat-

isfaction of the steps taken by the Nicaraguan Government to assure free and fair elections to the Nicaraguan people. The first step in this direction was the invitation to Doctor Harold W. Dodds to draw up an electoral law. This law was duly enacted by the Nicaraguan Congress and as a second step the Nicaraguan Government invited Doctor Dodds and certain assistants to come to Nicaragua during the early period of registration and one of Doctor Dodds' assistants was contracted with to remain until after the elections.

My Government learned with gratification that under the new electoral law a greater proportion of voters has been registered than ever before in Nicaragua. The carrying out of the registration demonstrated, however, the many difficulties encountered in the administration for the first time of such an important measure as an electoral law, the provisions of which were new and unfamiliar alike to the officials administering it as to the public which was exercising

its rights under this law for the first time.

My Government was pleased to learn that Doctor Dodds and his assistants were of great value in helping the Nicaraguan officials to find satisfactory solutions for many of the questions which came up in connection with the administration of this law. It has been evident, however, that the unfamiliarity of the local electoral officials with the provisions of the new electoral law has created certain difficulties in the administration thereof which makes evident the desirability of continuing the help which Doctor Dodds and his assistants were able to render during the months of February, March and April of this year. Therefore, in its desire to prevent a repetition of the difficulties experienced during the period of registration which, should they occur during the preparations for and the actual voting in October, might easily defeat the Government's purpose to hold truly free elections and in order to assist President Martinez in holding the forthcoming elections under conditions which will remove any doubt that the administration coming into office as the result of the elections is representative of the will of the majority of the people and thus merits the recognition of this and other Governments, and in order to make possible the withdrawal of the Legation Guard in January, 1925, without danger of subsequent disturbances in Nicaragua, my Government desires to suggest to the Nicaraguan Government the advisability of requesting Doctor Dodds to come to Nicaragua the middle of September with sufficient assistants to permit him to be of the utmost help to the Nicaraguan Government in carrying out its pledges of free and fair election. My Government feels that one assistant in each of the thirteen electoral districts with an additional assistant to help Doctor Dodds in his work of advising the central government should be sufficient and it accordingly suggests that an invitation be extended to Doctor Dodds to come to Nicaragua the middle of September to remain for approximately a

In making this suggestion my Government desires me to make it clear that it is highly sensible of the assurances given by the Nicaraguan Government for the proper conduct of the approaching elections and that it fully appreciates and is most gratified by the evidence already given by the Nicaraguan Government of its intention of fulfilling these pledges. My Government's suggestion must therefore in no wise be considered as a sign of lack of confidence in

the intention of the Nicaraguan Government. On the contrary my Government has every confidence and expectation that the Nicaraguan Government will loyally carry out its obligations in this respect. My Government, however, is most anxious that there be no question regarding the claim of the person coming into office as the result of the forthcoming elections to the recognition of this and the neighboring Republics as the constitutionally elected President of Nicaragua. My Government is also, as Your Excellency is well aware, most anxious to withdraw the Legation Guard upon the installation of the new government on January 1, 1925, without in any wise jeopardizing the normal course of the affairs in the Republic and that this withdrawal shall not be a cause for unrest and disturbance. Having seen the difficult problems presented during the registration by the administration of the law the workings of which are as yet unfamiliar to the officials and electorate of Nicaragua, and having seen the invaluable assistance given by Doctor Dodds and his assistants in overcoming these difficulties my Government has felt that it could be of very considerable help to the Nicaraguan Government in carrying out its pledges by helping it to obtain the advice and counsel of Doctor Dodds and his necessary assistants."

GREW

817.00/3126 : Telegram

The Chargé in Nicaragua (Thurston) to the Secretary of State

Managua, August 6, 1924—3 p. m.

[Received 8:20 p. m.]

157. My 150, July 30, 11 a. m. I have just received from the Minister for Foreign Affairs a note of some length in which it is stated that the Government of Nicaragua declines to accept the suggestion made by the Government of the United States that Dr. Dodds and certain assistants be requested to come to Nicaragua to assist in the elections.

A translation of the pertinent part of the note will be cabled as quickly as possible.

THURSTON

817.00/3128: Telegram

The Chargé in Nicaragua (Thurston) to the Secretary of State

Managua, August 6, 1924—6 p. m.

[Received August 7—11:05 a. m.]

158. My August 6, 3 p. m. After a conversation with the Minister for Foreign Affairs I am authorized to inform the Department that

⁸ Not printed.

a definite rejection of the proposed supervision is not intended. The intention is only provisionally to withhold acceptance of the Department's suggestion.

THURSTON

817.00/3130: Telegram

The Chargé in Nicaragua (Thurston) to the Secretary of State

[Paraphrase-Extract]

Managua, August 7, 1924—3 p. m. [Received August 8—11:55 p. m.]

159. Legation's 157 and 158 of August 6. Inasmuch as I was unable to reconcile the purport of the Foreign Minister's note with his assurance that it did not definitely reject Department's proposal as contained in its no. 82, July 16, 4 p. m., I called on the President today. He said positively that the note expressed Nicaragua's definite and final refusal to accept Department's suggestion that Nicaragua engage Dodds and his assistants to come here and assist in the elections.

Since the note lays special stress upon the futility of supervising elections with only 14 people, I asked him if it would be desirable to have a more elaborate supervision made at the expense of our Government. He replied that even an extensive supervision would prove ineffective, and that he would be obliged to consult his Cabinet before he could speak on the advisability of a supervision which was unsought. My impression was that such a policy would be opposed by him. . . .

THURSTON

817.00/3128: Telegram

The Acting Secretary of State to the Chargé in Nicaragua (Thurston)

Washington, August 7, 1924—7 p. m.

93. Your 158, August 6, 6 p. m. As stated in the Department's 82, July 16, 4 p. m., arrangements should be made with Dodds by August 10, in order that he may make the proper arrangements with his collaborators in ample time for him to sail for Nicaragua on August 28. You will please urge the Minister of Foreign Affairs and, should you deem it advisable, the President, to have the necessary arrangements made without delay. The Department does not wish to seem too insistent but in view of the very short time intervening before Dodds will have to leave if he is to arrive in Nicaragua

before the elections, definite arrangements cannot longer be postponed. You will of course understand the Department would very much rather have Dodds go to Nicaragua at the invitation of the Nicaraguan Government than to have him go on behalf of this Government. The Department feels that the Nicaraguan Government would also prefer to have Dodds come to Nicaragua at their invitation. You will please use all proper efforts to have the matter concluded promptly.

GREW

817.00/3131: Telegram

The Chargé in Nicaragua (Thurston) to the Secretary of State

Managua, August 9, 1924—9 a.m.

[Received August 11—9 a. m.]

160. My 159, August 7, 3 p. m. President Martinez called me to the White House last night and handed me the following memorandum:

"Memorandum of the President of the Republic for the American Chargé d'Affaires ad interim. The honorable American Chargé d'Affaires ad interim orally inquired of the President of the Republic on the 7th instant what would be the attitude of the Nicaraguan Government if, in view of the refusal by the Government of Nicaragua to accept the proposal to send Doctor Dodds with 14 assistants to supervise the next elections, the Government of the United States should decide to send at its cost a sufficient number of American marines or civilians for the purpose of observing said elections.

The President offered to submit this delicate question for the resolution of the Cabinet. This having met this morning resolved in agreement with the President in the following form: That if said persons come, whether they be civilians or regular forces, the Government will maintain its refusal and will assume the attitude, if the case arrives, which best serves the interests of Nicaragua. If they come in private character they will be guaranteed all the rights which the constitution and laws of the country authorize to foreigners. Presidential House, Managua, August 8th."

The foregoing version of my inquiry is sufficiently accurate for acceptance with the exception of the reference to marines. I did not specify the character of the probable supervisors. I should prefer nevertheless if supervision is decided upon that marines be employed.

The heavy pressure of my work at this moment prevents me from presenting here certain recommendations which I beg to be permitted to make to the Department in connection with this problem. I shall endeavor to submit my suggestions by cable on Monday.

THURSTON

817.00/3137: Telegram

The Nicaraguan Collector General of Customs (Ham) to the Secretary of State

AKRON, OHIO, August 13, 1924.

[Received 3:45 p. m.]

Have received following cable from Lindberg, deputy collector general, Managua:

"Government of Nicaragua absolutely refused State Department request to send election observer stating Government of Nicaragua will be able to guarantee free elections. Unless the State Department will act forcibly serious situation will be result. Reconciliation seems impossible and the Government party can control election."

CLIFFORD D. HAM

817.00/3137a: Telegram

The Chief of the Division of Latin American Affairs, Department of State (Munro) to Dr. Harold W. Dodds

Washington, August 14, 1924.

Give up plan for trip to Nicaragua. Letter follows.

DANA G. MUNRO

817.00/3158 : Telegram

The Secretary of State to the Chargé in Nicaragua (Thurston)

Washington, September 25, 1924-5 p. m.

111. If you consider it advisable you are authorized to ask the Commander of the Legation Guard to send a few reliable Marines to important centers outside of Managua at the time of the elections in order to help you obtain information about the manner in which the elections are carried on. The Department is most anxious that you should obtain the most full information about the conduct of the elections and it leaves the manner of obtaining this information to your discretion. It realizes that it will be exceedingly difficult for you to obtain full information with the resources at your disposal.

The Department considers it extremely important that if the Marines are used they should be very fully instructed that the object of sending them to the places chosen by you is merely for observation and that they must scrupulously limit their actions to observation only and must in no case take any action in favor of or against any of the political parties nor should they undertake any functions

Not printed.

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whatsoever in connection with the conduct of the elections. They are merely to observe conditions and make report thereof to you.

Do you consider that it would be advisable or helpful for you or for the Department to issue a public statement shortly before the elections to the effect that the United States is carefully observing the manner in which the elections are conducted in order that it may have at hand adequate information to enable it to determine whether it can consistently recognize the new administration on January 1? Please cable your views.

HUGHES

817.00/3158: Telegram

The Chargé in Nicaragua (Thurston) to the Secretary of State

Managua, September 27, 1924—4 p. m. [Received September 29—10 a. m.]

197. I was called to the White House yesterday morning by President Martinez who during our conversation unexpectedly inquired whether I would be willing to designate a number of marines from the Legation guard to observe the elections and examine the election returns submitted to the departmental boards of election before these boards make the count of the votes. I replied that I was certain that my Government would be disposed now as it had previously shown itself to be, to lend all assistance requested in connection with the elections but that I would of course have to obtain the Department's authorization before permitting members of the Legation guard to take active part in the electoral process. I also requested a memorandum in confirmation of the request.

Shortly after returning to the Legation the Department's 111, September 25, 5 p. m., arrived and last night the President's memorandum was received stating that in a Cabinet meeting it had been resolved that I should convoke a meeting of the directive boards of the three political parties in order that they should agree in common to "consent" to the utility of 13 marines without official character to witness the election and take note of all electoral documents before the departmental boards of election make the count of the votes and to render report thereon to me. Council of Ministers distorted the matter and not only made it appear that I had reopened the question of supervision but placed me in the position of requesting approval thereof by the political parties. I accordingly called on the President this morning and informed him that I could not call a meeting of the party organizations nor could I engage the marines to take active part in the elections without specific instructions. I added, having learned from the commander of the Legation guard that men were available for such use, that I did intend at any event to distribute a number of marines at certain selected places who would merely observe the election and report thereon to me. The President then stated that after having sent his note to me he realized that I might find it inconvenient to take the action suggested and that he now felt that a better plan would be for the parties to request the Legation to utilize the marines in the manner described. I replied that insofar as the Legation was concerned a simple request from the Government would suffice but that if he wished to take the matter up beforehand with the parties he should do so. I understand that the President is today discussing the matter with the parties.

I believe it would be unwise to allow the marines, who can not now be adequately instructed in the provisions of the electoral law, to attempt to examine the electoral documents in the manner proposed or to attempt any other participation in the election and I accordingly respectfully recommend that if a petition for such participation should be received by me I be authorized to refuse.

THURSTON

817.00/3158: Telegram

The Secretary of State to the Chargé in Nicaragua (Thurston)

Washington, September 29, 1924-5 p. m.

113. Your 197, September 27, 4 p. m. Department approves your action. With regard to inquiry in last paragraph Department feels that you have correctly interpreted its views and it authorizes you to make the reply which you suggest. It desires that the Marines should avoid any participation which would seem to make them at all responsible for the conduct of the elections, but it believes that it would be helpful to have them present in order to supply you with accurate information about the manner in which the elections are carried on.

HUGHES

817.00/3160: Telegram

The Chargé in Nicaragua (Thurston) to the Secretary of State

Managua, September 29, 1924—9 p. m. [Received September 30—4:16 p. m.]

198. Department's 111, September 25, 5 p. m. Inasmuch as the fact of our intention to employ members of the Legation guard for the purpose of observing the conduct of the election is publicly known, a statement of the kind described either by the Department or the Legation might be advisable. If it is issued by the Legation I should receive its text by noon October 3rd.

Fourteen competent marines will be stationed as observers at selected places throughout the Republic and their reports will be supplemented by those of the consuls at Bluefields and Corinto and the reports of reliable volunteer observers.

THURSTON

817.00/3163: Telegram

The Chargé in Nicaragua (Thurston) to the Secretary of State

Managua, October 1, 1924—8 a.m.

[Received 8 p. m.]

201. My 197 and 198 September 27th and 28th [29th]. The Minister for Foreign Affairs called Monday to inform me that the efforts to have the political parties request that the marines participate in the electoral process had failed. He then stated that the President had asked him to suggest to me that the marines to be sent out as observers should wear civilian dress. I objected to this and the suggestion apparently was withdrawn.

That evening I sent a note to the Minister for Foreign Affairs giving the names of the members of the Legation guard to be employed and their destinations and requesting that orders be issued to the authorities of those places to afford them the protection necessary to the fulfillment of their mission. Yesterday the Minister for Foreign Affairs called again and on behalf of the President insisted that the marines wear civilian dress and insinuated that otherwise their employment as observers would be opposed. He advised me that political use was being made by Chamorro of their employment which was detrimental. I promised a final answer by 4 o'clock yesterday afternoon and discussed the matter with the commander of the Legation guard who feels as I strongly feel that to send the marines out in civilian clothes on election day with conditions as they undoubtedly will be on that day would be to invite serious trouble. It was therefore agreed that I should refuse to employ the marines unless they should be in uniform and be guaranteed protection. However before I was able to arrange an interview with him I received a long note from the Minister for Foreign Affairs which stated definitely that the President desired that the marines should go out "not as marines, nor with official character of any kind, nor wearing the uniform of any corps, but as simple private in the common clothing of civilians who intend to witness the election without taking any part therein, otherwise he should have the painful obligation to manifest his frank disapproval."

THURSTON

817.00/3156: Telegram

The Secretary of State to the Chargé in Nicaragua (Thurston)

Washington, October 2, 1924—6 p. m.

116. Your 196, September 27, 10 a. m. 10 You may informally express to President Martinez the concern with which this Government has learned of the creation of a large new armed force to be used in connection with the elections. It does not of course question the President's intention to place this force under the sole control of the Cantonal Directorios, since any other course could only be construed as an attempt to control the election by military pressure. It fears, however, that local administrative officials may not fully comprehend the necessity for giving the Cantonal Directorios absolute freedom in the disposition of this force on election day, and it hopes that the President will issue the strictest orders to such officials to abide by the provisions of the electoral law, in order to avoid any semblance of police interference.

HUGHES

817.00/3163: Telegram

The Secretary of State to the Chargé in Nicaragua (Thurston)

Washington, October 2, 1924-7 p. m.

117. Your 201, October 1, 8 a.m. You will please address the following note to the Minister for Foreign Affairs in reply to his quoted in your telegram under reference:

"I am instructed by my Government to inform Your Excellency that it has learned with surprise that the Nicaraguan Government having requested American Marines to observe the conduct of the elections, has now declined to have them sent unless they go in civilian clothes. Your Excellency will understand that it is impossible for members of the Legation Guard to undertake the work originally requested by the President except in uniform. This is obvious for many reasons not the least of which is the protection of the men themselves. Should the Marines not be in uniform it is highly possible that despite the greatest good will and best intentions of the Nicaraguan Government, their identity might not be clear to the local officials and regrettable incidents might occur. My Government therefore will not permit the use of the Marines in the manner requested by President Martinez unless they are in uniform.

In communicating the decision of my Government to you I am instructed to state that the desire of my Government throughout has been to lend its advice, assistance and cooperation to the Nicaraguan Government merely with a view to promote peace, order and constitutional government in the Republic. In informing the Nic-

¹⁰ Not printed.

araguan Government of the Department's intention to withdraw the Legation Guard on January 1, next, the Legation stated, under instructions from the Department of State, that the United States Government had been gratified by the steps already taken to assure freedom and fairness in the approaching elections, the foremost of which was the enactment of the electoral law. My Government hoped that should this step be followed by such effective measures during the electoral period as would insure a free expression of the will of the people all parties would willingly accept the Government resulting from the elections as the constitutional government in Nicaragua with the support of the people of Nicaragua. Such a condition would permit the withdrawal of the American Marines upon the inauguration of that Government without danger to the peace

and internal order of Nicaragua.

It was purely in order to help the Nicaraguan Government in this most important measure that after the desire of the Nicaraguan Government for free and fair elections had been shown by inviting Mr. Dodds to draw up the electoral law and enacting it that the Department gave its subsequent advice and counsel for the carrying out of the necessary supplemental measures to this end. Accordingly my Government suggested that the Nicaraguan Government consider the advisability of asking Mr. Dodds to go to Nicaragua to assist in the installation of this new electoral system which was unfamiliar alike to the officials charged with its enforcement as to the Nicaraguan electorate which will exercise its rights according to its provisions. Mr. Dodds was invited to help during the period of registration and his assistance at that time proved to be invaluable. The Government of the United States therefore suggested that the Nicaraguan Government consider the desirability of inviting Mr. Dodds to carry this work to its logical conclusion by assisting during the actual electoral period. The Nicaraguan Government after it first apparently arrived at the same conclusion decided not to act upon this suggestion. On further consideration, however, your Government requested me to permit members of the Legation Guard to help in the carrying out of the electoral law by verifying electoral documents and counting the ballots. As I had the honor to inform you at the time my Government stated that it could be permit members of the Legation Guard to the country of the Legation Guard to the country of the Legation Guard to the country of the Legation Guard to the Legation Guard to the Legation Guard to help in the country of the Legation Guard to help in the country of the Legation Guard to help in the carrying out of the Legation Guard to help in the carrying out of the legation Guard to help in the carrying out of the legation Guard to help in the carrying out of the legation Guard to help in the carrying out of the electoral law by verifying electoral documents and country of the carrying out of the electoral law by verifying electoral documents and country of the carrying out of the electoral law by verifying electoral documents are carrying out of the electoral law by verifying electoral documents are carrying out of the electoral law by verifying electoral documents are carrying out of the electoral law by verifying electoral documents are carrying out of the electoral law by verifying electoral documents are carrying out of the electoral law by verifying electoral documents are carrying out of the electoral law by verifying electoral documents are carrying electoral law by verifying electoral documents are carrying out of the electoral law by verifying electoral documents are carrying electoral law by verifying electoral law bers of the Legation Guard to take any participation in the conduct of the elections but would be willing to permit them to go to places in the Republic chosen by me merely for observation. My Government has felt that the elections should be conducted wholly by the Nicaraguan Government or by such technical experts as it might care to contract for.

It is thus abundantly clear that the attitude of the United States Government throughout has been to give its advice and counsel, and assistance if so requested, on behalf of peace, order and constitutional government and its advice was always with a view to help Nicaragua to conduct the elections in such a manner that the authority of the Government resulting therefrom will not be disputed by any serious elements in Nicaragua and that the new Government of Nicaragua can consistently be recognized by the Government of the United States as the constitutional government of Nicaragua. My Government although it feels that it has fulfilled to the utmost its obligation to Nicaragua as a friendly sister republic in giving

the counsel above outlined is nevertheless ready to give any further proper assistance and advice but it regrets that it cannot for the reasons given accede to the present request of the Nicaraguan Government that American Marines be used in civilian dress in the manner indicated.

The responsibility now therefore rests entirely with the Nicara-

guan Government."

HUGHES

817.00/3188: Telegram

The Chargé in Nicaragua (Thurston) to the Secretary of State

Managua, October 15, 1924—6 p. m. [Received October 17—12:32 p. m.]

219. The note containing the Department's instruction number 117, October 2, 7 p. m. was presented on October 3d to the Minister for Foreign Affairs from whom I have received a note in reply

consisting of 23 pages and 45 sheets of digest.

After the usual recapitulation of the Legation's note and brief reference to the proposed employment of marines to observe the elections the remainder of the note is devoted to a detailed and voluminous description of the attitude of the Government during the electoral period which is qualified as having been eminently impartial and commendable. In this connection the assertion is made that the Executive considers the legality of the elections to be indisputable.

The note also states that elections took place with admirable liberty, impartiality and order with the exception of Chontales where deliberately provoked disturbances were suffocated immediately. This statement is interesting when it is recalled that the state of siege was established because of those disturbances and is still in effect although the country has been tranquil since noon October 5th.

Unless the Department desires a more extensive report on this note by telegraph I shall send it by mail.

THURSTON

817.00/3201: Telegram

The Chargé in Nicaragua (Thurston) to the Secretary of State

Managua, November 7, 1924-5 p.m.

[Received November 7—1:34 p. m.]

236. Department's 134, November 5, 6 p. m.¹¹ In a signed statement presented to me yesterday by Adolfo Diaz in his capacity as president of the directive junta of the Conservative Party it is

[&]quot; Not printed.

asserted that elections in certain cantons of the Departments of Managua, Masaya, Granada, Chontales, Nueva Segovia, Jinotega, Esteli and Matagalpa, have been protested before the courts in conformity with the provisions of article 92 of the Electoral Law. It is further asserted in this statement and Diaz has personally so informed me that while such protests should be made generally his party is not presenting them because it fears that the new elections if held would be more drastically controlled than the last unless supervised. That his contention is not without justification may be deduced from the fact that the pro-government president of the Chamber of Deputies having been defeated for reelection at San Juan del Norte on October 5th, new elections were held there on the following Sunday by Executive order on the pretext that the election board had not taken oath of office, without any reference of the matter to the national board of elections, and the deputy concerned was victorious by a majority of 41 votes as against 21 for his opponents. The results of the first election were 70 votes for his opponents as against 25 for him. As a result of the disturbances at San José de los Remates on October 5th new elections also took place there and although 499 voters were registered the new elections according to the report published in the newspapers gave the transaction [Transactionist] candidate the victory by 59 votes as against 39 for the Conservative candidate, a total of 98.

Election figures today total 75,835 of which Solorzano has 41,075, Chamorro 26,566 and Corea 7,184. There are 84 cantons still to report of which 44 correspond to Bluefields.

THURSTON

817.00/3216: Telegram

The Secretary of State to the Chargé in Nicaragua (Thurston)

Washington, December 10, 1924-4 p.m.

151. Your telegram 250, November 28, 11 a.m., and previous sections, and your despatch 387, November 5.12

The Department has very carefully considered the whole Nicaraguan electoral situation. It feels that it is not feasible to demand new elections because it is not in a position to take the strong measures necessary to insure compliance with the demand and even should the Government readily consent to new elections they would be valueless unless very closely supervised by this Government which would also mean armed intervention which is not to be contemplated. The Department has also given consideration to the question of suggesting the appointment of a designado and a coalition

¹² Neither printed.

cabinet in which all parties will have a voice, this provisional government to hold new elections. This also is impracticable for the reasons mentioned above and because it does not seem likely that a coalition government in Nicaragua, should the suggestion meet with the support of all factions, would have any more chance of success than did a similar attempt in Honduras.

The Department is therefore disposed to raise no question regarding the validity of the elections and to continue normal diplomatic relations with the Solorzano Government upon its inauguration in January. The Department furthermore feels that it would be well to receive certain assurances from Señor Solorzano before making known to him its decision above stated. While the Department does not feel that it would be well to insist upon a formal promise that the 1928 campaign and elections shall be supervised by this Government as the Department does not desire to make any definite commitment at this time concerning its action four years hence, the Department would be glad to receive from Señor Solorzano assurances that the 1928 elections will be carried out in full freedom and fairness for all parties and strictly in accordance with the provisions of the Dodds electoral law and that the latter will not be modified except in strict accordance with the advice of Doctor Dodds or another suitable electoral expert. Although the Department feels that Señor Solorzano would perhaps be well advised to obtain the cooperation of as many political elements in Nicaragua as possible in his Government it does not feel that an imposed coalition cabinet, for the reasons given above, would be a success. The Department feels that the immediate formation of a constabulary will promote the peace of the country and that equally important is the satisfactory solution of the economic problems now confronting Nicaragua.

You may therefore discuss the matter with Señor Solorzano stating as your personal opinion that a definite, formal, written engagement on his part to the Legation, that immediately upon assuming office he will form a constabulary in order to provide suitable means to maintain order upon the withdrawal of the American Marines for which he will request the assistance of this Government in its training and organization, as well as a statement that he will undertake adequate and satisfactory measures with which the Government of the United States could cooperate in the solution of Nicaragua's economic problems and an engagement regarding the 1928 elections as set forth in the preceding paragraph, might prove a deciding element in determining this Government not to raise any question as to the validity of the election and to carry on normal diplomatic relations with his Government upon its inauguration on January 1.

You may also suggest to Señor Solorzano that he consider the expediency of obtaining the cooperation of as many political ele-

ments in Nicaragua as possible in forming his Government. While using the utmost care that it shall be definitely understood by Señor Solorzano that it is not a condition precedent to recognition by this Government that he form a coalition cabinet you may nevertheless, in your discretion, should such be the desire of Señor Solorzano, exert your good offices in an endeavor to bring about a reconciliation between him and the other political elements in Nicaragua which will assure their support of his administration. The Department will welcome any suggestions from you as to any other measures which you or the Department might take in composing the situation in Nicaragua.

The Department has been approached by the Guatemalan Minister with the request, on behalf of his Government, that he be informed as to the Department's attitude in the Nicaraguan situation as the Guatemalan Government desires to take similar action. Please telegraph immediately Señor Solorzano has given you the assurances regarding the constabulary and the economic and electoral situation as outlined above, upon receipt of which the Department will, should the assurances be satisfactory, inform the Guatemalan Government that it does not propose to raise any question regarding the validity of the elections and will carry on diplomatic relations with Señor Solorzano upon his inauguration. The Department will then also instruct you to inform General Chamorro of its attitude regarding the elections and that not only will any revolutionary movement on his part meet with the Department's decided disapproval but that the constituted government will receive its moral support.

HUGHES

817.00/3242 : Telegram

The Chargé in Nicaragua (Thurston) to the Secretary of State

Managua, December 13, 1924—noon. [Received 8 p. m.]

264. Your telegram 151 December 10, 4 p. m. Carlos Solorzano has just signed in my presence the following document:

"Managua, December 12th, 1924. My dear Mr. Thurston: With reference to our recent conversations I take pleasure submitting to you as the American representative in Nicaragua the following statements:

1. I make definite assurance that the 1928 elections will be carried out in full freedom and fairness for all parties and strictly in accordance with the provisions of the Dodds electoral law and that the latter will not be modified except in strict accordance with the advice of Dr. Dodds or another suitable electoral expert in accord with the Department of State.

2. I give definite formal engagement that immediately upon assuming office I will form a constabulary in order to provide a suitable means to maintain order upon the withdrawal of the American marines for which I will request the assistance of the Government of the United States in its training and organization according to the Convention for the limitation of Armaments signed at Washington February 7 1923.

3. I give formal definite engagement that I will undertake adequate and satisfactory measures with which the Government of the United States could cooperate for the solution of the economic

problems of Nicaragua, and,

4. I shall consider the expediency of obtaining the cooperation of as many political elements in Nicaragua as possible in forming my government.

With assurances of my regard, et cetera, signed Carlos Solorzano."

THURSTON

INTIMATION BY THE UNITED STATES TO PRESIDENT MARTINEZ THAT HIS ELECTION TO THE PRESIDENCY WOULD BE CONSIDERED UNCONSTITUTIONAL

817.00/3078a: Telegram

The Secretary of State to the Chargé in Nicaragua (Thurston)

[Paraphrase]

Washington, May 29, 1924—5 p. m.

62. You are instructed to call on President Martinez and say to him privately that the Department views with concern the persistent reports that he intends to run for office to succeed himself. Government of the United States does not wish to intervene in Nicaraguan domestic affairs, and is impartial towards political parties and candidates therein. However, on January 1st next it will have to decide whether it can consistently extend its recognition to the new administration as the constitutional government of Nicaragua. It is its desire that no question should arise at that time regarding the eligibility of the one who shall have been elected President. It desires that the situation should afford an opportunity for this Government to extend to the new Government its fullest and most sympathetic cooperation. After a thorough study of the question the Government of the United States feels itself constrained to express the view that it would be contrary to the Constitution of Nicaragua if a person holding the office of President during the next preceding term should be elected President.13

¹³ See art. 104 of the Constitution, Foreign Relations, 1912, p. 997.

In stating the above to President Martinez you may say that you have been instructed to assure him that its decision is based solely upon its policy concerning the recognition of new governments and is not due to any personal objection to him. You may assure him that this Government has the highest regard for him. You may add that you have been instructed to take up this matter with him privately, and that you are not informing anyone else of what has taken place, not even the other members of the Legation staff, because the Department does not desire to cause him any embarrassment or permit its action to come to the attention of his political opponents.

If you so desire, you may let him see the translation of your instruction. Cable result of your interview.

HUGHES

817.00/3079: Telegram

The Chargé in Nicaragua (Thurston) to the Secretary of State
[Paraphrase]

Managua, June 1, 1924—10 a. m. [Received June 2—4:50 p. m.]

102. On evening May 30 I visited President Martinez and read to him Spanish translation of your 62 May 29, 5 p. m. He seemed neither displeased nor surprised, but he did show an unchanged intention to become a candidate according to the conditions which are described below. He asked me to notify the Department that he has not accepted the Presidential nomination which was offered to him on May 25, and would not unless the Liberal Party should ratify it. If, however, the Liberal Party should ratify it, he would accept the nomination, since he believed from reports of eminent American attorneys acting in his behalf in Washington that in that case our Government would approve his candidacy; that his policy thus to unite the Conservative and Liberal Parties offered the only way to avoid civil war. He said he had received the opinion of 15 attorneys that under article 100 of the new election law (Spanish version) he could become a candidate for Senator; after his election he could admit his disqualifications, hand over his office to the Vice President; the latter would then bring about a new election at which he would be legally elected. He did not desire to take such a course, and he intimated that if our Government should continue to view his candidacy in an unfavorable light, he would withdraw.

THURSTON

817.00/3079: Telegram

The Secretary of State to the Chargé in Nicaragua (Thurston)

[Paraphrase]

Washington, June 5, 1924-5 p. m.

66. You are instructed to say to the President that the Government of the United States desires to remove all doubt as to its attitude as set forth in its May 29, 5 p. m. It would regard his election as unconstitutional, and upon the expiration of his present term would be highly indisposed to extend its recognition to him as Constitutional President. Due to its high personal regard for him, the Government of the United States has conveyed its views to him privately and confidentially in order not to embarrass him. Should it become clear, however, that he is an active candidate to succeed himself, the Government of the United States would be compelled, because of the dire consequences which might result from his course, to give due consideration to the advisability of making its views public so that there may arise no grounds for a misunderstanding.

If you think it advisable you may say also, but not as an instruction from the Department, that your Government is in possession of information that wholly false reports have been sent to him by a number of his advisers who have come to Washington. You will recall to him that on several occasions the Department deemed it necessary to instruct its Legation to correct misleading statements regarding the attitude of the Department.

HUGHES

817.00/3081: Telegram

The Chargé in Nicaragua (Thurston) to the Secretary of State

[Paraphrase]

Managua, June 7, 1924-9 a.m.

[Received 8:30 p. m.]

108. During interview with President last evening I informed him of the contents of your 66, June 5, 5 p. m. He said he would withdraw his candidacy . . .

THURSTON

817.00/3101: Telegram

The Acting Secretary of State to the Chargé in Nicaragua (Thurston)

Washington, July 16, 1924—5 p. m.

83. The Department has today received the following telegram from Señor Urtecho:14

"Under the President's instructions, I beg to say the following to Your Excellency: Prominent Conservatives and Liberals earnestly desiring international concord agree on ticket Carlos Solorzano, Conservative, for President for the next Constitutional term and Juan Bautista Sacasa, Liberal, for Vice President, and ask me to receive and forward their wishes to know whether the State Department would look with favor on the alliance for the organization of National Government. This being an honest scheme I respectfully apply to Your Excellency with a request for an early answer. Distinguished consideration."

You will please reply as follows:

"My Government has received Your Excellency's telegram stating that prominent Conservatives and Liberals agreed on Señor Carlos Solorzano as candidate for President for the next constitutional term and Señor Juan Bautista Sacasa for Vice President and you inquire whether the Department of State will look with favor on

the alliance for the organization of a National Government.

In reply I am instructed by my Government to state that it has no preferences whatever regarding candidates for the high office of President of Nicaragua. My Government supports no candidate and is hostile to no candidate; it desires only that free and fair elections may be held in order that the will of the people may be expressed without hindrance at the polls. My Government feels that the transference of the center of political activity of Nicaragua to Washington would be detrimental to that Government's interests and this Government therefore cannot express its views regarding any ticket.

My Government desires that no candidate for the Presidency, not prohibited from holding such office by Article II of the Treaty of Peace and Amity, signed at Washington on February 7, 1923, may be impeded from presenting his candidacy to the electors of Nicaragua and any person who gains the office of President through free and fair elections in accordance with the electoral law and the Constitution and who is not comprised within the classes above mentioned will be accorded the recognition of the United States Government and my Government will be glad to carry on with him the friendly relations that have always existed between the United States and Nicaragua and will be glad to lend him its advice and counsel."

Grew

¹⁴ Dr. José Andres Urtecho, Nicaraguan Minister for Foreign Affairs.

¹⁵ Conference on Central American Affairs, Washington, December 4, 1922–February 7, 1923 (Washington, Government Printing Office, 1923), p. 287.

EXCHANGE OF NOTES BETWEEN THE UNITED STATES AND NICA-RAGUA ACCORDING MUTUAL UNCONDITIONAL MOST-FAVORED-NATION TREATMENT IN CUSTOMS MATTERS

611.1731/14

The Chargé in Nicaragua (Thurston) to the Secretary of State

No. 281

Managua, September 22, 1923.

[Received October 16.]

Sir: I have the honor to acknowledge the receipt of the Department's confidential circular instruction, of August 18, 1923, (diplomatic serial number 211, file number 611.0031.)¹⁶ respecting the inclusion of an unconditional most-favored-nation clause in a commercial treaty with Nicaragua, and to say that the insertion of such a clause would appear to be desirable and should meet with no opposition.

During my conversation with the Minister for Foreign Affairs regarding the proposed Treaty of Amity, Commerce and Consular Rights, mentioned in the Department's cable instruction number 44, of September 20, 6 p. m., ¹⁷ I received the impression that the Government of Nicaragua would be very gratified by the conclusion of such a treaty, and would leave in our hands the formulation of the greater part of its provisions—although it probably would not fail to propose certain clauses.

In connection with the proposed Treaty, I have the honor to report that there is said to exist between the Governments of France and Nicaragua an agreement whereunder special import rates are accorded by the former to Nicaraguan coffee. I do not know what reciprocal privilege is granted any French products, but I will endeavor to ascertain the terms of the agreement and submit a further report.

Another matter which should, perhaps, receive the Department's consideration when arranging for the conclusion of the Treaty with Nicaragua is the peculiar situation which exists by reason of the several financial plans. One of these plans, for example, would appear to render any reduction of Nicaraguan customs rates impossible.

I have [etc.]

WALTER C. THURSTON

¹⁶ Foreign Relations, 1923, vol. 1, p. 131.

¹⁷ Not printed.
¹⁸ The reference is to several financial agreements made in 1920 between the Government of Nicaragua and the two New York banking houses of Brown Brothers & Co. and J. W. Seligman and Co.

611.1731/15: Telegram

The Secretary of State to the Minister in Nicaragua (Ramer)

Washington, January 15, 1924-7 p.m.

3. Your despatch 281, September 22, 1923. Consul at Corinto telegraphs, January 11, that customs authorities inform him that American products are not accorded the reductions of the French treaty. Department had understood reductions accorded to United States under decree of August 23, 1911. Report briefly by telegraph and fully by mail.

HUGHES

611.1731/16: Telegram

The Minister in Nicaragua (Ramer) to the Secretary of State

Managua, *February 6*, 1924—3 p. m. [Received February 7—10:20 a. m.]

16. Department's telegram January 15, 7 p. m. American products have not been accorded the reductions of the French treaty since its renewal with France in 1921. Minister of Foreign Affairs states that a simple statement of adherence to the treaty will obtain for us equal rights. Instructions requested.

RAMER

611.1731/16: Telegram

The Secretary of State to the Minister in Nicaragua (Ramer)

Washington, February 16, 1924-3 p. m.

16. Your February 6, 3 p. m. While Department does not fully understand statement that "simple statement of adherence to the treaty" will obtain for us equal rights, it assumes that Nicaraguan Government is suggesting the conclusion of a preferential tariff arrangement like that between Nicaragua and France. You may point out that it is not the policy of this Government to enter into such arrangement. This Government's present policy is one of equality of treatment to all countries which do not discriminate against American commerce. The Tariff Act of 1922 authorizes the imposition of new or additional duties by the President on imports from any country discriminating against the United States, whether by preferences accorded to third countries or otherwise.

You may inform the Nicaraguan Government that the Department is prepared to enter into a *modus vivendi* through an exchange of notes, mutually according unconditional most-favored-nation treat-

ment. Such arrangement would benefit Nicaragua by assuredly preventing the imposition of penalty duties on its coffee, bananas, gold, silver, hides and cacao, imported free under Tariff Act of 1922, which comprised in 1922 nearly seventy-five per centum of its exports.

This proposal is entirely separate from that of a commercial treaty as suggested in Department's 44, September 20, 1923, 6 p. m.,²⁰ and replied to in your 64, September 22, 11 a. m.²⁰ Concerning this further instruction will be sent you later.

HUGHES

611.1731/19: Telegram

The Minister in Nicaragua (Ramer) to the Secretary of State

Managua, March 15, 1924—11 a. m. [Received 11:45 p. m.]

38. Department's 27, March 11, 5 p. m.²⁰ The Nicaraguan Minister for Foreign Affairs states that his Government is willing to enter into a *modus vivendi* through an exchange of notes mutually according unconditional most-favored-nation treatment.

RAMER

611.1731/20a

The Secretary of State to President Coolidge

Washington, June 5, 1924.

DEAR MR. PRESIDENT: At the present time the Government of Nicaragua, under a treaty with France, accords to certain specified French products a reduction in import duties amounting to twenty-five per centum of the regularly imposed duties. This reduction is not extended to similar goods from the United States and would appear, consequently, to constitute a discrimination within the meaning of Section 317 of the Tariff Act of 1922, which authorizes the President, under specified conditions, to levy additional duties upon products imported into the United States from countries which discriminate against American commerce in favor of the commerce of any other country.

It appears preferable for the United States, rather than to consider the imposition of additional import duties on merchandise from Nicaragua, to negotiate an arrangement with a view to eliminating the discriminations by mutual consent. Arrangements of this sort providing for unconditional most-favored-nation treatment, a policy which was approved by President Harding in a letter which he ad-

²⁰ Not printed.

dressed to me under date of February 27, 1923,21 were effected by exchanges of notes with Brazil, on October 18, 1923,²² and, similarly, with Czechoslovakia on October 29, 1923.²³ Accordingly, with a view to avoiding the continuance of the existing discriminations against American commerce on the part of Nicaragua, it is proposed to enter into an arrangement with that Government, in the form of an exchange of notes, by which Nicaragua and the United States would respectively undertake not to discriminate against the goods of the other country. Such an arrangement, while removing the discrimination against American products, would not involve the United States in an obligation to do anything that would not be done as a matter of course under existing legislation, once the discrimination against American goods is removed. The proposed arrangement would be terminable in case either party should find itself in a position where, because of change in legislation, it could not continue to be bound by its commitments.

I have ascertained that the Nicaraguan Government is disposed to enter into an arrangement of this character, but before proposing to that Government the text of notes to be exchanged I desire to learn whether this course of action meets with your approval.

Faithfully yours.

CHARLES E. HUGHES

611.1731/21

President Coolidge to the Secretary of State

Washington, June 6, 1924.

My Dear Mr. Secretary: I have received your letter of June 5th, suggesting that it appears preferable for the United States, rather than to consider the imposition of additional import duties on merchandise from Nicaragua, to negotiate an arrangement with a view to eliminating the discriminations by mutual consent. The course of action you outline meets with my approval.

Very truly yours,

CALVIN COOLIDGE

611.1731/19: Telegram

The Secretary of State to the Chargé in Nicaragua (Thurston)

Washington, June 9, 1924-4 p. m.

69. Your 38, March 15, 11 a.m. You are requested to inform the Minister of Foreign Affairs that this Government is prepared to enter

²³ *Ibid.*, p. 873.

²² Not printed.
²³ Foreign Relations, 1923, vol. 1, p. 461.

into a modus vivendi, to be effected by an exchange of notes. Upon assurance of a reply, mutatis mutandis, in the same terms, you are authorized to present to the Government of Nicaragua the following note:

[Here follows text of note which, as presented by Mr. Thurston on June 11, is printed *infra*.]

The reply of the Government of Nicaragua should set forth the same statements, and should Nicaragua ask for alterations in the purport of the notes, you should telegraph for instructions. The Department desires that a *modus vivendi* be concluded as promptly as possible.

Under Section 4 Article I of the Financial Plan ²⁴ an arrangement of the nature proposed would apparently require the approval of the bankers and the High Commission. The Department has informally ascertained, however, that the bankers will raise no objection to the conclusion of the *modus vivendi* when their opinion is asked by the Nicaraguan Government, and it is prepared to suggest to the American members of the High Commission that they give their approval to the proposed arrangement if the Nicaraguan Government makes the same suggestion to its representatives on the Commission.

HUGHES

611.1731/30

The American Chargé (Thurston) to the Nicaraguan Minister for Foreign Affairs (Urtecho)^{24a}

No. 354

Managua, June 11, 1924.

Mr. Minister: I have the honor to communicate to Your Excellency my understanding of the views developed by the conversations which have recently taken place at Managua on behalf of the Governments of the United States and Nicaragua, with reference to the treatment which the United States shall accord to the commerce of Nicaragua and which Nicaragua shall accord to the commerce of the United States.

These conversations have disclosed mutual understanding between the two Governments, which is that in respect to import, export and other duties and charges affecting commerce, the United States will accord to Nicaragua and Nicaragua will accord to the United States

^{24a} Copy transmitted to the Department by the Chargé as an enclosure to his

despatch no. 371, July 11; received Aug. 12.

²⁴ A financial agreement made in 1920 between the Government of Nicaragua and the two New York banking houses of Brown Brothers & Co. and J. W. Seligman and Co.

unconditional most favored nation treatment with, however, the exception of:

(1) The special treatment which the United States accords or may

hereafter accord to importations from Cuba;

(2) Special treatment of commerce between the United States and its dependencies and the Panama Canal Zone and among the dependencies of the United States and,

(3) The treatment which Nicaragua accords or may hereafter accord to importations from or exportations to Costa Rica, Guatemala,

Honduras or Salvador.

The true meaning and effect of this engagement is "that no higher tariff or other duties shall be imposed on the importation into the United States of any articles the produce or manufacture of Nicaragua than are or shall be payable on the importation of like articles the produce or manufacture of any foreign country with the exception of Cuba."

"That no higher or other duties shall be imposed on the importation into Nicaragua of any article the produce or manufacture of the United States than are or shall be payable on like articles the produce or manufacture of any foreign country with the exception of Costa Rica, Guatemala, Honduras or Salvador".

"That, similarly, no higher or other duties or charges shall be imposed in either of the two countries on the exportation of any articles to the other than are payable on the exportation of the like articles to any foreign country with the exception of those mentioned above".

It is understood that, with the above-mentioned exceptions every concession with respect to any duty affecting commerce now accorded or that hereafter may be accorded by the United States or by Nicaragua by Law, Proclamation, Decree or Commercial Treaty or Agreement to the products of any third country will become immediately applicable without request and without compensation to the commerce of Nicaragua and the United States respectively.

It is, however, the purpose of the United States and Nicaragua and it is herein expressly declared that the provisions of this arrangement shall not be construed to affect the right of the United States and Nicaragua to impose on such terms as they may see fit prohibitions or restrictions of a sanitary character designed to protect human, animal or plant life or regulations for the enforcement of police or revenue laws.

The present arrangement may be terminated by either party on thirty days notice. In the event, however, that either the United States or Nicaragua shall be prevented by legislative action from giving full effect to the provisions of this arrangement, it shall automatically lapse. I shall be glad to have your confirmation of the accord thus reached.

I avail myself [etc.]

WALTER C. THURSTON

611.1731/30

The Nicaraguan Minister for Foreign Affairs (Urtecho) to the American Chargé (Thurston) 24b

[Translation]

Diplomatic Section No. 460

Managua, July 11, 1924.

Sm: I have the honor to communicate to Your Excellency my understanding of the views developed in the conversations recently had in Managua on behalf of the Governments of Nicaragua and the United States, with reference to the treatment which Nicaragua shall accord to the commerce of the United States and which the United States shall accord to the commerce of Nicaragua.

These conversations have demonstrated mutual understanding between the two Governments, which is that in respect to import, export and other duties and charges affecting commerce Nicaragua will accord to the United States and the United States will accord to Nicaragua unconditional most favored nation treatment with, however, the following exceptions:

(1) The treatment which Nicaragua accords or may hereafter accord to importations from or exportations to Costa Rica, Guatemala, Honduras or Salvador;
(2) The special treatment which the United States accords or

may hereafter accord to importations from Cuba; and

(3) The special treatment of commerce between the United States and its dependencies and the Panama Canal Zone and among the dependencies of the United States.

The true meaning and effect of this engagement is "that no higher tariff or duties shall be imposed on the importation into Nicaragua of any articles the produce or manufacture of the United States than are or shall be payable on the importation of like articles the manufacture or produce of any foreign country with the exception of Costa Rica, Guatemala, Honduras and Salvador."

"That no higher tariff or other duties shall be imposed on the importation into the United States of any article the produce or manufacture of Nicaragua than are or shall be payable on like articles the produce or manufacture of any foreign country with the exception of Cuba."

"That, similarly, no higher or other duties or charges shall be imposed in either of the two countries on the exportation of any

^{34b} Copy transmitted to the Department by the Chargé as an enclosure to his despatch no. 371, July 11; received Aug. 12.

articles to the other than are or will be payable on the exportation of the like articles to any foreign country with the exception of those mentioned above."

It is understood that with the above mentioned exceptions every concession with respect to any duty affecting commerce now accorded or that hereafter may be accorded by Nicaragua or the United States by law, proclamation, decree or commercial treaty or agreement to the products of any third country will become immediately applicable without request and without compensation to the commerce of the United States and Nicaragua respectively.

It is, however, the purpose of Nicaragua and of the United States, and it is herein expressly declared that the provisions of this arrangement shall not be construed to affect the right of Nicaragua and the United States to impose on such terms as they may see fit prohibitions or restrictions of a sanitary character designed to protect human, animal or plant life or regulations for the enforcement of police or revenue laws.

This present arrangement may be terminated by either party on thirty days notice. In the event, however, that either Nicaragua or the United States shall be prevented by legislative action from giving full effect to the provisions of this arrangement, it shall automatically lapse. I should be glad to have your confirmation of the accord thus reached.

I avail myself [etc.]

J. A. URTECHO

NORWAY

REFUSAL BY THE SECRETARY OF STATE TO ADMIT THAT RIGHTS OF SOVEREIGNTY OVER POLAR AREAS MAY BE BASED UPON THE FORMALITY OF TAKING POSSESSION AFTER DISCOVERY

857.014/5

The Norwegian Minister (Bryn) to the Secretary of State

Washington, February 25, 1924.

Mr. Secretary of State: On January 7th, 1924, there appeared in the Rochester Herald, (state of New York) a correspondence from the national capital dated January 6, saying among other things that the Norwegian Polar explorer Roald Amundsen had agreed that the United States might claim all the land he might find on the expedition he is planning to make by aeroplanes to the North Polar regions. This became known, it is stated in said correspondence, through the presence of a letter in the Navy Department's files, signed by Mr. H. H. Hammer, the American representative of Mr. Amundsen. It is further stated in said correspondence that Mr. Hammer signed a communication saying that the United States was welcome to any discoveries. The Secretary of the Navy, Mr. Denby, it is further stated in the correspondence, acknowledged this offer with thanks and agreed to lend to the expedition Lieutenant Ralph Eugene Davison.

Upon learning about the correspondence published by the *Rochester Herald*, Mr. Roald Amundsen has informed the Minister of Foreign Affairs at Christiania that he has in no way given his consent to any annexation of land for the benefit of the United States. I have been instructed by my Government to bring Mr. Amundsen's statement to the attention of the Government of the United States under reference to said press communication, of which a photostat copy is hereby enclosed.¹

In order to avoid any misunderstanding I beg to add that possession of all the land that Mr. Amundsen may discover will, of course, be taken in the name of His Majesty the King of Norway.

I avail myself [etc.]

H. Bryn

¹ Not printed.

NORWAY 519

857.014/6

The Secretary of State to the Norwegian Minister (Bryn)

Washington, April 2, 1924.

Sir: With reference to your note of February 25, 1924, concerning an alleged agreement of Roald Amundsen to allow the United States to claim all lands he might discover on his projected aeroplane expedition to the North Polar regions, I beg to inform you that I am in receipt of a communication from the Acting Secretary of the Navy stating that a search of the files of the Navy Department shows that the article which appeared in the Rochester Herald was incorrect in its statement that any offer made by Mr. Hammer was acknowledged by the Secretary of the Navy. The basis for the rumor contained in the clipping from the Rochester Herald of January 7, 1924, is, however, to be found in a signed statement, dated October 26, 1923, made by H. H. Hammer, the American representative of Captain Amundsen, to Captain Johnson, Assistant Chief of the Bureau of Aeronautics, of the Navy Department, setting forth the plans for the transpolar flight.

In the concluding sentence Mr. Hammer states "although Captain Amundsen is Norwegian, he would not lay claim to any new lands discovered on behalf of his government, and an American officer could if so desired claim it for his government." The Navy Department did not reply to this offer in any manner. Furthermore, the Acting Secretary of the Navy states that while Lieutenant Davison was granted permission to volunteer to accompany the expedition, "The Navy has no official connection with the expedition and no control over the plans made by Captain Amundsen to carry it forward."

In the penultimate paragraph of your letter you state that, in order to avoid any misunderstanding, you would add that possession of all the land which Mr. Amundsen may discover will, of course, be taken in the name of His Majesty, the King of Norway. In my opinion rights similar to those which in earlier centuries were based upon the acts of a discoverer, followed by occupation or settlement consummated at long and uncertain periods thereafter, are not capable of being acquired at the present time. Today, if an explorer is able to ascertain the existence of lands still unknown to civilization, his act of so-called discovery, coupled with a formal taking of possession, would have no significance, save as he might herald the advent of the settler; and where for climatic or other reasons actual settlement would be an impossibility, as in the case of the Polar regions, such conduct on his part would afford frail support for a reasonable claim of sovereignty. I am therefore compelled to state, without now adverting to other considerations, that this Government cannot admit that such taking of possession as a discoverer by Mr. Amundsen of areas explored by him could establish the basis of rights of sovereignty in the Polar regions, to which, it is understood, he is about to depart.

Accept [etc.]

CHARLES E. HUGHES

857.014/11

The Norwegian Minister (Bryn) to the Secretary of State

Washington, April 4, 1924.

Mr. Secretary of State: I have the honor to acknowledge the receipt of Your Excellency's note, dated April 2, 1924, relating to a statement made by Mr. H. H. Hammer, the American representative of Captain Roald Amundsen, to the effect that Captain Amundsen would not lay claim to any new lands discovered on behalf of the Norwegian Government, and that an American officer could claim it for the American Government, which statement Mr. Hammer had made without the authorization of Captain Amundsen.

In thanking Your Excellency for the communication which you have been good enough to address me, I beg to add that I have not failed to transmit the same to my Government.

Please accept [etc.]

H. Bryn

INCONCLUSIVE NEGOTIATIONS FOR A TREATY TO REPLACE THE TAFT AGREEMENT¹

711.192/3: Telegram

The Minister in Panama (South) to the Secretary of State

PANAMA, January 29, 1924-3 p. m.

[Received 8:10 p. m.]

11. Secretary Garay 2 has just read to me a letter addressed to him by President Porras 3 directing him to request American Minister to cable Department requesting an answer to Minister Alfaro's 4 request for naming of a commission to negotiate treaty.5 Alfaro has cabled that he had a conversation with Mr. White 6 on January 20th in which Mr. White said he would at once put the matter before Secretary Hughes and give Alfaro an answer. President Porras says matter is urgent due to approaching date of proposed abrogation. Legation would appreciate an early reply.

South

711.192/3: Telegram

The Secretary of State to the Minister in Panama (South)

Washington, January 30, 1924—4 p. m.

11. Your 11, January 29, 3 p. m. You may inform Panaman Government that this Government is willing to appoint a Commission to negotiate treaty with Panaman Commission and is willing to commence negotiations in Washington at convenience of Panaman Government.

HUGHES

Belisario Porras, President of Panama.

¹ For previous correspondence concerning the Taft Agreement, see Foreign Relations, 1923, vol. II, pp. 638 ff.
Narciso Garay, Minister for Foreign Affairs.

⁴Ricardo J. Alfaro, Panaman Minister in the United States. To supersede the so-called Taft Agreement.

Francis White, Chief of the Division of Latin American Affairs, Department of State.

711,192/9

The Secretary of State to the Panaman Minister (Alfaro)

Washington, February 20, 1924.

Sir: I have the honor to acknowledge the receipt of your note No. D-58, dated February 5, 1924,7 in which you were so good as to inform me that the Panaman Government had appointed a Commission, over which you will preside, to discuss and conclude with a similar Commission, to be appointed by the Government of the United States, an arrangement to supersede the agreement, known as the Taft Agreement.

Due note has been taken of the composition of the Commission,⁸ and I shall be pleased to receive the members thereof upon their

arrival in this capital.

It gives me pleasure to inform you that the President has appointed a Commission on the part of the United States to meet with the Commission appointed by the Government of Panama to conduct negotiations for an arrangement to take the place of the Taft Agreement as embodied in the Executive Orders, issued by direction of the President on December 3, December 6 and December 28, 1904, January 7, 1905, and January 5, 1911.9 This Commission is composed of myself, as Chairman, and of the following members: Mr. Francis White, Chief of the Division of Latin American Affairs, the Department of State, Mr. Joseph R. Baker, Assistant Solicitor, the Department of State, and Mr. Edward L. Reed, Division of Latin American Affairs, Department of State.

Accept [etc.]

CHARLES E. HUGHES

711.192/56c: Telegram

The Secretary of State to the Minister in Panama (South)

WASHINGTON, May 28, 1924-6 p. m.

39. The President today issued a proclamation abrogating the Taft Agreement as of June 1.10 The Panaman Minister was informed that in order to provide ample time for the conclusion of the treaty negotiations, the War Department is today instructing the Canal authorities to continue as heretofore, for a period of one month the

Not printed.

Dr. Ricardo J. Alfaro; Dr. Eusebio A. Morales, Secretary of Finance and Treasury; Dr. Eduardo Chiari, formerly Minister for Foreign Affairs; and Mr. Eugenio J. Chevalier, secretary of the Commission.

Foreign Relations, 1904, p. 640; also Executive Orders Relating to the Panama Canal (March 8, 1904, to December 31, 1921). Annotated 1921 (Mount Hope, C. Z., The Panama Canal Press, 1922), pp. 29, 31, 32, 33, and 103. For copies of the latter publication, address The Panama Canal, Washington, D. C.

Proclamation No. 1699; not printed.

rules and practices of the Canal administration in the matter of commercial operations in the Canal Zone. This will mean that: (1). The sale of goods imported into the Canal Zone by the Government of the United States shall be limited by it to the officers, employees, workmen and laborers in the service and employ of the United States and the Panama Railroad Company, and to contractors operating in the Canal Zone and their employees, workmen and laborers and the families of all such persons. The United States would continue to make sales to ships as heretofore. (2). The Canal authorities will continue to cooperate in all proper ways with the Republic of Panama to prohibit smuggling into the Republic of goods purchased in the commissaries. (3). The Canal authorities will continue to extend to private merchants residing in the Republic of Panama the facilities for making sales to vessels transiting the Canal which they now enjoy. (4). The Government of the United States will continue to provide at a reasonable charge ships trading between ports of the Pacific coast and the city of Panama with docking facilities for the loading and unloading of merchandise in the port of Balboa whenever merchandise are consigned to the city of Panama or are to be shipped therefrom; same facilities to continue to be enjoyed by passengers bound for and departing from the city of Panama from or for ports of the Pacific coast. (5). With the exception of cable companies, oil, shipping and other concerns having a direct connection with the construction, operation, maintenance, sanitation and protection of the Canal no private business enterprise shall be permitted by the United States to be established. in addition to those already established in the Canal Zone. With the exception of the guests of the Tivoli and Washington Hotels no person who is not an officer, employee, workman or laborer of the United States, the Panama Canal, the Panama Railroad Company or a contractor operating in the Canal Zone or his employees, workmen and laborers, or an officer, employee or workman of a company entitled under Section 5 above to conduct operations in the Canal Zone, or settlers employed in the cultivation of small tracts and hucksters or small establishments for supply of these settlers and of other employees, and the members of the families and domestic servants of all such persons, shall be entitled to dwell within the Canal Zone and no dwelling belonging to the Government of the United States or to the Panama Railroad Company and situated within the Zone shall be rented or leased by them to persons not within the excepted classes.

You may inform the Panama Government of the foregoing.

HUGHES

711.192/69: Telegram

President Porras to President Coolidge [Translation 11]

PANAMA, July 9, 1924. [Received July 11.]

Greatly disturbed by the reports sent by the Panaman Commissioners who are negotiating in Washington the new treaty to take the place of the Taft Agreement and earnestly desiring the negotiations to yield satisfactory results, I wish to appeal to Your Excellency's sense of justice and equity and to ask for your personal intervention so as to prevent a failure of the negotiations. Panama has declared herself willing to agree to all requests of the United States including the transfer of jurisdiction over a large part of the city of Colon which for Panama means the distressing sacrifice of witnessing a further mutilation of her territory in the principal port of the Republic. All that Panama asks is that the new treaty achieving the ends by which it is inspired, shall insure stability for Panama in her economic life by permanently establishing the proposition that the status of the Canal Zone cannot affect the commerce of the Republic.

Panama asks that the policy outlined by President Theodore Roosevelt in 1904 and afterwards confirmed by his successor and various Secretaries of State be given expression in the new treaty so that she may find therein the guarantee of the security that is most wanting, for if the essential stipulations are not laid down as permanent in the same terms as are used in the Hay-Bunau Varilla Treaty.12 she will ever lie under the threat of commercial, industrial and physical ruin brought on by the erection of a competing commercial colony in the Canal Zone. As long as that menace exists the people of Panama will always live in fear of their economic development being curtailed or crippled.

In 1903 Panama gave the United States every power and privilege needed to insure the construction of the inter-oceanic canal and did so in the hope that in it she would find her economic redemption. The United States has built and operated the Canal with full success and we have declared, for its protection, our will to bind ourselves as allies without restriction both in peace and in war. By the treaty of 1903 Panama ceded and the United States acquired the use, occupation and control of the Canal Zone for the construction, maintenance, operation, sanitation and protection of the Canal. We ask that that strip of land be ever used for those lofty ends and never be made a cause of instability and menace of ruin to the very nation that ceded Present difficulties are due to insistence by the American Com-

¹¹ File translation revised.

¹³ Foreign Relations, 1904, p. 543.

missioners in stipulating a fifteen-year period for the only clauses that are vital to Panama, despite the fact that the Taft Agreement endured twenty years and that the joint resolution of Congress, no. 259 of February 6, 1923,¹³ authorized the abrogation of that agreement which was styled transitory and was to be superseded by a permanent one, and also despite the fact that each and every one of the concessions made by Panama in the draft of the treaty now under consideration are in perpetuity as must also be the concessions asked by Panama for the stability of her economic independence. Equity prescribes that there should be reciprocity and mutual concessions in the terms of the new treaty and I trust that through Your Excellency's benevolent intervention all the clauses agreed on will be perpetual so that each one of the two parties shall be equally favored by its benefits.

Belisario Porras

711.192/75a: Telegram

The Acting Secretary of State to the Minister in Panama (South)

Washington, July 12, 1924—2 p. m.

49. You will deliver the following to President Porras:

"Your Excellency's telegram to the President dated the 9th instant regarding the treaty negotiations now going on in Washington has been received and carefully considered and special study has been given to your desire that the article of the treaty granting commercial privileges to Panama be made in perpetuity and not for a period of fifteen years. I beg to recall to you the statement made by the Secretary of State in his note of October 15, 1923,14 to the Panaman Minister in Washington that it was manifest that before entering upon the vast extent of the enterprise undertaken by this Government in providing for the construction, operation and protection of the Panama Canal this Government had to be sure that it obtained adequate rights in the Zone and that the protection of the Canal in the future was appropriately secured. For this purpose the Canal Treaty of 1903 was made. To meet certain administrative exigencies during the period of the construction of the Canal, the administrative arrangement known as the Taft Agreement was effected. This arrangement, however, was of a temporary nature in order to serve more conveniently the situation then existing and it was expressly declared that in no wise did it affect the rights of either party to the Treaty of 1903. That Treaty forms and must continue to form the basis of the relations between the United States and Panama and provides the safeguards for the future which were deemed by this Government to be of controlling importance in making the decision to construct the Canal.

¹³ *Ibid.*, 1923, vol. 11, p. 677. ¹⁴ *Ibid.*, p. 648.

Thus while it was possible to grant certain concessions to Panama in the Taft Agreement, through the non-exercise of certain of our rights under the Treaty of 1903 because that Agreement was a temporary one and was expressly stated not to be a delimitation, definition, restriction or restrictive construction of the rights of either party under the Treaty, it is manifestly impossible for the United States to make such concessions in perpetuity when its even-

tual needs in the future cannot now clearly be foreseen.

Your Excellency asks that the policy outlined by President Roosevelt in 1904 be given expression in the new treaty. You doubtless refer to the statement in a letter from President Roosevelt to Mr. Taft, dated October 19, 1904, in which he stated 'we do not intend in the least to establish an independent colony in the center of the State of Panama or to exercise governmental functions broader than is necessary to enable us to build, maintain and operate the Canal, in accordance with the rights given us by the Treaty.' In making this statement President Roosevelt undoubtedly gave expression to the policy of this Government, a policy to which it has closely adhered, but the statement will not admit of such a broad construction as to imply any intention on President Roosevelt's part to limit the rights definitely accorded to this Government by the Treaty of 1903.

The policy outlined by President Roosevelt has, as stated above, been closely adhered to but the American Government must preserve its complete freedom of action for the future to avail itself should necessity therefor arise of the rights, power and authority granted to the United States by the Treaty of 1903. This Government is perfectly willing to grant to the Panaman Government privileges of the character described in the proposed treaty for as long a period as can be safely foreseen and for this reason these privileges have been given for a term of fifteen years with a provision that they will be continued thereafter for periods of five years unless denounced one year in advance of the termination of any such period. This is in accordance with the traditional policy of the United States Government to deal not only fairly and justly but generously with the Republic of Panama and I hope you will agree with me that the interests of Panama are fully protected and provided for in the proposed treaty.

The above question and the question of the transfer of jurisdiction over a part of the city of Colon are distinct and separate. In this connection I desire to point out that title to all the land comprised in the area in question is now vested in the Panama Railway Company and at the expiration of that Company's concession the reversionary rights to those lands are held by the United States by virtue of the provisions of the Treaty of 1903. It is eminently reasonable that the United States should desire jurisdiction, especially police jurisdiction, over the areas used in connection with the Canal operation and inhabited by officers and employees of this Government in the operation of the Canal. This will avoid possibilities of

friction.

Your Excellency further states that each and every one of the concessions made by Panama in the draft of the treaty now under consideration are perpetual. I desire to point out to Your Excellency that a number of concessions granted by the United States to

Panama in the treaty under consideration are likewise perpetual as, for instance, the appraisement of additional private lands acquired by the United States in the future to be based upon their value at the time they are acquired rather than at their value prior to the conclusion of the Treaty of 1903; the agreement of the United States to construct roads to the value of approximately \$2,000,000 in the territory of Panama; to supply free of charge to Panama the necessary space for the establishment of custom houses in Canal Zone ports; free trade established between Panama and the Zone; concession regarding transportation of alcoholic liquors across the Zone; the making of Panaman currency legal tender in the Zone, et cetera. The only privileges granted to Panama for a term of years rather than in perpetuity are those in regard to certain commercial privileges and the reasons why they cannot be given in perpetuity are explained above.

I am confident that Your Excellency, upon further consideration of the matter, will perceive the very generous spirit in which the negotiations have been undertaken by the United States and will fully appreciate the desire and determination of this Government to deal justly and liberally with the Panaman Government in all

matters. Joseph C. Grew, Acting Secretary of State."

GREW

711.192/77a supp.

The Secretary of State to the Minister in Panama (South)

No. 217 Washington, August 22, 1924.

Sir: In the Department's telegram No. 56, of August 6, 6 p. m., 1924, 15 you were informed that the negotiations between the United States and Panaman Commissions looking toward a more permanent international arrangement to take the place of the so-called Taft Agreement and to provide a more satisfactory basis for regulating existing relations between the two countries were in abeyance as a consequence of the departure from Washington of Dr. Ricardo J. Alfaro, Panaman Minister to the United States, who, by reason of the absence of Messrs. Eusebio Morales and Eduardo Chiari, was the sole member of the Panaman Treaty Commission remaining in this city.

The following brief account of the negotiations to date and their status at the time of Dr. Morales' departure, as well as the enclosure which accompanies this instruction, 15 is communicated to you for the confidential information of your mission.

The meetings of the two commissions, 21 in number, extended over the period from March 17 to August 6 last. The discussions were restricted for the most part to the points presented for consideration by the Panaman Minister in his Aide Memoire of January

¹⁸ Not printed.

4, 1924,15a a copy of which was sent you with the Department's instruction No. 157 of January 17, 1924,16 and were based to some extent upon certain preliminary proposals advanced by Dr. Alfaro at a series of informal conferences which took place in February and early in March. The major part of the questions discussed offered no serious difficulties to an agreement and, after formal exchanges of views by the two commissions, were satisfactorily disposed of. The results of these deliberations are embodied in a tentative draft of the proposed treaty, a copy of which is transmitted with this instruction for your strictly confidential information only.16 This draft was prepared by the American Commission and modified in accordance with agreements reached at subsequent meetings with the Panaman Commission. It should be pointed out, however, that Articles II and IV as incorporated in the draft represent only partial agreements respecting their subject matter, and the inability of the negotiators to arrive at a mutually satisfactory settlement on these points, particularly the latter one, is responsible for the delay in concluding the treatv.

Article II relates to the proposal of the American Commission that Panama grant to the United States the use, occupation and control of a portion of the city of Colon required by this Government for the more efficient administration of the Panama Canal. The American Commissioners' original proposal envisaged the cession of an area somewhat larger than that described in the draft under reference and offered as compensation therefor to remit the debt owed by Panama to the United States for the construction of water works, sewers et cetera, in Colon. A counter proposal of the Panaman Commission provided for the surrender by the United States to Panama of all property owned by the Panama Railroad Company in Panama and Colon, not employed for Canal purposes, in return for the proposed cession of land in Colon. This was rejected by the American Commission and the suggested pecuniary compensation was increased by an offer to repay to Panama the sums already paid by the latter on account of the original indebtedness for water works and sewer construction, thus making a total of about \$1,250,000. The Panaman Commissioners declined to accede to this proposition and appeared, as was revealed by subsequent events, to entertain the intention of bargaining its acceptance of this proposal against the acceptance by the American Commission of Panama's contention that the provision of proposed Article IV, in which the United States agrees to waive the exercise of certain

^{15a} Printed in Memoria que presenta el Secretario de Relaciones Exteriores a la Asamblea Nacional Legislativa en sus Sesiones Ordinarias de 1926 (Panama, Imprenta Nacional, 1927), p. 231.

^{15a} Not printed.

commercial privileges in the Canal Zone, be made of permanent effect. As the American Commission was unwilling to go beyond its proposals as embodied in Article IV of the attached draft, an effort was made to reach a solution of the difficulty by decreasing the area sought in Colon to the absolute minimum consistent with the needs of the Panama Canal and by offering to cede a small portion of Cristobal abutting on Boca Chica to Panama. These last proposals are those contained in the draft and, as stated above, have not been accepted by the Panaman Commission.

Article IV of the draft relates to the temporary non-exercise by the United States of certain commercial rights in the Canal Zone and grants certain rights therein to the Republic of Panama. While the Panaman Commission appeared to be willing to accept the numbered sections which it contains, it declined to accede to the temporary feature of the article embodied in the final paragraph, and originally proposed, as an alternative, a limitation thereof of not less than thirty years. The American Commission, which had at first proposed a limitation of ten years after which the article would continue in force indefinitely unless denounced by either party on six months' notice, found itself unable to accept this suggestion and proposed, as a compromise, that the period be extended to fifteen years, the article to remain in effect thereafter for successive periods of five years, unless denounced one year prior to the expiration of any such period. The matter remained in abeyance during the consideration of other subjects, and when conversations thereanent were resumed the Panaman Commission, as already stated, made the acceptance of their views that the article be of permanent effect a condition for their acquiescence in the American Commission's proposals regarding the cession of land in Colon.

In these circumstances the Chairman of the Panaman Commission sought and obtained an audience with the President, in which he presented the views of his government regarding this question. The President reiterated the assurances previously given by the Secretary of State that this Government is animated by the friendliest feelings toward Panama, that it is not its desire to do anything that would harm Panama or its commercial prosperity, and that while the United States did not intend as a matter of policy to set up a commercial colony in the Canal Zone it could not give up its rights under the Treaty of 1903, but at most would agree to a non-exercise of certain of those rights for so long a period as it can safely foresee what its requirements may be. Similar assurances were conveyed to the President of Panama in the Department's telegram of July 12, 2 p. m., to your legation.

From certain remarks made by Dr. Alfaro to officers of the Department as well as from several of your reports on the situation in

Panama, the Department gained the impression that the Government of Panama might be entertaining the opinion that that country might lose nothing by not entering into the projected treaty, in the hope and expectation that, as a result of the assurances above referred to, no competing commercial establishments would be permitted in the Canal Zone which might interfere with the monopoly that would otherwise be enjoyed by the merchants of Panama.

The Department considered that, while the conclusion of the treaty under negotiation might be of greater advantage to Panama than to the United States, the substantial progress already recorded in the work of the Commissions afforded satisfactory solutions of the majority of the problems confronting the two Governments. The Department, therefore, felt that it would be unfortunate should a misapprehension of the intent of the President's remarks to Dr. Alfaro lead the Panaman Government to terminate the negotiations. Accordingly, the matter was submitted to the President who authorized the following statement to be communicated orally to the Panaman Minister on August 4, 1924:

"The expression which the President gave in his conversations with Señor Alfaro and Señor Chiari, of the policy of this Government not to set up a commercial colony in the Canal Zone will of course not admit of such a broad construction as to imply any intention on the President's part to limit the rights definitely accorded to the United States Government by the Treaty of 1903. Señor Alfaro had informed this Government that in entering upon negotiations for a new agreement after the abrogation of the Taft Agreement, Panama did not intend to assume the attitude of a nation whose interests were antagonistic to the United States, but desired to deal with the United States openly and frankly as a staunch friend. This Government has always been animated by like feelings and the President gave expression to this feeling in his statement of policy which was made not only in view of the friendly spirit expressed by the Panaman Minister but also in the belief that negotiations carried on in that spirit would eventuate in the conclusion of an agreement to settle difficulties which had arisen in the relations between the two Governments. Should a treaty not be concluded, the United States—while it will continue to be animated by the friendliest feelings toward Panama, and will continue as in the past to deal not only in a friendly but also in a generous manner with Panama-must reserve the right to act in such circumstances in accordance with the full rights granted to it by the Treaty of 1903. This frank statement is inspired through friendship for Panama and in order that there may be no misunderstanding regarding the scope of the President's statement to the Panaman Minister."

To this the Minister replied that he fully understood the situation; that the President's friendly expression was of course not a limitation of the Treaty and that should there be no treaty the relations would

be on the basis of the Treaty of 1903. It was for this reason that his Government desired the commercial clause in the treaty to be perpetual.

Prior to his departure on leave of absence, Dr. Alfaro informed the Department that he believed it to be the desire of his Government that the treaty negotiations should remain in abeyance until his return to Washington in October next.

I am [etc.]

CHARLES E. HUGHES

711.192/88 : Telegram

The Minister in Panama (South) to the Secretary of State

[Paraphrase]

Panama, September 8, 1924—4 p. m. [Received September 9—10:10 a. m.]

- 82. Department's numbers 216 ¹⁷ and 217 of August 22, regarding treaty negotiations. Had purely informal conversation with President and Minister of Foreign Affairs. Both understood that I had no instructions from Department. President expressed desire to finish treaty and said that he would sign treaty and get it ratified before he went out of office on October 1 if questions of difference could be resolved in the following manner:
- 1. That waterworks and sewer construction debts be permitted to pend, but that about \$1,250,000 be spent by United States in building road from Panama to Colon and thence to Porto Bello. In case the amount proved insufficient Panama would contribute balance. The conditions governing the maintenance and use of the road would be the same as those stipulated in article 3 of the draft treaty. I was recently informed by the commanding general of the Canal Zone that he considers it very desirable to build a road from Panama to Colon.

2. That the United States cede to Panama in addition to the small part of Cristobal abutting on Boca Chica an unoccupied strip of land about 400 meters long located near the club in Colon which is now owned by the Panama Railroad Company. This land is to be used entirely for docking purposes in connection with the coastwise trade. It is my opinion that the President will not insist upon this

proposal.

3. That article 4, last paragraph, of draft treaty stipulate 30 years instead of 15. Dr. Morales was of the impression that the Department never declined to accept the 30-year limit. In case Department is opposed to 30-year term perhaps a compromise could be made by Department considering term of 22 to 25 years, and this compromise would have greater chance of success if subsequent terms were six or seven years instead of five years.

¹⁷ Not printed.

¹⁰⁸⁸⁴⁻Vol. II-39-40

There seems to be little doubt that present Assembly would ratify treaty immediately. Both the Assembly and its committee on foreign relations would be favorably disposed. There will probably be only a short session. It is still uncertain whether Chiari will agree to accept treaty in its present form. The President appears enthusiastic over finishing the treaty and now seems to be the time to close the negotiations. If the Department should be of the opinion that an agreement can be reached along the line of the abovementioned points or of any or all of them, I shall be pleased to convey Department's views to the President in a purely informal way and without prejudice to the negotiations which the two commissions are conducting.

The President has not informed Alfaro of his latest views as to signing of the treaty, for reasons which were reported in my telegram no. 80 of September 2.18

South

711.192/89: Telegram

The Minister in Panama (South) to the Secretary of State
[Paraphrase]

Panama, September 15, 1924—4 p. m. [Received 10:30 p. m.]

86. Legation's number 82, September 8. Inasmuch as Department does not seem interested in President's recent proposals in the matter of the proposed treaty, I have purposely avoided having any more informal conversations with regard to the treaty. The Department may rest assured that the formal negotiations have in no way been prejudiced. Nevertheless, this morning Mr. Morales notified me informally that President Porras would withdraw his request for the 400-meter water frontage in Colon, included in item 2 of my cable, and that the clause in the draft treaty which refers to a transfer of jurisdiction of a portion of Colon to the United States would be acceptable with the following provisos:

1. That the United States would request no further extension of jurisdiction in Colon.

2. That the boundary line would follow the course of the streets which latter were to remain under the jurisdiction of Panama.

3. That the city of Colon should be permitted to determine in its discretion where the statue of Christopher Columbus should be located.

¹⁸ "The friction which arose between the President and Alfaro shortly after the latter's return and principally because Porras would not support him for first vice president has made most unlikely any further progress here by the commissioners during the present administration."

4. That an allowance should be made to Panama to cover the cost of pavement, aqueducts and sewers in the area ceded to the United States, and

5. That the jurisdiction over the Bay of Folks River, as provided in the draft already discussed with the Department, should be transferred to the Bay of Folks River, as provided in the draft already discussed with the Department, should be transferred to the Bay of Folks River, as provided in the draft already discussed with the Department, should be transferred to the Bay of Folks River, as provided in the draft already discussed with the Department, should be transferred to the Bay of Folks River, as provided in the draft already discussed with the Department, should be transferred to the Bay of Folks River, as provided in the draft already discussed with the Department, should be transferred to the Bay of Folks River, as provided in the draft already discussed with the Department, should be transferred to the Bay of Folks River.

ferred to Panama, excluding the cession of marine cables.

The Panaman Government still adheres to the suggestion made in points 1 and 3 of my above telegram.

South

711.192/88 : Telegram

The Secretary of State to the Minister in Panama (South)

Washington, September 18, 1924-5 p.m.

- 64. Your 82 and 86, September 8, 4 p. m., and September 15, 4 p. m. You may tell the President informally in reply to his suggestions made to you as follows:
- 1. This Government would be willing to have the debt for water works and sewer construction liquidated in accordance with the arrangement now in force, and it will therefore not be mentioned in the treaty. This Government would be willing to include in the treaty a stipulation that, as compensation for the land in Colon jurisdiction of which is to be given to the United States, the United States would expend a sum not exceeding \$1,250,000. for the construction of a road from Panama to Colon and Porto Bello on condition that the roads shall be constructed by the Panama Canal and construction shall be undertaken only after Panama has made satisfactory financial provision for furnishing the cost above the \$1,250,000. provided by this Government, and after the latter sum has been appropriated by the Congress of the United States.

For your own information. Should Panama not be willing to make the above financial arrangement this Government would consider an agreement by which the cost of the construction as it progresses would be prorated between the two Governments each Government paying a share in relative proportion to its share of the total cost of the project as determined by the engineers' estimate on the understanding that the total contribution by the United States will not exceed one million and a quarter dollars.

It is not clear from the Panaman proposal what line the proposed road will follow. The Department presumes that advantage will be taken of the road which the Canal Government proposes to construct from Balboa to Alhajuela.

2. While this Government does not now foresee the necessity for asking for any further cession of the city of Colon to the United States, it cannot bind itself in a treaty never to do so since future

exigencies cannot be foreseen at this time. You may point out to the President that this request on his part seems unusual and unnecessary in view of the fact that Panama is in no wise obligated to grant any further request for transfers of jurisdiction.

- 3. This Government is unable to accept the Panaman proposal that the dividing line between the Zone and Colon follow the course of the streets and that the latter remain under Panaman jurisdiction. This Government would, however, consent to establishing the boundary line along the middle of the streets. You may point out to President Porras, however, that under such an arrangement Panama would be obliged to construct and maintain one half of the street paving which would not be the case if the boundary proposed by the United States were followed. The President of course understands that should the boundary be changed to follow the center of the streets a delay must necessarily occur while the new metes and bounds are surveyed and prepared.
- 4. The question of the statue of Christopher Columbus would not appear to be a matter to be covered by the treaty. However, should the treaty be negotiated this Government would have no objection to informing the Panaman Government by note that it can do what it pleases with this statue.
- 5. The United States would be willing to make proper allowance to Panama for the present value of improvements in the area to be ceded to the United States which were actually paid for by Panama. A number of these improvements were made by the Canal Zone and Panama contributed nothing to their cost. In such case of course no allowance can be made to Panama. The present value of the improvements for which compensation is to be made would be determined by the Joint Commission provided in Article I of the draft treaty.
- 6. The United States would consent to a cession of a small water area at the head of Boca Chica, covering the frontage involved in the recession provided for in the draft treaty. The line would be approximately as follows: From the intersection of the receded area and the Canal Zone in a straight direction to a point in about the middle of the Bay thence east to a point in the entrance of the Bay and thence north to land. The exact description of the water area ceded will be drawn up by the Canal authorities. The United States will also make full reservation regarding cables and cable landings already in existence or that may be required in the future.
- 7. In a desire to meet President Porras' urgent request for a conclusion of the treaty before October 1, this Government would be willing to consent to a modification of the last paragraph of Article IV of the draft treaty so that it shall provide that the Article shall

continue in force for twenty years from ratification of the treaty and thereafter for succeeding periods of seven years each.

You will of course make these proposals to the President orally and not in writing. You will also make it absolutely clear to the President that these very considerable concessions on the part of the American Government are made in a desire to meet the President's wish that the treaty be concluded before October 1, and that they are made purely on the understanding that the treaty will be concluded and ratified by Panama prior to October 1, and that should this not occur for any reason whatsoever these concessions will be considered as withdrawn and the United States will stand upon the proposals made in the treaty negotiations in Washington. Cable results of your conference.

HUGHES

711.192/92: Telegram

The Minister in Panama (South) to the Secretary of State

[Extract]

Panama, September 20, 1924-2 p. m.

[Received 8:10 p. m.]

91. Your 64 September 18, 5 p. m. The President informed me this morning that he agrees to the proposals contained in the Department's above-mentioned telegram. In regard to paragraph 1 of the Department's telegram, the alternative financial arrangement of prorating the cost of roads as construction progressed was unnecessary and therefore not mentioned by me. The President is inclined to leave the direction of the road to the engineers and sees no objection to using any road now built or contemplated which would be practicable.

The matter mentioned in paragraph 2 of the Department's telegram is no longer insisted upon.

As to paragraph 3 of the Department's telegram, the President desires the boundary line to be established along the middle of the streets; the construction and maintenance of one half the street paving is satisfactory. The Panaman engineers will be ready Monday morning to cooperate in any way with the Zone authorities in surveying and preparing the new metes and bounds.

The Department's proposals in paragraphs 4, 5 and 6 of its abovementioned telegram are accepted.

Concerning paragraph 7 of the Department's telegram the 20-year period and subsequent 7-year periods are acceptable provided the United States will give two instead of one year's notice of denouncement or abrogation before the expiration of the 20-year or any of

the 7-year periods. I hope that the Department will find it convenient to meet this request.

SOUTH

711.192/93: Telegram

The Minister in Panama (South) to the Secretary of State

Panama, September 21, 1924-9 a.m.

[Received 2:25 p. m.]

92. My 91, September 20, 2 p. m. The President has informed me that the new proposals were discussed in detail at yesterday's conference with the President-elect 19 which was also attended by the commissioners and that the new President is favorably inclined both to the signing and ratification of the treaty. Mr. Chiari is familiar with all previous negotiations.20

SOUTH

711.192/104: Telegram

The Minister in Panama (South) to the Secretary of State

Panama, September 26, 1924-noon.

[Received 6:55 p. m.]

100. My 99, September 25, 1 p. m.21 There is no prospect of reaching an agreement under the present administration. The President evidences the desire that the conversations should be allowed to be continued after October 1st. I have again informed him and the Commissioners that the Department's informal proposals are definitely withdrawn and that the negotiation will have to be continued between the two commissions in Washington after agreement had been reached upon the two principal points of contention. I regret exceedingly that the unforeseen developments in regard to

¹⁹ Rodolfo Chiari.

^{**} Hodoifo Chiari.

**Diffurther changes in the draft were proposed however by the Panaman negotiators and reported to the Department by the United States Minister, namely: in art. 2, that the boundary line be made definitive and perpetual; in art. 4, par. 1, that bonded warehouses be established in the Canal Zone only by the United States itself and not by private persons; in art. 6, last par., that the right of the United States to make use of the cities and harbors of Panama and Colon for anchorage, loading, etc., be exercised only "in case of emergency"; in art. 8, that the right of the United States to enforce quarantine and sanitary regulations be limited to those which were not of a strictly municipal character. regulations be limited to those which were not of a strictly municipal character. (File nos. 711.192/92, 97, 111.)

These proposals for further changes were unacceptable to the Department. n Not printed.

other matters prevented completion of the treaty at this time. I hope however that the Department feels that the circumstances justified the effort.

South

BOUNDARY DISPUTE WITH COLOMBIA

(See volume I, pages 287 ff.)

PARAGUAY BOUNDARY DISPUTE WITH BOLIVIA

(See volume I, pages 282 ff.)

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PERSIA

[The Department of State had hoped to print in the present volume of Foreign Relations the full record of the case concerning the killing of Vice Consul Robert W. Imbrie at Teheran, Persia, on July 18, 1924. However, when certain documents in the case were, in accordance with established practice, submitted to the Iranian Government with a view to obtaining permission for publication, that Government requested that the documents in question be not published at this time.

In view of the importance of the Imbrie case from the point of view of international law, the Department considered that it would be undesirable to publish only a part of the record since such publication would detract from a proper understanding of the case. In the circumstances the Department reluctantly reached the conclusion that it would be best to defer publication until such time as the Iranian Government was in a position to give its consent to the publication of the above-mentioned documents, and at that time to publish the entire record.]

DELAY IN THE CONFIRMATION OF AN OIL CONCESSION IN NORTHERN PERSIA TO THE SINCLAIR EXPLORATION COMPANY ¹

891.6363 Standard Oil/328

Memorandum by the Chief of the Division of Near Eastern Affairs, Department of State (Dulles)

[Washington,] January 24, 1924.

When Mr. Wellman ² called on me on January 23rd to take up the Mesopotamian oil question he read me, asking for any comments, correspondence between the Standard Oil Company of New Jersey and a person in the far west who had written to inquire of the Company whether it was true that they had joined with a British Company to exclude another American oil company from Persia. Mr. Wellman said that this was rather a serious accusation and that as they found out that the person making the inquiry was a substantial citizen they thought his letter should be answered.

¹ For previous correspondence concerning granting of the eil concession, see Foreign Relations, 1923, vol. π, pp. 711 ff.

² Guy Wellman, associate general counsel of the Standard Oil Co. of New Jersey.

Mr. Wellman then read the reply which the Company had already sent. This reply gave a somewhat full history of the negotiations of the Standard Oil Company of New Jersey with the Persian Government and the Anglo-Persian Oil Company with regard to North Persia, and explained the Company's cooperation with British interests on the ground of a pre-existing concession granted to Koshtaria and acquired from Koshtaria by the Anglo-Persian Company. Reference was also made to the conferences which the Standard Oil Company's representatives had had with the Department in December 1921, at which time, according to Mr. Wellman's letter, the Department had indicated that it favored a policy of cooperation rather than of conflict in Persia. As I recall (Mr. Wellman did not leave a copy), the letter also indicated that the Standard Oil Company proposed to defend their share of the Koshtaria claim acquired from the Anglo-Persian Oil Company.

After reading me this letter Mr. Wellman said that the Standard Oil Company had felt that it was desirable to make this frank statement, that they naturally planned to protect their interests. Mr. Wellman further indicated that the Standard Oil Company contemplated making the letter public. I told Mr. Wellman that I could not comment in any way upon the letter. It expressed the views of the Standard Oil Company not the views of the Department. I realized that the Company had a right to protect its interests in the way

which seemed best to it.

(The letter which Mr. Wellman read was of a character to precipitate the controversy between the Standard Oil and the Sinclair with regard to their rights and interests in Persia which will be inevitable in case the Sinclair concession is formally ratified. ered the impression from Mr. Wellman that the Standard Oil Company expected the Department to maintain a position of neutrality as between the 50% Standard Oil Company interest in the Koshtaria concession and the prospective 100% Sinclair Oil Company interest in the concession recently signed by the Persian Ministry but not ratified by the Parliament. Mr. Wellman apparently felt that the Department, in case issue should be joined on this point, would favor the settlement of the controversy by an impartial arbitration which would determine the respective merits of the Koshtaria and the possible Sinclair concession. I said that the Department, as far as I knew, had not definitely decided the course it would take in case the contingency to which he referred should arise. There were two possibilities, one that the Department might itself examine the records and claims of the rival American concessionnaires and decide which had a valid concession and therefore the right to support. On the other hand the Department might feel that the question was one for arbitration outside the Department.)

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Mr. Wellman as he was leaving said that Mr. Bedford's had recently expressed the view to him that the Standard Oil Company, by following the line of policy which the Department had favored in Russia and in Persia, had apparently been placed in a disadvantageous position vis à vis other Companies which were willing to go ahead irrespective of the Department's general policy. He then referred to the fact that the Standard Oil Company had refused Russian offers similar to those which had been taken up by the Sinclair. Mr. Wellman added that however this might be the Standard had no idea of changing the policy which it was following, namely, of taking into account what they considered to be the policy of this Government.

A[LLEN] W. D[ULLES]

891.6363 Standard Oil/347

The Persian Minister (Alai) to the Secretary of State

Washington, February 21, 1924.

Sir: Your Excellency has doubtless been informed that, in connection with the contract signed in December last by the Persian Government and the representative of the Sinclair Consolidated Oil Corporation in Teheran for the exploitation of petroleum in four of the five northern provinces of Persia, the Standard Oil Company of New Jersey have let it be known in a letter addressed by them to Mr. A. G. Berger on January 18th, referred to by the New York Times of February 4th last, as about to appear in the current number of The Lamp (a copy of the advance sheets of which is enclosed ') that they hold jointly with the Anglo-Persian Oil Company, Ltd., a British corporation, a one-half interest in the so-called Khoshtharia grants covering approximately three and one-quarter provinces in north Persia, and that they will take the proper steps to protect their rights and to develop a petroleum production.

In view of this attitude on the part of the Standard Oil Company of New Jersey, I deemed it advisable to publish, on my own initiative, a letter in the *New York Times* of the 8th instant, reciting briefly the various phases of my Government's negotiations with the Standard Oil and the Sinclair interests. That letter has, I understand, been brought to Your Excellency's attention, but nevertheless I enclose herewith a copy 4 to complete the record.

Having kept my Government informed of recent developments, I have just been instructed by the Minister for Foreign Affairs to submit the following points for Your Excellency's consideration.

^{*}Alfred C. Bedford, chairman of the board of directors of the Standard Oil Co. of New Jersey.

*Not printed.

In the first place, my Government reiterate the sentiments expressed in a memorandum which I had the honour of handing you shortly after my arrival in Washington on September 15, 1921, namely, that the Persian Government and people have always recognized the altruism and impartiality which distinguish the American Government and people. They particularly appreciate the concern of the United States for fair play, for the respect of the independence of the smaller nations and for the maintenance of the economic open door.

It was because of their implicit faith in the lofty ideals and trusted friendship of America that my Government, over a year ago, confided the reorganization of their finances to American advisers and have consistently courted the technical and financial cooperation of this country in the industrial and economic development of Persia.

In harmony with this desire for America's friendly cooperation my Government and the Madjless have consistently acted during the negotiations for an oil concession in the five northern provinces of Persia, as the following brief outline of the negotiations will demonstrate.

Early in November, 1921, the Standard Oil Company of New Jersey were approached by Mr. W. Morgan Shuster, as Fiscal Agent of the Persian Government, with a view to enlisting their interest in the development of the north Persian oil fields. As a result of these negotiations, I was able to submit by cable to my Government a draft agreement for a concession in the five northern provinces of Persia and for a five million dollar loan. Upon the receipt of this agreement, the matter was discussed in the Committees on Foreign Affairs and Public Works of the Madiless. After consideration in the Committee of the Whole, the Madjless passed a resolution approving the granting of a concession for the north Persian oil fields to the Standard Oil Company of New Jersey, and laid down certain conditions intended to safeguard the public interest, among which may be mentioned the condition that the Standard Oil Company of New Jersey should not, in any circumstances, assign or transfer this concession or enter into partnership without the approval of the Madiless. This condition was merely the enunciation of the fundamental policy of my Government that the capital employed must be entirely American. The resolution, of which a copy is enclosed, was communicated to the Standard Oil Company of New Jersey by Mr. Shuster, with a view to ascertaining whether it was prepared, as my Government hoped would be the case, to enter into an agreement in conformity with the conditions laid down therein.

Some months of negotiation ensued, during which representatives of the Anglo-Persian Company, Ltd., approached the Standard Oil

6 Not printed.

⁵ Printed in S. Doc. 97, 68th Cong., 1st sess., p. 87.

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Company and informed it of the exclusive rights which the former claimed in the north Persian oil fields under the supposed Khoshtharia concession. Thereupon, in February, 1922, the Standard Oil Company signified a desire to associate itself in the development of the Persian Oil fields on a fifty-fifty basis with the Anglo-Persian Company. Although I repeatedly requested it, I was never able to obtain from the Standard Oil Company a copy of its agreement with the Anglo-Persian Company, or any information as to its scope. Nevertheless, I was certain that an association of this kind would be distasteful to my Government and the Standard Oil Company was so advised by me. That Company, however, was insistent that this was the only plan upon which it would enter into the proposed concession and a new draft agreement was drawn up on this basis in February, 1922, and forwarded to my Government for consideration. This February proposal was rejected because of the association with the Anglo-Persian Company. On account of this association between the Standard and Anglo-Persian Companies and in order to give the Government more latitude in carrying on the negotiations, the Madjless on June 11, 1922, voted an amendment to its previous resolution, empowering the Government to negotiate a petroleum concession in North Persia with any independent and responsible American Company. With these broad powers, my Government extended the scope of its negotiations and sought proposals from not only the Standard Oil Company of New Jersey but from the Sinclair Consolidated Oil Corporation.

At the end of June, the Standard Oil Company indicated its willingness to conform to the resolution of the Madjless and to take and operate the concession entirely on its own account without entering into partnership with any other company so far as the carrying out of the concession was concerned. This new attitude of the Standard Oil Company, which, it will be observed, left out of consideration entirely any partnership alliance with the Anglo-Persian Company, was set forth in an initialed memorandum of June 30, 1922, a copy of which is herewith enclosed. At the same time, my Government was receiving proposals from the Sinclair Consolidated Oil Corporation through its representative in Teheran. Also after the receipt of the June memorandum, my Government sought more definite terms, in conformity therewith, from the Standard Oil Company, and a draft concession was forwarded to Teheran in the following August. With the Standard and the Sinclair proposals in hand, my Government, in view of the great importance of the concession and the vital interests involved, sought the views of the Madjless by laying both proposals before a special committee of that body.

Not printed.

After a thorough examination by this Committee and by my Government, the Standard declining to make any substantial modifications in their proposal or to send a representative to Teheran to discuss the matter directly with the Government, both sets of proposals were rejected because they did not seem to safeguard sufficiently the interests of Persia. In view of this, the Madiless deemed it best to pass a law laying down in greater detail the basis of a concession which my Government was authorized to grant to any independent and reputable American concern that might show interest in the matter. The Standard Oil Company of New Jersey did not show any inclination to meet the requirements of the law and made no proposals, but the Sinclair Consolidated Oil Corporation submitted terms following closely the conditions laid down in the Oil Law. The Standard manifesting no further interest in the concession, an agreement was consequently signed last December by the Government and the Sinclair representative in Teheran subject to the ratification of the Madjless, as the Sinclair Company was the only applicant in the field.

Now that there is at last a prospect of the northern oil fields of Persia being developed under purely American auspices, the Standard Oil Company of New Jersey advances certain claims on the basis of association with the Anglo-Persian Oil Company, Ltd., in the so-called Khoshtharia concessions.

I need not repeat the arguments laid in detail before Your Excellency in my note of January 3, 1922, which to your judicial mind will, I am sure, carry conviction that these so-called concessions are null and void. If the Standard Oil Company believed it had acquired any valid rights under these alleged concessions by virtue of association with the Anglo-Persian Company, why did it continue for two years to negotiate for a new concession with the Persian Government? The negotiation indicates the doubtful sincerity of the claims now advanced by the Standard Oil Company.

I cannot, therefore, but express surprise that a large American corporation should in these circumstances ally itself with a policy known by it to be repugnant to the Persian nation and openly declare that it maintains its so-called rights under the Khoshtharia concessions and that it proposes to enforce them in defiance of the Persian Government.

The Standard Oil made the mistake of yielding to the unwarranted contentions of the Anglo-Persian Oil Company. They were repeatedly warned by Mr. Shuster and myself of the strong feeling of suspicion inevitably entertained in Teheran, in view of past experiences, as to British motives and aims, and of the decision of the Persian Government to stand on the firm ground of the invalidity of the alleged Khoshtharia concessions. In spite of this warning, the

⁸ Printed in S. Doc. 97, 68th Cong., 1st sess., p. 94.

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Standard Oil Company made their proposal of February, 1922, to exploit the five northern provinces in association with the Anglo-Persian Oil Company on a fifty-fifty basis.

In view of the facts of the case and the known policies of my Government, Your Excellency will appreciate that the announced determination of the Standard Oil Company in association with the Anglo-Persian Company to enforce its rights under concessions which my Government regard as invalid, cannot be carried out within Persian territory with my Government's approval. Should, however, the Standard Oil Company of New Jersey, as an American concern, seek the assistance of the United States Government with a view to asserting its alleged rights in the North Persia oil fields, I, acting under instructions from my Government, beg you to take into consideration the history of this whole transaction as I have outlined it above:-the association of the Standard Oil Company with a British concern, in which the British Government has a predominant influence,—an association peculiarly distasteful to my Government, my Government's well-founded view that the concessions, on which these companies base their rights, are null and void, and also the earnest desire of Persia for American aid, free from foreign influences, in the development of her natural resources.

In conclusion, I am instructed to express again the gratitude of the Government and people of Persia for the friendly and valuable assistance already given them by Your Excellency and to formulate the hope that your Government will continue the policy of encouraging unalloyed American enterprise in Persia.

Pray accept [etc.]

HUSSEIN ALAI

891.51/336: Telegram

The Minister in Persia (Kornfeld) to the Secretary of State

Teheran, April 1, 1924—10 a.m. [Received April 1—8:20 a.m.]

28. James Grant Forbes, representing Blair and Company, New York, has arrived in Teheran to study Persia's securities for loan of \$10,000,000 provided in Sinclair contract.

KORNFELD

891.6363 Standard Oil/362: Telegram

The Minister in Persia (Kornfeld) to the Secretary of State

[Paraphrase]

Teheran, May 3, 1924—10 a.m. [Received May 3—5:30 a.m.]

36. Bill to ratify Sinclair contract was introduced in Mejliss by Prime Minister on April 19th. I have learned from reliable source

that a protest renewing the Khoshtaria claims has been addressed to the Persian Government by the British.

KORNFELD

891.51/340: Telegram

The Minister in Persia (Kornfeld) to the Secretary of State
[Paraphrase]

Teheran, May 15, 1924—4 p. m. [Received May 15—10:54 a. m.]

40. British Government has telegraphed its Chargé here that it cannot consent to hypothecation of Anglo-Persian royalties and southern customs for loan in United States before a settlement has been reached concerning Persian debts to Great Britain.

KORNFELD

891.51/846

The Minister in Persia (Kornfeld) to the Secretary of State

No. 510

TEHERAN, May 21, 1924.
[Received June 25.]

Sir: I have the honor to advise the Department that Mr. James Grant Forbes of Blair & Company, New York, left Teheran on May 19 for America to confer with his company regarding the loan which the Persian Government seeks to obtain in America. Before his departure, Mr. Forbes had a conference with the Prime Minister, Dr. A. C. Millspaugh, Administrator General of Finances, and the Minister of Finance at which it was decided to pledge all of Persia's revenues as security for this loan.

I have [etc.]

JOSEPH S. KORNFELD

891.6363 Standard Oil/375: Telegram

The Minister in Persia (Kornfeld) to the Secretary of State
[Paraphrase]

[raraphrase]

TEHERAN, June 30, 1924—11 a.m.

[Received 3 p. m.]

46. Sinclair representative here has been asked by Persian Government to give written engagement to defend rights under concession as against any claims based on grant by Imperial firman to Sepahsalar which was afterwards transferred to Khoshtaria, and to waive claim of any sort upon the Persian Government should an adverse judgment disallow Sinclair's title.

KORNFELD

891.6363 Standard Oil/376: Telegram

The Minister in Persia (Kornfeld) to the Secretary of State
[Paraphrase]

Teheran, July 3, 1924—3 p. m. [Received July 3—2:30 p. m.]

47. Referring to Legation's no. 46, June 30. Representative of Sinclair has refused to give engagement asked for by Persian Government. Accordingly the oil commissioners have stricken out article 25 of contract (Legation's no. 343) which denies validity of any other grants, and they have adopted instead article 29 of bill which affirms only that no other grant has been confirmed by Mejliss.

KORNFELD

891.6363 Standard Oil/380

The Minister in Persia (Kornfeld) to the Secretary of State

No. 593

Teheran, July 16, 1924.

[Received August 15.]

Sir: Referring to my telegram No. 47 of July 3, I have the honor to advise the Department that in a recent conference Prince Firouz, the Reporter of the Parliamentary Oil Commission, informed me that inasmuch as the representative of the Anglo-Persian Oil Company has interpreted the action of the Commission in substituting Article 29 of the oil bill as passed in June 1924 for Article 25 in the Sinclair contract as additional evidence of Persia's inability to defend her position with regard to the Sepahsalar concession, the Commission has decided to reconsider its action and to make the article read "the Persian Government declares that no other concession is valid".

With the exception of five points, the Commission has finished its study of the concession and expects to report out the bill by July 20.

I have [etc.]

JOSEPH S. KORNFELD

891.51/351 : Telegram

The Secretary of Legation and Acting Consul at Teheran (Murray) to the Secretary of State

Teheran, July 29, 1924—noon. [Received July 29—10:10 a. m.]

9. Soper ¹⁰ left for [Moscow?] yesterday informing Prime Minister that the resumption of negotiations would be determined by action of the American Government with regard to Imbrie killing.¹¹

Foreign Relations, 1923, vol. II, p. 720.

Ralph H. Soper, representative in Persia of the Sinclair Exploration Co.
 See bracketed note, p. 539.

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Prime Minister expressed great disappointment at his leaving at this time and offered to see that oil bill passed without loan provision if he would remain. There is reason to believe that Prime Minister would welcome disassociation of loan from oil bill not only because a loan to Persia at the present time seems problematical but because it would prolong life of the present Medjliss which he desires to close the moment the bill passes. Rumor is that Shah also favors closing and will order new elections.

MURRAY

891.6363 Standard Oil/382: Telegram

The Chargé in Persia (Murray) to the Secretary of State

[Paraphrase]

TEHERAN, September 18, 1924-noon.

[Received 12:40 p. m.]

123. Yesterday Prime Minister informed me in conversation that Mejliss had approved all principal clauses of oil concession save that providing for loan. He also gave assurances that if Sinclair would indicate readiness to take over concession, the stipulation for a loan could and would be dropped.

Since Soper went away the Government here seems to have lost touch with Sinclair. I should be pleased to be kept informed of course which Department may be contemplating.

MURRAY

891.51/361

The Chargé in Persia (Murray) to the Secretary of State

No. 647

TEHERAN, September 19, 1924. [Received October 22.]

Sir: Referring to the Consulate's telegram No. 9 of July 29, 1924 reporting the departure from Teheran of the representative of the Sinclair Exploration Company, I have the honor to inform the Department that, in a conference on September 17 with the Prime Minister immediately after his return from Khorammabad, I advised him of the departure, on September 11, during his absence, of Mr. Addison T. Ruan, representative of Ulen & Company. This together with the departure on July 28 of Mr. Soper, the Sinclair representative, closely subsequent to the killing of Vice Consul Robert W. Imbrie in Teheran would, I remarked, appear to have dealt, at least for the present, a severe blow to the "American economic program" in Persia so assiduously sponsored by the Prime Minister himPERSIA 549

self as well as by most Persian patriots. As both the Sinclair and Ulen projects were originally predicated upon the possibility of a Persian loan being floated on the American market, a more fatal blow could hardly have been struck at this program than the destruction of American confidence in Persia inevitably resultant from the killing of the American Vice Consul.

Before I could proceed to a discussion of the only asset remaining from the wreckage, the American financial mission, whose existence hangs now by a thread, the Prime Minister launched at once into the question of the oil concession and expressed his deep personal disappointment that, after three years effort, and an expenditure by the Persian Government of more than 300,000 tomans on telegrams alone, and the passage by the Medjliss of all but two of the articles of this concession, the Sinclair company now appeared to have lost interest in the fate of the concession and was willing to let it lapse. Despite repeated efforts on the part of the Persian Government to ascertain the intentions of the company since Mr. Soper's departure, no answer to its inquiries had been received.

I thereupon requested the Prime Minister to inform me exactly of the present prospects for the passage of the oil concession and promised him I would do what was possible under the circumstances to obtain, through the Department, information from the Sinclair company as to its intentions. He then assured me that the concession could and would pass the Medjliss if that body were sure of its acceptance by the Sinclair company, and that he personally would see that the loan clause was eliminated. It was desirable that Persia find money, it was true, but in view of the urgent necessity of resuscitating her economic life, the question of an immediate loan could be disregarded.

As the circumstances attending the passage, up to the last important article of this concession, despite America's disinterest and the bitterest opposition of the British, are so remarkable, the Legation would find it very helpful if the Department were inclined to instruct it as to the best policy to follow in the circumstances.

Since my arrival in Teheran in April 1922, I have watched closely the evolution of this exceedingly complicated question so that I trust the Department will not take it amiss if I venture to offer the following observations based on my personal acquaintance with the issue from this angle.

- 1. It is unquestionable that the Standard Oil Company could, in November 1921, after the decision of the Medjliss to negotiate with that company for the award of the oil concession in the northern provinces, have had it for the asking. This was never done.
- 2. It is equally as unquestionable that, after the alliance between the Standard Oil Company and the Anglo-Persian Oil Company

and the subsequent incredible offer to the Persian Government to exploit these provinces on a basis of 50-50 participation with the Anglo-Persian Oil Company, the Standard Oil Company could have obtained the concession by no means short of a miracle. A most casual knowledge of the state of Persian sentiment (right or wrong) towards the British since the ill-fated Anglo-Persian Agreement, and of Soviet Russian sentiment since the collapse of Britain's attempt to seize Baku in 1919 should suffice to prove the truth of this statement.

- 3. Any company, American or otherwise, that obtains the concession to exploit these provinces must, of necessity, have made its peace, at least economic, with Soviet Russia. It is obvious from a glance at the geographical lay of these fields that, barring unexpected events in Russia, the Soviets have, and will continue to have, the last say as to the development of these resources in North Persia. The key of these resources is the Caucasus, and that key is in Russia's possession.
- 4. It is exceedingly unlikely that, even granting the recent Anglo-Soviet Russian reconciliation, such as it is, and the possibility that an agreement will be reached on a mutual policy and plan of action elsewhere, such a cooperation could easily be arrived at with regard to the Asiatic policy of these Powers. Hence, were American economic intervention in North Persia for the moment blocked or even definitely defeated, it is inconceivable that Great Britain will be able to obtain what she may have prevented America from obtaining.

The advantage to Britain of such a "negative victory" is, however, by no means to be underestimated. Great Britain's interest in Persia dates from the seventeenth century, and her policy may be said to be geared to centuries, whereas ours is scarcely geared to years. She can wait.

It is furthermore the conviction of the Prime Minister, as of most enlightened Persians, that the policy of the Standard-Anglo-Persian combination in seeking to acquire these fields was purely that of the dog-in-the-manger awaiting a new turn in Russia and an absorption on world markets of a greater oil supply without menacing present prices.

5. If American participation in the development of Persia is to be regarded as desirable, the circumstances attend[ing] the competition of these two American companies for the concession may be regarded as unfortunate, and this for the following reason, namely:

Whereas the British Government would appear to have regarded the Standard Oil Company, by virtue of its alliance with the Anglo-Persian Oil Company, a company in which 50% of the stock is owned by that Government, as entitled to the mobilization of the last ounce of influence available to the British Legation at Teheran in PERSIA 551

order to acquire, in the American company's name, a concession that doubtlessly would have passed eventually into the complete possession of the British shareholders, the American Government, justly, of course, was obliged to regard both of the American companies as equally entitled to the support, or rather to the neutrality, of the American Legation in Teheran. Hence the anomalous situation of one American company competing without the assistance of its Government's representative against another American company enjoying the fullest protection and support of a foreign Legation. It may therefore be safely stated that, had the American Government been in a position under the circumstances, to have lent its open assistance in the matter, the concession would doubtlessly have been granted two years ago.

I have [etc.]

W. SMITH MURRAY

891.6363 Standard Oil/384a: Telegram

The Acting Secretary of State to the Chargé in Persia (Murray)

[Paraphrase]

Washington, October 14, 1924-7 p. m.

99. According to reports from Persia appearing in press, the Persian Government has received a telegram from an official of the Sinclair Company accepting North Persian oil concession. It is stated also that the stipulation for a loan is omitted from the contract. Information has not reached the Department that concession in complete form has been confirmed by the Mejliss (Legation's 123, September 18). Department awaits your report on the actual status of the oil concession and on the correctness of the above press reports. Soper and others of Sinclair Company when calling recently at Department did not express any expectation that an agreement would be reached so soon.

Grew

891.6363 Standard Oil/385: Telegram

The Chargé in Persia (Murray) to the Secretary of State

[Paraphrase]

Teheran, October 17, 1924—10 a. m. [Received October 17—9:48 a. m.]

153. Referring Legation's 123, September 18, and Department's 99, October 14. Yesterday I was informed by Dr. Millspaugh that Sinclair Company has in fact accepted concession as reported in papers. But it is still necessary to obtain from Mejliss final confirmation of contract with omission of the provision for a loan.

About October 8 I had heard rumors of Sinclair Company's acceptance, but I did not then think it expedient to attempt to approach the Persian Government in the matter.

In opinion of Millspaugh the concession, omitting reference to loan, could and should pass Mejliss.¹²

MURRAY

NEGOTIATIONS BY ULEN & COMPANY FOR A CONTRACT TO BUILD RAILWAYS OR MOTOR ROADS IN PERSIA

891.77 Ulen & Company/3

The Consul at Teheran (Gotlieb) to the Secretary of State

TEHERAN, January 22, 1924. [Received March 10.]

COOPERATION OF SINCLAIR EXPLORATION COMPANY AND ULEN COMPANY
IN PERSIAN BOND ISSUE

I have the honor to refer to my report of January 2, 1924 (877) entitled "Projected Persian Railways" 18 wherein I mentioned the expected arrival of Mr. Lawrence Bennett, representing the Henry Ulen Company and Stone & Webster (the two concerns are now in partnership), and discussed the probable connection of his visit with the pending concession for the exploitation of North Persian Oil by the Sinclair Exploration Company.

Mr. Lawrence Bennett arrived in Teheran on January 17th., and certain developments have since taken place which are of the best possible augury for the harmonious cooperation of American capital in North Persia.

The second day following his arrival Mr. Lawrence Bennett called at this office and fully outlined his intentions, requesting that the Consulate assist him to get into touch with Mr. Ralph Soper, representative in Persia of the Sinclair Exploration Company with a view to cooperate financially in Persian affairs. Mr. Lawrence Bennett stated that the sole interest of his concern was in the construction of public works, including railroads, that they had no interest whatever in oil exploitation, and no affiliations with either the

18 Not printed.

¹² A memorandum by George Wadsworth of the Division of Near Eastern Affairs, Department of State, June 30, 1925, indicates that the Sinclair Exploration Co. had telegraphed to the Persian Government that because of the failure of their negotiations with the Soviet Government in connection with their interests in Russia the company was not in a position to pursue further the question of the exploitation of a concession for the North Persian oil fields (file no. 891.6363 Standard Oil/405).

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Standard Oil Company or with any foreign interests and that a brief review of the local situation had convinced him of the advisability of cooperation with the Sinclair financially.

I was very happy indeed to place him in touch with Mr. Ralph Soper, and had the privilege of assisting at a most interesting interview between the two gentlemen. Mr. Lawrence Bennett briefly advanced the above information regarding his connections, emphasized the fact that his company had no interest whatever in oil and stated that the sole object of his visit was the construction of public works for the Persian Government upon a cost plus basis, the Persian Government to advance the necessary funds for construction purposes. As an incentive, it had been contemplated to arrange for the disposal of a Persian bond issue in the United States through the connections of Ulen Co., and Stone & Webster, the proceeds of this loan to be earmarked for construction purposes.

A review of the local situation, Mr. Lawrence Bennett frankly concluded, had convinced him that unless his principals cooperated with the Sinclair Company, nothing could be done in this direction. Under the terms of its oil concession approved by the Persian Government and awaiting ratification by the Medjliss, the Sinclair Company had already undertaken to float a loan of ten million dollars for the Persian Government upon satisfactory security.

There could be no doubt that the American market would not absorb two Persian bond issues. He was accordingly convinced that the sole way out of the difficulty was cooperation with the Sinclair Company, and was quite certain that his principals would be willing to arrange for the flotation of five million dollars of the proposed Sinclair loan.

Like a good diplomat, however, Mr. Lawrence Bennett did not draw attention to what probably constitutes the main motive of his willingness to cooperate. The Sinclair loan is to be made upon satisfactory security. It has been definitely understood that the Anglo-Persian oil royalties are to constitute this guarantee. Consequently, Mr. Lawrence Bennett found himself confronted with the preemption of the only really giltedged security in the country for the purpose of backing up the Sinclair loan. Cooperation with the Sinclair, consequently, was the only solution of the problem.

Mr. Lawrence Bennett concluded with the suggestion that he tele-

Mr. Lawrence Bennett concluded with the suggestion that he telegraph his principals of the proposed cooperation in financing this loan, and that Mr. Ralph Soper do likewise.

Mr. Ralph Soper replied that he had no objection whatever, assuming that the Ulen Company had no other connections than those stated, to cooperating to the best of his ability. He offered to cable his principals as suggested, and expressed his personal gratification at the prospect of American capital actively cooperating in North

Persian affairs. For two companies such as Ulen Co., and Sinclair to be at cross purposes, and both actively engaged in trying to float a loan, could not but injure the prospects of both parties; the Persian Government, as well as other interested foreign powers, would only be too ready to take advantage of such dissension.

Of course, there is no doubt that it is in the interest of the Sinclair Company as well, to enter into the proposed arrangement. Under the best of conditions it would be an extremely difficult matter for the Sinclair unaided to float ten million dollars worth of bonds in the United States, and the proposal of the Ulen Company to take over half the issue cannot but be welcome.

The main difficulty with which Mr. Lawrence Bennett is confronted, of course, is in arranging for the loan, when made, to be expended upon his Company's construction projects, whatever form they may take. Mr. Ralph Soper went into this matter rather at length. The Sinclair Company is, of course, not concerned with the disposition made of the loan when raised, by the Persian Government. The general impression is that the Premier, Reza Khan, intends to employ the proceeds, or a part of them, for productive purposes.

Mr. Lawrence Bennett may encounter no little difficulty in persuading the Persian Government to accept his proposal in its present form. Persian Government circles are undoubtedly under the impression that he is here for the purpose of negotiating a railroad concession, and not a contracting project. There are rumors to the effect that the Premier's intention is to build railroads with Persian capital, from the Sinclair loan and possibly the proceeds of a mortgage of the crown jewels with which possibly \$10,000,000 might be raised abroad. On the other hand, the Government may desire to give a railroad concession, with mineral rights along the right of way and in return for which a second loan should be raised in the United States. It is too early as yet to determine just what the attitude of the Government may be in this regard.

It is my opinion that Mr. Lawrence Bennett will find it most difficult to get the Persian Government to consent to earmark the proposed loan which his company desires to make in collaboration with Sinclair, for construction purposes. He may succeed in having a part of it thus alloted, but even 50% would prove very little indeed for practical purposes.

... I do not believe that the Persian Government realizes the immense cost of such a project.^{13a} It is the opinion of Persia's foreign

^{18a} A railroad connecting the Caspian Sea and the Persian Gulf.

PERSTA 555

well-wishers locally that Persia's economic future would be better served by concentration upon a road building scheme and encouragement of motor-truck transport which would be sufficient to handle existing freight for a long time to come. But the vision of a trunk line joining up North and South Persia, with resulting military advantages, has a very strong hold indeed upon the minds of the Premier and his counsellors.

Mr. Lawrence Bennett is of the opinion that if a railroad project is insisted upon, it could be accomplished only by slow degrees—two hundred miles of road could be built within the next few years and measures subsequently taken to finance an extension of the project. I do not believe that Mr. Lawrence Bennett himself as yet realizes the opposition that may be encountered in this connection from foreign quarters. The Government is supposed to have the intention of commencing operations from the Persian Gulf and building north. The Russians would certainly object to any such procedure. On the contrary, the British would certainly not look kindly upon an attempt to start operations from the Northern end. Perhaps a modus vivendi may be arrived at by pursuing operations simultaneously from both the Caspian and Persian Gulf ends.

On the whole, my personal conviction is that Mr. Lawrence Bennett started from the United States with the intention of doing business with the Persian Government independently of the Sinclair. The granting of the concession while he was en route deranged his plans, and certain local happenings lead me to believe that he received instructions immediately upon his arrival to cooperate with the Sinclair Company. Dr. A. C. Millspaugh, 14 from what Mr. Lawrence Bennett himself says, advised him to combine with Sinclair if possible.

Both parties are now awaiting advice from their principals. It is to be hoped that these two companies find collaboration practicable as a united front locally would render the task of both much easier.

Mr. Ralph Soper is at present awaiting the arrival of a representative of his company who left for Teheran last week with a view to arranging for the flotation of the proposed loan.

Mr. Lawrence Bennett expects Mr. Ruan of the Ulen Company, who has been detailed for a similar purpose, to arrive within a month's time.

I shall keep the Department duly informed of developments.

Respectfully submitted

BERNARD GOTLIEB

¹⁴Administrator General of the Finances of Persia.

891.77 Ulen & Company/4

The Consul at Teheran (Gotlieb) to the Secretary of State

TEHERAN, January 26, 1924. [Received March 7.]

INTERVIEW OF ULEN COMPANY REPRESENTATIVE WITH PRIME MINISTER

Referring to my report of January 22, 1924, entitled "Cooperation of Sinclair Exploration Company and Ulen Company in Persian Bond Issue", I have the honor to inform the Department that Mr. Bennett interviewed the Prime Minister, Reza Khan, yesterday morning. He stated that his firm was interested in the construction of public works for the Persian Government and requested that the Government inform him of its intentions, and as to just what projects it desired to accord priority of construction. Reza Khan, of course, lost no time in enlarging upon . . . the construction of a railroad to a Persian Gulf port; the Prime Minister declared that he would be most happy to enter into relations with a reputable American Company with a view to its realization.

Mr. Bennett specifically inquired whether the field was clear and whether any obstacles existed in the way of prior concessions or options. The question of the British controlled Persian Railways Syndicate's existing option on both the Mohammerah-Khoramabad line and the Khanikin-Teheran line was raised. Reza Khan was inclined to regard them both as having lapsed; Mr. Bennett privately expressed to me his opinion that they would bear looking into, as well as his disinclination to undertake especially the southern railway project if any prior British claim existed which could be utilized as propaganda against the Persian loan which his company might desire to float in the United States in this connection.

Mr. Bennett, in concluding, requested of Reza Khan that the Persian Government apprize him of the specific project which it had in mind, in order that he might transmit same to his company.

He also asked the Prime Minister whether he would be disposed to sign a preliminary contract for perhaps six months duration, in the event that the Government's offer was adjudged to be practicable, and Reza Khan stated that he had no objection to so doing.

Within the next day or so, I hope to have in my possession certain correspondence between the Persian Government, the Persian Railways Syndicate (holders of the so-called option), the text of the 1920 option on the construction of the Khanikin-Bagdad route, and several letters of Prince Firouz, former Persian Premier, of which

I shall send copies 15 to the Department, which, I do not believe, has as yet had this information communicated to it.

Respectfully submitted

BERNARD GOTLIEB

891.77 Ulen & Company/2: Telegram

The Minister in Persia (Kornfeld) to the Secretary of State

[Paraphrase]

TEHERAN, February 15, 1924—noon.
[Received February 15—7:08 a. m.]

15. I have been asked informally by the British Minister to explain to Bennett that the British will uphold validity of option granted to the Persian Railways Syndicate. British Minister also made it plain that, while American interests would be gladly admitted to participation, yet if either Persia or America declined to accept an arrangement Persia's chief securities could not be pledged to American loan until British claims against Persia had been taken care of. I was given to understand also that the British might consider it necessary to revert to the economic, although not the political, arrangements of 1907 in order to safeguard their interests.

KORNFELD

891.77/56

The Minister in Persia (Kornfeld) to the Secretary of State

No. 382

TEHERAN, February 21, 1924.

[Received April 5.]

Sir: Referring to Legation's telegram No. 7 dated January 26, 11 a. m., and Legation's despatch No. 364 dated January 28, 1924, 16 I have the honor to advise the Department that, in a recent conference with the Prime Minister, the latter informed me that the Persian Government has decided not to undertake to build railroads until Persia's coal and iron resources will have been thoroughly investigated, in the hope that it will be found that Persia can manufacture the steel necessary for railroad construction. In the meantime Mr. Bennett is to prepare a project for the building of metalled roads and to enter into communication with competent engineers to make a study of Persia's coal and iron resources.

I understand that this change is perfectly acceptable to Mr. Bennett.

I have [etc.]

JOSEPH S. KORNFELD

¹⁵ Not printed.

¹⁶ Neither printed.

891.77 Ulen & Company/2: Telegram

The Secretary of State to the Minister in Persia (Kornfeld)

[Paraphrase]

WASHINGTON, February 26, 1924-3 p.m.

- 16. Legation's 15 of February 15, noon, and 17 of February 23, noon.17
- 1. Portions of Bennett's cables of February 6 and 8 18 regarding state of his negotiations have been confidentially referred to Department by Ulen & Company. Purport of these passages seems to be that if the British should insist on the settlement of their claims for war-time subsidies to Persia it would become difficult to float an American loan to Persia for its road-building projects. There is also evident in Bennett's messages a wish that the Legation be instructed to give diplomatic support in putting through, without reference to British claims, an American loan of reasonable sum which shall have acknowledged priority.
- 2. You are instructed to lend every proper assistance to American enterprises in Persia. But, while the Department will uphold the principle of equal opportunity, it does not approve the practice of intervening abroad in order to facilitate the floating of foreign loans in the United States. Department's 11 of February 12, 2 p. m.19 sufficiently explains its position. To avoid misunderstanding, Bennett should be advised of Department's general attitude.
- 3. Report by cable and pouch concerning railway options claimed by British, about which Department has insufficient information.
- 4. Report any advance made toward settling the British claims against Persia referred to in Legation's 17 of February 23. Also inform Department by cable if there should be any manifestations of British policy as mentioned in Legation's 15 of February 15, noon.

HUGHES

891.77/52

The British Ambassador (Howard) to the Secretary of State

No. 226

Washington, March 12, 1924.

SIR: Under instructions from His Majesty's Principal Secretary of State for Foreign Affairs I have the honour to inform you that

Latter not printed.
 Neither printed.
 Not printed; it stated that if consulted with regard to a loan to Persia the action of the Department would be limited to indicating whether or not there was any objection under the circumstances to the proposed flotation of a loan in the United States without assuming any responsibility in connection with such flotation (file no. 891.01/5).

the attention of His Majesty's Government has been drawn to the fact that an American group has been negotiating for a concession from the Persian Government for the construction of a railway from Mohammerah to Khorrembad and Tehran.

It is the desire of His Majesty's Government to be perfectly frank with the United States Government in this matter and in order to avoid the possibility of future misunderstanding or conflicting claims I have been instructed to communicate to you in the most friendly manner the two memoranda enclosed herein,20 which explain the history and scope of British railway rights in Persia.

Notwithstanding the prior rights enjoyed by British interests as set forth in these memoranda His Majesty's Government look favourably upon the co-operation of American firms of good standing with the Persian Railway Syndicate in these matters, and you will recall that efforts were made in the course of last year to secure such American participation.

In the circumstances, I have the honour to express the hope that you will see your way to communicate to the American interests, who are seeking the concession above referred to, the facts regarding British railway rights in Persia.

I have [etc.]

ESME HOWARD

891.77/52

The Secretary of State to the British Ambassador (Howard)

The Secretary of State presents his compliments to His Excellency the British Ambassador and has the honor to acknowledge the receipt of the communication of March 12, 1924-No. 226-transmitting copies of certain documents relating to the claim of British interests to railway rights in Persia and indicating the attitude of His Majesty's Government respecting the cooperation of American firms with the Persian Railway Syndicate. Due note has been taken of the views expressed in this communication and of the copies of documents transmitted therewith.

Washington, April 11, 1924.

891.51/344

The Minister in Persia (Kornfeld) to the Secretary of State

No. 468

TEHERAN, April 25, 1924.

[Received June 4.]

Sir: I have the honor to enclose herewith memorandum submitted to me by Mr. L. E. Bennett,20 representing the Ulen & Company of

²⁰ Not printed.

New York City, relating to the loan his company would have to negotiate should it be awarded the contract for the construction of railways or motor roads in Persia.

To my mind, Mr. Bennett's suggestion to combine the Ulen loan with that of the Sinclair Exploration Company has much in its favor. Mr. Lambert Molitor, the Director General of Customs, advises me that normally the Persian customs amount to Tomans 6,000,000 per annum. Of this, 2,500,000 are pledged for the yearly interest and amortization of the funded British loan. The remaining 3,500,000 ought to be sufficient for the payment of the interest and amortization of a loan of \$20,000,000, provided, of course, that the Persian Government would obligate itself not to divert any of these customs for any other purpose. The best assurance for this would be the continuance of the American Financial Mission. Unless the Ulen company succeeds in combining its loan with that of the Sinclair company, there is no doubt that the latter would endeavor to obtain a lien on all these customs. The only collateral that would then be available would be the Anglo-Persian oil royalties. which, though the property of the Persian Government, the British might oppose being given as security for an American loan for the construction of railways for which they claim to have an option.

In view of the statement made to me by the Prime Minister in regard to the manner in which Persia intends to draw the funds placed to her credit by an American loan, (see Legation's despatch No. 467 of April 23),²¹ it would appear that there is a far greater sense of responsibility and economy in the present government than in those that preceded it. There is every indication that this government will maintain itself for some time; but even if it should fall sooner than expected, it will have set a wholesome example to its successors. This therefore would seem to be an opportune time for American enterprise to gain a foothold in Persia. If the Ulen company's project could be launched it might be the beginning of a great industrial movement in Persia.

I should be very pleased if the Department would communicate to me its impression of the views expressed in the enclosed memorandum.

I have [etc.]

JOSEPH S. KORNFELD

²¹ Not printed.

891.77 Ulen & Company/16

The Minister in Persia (Kornfeld) to the Secretary of State

No. 476

Teheran, April 29, 1924.

[Received June 4.]

Sir: Referring to the Legation's telegram No. 35 of this date,²² I have the honor to enclose herewith copy of the memorandum of agreement between the Persian Government and Ulen & Company for the submission and consideration of the proposal for the investigation, planning, and construction of railroads or motor roads in Persia.

I have [etc.]

Joseph S. Kornfeld

[Enclosure]

Memorandum of Agreement between the Persian Government and Ulen & Company of New York, Signed at Teheran, April 27, 1924

Memorandum of agreement between the Government of Persia, hereinafter called the Government, and the firm of Ulen & Company of New York, U. S. A., hereinafter called the Company, for the submission and consideration of a proposal for the investigation, planning and construction of certain railroads or motor roads or both, as the Government may decide as follows:

A railroad and motor road, from Bender-Jaz passing through Teheran to Mohammerah to start from either of the two points or both simultaneously. Also the Company will prepare a separate proposal at any time for a metalled road from Kazvin to Tabriz approximately three hundred miles in length. If motor roads are constructed the roads may be so designed and built that they can be easily converted and transformed into railroads at any time the Government may desire.

ARTICLE I. The Company will agree to begin the construction of either one railroad or motor road or two railroads or motor roads simultaneously and starting at such points on the Caspian Sea and the Persian Gulf as the Government may indicate to the Company always provided there is a navigable deep water port where transportation facilities are afforded for the loading and unloading of the contractor's tools and equipment and necessary materials indispensable for the proper carrying out of the work. If one of the railways starts at Bender-Jaz on the Caspian Sea, then the Government will arrange the matter of transportation wherever it may be necessary through any foreign state, for the tools, equipment and materials required to be imported for construction purposes.

²² Not printed.

ARTICLE II. The Company in accordance with the conditions hereinafter stipulated, agrees to submit to the Government within three months from the date of the acceptance of the proposal, a proposal to investigate, plan and construct the aforesaid railroads or motor roads referred to in Article I.

ARTICLE III. The Government agrees herewith to immediately consider the said proposal and with all possible despatch and promptness to arrive at a decision in the matter. The Government further agrees not to negotiate with anyone else for the same work until the proposal of the Company is disposed of by being approved or rejected.

ARTICLE IV. The proposal to be submitted shall state that the Company will accept as partial payment for its services and expenses incidental to the carrying out of the contract, external bonds of the Government of Persia in an amount not to exceed \$10,000,000 face value. The acceptance of said bonds as partial payment shall be conditioned upon the Government supplying for the work each month funds equivalent to one half of the face value of the bonds accepted by the Company. The said bonds shall be a direct obligation of the state and shall be secured by specific and well established revenues equal to at least twice the annual service charge of the loan and shall be duly guaranteed as to principal and interest to the satisfaction of the bankers.

Note: It is understood by the Company that the Government will be in a position in the near future to supply another \$5,000,000 for construction of railways or roads. Therefore it is anticipated that the Government will be willing to enter into a contract with Ulen & Company for say \$15,000,000, one third of which or \$5,000,000 the Government will supply in cash from its other sources and two thirds or \$10,000,000 in bonds shall be subscribed by Ulen & Company.

That is to say that for every bond of \$1000 which is subscribed by Ulen & Company, the Government will subscribe \$500 in cash.

ARTICLE V. The proposal shall further state that the Company shall make the investigations, prepare the plans and do all the work in connection with the proposed railroads or motor roads. As compensation for its services the Company shall receive from the Government a fixed fee based upon a reasonable percentage of the cost of the work and shall also receive reimbursement for all costs and expenses incurred by it in the performance of the contract.

ARTICLE VI. The method of reimbursement to the Company for the costs and expenses incurred in the performance of the contract and the payment of the Company's fixed fee for its services, as well as the general conditions of the bond issue (which shall be in accordance with the requirements of the bankers) shall be freely set

forth in the proposal. The final details of the bonds, the trust agreement, etc., shall be stipulated in the final contract to be signed.

ARTICLE VII. The proposal shall also state for a period of thirty days after the ratification of the contract, the Government shall have the right to sell the bonds to other parties and in that case to pay the Company in cash instead of bonds.

ARTICLE VIII. It is understood that iron and coal mines exist in places through which the proposed railroads should pass and the Persian Government desires to utilize these mines for the construction of the railroads. The Company is prepared to undertake investigations of any known iron or coal mines in the proximity of the railroads, said investigations to be undertaken for account of the Government. The Company will organize a Commission of Experts in the United States with the cooperation and approval of the Persian Minister in Washington. The Experts will be competent high class specialists who will study the matter of mines thoroughly and impartially with a view to their use in supplying materials for the construction and operation of the railroads. The construction of the railroads and motor roads and the investigation of the mines by a Commission of Experts may proceed simultaneously as the two works are not inconsistent with each other.

The Commission of Experts will at the earliest possible date submit their report to the Persian Government which will include a wide scope of study such as the probable extent of the mineral deposits, their quality and availability for practical use in connection with the proposed railroads, the estimated cost of developing and exploiting the mines and manufacturing iron and steel for railroad purposes, the approximate capital required and every other important aspect of this problem which will enable the Persian Government to arrive at an intelligent understanding and decision about this important matter. The Persian Government will then decide whether or not to proceed with the exploitation of the mines. the report of the Expert shows that mines exist and it is practical and economical to work them and manufacture iron and steel materials in Persia, then the Government can proceed and may count always upon the loyal cooperation of the Company to assist in every practical manner within its power.

ARTICLE IX. The Company declares itself entirely in sympathy with the commendable desire of the Government to develop the natural resources of Persia and use in the construction of the railroads as many products of Persian origin as possible. The Company binds itself to use in the construction of the railroads, any and all kinds of suitable materials which can be procured in Persia and delivered onto the work for practical use as cheap or cheaper than foreign materials.

ARTICLE X. Upon acceptance by the Government of the proposal to be submitted a definite contract shall be prepared and signed by the legally authorized representatives of the contracting parties and shall be duly approved and guaranteed by the National Madjliss in accordance with the laws of Persia.

ARTICLE XI. Should it appear that the contract falls within the provisions or scope of any previous agreement, option, or preferential right which affects any other person, company or entity, the Government of Persia will take the proper steps to arrange the matter.

ARTICLE XII. Inasmuch as the bankers of the United States uniformly decline to undertake any foreign loans until the same shall have been submitted to the Government at Washington, the obligation of the Company to submit a definite proposal is contingent upon that Government raising no objection thereto.

ARTICLE XIII. In case the parties do not arrive at a final agreement and do not sign a definite contract, there will be no obligation on the part of the Government to reimburse the Company for expenses incurred by the Company on account of the negotiations.

For the Government of Persia:

For Ulen & Company:

REZA

L. E. BENNETT

President of the Council of Ministers

Vice-President

TEHERAN, April 27, 1924.

891.77 Ulen & Company/17

The Minister in Persia (Kornfeld) to the Secretary of State

No. 477

TEHERAN, April 30, 1924.

[Received June 4.]

Sir: I have the honor to advise the Department that, in response to the request of Mr. L. E. Bennett of the Ulen company that the latter communicate to him the opinion of Mr. Mallet-Prevost, the company's counsel, regarding the validity of the alleged British option for the construction of railways in Persia, he received the following cable:

"Mr. Mallet-Prevost has studied carefully all the documents sent him regarding the alleged British option on railway construction in southern Persia. He finds the position taken by the Persian Government is sound and considers they have no legal option or preferential right. They sent engineers to Persia and made certain surveys and studies for railway construction and the government tacitly allowed their engineering investigations to go on and they may have a claim for reimbursement of their expenses for work done but nothing more."

I have [etc.]

JOSEPH S. KORNFELD

891.77 Ulen & Company/23: Telegram

The Chargé in Persia (Murray) to the Secretary of State

[Paraphrase]

Teheran, September 1, 1924—10 p. m.

[Received 11 p. m.]

113. Ruan of Ulen Company has today been recalled by his principals. He has been instructed that, in view of late occurrences in Persia and elsewhere, he is at once to wind up his discussions with the Persian Government, and to join Mr. Ulen in Europe for conference.

Ruan will not now submit his company's proposals to the Persian Government, and he expects to depart immediately, although his option for construction of railways will not terminate until September 25. His view seems to be that prospects are dubious for Ulen Company in Persia since Imbrie's death and since Sinclair agent has left country. Ulen and Sinclair had practically arranged to unite in loan to Persians, and Ruan feels that success of joint enterprise is now uncertain.

MURRAY

RETENTION BY THE UNITED STATES AND OTHER POWERS OF THEIR EXTRATERRITORIAL RIGHTS IN PERSIA

891.512/-: Telegram

The Secretary of State to the Minister in Persia (Kornfeld)

Washington, July 31, 1923-5 p.m.

17. Department is informed that you and other diplomatic representatives in Teheran addressed a note to the Persian Government on the subject of taxation of foreigners in Persia. If so telegraph date and substance of the communication and mail full text immediately.

HUGHES

891.512/4

The Minister in Persia (Kornfeld) to the Secretary of State

No. 231

TEHERAN, August 5, 1923.

[Received September 2.]

Sir: Referring to the Legation's despatch No. 225 of July 25²⁸ and the Department's telegram No. 17 of July 31, I have the honor to transmit herewith copy and translation of a joint note sent to the

²⁸ Not printed.

Persian Government on June 14, 1922, protesting against the imposition of municipal taxes on subjects enjoying the capitulations. I have [etc.] Jos. S. Kornfeld

[Enclosure-Translation]

The Diplomatic Representatives in Persia of the United States, Great Britain, France, Belgium, and Italy to the Persian Minister for Foreign Affairs

[TEHERAN, June 14, 1922.]

The question of payment by foreigners of the taxes established by the Municipality has been for some time the subject of exchanges of view between the Imperial Minister for Foreign Affairs and the various Legations. Desirous of finding a just solution to this question, their Excellencies, the Ministers of Great Britain, France, United States of America, as well as the Chargé d'Affaires of Italy, agreed with the Dean of the Diplomatic Corps to examine it in the most conciliatory spirit. From this examination, it has resulted that there is reason to distinguish in this request two essential points:

1) regard for the text of the treaties as far as the importation of merchandise from abroad is concerned;
2) the legal uniformity of the taxes which the Municipalities might impose and the guarantees as to their application.

In considering the first of these distinctions, the representatives of the Powers above-mentioned have deemed that it would be absolutely impossible for them to admit any tax contravening directly the texts of the treaties. Now the prescriptions imposed by the Municipality providing that foreign merchandise must pay a tax on entering the Municipal territory is in contravention of these texts.

The latter stipulate in fact that merchandise, imported from abroad having on its entrance into Persia paid the customs duties regularly established, will not be subject to the collection of any further duty. No exceptional tax can be claimed. Merchandise imported from abroad after having paid the customs duty must, under these conditions, be transported freely to the interior of the country as far as their destination without any Municipality having the right to intervene and exact taxes affecting the transportation of merchandise. This principle established—and the undersigned chiefs of missions do not doubt that it is recognized as just by the Imperial Government—the pretension of the Municipalities submitted for their approval by the Ministry of Foreign Affairs to make foreigners pay certain taxes from which they have been exempted until now, might subsequently be favorably examined with the reservation that this question would be the subject of a preliminary understanding between the interested

Legations and the Imperial Government and after a uniform law on the Municipalities had been voted by the Medjliss.

As for the so-called road taxes (voiries), established by the Municipalities on the uniform basis of legislative prescriptions, they might be submitted for payment by foreign subjects with the guarantee that they would be entirely applied to the upkeep and improvement of an organized municipal service.

As soon as the Imperial Government will have agreed with them on these principles, the undersigned chiefs of missions will not fail to report for the approval of their respective Governments the conditions under which modifications might be effected in the system existing until the present time with regard to the payment of taxes by foreign nationals.

Persuaded that their desire to cause these modifications to be admitted in an equitable manner will be understood by the Persian Government, they are convinced that it will reply favorably in such a way as to facilitate their task.

[No signatures indicated]

761.91/97

The British Chargé (Chilton) to the Secretary of State

No. 836

Washington, September 27, 1923.

SIR: I have the honour, under instructions from my Government, to inform you that His Majesty's Minister at Tehran recently asked His Majesty's Principal Secretary of State for Foreign Affairs for a ruling regarding the validity in general of the treaty of Turcomanchai, (signed in 1828 between Russia and Persia)²⁹ as the basis of rights enjoyed by His Majesty's Government and British subjects in Persia.

Sir P. Loraine expressed himself as doubtful whether it would be wise to leave unchallenged the Persian Government's contention that no claims can be based on the treaty of Turcomanchai, because it has been annulled by the Russo-Persian Treaty of 1921, although, hitherto, no such assertion has yet been made in any official communication addressed to him direct by the Persian Government. The question arose, however, incidentally in the course of conversation between Sir P. Loraine and the Persian Minister for Foreign Affairs, who seemed quite astonished to learn that not only His Majesty's Government but also other Christian governments maintained that the treaty of Turcomanchai was valid in their regard.

 ²⁹ British and Foreign State Papers, 1827–1828, p. 669.
 ³⁰ League of Nations Treaty Series, vol. IX, p. 401.

By the Anglo-Persian Treaty of Peace of March 4th, 1857 *1 His Majesty's Government are guaranteed most favoured nation treatment. Furthermore, in order to safeguard British interests, His Majesty's Minister at Tehran on December 23rd, 1920 addressed a warning to the Persian Government that the rights and interests of His Majesty's Government could not be exposed to infringement by any negotiations conducted by the Persian Government with the Russian Soviet or other governments. In reply the Persian Minister for Foreign Affairs stated on March 3rd, 1921 that "the Imperial Government have always respected and protected the rights and interests of the British Government" and that "whatever negotiations may be conducted with the Soviet Government of Russia will not interfere with the foundation of the relations between our respective governments. Of course this point of view applies to the rights which British subjects have obtained in accordance with the law and other legal disputes".

Thus until recently Sir P. Loraine has continued to resist Persian pretensions to consider the treaty of Turcomanchai, on which, hitherto, British most favoured nation treatment has been regarded as resting, as having lapsed on account of the conclusion of the Russo-Persian Treaty of 1921.

The whole question has now, however, received careful attention at the hands of His Majesty's Government, involving the consideration of the three following points:—

(1) Whether the Russo-Persian Treaty of 1921 specifically cancels the 1828 Treaty

cels the 1828 Treaty.

(2) If so, whether His Majesty's Government recognise the validity of the treaty entered into by a government which has not, hitherto, been recognised de jure.

hitherto, been recognised de jure.

(3) Whether His Majesty's Government can be deprived of a right by an instrument to which they are not a party and in respect

of which they were not consulted.

As to (1) the Russo-Persian Treaty of 1921 cancels (clause 1) all treaties "concluded by the late Tsarist Government". Clause II declares null and void "all conventions . . . concluded by the late Government of Russia". There can be little doubt that the intention, as confirmed by practice, was that the cancellation applied to all treaties concluded by the Tsarist system of government rather than those concluded by a particular, i. e. the late Government. For instance, Clause 16 of the 1921 Treaty completely reverses the privileges conferred on Russians by the 1828 Treaty.

As regards point (2), His Majesty's Government have not, hitherto, signed a formal treaty with the present Russian Government similar

³¹ British and Foreign State Papers, 1856-1857, vol. xLVII, p. 42.

to the 1921 agreement between Russia and Persia. Such an act would involve de jure recognition. But de facto recognition on the part of His Majesty's Government and the conclusion of the Anglo-Russian Trade Agreement have forced His Majesty's Government to recognise the validity of Russian legislation, and by analogy it would seem to follow that His Majesty's Government recognised as being in force their treaty arrangements with other powers. Moreover, the recognition by the allied powers of the right of the Soviet Government to sign the Straits Convention in the Treaty of Lausanne ³² would appear to strengthen the above arguments.

Regarding point (3), the most favoured nation rights which His Majesty's Government derive from the 1828 treaty of Turcomanchai are indirect in their nature. His Majesty's Government demand that no Russian should be treated preferentially to a British subject. But they have no absolute right to claim any treatment which may have been accorded to Russians in the past, but which is now withheld. It therefore follows that His Majesty's Government have not actually lost any rights at all and that they have not got a good case for a protest that they were not consulted before the abrogation of the treaty of Turcomanchai.

The view of His Majesty's Government is, therefore, that it would be wrong to base any claim against the Persian Government on the supposed continuance in force of the Treaty of Turcomanchai, and the case of His Majesty's Government for capitulatory rights must rest upon the rights conceded by treaty to various other powers such as France (Franco-Persian Treaty of 1855 Article 5. "Hertslet's Persian Treaties" page 82) and Germany (Treaty of 1873. "Hertslet's Persian Treaties" pages 84–92), and upon definite concessions granted to His Majesty's Government or upon usage, as is the case in Abyssinia.

Sir Percy Loraine has therefore been instructed to adopt the attitude laid down in the preceding paragraph of this note, in case the Persian Government should at any time raise the question of capitulatory rights in Persia. He has, however, expressed the opinion, which is shared by His Majesty's Government, that should he have occasion to make a communication in that sense to the Persian Government, the attitude of other powers might thereby be prejudiced, since it is understood that the representatives of France, Italy, the United States and Belgium are disposed still to hold by the treaty of Turcomanchai.

In these circumstances, His Majesty's Government desire me to enquire whether the point of view outlined above also represents the

³² League of Nations Treaty Series, vol. xxvIII, p. 116.

attitude of the United States Government in the matter. I am instructed to add that in inviting an expression of the opinion of the United States Government, Lord Curzon has in mind the desirability of the five Powers offering, if possible, a united front in this important question in case of a challenge by the Persian Government.

A similar enquiry is being addressed to the French, Italian and Belgian Governments by His Majesty's representatives at Paris,

Rome and Brussels.

I have [etc.]

H. G. CHILTON

891.512/5

The British Chargé (Chilton) to the Secretary of State

No. 914

Washington, October 25, 1923.

Sir: I have the honour to inform you that His Majesty's Government have recently had under consideration the legal basis of their attitude in Persia in the question of the taxation of British subjects in that country, and in this connection I transmit to you herewith copy of a memorandum containing the views of His Majesty's Minister at Tehran in regard to this matter.

As my Government understand that the contents of this document have already been communicated to you by the United States Representative in Persia, I am instructed to state that Sir Percy Loraine's attitude on this subject, as expressed in the enclosed memorandum, has the entire approval of His Majesty's Government.

I have [etc.]

H. G. CHILTON

[Enclosure]

Memorandum by the British Minister in Persia (Loraine) on the Liability of the Subjects of Powers Enjoying Capitulations in Persia to Pay Persian Taxation, Whether Imperial or Municipal

The question has been raised in the following form: (1) Do foreign subjects in Persia enjoy immunity from Persian taxation; and, if so, (2) in virtue of what treaty right is such immunity claimed?

The answer to this question in the form put is: (1) Yes—in practice; (2) there is no specific treaty provision.

The question, however, though it appears to go to the root of the matter, does not in fact do so, and is actually somewhat misleading. I think there is no difficulty in demonstrating its fallacy.

The fundamental consideration is that no State has the right to

The fundamental consideration is that no State has the right to impose taxation except on persons who are under its jurisdiction.

The subjects in Persia of the Powers enjoying Capitulations are not under Persian jurisdiction, but under that of their national authority.

Thus, the Persian authorities are unable to collect taxation from foreign subjects, except with the acquiescence of the latter's national authority; they are doubly unable to do so because foreign subjects enjoy by treaty inviolability of person, property and domicile. Therefore, if taxation claimed be withheld by a foreign subject, the Persian authorities are debarred from proceeding with any form of distraint.

The situation which exists as regards taxation is therefore inherent in the capitulatory regime itself and is inseparable therefrom.

If further evidence of this were needed it can be found in the

If further evidence of this were needed it can be found in the text of notes repeatedly addressed by the Persian Government to His Majesty's Legation, and no doubt to other Legations also, requesting the Minister to "instruct" his nationals to pay such and such a tax.

What the Christian Legations therefore claim is that their consent is necessary before any Persian tax can be legally levied on their nationals, and it seems clear that this position is understood and conformed to by the Persian Government.

Before giving their consent to the levy of a particular tax the Legations are certainly justified in seeking guarantees in regard to the equitable incidence of the proposed tax, for they are the guardians of the interests of their nationals in Persia, and they reside in a country subject to Islamic law, which does not admit the principle of equality as between believers and unbelievers.

Equally, where the tax is levied in respect of services rendered, the Legations are justified in seeking reasonable guarantees that the moneys collected will be employed for the purposes for which it has been levied.

Such guarantees are, moreover, in the interest of the Persian Government themselves, for they are thereby encouraged to perfect their fiscal and administrative legislation, the present deficiencies of which are one of the *raisons d'être* of the Capitulations, and one of the grounds of necessity for maintaining them.

It is obvious that the use of this position to place a foreign subject in an unduly favourable position to compete commercially with his Persian rivals would be unjustified and abusive. There has, however, never been any suggestion, so far as I am aware, that the representatives of the Christian Powers have ever contemplated such an abuse, and I am quite certain they would never countenance it.

761.91/97

The Secretary of State to the British Ambassador (Geddes)

Washington, January 21, 1924.

EXCELLENCY: I beg to acknowledge the receipt of the British Embassy's note of September 27, 1923, which presents the question of the present validity of the Treaty between Russia and Persia, signed at Turcomanchai in 1828, and also of the note of October 25, dealing with the legal basis of the British Government's attitude in the matter of the taxation of British subjects in Persia. In the former communication, in adverting to the correspondence between His Britannic Majesty's Government and the British representative in Teheran, reference is made to the particular consideration which has been given to the following three points:—

(1) Whether the Russo-Persian Treaty of 1921 specifically cancels the 1828 Treaty.

(2) If so, whether His Majesty's Government recognize the validity of the treaty entered into by a government which has not, hitherto, been recognized de inve

been recognized de jure.

(3) Whether His Majesty's Government can be deprived of a right by an instrument to which they are not a party and in respect

of which they were not consulted.

At the conclusion of the Embassy's communication this Government's attention is called to the suggestion of the British Minister in Teheran that if the United States or other Powers are still inclined to base rights upon the Treaty of Turcomanchai the position of this and of other Governments might possibly be prejudiced should the British Government acquiesce in the view that the Treaty in question is no longer in effect. In these circumstances your Government has courteously inquired whether the point of view with regard to the Treaty of Turcomanchai which you have outlined in some detail represents the attitude of the United States Government, adding that Lord Curzon has in mind the desirability of the interested Powers offering, if possible, a united front in this important question in case of a challenge by the Persian Government.

In discussing the question whether the Treaty of 1921 between Persia and Soviet Russia specifically cancels the Treaty of Turcomanchai it is indicated to be the view of His Britannic Majesty's Government that "the intention, as confirmed by practice, was that the cancellation applied to all Treaties concluded by the Tsarist system of Government." In discussing the second point mentioned above you refer to the *de facto* recognition of the present Russian regime by His Britannic Majesty's Government, the conclusion of the Anglo-Russian agreement, and the recognition by the Allied Powers of the right of the Soviet authorities to sign the Straits Convention

in the Treaty of Lausanne, concluding the discussion of Point (3) with the statement that in the view of your Government it would be wrong to base any claim against the Persian Government on the supposed continuance in force of the Treaty between Russia and Persia of 1828.

There can be little doubt of the evident intent and desire of the parties to the Treaty of 1921 between Persia and the Soviet authorities to abrogate the Treaty of Peace, including the supplementary Treaty of Commerce, concluded between Russia and Persia at Turcomanchai on February 10-22, 1828, in so far as these Treaties, in the words of the Perso-Soviet agreement, may prejudice the rights of the people of Persia. While this Government has not felt itself obligated to take formal cognizance of the action of the Soviet authorities with regard to the Treaties of Turcomanchai, it does not consider that acquiescence by His Britannic Majesty's Government in the present attitude of the Persian and Soviet authorities with respect to these Treaties would afford any ground for objection on the part of this Government. Nor would this action by the British Government appear to be calculated to prejudice the position of this Government or of its nationals in Persia in view of the firm bases, other than the Treaty of Turcomanchai, upon which such rights rest.

With regard to the desirability of offering a united front in case of a challenge by the Persian Government in this question, I may state that the Embassy's communication does not appear definitely to outline the common position which your Government would suggest might be adopted, unless it be that which you indicate your Government has taken as described in the instructions to the British representative in Teheran.

If there should be any such challenge on the part of the Persian Government, a new situation would be presented. Meanwhile, this Government, while solicitous to preserve the rights necessary to the proper protection of its citizens and interests in Persia, desires to avoid a course of action which would result in obstructing the efforts of the Persian Government to put its house in order and particularly to establish its finances on a sound basis.

Accept [etc.]

CHARLES E. HUGHES

761.91/97

The Secretary of State to the Minister in Persia (Kornfeld)

No. 293 Washington, January 30, 1924.

Sir: There are enclosed, for your strictly confidential information, copies of communications from the British Embassy under date of

September 27th 33 and October 25th, 1923 34 and the Department's reply of January 21, 1924,35 dealing with the treaty between Russia and Persia signed at Turcomanchai in 1828 and with the present status of the rights of foreigners in Persia, particularly with reference to taxation.

In drafting the reply to the British Embassy's communications the Department considered the recent correspondence from the Legation with regard to the imposition of new measures of taxation by the Persian authorities, particularly your despatches No. 231, August 5th; No. 225, July 25th and No. 205, July 6th, 1923.36 From these communications the Department understands that you joined certain of your colleagues in sending a note to the Persian Government. 37 which in your despatches of July 25th and August 5th is variously referred to as having been sent on June 12. June 14 and June 22. This note contained a protest against the imposition of certain municipal taxes on nationals of states enjoying capitulatory rights. would appear from other correspondence from the Legation that on May 18, 1923 the British Minister requested you to join in a further communication to the Persian Government reiterating the position taken in the note of June, 1922. In bringing the British Minister's suggestion to the Department's attention you requested definite instructions as to the course you should pursue.

It would not appear from the information before the Department that you joined your allied colleagues in any protest to the Persian Government on the subject of taxes subsequent to the note of June, If this Department's impression on this point is not correct it is desired that on receipt of this instruction you telegraph fully whether you have participated in any further protest to the Persian Government and if so, the nature of such protest.

The Department's general attitude in this matter is briefly set forth in the concluding paragraph of the note to the British Embassy, where it is indicated that this Government, "while solicitous to preserve the rights necessary to the proper protection of its citizens and interests in Persia, desires to avoid a course of action which would result in obstructing the efforts of the Persian Government to put its house in order and particularly to establish its finances on a sound basis." The Department would therefore be inclined to follow a liberal policy in dealing with requests from the Persian Government for the right to collect reasonable taxes from American citizens, provided such taxes were accepted by the nationals of other Powers

Ante, p. 567.
 Ante, p. 570.

²⁶ Last two despatches not printed.

⁸⁷ See joint note to the Persian Minister for Foreign Affairs, p. 566.

and were neither unduly severe nor inequitably imposed. But this does not signify that the United States is at present prepared to renounce its fundamental capitulatory rights in Persia. The Department accordingly desires you in each individual case where new taxes affecting Americans and other foreigners may be contemplated, to request the Department's instructions before acquiescing in the levy of such new taxes.

In sending you the enclosed communications between the Department and the British Embassy, the Department desires to caution you that these communications are confidential and should not therefore be availed of in correspondence with the Persian Government, with your colleagues, or otherwise.

I am [etc.]

For the Secretary of State:
WILLIAM PHILLIPS

761.91/103

The Chargé in Italy (Gunther) to the Secretary of State

No. 934

Rome, March 3, 1924. [Received March 20.]

Sir: Adverting to the Department's confidential instruction No. 481, January 30, 1924, senclosing copies of communications from the British Embassy under date of September 27th and October 25th, 1923, and the Department's reply of January 21, 1924, dealing with the treaty between Russia and Persia signed at Turcomanchai in 1828 and with the present status of the rights of foreigners in Persia, particularly with reference to taxation, I have the honor to report that the competent official in the Royal Italian Ministry for Foreign Affairs has asserted that his Government has addressed a reply to a similar inquiry from the British, stating that his Government deems the question as to whether the Treaty of Turcomanchai has been abrogated is, from the juridical point of view, debatable.

The Italian Government feels, however, that for practical purposes it would not be wise at the present time to acknowledge that the Treaty of Turcomanchai has been abrogated. It is pointed out that the rights in regard to penal matters granted in that Treaty are not reconferred in subsequent treaties as are other classes of capitulatory rights. Although such treaties as the Franco-Persian Treaty of 1855 and the German-Persian Treaty of 1873 specify other classes of capitulatory rights, those in regard to penal matters are granted on the basis of most favored nation clauses. Therefore, the Italians deem it essential, if and when the abrogation of the Treaty of Turcomanchai becomes an actual issue, to secure from the Persian Government a specific

as Not printed.

guarantee in regard to penal matters before acknowledging such

abrogation.

It was intimated that the French hold the same attitude on the subject as the Italians. The Italians have not yet received an answer from the British to their communication on this subject.

I have [etc.]

F. M. GUNTHER

761.91/104

The Ambassador in France (Herrick) to the Secretary of State

No. 4002

Paris, March 7, 1924.

[Received March 20.]

Sin: With reference to your Instruction No. 838 of January 30th last ³⁹ relative to the present status of foreigners in Persia and the Treaty of Turcomanchai of 1828, I have the honor to inform the Department that, in a conversation with Monsieur Fromageot, ⁴⁰ he told me that the French Government was entirely in accord with the attitude of the British Government. He said the civil rights of Frenchmen in Persia were fully protected by the Franco-Persian Treaty of 1855, and, with regard to criminal procedure, the rights of foreigners were equally protected by immemorial usage and he mentioned even the Franco-Persian Treaty of 1715. He added that, in his opinion, the Treaty of Turcomanchai had undoubtedly been abrogated, but in so far as the French were concerned, they had certainly never derived any benefit under it and in fact certain provisions, such as the execution in one country of the decisions of the tribunals of the other, were contrary to French law.

M. Fromageot had discussed the whole question with Sir Cecil Hurst ⁴¹ and he considered that no action need be taken unless the Persian Government made an attempt to infringe on the rights of foreigners in which event the Powers should get together and present

an united front.

I have [etc.]

MYRON T. HERRICK

761.91/102

The British Ambassador (Howard) to the Secretary of State

No. 234

WASHINGTON, March 15, 1924.

Sir: It will be within your recollection that in his note No. 836 of September 27th last, Mr. Chilton outlined the views of His Majesty's Government on the legal position of British subjects in Persia resulting from the abrogation of the Treaty of Turcomanchai by the

Not printed.

Legal adviser in the French Ministry for Foreign Affairs.
Legal adviser in the British Foreign Office.

Russo-Persian Treaty of 1921, and at the same time enquired whether the attitude of the United States Government was similar to that held by His Majesty's Government. In your reply dated January 21st, you were good enough to inform my predecessor, that the United States Government did not consider that the acquiescence by His Majesty's Government in the present attitude of the Persian and Soviet authorities would afford it any ground for objection nor did such action on the part of His Majesty's Government appear to be calculated to prejudice the position of the United States Gov-ernment or of its nationals in Persia, in view of the firm bases, other than the Treaty of Turcomanchai, upon which such rights rest.

The whole question of the capitulatory privileges enjoyed by British subjects in Persia has continued to be under the consideration of His Majesty's Government, and I have been instructed by His Majesty's Principal Secretary of State for Foreign Affairs to acquaint you with the following synopsis of the instructions which he has sent to His Majesty's Minister in Teheran, for the guidance of Sir Percy Loraine in his future dealings with the Persian Government.

It would not be desirable to admit in any discussion with the Persian Government that the abrogation of the Treaty of Turcomanchai must necessarily affect any rights in respect to exterritorial jurisdiction enjoyed by His Majesty's Government in Persia . . . But apart from the Treaty of Turcomanchai there are other bases, upon which the situation of British subjects may be safeguarded.

In civil matters a secure foundation is to be found in the French Treaty with Persia of 1855, and in the German Treaty of 1873, to the clauses of which His Majesty's Government are entitled to appeal by virtue of their most-favoured-rights. Put briefly, the French Treaty provides that disputes in civil matters between French citizens shall be settled by French authorities—disputes between French and Persian nationals by the Persian tribunals in the presence of a French representative, and disputes between French citizens and nationals of other Powers by the authorities of the countries connationals of other Powers by the authorities of the countries concerned. These provisions, mutatis mutandis, cover British subjects and the Persian Government would have no possible grounds for contesting the right of British subjects to have their civil disputes settled in accordance with the long established regime.

As regards criminal matters the position is more obscure because the French and German treaties mentioned above only contain most-

favoured-nation-treatment, and do not specify details of procedure. In criminal cases the procedure laid down in the Turcomanchai Treaty has never been in effect—it is indeed impossible, that it could

ever have been carried out, for British law would not permit of British authorities executing upon a British subject a sentence, which had been imposed upon him by a Persian tribunal. The present practice as regards British subjects who are involved in criminal cases is analogous to that which applies to French citizens and rests upon long usage rather than upon specific treaty rights, and the arguments put forward by Sir P. Loraine in any dispute with the Persian Government should take into account the length of time during which the present system has been in vogue. For example the (British) Persia Order-in-Council, which has governed British action since 1889 makes no provision for carrying out the Turcomanchai procedure, but Article 9 of that Order makes provision for the trial of British subjects accused of offences against Persians or other foreign nationals, which is entirely consistent with the usage, which had been previously and since followed.

For example, at the present time a British subject accused of a criminal offence against a foreigner who enjoys extra-territorial rights, would be tried in the British Consular Court, and not (as laid down in the Treaty of Turcomanchai) by a Persian tribunal in the presence of a British representative. It is not known when this usage sprang up, but even if it arose originally from a successful Russian attempt to stretch the interpretation of the Treaty of Turcomanchai, this does not necessarily mean that His Majesty's Government are not now entitled to rely upon such usage.

As regards criminal cases in which all the parties concerned are British subjects, it has been impossible to obtain any information as to the practice before 1828. As, however, such cases are normally the first on which jurisdiction is conferred on Consuls, it is extremely probable that such jurisdiction existed before the signature of the Treaty of Turcomanchai, and it is within the knowledge of His Majesty's Government that the French Government considers its extra-territorial rights on this point as long antedating that Treaty. In these circumstances, His Majesty's Government are of opinion that British subjects would be entitled to the same treatment as is allowed to French citizens.

In view of these considerations, Mr. Secretary MacDonald has instructed His Majesty's Minister in Persia to avoid raising the question with the Persian Government, and to assume that extra-territorial rights will continue to be enjoyed by British subjects in Persia in the same respects in future as in the past. If, however, the Persian authorities press Sir Percy Loraine on the point at issue, he is to urge that in matters of civil import British subjects have clearly defined treaty rights, quite irrespective of any provisions arising from the Treaty of Turcomanchai, and that criminal questions are held by His Majesty's Government to come under the cate-

gory of rights established by custom. In any case, Sir Percy is to contend that extra-territorial rights in matters of jurisdiction must be treated as a whole, and that an obviously impossible situation would arise if it was urged by the Persian authorities that His Majesty's Government had a clear treaty right to ex-territorial jurisdiction in civil cases, but no rights at all in criminal matters.

In instructing me to inform you in confidence of the above views of His Majesty's Government, Mr. MacDonald states that he is simultaneously communicating them to the Governments of France, Italy and Belgium through His Majesty's representatives, in order that the Ministers in Teheran of these countries may be acquainted with the line, which will be taken by Sir Percy Loraine in the event of the question being raised by the Persian Government. Mr. MacDonald has expressed to me the hope that you may concur in his views on this question, and that, in that case, you may be pleased to instruct the United States Minister in Persia to adopt a similar attitude should the Persian authorities endeavour to discuss with him the problems of extra-territoriality.

I have [etc.]

ESME HOWARD

761.91/106

The Minister in Persia (Kornfeld) to the Secretary of State

No. 441

TEHERAN, April 1, 1924.

[Received May 21.]

Sir: Referring to the Department's confidential instruction of January 30, 1924, No. 293, I have the honor to transmit herewith translation of a note from the Persian Foreign Office under date of March 11, 1924, No. 17734, replying to the joint note of the Allied and Associated Powers of June 14, 1922 with regard to the taxation of foreign subjects.

In this connection I may state that the Department is correct in assuming that I have not joined my colleagues in any protest to the Persian Government on this subject subsequent to the note of June 14, 1922.

Í have [etc.]

JOSEPH S. KORNFELD

[Enclosure—Translation]

The Persian Minister for Foreign Affairs (Zoka) to the American Legation

No. 17,734

TEHERAN, March 11, 1924.

In answer to the joint note of June 14, 1922, I beg to state that:

1. Foreign subjects residing in Persia are subject to the payment of taxes and other established duties in the same way as Persians,

and the existing treaties provide no exception with respect to foreign subjects. Only in the commercial agreement signed between Persia and Great Britain in the year 1903 ⁴² it is stated that no other duties except tolls shall be collected on goods imported into Persia after customs duties are collected on such goods. This provision of the agreement has been and will be complied with. The navaghel taxes are collected according to the law of Rabi-ol-Aval 5, 1328 (1909) only on the means of transportation.

- 2. All the taxes and duties were approved by Parliament as part of the general budget of the country, and it is the Government's intention to further the enforcement thereof.
- 3. The municipal taxes of every place had and will be expended for the essential needs of that place, and the request for a guarantee, as made in the joint note, constitutes a foreign interference in the domestic affairs of the country, and the Persian Government is, with regrets, unable to accept it.

ZOKA-OL-MOLK

761.91/102

The Secretary of State to the British Ambassador (Howard)

Washington, April 3, 1924.

Excellency: I have the honor to acknowledge the receipt of Your Excellency's communication of March 15, 1924 in which, with reference to previous correspondence which dealt in some detail with the question of extraterritorial rights in Persia, you have outlined the attitude to be taken by the representative of His Majesty's Government in Persia in the event that the question should be raised by the Persian Government. In the concluding paragraph of your communication you express the hope that this Government concurs in the views outlined in your communication as to the basis on which extraterritorial rights in Persia rest and that the United States representative in Persia will be instructed to adopt an attitude similar to that of his British colleague in case the Persian authorities should endeavor to raise the question of extraterritoriality.

In reply I may state that a copy of Your Excellency's communication is being forwarded to the American Minister at Teheran for his confidential information. The Minister has been instructed to advise the Department of any effort on the part of the Persian Government to take up with him the question of extraterritoriality in order that appropriate instructions to meet the point at issue might in that event be sent him. In this connection I would particularly direct your

⁴² British and Foreign State Papers, 1902-1903, vol. xcvi, p. 51.

attention to the concluding paragraphs of my communication of January 21, 1924.

Accept [etc.]

CHARLES E. HUGHES

761.91/106

The Secretary of State to the Minister in Persia (Kornfeld)

No. 316

Washington, June 30, 1924.

Sir: The Department has received your despatch No. 441 of April 1, 1924, with which you submit a translation of a note from the Persian Foreign Office in the matter of the taxation of foreign subjects in Persia.

In the first paragraph of the enclosure with the despatch the following statement is made:

"Only in the commercial agreement signed between Persia and Great Britain in the year 1903 it is stated that no other duties except tolls shall be collected on goods imported into Persia after customs duties are collected on such goods. This provision of the agreement has been and will be complied with."

The Department desires to be informed whether this Government, under the most-favored-nation provisions of the Treaty of Friendship and Commerce (1856) with Persia, is receiving the benefits of the treatment accorded to Great Britain under the Treaty of 1903.

I am [etc.]

For the Secretary of State:

JOSEPH C. GREW

761.91/108

The Minister in Persia (Kornfeld) to the Secretary of State

No. 621

TEHERAN, August 25, 1924.

[Received September 24.]

Sir: Referring to the Department's Instruction No. 316 of June 30, 1924 relating to duties other than tolls collected on goods imported into Persia, I have the honor to advise the Department that thus far the Legation has received no complaint from Americans regarding the imposition of this or any other tax by the Persian Government. Therefore the presumption is that, under the most favored nation provision, American citizens receive the same treatment accorded to Great Britain under the treaty of 1903.

I have [etc.]

JOSEPH S. KORNFELD

⁴⁸ Malloy, Treaties, 1910-1923, vol. II, p. 1371.

COOPERATION OF THE UNITED STATES WITH GREAT BRITAIN IN EFFORTS TO RESTRICT THE EXPORT OF OPIUM FROM PORTS IN THE PERSIAN GULF

891.114 Narcotics/13

The British Ambassador (Howard) to the Secretary of State

No. 624

Manchester, Mass., July 10, 1924. [Received July 14.]

SIR: I have the honour to inform you that the growth of the illicit opium traffic from ports in the Persian Gulf to China and other Far Eastern countries has for some time past been the subject of serious conversations by His Majesty's Government and detailed study has been devoted to the possibility of devising means to control this traffic at any rate so far as consignments shipped in British vessels are concerned. As a result it has now been decided to issue King's Regulations on the subject to His Majesty's Consular Officers in the Persian Gulf laying down the procedure to be observed in future before granting clearance to a British ship with a cargo of opium on board. The regulations, a copy of which is enclosed herewith, are to be issued on January 1, 1925, this date having been selected in order that the Persian Government may first be given the opportunity of cooperating in the control of the opium traffic and, also, having regard to the very considerable interests involved in Persia and elsewhere, in order to avoid the financial and economic dislocation which would inevitably occur were the proposed measures to be brought into force immediately.

His Majesty's Chargé d'Affaires at Teheran has been requested to communicate the text of these regulations to the Persian Government and to invite suggestions from them as to the best method of securing their cooperation with His Majesty's Government in controlling exports of opium from Persia. Mr. Ovey has at the same time been instructed to draw the attention of the Persian Government to Article 3 of the International Opium Convention and to emphasize the fact that His Majesty's Government are bound, by their obligations under that Convention, to do all in their power to prevent the export of opium to countries such as China, which have prohibited its entry, and to control the export to countries which restrict its import. It is indeed a notorious fact that a great part of the present traffic from the Persian Gulf to the Far East is illicit i. e. is not covered by import licenses granted by the authorities of the importing countries.

His Majesty's Government are of opinion that the likelihood of the Persian Government proving amenable to representations in the

⁷⁸ Malloy, *Treaties*, 1910–1923, vol. III, p. 3025.

above sense would be very materially increased were it possible for the United States representative at Tehran to associate himself with his British colleague in the proposed démarche. I accordingly have the honour to enquire whether, in view of the great interest evinced by the United States Government in all measures tending to the suppression of the opium traffic and having regard to the considerable public attention given to this problem in this country, you would be prepared to instruct the United States representative at Tehran to support the representations of Mr. Ovey who has been instructed to postpone action for the time in the hope of securing his American colleague's support in this matter.

The prestige and influence enjoyed by the American Financial Adviser in Persia would also render any assistance which he may be prepared to offer of the greatest value and I have the honour to express the hope that you may also see your way to intimate privately to Dr. Millspaugh that you trust he will take such steps as may be possible to induce the Persian Government to cooperate wholeheartedly with His Majesty's Government with a view to securing the suppression of this traffic.

I have [etc.]

ESME HOWARD

[Enclosure]

Draft of King's Regulation Relating to the Control of the Traffic in Opium between the Persian Gulf and the Far East

In exercise of the power conferred by section 55 of the Persian Coast and Islands Order in Council, 1907, His Majesty's Consul-General is pleased to make the following regulation for the control of the traffic in opium between the Persian Gulf and the Far East:—

- 1. His Majesty's Consular Officers in the Persian Gulf shall, before granting clearance to a British ship sailing from the Persian Gulf with any opium on board, require the Master of the ship
 - (1) to make an affidavit stating the real destination of the opium;
 - (2) in the case of exports to countries that have adopted the importation certificate system recommended by the League of Nations or entered into a similar agreement with His Majesty's Government, to produce a certificate of the Government of the country or destination authorising the import of the opium; and

(3) to enter into a bond for the delivery of the opium at that destination.

2. This Regulation may be cited as the "Opium Traffic Regulation, 1923".

891.114 Narcotics/22

The Secretary of State to the British Ambassador (Howard)

Washington, August 21, 1924.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note No. 624 of July 10, 1924, with regard to the illicit trade in opium from ports in the Persian Gulf to China and other far eastern countries. In this communication you indicate that the British Government has decided to issue regulations to its consular officers in the Persian Gulf setting forth the procedure to be observed in granting clearance to British vessels carrying cargoes of opium. You further state that before the regulations in question are issued the British Government proposes to invite the Persian Government to cooperate in the control of the opium traffic in the Persian Gulf, in view of the very considerable financial and economic interests of the latter government. You also inquire, under instructions from your Government, whether the Government of the United States, in view of the interest it has taken in the regulation of the traffic in opium, would be inclined to instruct the American Minister at Teheran to support the representations which His Majesty's Charge d'Affaires has been instructed to make.

In reply I have the honor to state that subject to the reservation in the concluding paragraph of this note, the Department is instructing the American Minister at Teheran to inform the appropriate Persian authorities that the Government of the United States trusts that the Persian Government will take the necessary steps to obtain a more effective control of the traffic in opium with a view to the elimination of the illicit traffic in that drug.

The American Minister is being instructed also to inform the Persian authorities that this Government has taken stringent measures to regulate the traffic in opium so far as the United States and its possessions are concerned, and that any action which may be taken by the Persian Government to suppress the illegal opium traffic in south Persia would be helpful to the United States in making more effective its own regulations.

With regard to your suggestion that the Department intimate to the Administrator General of the Finances of Persia the desirability of inducing the Persian Government to cooperate in this matter, I would add that while the Department is following with interest the work of the Financial Adviser it refrains from making suggestions to him otherwise than through the regular channels of the competent Persian authorities. The third, fourth and fifth quarterly reports of the Administrator General indicate, however, that plans have already been made which, if carried out, will result in a closer supervision of the domestic consumption as well as of the

international trade in opium. These reports also show that some progress has been made in the extension of the control of this trade.

In conclusion I desire, however, to add that pending a satisfactory settlement by the Persian Government of the questions arising from the killing in Teheran of Vice Consul Imbrie, this Government would not be disposed to make the representations outlined above, and the American Minister has been so advised.

Accept [etc.]

CHARLES E. HUGHES

891.114 Narcotics/21

The Secretary of State to the Minister in Persia (Kornfeld)

No. 330

Washington, August 22, 1924.

Sir: The Department has received a note dated July 10, 1924, from the British Ambassador at Washington, of which a copy is enclosed,⁷⁷ which refers to certain instructions to British Consular Officers in the Persian Gulf, concerning the illicit trade in opium. The note also inquires whether this Government would be disposed to instruct you to inform the Persian Government of the interest of the United States in the adoption of measures tending to suppress the illegal traffic in opium.

In the light of reports received by the Department which indicate that there is a substantial illicit trade in opium in Persian Gulf ports, the Department considers that it would be entirely appropriate for you to bring this matter to the attention of the Persian Government, and to state that it is this Government's hope that the Persian Government will be in a position to enforce regulations which would result in bringing the illicit opium trade to an end.

You may further refer to the fact that this Government is much interested in the suppression of the illicit traffic in opium, that it has taken stringent measures to regulate this trade as far as the United States and its possessions are concerned, and any action which may be taken by the Persian Government to suppress the illegal opium traffic would be helpful to the United States in making more effective its own regulations.

Before making such representations you may confer with your British colleague in order that the representations which you may make may, as nearly as possible, coincide in time with those to be made by the British representative.

You will observe the statement in the Department's communication to the British Government with respect to the suggested representations to Doctor Millspaugh on this subject. Having noted the

⁷⁷ Ante, p. 582.

⁷⁶ See bracketed note, p. 539.

plans outlined in the third, fourth and fifth quarterly reports of the Administrator General of the Finances of Persia for the control of the opium traffic, the Department assumes that Dr. Millspaugh already appreciates the interest of this Government in the effective control of the traffic in opium.

As indicated in the last paragraph of the note to the British Embassy and in the Department's telegram No. 65 of August 13, 4 p. m.,⁷⁸ the above instruction is only to be acted upon if a satisfactory settlement by the Persian Government of the questions arising from the killing in Teheran of Vice Consul Imbrie has been reached. Otherwise the Government would not be disposed to make representations in other matters not of immediate urgency.

I am [etc.]

CHARLES E. HUGHES

511.4 A 2/93a : Telegram

The Secretary of State to the Chargé in Persia (Murray)

Washington, September 15, 1924-5 p. m.

83. 1. The Department hopes that the Government of Persia will be represented at the forthcoming opium conference at Geneva in November next. The question of production of raw opium is one of prime importance and without the cooperation of the producing countries it will be difficult to reach a satisfactory conclusion. The Department suggests, therefore, that you communicate the views of this Government to the Government of Persia through appropriate channels in substantially the following form:

"As the Government of Persia is undoubtedly aware, a conference to consider measures to restrict the traffic in opium and other dangerous drugs will be held in Geneva in November of this year. This is a humanitarian question of world-wide importance in which the Government of the United States has always been deeply interested, and it is hoped that the Persian Government will find it possible to participate in the work of the conference.

One of the principal questions to be considered is the production of raw opium and its transportation in international commerce. It is the earnest hope of this Government that the Government of Persia will cooperate in an international effort to terminate the production and transportation of raw opium in quantities over and above those needed for medicinal purposes, thereby attacking the problem at its source.

The Government of the United States would be glad to have the views of the Government of Persia in this regard, and hopes that the delegates at the conference will be prepared to discuss sympathetically this fundamental point, with a view to accepting the principle."

⁷⁸ Not printed.

2. In addition to the above communication to the Persian Government the Department desires that you should make certain oral representations as well. See Department's telegram No. 65, August 12 [13], 4 p. m. 79 On August 22 the Department addressed to you a written communication enclosing a copy of a note dated July 10 received from the British Ambassador at Washington, referring to certain instructions to British consular officers in the Persian Gulf concerning the illicit trade in opium, and a copy of the Department's reply. The note also inquired whether this Government would be disposed to instruct you to inform the Persian Government of the interest of the United States in the adoption of measures tending to suppress illicit traffic in opium. In replying to this note the Department stated that action would be taken by you only if a satisfactory settlement by the Persian Government of the questions arising in the killing in Teheran of Vice-Consul Imbrie had been reached. While the Department does not consider that at the present time entire satisfaction has been secured in the Imbrie case, nevertheless, in view of the expressed acquiescence of the Persian Government in certain of the demands of this Government and in view of the importance which this Government attaches to the control of illicit traffic in opium, the Department considers it advisable for you to proceed with the suggested representations at once.

The Department believes that it would be entirely appropriate for you to bring the matter to the attention of the Persian Government and to state that it is this Government's hope that the Persian Government will be in a position to enforce regulations which would result in bringing the illicit opium trade to an end. You may state that any action which may be taken by the Persian Government to suppress the illegal opium traffic would be helpful to the United States in making more effective its own very stringent regulations in that connection.

[3.] Before making such representations you may confer with your British colleague in order that your representations may, as nearly as possible, coincide in time with those to be made by him. Department assumes that your British colleague will be pleased to furnish you detailed information as to the attitude of the British Government in this matter and to show you a draft copy of the King's Regulations relating to the control of the traffic in opium between the Persian Gulf and the Far East which the Department understands are to be issued on January 1, 1925.

The Department, in reply to an inquiry in the British note, stated that it refrains from making suggestions to the American financial

 $^{^{70}\,\}mathrm{Not}$ printed; see despatch no. 652, Sept. 23, from the Chargé in Persia, infra.

adviser otherwise than through the regular channels of the competent Persian authorities. The Department assumes, however, that Dr. Millspaugh already appreciates the interest of this Government in the effective control of the traffic in opium.

HUGHES

511.4 A 2/118

The Chargé in Persia (Murray) to the Secretary of State

No. 652

TEHERAN, September 23, 1924. [Received October 22.]

Sir: Referring to paragraph two of the Department's telegram No. 65 of August 13, 4 p. m., 80 informing the Legation that there was being forwarded to the Legation certain written instructions regarding cooperation with the British representative in Teheran in bringing to the attention of the Persian Government the reported illicit trade in opium from the Persian Gulf ports, and instructing the Legation furthermore to await receipt of these instructions before taking action, and the Department's telegram No. 83 of September 15, 5 p. m. regarding the hope of the American Government that the Persian Government will be represented at the forthcoming opium conference in Geneva in November next, I have the honor to inform the Department that, on the day of the receipt of these latter instructions, a note dated September 16, 1924 was delivered to the Persian Government transmitting the substance of paragraph one of the instruction in question. A copy of this note is herewith appended for the information of the Department.80

On the same day I discussed the matter informally with Dr. A. C. Millspaugh and was informed that the Persian Government would, in fact, be represented at Geneva by Mirza Eissa Khan, the Persian oil commissioner attached to the Anglo-Persian Oil Company in The Department was duly advised of this fact in the Legation's telegram No. 120 of September 17, 2 p. m.⁸¹

Dr. Millspaugh, at the same time, promised to supply me with an exhaustive report on the whole question of opium with relation to Persia which is just being completed by Colonel MacCormack, the Director of Direct and Indirect Taxation in Persia. I inferred, will contain a consideration of measures that must be taken in order to enable Persia to substitute other crops, namely, wheat, cotton, tobacco and silk for opium. From a remark in a conversation which I recently had with Colonel MacCormack I gathered that Persia contemplates demanding aid even to the extent of financial subsidies from the nations most interested in suppressing

Not printed.
 Vol. 1, p. 100.

opium traffic in order to enable her to reduce opium production in the country without imperilling her economic welfare.

On September 17 I likewise addressed a note to the British Chargé d'Affaires requesting the appointment of a time suitable to him when I might discuss the question in the light of my last instructions.

At the time agreed upon, September 23, he expressed his pleasure at the present attitude of the American Government and informed me that the King's Regulations referred to in paragraph 3 of the Department's telegram No. 83, September 15, 5 p. m. had already, upon August 15, been notified to the Persian Government together with a covering despatch on the subject, a copy of which is herewith enclosed.⁸²

As the Department will note from the letter of Mr. Ovey, dated July 30 to Dr. Kornfeld,⁸² he stated that Mr. MacDonald "has given me discretion to postpone, for a short time, my communication to the Persian Government in order that I may, if possible, have the benefit of your support. I should therefore be most grateful if you would be so good as to inform me whether you have received any instructions from Washington in that sense."

I understand that Dr. Kornfeld verbally informed Mr. Ovey, in the spirit of the Department's telegram No. 65 of August 13, 4 p. m. that he was unable, pending the settlement of the Imbrie case, to take up this matter. Hence the British communication, originally dated, as will be seen, July 30, was finally delivered on August 15 to the Persian Government. I am informed that no reply has, until now, been received to this communication.

I have [etc.]

W. SMITH MURRAY

511.4 A 2/128

The Chargé in Persia (Murray) to the Secretary of State

No. 671

TEHERAN, October 8, 1924.

[Received November 6.]

Sir: Referring to the Department's telegram No. 83 of September 15, 5 p. m. expressing the hope of the American Government that the Government of Persia would be represented at the forthcoming Opium Conference at Geneva in November, the Legation's reply in its telegram No. 120 of September 17, 2 p. m. s to the effect that Mirza Eissa Khan had been instructed to proceed from London to Geneva to represent the Persian Government at that conference.

and to the Legation's despatch No. 652 of September 23, 1924 advis-

Not printed.

⁸⁸ Vol. I, p. 100.

ing the Department of the steps already taken by the British representative in Teheran in bringing the question of illicit opium traffic to the attention of the Persian Government, I have the honor to transmit herewith, for the information of the Department, copy of a note dated September 16, 1924, which I addressed on the subject to the Persian Government ⁸⁴ and the latter's reply dated September 30, 1924.

The Legation is meanwhile in receipt of the Department's instruction No. 330 dated August 22, 1924 outlining fully what further steps it is directed to take in the matter. In view of the fact, as reported to the Department in the Legation's despatch No. 652 dated September 23, 1924, that the British representative made his representations on August 15, previous of course to any of the above instructions from the Department and, owing to the present critical situation which has arisen as a result of the refusal of the Persian Government to proceed with the executions of those condemned to death in connection with the Imbrie killing, I am abstaining from further discussion of the question with the Persian Government, which action is, I am confident, in accord with the desires of the Department.

Î have [etc.]

W. SMITH MURRAY

[Enclosure—Translation]

The Persian Minister for Foreign Affairs (Moshar-ol-Molk) to the American Chargé (Murray)

No. 11339 [Teheran,] September 30, 1924/Mizan 8, 1303.

Mr. Chargé d'Affaires: I beg to acknowledge the receipt of your letter of September 16, 1924, No. 16, concerning the commission that will be formed in Geneva in the month of November in order to adopt a decision with regard to placing restriction on the commerce and production of opium.

As you are well aware the Imperial Government of Persia has signed the 1912 Opium Agreement of The Hague, with a reservation regarding Chapter III, and that it has, up to the present, made every effort to assure the success of this enterprise. You will, however, agree with me in the fact that the particular circumstances existing in Persia make it impossible to take final measures in this connection without having first studied and considered those circumstances.

The Imperial Persian Government, despite its sincere desire to restrict the production and commerce of opium, finds it, unfortu-

Not printed; see despatch no. 652, Sept. 23, from the Chargé in Persia, p. 588.

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nately, impracticable suddenly to place a prohibition on it without having taken certain particular points into consideration, such as the substitution of other products for the production of opium, and the adoption of an appropriate decision whereby the domestic consumption of opium could gradually be stopped.

This view of the Persian Government has duly been stated to the special branch of the League which is attended by the representatives of the United States Government, and it is reported that the American representatives have realized the difficulties confronting the Persian Government and concur with the Persian representatives in that, in order to bring about the complete enforcement in Persia of the Hague Agreement, it is necessary that practical methods of so doing should be resorted to.

I beg to reiterate the statement that my Government is exceedingly desirous of being able, with the concurrence of your Government and the other Governments, to remove the existing difficulties and gradually to fulfill the provisions of The Hague Convention and the decisions adopted by the League of Nations. Definite instructions have been given to the Persian representatives who will attend the commission that is to meet in Geneva in the coming month of November, and I am hopeful that the views of the Persian Government in the matter of the method of placing restriction on the production and trade of opium will be accepted.

In the meantime I beg to request you to use the good offices of your Honorable Legation in assuring your Government of the goodwill of the Persian Government in this matter, and to request it to lend its assistance and cooperation to the representatives of the Persian Government in their just representations in order to find a practical means of settling this affair.

I avail [etc.]

Moshar-ol-Molk

PERU

SPECIAL DIPLOMATIC MISSION FROM THE UNITED STATES TO PAR-TICIPATE IN THE CENTENNIAL CELEBRATION OF THE BATTLE OF AYACUCHO

823.415 Ay 1/orig.

President Leguía to President Coolidge

[Translation]

Great and Good Friend: I have the honor to invite Your Excellency to deign to take part, if you should find it possible personally, in the festivities with which the Peruvian Government and people proposes to celebrate on the ninth of December of this year, the first centennial of the Battle of Ayacucho which epoch determined the consolidation of the principles of Liberty and Independence which were proclaimed years before by the leaders of the American emancipation.

I indulge the hope that Your Excellency in accepting this invitation will see in it the expression of the friendly sentiments which animate Peru toward your noble country whose aggrandizement it cordially desires.

I make very sincere wishes for the happiness of the North American people and Your Excellency's own, and have the honor to reiterate to you the assurance of my highest regard.

Your Excellency's true and good friend,

A. B. Leguía A. Salmón Minister for Foreign Affairs

Written in the Palace of Government at Lima, on the 14th day of the month of February, 1924.

823.415 Ay 1/2

The Secretary of State to the Ambassador in Peru (Poindexter)

No. 78 Washington, May 3, 1924.

Sir: I enclose, with office copy and also a copy for the Embassy's files, a sealed letter from the President to the President of Peru, in acknowledgment of the invitation extended on February 14, 1924, by

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His Excellency to the President to take part personally in the festivities with which the Peruvian Government and people purpose to celebrate on the 9th of December of this year the centennial of the battle of Ayacucho.

You will please forward the office copy to the Minister for Foreign Affairs, and deliver the original letter in the manner most agreeable to President Leguia.

I am [etc.]

For the Secretary of State:

JOSEPH C. GREW

[Enclosure]

President Coolidge to President Leguía

Great and Good Friend: I have had the pleasure to receive the very kind invitation which Your Excellency did me the honor to extend to me on February 14, 1924, to take part personally in the festivities with which the Peruvian Government and people purpose to celebrate on the ninth of December of this year the centennial of the battle of Ayacucho. The invitation has been received with high appreciation of Your Excellency's courtesy, and I ask you to be so good as to accept my cordial thanks therefor.

It would give me much pleasure, indeed, could I by a visit to your country on the occasion mentioned be an eyewitness of the great progress Peru has made in its century of independence, and make in person the acquaintance of Your Excellency and of the friendly people of Peru, for whom I entertain the most cordial good will. This pleasure, I regret to say, must be denied me, especially since the festivities will occur at the same time as the opening days of the next session of the Congress of the United States, when my presence in Washington will be imperative. I shall, however, in spirit participate in the rejoicings of the Peruvian people, to whom and to Your Excellency I offer my congratulations on the prosperity and happiness enjoyed by the Peruvian nation, and my best wishes that the years to come may have in store for your country a still larger measure of blessings.

Your Good Friend.

CALVIN COOLIDGE

By the President:

CHARLES E. HUGHES

Secretary of State

823.415 Ay 1/16

The Ambassador in Peru (Poindexter) to the Secretary of State

No. 275

Lima, September 8, 1924.
[Received September 24.]

Sir: Confirming my cablegram No. 46 of even date, I have the honor to quote herewith the text, in translation, of a self-explanatory memorandum privately received from the Foreign Office.

This memorandum purports to give the plans for the celebration of the Centenary of the Battle of Ayacucho as fully as they are known at this time. Further information is promised and will be forwarded to the Department as soon as it is made available to the Embassy:

"Perú is to celebrate the Centenary of the Battle of Ayacucho on the 9th of December of the present year, at which (battle) it may be said that the liberty of the Ibero-American nations was consolidated through the capitulation of the Spanish forces.

To make these ceremonies as brilliant as possible, the Peruvian Government has invited the Chiefs of State of the American countries to attend personally or by the representation of Embassies

Extraordinary.

Discounting the impossibility for geographical and other motives of the voyage of Presidents of the Republics of the Continent, the Peruvian Government has received news in the sense that in Colombia and Bolivia the trip of the First Magistrate is being studied. It is possible that the same hope may be entertained with regard to Ecuador.

From the other countries, Embassies alone are expected, it being possible that the First Vice President, son of General Gomez, will come from Venezuela and that from Argentine and Brazil, Messrs. Gallardo and Pacheco, the respective Ministers for Foreign Affairs

will attend. From both countries warships will come.

The invitation to European and Asiatic countries has been recently extended, favorable news being received at the Ministry regarding the possibility that France, Switzerland, Italy, and Great Britain will be officially represented by Delegates Extraordinary. A warship is expected from Great Britain.

The ceremonies will take place in Lima and in Ayacucho.

After each Delegation is received officially, the members, who so desire, will accompany the President and his suite to Ayacucho on December 7, returning to Lima the 12th, when a program of entertainment will be entered upon for a week, until the 20th of December, the date of the inauguration of the Pan American Scientific Congress.

The ceremonies and entertainments will consist of the inauguration of expositions, public works, monuments, a military "fiesta",

balls, banquets, race meets, bull fights, and athletic contests.

The members of the official delegations will be the guests of the Government and will be lodged at its expense in the Gran Hotel Bolivar now under construction.["]

¹ Not printed.

PERU 595

The Minister for Foreign Affairs has expressed the liveliest interest regarding the representation of the United States.

My recommendations were made in the cable referred to above. I have [etc.]

MILES POINDEXTER

823.415 Ay 1/33b: Telegram

The Secretary of State to the Ambassador in Peru (Poindexter)

Washington, November 17, 1924—noon.

60. Please notify the Minister for Foreign Affairs as follows:

In acceptance of invitation extended by the President of Peru, the President has made choice of General John J. Pershing, U.S. Army, retired; Rear Admiral John H. Dayton, U.S. Navy; and the Honorable Frederick C. Hicks, of New York, to represent the United States in the celebration in Peru of the centenary of the Battle of Ayacucho, the first named with the rank of Ambassador Extraordinary and Plenipotentiary and the others each with the rank of Envoy Extraordinary and Minister Plenipotentiary. Mr. Raymond E. Cox, Second Secretary, has been designated secretary of the Special Mission.² General Pershing will be accompanied by two aides—Major John G. Quekemeyer and Major Edward Bowditch, Jr. A stenographer and two orderlies will be attached to the Mission. There will be no ladies.

The Mission will journey to Peru on the U.S.S. *Utah*, Captain R. Z. Johnston, U.S.N., commanding, arriving at Callao on the morning of December 6.

For your information. After the termination of the ceremonies at Lima, the Mission will return to the United States via the East Coast of South America. Consult Who's Who for lives of the three delegates. The Department will keep you informed of any further plans and feels confident that you will gladly give the Commission such advice and assistance as it may require of you. The Department intends to release this announcement to the press for publication Tuesday, November 18.

HUGHES

127.1/12: Telegram

The Ambassador in Peru (Poindexter) to the Secretary of State

Lima, December 1, 1924-5 p. m.

[Received 8:00 p. m.]

63. See *Instructions to Diplomatic Officers*, section 18.3 Would appreciate instructions regarding precedence between ambassadors

² Special Diplomatic Mission of the United States of America to the Centennial of the Battle of Ayacucho.

Not printed.

en poste and ambassadors accredited specially for centenary. Peruvian protocol gives precedence to ministers and even noncareer consuls here who have been [accredited] specially as ambassadors.4

POINDEXTER .

BOUNDARY DISPUTE WITH COLOMBIA

(See volume I, pages 293 ff.)

BOUNDARY DISPUTE WITH ECUADOR

(See volume I, pages 304 ff.)

 $^{^4\}mathrm{On}$ Dec. 3 the Secretary of State telegraphed to the Peruvian Minister for Foreign Affairs that Ambassador Poindexter had been named by the President as a member of the Special Mission with the rank of Ambassador (file no. 823.415 Ay 1/51).

PROTESTS BY THE UNITED STATES AGAINST THE UNSATISFACTORY ATTITUDE OF THE RUMANIAN GOVERNMENT TOWARD AMERICAN PETROLEUM AND OTHER INTERESTS

871.63/10: Telegram

The Minister in Rumania (Jay) to the Secretary of State

Bucharest, November 13, 1923—3 p. m. [Received November 14—4:10 a. m.]

60. British Legation has shown me copy of their note of November 10th to Foreign Office protesting against anticipated provision of the proposed mining law, information based on semi-official statements and intimations appearing in press.

I understand that French, Belgian and Dutch will probably protest also. Anticipated provisions objectionable to foreign oil interests are: (1) definite pursuance of policy since January, 1922, of refusal to approve bona fide leases of oil lands; (2) state monopoly to sell petroleum products; (3) requirement that majority of capital, shares and directors be Reumanian; (4) confiscation, on pretext of being undeveloped, of acquired rights to oil lands held in reserve by big companies but not as yet drilled.

Request instructions.

JAY

871.63/10: Telegram

The Secretary of State to the Minister in Rumania (Jay)

[Paraphrase]

Washington, November 22, 1923—4 p. m.

44. Legation's telegram 60 of November 13, 3 p. m. In the absence of more definite information it is difficult for the Department to give detailed instructions. It is appreciated, however, that you may find such information available only when the proposed mining legislation is definitely drafted and that action may be desirable to meet the situation before it is too late. You should, therefore, make an appropriate protest if a mining bill with the objectionable provisions outlined in points 1 and 4 of your 60, November 13, 3 p. m., is being or should be seriously considered, as measures of the nature described would appear to be such as would seriously

prejudice existing American rights and interests. It is not clear that a protest would be justified respecting points 2 and 3 unless the monopoly proposed under point 2 should lead to measures which might have a tendency toward confiscation.

Report further information as to proposed mining legislation as

promptly as possible.

Your attention is confidentially invited to the situation which arose in Mexico.¹ See May and September, 1923, Monthly Political Reports.² There may be certain elements of similarity between the situation in Mexico and that which you may have to deal with in Rumania.

HUGHES

871.63/12

The Minister in Rumania (Jay) to the Secretary of State

No. 495

Bucharest, December 10, 1923.

[Received December 28.]

Sir: I have the honor to refer to my telegram No. 60 of November 13, 3 P. M., and the Department's telegram No. 44 of November 22, 4 P. M., in reply thereto, concerning the provisions of a new proposed mining law for Rumania.

The British Legation informed the American Legation at that time that it was thought desirable that we be apprised of the British views and action in regard to this matter, in order that we might, if we saw fit, make a similar communication to the Rumanian Government. It was, therefore, thought wise by the Legation to submit this matter to the Department immediately by telegraph in the Legation's telegram No. 60.

The Department's reply was received November 23rd, and carefully studied together with the references mentioned in regard to the Mexican situation.

Thereupon the Legation discussed with the British the opportuneness and desirability of an immediate American protest to the Foreign Office on this matter. It was learned that the British Note had apparently made quite an impression upon the Rumanian Government, and that the Minister of Industry and Commerce, Mr. Tancrede Constantinesco, had spoken in a very reassuring manner to the British about the terms of the projected new mining law. It was

¹ See chapter on "Recognition of the Government of General Obregón by the United States and the Resumption of Diplomatic Relations," Foreign Relations, 1923, vol. π, pp. 522 ff.

² Not printed.

thought by my British Colleague that it was not immediately necessary or desirable that the American Legation make a precautionary protest, until more information could be obtained as to the latest attitude of the Government, on the question of the new mining law. Up to the present moment the Legation has been unable to ascertain anything definite as to the projects of the Rumanian Government on this matter.

If the Legation receives information which would indicate the utility and desirability of an immediate protest against threatened measures of a nature serious enough to prejudice existing rights and interests of United States citizens, it will make promptly a protest in conformity with the full tenor of the Department's Instructions in its telegram No. 44, reporting the action taken as well as the information upon which it may be based.

It is perhaps needless to mention that the Legation is keeping in constant touch with the representatives of the American oil interests in Rumania, and is prepared always to consider, and if proper, to act upon any suggestions they may make.

I have [etc.]

PETER A. JAY

871.6363/167

The Minister in Rumania (Jay) to the Secretary of State

No. 582

BUCHAREST, March 29, 1924.8

Sir: I have the honor to refer to the Legation's Despatches No. 522 of January 18, 1924, No. 495 of December 10, 1923, and to the Department's telegram No. 44 of November 22, 1923, concerning the proposed Rumanian Mining Law.

A translation of the draft of the new mining law, which is understood to have been prepared by the present Government, was presented to me March 26th by the acting head of the Romano-Americana Company, Mr. Woltman; together with a summary of certain of the most objectionable provisions of the law. As the draft of the law fills 97 typewritten sheets, single spaced, it has been impracticable to have it copied at the Legation, therefore only the copy furnished by Mr. Woltman is herewith enclosed (Enclosure No. 1).⁴ There are being sent forward, in quintuplicate, the extracts of the clauses considered objectionable, covering 13 pages (Enclosure No. 2),⁴ also a summary of the case against the proposed law (Enclosure No. 3),⁴ prepared and copied for the Legation by the Romano-Americana Company.

*Not printed.

³ Date of receipt not known.

On the receipt of these communications I was informed that the passage of the law had been scheduled by the Rumanian Government for the middle of April, and that grave anxiety was felt by the American Oil interests over this prospect. I immediately consulted with my British, French, and Netherlands Colleagues, whose respective countries represent the principal foreign oil interests in Rumania. The British Minister, who did not appear to be very conversant with the specific terms of the draft, told me that, from what he knew of the proposed law, he saw no serious grounds for protest. The French Minister, however, had studied an earlier draft of the law, of which he had transmitted a copy to his Government, and he was awaiting instructions on the matter. He agreed with me that some of the provisions of the proposed law were intolerable for foreign interests and hoped that he would soon be authorized to make vigorous representations against the law in its present form. The Chargé d'Affaires of the Netherlands made about the same statement.

In view of the Department's telegram No. 44 of November 22, 1923, 4 P. M., I have deemed it advisable to present to the Minister for Foreign Affairs a Note expressing the serious apprehensions felt by American petroleum producers in Rumania as to the possible enactment of the law as it now stands, particularly because of certain provisions. . . .

I have [etc.]

PETER A. JAY

[Enclosure]

The American Minister (Jay) to the Rumanian Minister for Foreign
Affairs (Duca)

[No. 36]

Bucharest, March 29, 1924.

MY DEAR MR. MINISTER: My attention has just been called to a draft of a mining law recently made public and reported to have been prepared by the Rumanian Government with a view to its early enactment.

Inasmuch as certain provisions of the proposed law would, if enacted and enforced, seem to me to furnish grounds for serious apprehension on account of the American interests affected, I take the liberty of bringing to Your Excellency's personal knowledge, in this somewhat informal manner, the grave anxiety felt by American petroleum producers in Rumania in regard to this matter. I may add that I feel this anxiety would be shared equally by my Government if it learned that the Rumanian Government had the intention of applying to American Petroleum Companies some of the measures contained in the draft of the mining law to which I have the honor to refer herein.

Of these provisions I shall only mention two which appear particularly susceptible to well founded objections. The first is that which requires foreign petroleum companies operating in Rumania, in order to obtain new oil lands, to convert, within a period of five years, all their capital stock into nominative shares, 60% of which must be owned and controlled by Rumanian subjects. As the proposed law makes no provision for the payment of adequate compensation for the 60% or more of stock in American oil companies operating in Rumania thus to be assigned to Rumanian nationals, it is not clear how such American Companies, complying with this law, as their continued existence would necessitate, would be guaranteed against the confiscation of their property without due compensation.

In this connection I deem it pertinent to remark that, while American oil companies, which have been operating in Rumania for over 20 years under charters and in accordance with the laws, have understood from their inception that they were subject to such Governmental regulation, control, and taxation as the Rumanian State might see fit to impose, it has never been understood that companies once authorized by law to incorporate and do business in a foreign country under American ownership would be subjected to the alienation of any part of their property through an act of the State, except by way of reasonable taxation, or by due process of law and on the basis of adequate compensation being paid.

Secondly, I learn that rights to oil producing properties already acquired by foreign companies must, under the proposed law, be submitted to the appropriate authorities for registration and validation. It is, obviously, a proper exercise of Governmental control to require the registration of the acquisition of rights to oil bearing lands, but it seems appropriate to add in this connection that it has been understood that property rights acquired in good faith and due legal form by American citizens would always be respected by the Rumanian Government. It would seem, therefore, that where good title to, and possession of, oil rights have been legally acquired by American Companies and duly registered, the question of present and future ownership thereof, should, subject to the provisions only of laws in force at the time such rights were obtained, be considered res adiudicata.

I refrain from pointing out many other provisions in the draft of the proposed law, of a highly technical and complicated character, which seem manifestly discriminatory and unsatisfactory.

In bringing to Your Excellency's attention the foregoing considerations I take occasion to express the hope that it is not the intention of the Rumanian Government to pass any legislation of the character just described or otherwise of such a nature as to impair legitimate property rights and interests of American citizens in Rumania.

Be pleased [etc.]

PETER A. JAY

871.63/16

The Minister in Rumania (Jay) to the Secretary of State

[Extracts]

No. 586

Bucharest, April 8, 1924.

[Received May 1.]

Sir: I have the honor to refer to my Despatch No. 582 of March 29th in regard to the proposed Rumanian Mining Law. I enclosed therein a copy of a communication I thought it well to address to the Minister for Foreign Affairs upon the subject, although I had just learned it had been decided to postpone the presentation of the law to Parliament until the autumn session.

I now have the honor to enclose a copy and translation of a short formal acknowledgment from the Minister, received today, in which he states that the draft referred to by me was merely a simple study of the matter which has not even as yet left the offices of the Ministry of Industry and Commerce, and that any discussion of the matter was therefore premature, etc., etc.

I understand that in view of the apparently definite fact that the law is not to be presented to Parliament until the autumn, my Colleagues have for the present abandoned the idea of entering formal protests.

I have [etc.]

PETER A. JAY

871.6363/162

The Associate General Counsel of the Standard Oil Company of New Jersey (Guy Wellman) to the Secretary of State

New York, May 21, 1924.

[Received May 22.]

Sir: Referring to the proposed mining law now pending in the Roumanian Parliament, of which we understand the Department has a copy, the security of the investment of this Company in the Romano-Americana is threatened with confiscation, and our Roumanian subsidiary, of which this Company owns 100% stock interest, is even faced with forced liquidation after expiration of leases now owned, unless 60% therein is sold to Roumanian nationals within five years from the enactment of the proposed bill.

The provisions to which we beg to call the attention of the Department are the following:

⁶ Not printed.

- 1. Articles 35 and 36. These articles provide that leases will be granted only to Roumanian citizens, or Roumanian companies, of which at least 60% of the capital is owned by Roumanian nationals, and also of which the control and administration lie in the hands of Roumanian subjects. Since the adoption of the Roumanian Constitution of 1923, the subsoil has become the property of the State and no lease, or extension of existing oil leases, can be obtained except from the Roumanian Government. Therefore, at the expiration of our existing leases, which are generally of relatively short duration, the Romano-Americana will be forced to liquidation with the resultant sacrifice in values.
- 2. Articles 255 et seq. Rights acquired prior to the effective date of the new Roumanian Constitution are protected only if the owners file application for validation within one year, and the burden of proof in establishing these rights is thrown on the applicant. This provides that the rights must have been acquired in strict conformity with the previous laws or decrees and regulations, all working obligations must have been entirely met, and that the rights claimed are not in any way in conflict with the rights of the State. These articles are of the greatest importance in respect to the validation of leases of the Romano-Americana referred to fully in our letter to the Department of January 8, 1923.7 We beg to emphasize that the Romano-Americana might be unable, under these articles, to establish valid acquired rights in those leases and extensions of leases upon which it was unable to obtain validation, as required by the Roumanian law, because the Roumanian Government had discontinued the office of registration after January 1922.
- 3. Article 202. Provides that the exploitation of all pipe lines from the tanks in the fields to storage depots or refineries are reserved for the State, and that existing pipe lines may be expropriated by the State. No provision, however, is made for compensation to the owners of expropriated pipe lines. The Romano-Americana has now restored, and has in operation, about seventy-five miles of pipe lines which would be thus affected.
- 4. Articles 264-272 et seq. These articles raise a serious question as to the possibility of carrying leases in reserve for future operation, and even imperil the holding of some leases already acquired but not actually drilled or operated.
- 5. The projected "Law For the Commercialization of Enterprise," and Articles 205 and 206 of the proposed Mining Law, provide for the distribution of products in domestic trade in Roumania by an association administered by Roumanians. This arrangement would

⁷ Not printed.

subject the sale of products of the Romano-Americana destined for domestic trade to regulation by the Roumanian Government as to price and quantity.

These objections indicate the extreme gravity of the situation which confronts the investment of this Company as an American interest in Roumania. We are advised today that there is a likelihood that this mining law will pass the Roumanian Parliament after the Roumanian Easter Holidays, or during the latter part of this month.

With the concurrence of the Department, we request that the American Minister at Bucharest be instructed by cablegram, at our expense, to oppose strongly the enactment of the objectionable features of this proposed mining law, and to co-operate in that respect with the local management of the Romano-Americana.

Respectfully yours,

GUY WELLMAN

871.6363/162: Telegram

The Secretary of State to the Minister in Rumania (Jay)

[Paraphrase]

Washington, May 24, 1924—6 p. m.

- 15. Legation's despatches No. 582 of March 29 and 586 of April 8.
- (1) Department has been informed by Standard Oil Company of New Jersey that it has just received information that probably the Rumanian Parliament will pass the proposed mining law before the end of this month. Your attention is invited in this connection to your despatch of April 8, in which it was indicated that the bill would not be considered until later. Report by telegraph latest information regarding this point.
- (2) Telegraph report also as to representations, if any, made or contemplated by representatives of other countries; give your opinion regarding effect of proposed legislation on American interests and suggest measures which you may think most likely to protect such interests.
- (3) The following are the articles of the proposed law which the Standard Oil Company has called to our particular attention as being prejudicial to their interests in Rumania: 35, 36, and 202; 255 and following related articles; 264 to 272, inclusive, and following related articles. There is also objection to articles 205 and 206. The "Law for the Commercialization of Enterprise" is objected to in the same connection.
 - (4) Please make prompt telegraphic reply.

HUGHES

871.6363/163: Telegram

The Minister in Rumania (Jay) to the Secretary of State
[Paraphrase]

Bucharest, May 27, 1924—6 p. m. [Received 7:15 p. m.]

18. Your 15, May 24, 6 p. m. The Government has decided to present to Parliament and presumably to rush through the mining bill at once instead of during the fall session, in this way, if possible, forestalling concerted foreign action. This move was contrary to the general belief which apparently was officially inspired.

My British colleague and I did not receive this definite information until May 25. Yesterday the British Minister telegraphed for instructions. The Minister of Foreign Affairs has just returned from foreign tour with the King. Today I conferred at length with the Minister and impressed my views upon him with greatest energy, telling him that I understood that those views were shared by the representatives here of other countries having oil interests. He assured me that objectionable features are removed from the bill as now drafted and also that it would [not?] be rushed through Parliament without debate. It is doubtful in my mind whether either of these assertions is correct. So far, however, my British colleague and I have not been able to obtain a copy of the law.

The presentation of the bill at this time took my interested colleagues completely by surprise as they anticipated no action until fall. For that reason the only protest made is my note of March 29.8 Unofficially I am trying to have my colleagues immediately offer oral protests without waiting for instructions.

I agree with the local representative of the Standard Oil Company that the effect of the law as originally contemplated would be almost disastrous. I recommend that if it is practicable other powers be approached in an effort to secure identic action here immediately.

JAY

871.63/18: Telegram

The Minister in Rumania (Jay) to the Secretary of State
[Paraphrase]

Bucharest, May 30, 1924—11 a.m. [Received 9:50 p. m.]

19. Mining bill is before Parliament now. I have received copies of new draft from Minister of Foreign Affairs, but oil interests find

⁸ Ante, p. 600.

it just as unsatisfactory as previous draft. The Legation likewise considers the bill still very unsatisfactory, the changes appearing to be unimportant.

JAY

871.6363/165: Telegram

The Minister in Rumania (Jay) to the Secretary of State

[Paraphrase]

Bucharest, June 3, 1924—4 p. m.

[Received 6:17 p. m.]

21. I will mail new draft of mining bill June 8. I have consulted with representatives of Standard Oil Company and find that the only fundamental changes are that the time for nationalization is extended from five to ten years and that pipe lines taken are to be paid for.

Yesterday my British colleague made a written protest. The Belgian, Dutch and French representatives are to make written protest tomorrow. I plan to make an additional and detailed protest on the basis of your telegram 16 of May 31 of and conferences with representatives of American oil interests here.

JAY

871.6363/166: Telegram

The Minister in Rumania (Jay) to the Secretary of State

Bucharest, June 5, 1924—9 a.m.

[Received 3:55 p. m.]

22. Following message has been given to the Legation by Romano-Americana to be transmitted at their expense for Department's information, with request that its contents be promptly communicated to E. J. Sadler, Standard Oil Company of New Jersey, 26 Broadway.

"Mining law submitted to Parliament with a few alterations over previous draft; namely, article number 36 extends the term of nationalization from 5 years to 10 years; article number 202 provides compensation for pipe lines expropriated; article number 207 gives right of exploiting for gas to the Rumanian Government alone or to the Rumanian Government with the cooperation of private capital according to the provisions of the commercial law. This will embarrass our operations at Aricesti. Other minor alterations do not

⁹ Not printed; it contained the following instructions (paraphrased): "Should it become necessary before receiving further instructions to make another written protest, you should call attention to objectionable and confiscatory clauses, certain of which are mentioned above, but refrain from offering written suggestions as to modifications." (File no. 871.6363/164.)

change principles of confiscation involved in previous drafts. British Minister filed written protest yesterday; French Minister, Netherlands Minister and Belgian Minister will enter a protest tomorrow. Situation serious. . . . We are endeavoring to inform Rumanian King of the fact that the American, British, French, Dutch and Belgian Governments have protested. Our Minister Mr. Jay has spared no effort within his power to protect our interests and has greatly assisted us in an advisory manner. Commercialization law has passed both Houses and awaits signature of King. Please inform Washington."

JAY

871.6363/174

The Minister in Rumania (Jay) to the Secretary of State

[Extract]

No. 618

Bucharest, June 9, 1924.10

Sir: In reference to the Department's telegram No. 15 of May 24th, 6 P. M. and No. 16 of May 31, 7 P. M., 11 and to the Legation's telegram No. 18 of May 27th, 6 P. M., No. 19 of May 30th, 11 A. M. and No. 21 of June 3rd, 4 P. M., concerning the proposed mining law, I have the honor to transmit herewith copies of a note addressed by the Legation on June 6th to the Rumanian Minister for Foreign Affairs pointing out a second time certain of the objectionable clauses of the law in question.

I have [etc.]

Peter A. JAY

[Enclosure]

The American Minister (Jay) to the Rumanian Minister for Foreign Affairs (Duca)

No. 64

Bucharest, June 6, 1924.

Mr. MINISTER: I have the honor to refer to my Note No. 36 of March 29th 12 in which I brought to Your Excellency's attention the anxiety felt by the Legation in respect to certain provisions of a draft of a mining law, the enactment of which the Rumanian Government was understood to have in view.

Your Excellency was good enough recently to furnish me with copies of the new draft 13 which has now been submitted by the Royal Government to Parliament and to inform me verbally of your con-

¹⁰ Date of receipt not known. ¹¹ See footnote 9, p. 606.

¹² Ante, p. 600. ¹⁸ Not printed.

viction that the modifications therein introduced will have removed the grounds for the Legation's apprehensions.

My Government has made a careful study of the draft of the proposed mining law, including the latest modifications, with special reference to its effects on American interests, and I am authorized to communicate to Your Excellency their views on this subject.

While in no way desirous of intervening in matters of Rumanian domestic legislation, the Legation deems it proper, under its instructions, to point out in a friendly spirit certain articles of the proposed law which seem to furnish grounds for just concern. Article 33 (formerly 36), although apparently now modified so as to postpone the enforced nationalization of foreign owned petroleum companies in Rumania from five to ten years, still does not seem to provide for foreign interests so affected adequate assurance against virtual confiscation as a result of the application of this measure. Moreover, Articles Nos. 237 and 241 provide for the review by the courts of leases of oil lands, but do not appear to establish any satisfactory principles guaranteeing the respect of rights already ac-Furthermore, according to Article 99, the confirmation of such rights is made contingent on the confiscation of the plant, without due compensation in all cases, on the termination of the lease.

Article No. 195 providing for the acquisition by the State of pipe lines and depriving private companies of this branch of exploitation in connection with their enterprises, also Article 81 imposing on foreign owned companies, forcibly nationalized, a régime of 75% of Rumanian officials and employees who will, necessarily, not represent the capital invested in the companies,—give rise to serious apprehension as to the possibility of foreign capitalists continuing in the future, under the proposed system, profitably to operate the plants which their funds and initiative have created and developed.

I may go so far [as?] to say that the American petroleum operators in Rumania inform me that they fear that the proposed legislation, if strictly enforced, would ultimately force out of existence, with heavy financial loss, because of the foregoing and other similar provisions, all foreign owned petroleum companies now operating in the country. Such a consequence, aside from any question of equity, would scarcely seem to be in keeping with the assurances given by the Rumanian Government on various occasions in the past when it has encouraged, and even solicited, the investment of foreign capital in the founding and promotion of industrial enterprises in this country.

I avail myself [etc.]

PETER A. JAY

871.6363/176: Telegram

The Minister in Rumania (Jay) to the Secretary of State

[Paraphrase]

Bucharest, June 29, 1924—9 p. m.

[Received June 30—3:49 p. m.]

27. Parliament has just passed mining bill. The bill now remains to be signed by the King. Will report fully by mail.

Jay

871.6363/190

The Minister in Rumania (Jay) to the Secretary of State

No. 625

Bucharest, July 1, 1924.

[Received July 22.]

Sir: Referring to my despatch No. 618 of June 9, 1924, the Department's telegram No. 17 of June 25th, 2 P. M., and my telegrams No. 25 of June 27th 5 P. M. and No. 27 of June 29th 9 P. M. on the Mining Law, I have the honor to report the final enactment of this measure and the fruitless efforts of the American, British and French Legations to obtain certain modifications thereto.

In view of the innumerable indications that the law was about to be voted by Parliament, after informal conversations with my British and French Colleagues, we decided to make individually on June 21st verbal representations to the Minister for Foreign Affairs. I enclose herewith (Enclosure No. 1) a copy of the brief memorandum which I read to Mr. Duca that evening, leaving with him the text thereof. It will be recalled that this Legation had presented two notes of remonstrance previous to this one. In this memorandum I pointed out the unfortunate consequences to be foreseen for the economic future of Rumania if a measure so disastrous to foreign interests were to be enacted. I also called attention to the inexactness of the contention often made by the present Rumanian Government to the effect that the legislatures of other countries have treated foreign petroleum interests in a manner similar to that envisaged by this law.

On June 24th, the Minister for Foreign Affairs addressed simultaneously identic notes (Enclosure No. 2)¹⁶ to the British, French and American Legations replying to our several representations concerning the mining law. . . .

The day following the receipt of this communication from the Rumanian Government, the British Minister, Sir Herbert Dering,

¹⁴ Not printed.

¹⁵ Ante, pp. 600 and 607. ¹⁶ Printed *infra* as enclosure 1.

addressed a note to Mr. Duca, of which he furnished me a copy (Enclosure No. 3) 17. . . . The note renews the remonstrances previously made by the British Government on this subject.

Feeling that it might be useful for me also to refute certain of the erroneous statements propounded by the Minister for Foreign Affairs, I addressed on June 26, 1924, a third written note (Enclosure No. 4)¹⁸ to the Foreign Office on the Mining Law. . . .

The chronology of the passage of the Mining Law through the legislative bodies is, briefly, as follows: the bill was brought before the Senate June 17th, and passed by that body June 18th, after eight and a half hours discussion. It was introduced in the Chamber on the 23rd and voted on the 26th, after twelve and a half hours discussion; and was finally approved by the Senate on June 28th without discussion. It is about to be signed by the King and promulgated in the Official Monitor.

Certain slight modifications have been made to the bill during the final passage through the Chambers which I hope to report in a memorandum by this pouch.¹⁷ A complete resumé, prepared by the officials of the Romano-Americana, of the unsatisfactory provisions contained in this law will form a part of this memorandum. The outstanding objection to the law, as previously reported to the Department, is based on the requirement that foreign owned companies, in order to acquire new lands, must become "nationalized" on the basis of 55% of the shares and direction being in the hands of Rumanian subjects.

This Legation was the first and the last to lodge a protest against the Mining Law and my representations on this subject have certainly exceeded in number and vigor those of my British and French I may add that practically every step recommended by our oil interests in this country as being of possible utility has been energetically taken by the Legation. It is therefore with confidence that I state that this Legation has done everything reasonably and properly within its power to protect American interests in connection with the passage of this law.

The law has been one of the most cherished policies of Mr. Vintila Bratiano, Minister of Finance and brother of the Prime

Minister. . . .

I have [etc.]

PETER A. JAY

¹⁷ Not printed.

¹⁸ Printed infra as enclosure 2.

[Enclosure 1—Translation]

The Rumanian Minister for Foreign Affairs (Duca) to the American Minister (Jay)

No. 32995

Bucharest, June 24, 1924.

MR. MINISTER: In reply to your written and verbal interventions concerning the Mining Law, I have the honor to communicate to you the following:

In view of the fact that considerable amounts belonging to your nationals are invested in our petroleum industry, we have found it quite natural that you should intervene for their protection and, in consequence, we have examined all your requests in the most friendly spirit.

In the first place, we have considered that your wish to assure the respect of the rights acquired was justified, and by the provisions as well as by the modifications made subsequently to the draft of the law, complete satisfaction has been given to your just concern.

Per contra, we have not considered well founded the demands relative to Article 33. In fact, in all mining legislation we have been guided only by the wish to give to that question, and in particular to that of petroleum, which plays, from day to day, a more important role in the entire world, solutions which accord with our economic interests and our national defense.

It is this anxiety which has led us, in so far as future oil development is concerned, to adopt formulas of collaboration between Rumanian and foreign capital,—formulas which, besides, are much less radical than those adopted by certain foreign legislations, notably that of the British.

The accusation that these solutions hinder the development of the existing companies, seems to us without foundation. In fact, these Companies exploit today scarcely 3500 hectares of 25,000 hectares which they possess and which the new legislation does not affect. If, aside from these already considerable areas, they desire to acquire new lands, to require of them a collaboration with Rumanian capital and initiative does not seem to us an exaggerated demand nor even an innovation.

It is for that reason we are convinced that a thorough examination of the draft of law as it is presented today will prove to you that it gives satisfaction to the legitimate preoccupations of your nationals and that it does not justify the criticism which it has provoked in certain circles.

Be pleased [etc.]

I. G. DUCA

[Enclosure 21

The American Minister (Jay) to the Rumanian Minister for Foreign Affairs (Duca)

No. 68 Bucharest, June 26, 1924.

Mr. Minister: I have the honor to acknowledge the receipt of Note No. 32995 of June 24, 1924, in which Your Excellency was good enough to communicate to me the reply of the Royal Government to the verbal and written representations of this Legation in respect of the proposed mining law for Rumania.

The considerate tone of your Note under acknowledgment confirms my confident belief that Your Excellency is constantly animated by a sincere desire to promote, in so far as it lies within your power, relations of cordiality and mutual helpfulness between our two countries. This belief inspires me with the hope that it will not be entirely in vain that I call attention in this communication to certain arguments advanced in Your Excellency's Note, which appear to be based on an incomplete knowledge of the facts.

With regard to the data which Your Excellency was pleased to submit on the extent of the areas at present under exploitation and held in reserve by foreign oil companies operating in Rumania, I desire to point out that the Romano-Americana Company is now exploiting less than 1000 hectares of oil producing land, which, at the present rate of production, will be exhausted, according to the most conservative estimate, in a period of eight to ten years. Moreover, I am informed that nine-tenths of the undeveloped lands held under lease by this Company are known to be without oil producing potentialities.

Your Excellency, in referring to the concern felt by my Government as to the proposed nationalization of the foreign owned petroleum companies in Rumania, took occasion to express the opinion that the proposed legislation is much less radical than that adopted by certain foreign Governments, notably that of Great Britain. This assertion is doubtless founded on inadequate or inexact information as to the laws at present in force in the British Empire. As a matter of fact, American companies, a majority of whose shares are held by American citizens, are actually carrying on freely all forms of oil business in various parts of the British Empire. In Canada, for instance, the American Standard Oil Company of New Jersey mines petroleum and distributes products thereof throughout that Dominion. American companies also market their petroleum products in Great Britain and other parts of the British Empire in competition with native industries.

I believe myself well advised in declaring that the proposed Mining Law, if enforced, would establish a regime more prejudicial

to American petroleum interests than exists in any other important country of the world.

At the close of the late world war, when the question of recommencing operations in Rumania presented itself to the Direction of the Romano-Americana Company, Mr. E. J. Sadler, on their behalf, in a letter No. 1810, addressed under date of May 1, 1919, to the Ministry of Industry and Commerce, solicited certain assurances of the Rumanian Government. In the final paragraph of this letter he asked particularly if the Company might know whether "in making new and important investments" it would be possible for them to "recommence and continue as in the past the business of the Company". The Ministry of Industry and Commerce replied to this letter in an official and formal Note No. 5177 under date of May 9, 1919, in which it was stated that the Romano-Americana Company might "resume its former activities with full confidence in the spirit of equity which the Rumanian Government has invariably shown in the past". I might mention that this communication was countersigned by Mr. Tancrede Constantinesco, today a member of the present Government.

I cite this communication in corroboration of the statement I made in our last interview on the Mining Law to the effect that American capital had been invested in Rumania on the invitation of the Royal Government.

These assurances, given over five years ago, were taken by the oil interests of my country, and it would appear reasonably so, to indicate that American investors might expect for their investments in Rumania a regime equally favorable to that which they had enjoyed here in the past. Nor was it, indeed, fairly to be anticipated, in the light of these assurances, that the Rumanian Government would at this, or some later date, inaugurate a mining policy, which, as I have shown above, is, in the entire world, exceptional because of its features detrimental to foreign investors.

I avail myself [etc.]

PETER A. JAY

871.6363/176 : Telegram

The Secretary of State to the Minister in Rumania (Jay)

[Paraphrase]

Washington, July 3, 1924—4 p. m.

19. Legation's telegram 27 of June 29. The Department is concerned at the passage of the mining law on account of the possibility apparently offered by this law for the Rumanian authorities to take a course of action by which legitimate American interests would be adversely affected. This law, furthermore, is only the latest of a series of measures which the Rumanian Government has

taken during the past two years tending to give the impression that Rumania is not willing to treat American interests as those interests might naturally expect to be treated by Rumanian authorities. A lack of desire on the part of the Rumanian Government for the improvement of its existing relations with the United States is shown not only by the passage of the mining law but also by the attitude of the Rumanian Debt Funding Commission to the United States, the Consolidation Loan program,²⁰ the Commercial Indebtedness Law,²¹ and the failure to give proper consideration to the claims of the Baldwin Locomotive, International Harvester, and other American companies.

Because of the situation outlined above the Department is considering asking you to return to the United States for consultation. This action is contemplated with a view to adopting a policy calculated to improve this situation as well as to call the attention of the Rumanian officials clearly to the concern with which our Government views recent developments. If you are instructed to return to this country you would be authorized to make clear to your colleagues and to the Rumanian Government that you were returning for consultation regarding the unsatisfactory attitude shown toward our nationals and their interests by the Rumanian Government.

The Department wishes a telegraphic report of your views regarding the proposed action; you will then be given further instructions.

HUGHES

871.6363/177: Telegram

The Minister in Rumania (Jay) to the Secretary of State

[Paraphrase]

Bucharest, July 6, 1924—9 a. m. [Received July 7—10:35 a. m.]

29. Your 19, July 3, 4 p. m. The increasing weakness of its credit abroad, as indicated by the recent fall of exchange, seems to have impressed the Rumanian Government, and the Minister of Commerce has tried to allay the fears of the foreign oil interests by informing them that the Rumanian authorities will not be unreasonable in enforcing the mining laws and has sought to comfort them in other ways. Apparently the Rumanian Government is trying to combat unfavorable reaction abroad and violent criticism within the country

²⁰ A program for the consolidation of debts owed by the Rumanian Government to private foreign interests under the provisions of a law passed in June 1922. The United States objected because of priorities which were considered in conflict with pledges given regarding the Rumanian debt to the American Government, and because of objections from certain private American creditors.

²¹ See pp. 648 ff.

against this final act in the antiforeign policy of the Minister of Finance.

I believe, therefore, that the action contemplated by the Department would be a severe shock to the Liberal Government and would come at a particularly embarrassing time.

I recommend that I be authorized to have a frank talk with the Minister of Foreign Affairs in which I would tell him that the general attitude of the Rumanian Government was viewed by my Government with so much concern that I had been instructed to return to Washington for consultation and that I had been directed to make public the reason why I was leaving. If the Minister of Foreign Affairs should offer serious propositions I would tell him that acting on my own responsibility I would transmit them to my Government and delay my departure until I received further instructions. I also recommend that if you approve this course you notify the Rumanian Minister at Washington . . .

The Minister of Foreign Affairs, unfortunately, leaves the day after tomorrow for Prague to attend the semi-annual conference of the Little Entente and will probably be away for ten days. As Parliament has adjourned, the Prime Minister is temporarily in the country, but presumably I could see him. I would rather have the Minister of Foreign Affairs present, however, as he has a lively appreciation of and respect for the power and influence of the United States in the world and has before this given impression of trying to support American interests against Vintila Bratiano. I desire finally to remove any impression I may possibly have given that American interests here already received [worse?] treatment than others. All the foreign representatives here and their nationals are making bitter complaints. In some cases, however, their governments, notably the French, hesitate to take extreme measures, presumably for purely political reasons.

JAY

871.6363/177 : Telegram

The Acting Secretary of State to the Minister in Rumania (Jay)

[Paraphrase]

Washington, July 8, 1924—5 p. m.

22. Course recommended in third paragraph of Legation's 29 of July 6, 9 a. m. is approved. Department suggests desirability of seeing both the Prime Minister and the Minister of Foreign Affairs and making representations of the nature outlined in our 19 of July 3, 4 p. m. Of course the representations proposed in that telegram may be supplemented and reinforced at your discretion.

You should telegraph the Department in advance the time fixed for your interview in order that arrangements may be made to carry out your suggestion that the Rumanian Minister in Washington be informed by the Department of the instructions given to you to return home for consultation.

You may carry out your suggestion of informing the Rumanian officials whom you interview on this matter that the reasons for your return to America will be made public.

Pending a report of your interviews the Department will withhold final instructions with respect to your return.

GREW

871.6363/181 : Telegram

The Minister in Rumania (Jay) to the Secretary of State

Bucharest, July 13, 1924-5 p. m.

[Received July 14—9:36 a. m.]

38. Press continues to discuss truth of my reported recall. Opposition press expresses the hope that it will convince the King of necessity of dismissing Bratiano government. Legation has continued decline to discuss matter and Foreign Office has stated that it has no information but semi-officially denied a report that my alleged recall was due to severe tone of my recent protests.

Feeling however Foreign Office would soon apply to me for information I addressed Friday July 11th short note to Under Secretary stating that I desired to make highly important communication of my own personally to the Minister for Foreign Affairs and Prime Minister and requested interview with them immediately after return of the Minister for Foreign Affairs expected Thursday.

If not already done please at once impress upon Roumanian Legation that I am carrying out your instructions.

JAY

871.6363/182: Telegram

The Acting Secretary of State to the Minister in Rumania (Jay)

[Paraphrase]

Washington, July 15, 1924-7 p. m.

27. Legation's telegram 38 of July 13, 5 p. m. I saw Rumanian Minister today and told him that in informing the Rumanian Government that you had been directed to return here for consultation, in view of the unsatisfactory treatment of American interests in Rumania,

you were acting on the Department's specific instructions. In my conversation with Prince Bibesco I did not take up any of the various matters at issue in detail as I believed it better that you should take up these questions first with responsible officials at Bucharest. However, I left Prince Bibesco in no doubt by what authority you were acting.

If you think it desirable the Department will take the matter up in more detail with Prince Bibesco when it has received your telegraphic report which should indicate the points stressed by you in conversation with Rumanian officials.

Legation's telegram 39 of July 13 just received. Your action approved. Further reports from you on the situation are awaited with interest by the Department.

GREW

871.6363/186: Telegram

The Minister in Rumania (Jay) to the Secretary of State

Bucharest, July 17, 1924—2 p. m.

[Received 9 p. m.]

43. Mining law was signed by the King July 3, promulgated July 4, when it entered into effect.

Carefully made translation, hereinafter referred to, follows by mail. Steaua Romano Company is apparently not exempted at the end of ten years from nationalization requirements of article number 33. Article number 181, however, allows this company, inasmuch as it has 25 percent Roumanian capital and is of "great importance," to secure an additional perimeter in each delimited oil-producing area. This Company alone of predominantly foreign companies fulfills these conditions and thereby profits from a discrimination.

This law is too complicated to report on adequately by telegram. Minister of Industry and Commerce told delegation of foreign oil interests they should not pay attention to letter of the law but rely on good will of the Government, accepting the assurances of the authors of the measure who alone were in a position to interpret it.

The Government would always allow a satisfactory modus operandi to be reached as difficulties might be encountered. However, general impression is that it will only be possible to evade the law successfully by employing the right intermediaries i. e. the Liberal banks and lawyers.

871.6363/201

The Minister in Rumania (Jay) to the Secretary of State
[Extracts]

No. 634

Bucharest, July 21, 1924. [Received August 5.]

Sir: I have the honor to refer to the Department's telegram No. 19 of July 3, 1924, 4 P. M., in regard to my proceeding to Washington for consultation in connection with the unsatisfactory attitude of the Rumanian Government. . . .

... The Minister for Foreign Affairs returned to Bucharest July 16th following which we went to Sinaia on July 17th for a conference with the King. A Council of Ministers was held the morning of July 18th and I was received the same day at noon by Mr. Duca at the Foreign Office.

During this interview I presented a Note No. 73 dated July 10th, of which a copy is herewith enclosed, wherein I stated that my Government had instructed me to proceed to Washington for a consultation on the unsatisfactory attitude of the Rumanian Government with respect to American interests. In this note all the points made in the Department's telegrams Nos. 19 and 22 ²² are clearly set forth.

I have [etc.]

[For the Minister:]
LAWRENCE DENNIS

[Enclosure]

The American Minister (Jay) to the Rumanian Minister for Foreign Affairs (Duca)

No. 73

Bucharest, July 10, 1924.

Mr. Minister: I have the honor to inform Your Excellency that I have just received instructions from my Government to proceed to the United States for the purpose of consultation with the Department of State on the attitude of the Rumanian Government towards American interests.

It is, at the same time, my duty to make known to Your Excellency the considerations which have guided the Government of the United States in arriving at the decision stated above. The recent passage of the mining law, as I indicated to Your Excellency in a series of earnest and renewed representations, has been a matter of grave concern to my Government in view of the possibility which this law appears to offer for a course of action on the part of the Rumanian

²² Ante. pp. 613 and 615.

Government which would have a detrimental effect on American interests. Moreover, this law is only the most recent of a succession of measures taken by the Rumanian Government during the past two years which cannot fail to give the impression that the Rumanian Government is not prepared to accord to American interests the treatment which those interests may reasonably expect from the Rumanian authorities. Thus, the commercial indebtedness law; the failure of the Rumanian Government to satisfy the just claims of its American creditors, such as the Baldwin Company; the Consolidation Loan programme; the attitude assumed by the Rumanian Debt Funding Commission sent to the United States; are not thought by my Government to give evidence of a desire on the part of the Rumanian Government to improve existing relations with the United States.

In consideration, therefore, of these just grounds for dissatisfaction, and with a view to adopting a course of action which may be susceptible of effecting a change for the better in this situation, also with the further object of bringing clearly to the attention of the Rumanian Government the concern with which recent developments have been viewed by the Government of the United States, it has been decided to summon me to Washington.

My Government directs me to make plain, not only to the Royal Government, but also to my Colleagues, that my journey to the United States has been ordered for the purpose of consultation in connection with the unsatisfactory attitude of the Rumanian Government towards American nationals and their interests. It is furthermore the purpose of the Government of the United States that due publicity shall be given to the reasons for my return.

I avail myself [etc.]

Peter A. JAY

871.6363/196: Telegram

The Minister in Rumania (Jay) to the Secretary of State

Bucharest, July 25, 1924—11 p. m. [Received July 26—3:46 a. m.]

52. Department's telegram number 31, July 22, 6 p. m.23 Careful summary of translation of the memorandum follows:

[Here follows summary of memorandum from the Rumanian Foreign Office to Department of State printed on page 621.]

[Paraphrase.] The Department's energetic attitude has evidently impressed the Rumanian Government, with the result that I was able to secure the signature of long-delayed extradition treaty 24 as an evidence of good will. I have also just been informed by the

Not printed. Post, p. 664.

representative of the Baldwin Locomotive Company that tomorrow the Rumanian Government is to make a payment of 10 percent of their total consignment with interest to July 1 aggregating about \$300,000 and that a high official of the company's workshops here has been requested by the Rumanian Government to enter into future arrangements. The company is going to accept and for the time being postpone the proposed lawsuit.

At last satisfaction has been promised in the Aladar Nagy case.25

See your instruction No. 224 of October 26, 1923.25a

As I reported in my despatch 622 of June 21 regarding schemes for treasury notes, 26 Coale [?] expects to obtain a settlement by direct negotiations. . . .

I still feel that it would be mutually advantageous to have me make a short visit to Washington for a personal and confidential conference with the Department, in spite of the evidence given above that the Rumanian Government is anxious to meet our views.

When signing Extradition Treaty July 23 I told the Minister of Foreign Affairs that I had sent a telegram to the Department in the above sense. I added that I would be glad to present the case for Rumania also which had been so earnestly stated by him in his memorandum and enclosures. I also told him that in view of the conciliatory spirit shown by the Rumanian Government I had ventured to recommend to the Department that the publicity originally intended regarding my departure should not be given.

With reference to suggestion by the Rumanian Minister to the United States that my return to America be postponed for six weeks, the Finance Minister has gone to France, officially for the purpose of taking a cure; I learn from the British Minister, however, that he proposes to visit Great Britain, with the intention, it is generally believed, of making every effort to obtain a loan, even being prepared, it is said, to offer the State oil lands as a guarantee. For this reason the Rumanian Government may at this particular time be anxious to avoid possible reaction in financial circles which might arise from publicity regarding my return as originally intended and mentioned in the note which I sent to the Foreign Office. [End paraphrase.]

^{**}Property belonging to Aladar Nagy, a naturalized American citizen, had been sequestrated by the Rumanian Government on the charge that he was an enemy alien (file no. 371.1153N13).

^{25a} Not printed. ²⁶ Not printed; this despatch reported negotiations of Mr. Paul Stuppel on behalf of the Chase National Bank and Equitable Trust Company of New York, holders of bonds and notes of the Rumanian Government (file no. 871.51/544).

871.6363/210

The Minister in Rumania (Jay) to the Secretary of State

No. 635

Bucharest, July 26, 1924.

[Received August 14.]
SIR: I have the honor to transmit herewith by open mail copy of Note No. 38331 from the Foreign Office, together with the memorandum and enclosures handed me by the Minister for Foreign Affairs on Monday, July 21st,²⁷ which has been the subject of the Department's telegram #31 of July 22, 1924,²⁸

I have [etc.]

PETER A. JAY

[Enclosure—Translation 29]

The Rumanian Foreign Office to the Department of State

MEMORANDUM

The Rumanian Government has taken cognizance of the note of the Government of the United States of America, and has the consciousness of not having either by its intentions or by its actions done anything contrary to "what American interests might reasonably expect on the part of the Rumanian authorities."

Moreover why should Rumania not have treated American interests with the attention and in the friendly spirit which they deserved?

Rumania cannot forget that in the World War she was the ally of the Great American Republic, nor can she forget the determining influence which the intervention of the United States had on the final victory permitting the Rumanian people to realize their national unity. Likewise the Rumanian Government, anxious above all else to insure the consolidation of Rumania thus increased in size by the war, cannot ignore the fact that the United States represents a factor of the highest importance in the general work of the pacific and economic reconstruction of Europe.

Also we cannot dissemble our surprise at the intentions which we are purported to cherish, and we can only attribute to incomplete or erroneous information the decision taken by you to request your Minister to return to the United States for a consultation with the Department of State regarding the attitude of the Rumanian Government towards American interests.

³⁷ The Foreign Office note and the enclosures to the memorandum are not printed.

²⁸ Not printed. ²⁹ File translation revised.

We are certain that a more complete and careful examination will not fail to convince the Government of the United States that the accusations made in the note of July 10, 1924, 29a are unjustified.

(1) Thus, the aforesaid note mentions in the first place the Com-

mercial Indebtedness Law.

The majority of these debts were contracted immediately after the armistice at a time when the Rumanian exchange was still highly advantageous; but as a result of its depreciation during the years 1919–1922, our business people encountered such difficulties that the commercial life of the entire country was seriously threatened. In view of this situation the creditors themselves—in their own interest as well as in ours—proposed arrangements to scale, under certain conditions, the payment of these debts.

The first initiative was taken following the intervention of the British creditors, to whom our businessmen were most heavily indebted. This example was then followed by other countries, and arrangements were thus made with France, Switzerland, Italy and Belgium. At the request of the British creditors the law was

brought in to sanction this state of affairs.

How can the Government of the United States see in this a measure directed against American interests? It seems to us rather that our businessmen could point out that the American creditors are the only ones who up to date have been unwilling to make any arrangement similar to those accepted by the other creditors. Although this is a matter of relations between private persons, the Rumanian Government has never refused, and in the future will always be ready to intervene in order to facilitate a similar arrangement between Rumanian debtors and American creditors.

(2) As regards the failure of the Rumanian Government to satisfy the just claims of American creditors, we would in the first place point out, speaking generally, that as a result of the war, of two years of enemy occupation and of post-war difficulties from which the whole of Europe has suffered so intensely, Rumania found herself with a floating foreign debt of about one billion, 400 thousand gold francs. In view of the depreciation of the exchange, the only solution was the consolidation of that debt. The Government proceeded thereto without delay.

The great majority of the bearers of these Treasury bonds accepted the conditions of consolidation.

Only the American creditors refused.

As this proceeding is optional, we do not reproach them. It was their right. We could merely point out that what was con-

^{29a} Ante, p. 618.

sidered acceptable by 90% of our creditors, only appeared unacceptable to American creditors.

At all events, having achieved the consolidation, the Rumanian Government had also to consider the measures to be taken as regards the holders of Treasury bonds who did not accept the consolidation.

It was confronted by two American creditors:

(a) The Baldwin Company;

(b) The Transoceanic Corporation.

After having offered the Baldwin Company more advantageous conditions than other similar companies, we offered—animated precisely by our desire to comply with the requests of the American Government—exceptional conditions which prove our good faith and our will to reach a solution satisfactory to both parties.

A. As regards the Transoceanic Corporation, one of its representatives came this summer—as the American Legation knows—to treat with the Ministry of Finance; he seemed satisfied with the conditions offered him, and not having full powers, he returned to the United States to obtain them.

We have therefore every reason to believe that an arrangement can be concluded and at all events it seems to us that under these conditions it is really not possible to attribute to the Rumanian Government the intent to treat with disregard or voluntarily to neglect American interests.

Again, if there were any reason for complaint, it seems to us that it should be addressed rather to the American creditors, who were the only ones refusing what the other creditors of the Rumanian State did not hesitate to accept for much larger sums.

(3) The program of the consolidation of the Rumanian Treasury bonds—as we already had the honor to point out to you in our notes of the year 1922 30—was not directed against the interests of any state. This consolidation was attempted by the only means at our disposal, the improvement of our public finances and the reconstruction of our economic life. In this way the consolidation undoubtedly placed Rumania in a position to increase payments to all her creditors and ensured for her the only way to meet her obligations—which in any case she had never intended to evade. Hence the interests of the United States, as creditors of Rumania, could not but be safeguarded and strengthened by this policy and this program.

In the employment of export taxes as security for the payment of the amortization and interests of this consolidation, the Government of the United States has seen a disregard of the right of priority of the debt owed it by the Rumanian Government.

³⁰ Not printed.

We believe that the United States Government is in error.

Thus, the revenue from these taxes is not merely to be employed as security for the consolidation only, but as security for the entire public debt of the Rumanian State.

This was formally stipulated in the law.

More than this, it was arranged that if the export taxes should be suppressed on all the revenues of the State, priority would be accorded to the funds intended to guarantee the payment of the entire foreign public debt, and that these funds would be deposited in the National Bank. To this end a convention was signed with the National Bank; we enclose herewith copy of this convention as well as of the text of the law ³¹ showing that the export taxes go to guarantee our entire public debt and not merely the debt accruing from the consolidation which is the subject of your complaint.

Thus here again we cannot see how American interests have been detrimentally affected, nor in what the Rumanian Government has not shown proof of its desire to improve existing relations with the United States. Hence it cannot be anything but a misunderstanding.

(4) Likewise as regards the attitude taken by the commission sent to the United States to discuss the subsequent settlement of the Rumanian Government's debt to the American Government. During the war, when we fought together and where our soldiers shed their blood for the triumph of the same cause of justice and of civilization, we were induced to contract in the United States a debt of 36,114,718.52 dollars.

Our Commission, which went to the United States in 1922, agreed with the American Government on the exact amount of this debt, which we never—we wish once again to state it clearly—dreamed of not recognizing.

Moreover, our Commission had instructions to inform the American Government that the Rumanian Government was also ready to subscribe to any arrangement which might be made in regard to these debts with all the other Allies.

We also enclose copy of the instructions issued to Mr. Eftimie Antonesco, chief of our Mission to the United States in 1922,³² which confirm these statements and which show that we were not even at that time reluctant to propose everything in our power.

(Enclosures A and B.) 82

What more could we do? Pay now? We never believed that the American Government required that. We always believed that it did not intend to apply to us a treatment different from that of the other Allies—France, Italy, Belgium, Yugoslavia, etc.

[&]quot;Neither printed." Not printed.

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Besides, taken together with the question of the reparations, this question constitutes one of the great international problems of the general liquidation of the World War.

Why should Rumania be subjected to exceptional treatment and in what has she, by reason of her attitude, shown herself less mindful of her obligations towards the United States than other countries (excepting, of course, Great Britain)?

We have made a point of explaining in detail all the points previously mentioned because we find them listed in your note; but from its very tone we see that the question to which the Government of the United States attaches the most importance, which constitutes so to speak the principal object of its move, is the mining law, recently voted by the Rumanian Parliament.

As regards this question, which is obviously of great importance to Rumania, we desire to state at once and very clearly the point of view of the Rumanian Government.

The Royal Government recognizes that in the petroleum industry, it is part of its duty to accord the most ample and complete respect to all vested rights, either of foreigners or of its own nationals. In this sense—as it had the honor to inform the American Government by its note of June 24, 1924 33—the Rumanian Government considered entirely legitimate all the representations addressed to it to secure the uncontested respect of those rights. It is moreover convinced that as a result of the alterations which have been successively introduced in the original draft, the mining law is now so drafted as to afford no scope for justifiable criticism.

On the other hand the Rumanian Government considers that it alone has the right to decide the future disposal of its petroleum lands. This is an essential and legitimate attribute of its sovereignty, a right which has never been contested and which in all justice could not be contested.

The Rumanian Government could only be in the wrong as regards the United States in one given circumstance, namely, if the new mining law made special conditions for any other country to the detriment of American interests.

Again in this matter, not only does the law not establish any difference between the petroleum enterprises of the various nationalities, but it allows all companies without distinction to benefit by all its advantages under certain most acceptable conditions, as is shown by their acceptance by the Franco-British, British, French and Belgian companies.

As we have already stated above, the difficulties which Rumania had to overcome after the war were especially serious.

⁸⁸ Ante, p. 611.

By dint of unceasing effort, the Royal Government has the satisfaction of recognizing that it has succeeded in overcoming most of these difficulties. It has established order, undertaken the work of unification and reorganization in all directions, balanced the budget, consolidated floating debts, reestablished means of transportation, stopped inflation and daily increasingly normalized economic life, so that the commercial balance is now favorable.

This labor merited encouragement. Even the defeated nationsand justly so-obtained it. In her work of reconstruction, Rumania had herself and nobody but herself to count on. Even though she lacked the material support of the United States, she thought at least that she could count on its moral support and see her efforts understood and appreciated by the great American democracy.

Thus we would wish to hope that the Government of the United States—which has invariably manifested towards us a sympathy always highly prized by us—will not adopt an attitude detrimental to Rumania at the very moment when the support of America is more necessary than ever to Europe and when the entire world is placing in this support such legitimate hopes for the consolidation of peace and the economic rehabilitation of the nations.

871.6363/196: Telegram

The Acting Secretary of State to the Minister in Rumania (Jay)

[Paraphrase]

Washington, July 30, 1924—5 p. m.

34. Your telegram 52 of July 25, 11 p. m.

(1) Your recommendation in penultimate paragraph approved. Department is gratified to note substantial progress made by you with respect to claim of Baldwin Locomotive Company and other

matters mentioned in your telegram.

(2) At your discretion you may temporarily postpone your departure if by staying a few more days in Bucharest you could assist in assuring the consummation of the arrangement between the Rumanian Government and the Baldwin Locomotive Company, or in having the Rumanian Government negotiate with the representative of the Chase National Bank and the Equitable Trust Company, or if you believe there is any possibility of making a start toward securing a satisfactory solution of other matters which are pending. The policy of the Department, as already indicated, is not to make a settlement of pending issues more difficult but to reach a settlement. Progress has been made on some questions as a result of your vigorous representations and it is the wish of the Department that every possibility of settling other matters be investigated. You should

leave for your return trip as soon as you feel that no further definite results will be forthcoming through your continued stay at Bucharest. This telegram may be considered as your instructions to leave.

- (3) A few days before time for your departure telegraph the Department the date you will leave so that appropriate information may be given to the press. Any statement which the Department may make to the press at this time will be limited to a statement that you are coming home on leave and for personal conference and that it is expected that in due time you will return to Bucharest.
- (4) It is desired that you come back via Paris and London so as to inform yourself with respect to the attitude taken by the French and British authorities regarding Rumanian questions. The Department would be particularly pleased to receive any information which you might discreetly obtain with regard to the reported visit to London of the Rumanian Finance Minister in the effort to secure a loan, possibly offering state oil lands for a guarantee. . . .
- (5) You should inform the Rumanian Government prior to leaving of your instructions to return to Washington for consultation. This notice may be given orally or in writing as you deem most appropriate. You may at your discretion in this connection indicate that the action of the Rumanian Government with respect to the Baldwin Locomotive Company and in the Aladar Nagy case is gratifying to the Department. You may add that you hope that as soon as possible negotiations for the settlement of the Transoceanic Corporation's claim ³⁴ and other pending issues will be brought to a successful conclusion. The time of your return to Bucharest may be influenced by the attitude of the Rumanian Government on these various questions which are pending.
- (6) The Rumanian statement regarding the mining law does not appear to the Department a satisfactory assurance. You may so state in your communication to the Rumanian Government if you think it wise to do so.
- (7) You should state that our Government considers the so-called Term of Grace Law,³⁵ with its extensions, as an arbitrary and improper interference by the Government with existing private rights, preventing American creditors from obtaining payment of money owed to them in American dollars by Rumanian debtors, to the serious embarrassment and loss of the creditors. This situation might result in making losses of American citizens on account of the law a liability against the Rumanian Government. You may ask to have no further extension of this law.

³⁴ Notes held by the Chase National Bank and Equitable Trust Company were given by the Rumanian Government in 1919 in payment for merchandise bought from the Transoceanic Corporation.

ss See pp. 648 ff. 10884—Vol. II—39——46

(8) You may also indicate that for the present at least the Department will avoid giving any construction to your return or making any press statement which will make it more difficult in any way to continue negotiations to settle pending issues. Full right is reserved by the Department, of course, to make such additional public statement as to the underlying reasons for your coming home as may appear necessary in the future should negotiations on the points at issue prove abortive or should the situation of American interests in Rumania continue unsatisfactory.

GREW

871.6363/204: Telegram

The Minister in Rumania (Jay) to the Secretary of State

Bucharest, August 5, 1924—9 p. m. [Received August 7—1:11 a. m.]

54. Department's telegram 34, July 30, 5 p. m., only received on August 2, 7 p. m. Your paragraph 2. There appears no immediate prospect of further action in Baldwin case pending arrival from America of company's representative. I firmly believe however present intention of Roumanian Government is to effect as far as possible mutual settlements, as they realize importance attached by us to this question. Regarding negotiations with Equitable and Chase banks see my telegram 53, August 4, 9 p. m. I called by appointment yesterday afternoon on Minister for Foreign Affairs who is incidentally also acting Minister of Finance in the absence of Vintila Bratiano and had long and personally friendly interview.

Your paragraph 3. I have informed Minister for Foreign Affairs that I propose to leave on Sunday next and have given him your intentions regarding publicity adding that Legation will refuse press interviews and that I will merely let it be known [that I am going?] home on leave during which I will visit Washington. I added that I believe my presence at Washington would be helpful in reaching a solution of many vexatious questions provided the Roumanian Government continued to show the same good will manifested in recent negotiations. Minister for Foreign Affairs has asked me to see him day before my departure for final conference. . . .

Minister for Foreign Affairs informed me Minister of Finance has returned to Paris but we did not discuss his visit to London which

³⁶ Not printed.

[omission?] local press however quotes London Financial Times as stating he refused loan from an oil group owing to unfavorable terms.

I gave the substance of paragraphs 5, 6, 7, 8 to Minister for Foreign Affairs. During my conversation he read me part of a telegram dated August 1st from Roumanian Minister at Washington reporting his latest interview with Department and confirming above information your paragraph 7. Minister for Foreign Affairs asked me to designate member of Legation to meet Secretary General of the Minister of Finance tomorrow to receive suggestions and propositions of Roumanian Government for settlement of private debts. I am sending commercial attaché who has been in correspondence with various American creditors and Secretary Dennis who is leaving Bucharest Friday. Their report will be duly communicated to you.

[Paraphrase.] It is my impression that the present Liberal Government will not continue in power beyond this fall, due to the attitude of our Government and that of Great Britain and to the hitherto unsuccessful visit abroad of the Minister of Finance. [End paraphrase.]

JAY

871.6363/204: Telegram

The Acting Secretary of State to the Minister in Rumania (Jay)

Washington, August 7, 1924-7 p. m.

38. Your 54, August 5, 9 p. m. received. Department fully approves arrangements indicated and desires you to confirm departure by telegram.

GREW

123 J 33/173a : Telegram

The Secretary of State to the Chargé in Rumania (Riggs)

Washington, September 16, 1924-5 p. m.

40. For your information. The Department today gave to the press the following statement:

"The American Minister to Rumania, Mr. Peter A. Jay, who has recently returned to this country from his post, was received by the President this morning. Mr. Jay later reported to the Secretary of State, with whom he consulted concerning American interests in Rumania."

HUGHES

871.6363/221: Telegram

The Chargé in Rumania (Riggs) to the Secretary of State

Bucharest, September 24, 1924—7 p. m. [Received September 25—1:03 a. m.]

62. The local head of the Romano-Americana Company called today at the Legation, made a statement to me of which the follow-

ing is the substance.

The Romano-Americana Company holds certain parcels of land under concessions dating from 1900 and validated in accordance with the present mining law to continue until 1935 and 1949 respectively. The company applied on July 30th, 1924, for permission to drill two wells on these holdings and has now received a reply from the Minister of Industry and Commerce stating that the drilling of these wells shall be governed by the new mining regulations. means, in accordance with a decision given on the 9th instant by the ministerial committee for the application of the new mining law, that no wells can be drilled on those properties because, in accordance with the above-mentioned decision, no wells can be drilled at a distance less than 30 meters from the boundary of neighboring property. The concessions in question are so narrow that no well can be drilled on them which will be 30 or more meters from the boundary. In other words, these lands, although held under concession by the company and exploitable under the old laws, cannot be exploited at all and these two are the first applications acted upon under these conditions since the passage of the mining law. ruling establishes a precedent which if maintained will seriously affect the company's exploitation of other concessions held by it under similar conditions. The head of the company has lodged a formal protest with me today against this ruling on the ground that it constitutes an insidious violation of the acquired rights sanctioned by article 235 of the mining district law and which the Roumanian Government has repeatedly and publicly declared its intention of respecting.

Am endeavoring to ascertain how British and other foreign oil interests are affected and am forwarding by next pouch copy of Romano-Americana's written protest to the Minister of Industry and

Commerce.37

Riggs

²⁷ Not printed.

871.6363/221: Telegram

The Secretary of State to the Chargé in Rumania (Riggs)

Washington, September 26, 1924—4 p. m.

41. Your 62, September 24, 7 p. m. You should inform Rumanian Government, in writing, that the Department is greatly surprised by the reported decision of the Ministry of Industry and Commerce described in your telegram. This decision if enforced will apparently render valueless rights duly acquired under the law as it existed at the time of such acquisition. You should add that in view of the repeated assurances that all acquired rights would be left undisturbed, the Rumanian Government, it is hoped, will not persist in the attitude apparently adopted in this matter by the Ministry of Industry and Commerce.

The Department is giving this whole subject of the Mining Law careful consideration, and in your communication you should indicate that your Government reserves the privilege of making such further communication on this particular phase or on any other phases of the Mining Law as may appear necessary.

[Paraphrase.] Department desires report of action taken and also telegraphic report of action, if any, by other missions with interests which are similarly affected. Telegraph impression held by you and Romano-Americana representatives as to whether decision you have reported is final. [End paraphrase.]

HUGHES

871.6363/227: Telegram

The Chargé in Rumania (Riggs) to the Secretary of State
[Paraphrase]

Bucharest, September 30, 1924—5 p. m. [Received October 2—5 a. m.]

64. Your 41, September 27 [26], 4 p. m. Mr. Hughes, head of the Romano-Americana, informed me yesterday that the Minister of Industry and Commerce had summoned him for a conference this morning. The Minister admitted at this conference that he had summoned Mr. Hughes because of a telegram from the Rumanian Minister at Washington to the Foreign Office reporting that the State Department was concerned at this interpretation of the mining law. The following paragraph gives the substance of a memorandum which Mr. Hughes handed me summarizing the statement which the Minister made to him:

The Minister maintained that for concessions taken either before or after the promulgation of the mining law on July 4, 1924, the provisions of the law requiring that wells should be 30 meters from the boundary should in principle remain in effect. The Minister will, however, make a separate decision on each application for the location of a well. He will take a broad view in his decisions and will approve all applications, even when the location of the well is to be within 30 meters of the boundary of the concession, if he is given such reasons as the age of the concession, the importance of the company, the necessities for exploitation of the locality, etc.

In other words, while the Minister does not admit the company's claim in principle, he promises a favorable decision for the two concessions which are under discussion and decisions in other similar

cases on the basis of political expediency.

Mr. Hughes does not feel that there is any certainty for the future in these promises. It is my impression that the Minister is seeking to gain time without committing himself and that he is trying to avoid a discussion with our Government on the principle of the vested rights in the case. However, the company is willing to let the matter rest with respect to the two concessions in question. For the above reason I have not carried out the instruction in your telegram 41 of September 26 and I will wait for further instructions.

Tomorrow a collective protest regarding this interpretation of the mining law will be presented to the Minister of Industry and Commerce by the Association of Petroleum Industries of Rumania, of which all the big oil companies are members. I am informed that the largest British company in Rumania, the Astra Romana, has been denied permission for drilling several wells under like conditions but has made no protest to British Legation as yet.

Riggs

871.6363/229 : Telegram

The Chargé in Rumania (Riggs) to the Secretary of State
[Paraphrase]

BUCHAREST, October 6, 1924—4 p. m. [Received 5:30 p. m.]

66. Your 41 of September 27 [26], 4 p. m. The British Chargé has now sent a report to his Government on this matter and has asked for instructions to make a protest. . . . The applications of Romano-Americana have as yet not been acted upon favorably by the Minister of Industry as promised. The Minister has referred the question to a committee.

No protests have been made as yet by the Belgian, French or Netherlands Legations. Apparently the companies are waiting to see the result of the collective protest reported in Legation's telegram 64 of September 30 before asking for the intervention of their

Governments.

Riggs

871.6363/227: Telegram

The Secretary of State to the Chargé in Rumania (Riggs)

[Paraphrase]

Washington, October 7, 1924-4 p. m.

42. Our telegram 41 of September 26, 4 p. m., and your telegram 64 of September 30, 5 p. m. Department believes that you should inform Rumanian Minister of Foreign Affairs that prior to the reconsideration of the matter by the Ministry of Industry and Commerce you had been instructed to enter a protest against the reported decision of that Ministry and that you would formally file a statement of our Government's views should a similar situation arise in the future. In making this communication to the Minister of Foreign Affairs you should express the hope that such a situation will not arise.

HUGHES

871.6363/231: Telegram

The Chargé in Rumania (Riggs) to the Secretary of State

[Paraphrase]

Bucharest, October 9, 1924—7 p. m. [Received October 9—6:15 p. m.]

67. Department's 42, October 7, 4 p. m. Today I communicated orally to Minister for Foreign Affairs substance of telegram under reference. He said he would take matter up with Minister of Industry and Commerce and he believed a solution would be reached satisfactory to the American Government.

Riggs

123 J 33/174a : Telegram

The Acting Secretary of State to the Chargé in Rumania (Riggs)

[Paraphrase]

Washington, October 15, 1924-5 p. m.

43. Minister Jay expects to sail October 25 from New York and to arrive at Bucharest about November 8.38 The Department has given him full information as to its views concerning matters which are at issue between the American and Rumanian Governments. The President received him this morning.

The Department will soon telegraph to you text of a note to be communicated to the Rumanian Government in answer to its memorandum of July 21.39

GREW

³⁸On November 10, Minister Jay telegraphed to the Department that he had arrived in Bucharest and assumed charge of the Legation.

³⁸Ante, p. 621.

871.6363/210: Telegram

The Acting Secretary of State to the Chargé in Rumania (Riggs)

Washington, October 15, 1924-6 p. m.

44. Legation's written despatch 635, July 26, enclosing copy of note of July 21 with memorandum and enclosures from Rumanian Minister for Foreign Affairs. Department instructs you to present the following note to Minister for Foreign Affairs.

The note should be submitted textually together with an unofficial French translation, if you consider it desirable. Acknowledge receipt of this telegram and telegraph subsequently date of presentation to Minister for Foreign Affairs. A copy of the note will be handed to the Rumanian Minister in Washington upon receipt of your telegram. Text of note follows:

"I have the honor to inform you that my Government has instructed me to say that it has given careful consideration to the statements contained in Your Excellency's memorandum of July 21, 1924, regarding the various questions which have recently been under discussion between the Governments of the United States and of Rumania and between certain nationals of those two countries. I also take pleasure in stating that my Government believes that the memorandum, by its detailed exposition of these questions, will tend to facilitate their

further consideration and, it is hoped, early settlement.

The Government of the United States, viewing as it did with no little concern the difficulties which had arisen in connection with its endeavors to reach a ground of common understanding with the Government of Rumania, felt that the danger of future misunderstanding between the two Governments might be lessened by bringing clearly and unmistakably to the attention of Your Excellency's Government its apprehension over the unsatisfactory status of certain questions of legitimate and immediate interest to this Government and to its nationals. Accordingly it decided to call Mr. Jay to Washington for a personal conference so that on his return to Rumania he would be fully cognizant of the position of his Government and of its attitude in the event that a satisfactory settlement of the principal points at issue could not be reached.

As Mr. Jay will therefore return to his post with a full knowledge of his Government's views, it will not be necessary to enter into a detailed discussion in this communication of the matters which were dealt with in Your Excellency's memorandum of July 21st. It seems important, however, to make a brief restatement of the principles for which my Government has consistently stood, principles which have been outlined in greater detail in the various communications ad-

dressed to Your Excellency by Mr. Jay.

Thus, it may be stated that my Government considers that any effort to impose upon American creditors without their consent the terms of the Commercial Indebtedness Law would constitute an unwarranted governmental interference with existing private contracts. My Government would not, of course, oppose the reaching of any mutually satisfactory agreement between American creditors and

Rumanian debtors. It feels, however, and must again emphasize, that the future of commercial relations between the two countries would be adversely affected by such governmental intervention between private creditor and private debtor as would impair the legitimate rights of the creditor.

With respect to the debts owed by the Rumanian Government to American nationals or companies, it is my Government's earnest hope that your Government will see its way clear, in its own interest, as well as in the interest of the American nationals concerned, to arrive at mutually satisfactory agreements for the settlement of such in-

debtedness.

In connection with Your Excellency's statements regarding the position of the Rumanian Government in respect of its indebtedness to the Government of the United States, I am instructed to point out that this indebtedness was incurred for relief and reconstruction purposes after the cessation of hostilities. Inasmuch as relief credits have generally been accorded a preferred position it could properly be considered that the advances made by the United States to Rumania are entitled to such preferences. Moreover, you will recall that Mr. Bratiano on behalf of the Rumanian Government gave certain definite assurances to the Government of the United States in a letter dated May 17, 1919.⁴⁰ In the light of these assurances my Government is at a loss to understand the reports which it has received of the payment of substantial sums by Rumania to other governments on account of relief or reconstruction loans, no corresponding payments having been made to the United States.

Under these circumstances my Government is the more reluctant to conclude that it is the purpose of the Rumanian Government to await the consummation of agreements between the United States and all other powers which are indebted to the United States on account of loans incurred during the war, as well as after the armistice, before taking further action toward the payment of interest, the funding or other adjustment of the indebtedness of the Rumanian Government to the United States. In this connection I may invite Your Excellency's attention to the agreements reached by the United States Government with the Governments of Great Britain, Finland, Lithuania and Hungary for the refunding of war and relief indebtedness to the United States and to the fact that negotiations are now in progress with other Governments looking toward similar settlements.

The point of view of this Government with respect to the Rumanian Mining Law has already been outlined in various communications which have been addressed to Your Excellency. This Law is the object of legitimate concern to American interests. My Government has noted the statement in Your Excellency's communication that the Royal Government recognizes that it is the part of its duty to accord the most ample and complete respect to all vested rights either of foreigners or its own nationals. It is difficult, however, to

⁴⁰ Not found in Department files. ⁴¹ Combined Annual Reports of the World War Foreign Debt Commission, Fiscal Years 1922, 1923, 1924, 1925, and 1926 (Washington, Government Printing Office, 1927), pp. 106, 120, 144, and 132.

reconcile certain provisions of the recent mining legislation or the general policy which this legislation appears to indicate with a proper measure of protection for acquired rights. My Government has therefore instructed me to impress upon Your Excellency's Government that any impairment of vested rights or any discrimination against American interests would be viewed with serious concern

Further, it should be pointed out that at a time when the Rumanian Government is passing legislation calculated to postpone the payment of commercial debts by Rumanian debtors for a period of years on the ground that disturbed conditions and depreciation of currency make more prompt payment impossible, your Government, during this same period, is apparently endeavoring to force a liquidation of important American interests, which involves the purchase of these liquidated interests by Rumanian nationals. It is difficult to understand how in an economic situation in which it is said that funds are not available for the payment of existing debts it is yet possible that there will be available the substantial sums necessary for the purchase of important American holdings as apparently contemplated under the law.

Other phases of this subject will be taken up by Mr. Jay as occasion may arise, and it is not my Government's desire to burden this communication with questions of detail. It is, however, its desire to impress the following situation upon the Rumanian Government: Cordial relations between countries depend upon mutual understanding and confidence. The measures which the Rumanian Government has recently taken have but served to shake that confidence and to raise the question as to whether the Rumanian Government is prepared to accord in the future the requisite degree of protection to

American interests.

It is the earnest hope of the Government of the United States that Your Excellency's Government will appreciate the importance of giving due weight to the above considerations and to the further considerations which Mr. Jay has been instructed to present in person."

GREW

871.6363/238: Telegram

The Chargé in Rumania (Riggs) to the Secretary of State

Bucharest, October 21, 1924—6 p. m. [Received October 22—4 p. m.]

71. Department's 44, October 15, 6 p. m. I presented in person today to the Minister for Foreign Affairs note with unofficial French translation. He expressed greatest pleasure at Mr. Jay's return and stated that he would take up with him the various points outlined in this note. In reading through it hastily he said that the Department was misinformed as regards its statement in the last section of paragraph 6 of the note regarding payments by Roumania to other Governments as no such payments had been made.

Riggs

871.6363/239: Telegram

The Chargé in Rumania (Riggs) to the Secretary of State

[Paraphrase]

Bucharest, October 21, 1924—7 p. m. [Received October 22—2:10 p. m.]

72. Legation's telegram 66 of October 6. Yesterday the British Minister received instructions from his Government and today he is making a formal written protest to the Minister of Foreign Affairs against mining-law provisions in articles 113 and 192 as applied to concessions of the shape described in my telegram 62 of September 24, 7 p. m. and obtained before the present law was proclaimed.

Today the head of the Romano-Americana called. He informed me that his company had not obtained any satisfaction in the matter as described in my telegram 64 of September 30, 5 p. m., that he did not expect any favorable action by the Minister of Industry, and that the delay was serious to the company. He urged that I protest at the same time as the British did. He had heard today that the British were protesting. I told him that I could not do as he proposed but that I would report his views. It is my own feeling that in view of the note I presented today, the British note, and the assurance which the Minister of Foreign Affairs gave me today that he had taken up the matter with the Minister of Industry and expected a satisfactory solution soon, it might be better to delay action for a little while.

Riggs

871.6363/239: Telegram

The Acting Secretary of State to the Chargé in Rumania (Riggs)

[Paraphrase]

Washington, October 28, 1924-4 p. m.

47. Suggestion in last sentence of your telegram 72 of October 21 is approved. However, should a satisfactory solution not be reached within a reasonable time the Department believes it might be advisable for you to protest in accordance with its 41, September 26, 4 p. m.

GREW

871.6363/210

The Secretary of State to the Minister in Rumania (Jay)

No. 319 Washington, November 7, 1924. Sir: Under date of October 15, 1924, there was communicated to

the American Chargé d'Affaires at Bucharest the text of a note to

be submitted to the Rumanian Government with respect to outstanding questions between the Government of the United States and that of Rumania, and between the nationals of the two countries. While you are thoroughly familiar with this communication, which was drawn up after consultation with you, for convenient reference a copy is enclosed herewith.⁴²

Considering that it might be helpful to you in connection with the representations which you will make upon your return to Bucharest in support of the position outlined in the above mentioned communication, the Department takes this occasion to amplify in certain particulars the views therein expressed and also to send you certain memoranda and documents which you may find useful in this connection.

With respect to the introductory paragraphs, i. e. one to three inclusive, of the note, it may be stated that the Department considers the questions at issue between the two Governments are susceptible of adjustment through negotiation, provided the requisite good will and patience are manifest on both sides, and if the Rumanian Government is sufficiently impressed with the importance which this Government attaches to a satisfactory adjustment.

In the concluding sentence of paragraph 2, you will note that reference is made to this Government's ["]attitude in the event that a satisfactory settlement of the principal points at issue could not be reached." While it would not be appropriate to attempt to indicate in any detail the action which might be considered appropriate in the event that the Rumanian Government failed to show the requisite good will in working for a settlement of pending questions, the following suggestions may be helpful to you:

(a) The continued failure on the part of the Rumanian Government to accord the protection to American interests which they may properly and reasonably expect or to give due consideration to American claims would create a situation in which this Government would feel obliged to warn American citizens, about to embark in commercial ventures in Rumania, of conditions there existing and of the attitude of the Rumanian Government towards foreign commercial enterprises.

(b) Under the present circumstances and until further steps have been taken toward the adjustment of pending questions, the Department would be disposed to offer objection to any attempt to float a

Rumanian loan in this country.

(c) Finally, if the Rumanian Government should not be disposed to give due consideration to the representations of the Legation, the Department might consider that no useful purpose would be served by maintaining a person of your rank and experience in Bucharest and that the Legation might therefore be left in charge of a Chargé d'Affaires for a period of time.

⁴ Ante. p. 634.

The information contained in the above paragraphs (a-c) is for your guidance, but there would be no objection to your orally indicating this Government's views to the Rumanian Government should you consider it desirable to do so.

With respect to paragraph 4 of this Government's note, which relates to the claims of American creditors against Rumanian nationals, you will find the Department's viewpoint stated in its written instruction No. 215 of August 22, 1923,48 and in paragraph No. 7 of its telegram No. 34 of August [July] 30, 1924.44 While Instruction No. 215 related specifically to the Commercial Indebtedness Law, which the Department understands has not yet been made applicable to American creditors, the principles embodied therein are equally applicable to any other similar governmental interference with private debts. In this connection your attention is called to the so-called Term of Grace Law as extended from time to time, which the Department understands prevents American creditors from obtaining the payment of debts due them in American currency even where the debtor is solvent. As indicated in the above instructions, not only is this legislation discriminatory in that it does not apply to all debts due in Rumania but only to those due in a strong currency, but, since it prevents payment irrespective of the financial capacity of the debtor to pay, it is an improper and arbitrary governmental interference with the right of private contract for which the Rumanian Government might be held liable to American citizens suffering damage by reason of its action.

In evidence of the hardship that this legislation works upon American creditors may be cited the Benco case. In this case a superior Rumanian court has rendered a judgment in favor of the American creditor against the Rumanian debtor and two Rumanian banks which guaranteed the debt. Notwithstanding this, and although the banks guaranteeing the debts are two of the largest financial institutions in the country and the debtor, at the time the judgment was handed down, was solvent, the Department understands that the creditor, to his serious financial embarrassment, has been prevented from obtaining payment of the judgment by reason of the continued extensions of the Term of Grace Law. In fact, according to the information of the Department, the creditor is in danger of being forced into bankruptcy by reason of the interference of the Rumanian Government.

The Department has received telegram No. 68, dated October 10, 1924, from the American Legation at Bucharest,45 stating that it has

⁴³ Post, p. 650. ⁴⁴ Ante, p. 626. ⁴⁵ Post, p. 659.

received a visit from a member of the Bucharest Chamber of Commerce who had been appointed by the Rumanian Government as a delegate to negotiate the settlement of pre-war and post-war private debts due by Rumanians to Americans. This delegate of the Rumanian Government proposed that either representatives of the American creditors be appointed to negotiate directly with him, or that the Legation be empowered to negotiate with him an agreement on behalf of the American creditors. He suggested taking the British or Swiss agreement with Rumanian debtors as a basis of discussion. A copy of this telegram is attached, together with a copy of the Department's reply.⁴⁶

The Department, as already indicated, considers that private debts, whether pre-war or post-war, owed between Rumanian and American nationals should be adjusted by the interested parties directly and should not be subject to governmental interference. This Government would not be in a position to commit its nationals without their consent in each case and, therefore, the Legation could not properly undertake any negotiations of the nature indicated on behalf of American creditors generally. Of course, should an American creditor, in any particular case, desire to reach an agreement, either with the delegate appointed by the Rumanian Government or with the Rumanian debtor, you may, at the creditor's request, render him such informal assistance as might be proper.

The Department understands that the Term of Grace Law has recently again been extended, notwithstanding the request of this Government that this be not done. You should, therefore, renew and supplement the views set forth in your note No. 104 of September 20, 1923,⁴⁷ and subsequent communications, and insist that Rumanian laws or regulations should be such as to permit American creditors to obtain payment from solvent Rumanian debtors. You may also impress upon the Rumanian Government the views of this Government with respect to the consequences of improper governmental interference between debtor and creditor impairing the rights of the creditor.

The debts owed by the Rumanian Government to American nationals or companies are dealt with in paragraph 5 of this Government's note. With respect to the notes of the Transoceanic Corporation held by the Chase National Bank and the Equitable Trust Company, (see Department's telegram No. 32, July 24, 1924, 4 p. m.—copy enclosed 48) the Department is gratified to inform you of the receipt of information indicating that a settlement satisfac-

⁴⁶ See telegram no. 46, Oct. 24, to the Chargé in Rumania, p. 659.

⁴⁷ *Post*, p. 652. ⁴⁸ Not printed.

tory to the American holders of the bonds has been reached with the Rumanian Government. A copy of the agreement as communicated to the Department by Mr. Stuppel is enclosed for your information,⁴⁹ as well as a copy of a letter from Mr. Stuppel, dated October 17, 1924.⁴⁹ The Department further understands that negotiations may shortly be undertaken on behalf of the present American holders of certain of the notes of the Transoceanic Corporation formerly held by Knauth, Nachod and Kuhne.

In the matter of the claim of the Baldwin Locomotive Works against the Rumanian Government, which was fully discussed with you and with the representatives of that Company, there are enclosed copies of certain correspondence, including instructions which the Company has sent to their Bucharest representative, which relate to the negotiations with the Rumanian Government for a settlement, by a system of deferred payments, of the claim of the Baldwin Locomotive Works. Without, of course, intervening in the negotiations, the Department desires you appropriately to impress upon the Rumanian Government the importance of an early adjustment of this claim.

For your information in connection with paragraph 6 of the note, which relates to the Rumanian Government's indebtedness to the United States, there is enclosed a statement 49 relating to reported payments by the Rumanian Government to Great Britain and to Canada on relief and reconstruction loans. There are also enclosed copies of agreements which this Government has reached with the Governments of Great Britain, Hungary, Finland, and Lithuania. 49 The agreement with Lithuania has not yet, however, been ratified by Congress. Negotiations are now pending with Poland and Czechoslovakia for the settlement of their indebtedness.

With respect to the Rumanian Mining Law, the Department desires you particularly to impress again upon the Rumanian Government the serious view which this Government would take of any action calculated to impair vested rights. From your conferences with the Department, you are already familiar with this Government's view in the matter.

You are also familiar with the correspondence between the Department and the American interests concerned and with the Legation at Bucharest regarding the reported decision of the Rumanian Government which would have the effect of depriving the Romano-Americana Company of its right to drill on plots where the wells cannot be spaced at least thirty meters from the perimeter, whereas under the old law a distance of only fifteen meters was required.

⁴⁹ Not printed.

It may further be impressed upon the Rumanian Government that the policy underlying the Mining Law is of a character to discourage American enterprise from undertakings in Rumania and that it is difficult for this Government to reconcile this attitude with the assurances previously given to American interests, to which you have alluded in your communications to the Rumanian Government.

I am [etc.]

871.6363/252

The Chargé in Rumania (Riggs) to the Secretary of State

No. 678

Bucharest, November 8, 1924.

[Received November 25.]

Sir: I have the honor to enclose herewith copy of the Note which I have today handed to Mr. Filodor, Secretary-General of the Rumanian Foreign Office, in the absence of Mr. Duca and in conformity with the Department's telegraphic Instruction No. 47 of October 29th [28th], 4 P. M., regarding the refusal of the Ministry of Industry and Commerce to grant permission to the Romano-Americana Company for the installation of wells on concessions held by them previous to the promulgation of the present Mining Law.

I am informed by the Company that they have not to date been able to obtain any permits for the installation of wells under the circumstances fully described in this Legation's despatch No. 664 of September 26th last.⁵⁰

Î have [etc.]

B. REATH RIGGS

[Enclosure]

The American Chargé (Riggs) to the Rumanian Minister for Foreign Affairs (Duca)

No. 111

Bucharest, November 8, 1924.

Mr. Minister: In accordance with instructions received from my Government, I have the honor to inform Your Excellency that, as a result of the regulations for the application of the Mining Law and especially of Articles 113 and 192 of that law, the American oil interests operating in Rumania have not, in spite of their requests addressed to the Ministry of Industry and Commerce, yet been able to obtain authorization for the installation of new wells on concessions obtained by them long before July 4th 1924, date of the promulgation of the new Mining Law. The Ministry of Industry and Commerce

Not printed; see telegram no. 62, Sept. 24, 7 p. m., from the Chargé in Rumania, p. 630.

has made known that its decision is based on the above mentioned regulations, approved on September 9th last, and this in spite of the fact of the priority of the concessions in question to the present law, and of the fact that their area is not sufficient to permit the installation of wells at a distance equal to or greater than 30 meters from their boundaries, without resort to the measures stated in Article 113 of the Law.

My Government is greatly surprised at the application of Articles 113 and 192 of the Mining Law to concessions obtained previous to the promulgation of that Law, inasmuch as this decision, if enforced, will apparently render valueless rights duly acquired under the law as it existed at the time of such acquisition. In view of the repeated assurances that all acquired rights would be left undisturbed, it is hoped that the Government of Your Excellency will not persist in the attitude apparently adopted by the Ministry of Industry and Commerce regarding the installation of wells on concessions obtained by American oil interests previous to the Mining Law of July 3rd 1924.

My Government likewise reserves the privilege of making such further communication on this particular phase or on any other phases of the Mining Law as may appear necessary.

I avail myself [etc.]

B. REATH RIGGS

871.6363/248: Telegram

The Minister in Rumania (Jay) to the Secretary of State

Bucharest, November 16, 1924—5 p. m. [Received November 17—4:53 p. m.]

76. Arrived Bucharest Sunday night.⁵¹ Court, Government and unofficial circles seem apparently genuinely pleased by my return. I explained while personally glad to be back our affairs are far from being settled.

Have so far merely made short courtesy call on Minister for Foreign Affairs who has been absent with King in Bukowina during the week, preferring if possible to await receipt of Department's instruction now en route. ⁵² As I now learn instructions cannot arrive before 25th I contemplate seeing Minister for Foreign Affairs beginning of the week regarding Baldwin matter and 15–30 meter distance mining-law regulation, subject recent American and British protests.

I had yesterday audience with the King lasting one hour. His Majesty extremely friendly and apparently familiar with our affairs.

⁵¹ Nov. 9.

⁵² Department's instruction no. 319, Nov. 7, p. 637.

¹⁰⁸⁸⁴⁻Vol. II-39-47

He informed me Minister of Industry and Commerce definitely assured him Thursday the objections to mining regulations referred to above would be removed. American oil representative however was told early last week by Minister each application would be examined separately, principle of law remaining unchanged. He finds Rumanian attitude slightly more yielding on this and other points.

His Majesty then discussed the Baldwin case. See my number 77,

November 16, 7 p. m.58

JAY

871.6363/257

The Minister in Rumania (Jay) to the Secretary of State

[Extract]

No. 684

Bucharest, November 20, 1924.

[Received December 9.]

Sir: Referring to Mr. Riggs's Despatch No. 678 of November 8th, I have the honor to enclose herewith copy and translation of the reply which I have received from the Minister for Foreign Affairs to the Legation's Note No. 111 of November 8th . . .

I have [etc.]

PETER A. JAY

[Enclosure-Translation]

The Rumanian Minister for Foreign Affairs (Duca) to the American Minister (Jay)

No. 59115

Bucharest, November 18, 1924.

Mr. MINISTER: Referring to Note No. 111 of November 8, 1924,⁵⁴ I have the honor to make known to Your Excellency the following considerations on the subject of the objections of the American Petroleum Companies:

(1) "Pooling" or the combining of small tracts of land whether concessioned or not, in view of exploiting petroleum and natural gases, is a measure which is merely aimed at the protection of the field and its reasonable exploitation. (Art. 113 of the Mining Law)

The measure enacted under the Law, fixing the distance of the

The measure enacted under the Law, fixing the distance of the drilling at 30 meters from the boundary of the property, prevents moreover an unfair competition between neighboring exploitations.

The State, in taking these measures, has intended to insure, not only the general welfare which it has to safeguard, but also the in-

⁵⁴ Not printed.
54 Ante, p. 642.

terests of the private companies whose prosperity is primarily based on a rational exploitation.

Moreover, the directors and technical experts of the companies were the first to request, more than 20 years ago, the regulation of petroleum exploitation in the sense of the stipulations of Article 113.

(2) Pooling does not impair acquired rights. It simply regulates them in view of a rational and equitable exploitation as between adjacent exploitations.

The difficulties proceeding from the widespread division of the ownership of the soil are felt, not only in the mining exploitation of Rumania, but also in that of other countries. Thus, in Galicia, the State has been forced to take analogous and very severe measures to safeguard the ozocerite fields and to insure for them the possibility of a methodical exploitation, seriously jeopardized by innumerable exploitations on small tracts of land. The difficulties of a similar situation are equally known in the English coal mines, with the difference that coal, being a solid, cannot be mined to the detriment of an adjacent owner, whilst petroleum and gas, being fluids, can be extracted by borings which are too near the boundary of the property. Under these conditions the distance of 30 meters, provided by the law, defines the zone of influence of a well and prevents the petroleum or gas of any one property from being extracted by neighbors.

(3) The Mining Law, although having in view these considerations, nevertheless grants the Ministry of Industry and Commerce the power to reduce the distance of 30 meters. (Final paragraph of article 190.)

Under these conditions we can assure Your Excellency that the Ministry of Industry and Commerce will examine with the greatest benevolence all claims on this subject that the American companies may present to that Department.

I take the liberty of asking you, Mr. Minister, kindly to consider if it would not be well to advise the incorporated Rumanian companies with American capital, whose claims have given rise to the intervention of Your Excellency . . . that they may obtain more easily all the elucidations and necessary solutions, by addressing direct the mining authorities of the country, who are, moreover, competent to examine and judge claims of this nature.

I consider it advisable once more to assure Your Excellency that the Rumanian Government intends to do all that is necessary to respect acquired rights and to satisfy legitimate interests of private individuals on this subject.

I take [etc.]

871.6363/250: Telegram

The Minister in Rumania (Jay) to the Secretary of State

Bucharest, November 20, 1924-3 p. m. [Received November 21—12:27 a. m.]

79. Referring to the Legation's number 74, November 8, 1 p. m. 55 Minister of Foreign Affairs has replied by signed note briefly summarized as follows:

[Here follows a summary of note no. 59115, November 18, which is

printed supra.

Copy will go in pouch Saturday. British Legation has received absolutely identical reply which it is forwarded [sic] by pouch tomorrow to London requesting instructions.

British Minister and I, as well as our respective oil interests, consider reply evasive and unsatisfactory. Suggestion in paragraph 4 55a appears ridiculous as oil interests have repeatedly applied to competent authorities without obtaining satisfaction and often

As Minister of Foreign Affairs left today for three-day official visit Transylvania I have been unable to see him but will discuss

matter on his return.

[Paraphrase.] My British colleague and I believe that the note was drafted by the Ministers of Finance and Industry and that the Minister of Foreign Affairs softened it. I have attempted to stiffen the attitude of my British colleague and have suggested that to gain force we obtain authority to reply simultaneously. [End paraphrase.]

JAY

871.6363/250: Telegram

The Secretary of State to the Minister in Rumania (Jay)

[Paraphrase]

Washington, December 1, 1924-3 p. m.

51. The Department believes that at this time it might be undesirable to engage in a long exchange of notes regarding just one provision of Rumania's mining law which is objectionable in so many features. The Department suggests, therefore, that you do not discuss details of Rumanian note 56 in your reply but limit yourself to the statement that the first action taken under the law by the Rumanian Government has tended only to confirm the view of our Gov-

See antepenultimate paragraph of the note supra. No. 59115, Nov. 18, p. 644.

ernment as to the serious effect of this law upon American interests and that our Government can not reconcile the repeated statements of the Rumanian Government that rights which have been acquired would not be disturbed with a line of action which, if followed persistently, would take from American interests the opportunity of using in any profitable way certain rights validly obtained before the law was enacted.

The Department will not give further instructions until it receives report of your conversation with Rumanian Minister for Foreign Affairs.

The Department does not object to your making your reply at the same time as the British Minister does but the reply should not be joint.

HUGHES

871.6363/253 : Telegram

The Minister in Rumania (Jay) to the Secretary of State

[Paraphrase]

Bucharest, December 3, 1924-4 p. m.

[Received 6 p. m.]

80. Your telegram 51 of December 1. In discussing note the Minister of Foreign Affairs asked me to give him a written statement of my arguments to show to the Ministry of Industry.

As I consider it to our advantage to reply at the same time as the British do, although not in the same terms, I have delayed giving an answer, awaiting the receipt by the British Legation of the instructions which they expect.

My impression has been that personally the Minister of Foreign Affairs is anxious for a settlement but is opposed by the Ministry of Industry which has the support of the intractable Finance Minister, and impression was confirmed by my interview. My oral protests, however, may have taken effect as yesterday Minister of Industry most definitely informed Seidell, the Standard Oil Company's representative in Europe here on tour of inspection, that their ten applications on file would be granted now and that their future applications for drilling on concessions received before the passage of the present law would also be granted. This is pleasing to our oil interests, but they as well as I are skeptical until the promises are carried out.⁵⁷

JAY

⁵⁷ In despatch no. 731, March 11, 1925, the Minister in Rumania reported that the issue between the Romano-Americana and the Rumanian Government appeared to be definitely and satisfactorily settled (file no. 871.6363/265).

PROTESTS BY THE UNITED STATES AGAINST RUMANIAN LEGISLATION RESTRAINING AMERICAN CREDITORS FROM COLLECTING DEBTS OWED IN AMERICAN CURRENCY

871.0443/3

The Minister in Rumania (Jay) to the Secretary of State

No. 420

Bucharest, June 21, 1923. [Received July 13.]

Sir: I have the honor to transmit herewith a translation prepared by the Office of the Commercial Attaché, Dr. Van Norman, of a "Law for the Regulation of Commercial Indebtedness" adopted May 30, 1923, and promulgated in the *Monitorul Oficial* of June 3, 1923.58

It will be seen that Article 13 of this law states that it becomes immediately operative in respect to debts contracted with British creditors, and that the "Office for Special Payments in Foreign Currencies" (provided for in the new law) may request the Council of Ministers to apply the provisions of the law in respect to the creditors of other countries, the currency of which is at least three times higher-with reference to the leu-than the gold parity (pre-war parity approximately 5 lei=1 dollar; parity for past three months approximately 200 lei=1 dollar), and who have not within the term of three months provided by the so-called "Term of Grace Law", (promulgated May 14, 1923) concluded separate conventions or agreements with their Rumanian debtors, on the basis of the law of May 30, 1923, herewith communicated. The "Term of Grace" is to allow sufficient time for the negotiation of agreements with other countries. In the meantime, however, all creditors are debarred from taking any action in the Rumanian Courts for the collection of commercial debts owed them.

It follows, therefore, that, if, before the expiration of the three months "Term of Grace" or August 14, 1923, no agreement is concluded between American creditors and their Rumanian debtors, the former will be compelled to accept the conditions imposed by the law of May 30th. This is really the legal confirmation of the agreement concluded between the merchants of Manchester, Bradford, London and Nottingham, who have the largest claims against Rumanian merchants, amounting to a total—according to the Commercial Secretary, Mr. Adams, of the British Legation in Bucharest, of ten million pounds sterling. The terms of the agreement with the British creditors were set forth in Special Report No. 10 of the Commercial Attaché, of March 9, 1923, a copy of which is herewith transmitted.⁵⁸

In this connection I have the honor to report that the only American creditors whose interests in the matter have been brought to the

⁵⁸ Not printed.

knowledge of the Legation as being affected by this law are given below:

First: The claim of the Baldwin Locomotive Works for the payment of the amount due them by the Rumanian Government for locomotives has been the subject of a long correspondence between the Rumanian Government and the Legation (See Legation's latest telegram No. 39, June 20, 3 p. m.⁵⁹). Colonel Greble, the Bucharest representative of the Baldwin Locomotive Works, however, insists that his Company's claim, being based on a special contract with the Rumanian Government, cannot under any conditions come under the purview of this law.

Second: The Commercial Attaché, Dr. Van Norman, informs the Legation that the International Harvester Company, through its Bucharest representative, Mr. T. Gottwald, has urged him to request the Legation to make a protest against the provisions of this law being applied to American creditors. It is reported by Dr. Van Norman that the International Harvester Company has instituted proceedings in the Rumanian courts for the collection of private debts amounting to more than \$400,000. I might mention in this connection that Mr. Gottwald, who is not an American citizen, but according to the Legation's best information a German citizen, has never personally nor through any other representative of his Company applied to the Legation for protection. Furthermore, no representative of this Company in Bucharest during my incumbency at this post has ever been a member of, or attended a meeting of the American lunch club, which is a semi-commercial organization and the rendezvous of practically all the Americans engaged in business in Bucharest, and of which I am honorary president.

It is to be noted here that French, Italian, Swiss, and Dutch claims against Rumanian merchants probably greatly exceed for each of these countries the total of similar American claims. For instance, the Italian Commercial Attaché, Dr. Paleani, estimates the loss in principal and interest involved for Italian creditors by the application of this law at more than a billion lira.

Upon receiving a report on this law I immediately took occasion in a personal interview with Mr. Duca, the Minister for Foreign Affairs to lodge a precautionary protest on June 19, 1923, of which he made due note along with those which I understand have been recently made been made [sic] by some of my colleagues. At this time I gave Mr. Duca to understand that the Government of the United States would not feel itself bound to accept the terms of an agreement made by Rumania with respect to English creditors, and that my Government would no doubt, as soon as apprised thereof, give

⁵⁹ Not printed.

me instructions to make a formal protest against the application of this agreement to American interests.

I should also mention that Mr. Duca, when I discussed the matter with him, alluded to a Rumanian Commission now traveling abroad for the purpose of concluding special arrangements with principal foreign creditors on behalf of local merchants. He asked whether it would not be possible for American creditors to treat with this Commission in Paris or London, and suggested that our Commercial Attaché act as an intermediary, as, he said, was being done by other commercial attachés here. I told Mr. Duca that this would be quite impracticable, pointing out that, aside from anything else, the American Commercial Attaché has not a full list of American creditors of Rumanian merchants nor authority to act on their behalf, our Government's position on such matters being different from that of certain other Powers.

I shall await the receipt of the Department's instructions on the subject, while keeping it constantly advised of any new developments or complaints received by the Legation from American citizens with regard to this law.

I have [etc.]

PETER A. JAY

871.0443/3

The Secretary of State to the Minister in Rumania (Jay)

No. 215

Washington, August 22, 1923.

Sir: The receipt is acknowledged of your despatch No. 420 of June 21, 1923, enclosing a translation of the Rumanian Law for the Regulation of Commercial Indebtedness, adopted May 30, 1923, promulgated in the *Monitorul Oficial* of June 3, 1923.

The Department approves of the action taken by you in the matter.

An examination of the law discloses a number of objectionable features. It provides, in cases where agreements exist for the payment by Rumanian nationals of debts in foreign currencies which have appreciated to a certain extent above the normal exchange value of the lei, for a period of from a minimum of twelve to a maximum of twenty years in which payment can be made. It also fixes an arbitrary rate of interest of from three to four per cent, according to the date on which the debt was incurred, and provides for the payment of an additional percentage for the amortization of the debt.

While it is possible that in some instances Rumanian debtors may not be able to pay debts due in American or other foreign currency, in view of the appreciated value of such currency as compared with

Rumanian lei, other Rumanian debtors are undoubtedly amply able to pay the amounts due in foreign currency and should be permitted to do so in accordance with their contracts without governmental interference. Should an extension of time be desirable in any instance, it is within the province of the interested parties to make some arrangement to that effect.

You may again bring the matter to the attention of the Rumanian Foreign Office, pointing out that the law in question is not only discriminatory, in that it does not apply to all debts but merely to those due in certain currencies which have appreciated in value as compared with the lei, but that it seriously impairs the obligation of private contracts entered into in good faith not only by substituting an arbitrary, and, doubtless, in many cases, a lower rate of interest than that which was provided by contracts but also by extending for a long period of years the time in which payment can be made. You may state that the Government of the United States considers that any attempt to impose upon American creditors, without their consent, the law in question, would constitute an improper governmental interference with existing private contracts, and that the Government of the United States cannot agree to the infringement of the rights of its nationals in the manner proposed by the law.

I am [etc.]

CHARLES E. HUGHES

871.0443/5

The Minister in Rumania (Jay) to the Secretary of State

No. 453

Bucharest, September 20, 1923.

[Received October 17.]

Sir: I have the honor to acknowledge the receipt of the Department's Instruction No. 215 of August 22, 1923, concerning the Rumanian Law for the Regulation of Commercial Indebtedness.

I note with satisfaction that my action in the matter met with the Department's approval.

In accordance with the Department's Instruction I addressed a Note to the Rumanian Minister for Foreign Affairs under date of September 20, 1923, a copy of which is herewith enclosed, embodying all the points to be brought to the attention of the Royal Government.

I took the first opportunity of seeing Mr. Duca after his return to Bucharest from the country and of bringing up this note, which I was glad to find, he had already read. Upon his implying that its tone was somewhat severe I emphasized that it was a matter about which my Government was deeply interested and added that I felt that it was not only fully justified but also not any stronger than

the protests he had received from many of my colleagues. This latter assertion he admitted. His Excellency gave me to understand,—thus confirming the rumors which have been reported by the Legation,—that the Rumanian Government was seriously considering the modification or even abrogation of this law.

My personal opinion is that this will be done in view of the very vehement protests made by all the great powers and especially owing to the desire of the Government to obtain the granting of the long promised French loan. The French Government's loans, nominally for the purchase of war materials in France by Rumania, Czechoslovakia and Poland having been—as the Department is probably aware,—held up by the French Senate, I learn that Senator Berenger, who is I believe the Chairman of the Finance Committee of the French Senate, is about to visit Rumania and the other two mentioned countries for the purpose of investigating their financial stability. As the very large French Commercial interests in Rumania are receiving especially vigorous support from their Government through its Legation here, I feel that this proposed visit is one more reason to expect at least a very broad modification of the objectionable law.

I have [etc.]

PETER A. JAY

[Enclosure]

The American Minister (Jay) to the Rumanian Minister for Foreign Affairs (Duca)

No. 104 Bucharest, September 20, 1923.

Mr. Minister: I have the honor to refer to the interview which Your Excellency was good enough to grant me June 9, 1923, when I protested against the application to American citizens of the law of May 29, 1923, for the settlement of private debts between Rumanians and foreign creditors, whose exchange in relation to the leu is higher than the pre-war parity. As I informed Your Excellency, I did not fail to communicate the full text of this law to my Government which has taken due cognizance thereof.

The Government of the United States appreciates that while, in some instances, Rumanian debtors may not be able to pay debts due in American or other foreign currency, in view of the appreciated value of such currency as compared with Rumanian Lei, other Rumanian debtors are undoubtedly amply able to pay the amounts due in foreign currency and should be permitted to do so in accordance with their contracts without Governmental interference. Should an extension of time be desirable in any instance, it is within the province of the interested parties to make some arrangement to that effect.

My Government has charged me to inform the Royal Government that it considers the law in question not only discriminatory in that it does not apply to all debts but merely to those due in certain currencies which have appreciated in value as compared with the lei, but that it seriously impairs the obligation of private contracts entered into in good faith not only by substituting an arbitrary, and, doubtless, in many cases a lower rate of interest than that which was provided by contract, but also by extending for a long period of years the time in which payment can be made.

The Government of the United States will regard any attempt to impose upon American creditors, without their consent, the law in question as an improper governmental interference with existing private contracts, and it cannot agree to the infringement of the rights of its nationals in the manner proposed by the law.

Accept [etc.]

PETER A. JAY

871.0443/8

The Minister in Rumania (Jay) to the Secretary of State

No. 481

Bucharest, November 23, 1923.
[Received December 14.]

Sir: Referring to the Department's Instruction No. 215 of August 22, 1923, and to the Legation's Despatch No. 453 of September 20th, concerning the Rumanian Law for the Regulation of Commercial Indebtedness, I have the honor to transmit herewith to the Department a copy of an Aide-Memoire which I left on November 21st with the Rumanian Minister for Foreign Affairs.

The subject of this latter communication was a rumored project of law modifying that of June 3rd, 1923, against which I protested on September 20th, in accordance with the Department's Instructions. As the terms of the new draft of a law had not been made public at the time of making the protest, the Legation's only information thereupon was derived from the local newspapers and current rumors. All reports, however, agreed that a new law was to be passed embodying provisions for an absolute moratorium of six months against all foreign creditors, who had not entered into special arrangements with their Rumanian debtors similar to the one made by the British.

In view of these reports a meeting was called on November 16th of the Commercial Attachés of the following countries: the United States, France, Italy, Belgium, Holland, Czechoslovakia and Switzerland to discuss the moratorium law and to decide upon a suitable form of protest.

The Legation was represented at this meeting by the Commercial Attaché and Mr. Dennis. Great Britain was the only large creditor nation not represented, due, probably, to the existence of the so-called

"Manchester agreement" between British creditors and Rumanian debtors, which will not be adversely affected by the provisions of the new law.

At this meeting it was the opinion of all present, except the Swiss representative, whose countrymen have reached a similar agreement to that referred to in the preceding paragraph, that the enactment of the law in question should be anticipated by the presentation of vigorous protests from the respective Legations represented. It was felt that a series of protests lodged while some such law was under consideration by the Rumanian Government might possibly effect its abandonment or, at least, its modification. En passant it is to be noted that the opinion of my Colleagues, in which I concur, is that objectionable anti-foreign laws are often prepared by a Minister in secrecy and are rushed by the Government through a docile Parliament without discussion in the almost complete absence of an articulate opposition. A legislative fait accompli then confronts the representatives of foreign countries against which protests are almost useless, being met with the statement from the Rumanian Government that the work of Parliament cannot be undone.

No set form of protest was adopted at the meeting, but it was considered desirable that each foreign Minister call personally within the coming week on the Minister for Foreign Affairs to set forth the objections of his Government to the application of an absolute moratorium of six months to all foreign claims against Rumanians, and to leave an Aide-Memoire of the conversation. A similar demarche before Mr. Vintila Bratiano, the Minister of Finance, and author of this and all financial legislation of the present Government, was recommended as even more useful than the official and routine protest made to the Foreign Office.

Although at this meeting Mr. Dennis made it clear that the American Legation was not associating itself with any joint demarche in respect to this matter, I deemed it appropriate to present on November 21st personally to the Minister for Foreign Affairs, the precautionary protest above mentioned. It will be noted therefrom that I merely reiterated the points outlined in the Department's Instruction No. 215 of August 22, 1923, protesting against the law of June 3, 1923.

Mr. Duca informed me on November 23rd that he had already received similar communications from my Colleagues of the countries which I have already named as intending to take such action. He then called my attention to the project of a law published for the first time that very day, a translation of which is herewith enclosed.⁶⁰

⁶⁰ Not printed.

According to this draft, the "term of grace" of the law of June 3rd is prolonged for another three months from the date of the promulgation of the new law. Mr. Duca attempted to explain away the force of the new law by saying that it did not mention a general moratorium, but merely prolonged the three months term of grace of the law of June 3rd for a like period.

As a matter of fact, the new law does establish a moratorium for three months, since, during this period, foreign creditors will not be able to obtain the execution of judgments from the courts against delinquent debtors. Foreign creditors are left no legal remedy other than recourse to the "Rumanian Office for Payments" which will, to judge by the experience of the past three months, not sanction any arrangement that might reasonably be considered satisfactory by the creditors.

In this connection the information obtained by Mr. Dennis from the Commercial Attachés of France, Italy and Czechoslovakia and the Secretary of the Belgian Legation shows that the representatives of the creditors of these countries who have, as national delegations, treated separately with Mr. Vintila Bratiano's special commission for the settlement of their claims, have failed in every instance to reach any understanding with the Rumanians and consequently broken off negotiations. The principal reason for the failure of the conference was the refusal of the Rumanian Commission to consent to the issue to foreign creditors of obligations secured by the Rumanian Government for the amounts of the postponed claims. All the foreign delegations maintained the point of view that whereas the Rumanian Government was denying to foreign creditors the conventional legal remedies for the collection of private debts without allowing any lien on the property of delinquent debtors, and whereas the debtors were to be given every facility and advantage, furnishing an insignificant cash guarantee and paying on their debts the low rate of interest of 4% plus 3 or 4% for amortizement, the Rumanian Government should deliver to foreign creditors so dealt with some form of state guaranteed commercial paper for the sum of the unpaid debts which could be negotiated abroad.

As the Rumanian Foreign Office has constantly urged the Legation to arrange for similar negotiations between American creditors and the Rumanian Commission, it is especially interesting to note that these conferences have been fruitless of satisfactory results. The present phase of the situation seems to be that the Rumanian Government intends to extend the so-called terms of grace until all foreign creditors shall have been coerced to accept arrangements along the lines laid down in the "Manchester Agreement."

Lest it might be thought that the Manchester Agreement is not as unfair to creditors as it appears, it should be stated that a great

many British creditors are highly dissatisfied with it. Moreover the agreement was concluded at a time when British exporters were enjoying special credit facilities from the British Government, granted for the alleviation of the unemployment situation in Great Britain. Hence merchants, British and others, whose credit operations with Rumanians were not based on favorable national appropriations cannot accept the terms of this agreement without grave financial loss.

I have [etc.]

PETER A. JAY

[Enclosure]

The American Legation to the Rumanian Ministry of Foreign Affairs

AIDE MEMOIRE

Having taken note of several indications which have recently appeared in the press, relative to a Project of Law modifying that of June 3, 1923, on the payment of debts owed abroad by Rumanian merchants, the Legation of the United States is desirous of ascertaining officially the intentions of the Rumanian Government concerning this question.

At the same time the Legation wishes to recall to the Ministry of Foreign Affairs its Note No. 104 under date of September 20, 1923,61 to the Ministry in which the Legation protested in the name of the Government of the United States against the application to Ameri-

can citizens of the provisions of the law of June 3, 1923.

The Government of the United States could not view favorably the enforcement of an absolute moratorium of six months duration against all American creditors without regard to the capacity of payment of different Rumanian debtors and without adequate guarantee of ultimate reimbursement.

Bucharest, November 20, 1923.

164.12/954

The Chargé in Rumania (Dennis) to the Secretary of State

No. 525

Bucharest, January 21, 1924. [Received February 13.]

SIR:

The Commercial Attaché of the Legation, Dr. Van Norman, has just communicated to the Legation a translation made by his Office

a Ante, p. 652.

of an agreement concluded on December 20, 1923, between representatives of Rumanian debtors and the French Consul and Commercial Attaché, respectively, acting as principals for French creditors, who had authorized the last named so to act for them. The most important features of the agreement are the following:

1. It applies to commercial and private debts contracted between November 11, 1918 and January 1, 1922 by the Rumanian parties;

2. It allows a maximum moratorium period of twenty-six years;
3. Debtors admitted to the benefits of the agreement must deposit a guarantee equivalent in value to four lei for each French franc owed, in acceptable securities,—at the prevailing rate of exchange this

means about 40% of the debt;

4. Liquidation of the debt at the rate of 7.33% annually, of which 5% will be applied as interest, and the remaining 2.33% for the amor-

tization.

5. This agreement will be ratified by the Council of Ministers and appropriate legislation passed to protect French creditors from executions against their debtors at the demand of other creditors with whom a collective agreement may not have been reached.

In reporting this agreement to the Department of Commerce, the Commercial Attaché states, in a letter dated January 9, of which a copy is herewith enclosed for the Department's convenience, ⁶² that he considers it is now time for some action of a similar nature to be taken in respect of American creditors having debts of this character against private individuals or companies in Rumania. He refers to the cases of the International Harvester Company, which has a claim of about \$400,000. against Staadecker and Company now before the courts, also the case of Bencoe Export Company versus Kosca and Banca Agricola for a sum of about \$40,000.

There appears to be no reason to believe that the present Rumanian Government, nor any one likely to succeed it, will permit, in the near future, the courts of this country to give legal relief and apply legal remedies in accordance with the commercial code and the customary laws of the country against any debtors in Rumania on the petition of any foreign creditors, where the debt belongs to the category covered by the agreement herein reported. This conviction is shared by all the foreign representatives in this capital, as shown by the fact that the two largest creditor nations, England and France, have already concluded special agreements, while Italy, Switzerland, and Czechoslovakia are at present negotiating towards this end.

It seems, therefore, that American creditors have the choice of concluding an arrangement along the lines already laid down in the two agreements just mentioned, or submitting to an indefinite moratorium.

I have [etc.]

LAWRENCE DENNIS

a Not printed.

871.0443/12

The Chargé in Rumania (Dennis) to the Secretary of State

[Extract]

No. 570

Bucharest, March 4, 1924. [Received April 5.]

Sir:

. . . four prolongations of three months each of the moratorium on foreign claims of the classes affected by the laws of June 3 and December 16, 1923, have been successively voted by the Rumanian Parliament, the last one having just been promulgated last week. These moratorium enactments are necessary adjuncts to the Conventions and the laws stating and applying them, as, obviously, the Courts must not be allowed to grant the ordinary legal remedies to other foreign creditors to the prejudice of those who have concluded special arrangements.

In the latest moratorium enactment, I understand that it is provided that, should Parliament not be in session when the present three months moratorium period expires, then the Council of Ministers may

order a further extension not to exceed five months.

It is the present policy, I believe, of the Rumanian Government to continue these moratorium periods until agreements similar to the "Manchester" and French types (the latter is fully reported in my No. 525 of January 21st) have been concluded with the creditors of all countries having claims in "strong" monies against debtors in Rumania.

It may be observed in this connection that the "French Agreement" is considered here to be more satisfactory from the creditors' point of

view than the "Manchester Agreement".

I take occasion again to reiterate the opinion expressed in the next to the last paragraph of my despatch No. 525 to the effect that American creditors will not find any solution for their claims against Rumanian debtors except in the manner followed by the British and the French.

I have [etc.]

LAWRENCE DENNIS

871.6363/228: Telegram

The Chargé in Rumania (Riggs) to the Secretary of State

Bucharest, October 4, 1924-1 p. m.

[Received 8:30 p. m.]

65. Referring to the Department's number 34, July 30, 5 p. m., paragraph 7.63 Have today received confirmation through banks and

⁶⁸ Ante, p. 626.

informed at Ministry Justice of press reports that the Term of Grace Law was extended on the second instant for three months from September 15th, date of its last expiration. Please inform Department of Commerce.

Riggs

871.51/564: Telegram

The Chargé in Rumania (Riggs) to the Secretary of State

Bucharest, October 10, 1924-1 p. m.

[Received 11:45 p. m.]

68. Have today received visit of delegate appointed by Roumanian Government from Bucharest Chamber of Commerce to negotiate settlement of pre- and post-war private Roumanian debts to American creditors. The acting commercial attaché of the Legation was present at the interview. Delegate proposes either that representatives of American creditors be appointed to negotiate direct with him or that this Legation be empowered to negotiate with him agreement for American creditors. He suggests taking British or Swiss agreement with Roumanian debtors as bases of discussion with American creditors. He states that according to Roumanian estimates pre-war debts aggregate about half a million dollars but that he had been unable to secure any trustworthy estimate of post-war debts. Please instruct.

Riggs

871.51/579: Telegram

The Acting Secretary of State to the Chargé in Rumania (Riggs)

Washington, October 24, 1924—4 p. m.

46. Your 68, October 10, 1 p. m. Department considers that private debts, whether pre-war or post-war, owed between Rumanian[s] and Americans should be adjusted by the interested parties directly, and should not be subject to governmental interference. See views of this Government set forth in instruction 215, August 22, 1923, and in paragraph 7, Department's telegram 34, July 7 [30], 1924, and unnumbered sixth paragraph of its No. 44, October 15.64

Department informed that Rumania has disregarded this Government's request and has again extended Term of Grace Law, which it is understood prevents American creditors from collecting debts due in American dollars, even where Rumanian debtor may be perfectly solvent. As heretofore indicated, Department considers such a blanket prohibition preventing payment irrespective of financial capacity of debtor is an improper and arbitrary governmental inter-

⁶⁴ Ante, pp. 650, 626, and 634, respectively.

ference with the right of private contract. Mr. Jay, who is leaving Saturday, is fully aware of Department's position and will make further representations upon his return. You may, however, orally intimate to delegate views contained in this telegram.

While this Government could not in any way commit its nationals without their consent in each case, and therefore the Legation could not properly undertake any negotiations on behalf of American creditors generally, you may in any particular case render an American creditor at his request such informal assistance as might be proper.

The Department has no definite information as to the amount due

American creditors from Rumanians.

GREW

871.51/596

The Minister in Rumania (Jay) to the Secretary of State

No. 689

Bucharest, December 5, 1924.
[Received December 29.]

Sir: I have the honor to report that, having learned that the Rumanian Government is under pressure to extend again for a further period of three months the Term of Grace Law, which would otherwise expire on December 15th, I addressed yesterday a Note to the Minister for Foreign Affairs repeating our views on the subject and protesting against a further extension.

As will be seen from the copy I enclose, I have endeavored, while briefly reiterating our views, to lay emphasis on the concern felt by the Department, to indicate possible consequences and finally to place on record in writing before the expiration of the present extension an official protest against any further renewal.

I have laid stress on the impropriety of affording protection to the solvent debtor rather than on the discriminatory nature of the legislation—a contention vigorously denied in both Government and commercial circles.

The Minister for Foreign Affairs is well aware of the importance attached to the entire subject by our Government, especially as only last week (November 27th) during a long informal conversation in regard to all the questions at issue I allowed Mr. Duca to read the actual views of the Department which are so fully and clearly expressed in its Instruction No. 319 of November 7th last.65

It must be admitted that the Rumanian Government finds itself in a very difficult position, as collective commercial agreements

⁶⁵ Ante, p. 637.

have been concluded with British, French, Belgian, Italian, Swiss, and possibly other creditors, which obligate the Government to prevent by legislation foreign creditors on whose behalf no collective agreements exist, from obtaining execution of judgment.

If the Rumanian Government were to permit American creditors to obtain unconditional satisfaction of their claims, it would undoubtedly receive vigorous protests from the foreign governments concerned, whose nationals have been assured, by Rumanian legislation, protection against any such favored treatment to creditors of nations which have not concluded such agreements.

I fear that even if the Term of Grace Law is not given another extension, it will in practice be found impossible on one pretext or another to secure actual execution of judgments. Moreover, I understand that a "loi d'imprévision" (A law giving Courts discretionary power to grant a term of grace to debtors whose inability to meet their obligations is shown to be the result of circumstances beyond their control), such as apparently exists in certain countries observing the Code Napoleon, may be shortly incorporated in the Rumanian Civil Code, thus permanently replacing the Term of Grace Law.

The entire question of the payment of commercial debts is exceedingly involved. It is most difficult to ascertain at all definitely just how the laws and regulations are being applied, particularly in view of the influence which (it is widely believed) the Government is privately exercising upon the Courts.

The Department will have received the memorandum drafted by the Delegate of the Bucharest Chamber of Commerce which was transmitted in the Legation's Despatch No. 676 of November 7th,66 and which covers very fully the situation from the Rumanian point of view.

I enclose a copy of a letter which our Acting Commercial Attaché has kindly written me at my request, 66 giving me his personal survey and opinion of the question. As will be seen, Dr. Van Norman has gone over the entire subject with great care.

I have [etc.]

PETER A. JAY

[Enclosure]

The American Minister (Jay) to the Rumanian Minister for Foreign
Affairs (Duca)

No. 116

Bucharest, December 4, 1924.

Mr. MINISTER: At the instance of my Government I have the honor to address Your Excellency concerning a matter which has been made

⁶⁶ Not printed.

by the Legation the subject of previous representations to the Rumanian Government. I refer to the so-called "Term of Grace" Law, originally promulgated on May 17, 1923, and which has been extended from time to time.

Although I have on several occasions brought to Your Excellency's attention the objections of my Government in connection with this Law, I am now instructed to reiterate and explain more fully the basis of these objections.

It is clear that this "Term of Grace" Law prevents private American creditors from obtaining payment of debts due them in American currency even when the private Rumanian debtor is solvent, unless they are willing to submit to certain arbitrary terms dictated by the Rumanian Government. My Government is unable to accept the action of Your Excellency's Government in applying the terms of this Law to all debts due by Rumanian nationals to American citizens regardless of the solvency of the debtor and it moreover considers this legislation discriminatory inasmuch as it does not apply to all debts due in Rumania, but merely to those due in a strong currency. Government views this legislation as an improper and arbitrary governmental interference with the right of private contract, since, irrespective of the financial capacity of the debtor to pay, it subordinates payment to arbitrary terms imposed by the Government of the debtors—an interference for which the Rumanian Government might be held liable to American citizens suffering damage by reason of its action.

I am therefore instructed to insist that Rumanian Laws and regulations should be such as to permit American creditors freely to obtain

payment from solvent Rumanian debtors.

As it appears that the last extension of the "Term of Grace" Law expires on the 15th of this month, I must once more reiterate my Government's formal request that this Law be either not again extended, or else that it be modified in such a way as to permit American creditors freely to obtain payments due to them from solvent Rumanian debtors.

I avail myself [etc.]

PETER A. JAY

871.51/598

The Minister in Rumania (Jay) to the Secretary of State

No. 700

Bucharest, December 20, 1924. [Received January 6, 1925.]

Sir: I have the honor to refer to my Despatch No. 689 of December 5th last, transmitting a copy of the Legation's Note of December 4th to the Foreign Office in regard to a further extension of the "Term of Grace" Law which would otherwise expire on December 15th.

The Legation has as yet received no reply to this communication but the Minister for Foreign Affairs has informed me that he expects shortly to send me a carefully prepared exposé of the situation for transmission to Washington. I understand that this will consist of a brief drafted by the leading Rumanian financial and economic authorities, explaining the impossibility of granting preferential treatment to American creditors in view of the provisions contained in the collective agreements concluded with all the more important foreign creditors.

As the Legation anticipated, a brief bill was presented to the Chamber of Deputies on the 18th, and yesterday to the Senate providing for a further extension of this law for three months, i. e. to March 15th.

This measure as voted by Parliament, while operative in practice from the preceding expiration, becomes officially effective from the date of its promulgation in the *Official Monitor* which is often delayed.

I enclose a translation of the text of the measure as presented to Parliament together with its official explanatory preamble.67

The Rumanian Press shows scarcely any interest in the matter, presumably because these successive prolongations have been taken for granted in commercial circles and generally.

In my despatch referred to above, I mentioned the probability that the Rumanian Parliament would be asked in the near future to consider the enactment of a "Loi d'imprévision". I now understand that the draft of such a law has been prepared by the Minister of Justice and that he announced the day before yesterday in the Senate that his draft had been approved by the Council of Ministers as well as by the Economic Commission of the Government, and that he proposed to lay it before Parliament in the near future.

While the Legation has as yet no information regarding the terms or provisions of this proposed law, I would call attention to the observations on this especial subject made by Dr. Van Norman on page 4 (paragraph 3) and page 5 (paragraph 1) of his letter of December 4th transmitted in my Despatch 689.67 As pointed out therein, the object of such a law as existing in other countries is not to afford protection to the solvent debtor.

I have [etc.]

PETER A. JAY

⁶⁷ Not printed.

EXTRADITION TREATY BETWEEN THE UNITED STATES AND RUMANIA, SIGNED JULY 23, 1924, AND A NOTE REGARDING THE DEATH PENALTY

Treaty Series No. 713

Treaty between the United States of America and Rumania, Signed at Bucharest, July 23, 1924 68

The United States of America and His Majesty the King of Rumania desiring to promote the cause of justice, have resolved to conclude a treaty for the extradition of fugitives from justice between the two countries and have appointed for that purpose the following Plenipotentiaries:

The President of the United States of America, Mr. Peter Augustus Jay, Envoy Extraordinary and Minister Plenipotentiary of the

United States in Rumania: and

His Majesty, the King of Rumania, Mr. I. G. Duca, Minister for

Foreign Affairs:

Who, after having communicated to each other their respective full powers, found to be in good and due form, have agreed upon and concluded the following articles:

ARTICLE I

It is agreed that the Government of the United States and the Government of Rumania shall, upon requisition duly made as herein provided, deliver up to justice any person, who may be charged with, or may have been convicted of, any of the crimes specified in Article II. of the present Treaty committed within the jurisdiction of one of the High Contracting Parties, and who shall seek an asylum or shall be found within the territories of the other; provided that such surrender shall take place only upon such evidence of criminality, as according to the laws of the place where the fugitive or person so charged shall be found, would justify commitment for trial if the crime or offense had been there committed.

ARTICLE II

Persons shall be delivered up according to the provisions of the present Treaty, who shall have been charged with or convicted of any of the following crimes:

1. Murder, comprehending the crimes designated by the terms parricide, assassination, manslaughter when voluntary, poisoning or infanticide.

⁶⁸ In English and French; French text not printed. Ratification advised by the Senate, Feb. 10, 1925; ratified by the President, Feb. 26, 1925; ratified by Rumania, Feb. 24, 1925; ratifications exchanged at Bucharest, Apr. 7, 1925; proclaimed by the President, Apr. 14, 1925.

- 2. The attempt to commit murder.
- 3. Rape, abortion, carnal knowledge of children under the age of twelve years.
 - 4. Abduction or detention of women or girls for immoral purposes.
 - 5. Bigamy.
 - 6. Arson.
- 7. Wilful and unlawful destruction or obstruction of railroads, which endangers human life.
 - 8. Crimes committed at sea:
- (a) Piracy, as commonly known and defined by the law of nations, or by statute;
- (b) Wrongfully sinking or destroying a vessel at sea or attempting to do so;
- (c) Mutiny or conspiracy by two or more members of the crew or other persons on board of a vessel on the high seas, for the purpose of rebelling against the authority of the Captain or Commander of such vessel, or by fraud or violence taking possession of such vessel;
- (d) Assault on board ship upon the high seas with intent to do bodily harm.
- 9. Burglary, defined to be the act of breaking into and entering the house of another in the night time with intent to commit a felony therein.
- 10. The act of breaking into and entering the offices of the Government and public authorities, or the offices of banks, banking houses, savings banks, trust companies, insurance and other companies, or other buildings not dwellings with intent to commit a felony therein.
- 11. Robbery, defined to be the act of feloniously and forcibly taking from the person of another goods or money by violence or by putting him in fear.
 - 12. Forgery or the utterance of forged papers.
- 13. The forgery or falsification of the official acts of the Government or public authority, including Courts of Justice, or the uttering or fraudulent use of any of the same.
- 14. The fabrication of counterfeit money, whether coin or paper, counterfeit titles or coupons of public debt, created by National, State, Provincial, Territorial, Local or Municipal Governments, bank notes or other instruments of public credit, counterfeit seals, stamps, dies and marks of State or public administrations, and the utterance, circulation or fraudulent use of the above mentioned objects.
- 15. Embezzlement or criminal malversation committed within the jurisdiction of one or the other party by public officers or depositaries, where the amount embezzled exceeds two hundred dollars or Rumanian equivalent.

16. Embezzlement by any person or persons hired, salaried or employed, to the detriment of their employers or principals, when the crime or offense is punishable by imprisonment or other corporal punishment by the laws of both countries, and where the amount embezzled exceeds two hundred dollars or Rumanian equivalent.

17. Kidnapping of minors or adults, defined to be the abduction or detention of a person or persons, in order to exact money from them, their families or any other person or persons, or for any other

unlawful end.

18. Larceny, defined to be the theft of effects, personal property, or money, of the value of twenty-five dollars or more, or Rumanian

equivalent.

19. Obtaining money, valuable securities or other property by false pretences or receiving any money, valuable securities or other property knowing the same to have been unlawfully obtained, where the amount of money or the value of the property so obtained or received exceeds two hundred dollars or Rumanian equivalent.

20. Perjury or subornation of perjury.

21. Fraud or breach of trust by a bailee, banker, agent, factor, trustee, executor, administrator, guardian, director or officer of any company or corporation, or by any one in any fiduciary position, where the amount of money or the value of the property misappropriated exceeds two hundred dollars or Rumanian equivalent.

22. Crimes and offenses against the laws of both countries for the

suppression of slavery and slave trading.

23. Wilful desertion or wilful non-support of minor or dependent children.

24. Extradition shall also take place for participation in any of the crimes before mentioned as an accessory before or after the fact; provided such participation be punishable by imprisonment by the laws of both the High Contracting Parties.

ARTICLE III

The provisions of the present Treaty shall not import a claim of extradition for any crime or offense of a political character, nor for acts connected with such crimes or offenses; and no person surrendered by or to either of the High Contracting Parties in virtue of this Treaty shall be tried or punished for a political crime or offense. When the offense charged comprises the act either of murder or assassination or of poisoning, either consummated or attempted, the fact that the offense was committed or attempted against the life of the Sovereign or Head of a foreign State or against the life of any member of his family, shall not be deemed sufficient to sus-

tain that such crime or offense was of a political character; or was an act connected with crimes or offenses of a political character.

ARTICLE IV

No person shall be tried for any crime or offense other than that for which he was surrendered.

ARTICLE V

A fugitive criminal shall not be surrendered under the provisions hereof, when, from lapse of time or other lawful cause, according to the laws of the place within the jurisdiction of which the crime was committed, the criminal is exempt from prosecution or punishment for the offense for which the surrender is asked.

ARTICLE VI

If a fugitive criminal whose surrender may be claimed pursuant to the stipulations hereof, be actually under prosecution, out on bail or in custody, for a crime or offense committed in the country where he has sought asylum, or shall have been convicted thereof, his extradition may be deferred until such proceedings be determined, and until he shall have been set at liberty in due course of law.

ARTICLE VII

If a fugitive criminal claimed by one of the parties hereto, shall be also claimed by one or more powers pursuant to treaty provisions, on account of crimes committed within their jurisdiction, such criminal shall be delivered to that State whose demand is first received.

ARTICLE VIII

Under the stipulations of this Treaty, neither of the High Contracting Parties shall be bound to deliver up its own citizens.

ARTICLE IX

The expense of arrest, detention, examination and transportation of the accused shall be paid by the Government which has preferred the demand for extradition.

ARTICLE X

Everything found in the possession of the fugitive criminal at the time of his arrest, whether being the proceeds of the crime or offense, or which may be material as evidence in making proof of the crime, shall so far as practicable, according to the laws of either of the High Contracting Parties, be delivered up with his person at the time of surrender. Nevertheless, the rights of a third party with regard to the articles referred to, shall be duly respected.

ARTICLE XI

The stipulations of the present Treaty shall be applicable to all territory wherever situated, belonging to either of the High Contracting Parties or in the occupancy and under the control of either

of them, during such occupancy or control.

Requisitions for the surrender of fugitives from justice shall be made by the respective diplomatic agents of the High Contracting Parties. In the event of the absence of such agents from the country or its seat of Government, or where extradition is sought from territory included in the preceding paragraphs, other than the United States or Rumania, requisitions may be made by superior consular officers. It shall be competent for such diplomatic or superior consular officers to ask and obtain a mandate or preliminary warrant of arrest for the person whose surrender is sought, whereupon the judges and magistrates of the two Governments shall respectively have power and authority, upon complaint made in accordance with the laws of the country demanded, to issue a warrant for the apprehension of the person charged, in order that he or she may be brought before such judge or magistrate, that the evidence of criminality may be heard and considered and if, on such hearing, the evidence be deemed sufficient to sustain the charge, it shall be the duty of the examining judge or magistrate to certify it to the proper executive authority, that a warrant may issue for the surrender of the fugitive.

In case of urgency, the application for arrest and detention may be addressed directly to the competent magistrate in conformity to the

statutes in force.

The person provisionally arrested shall be released, unless within two months from the date of arrest in Rumania, or from the date of commitment in the United States, the formal requisition for surrender with the documentary proofs hereinafter prescribed be made as aforesaid by the diplomatic agent of the demanding Government or, in his absence, by a consular officer thereof.

If the fugitive criminal shall have been convicted of the crime for which his surrender is asked, a copy of the sentence of the court before which such conviction took place, duly authenticated, shall be produced. If, however, the fugitive is merely charged with crime, a duly authenticated copy of the warrant of arrest in the country where the crime was committed, and of the depositions upon which such warrant may have been issued, shall be produced, with such other evidence or proof as may be deemed competent in the case.

ARTICLE XII

In every case of a request made by either of the High Contracting Parties for the arrest, detention or extradition of fugitive criminals, the appropriate legal officers of the country where the proceedings of extradition are had, shall assist the officers of the Government demanding the extradition before the respective judges and magistrates, by every legal means within their power; and no claim whatever for compensation for any of the services so rendered shall be made against the Government demanding the extradition; provided, however, that any officer or officers of the surrendering Government so giving assistance, who shall, in the usual course of their duty, receive no salary or compensation other than specific fees for services performed, shall be entitled to receive from the Government demanding the extradition the customary fees for the acts or services performed by them, in the same manner and to the same amount as though such acts or services had been performed in ordinary criminal proceedings under the laws of the country of which they are officers.

ARTICLE XIII

The present Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional methods and shall take effect on the date of the exchange of ratifications which shall take place as soon as possible.

ARTICLE XIV

The present Treaty shall remain in force for a period of ten years, and in case neither of the High Contracting Parties shall have given notice one year before the expiration of that period of its intention to terminate the Treaty, it shall continue in force until the expiration of one year from the date on which such notice of termination shall be given by either of the High Contracting Parties.

In witness whereof the above-named Plenipotentiaries have signed the present Treaty and have hereunto affixed their seals.

Done in duplicate at Bucharest, this twenty-third day of July, nineteen hundred and twenty-four.

[SEAL] PETER A. JAY [SEAL] I. G. DUCA

No. 78 Legation of the United States of America

BUCHAREST, July 23, 1924.

In signing today with His Excellency Mr. I. G. Duca, the Minister for Foreign Affairs of His Majesty the King of Rumania, the Treaty of Extradition which has been negotiated between the Government of the United States of America and the Royal Rumanian Govern-

ment, the undersigned, Minister Plenipotentiary and Envoy Extraordinary of the United States of America at Bucharest, provided with full powers from his Government for the conclusion of this Treaty, has the honor to confirm by this Note to the Royal Rumanian Government the assurance that the death penalty will not be enforced against criminals delivered by Rumania to the United States of America for any of the crimes enumerated in the said Treaty, and that such assurance is, in effect, to form part of the Treaty and shall be mentioned in the ratifications of the Treatv.

In order to make this assurance in the most effective manner possible, it is agreed by the Government of the United States that no person charged with crime shall be extraditable from Rumania to the United States, upon whom the death penalty can be inflicted for the offense charged by the laws of the country where the trial is pending.

This agreement on the part of the United States will be mentioned in the ratifications of the Treaty and will, in effect, form part of the

Treaty.

PETER A. JAY American Minister

His Excellency Mr. I. G. Duca, Minister for Foreign Affairs of His Majesty the King of Rumania.

211.71/41

The Minister in Rumania (Jay) to the Secretary of State

No. 636

Bucharest, July 24, 1924.

[Received August 18.]

Sir: Referring to my dispatch No. 616 of June 9, 1924 684 in reply to the Department's Instruction No. 282 of April 11,68a on the subject of the extradition treaty to be concluded between the United States and Rumania, I have the honor to transmit herewith this convention, in French and English parallel texts which the Minister of Foreign Affairs, Mr. I. G. Duca, and I signed on July 23rd at 6 o'clock in the afternoon at the Foreign Office, Bucharest,69 as reported in my telegram No. 50 of July 23.68a

Just before signing the treaty the Rumanian legal authorities asked to have the words "a être" added in Article XIV, so that the clause "il continuera en vigueur" would read "il continuera à être en vigueur". As this change amplifies, without altering in any way, the sense of the passage. I readily assented to its addition to the text, and

Not printed. Supra.

RUMANIA 671

I feel hopeful that the Department will be pleased to approve this decision.

In order to meet the Rumanian Government's objection to the application of the death penalty to criminals it might extradite to the United States, I have, in accordance with the Department's instructions, annexed to the Treaty a protocol, in the form of a note, similar to the one forming part of our extradition convention with Portugal.⁷⁰

The signing of this treaty, as a result of the unremitting efforts of the Legation since the receipt of the Department's instruction of April 10, 1923,⁷¹ is particularly gratifying to me as this achievement has been the object of unsuccessful negotiations carried on with the Rumanian Government since 1892 by at least four of my predecessors.

In this connection, I desire to point out that the conclusion of the Treaty would have been impossible without the French translation thereof which was prepared by Mr. Dennis and submitted by him to the Rumanian authorities, during the two months he was in charge of the Legation last winter. Mr. Dennis also secured the acceptance by the Rumanian Government of this French draft with certain minor modifications. Slight changes were subsequently made in it by the Department. This text, with the parallel English version originally furnished the Legation by the Department, was signed yesterday.

In the last stages of the negotiations, taking advantage of the effect produced on the Rumanian Government by the Department's firm attitude towards this country, recently manifested in connection with other questions, I was able to hasten the signing of the Treaty. Thus the conclusion of the Treaty was greatly expedited when I explained to Mr. Duca that Rumania was one of the very few remaining countries with which the United States had not yet been able to sign an extradition treaty, and that I felt that prompt action on their part in this matter would make a very favorable impression at Washington.

I have [etc.]

PETER A. JAY

211.71/41

The Secretary of State to President Coolidge

THE PRESIDENT: The undersigned the Secretary of State has the honor to lay before the President, with a view to its transmission to the Senate to receive the advice and consent of that body to ratification, if his judgment approve thereof, an extradition Treaty between the United States and Rumania, signed at Bucharest July 23, 1924.

⁷⁰ Foreign Relations, 1908, p. 693.

⁷¹ Not printed. ⁷² Ante, p. 664.

Attached to the Treaty is a note signed by the American Minister at Bucharest, by which the assurance is given on the part of the United States that the death penalty will not be enforced against criminals delivered by Rumania to the United States for any of the crimes enumerated in the said Treaty, and that such assurance is, in effect, to form part of the Treaty, and shall be mentioned in the ratifications of the Treaty.

Similar assurance was given in the cases of the Extradition Treaty with Portugal signed on May 7, 1908,78 and the Extradition Treaty

with Costa Rica signed on November 10, 1922.74

In its Resolution giving advice and consent to the ratification of these two Treaties, the Senate stated its understanding "that it is agreed by the United States that no person charged with crime shall be extraditable from Portugal [and Costa Rica]" upon whom the death penalty can be inflicted for the offence charged by the laws of the jurisdiction in which the charge is pending, and that this agreement on the part of the United States will be mentioned in the ratifications of the treaty and will, in effect, form part of the treaty".

A similar confirmation by the Senate of the assurance given by the Minister to Rumania at the time of the signature of the Rumanian Treaty is necessary.

Respectfully submitted,

CHARLES E. HUGHES

Washington, December 5, 1924.

211,71/41

T Supra.

President Coolidge to the Senate of the United States

To the Senate: With a view to receiving the advice and consent of the Senate to its ratification, I transmit herewith an extradition Treaty between the United States and Rumania, signed at Bucharest on July 23, 1924,76 and, for confirmation by the Senate, the note dated the same day by which the American Minister at Bucharest gives assurance on the part of the United States that the death penalty will not be enforced against criminals delivered by Rumania to the United States for any of the crimes enumerated in the Treaty, and that such assurance is, in effect, to form part of the Treaty and will be so mentioned in the ratifications of the Treaty.

The attention of the Senate is invited to the accompanying report of the Secretary of State, 77 in which it is explained that precedents

⁷³ Foreign Relations, 1908, p. 693.

 ¹⁶ Jul., 1922, vol. 1, p. 988.
 Brackets appear in the original text.
 Ante, p. 664.

for this course are found in the cases of the Extradition Treaty between the United States and Portugal in 1908, and the Extradition Treaty between the United States and Costa Rica in 1922, in each of which similar assurance was given and was confirmed by the Senate.

[CALVIN COOLIDGE]

Washington, [December 8, 1924.]

211.71/43

The Secretary of State to the Chairman of the Senate Committee on Foreign Relations (Borah)

Washington, January 17, 1925.

My Dear Senator Borah: I am advised that at a recent meeting of your Committee when the extradition treaty recently concluded with Rumania was under discussion, the Committee expressed a desire to receive a statement of my views on the two following questions:

1. Would it be satisfactory to the Rumanian Government to omit the paragraph in our note, accompanying and made a part of the treaty, reading as follows:

"In order to make this assurance in the most effective manner possible, it is agreed by the United States that no person charged with crime shall be extra-ditable from Rumania upon whom the death penalty can be inflicted for the offense charged by the laws of the jurisdiction in which the charge is pending." and to substitute therefor the simple assurance of this Government that the death penalty would not be inflicted, and

2. If a treaty were entered into with Rumania with an accompanying note to the effect last set forth, would the treaty, as including such a note, have the effect of governing the situation in a given case where the person extradited was subject to the death penalty under

State law, as against the laws of a State.

Replying to the first question, I may say that I think the indicated change in the note would be satisfactory to the Rumanian Government, which, in the counter draft it proposed to the draft extradition treaty proposed by this Government, proposed (Article 7) that

"In view of the fact the death penalty does not appear among the penalties recognized by the criminal laws of Rumania, the Rumanian Government will grant the extradition of criminals who, under the criminal laws of the United States, would be liable to the said penalty only on condition that the Government of the Republic of the United States undertakes in a formal statement that the sentence of death passed upon him shall not be carried out."

In response to your second question, I may say that I am of the opinion that if a treaty entered into with Rumania included an accompanying note giving an assurance by the United States that the death penalty would not be inflicted upon a person extradited from

Rumania, that assurance so contained would have the legal effect of governing the situation in a given case as against the laws of a State.

However, it should be added, as bearing upon both the questions, that in view of the practical difficulties which might be involved in maintaining such assurances in a given case, I should be indisposed to enter into such an arrangement with Rumania. Local authorities might be in disagreement with the views of the executive branch of the Federal Government on this matter, or might feel that they had no authority to intervene in the matter. Because of the absence of competent counsel to defend the accused, the case might not be correctly presented to the courts or the appropriate legal steps might not be taken. It is even conceivable that there might be interference by persons not in authority, which would nullify the effect of the assurance.

May I add that possibly the effect of the ratification of the treaty in its present form is not, as a practical matter, of so great importance as might appear? In this connection I may point out that since 1908 the United States has had an extradition convention with Portugal which contains provisions like those under discussion. Nevertheless, in all that time, notwithstanding the fact that Portugal is considerably more accessible from the United States than is Rumania, the records of the Department do not show that any request has been made to it by Federal or State authorities in the United States to obtain the extradition from Portugal of a person accused of murder. It can hardly be assumed that this has been due to the fact of general knowledge by such authorities of the terms of the treaty, for the Department's experience does not indicate the existence of such general knowledge of the extradition treaties of the United States on the part of authorities who institute extradition proceedings.

In any event, as will readily occur to you, with the treaty ratified as concluded, Rumania will not offer any more of a refuge to murderers from this country than it offers at present with no treaty of extradition in force.

I am [etc.]

CHARLES E. HUGHES

RUSSIA

INSTRUCTIONS FOR THE GUIDANCE OF AMERICAN DIPLOMATIC REPRESENTATIVES IN THEIR RELATIONS WITH SOVIET REPRESENTATIVES IN COUNTRIES TO WHICH THEY ARE ACCREDITED

707.1161/4: Telegram

The Minister in Austria (Washburn) to the Secretary of State
[Paraphrase]

VIENNA, May 26, 1924—7 p. m. [Received 10:17 p. m.]

25. Today I received a note from the newly appointed Soviet Minister. He has sent identic notes to other legations informing them that he has presented his credentials and that he will be happy to establish official and personal relations with the representatives addressed. The other legations in similar circumstances are making courteous but noncommittal replies. I am about to leave Vienna. Please send instructions.

WASHBURN

707.1161/4: Telegram

The Secretary of State to the Minister in Austria (Washburn)

Washington, May 27, 1924-5 p. m.

24. Your No. 25, May 26, 7 p. m. You may personally and unofficially acknowledge the note of the Soviet representative and informally receive him should he call on you but you should not return his call or otherwise assume any official relation.

HUGHES

707.1161/11: Telegram

The Chargé in Finland (Hall) to the Secretary of State

Helsingfors, August 24, 1924—1 p. m. [Received August 24—9:50 a. m.]

20. Friday afternoon Foreign Minister and wife issued invitations to chiefs of missions for farewell dinner next Tuesday in honor of Norwegian Minister recently named Minister to Moscow. Yesterday by accident it was discovered Russian Minister here was invited and

had accepted. As dinner company limited in numbers thus making opportunities for incidents numerous, French, Belgian, and Dutch Ministers, latter dean of the diplomatic corps, have declined to attend. I also have decided not to go although my position delicate due to fact it is first invitation extended to me by Minister for Foreign Affairs. I will seek an interview with him tomorrow, and will informally express regret not being able under the circumstances to accept his hospitality. I will avoid sending formal note of regrets. As suggested, time was so short I have been obliged to act in matter without waiting for instructions from the Department.

HALL

707.1161/11: Telegram

The Secretary of State to the Chargé in Finland (Hall)¹

Washington, August 26, 1924—11 a.m.

18. Your 20, August 24, 1 p. m., and 21, August 24, 5 p. m.² Notwithstanding the action of certain of your ministerial colleagues as reported by you, you should accept the invitation of the Minister for Foreign Affairs. The fact that we have not recognized the Moscow régime should cause you no embarrassment in accepting official invitations from the Government to which you are accredited. You can avoid unpleasant incidents by assuming a dignified attitude in accepting official hospitality.

HUGHES

707.1161/13: Telegram

The Secretary of State to the Chargé in Finland (Hall)

[Paraphrase]

Washington, August 28, 1924-4 p. m.

19. Developments reported in your telegram 22 of August 26, 4 p. m., are pleasing to the Department with the exception of the statement made by you to the Finnish Foreign Minister that you could not meet the Soviet representative under any circumstances.

When a régime not recognized by the United States has a representative at the capital of the country to which you are accredited there should be no difficulty with respect to such representative in informal and courteous relations as of one gentleman with another. When I was present in 1922 at the celebration at Rio de Janeiro of

¹The substance of this telegram was quoted for information and guidance in a circular telegraphic instruction, Aug. 27, 1924, 1 p. m., to the diplomatic representatives in Great Britain, Latvia, Germany, Poland, Norway, Sweden, Denmark, Austria, Italy, Greece, Persia, Turkey, China, and Mexico.

² Latter not printed.

³ Not printed.

² Not printed.

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the centenary of Brazilian independence I had no difficulty in meeting and having cordial relations with the Mexican representative although the United States had not recognized Mexico. Such private and personal relations are, of course, dependent largely on the bearing and character of others, but there need be no embarrassment to the American Government in maintaining its attitude of nonrecognition while permitting ordinary courtesies of a personal nature. You should try to conform to the above suggestions.

HUGHES

707.1161/17: Telegram

The Ambassador in Mexico (Sheffield) to the Secretary of State

Mexico City, October 30, 1924—noon.

[Received 4:25 p. m.]

396. Department's circular of August 27, 1 p. m.* In my capacity as dean of the diplomatic corps it may be necessary for me to present the chiefs of missions to the new President of the Republic on December 1st.

Please advise what action I should take in regard to presentation of the new Soviet Minister shortly to arrive here.

Please advise what action I should take [in] his case should it be necessary at any future time for me as dean to call a meeting of the diplomatic corps.

SHEFFIELD

707.1161/17: Telegram

The Secretary of State to the Ambassador in Mexico (Sheffield)

Washington, November 3, 1924—1 p.m.

506. Your 396, October 30, noon. If the new Soviet Minister is a duly accredited diplomatic representative and you are called upon to present him to the President at the official reception on December 1, you should do so. If you are obliged, as Dean, to call meeting of the Diplomatic Corps, Soviet representative should be notified, if present in the capital.

Should you have to see Soviet Minister at official affairs, the fact that we have not recognized the Moscow regime should cause you no embarrassment. Unpleasant incidents can be avoided by assuming a dignified and formal attitude.

If Soviet representative calls, you may informally receive him but you should not return his call.

HUGHES

⁴ See footnote 1, p. 676.

REFUSAL BY THE DEPARTMENT OF STATE TO SUPPORT THE SIN-CLAIR EXPLORATION COMPANY AGAINST INTERFERENCE BY JAPANESE AUTHORITIES IN NORTHERN SAKHALIN*

861b.6363/102

The Sinclair Exploration Company to the Secretary of State

New York, October 15, 1924.
[Received October 16.]

Sir: The Sinclair Exploration Company, an American corporation, desires to conduct explorations in Northern Sahalin.

During the past winter the Company despatched to Northern Sahalin an expedition of engineers for the purpose of surveying the oil resources of that area. This expedition was provided with passports issued by the United States Department of State and duly vised by Japanese Consular officials in New York City. Upon reaching Northern Sahalin, however, our engineers were not only prevented by the Japanese authorities from conducting any explorations, but were immediately placed and continuously kept under military surveillance until they were landed by a Japanese Government vessel at a port of Japan.

While thus excluding American industry from this territory, the Japanese Government has permitted engineers of Japanese nationality not only to make surveys in Northern Sahalin, but to undertake drilling operations which have resulted in commercial production of oil. This oil is now being exported to Japan in tank ships, a cargo of approximately 5,500 tons having reached Japan on September 13, 1924.

We invite your attention to the fact that this action upon the part of the Japanese Government constitutes a clear breach of the declaration of that Government at the Washington Conference on Limitation of Armament that it would "observe the principle of non-intervention in the internal affairs of that country, as well as the principle of equal opportunity for the commerce and industry of all nations in every part of the Russian possessions".

We request the Department of State to bring this discriminatory action of the Japanese authorities to the attention of the Japanese Government, with the request that it issue instructions to the Japanese military authorities and any Japanese officials concerned direct-

⁶ For previous correspondence concerning refusal by the Department of State to make representations to the Japanese Government on behalf of American oil companies with interests in Russian Sakhalin, see *Foreign Relations*, 1923, vol. II, pp. 798 ff.

pp. 798 ff.

Gonference on the Limitation of Armament, Washington, November 12, 1921–February 6, 1922 (Washington, Government Printing Office, 1922), p. 346.

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ing them to refrain from any further interference with the employees of this Company in their peaceful explorations in Northern Sahalin. Yours very truly,

SINCLAIR EXPLORATION COMPANY A. C. VEATCH, Vice President

861b.6363/102

The Secretary of State to the Sinclair Exploration Company

Washington, November 7, 1924.

Sirs: The Department has received the letter of October 15 in which, in further reference to your arrangements with the so-called Soviet Government of Russia for the exploration and development of oil resources in Northern (Russian) Sakhalin, you state that your engineers were prevented by the Japanese authorities in occupation of that territory from conducting any explorations; and that while preventing the operations contemplated by your company, the Japanese authorities have permitted their own nationals to carry on operations which have resulted in a commercial production of oil. You ask that this Department request the Japanese authorities to issue such instructions as would obviate further interference with the exploration of Northern Sakhalin by employees of your company.

The question presented by this request was considered by the Department when, under date of February 7, 1923, you advised it of the conclusion of a contract made originally with the so-called Far Eastern Republic and thereafter confirmed by the so-called Soviet Government of Russia, and requested this Department to approach the Japanese Government with a view to facilitating operations under the contract in question. You will recall that the Department, in a reply to you dated March 17, 1923, expressed its regret that it did not feel in a position to present the matter to the Japanese Government in view of the circumstances; and the considerations the Department then pointed out still hold good.

I am [etc.]

CHARLES E. HUGHES

861b.6363/106

The Vice President of the Sinclair Exploration Company (A. C. Veatch) to the Secretary of State

New York, December 10, 1924.

[Received December 12.]

DEAR SIR: On October 15th we addressed a letter to you pointing out the failure of the Japanese Government to carry out the

⁸ *Ibid.*, p. 804.

⁷ Foreign Relations, 1923, vol. 11, p. 802.

assurances it gave to the American Government by its note of July 1921 and on January 23, 1922 by its authorized spokesman at the Washington Conference on Limitation of Armaments that "Nothing is further from the thought of the Japanese Government than to take advantage of the [present] helpless condition of Russia for prosecuting selfish designs" and that "It would observe the principle of non-intervention . . . and equal opportunity for the commerce and industry of all nations in every part of the Russian possessions." 10 Your attention was drawn to the fact that American nationals desired to explore Northern Sahalin and that the Japanese military authorities, while permitting their own nationals to carry on work, had refused to allow any operations by Americans. We asked that the Japanese Government be requested to issue to its officials the instructions necessary to insure the carrying out of its pledges to you.

Your letter of November 8th [7th] shifts from the point of our letter of October 15th to a statement concerning your attitude to the government which is now, and for a considerable time has been, in control of Russian affairs. It was not the purpose of our letter of October 15th to enter into a discussion of the Soviet Government or its acts. The complaint made was not of any act of the Soviet Government, but of the acts of the Japanese Government and the request therein contained was based solely on the pledges of the Japanese Government to the American Government, which you have stated you interpreted to mean:—"That Japan does not seek through her military occupation [operations] . . . to obtain any unfair commercial advantages . . . or to set up an exclusive exploitation either of the resources of Sahalin or the maritime provinces." 11

The question is fundamentally one of the "Open Door" and so far as there is any conflict it is simply one of American and Japanese national interests. The essential point of our letter is whether when there is a conflict between the economic and strategic interests of Japan and the United States, the course of the American State Department is to be one which has the effect of assisting Japanese interests or vice versa.

What we asked, and this request we repeat, is that the Department bring to the attention of the Japanese Government the desire of American nationals to conduct operations for oil in Northern Sahalin, pointing out that the assurances heretofore given to the American Government by the Japanese Government require, if faithfully carried out, that Japanese officials be instructed not to

⁹ Foreign Relations, 1921, vol. II, p. 707. ¹⁰ Conference on the Limitation of Armament, Washington, November 12, 1921– February 6, 1922, p. 346. ¹¹ See ibid., p. 348.

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interfere with American nationals in work they undertake in Northern Sahalin.

Yours very truly,

A. C. VEATCH

861b.6363/106

The Secretary of State to the Vice President of the Sinclair Exploration Company (A. C. Veatch)

Washington, December 20, 1924.

SIR: The Department acknowledges the receipt of your letter of December 10, 1924, in further reference to the exploration and development of oil resources in Northern (Russian) Sakhalin.

The Department has given careful consideration to the suggestions contained in the letter under acknowledgment, and it again desires to recall to you that in a letter dated March 17, 1923, and reiterated in its letter of November 7, 1924, the Department expressed its regret that it did not feel in a position to present the matter to which you refer to the Japanese Government in view of the circumstances surrounding the case. I may add that the considerations which have heretofore been pointed out still hold good and the Department again expresses its regret that the circumstances would not seem to warrant it in making the representations to the Japanese Government which you suggest.

I am [etc.]

CHARLES E. HUGHES

PROTESTS BY THE SOVIET AUTHORITIES AGAINST UNAUTHORIZED ENTRY OF AMERICAN GOVERNMENT VESSELS INTO SOVIET WATERS

811.3361/24: Telegram

The Soviet Deputy Commissar for Foreign Affairs (Litvinov) to the Secretary of State

Moscow, January 31, 1924.

[Received 6:15 p.m.]

132. The Government of the Union of Soviet Socialist Republics is in receipt of a report from the authorities of Kamchatka to the effect that in September last the United States warship *Bear* entered Kolyuchin [Bay?] in the Sinaeva Gulf without permission from the Soviet authorities. A similar report has been received from the authorities of Batum stating that on the 15th of January the American destroyer number 223 entered that port without permission.

¹² Foreign Relations, 1923, vol. II, p. 804.

In view of the fact that the circumstances under which the abovementioned ships entered Soviet harbors constitute a violation of the universally recognized rules governing the entrance of warships into foreign ports, the Government of the Soviet Socialist Republics finds itself obliged to protest against such action on the part of ships under the direct control of the United States Government and expects that the United States Government, professing the necessity of strict observation of international laws, will take proper measures to avert the repetition of such incidents in the future.

M. LITVINOFF

811.3361/24

The Secretary of State to the Secretary of the Navy (Denby)

Washington, February 6, 1924.

Sir: I have the honor to enclose for your confidential information a copy of a communication received directly from Moscow under date of January 31, signed Litvinoff, relating to the visit of American warships to ports under control of the Soviet authorities. The Department does not contemplate making any reply to this telegram.

With regard to the call of destroyers at the port of Batum, the Department considers that it is desirable that such calls should be discontinued and the High Commissioner at Constantinople is being informed of this view. The Department has added that in case a serious situation should arise affecting the work of the Near East Relief in the Caucasus or the safety of American citizens in that area, which, in the opinion of the High Commissioner, would justify any modification of this policy, he should report to the Department.

The Department would appreciate it if the Navy Department should see fit to send instructions to Admiral Bristol with regard to the discontinuing of further calls of destroyers under his command at the port of Batum.

I have [etc.]

CHARLES E. HUGHES

861.0144/81: Telegram

The Soviet Commissar for Foreign Affairs (Chicherin) to the Secretary of State

Moscow [, December 11, 1924.] [Received December 11—4:32 p. m.]

320. Local Union authorities delivered Moscow round brass mark discovered by them on Tchukotski [Chukchi?] Peninsula in Emma Bay, Cape Puzino. Said mark set in rock bears following inscrip-

¹⁸ Supra.

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tion: "United States Coast and Geodetic Survey magnetic station. For information write to Superintendent Washington. For disturbing this mark \$250 fine or imprisonment." This mark set up July, 1920, shows magnetic observations had been carried out in mentioned and subsequent years by guard cruiser Bear belonging to United States Government. While pointing out that repeated entry of American war vessel into territorial waters of Union Republics without permission contrary to international law, I must emphasize that setting up of above-mentioned mark and threat to Soviet citizens borne by it constitute gross violation of sovereignty of Soviet Republics. Emphatically protesting to United States Government against such lawless acts of their official, obviously unable to distinguish where their own state territory ends and another sovereign country's territory begins, am obliged to notify that such violation of legitimate rights of Union Republics if repeated will be sternly repressed by Soviet Government.

TCHITCHERIN

COMMUNIST PROPAGANDA IN THE UNITED STATES DIRECTED FROM RUSSIA

[For letter from the Secretary of State to Senator William E. Borah, January 21, 1924, transmitting information relative to propaganda carried on in the United States, directed from Russia, see *Recognition of Russia:* Hearings before a subcommittee of the Committee on Foreign Relations, United States Senate, 68th Cong., 1st sess., pursuant to S. Res. 50, declaring that the Senate of the United States favors the recognition of the present Soviet Government in Russia, Part 2 (Washington, Government Printing Office, 1924).]

SPAIN

CONTINUATION OF THE COMMERCIAL "MODUS VIVENDI" BETWEEN THE UNITED STATES AND SPAIN 1

711.5221/39

The Spanish Ambassador (Riaño) to the Secretary of State

[Translation 3]

50-14

WASHINGTON, March 15, 1924.

Mr. Secretary: The Government of His Majesty wishing to regulate the intervention of consuls in settlements of estates and indemnities for labor accidents, and taking into consideration Your Excellency's note of May 29, 1922,3 in which you stated that you were ready to enter upon negotiations for the conclusion of a treaty regulating such intervention, I have the honor to inform Your Excellency that the agreement effected between Spain and France by article 20 of the consular convention of January 7, 1862,4 with such modifications as might be jointly agreed to by the parties, might serve as a basis for the aforesaid agreement. This applies to matters relating to the intervention of the consuls in the settlement of estates of Spaniards in North America. As for indemnities on account of labor accidents we might use for our guidance the convention of November 27, 1919, between Spain and the Argentine Republic.⁵ For the proper information of Your Excellency I take the liberty of enclosing herewith a copy of the said article and of the convention and hope to be advised of the action which Your Excellency may see fit to take on the proposals mentioned above.

I avail myself [etc.]

JUAN RIAÑO

*Enclosure not printed.

¹ For previous correspondence, see Foreign Relations, 1923, vol. 11, pp. 831 ff.

^{*}File translation revised. Not printed; the note was in reply to a note of July 30, 1921, from the Spanish Ambassador, inquiring whether the Government of the United States would be disposed to enter into negotiations for a treaty.

*British and Foreign State Papers, 1861-1862, vol. LII, p. 139.

⁸ Ibid., 1921, vol. cxiv, p. 566.

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811.612 Grapes/24: Telegram Spain

The Ambassador in Spain (Moore) to the Secretary of State

Madrid, April 3, 1924—11 a. m. [Received April 3—10:03 a. m.]

15. Had long serious interview with Spanish Foreign Minister and chief of treaty commission, who stated that so long as importation of Spanish grapes is peremptorily prohibited by United States, Spanish Government positively has no interest in negotiating new treaty or proroguing old one. Spanish Government asserts that activities of California grape growers is cause of action Spanish grapes.

Please telegraph instructions.

MOORE

611.5231/346: Telegram

The Secretary of State to the Ambassador in Spain (Moore)

[Paraphrase]

Washington, April 4, 1924—5 p. m.

12. Your telegram no. 15 of April 3 concerning treaty. This Government is giving careful consideration to the subject of the importation of Spanish grapes. The New York fruit exchange has engaged Dr. M. D. Leonard to go to Spain and spend the season assisting growers to eradicate the infection. He will sail within ten days. Dr. Leonard was formerly acting entomologist of the State of New York and is a collaborator of the Department of Agriculture. Before harvest time the Department of Agriculture will reach a decision as to the danger from the importation of grapes.

It will not be possible, obviously, to conclude a treaty before the existing modus vivendi expires on May 5. Trade between the United States and Spain is already being adversely affected by the uncertain situation respecting the rate of duties which may become applicable to exports from this country to Spain. It is desirable, therefore, that arrangements for a further modus vivendi be promptly made so that each country may be assured of equality of treatment for exports to the other.

You are instructed, therefore, to take up this matter immediately with the Spanish Government and to ask whether, in view of considerations indicated above and of the fact that it is apparently impossible to reach a definite agreement regarding future commercial relations between the two countries, that Government is willing to give the benefit of minimum tariff rates for products from the United States in return for like treatment of Spanish products enter-

ing the United States. The extension provided in the modus vivendi should be for a period not shorter than six months. Reply by cable.

The American Government under the present arrangement may not as a matter of right claim advantages conceded to other countries by Spain in agreements entered into since the present arrangement was agreed upon last October. The Tariff Commission has informed the Department that Spain grants lower duties to certain Italian products which are not extended to American products. Crude sulphur is one of the items affected. When coming from the United States it pays a duty of 3 pesetas per 100 kilograms while sulphur from Italy pays 2.70 pesetas. The differential in duties affects a number of other items. These concessions to Italy are made under a commercial agreement between Italy and Spain which became effective December 10, 1923.

In view of these discriminations our Government would be justified under section 317 of the tariff act of 1922 s in now resorting to retaliatory measures against Spanish goods. In continuing the modus vivendi the arrangement should extend treatment no less favorable to goods imported from the United States than that given to like articles imported from any other country.

It is provided in section 317 of the tariff act that 30 days' notice be given before any increase in duties proclaimed by the President is brought into force. It is desirable, therefore, that our Government should learn as soon as practicable whether the Spanish Government is willing to enter into a modus vivendi so that if the action suggested above appears necessary there will be as little delay in issuing a proclamation as possible.

HUGHES

611.5231/352 : Telegram

The Ambassador in Spain (Moore) to the Secretary of State

Madrid, April 7, 1924—5 p. m. [Received April 7—5 p. m.]

16. Your cipher telegram of April 4, 5 p. m. Urgent prorogation present *modus vivendi* without modification for 6 months or year seems utmost that can be accomplished under existing circumstances. Since I am to see General Primo de Rivera very soon, please cable soonest possible whether I may accept for our Government such a solution if proffered.

⁷ By exchange of notes dated Oct. 6 and 22, 1923, Foreign Relations, 1923, vol. π, p. 873.

⁸ 42 Stat. 858.

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611.5231/356: Telegram

The Secretary of State to the Ambassador in Spain (Moore)

Washington, April 23, 1924—4 p. m.

15. Your 21, April 23, 11 A. M. Delay in replying to your 16, April 7, 5 p. m. due to necessity for consulting other Departments.

As stated in the Department's telegram No. 12 of April 4, it is desirable that in any extension of the commercial relationship with Spain the discriminations referred to in that telegram as well as the possibility of further discrimination should be removed and the commerce placed on the basis which existed prior to November 5, 1923. If, however, you find that it will not be possible to effect favorable modification of the existing arrangement endeavor to obtain an extension of it in its present form for a period of one year in order to allow ample time for the conclusion of a treaty of commerce.

HUGHES

611.5231/362

The Ambassador in Spain (Moore) to the Secretary of State

Madrid, April 27, 1924.

[Received May 13.]

Sir: In confirmation of my cable No. 23, of April 27, 11 A. M., I have the honor to report that the date of expiration of the Commercial Agreement of August 1, 1906 10 has been postponed for one year, or until May 5, 1925. This postponement has been accomplished by an exchange of Notes between the Spanish Foreign Office and this Embassy (Foreign Office Note No. 40, of April 26th, and the Embassy's Note No. 146, of today's date), copies and translations of which are herewith enclosed. The present prorogation was procured under exactly the same conditions as the prorogation agreed to by the exchange of Notes between this Embassy and the Foreign Office of October 6th and 23d [22d], 1923.11

I have [etc.]

ALEXANDER P. MOORE

Not printed.

¹⁰ Malloy, *Treaties*, 1776–1909, vol. II, p. 1718. ¹¹ Foreign Relations, 1923, vol. II, p. 873.

[Enclosure 1—Translation]

The President of the Spanish Military Directorate, Ministry of State (Estella) to the American Ambassador (Moore)

No. 40

Madrid, April 26, 1924.

EXCELLENCY: As a result of our conversations regarding the being in force of the Commercial Agreement, agreed to by Spain and the United States through the exchange of Notes dated October 6th and 22d, 1923, I have the honor to inform Your Excellency that the Government of His Majesty agrees to postpone for one year, or until May 5, 1925, the date of expiration of the above-mentioned Agreement.

Consequently, I consider that this postponement will be agreed to through the exchange of this Note with that which Your Excellency will be good enough to send me, expressing his conformity thereto.

I avail myself [etc.]

MARQUIS OF ESTELLA

[Enclosure 2]

The American Ambassador (Moore) to the President of the Spanish Military Directorate, Ministry of State (Estella)

No. 146

Madrid, April 27, 1924.

EXCELLENCY: I have the honor to acknowledge Your Excellency's courteous Note No. 40, of April 26th, 1924, in which was expressed the agreement of His Majesty's Government to the postponement for one year, or until May 5, 1925, of the date of expiration of the Commercial Treaty at present in force between our two countries.

On behalf of my Government, I accept this postponement, as outlined in Your Excellency's above-mentioned Note, and consider this as definitely arranged through the exchange of Your Excellency's Note under acknowledgment and this present one.

I avail myself [etc.]

ALEXANDER P. MOORE

711.5221/39

The Secretary of State to the Spanish Ambassador (Riaño)

Washington, June 13, 1924.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of March 15, 1924, enclosing a copy of Article 20 of the Consular Convention of January 7, 1862, between Spain and France and a copy of the Convention signed by Spain and the Argentine Republic on November 27, 1919, in regard to indemnities on account of labor accidents, which you suggest might serve as a basis for the negotiation of a Convention between the United States and Spain in

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regard to the intervention of consuls in the settlement of estates and indemnities for labor accidents.

The draft for a Treaty of Friendship and Commerce presented to the Spanish Minister of State by the American Ambassador at Madrid in June, 1923,¹³ contains, particularly in Articles II, XXIV and XXV, provisions relating to the subjects to which your note refers.

While this Government will be glad to negotiate with your Government in regard to the subjects mentioned, it would nevertheless prefer to have them considered in connection with the treaty of friendship and commerce. This Government will be glad to examine the treaty provisions which you have brought to my attention while awaiting an expression of the views of the Spanish Government in regard to the proposals which were made at Madrid.

Accept [etc.]

CHARLES E. HUGHES

611.5231/369: Telegram

The Ambassador in Spain (Moore) to the Secretary of State

Madrid, September 10, 1924—6 p. m. [Received 10:05 p. m.]

46. Please send me copy of commercial treaty which Department desires me present to Spanish Government.

MOORE

711.5221/41

The Spanish Ambassador (Riaño) to the Secretary of State

[Translation]

54-14

Washington, September 18, 1924.

Mr. Secretary: With reference to your Excellency's note of June 13th, last, which I forwarded in good time to His Majesty's Government, I have the honor to inform you that my Government instructs me to negotiate in its name with the Government of the United States two separate conventions, one concerning labor accidents and the other about the intervention of consuls in the settlements of estates, wherefore, confirming the contents of my note of March 15, last, I am awaiting the directions that Your Excellency may see fit to give for the basis of such conventions, we agreeing to the time and circumstances that the Government of the United States may suggest for the opening of such negotiations.

I avail myself [etc.]

Juan Riaño

¹³ Foreign Relations, 1923, vol. II, p. 832.

711.5221/41

The Secretary of State to the Spanish Ambassador (Riaño)

Washington, October 7, 1924.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of September 18, 1924, in which you state that you have received instructions from your Government to negotiate in its name with the Government of the United States two separate conventions, one concerning labor accidents and the other regarding the intervention of consuls in the settlement of estates of deceased nationals.

While as stated in my note to you of June 13, 1924, this Government would be glad to negotiate with your Government on the subjects mentioned and to examine the treaty provisions which you brought to my attention with your note of March 15, 1924, it would prefer, as was also stated in my note of June 13, to consider those subjects in connection with the proposals for a treaty of friendship and commerce made at Madrid in June, 1923.

Before giving further consideration to the proposal to negotiate separate conventions regarding labor accidents and the intervention of consuls in the settlement of estates, I shall be pleased to be informed of your Government's intention with respect to the negotiation of a treaty of commerce along the lines proposed at Madrid in 1923.

Accept [etc.]

CHARLES E. HUGHES

611.5231/369 : Telegram

The Secretary of State to the Ambassador in Spain (Moore)

Washington, October 7, 1924-5 p. m.

44. Your 46 September 10, 6 p. m. This Government has already submitted two drafts of treaties 14 to the Spanish Government, either of which it would seem might serve as a basis for negotiations and it has several times indicated its readiness to proceed with negotiations. Therefore, before making further proposals this Government would like to receive an expression from the Government of Spain regarding the proposals which have already been made and the changes and modifications desired by that Government.

You may again inform the Spanish Government of this Government's readiness to renew the negotiations and say that this Government would be pleased to receive comment and countersuggestions

¹⁴ First draft printed in *Foreign Relations*, 1923, vol. II, p. 832; second draft not printed. See telegram no. 67, July 11, 1923, from the Ambassador in Spain and the Department's reply, telegram no. 43, July 14, 1923, *ibid.*, pp. 859 and 861, respectively.

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from the Spanish Government regarding the draft presented by you to the Minister of State in the early part of June 1923.

HUGHES

611.5231/370: Telegram

The Ambassador in Spain (Moore) to the Secretary of State

Madrid, November 7, 1924-1 p. m.

[Received 1:35 p. m.]

54. Department's 44, October 7, 5 p. m. In reply to note October 14, Acting Minister of Foreign Affairs insists that a prorogation of treaty November 5, 1923, 15 was the reply of the Spanish Government to the first proposal and that prorogation on May 5th last was the reply of the Spanish Government to Department's second proposal, neither draft being considered satisfactory.

I should appreciate Department's sending at once draft of a purely commercial treaty containing irreducible minimum and hope that it can be cabled, as knowing circumstances here I think that the matter should be presented within a few weeks.

MOORE

611.5231/374a

The Secretary of State to the Spanish Ambassador (Riaño)

Washington, December 5, 1924.

EXCELLENCY: With reference to our recent conversations regarding the commercial relationship between the United States and Spain, I have the honor to express to you the hope that, pending the conclusion of a new treaty of commerce between the two Governments, it will be agreeable to the Government of Spain as it is to the Government of the United States to maintain the commercial relations between the United States and Spain on a basis of unconditional most-favored-nation treatment.

By such an arrangement it would be understood that no conditions, prohibitions or restrictions would be imposed by either country on the importation of any article, produced or manufactured in the territories of the other than are or shall be imposed on the importation of any like article, produced or manufactured in any other foreign country, and that with respect to classification, valuation, import duties and other similar charges, the products of each country would be admitted to importation into the territories of the

¹⁵ By exchange of notes Oct. 6 and 22, 1923, *ibid.*, p. 873. 10884—Vol. II—39——50

other on terms no less favorable than those which are or may be

applicable to the similar products of any other country.

Similarly, no conditions, prohibitions or restrictions and no higher or other duties or charges would be imposed by either country on exportations to the territories of the other than are imposed on the like articles exported to any other country.

It would be understood, however, that this undertaking regarding imports and exports would not restrict the right of either country to impose on such terms as it might see fit prohibitions or restrictions of a sanitary character designed to protect human, animal, or plant life, or regulations for the enforcement of police or revenue laws; nor would it extend to the treatment which is accorded by the United States to the commerce of Cuba or to the commerce between the United States and any of its dependencies or the Panama Canal Zone under existing or future laws or among the dependencies of the United States; nor to any special treatment which Spain has conceded or may concede to the products of Portugal or to those originating in and proceeding from the Spanish Zone of Morocco, or to the commerce of Spain with any of its dependencies.

It would be satisfactory to the United States to have the arrangement become operative on the fifth day of May, 1925, the date of the expiration of the existing arrangement, and continue in force thereafter until thirty days after notice of its termination shall have been given by either country to the other.

Accept [etc.]

CHARLES E. HUGHES

UNAUTHORIZED ASSISTANCE BY THE AMERICAN EMBASSY IN SPAIN IN SECURING FOR AMERICAN INTERESTS EXCLUSIVE TELEPHONE RIGHTS IN SPAIN

852.75/9: Telegram

The Ambassador in Spain (Moore) to the Secretary of State

[Paraphrase]

MADRID, August 26, 1924—4 p. m.

[Received 8:55 p. m.]

39. Exclusive telephone rights in Spain have been given to American telephone interests who were assisted by Embassy in winning concession which involves about \$8,000,000. Announcement must not be made in United States but will soon be made from Madrid.

852.75/9: Telegram

The Secretary of State to the Ambassador in Spain (Moore)

[Paraphrase]

Washington, August 29, 1924-7 p.m.

38. Embassy's 39 of August 26, 4 p. m. Department desires that appropriate aid be given to obtain a fair and equal opportunity for American interests, but our Government does not approve of monopolies. It is against the practice of the Department to aid American interests in securing monopolistic privileges or concessions which would exclude competing American firms, and the Department does not wish to have its representatives abroad give such assistance. The importance of this will be appreciated by you as our Government is constantly making protests to other governments against the giving to nationals of other countries exclusive concessions.

The Department has made note of your statement that you have aided certain American telephone interests in winning monopolistic telephone rights in Spain. Department wishes immediate report on this phase of matter and complete information concerning the concession granted.

HUGHES

852.75/10: Telegram

The Ambassador in Spain (Moore) to the Secretary of State

[Paraphrase]

San Sebastian, September 3, 1924—3 p. m.

[Received 7 p. m.]

41. Your 38, August 29, 7 p. m. As noted in royal decree, copy of which was forwarded several months ago to the Department, the concession was open to proposals from all countries. There was only one American company the which sought the concession. The issue narrowed down to which telephone system should be adopted, the American or the Swedish. I naturally thought that American system would be favored by the Department. My assistance consisted in informing Spaniards that American business interests always knew how to carry out big projects and that the American telephone system was not equaled anywhere. In the future I shall make no recommendations before receiving instructions from the Department. I am forwarding by mail copies of the decree.

¹⁶ Not printed.

¹⁷ The International Telephone and Telegraph Co.

852.75/10: Telegram

The Secretary of State to the Ambassador in Spain (Moore)

[Paraphrase]

Washington, September 4, 1924—5 p. m.

41. Embassy's 41 of September 3, 3 p. m. Of course Department wishes appropriate support to be given American interests. The point made was regarding efforts to obtain an exclusive concession. Department wishes complete information on this point so that nature and extent of monopolistic privileges may be understood.

HUGHES

852.75/11: Telegram

The Ambassador in Spain (Moore) to the Secretary of State

San Sebastian, September 5, 1924-6 p. m.

[Received 9:35 p. m.]

42. Department's telegram 38, August 29, 7 p. m. Following are the salient points in royal decree granting telephone concession.

Concession will go into effect within 6 months and will run 20 years. Eighty percent of the personnel to be Spanish. Government will receive at least 10 percent of the net profits. Deposit of 5,000,000 pesetas. State lines to be taken over at once and others to be secured by special negotiations on termination of which previous concessions will lapse. Three Government officials representing Ministries of the Treasury, War, and Interior are to aid in administration and in case of war with another nation or serious internal disturbances the State may take over control. The contract is transferable with the consent of the State.

This concession is granted to Spanish company 18 which has adopted American telephone system and is backed by American capital.

I am fully aware of our Government's policy regarding monopolies.

¹⁸ Compañía Telefónica Nacional de España.

SWEDEN

ARBITRATION CONVENTION BETWEEN THE UNITED STATES AND SWEDEN, SIGNED JUNE 24, 1924

711.5812/32

The Swedish Minister (Wallenberg) to the Secretary of State

Washington, November 6, 1922.

EXCELLENCY: The treaty of arbitration concluded between the United States and Sweden on May 2, 1908, was, through a declaration signed June 28th, 1913,2 extended for a period of 5 years, beginning August 18th, 1913. However, no agreement for a further extension having been made, the treaty expired on August 18th, 1918. As Your Excellency will please to remember in this connection, a treaty looking to the promotion of general peace still exists between the two countries in so far as the treaty concluded between the United States and Sweden on October 13th, 1914,3 regarding the submission, for investigation and report to a permanent international commission, of disputes concerning which recourse can not be had to arbitration, still remains in force.

Considering the ever increasing tendency to settle, by way of arbitration, such international disputes which by their nature are adapted to such procedure, and which can not be settled through diplomatic negotiations, the Swedish Government would deem it desirable that a new treaty of arbitration be concluded between the two countries. Besides, the international procedure of investigation adopted by the treaty of October 13th, 1914, seems to assume, as a complement, a treaty of arbitration between the United States and Sweden.

In view of the foregoing, and acting upon instructions from my Government, I have the honor to ask if the United States Government would be willing to enter into negotiations looking to the conclusion of a treaty of arbitration between the United States and Sweden.

With renewed assurances [etc.]

Ax. WALLENBERG

¹ Foreign Relations, 1908, p. 731.

³ *Ibid.*, 1914, p. 1086. ³ *Ibid.*, 1915, p. 1290.

711.5812/32

The Secretary of State to the Swedish Minister (Wallenberg)

Washington, January 19, 1923.

Sir: I have the honor to acknowledge the receipt of your note of November 6, 1922, in which, with reference to the expiration on August 18, 1918, of the Arbitration Convention concluded between the United States and Sweden on May 2, 1908, and extended by the agreement of June 28, 1913, you inform me that the Government of Sweden deems it desirable that a new treaty of Arbitration be concluded between the two Governments, and inquire, by direction of your Government, whether the United States would be willing to enter into negotiations for the conclusion of a treaty of arbitration with Sweden.

The Government of the United States would be pleased to conclude with the Government of Sweden an Arbitration Convention similar to the one concluded between the two Governments on May 2, 1908, a copy of which is transmitted herewith.

Should the Government of Sweden desire to propose any provisions differing from those of the Convention of 1908, I should be pleased to receive and consider them, as well as to be informed concerning the views of the Government of Sweden with respect to the conclusion of an agreement of the character of the Convention of 1908.

The Government of Sweden may be disposed to consider whether it would not be desirable in any new convention of arbitration which may be concluded by Sweden and the United States that the stipulation relating to duration which in the Convention of 1908 was for a term definitely limited to five years should be elaborated so as to provide for duration for an initial period of five years and for continuance in force indefinitely thereafter until the expiration of one year after a notice of termination shall have been given by either party. Provisions of this character are contained in Article III of the Arbitration Convention concluded by the United States with Peru on December 5, 1908, which has been in force continuously since the exchange of ratifications on June 29, 1909, and in conventions in force between the United States and several other countries. A copy of the Arbitration Convention of December 5, 1908, between the United States and Peru is enclosed.⁵

Accept [etc.]

CHARLES E. HUGHES

Foreign Relations, 1908, p. 731.

⁵ Ibid., 1909, p. 498.

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711.5812/33

The Swedish Minister (Wallenberg) to the Secretary of State

Washington, February 9, 1923.

EXCELLENCY: I have the honor to acknowledge the receipt of the note of January 19th, in which Your Excellency has been kind enough to inform me, in answer to my note of November 9 [6], 1922, that the Government of the United States would be pleased to conclude with the Government of Sweden an Arbitration Convention, similar to the one concluded between the two Governments on May 2, 1908.

Your Excellency further states that, should the Government of Sweden desire to propose any provisions differing from those of the Convention of 1908, Your Excellency would be pleased to receive and consider them, as well as to be informed concerning the views of the Government of Sweden with respect to the conclusion of an agreement of the character of the convention of 1908.

In view of the foregoing, and acting upon instructions from my Government, I beg to transmit herewith the proposed text, in the French language, of a new treaty of Arbitration, drafted, in its essential parts, upon the text of the previous Convention of 1908, but provided with the following modifications:

In Article I of the Treaty of 1908, it was stipulated that differences of a legal nature or relating to the interpretation of treaties existing between the two Contracting Parties, and which it might not have been possible to settle by diplomacy, should, with certain specified reservations, be referred to the Permanent Court of Arbitration established at the Hague by the Convention of July 29, 1899.7 As, however, the new Permanent International Tribunal, established at the Hague through the protocol of the 16th of December 1920,8 presents a medium, the use of which seems to offer. in several respects, great advantages, it would seem appropriate that, in the new Convention which may be concluded, the said Tribunal be indicated as the forum for the settlement of differences mentioned in the Convention.

Thus, in Article I

- ". . . la Cour permanente de Justice internationale à la Haye . . . " has been substituted for
- "... la Cour permanente d'arbitrage établie par la Convention du 29 juillet 1899."

⁶ Not printed.
⁷ Malloy, *Treaties*, 1776–1909, vol. 11, p. 2016.
⁸ Foreign Relations, 1920, vol. 1, p. 17.

This modification necessitates a certain amendment of the original article II in so far as in the Special Agreement to be concluded between the Contracting Parties in each individual case, no reference to the powers of the Arbitrators nor to the periods to be fixed for the formation of the Arbitral Tribunal or the several stages of procedure, will be needed.

Thus, such reference has been excluded in the new Article II.

With regard to the stipulation relating to the duration of the Convention, the text proposed by the Swedish Government is in accordance with the suggestion made in Your Excellency's note with the exception only that while Your Excellency has pleased to propose the duration of the new Convention for an initial period of five years and for continuance in force indefinitely thereafter until the expiration of one year after a notice of termination shall have been given by either party, the Swedish Government suggests that the last mentioned period be only six months.

With renewed assurances [etc.]

Ax. WALLENBERG

711.5812/33

The Secretary of State to the Swedish Minister (Wallenberg)

Washington, August 23, 1923.

Sir: I have the honor to refer to your note of February 9, 1923, relating to the proposal made by the Government of Sweden that a new Arbitration Convention be concluded by the United States and Sweden, and transmitting upon instructions of your Government a draft which is the French text of the Arbitration Convention of 1908, between the United States and Sweden, modified in Articles I and II in respect to the tribunal to which questions of difference which may arise within the scope of the Convention shall be referred and in Article IV in regard to the length of the period of notification of termination of the Convention.

With reference to the suggestion of your Government that the Permanent Court of International Justice, established at The Hague under the Protocol of December 16, 1920, instead of the Permanent Court of Arbitration established by the Convention concluded at The Hague on July 29, 1899, be indicated in Article I of the Convention now proposed as the tribunal to which the United States and Sweden will agree to resort for the judicial settlement of differences, I would state that this Government, not having given adhesion to the Protocol under which the Permanent Court of International Justice was established, would not consider it to be desirable for it to enter into a stipulation in an Arbitration Convention with another power to refer matters of difference which may arise be-

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tween them to that Court. For this reason the United States is not in a position to accept at this time Articles I and II of the draft convention transmitted with your note of February 9, 1923, in which is incorporated the suggestion of the Government of Sweden that the Permanent Court of International Justice be agreed upon as the tribunal of reference.

I am happy to assure you, however, that if the Government of Sweden on giving further consideration to the matter should be disposed to conclude at this time an Arbitration Convention with the United States providing, as did the Convention of 1908, that the Permanent Court of Arbitration established at The Hague shall be the tribunal to which resort would be had by the United States and Sweden, for the arbitration of differences, the United States is ready to conclude a Convention similar to the Convention concluded on May 2, 1908, with the following understanding.

On February 24 last the President proposed to the Senate that it consent under certain stated conditions to the adhesion by the United States to the Protocol of December 16, 1920, under which the Permanent Court of International Justice has been created at The Hague. As the Senate does not convene in its regular session until December next, action upon this proposal will necessarily be delayed. In the event that the Senate gives its assent to the proposal, this Government would be prepared to accept the proposal of the Government of Sweden that matters of dispute between them be referred to the Permanent Court of International Justice and would wish to be able to rely upon a previous assurance that the Government of Sweden would not be adverse to considering a modification of the Convention of Arbitration, which it is now proposed to conclude, or the making of a separate agreement, under which the disputes mentioned in the Convention could be referred to the Permanent Court of International Justice.

Upon the assurance from yourself that your Government is disposed to conclude an Arbitration Convention similar to the Convention of 1908 with such an understanding, I shall at once arrange to have the draft of a convention prepared for your consideration and send you in advance a copy of my proposed note; and I shall be glad in that event to receive a copy of your Government's proposed reply with respect to the understanding.

The suggestion of the Government of Sweden that the period of duration of the Convention after a notice of termination shall have been given by either Government shall be six months as provided in Article IV of the draft accompanying your note is acceptable to this Government

Accept [etc.]

711.5812/40

The Swedish Minister (Wallenberg) to the Secretary of State

Washington, January 15, 1924.

EXCELLENCY: Referring to previous correspondence in the matter, latest the Legation's note of August 31, 1923, regarding the conclusion of an arbitration-convention between Sweden and the United States, I have the honor, upon instructions from my Government, to inform Your Excellency that the Swedish Government is ready to conclude a convention, in principle similar to the convention concluded on May 2, 1908. At the same time I have been instructed to state that my Government is disposed to make a separate agreement, under which the disputes mentioned in the convention could be referred to the Permanent Court of International Justice, in the event that the Senate gives its assent to the adhesion by the United States to the protocol of December, 1920, under which this court has been created at The Hague.

Regarding the period of duration of the convention, it is understood that this shall be in accord with the provisions of Article IV of the draft submitted with my note of February 9, 1923, namely an initial period of five years and then continuance in force indefinitely until the expiration of six months after a notice of termination shall have been given by either party.

With renewed assurances [etc.]

Ax. WALLENBERG

711.5812/40

The Secretary of State to the Swedish Minister (Wallenberg)

Washington, February 13, 1924.

Sir: I have the honor to acknowledge the receipt of your note of January 15, 1924, informing me that the Swedish Government is ready to conclude an Arbitration Convention with the United States, in principle similar to the convention concluded between the two Governments on May 2, 1908, and likewise to make a separate agreement, under which the disputes mentioned in the convention could be referred to the Permanent Court of International Justice at The Hague, in the event that the Senate of the United States gives its assent to the adhesion by the United States to the protocol of December 16, 1920, under which the Court was created.

I enclose for the consideration of your Government the English text of the draft of an Arbitration Convention ¹⁰ similar to the Convention of 1908, providing for the reference of differences which may

Not printed.

¹⁰ Draft not printed.

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arise between the United States and Sweden to the Permanent Court of Arbitration at The Hague. Article 4 of the *projet* transmitted with your note of February 9, 1923, which provides that the Convention is concluded for an initial term of five years and that unless terminated at the end of that period on notice by either party it shall continue in force subject to termination on six months' notice is adopted as Article IV of the enclosed draft.

I enclose also a draft of a note,¹¹ which I would hand to you on the occasion of signing the proposed Convention, stating that it is my understanding that in the event the Senate of the United States gives its approval to adherence by the United States to the Protocol of December 16, 1920, under which the Permanent Court of International Justice was created at The Hague, the Swedish Government will not be averse to considering a modification of the Arbitration Convention or the making of a separate agreement under which the disputes mentioned in the Convention could be referred to the Permanent Court of International Justice.

If the proposals herein made are acceptable to your Government I should be pleased to receive any suggestions which it would care to make in regard to the draft of the Convention and likewise to receive the corresponding French text of the Convention and a copy of your Government's proposed reply to my note concerning the subsequent modification of the Convention or the conclusion of a separate agreement.

Accept [etc.]

CHARLES E. HUGHES

711.5812/42

The Swedish Minister (Wallenberg) to the Secretary of State

Washington, June 17, 1924.

Sir: Referring to your note of February 13th, 1924, regarding the conclusion of an arbitration convention between Sweden and the United States, I have the honor to inform you that I have now received full powers from my Government to sign an arbitration treaty in accordance with the draft which you were kind enough to send me with your above mentioned letter. A copy of the corresponding French text of the convention is attached hereto.¹¹

I am further authorized to hand you, after the signing of the treaty, a note, the contents of which will appear from the enclosed copy, 11 as an answer to the proposed note which accompanied your letter of February 13th, 1924. For practical reasons, however, I should like to have the sentence: "in pursuance of my note of August

[&]quot; Enclosure not printed.

23, 1923, and your note in reply of January 15, 1924" in said letter omitted. If this can be done, it will not be necessary for the Swedish Government to have the two last mentioned notes included, when the treaty and the separate agreement are to be published and registered at the Secretariat of the League of Nations.

With renewed assurances [etc.]

Ax. WALLENBERG

100000

Treaty Series No. 708

Convention between the United States of America and Sweden, Signed at Washington, June 24, 1924¹³

The Government of the United States of America and the Government of His Majesty the King of Sweden desiring, in pursuance of the principles set forth in Articles XXXVII–XL of the Convention for the Pacific Settlement of International Disputes signed at The Hague October 18, 1907, to enter into negotiations for the conclusion of an Arbitration Convention have named as their Plenipotentiaries, to wit:

The President of the United States of America: Charles Evans

Hughes, Secretary of State of the United States; and

His Majesty the King of Sweden: Captain Axel F. Wallenberg, His Envoy Extraordinary and Minister Plenipotentiary at Washington;

Who, after having communicated to one another their full powers, found in good and due form, have agreed upon the following

Articles:

ARTICLE I

Differences which may arise of a legal nature or relating to the interpretation of treaties existing between the Contracting Parties and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the Conventions of July 29, 1899, and October 18, 1907, provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two Contracting States, and do not concern the interests of third Parties.

ARTICLE II

In each individual case the Contracting Parties, before appealing to the Permanent Court of Arbitration, shall conclude a special agreement defining clearly the matter in dispute, the scope of the powers

¹² In English and French; French text not printed. Ratification advised by the Senate, Jan. 10, 1925; ratified by the President, Jan. 17, 1925; ratified by Sweden, Jan. 16, 1925; ratifications exchanged at Washington, Mar. 18, 1925; proclaimed by the President, Mar. 18, 1925.

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of the Arbitrators, and the periods to be fixed for the formation of the Arbitral Tribunal and the several stages of the procedure. It is understood that on the part of the United States such special agreements will be made by the President of the United States, by and with the advice and consent of the Senate thereof, and on the part of Sweden by the King in such forms and conditions as he may find requisite or appropriate.

ARTICLE III

The present Convention shall be ratified by the Contracting Parties. The ratifications shall be exchanged at Washington as soon as possible, and the Convention shall take effect on the date of the exchange of ratifications.

ARTICLE IV

The present Convention is concluded for a term of five years, dating from the exchange of ratifications. In case neither Contracting Party should give notice, six months before the expiration of that period of its intention to terminate the Convention, it will continue binding until the expiration of six months from the day when either Contracting Party shall have denounced it.

Done in duplicate at the city of Washington, in the English and French languages, this twenty-fourth day of June, one thousand nine hundred and twenty-four.

[SEAL] CHARLES EVANS HUGHES [SEAL] Ax. WALLENBERG

711.5812/42

The Secretary of State to the Swedish Minister (Wallenberg)

Washington, June 24, 1924.

Sir: In connection with the signing today of a Convention of Arbitration between the United States and Sweden, providing for the submission of differences of certain classes which may arise between the two Governments to the Permanent Court of Arbitration established at The Hague under the Conventions for the Pacific Settlement of International Disputes concluded in 1899 and 1907, I have the honor to state the following understanding which I shall be glad to have you confirm on behalf of your Government.

On February 24, 1923, the President proposed to the Senate that it consent under certain stated conditions to the adhesion by the United States to the Protocol of December 16, 1920, under which the Permanent Court of International Justice was created at The Hague. In the event that the Senate gives its assent to the proposal, I under-

stand that the Government of Sweden will not be averse to considering a modification of the Convention of Arbitration which we are concluding, or the making of a separate agreement, under which the disputes mentioned in the Convention could be referred to the Permanent Court of International Justice.

Accept [etc.]

CHARLES E. HUGHES

711.5812/43

The Swedish Minister (Wallenberg) to the Secretary of State

Washington, June 24, 1924.

Sir: I have the honor to acknowledge the receipt of Your note of today's date, in which you were so good as to inform me, in connection with the signing of a convention of arbitration between Sweden and the United States, that the President of the United States had proposed to the Senate the adherence of the United States, under certain conditions, to the protocol of the 16th of December, 1920, creating the Permanent Court of International Justice at The Hague, and that, if the Senate assents to this proposal, you understand that the Royal Swedish Government would not be averse to considering a modification of the Convention of Arbitration which we are concluding, or the making of a separate agreement, under which the disputes mentioned in the Convention could be referred to the Permanent Court of International Justice.

Under instructions from the Swedish Minister of Foreign Affairs I have the honor to confirm your understanding of my Government's attitude on this point and to state that if the Senate approve the President's proposal, my Government will not be averse to considering a modification of the Convention of Arbitration which we are concluding, or the making of a separate agreement, under which the disputes mentioned in the Convention could be referred to the Permanent Court of International Justice.

With renewed assurances [etc.]

Ax. WALLENBERG

SWITZERLAND

CONTINUATION OF AMERICAN CONSULAR PROTECTION TO SWISS INTERESTS IN EGYPT

704.5483/9a

The Secretary of State to the Minister in Switzerland (Gibson)

No. 12

Washington, June 6, 1924.

Sir: You are requested to inform the Government of Switzerland that, in view of the many demands upon the American consular officers in Egypt and in consideration of the fact that American consular representation of Swiss interests in that country only became effective through the assumption by representatives of this Government of the representation of German interests during the war, it is desired that the American consular officers in Egypt be relieved as soon as practicable of the representation of Swiss interests there.

You will please inform the Department promptly of the decision reached by the Government of Switzerland in this matter in order that appropriate instructions may be issued to the American consular officers at Alexandria and Cairo.

I am [etc.]

For the Secretary of State:

J. BUTLER WRIGHT

704.5483/11

The Minister in Switzerland (Gibson) to the Secretary of State

No. 62

Berne, *June 30*, 1924. [Received July 16.]

Sir: I have the honor to refer to my despatch No. 56, of June 20, 1924, in acknowledgment of the Department's instruction No. 12, of June 6, 1924, relating to the desire of the Department that American consular officers in Egypt be relieved of the representation of Swiss interests. In reply to my representations I am now in receipt of a memorandum from the Federal Political Department, dated June 25, 1924, stating that the Swiss citizens in Egypt under the protection of American consular officers number about fifty and consist mostly of former German protégés. The note adds that the

¹ Not printed.

Government of the Confederation is now negotiating with a view to the creation of Swiss representation in Egypt and expresses the hope that the Government of the United States will continue its protection of Swiss interests in that country until such representation is established.

A copy and translation of the memorandum from the Federal Political Department, dated June 25, 1924, as well as the Legation's reply, dated June 30, 1924, are enclosed for the Department's information.2

I have [etc.]

HUGH GIBSON

704.5483/11

The Secretary of State to the Chargé in Egypt (Johnson)

Washington, September 10, 1924. No. 176

SIR: It is understood that American consular officers are representing Swiss interests in Egypt as applied especially to citizens of the German-Swiss cantons. It is also understood that their activities have included the following:

Registration and issuance of certificates of registration. Visa of Swiss passports and issuance of necessary travel pass-

Notarial acts and recording of unofficial documents.

Recording of births, deaths and marriages, and similar matters involving civil status.

General exercise of good offices in protection, whereabouts and welfare and similar matters.

It is further apparent that no fees have been charged for the above-mentioned services.

It is being pointed out to the Consuls at Alexandria, Cairo and Port Said that it is the desire of the Swiss Government that the activities in behalf of its nationals by American consular officers in

Egypt be continued for the present.

They are accordingly being informed that the Department authorizes the continued representation of Swiss interests in Egypt. It is, however, of the opinion that notarial services for Swiss citizens are of doubtful value inasmuch as these services may be rendered useless by existing local laws in the places in which the documents are to be used. They are being directed, therefore, to avoid the rendition of these services unless they are satisfied that they will be of value under the existing laws. Furthermore, it seems to the Department that they should confine their passport activities to the visaing of Swiss passports and that they should not undertake to issue such passports

² Not printed.

unless they have been clearly authorized so to do by the Swiss Government and definitely instructed by it as to its requirements and as to the procedure to be followed. It seems to the Department manifestly unfair to require the payment of fees by American citizens and to render services gratuitously to the citizens of Switzerland. The consular officers in Egypt are being instructed, therefore, to charge fees in accordance with the Swiss Tariff of Fees and if they do not have such tariff available, they will inform the Department at once in order that it may request copies for them. In the meantime they should follow the United States Tariff of Consular Fees. Fees collected for Swiss services should be transmitted to the Treasury of the United States under the provisions of General Instruction No. 330 of July 10, 1914.3

It is observed that American consular officers in Egypt have not been exercising judicial authority on behalf of Swiss citizens and it should be stated that the abstention from this service has the Department's approval inasmuch as the exercise of such judicial authority by American consular officers would not be warranted under existing American laws. American consular officers are not permitted to exercise judicial authority in extraterritorial countries on behalf of the nationals of other governments.

I am [etc.]

For the Secretary of State:

LELAND HARRISON

704.5483/11

The Secretary of State to the Minister in Switzerland (Gibson)

No. 60

Washington, September 10, 1924.

SIR: The Department has received your despatch No. 62 of June 30, 1924, in regard to the desire of the Swiss Government that American consular officers shall continue, pending the establishment of diplomatic relations between Switzerland and Egypt, the representation of Swiss interests in the last-named country.

In reply, you may inform the Government of Switzerland that American consular officers in Egypt will continue the representation of Swiss interests but that this Government will be glad to be informed of the establishment of Swiss diplomatic relations with Egypt in order that American consular officers may be relieved of their duties in this regard.

It may be stated that one of the principal difficulties in connection with the representation of Swiss interests is found in the fact that the consular officers of other governments are also representing Swiss

⁸ Not printed.

¹⁰⁸⁸⁴⁻Vol. II--39----51

interests in Egypt, and that there occurs from time to time a conflict of authority which it is desired to avoid if possible. Furthermore, it becomes possible through this dual representation for Swiss citizens to apply at different consular offices for the same service, thus causing confusion and misunderstanding.

Finally, it is necessary to remind the Government of Switzerland that American consular officers are not permitted to exercise judicial authority in extraterritorial countries on behalf of the nationals of other governments. It is understood that the French consular officers in Egypt will exercise such authority only on behalf of Swiss citizens who are registered in their offices. British martial law in Egypt, under which British consular courts exercised jurisdiction over Swiss citizens, was withdrawn in July, 1923, and it has subsequently been held by the British Consul at Cairo that his jurisdiction over German-Swiss nationals automatically ceased at the time of such withdrawal. The German-Swiss, therefore, have no consular jurisdiction to which they may appeal unless they register with the French or Italian consulates. As appeal to the various consular courts in extraterritorial countries is a general right which all capitulatory nations have jealously upheld and as the Swiss have indirectly enjoyed such privilege, it is believed that an unfortunate effect would result from the consequent dependence of Swiss citizens not registered at the French or Italian consulates upon native Egyptian criminal jurisdiction, it being understood, of course that, in civil matters, such persons would remain subject to the Mixed Courts. It is feared that the trial by native Egyptian criminal courts of Swiss nationals registered in American consulates would have an unfortunate effect not only on these persons, but also upon the general subject of capitulatory rights in Egypt and it appears, therefore, for this further reason that American consular officers should relinquish the protection of Swiss interests in that country. As previously indicated in this communication, the continued representation, so far as is practicable, of Swiss interests is being authorized, but these additional facts are being brought to the attention of the Government of Switzerland for its further consideration of the matter and for such additional comments thereupon as it may desire to make.

In the absence of instructions from the Swiss Government to the contrary, the American consular officers in Egypt are being instructed to transmit to the Treasury of the United States such fees as they may have collected for services on behalf of Swiss nationals.

I am [etc.]

For the Secretary of State:

LELAND HARRISON

EFFORTS BY THE DEPARTMENT OF STATE TO OBTAIN RATIFICATION OF THE TREATIES CONCLUDED BETWEEN THE UNITED STATES AND TURKEY ON AUGUST 6, 1923 1

711.67/46a: Telegram

The Acting Secretary of State to the High Commissioner in Turkey (Bristol)

[Extract]

Washington, January 23, 1924—1 p. m.

17. In a speech to be delivered today January 23, before the Council on Foreign Relations of New York, the Secretary is dealing with recent questions and negotiations and is devoting the concluding half of his speech to the consideration of Near Eastern questions. The Sections relating to the Near East are quoted below in full.2

The speech will be given to the press here for publication in the morning papers of January 24th.

"The Near East, Turkey.—Let me now direct your attention to affairs in the Near East. The events of the past few years have created a new situation, and the difficulty in clarifying present problems is largely due to the fact that so many of our people discuss them in terms which belong to the past. While there was some consideration of Turkish questions in 1919, and certain inquiries were prosecuted, it was not until 1920, after the Austrian and Bulgarian treaties had been disposed of, that the Allies definitely took up the Turkish treaty. This treaty, called the treaty of Sèvres,3 was signed in August of that year. Its terms were severer than those of the European peace treaties, not only depriving the Turks of vast territories but imposing upon them an even greater measure of foreign control than had been the case before the war. In spite, however, of the Allied occupation of Constantinople, the Greek occupation of Smyrna and its hinterland, and the French occupation of Cilicia, the Turks refused to ratify the treaty. The Allies were not in a position to compel them to do so.

As one of the results of the Great War, a new spirit of nationalism and a desire for freedom from outside control had made itself felt in the Near East. Nowhere had the evangel of self-determination

ante, p. 262.

*British and Foreign State Papers, 1920, vol. cx111, p. 652.

¹ For negotiation and signing of general treaty and extradition treaty, see Foreign Relations, 1923, vol. 11, pp. 1040 ff.

Section dealing with Greece is printed in another extract from this telegram,

found a more eager response. The nationalistic movement was particularly significant in Turkey. That this movement had often been accompanied by violence is not to be wondered at, although it is nonetheless to be regretted. The outcome of the movement in Turkey was the establishment of a government which claimed the right to be dealt with as sovereign and which by its military achievements made good that claim.

As early as January, 1920, the so-called Turkish National Pact had been voted by the Ottoman Parliament which was then assembled at Constantinople. This pact set forth the aspirations of the Turks and later was adopted by the National Assembly at Angora as summarizing the object of the Turkish Nationalist movement.

Among its provisions was the following:

ARTICLE VI. 'It is a fundamental condition of our life and continued existence that we, like every country, should enjoy complete independence and liberty in the matter of assuring the means of our development, in order that our national and economic development should be rendered possible and that it should be possible to conduct affairs in the form of a more up-to-date regular administration.

'For this reason we are opposed to restrictions inimical to our development

in political, judicial, financial, and other matters.'

In March, 1921, the Allied Powers clearly appreciated that it would be impossible, short of armed allied military intervention in Turkey, to impose the treaty of Sèvres. It would seem that at no time was such armed allied intervention seriously considered, although from time to time certain of the Allied Powers gave a measure of support to the Greek forces in the hope that the latter would be able, through their victory over the Turks, to make possible the realization of the Sèvres treaty at least in part. There were unsuccessful attempts to revise the treaty. At last the total defeat of the Greek forces and the withdrawal of the Greek Army from Anatolia completely changed the situation to the advantage of Turkey and effected the elimination of the treaty of Sèvres as a basis for negotiation. A victorious Turkish Army being in complete control of Anatolia and threatening Constantinople, the Allied Powers intervened to bring about an armistice between Greece and Turkey which was signed at Mudania in October, 1922. The Lausanne conferences of $192\overline{2}$ and 1923 followed.

The Allies frankly recognized that the situation of 1918 no longer existed and that after the stubborn resistance of the Turks, culminating in their recapture of Smyrna, it was impossible to dictate the terms of peace. A treaty was therefore negotiated in which the Turks ceded very considerable territories and for the first time in their history agreed to open the Straits not only to merchant ships but to foreign warships, but in which the Allies, on the other hand, agreed to renounce their historic capitulatory rights in Turkey.

In 1919 and 1920 the question was directly presented to the Government of the United States as to the nature and extent of its participation in the political and territorial readjustments of the Near East. At that time the spokesmen for the Allied Powers at Paris suggested that the United States assume a mandate for Constantinople and Armenia. The formal proposal was never presented for the consideration of the Congress, as it was clear as early as 1919 that the American people would not favor the assumption of a man-

date over Constantinople, which would immediately and directly involve this Government in one of the most vexing political and territorial problems of the world—the storm center of historic rival-

ries and bitter contests.

When the question of an American [Armenian] mandate was formally presented in 1920 as a result of the action of the Allied representatives meeting at San Remo, the Congress declined to sanction It thus again became apparent that the United States Government was not prepared to intervene in Near Eastern affairs to the extent of assuming any obligations of a territorial character. course was in accord with our traditional policy. The United States had taken no part in the Turkish settlements which were embodied in the treaties of Paris in 1856, of Berlin in 1878, or in those which followed the Balkan Wars of 1912 and 1913. Even during the World War we did not declare war on Turkey or take the initiative in breaking relations with that country, notwithstanding the serious provocation, from a humanitarian standpoint, of the extensive Armenian deportations. Presumably it was felt that the policy then adopted was better calculated to enable the United States to exert its influence and to protect its interests so long as this country was not to join the military operations on the Near Eastern front.

If there ever was a time when we could have successfully intervened and have backed up our intervention by armed forces, it was early in 1919 when we had a large army abroad and were in a position to prosecute such a policy if deemed advisable. But this opportunity passed. It should be added that, contrary to an impression which is somewhat widespread in this country, this Government, while it has always exerted its influence in a humanitarian way, has not assumed political obligations with respect to the Armenians or other Christian minorities in the Near East. Treaties concluded by other powers undertook, however, to deal with such questions. This Government took no part in the negotiation of the treaty of

Sèvres.

Such, then, was the situation prior to the year 1921. In developing our relations with the Near East subsequently, it was necessary to take into account the established policy of the Government and at the same time to serve American interests and humanitarian ends. It should also be remembered that a large part of the distress in the Near East has been caused by encouraging action which failed of adequate support. At various times the Armenians and Greeks have been encouraged to take up arms, later to be left to their own devices. This Government, however, would not be justified in promoting such a policy on the part of others which it was not prepared itself adequately to sustain. It has no mandate from the people to intervene by arms and thus to impose by force a solution of the problems of the Near East. And, for this very reason, it could not essay the rôle of a dictator in order to determine how others should solve these problems.

This, however, did not prevent this country from cooperating in a spirit of helpfulness and from bringing, as it has brought, its moral influence to aid in dealing with a situation of the utmost difficulty. This influence was brought to bear at the Lausanne Conference, where the efforts of the American representatives undoubtedly contributed in no small degree to the final agreement upon provi-

sions regarding the protection of minorities, the recognition of charitable, educational, and philanthropic institutions, the appointment of judicial advisers and the maintenance of equality of opportunity. As I have said, a state of war had not existed between the United States and Turkey, and the course of events following the German War had reaffirmed the historic policy of refraining from intervention in political and territorial readjustments. Turkey had severed diplomatic relations with us in 1917, however, and these had not been resumed. But the formal conclusion of peace between the Allies and Turkey, entailing as it would the resumption of full diplomatic and consular relations, would leave the United States, unless appropriate action were taken, in a relatively disadvantageous position. Accordingly, negotiations were undertaken between American and Turkish representatives which resulted in the treaty of amity and commerce and the extradition treaty signed on August 6 last.4

The treaty of amity and commerce followed very closely the Allied treaty without its territorial, political, and financial features. The United States gained the same general rights and privileges as the Allies, including the freedom of the Straits, and like the Allies consented to the abrogation of the capitulations, that is, of the exercise of the ex-territorial rights in Turkey which the Turks

regarded as in derogation of their sovereignty.

In making this important decision the American representatives were obliged to take account of the following considerations. It was quite apparent that the only basis upon which negotiations could be conducted was that of most-favored-nation treatment and reciprocity. Either the Turks were to be dealt with on this footing or not at all. In these circumstances three courses were open to us: (1) To compel the Turks by force to give us better terms than the Allies; (2) not to negotiate at all; or (3) to negotiate with the Turks on equal terms as with a State enjoying an unqualified

sovereignty.

The first course was out of the question. However desirable the maintenance of ex-territorial rights hitherto enjoyed might be, it was obvious that the public opinion of this country would not countenance a war for the purpose of maintaining them. did it appear to be practicable to forego negotiations, in an attempt to maintain the status quo. After the armistice of 1918, we sent to Constantinople a high commissioner, with a naval detachment under his command, and in spite of his unofficial status in relation to the Turkish authorities he has succeeded in affording American interests appropriate protection. But this anomalous situation could not continue indefinitely. When the treaty of peace between the Allies and Turkey comes into effect, and diplomatic and consular officials of the Allied Powers return to Turkey, we should find ourselves in an extremely difficult position if action meanwhile had not been taken to regularize our own position, and in the absence of a treaty American interests in Turkey would be without adequate safeguards. In this event, the humanitarian interests which are closest to the American heart would suffer. It was also perfectly clear that

Foreign Relations, 1923, vol. II, pp. 1153 and 1167.

no period of waiting would avail to secure for us ex-territorial rights

which on their part the Allies surrendered.

In these circumstances, the only practicable course was to negotiate a treaty as with a fully sovereign State. If such a treaty falls short of expectations, especially in that it acquiesces in the abrogation of the capitulations, it should not be forgotten that the only way to maintain the capitulations was to fight for them. It should also be borne in mind (1) that the Lausanne treaty is such a treaty as would be negotiated with any other sovereign state, (2) that it gives us the same rights as other countries will enjoy under the new régime, and (3) that by regularizing our relations with Turkey, now interrupted for nearly seven years, it will provide safeguards for American educational, philanthropic, and commercial interests in Turkey.

Let me emphasize a further point. At no stage in the negotiations was the American position determined by the so-called Chester concession. This had been granted before negotiations of our treaty with Turkey had been begun. This Government took no part in securing it; this Government made no barter of any of its rights for this or any other concession. Our position is a simple one. We maintain the policy of the open door or equality of commercial opportunity; we demand a square deal for our nationals. We objected to the alleged concession to the Turkish Petroleum Company owned by foreign interests because it had never been validly granted, and in so doing we stood for American rights generally and not for any particular interest. Opening the door for American nationals we give them impartial and appropriate diplomatic support in the assertion of what appear to be their legal rights, but without other-

wise involving this Government.

During the course of our recent negotiations, the Department of State was in frequent consultation with those whose interests in Turkey it is its privilege and duty properly to protect, particularly those whose humanitarian enterprises have long been established. They have clearly indicated their accord with the position that the present situation in Turkey should be frankly faced and that the Turkish authorities should have an opportunity to show that their expressed desire for American friendship and help and their willingness to protect American interests are sincere. It is on this basis that our policy toward Turkey is being developed. Let it be understood that Turkey, while insistent upon unqualified sovereign rights, does not reject the international obligations which are correlative to such rights. Let it also be appreciated that Turkey is not endeavoring to undermine our institutions, to penetrate our labor organizations by pernicious propaganda, and to foment disorder and conspiracies against our domestic peace in the interest of a world revolution.

No one is more competent to speak on the subject of the treaty than Dr. James L. Barton, secretary of the American Board of Commissioners for Foreign Missions. Permit me to quote from his recent letter (November 24, 1923):

'To say that I have followed with keen interest the making of this treaty and its fate up to the present time is to express but mildly my own feeling as well as the feeling of the American Board and its friends. While the treaty does not contain all that we would like, yet I am sure I express the judgment of the

officers of the American Board and, so far as I know, the missionaries both on the field and here at home when I say that it is our earnest hope that the treaty will be ratified by the Senate and that without acrimonious debate. We are convinced that this is the best treaty that could be secured under the circumstances, but that it will furnish a basis for negotiations and for securing

privileges not covered in the treaty.

'If the treaty should be rejected, I am convinced that the continuance of American institutions in Turkey, with their large invested interests, would be jeopardized. Under the treaty there are grounds for believing that they will be permitted to continue. I refer to educational, religious, medical, industrial, and philanthropic enterprises hitherto carried on by Americans, representing large American investments in Turkey. There are indications that the Government will look with increasing favor upon the continuation of these institutions and grant them enlarging privileges. This has already taken place in Smyrna, Tarsus, and at some other points.'

Let me add to this the statement of the distinguished educator, Dr. Caleb F. Gates, president of Robert College of Constantinople: After referring to the views of objectors, he says:

'Let us ask for a moment why it is that we have not made a treaty more in conformity with the wishes of so many of the American people. Is it because the American representatives were not skillful and allowed themselves to be outwitted by the Turks? The American representatives acquitted themselves exceedingly well; they gained the respect of their opponents as well as of the representatives of the Allied Powers. They came out of the conference with a reputation enhanced by the ability and fairness they had shown, and they gained for their country fully as much as the representatives of the Allied Powers gained for theirs... The Turks were determined to become sovereign in their own domain, and they were willing and prepared to fight in order to obtain this sovereignty while the Allies were not. Even those Americans who now denounce this treaty as unsatisfactory were determined that their country should not go to war over these questions.... It is the only kind of a treaty which could have been made under the circumstances, when one party knew exactly what they wanted and were ready to fight to obtain it, and the other party was not willing to fight, but still wished to retain the former conditions.... As to the treaty itself, what does it give to us? It gives the good will of the Turks instead of their ill will. That is certainly worth something to all who live and work in Turkey. To them the treaty affords an opportunity to work out the problems which their life in Turkey presents and to exercise what influence they may possess in favor of the right. It still leaves an opportunity for missionaries and educators to try to make the principles of righteousness known and practiced in Turkey and it gives to business men a field for their legitimate activities. . . . The schools and colleges established by Americans are carrying on their work and many of those that had been closed are reopening.'

In order to accord adequate protection to American interests in the Near East during the period following the Great War, the Department of State has maintained its representatives throughout this area and a naval force has been stationed in Near Eastern waters since 1919. Until October, 1922, this force consisted of from three to nine destroyers with various other craft from time to time. When news was received of the Smyrna disaster 12 additional destroyers were immediately dispatched, arriving in Turkish waters during October of that year. These vessels have been of inestimable service to the representatives of the Department of State and to all American interests in the Near East. Through their radio they have furnished communication when no other means were available. They have transported American missionaries, philanthropists, relief workers, and business men, saving days and weeks of time when no other adequate means of transportation were available. They have assisted in the evacuation of refugees and they have been instrumental

in serving manifold humanitarian purposes. It is a pleasure to commend the admirable work that has been performed by the officers and men of these vessels.

PHILLIPS

711.672/287b

The Secretary of State to Senator Henry Cabot Lodge

Washington, May 5, 1924.

My Dear Senator Lodge: With a letter dated May 2 ⁵ I laid before the President the treaties concluded between the United States and Turkey on August 6, 1923 and certain papers which were signed and authenticated in connection with the conclusion of these treaties. It is my understanding that the President has transmitted the treaties to the Senate ⁷ and that they are now before the Committee on Foreign Relations. The following observations with reference to the treaties are submitted with a view to facilitating the consideration of these instruments by the Committee. If further information is desired I shall be happy to furnish it.

The events which led up to the conclusion of the treaties above mentioned were outlined in a general way in an address which I delivered on January 23, 1924. To the remarks made in that address, of which a copy is attached (Enclosure 1), it may be useful to add the following observations concerning the part played by this Government in the Conference of Lausanne and concerning the circumstances in which the negotiations between the American and Turkish representatives at that Conference were initiated and conducted.

The United States, though never at war with Turkey, was deeply interested in the settlement of the problems growing out of the war between Turkey and the Powers with which this country was associated in the war against the Central Powers. Upon the invitation of the Allied Governments, the United States was accordingly represented at the Lausanne Conference but was not a party to the Treaty of Peace or other instruments concluded between the Allied Powers and Turkey.

During the first phase of the Conference, which extended from November 20, 1922, to February 4, 1923, the three representatives of the United States, as occasion arose, expressed the views of this Government upon questions affecting American interests. They pointed

⁵ Not printed.

See Foreign Relations, 1923, vol. 11, pp. 1139-1148.

They were transmitted to the Senate May 3, 1924.
See telegram no. 17, Jan. 23, 1924, to the High Commissioner in Turkey, supra.

out the vital importance of the adoption by Turkey of a policy calculated to reassure foreigners concerning the administration of justice. They urged that recognition and protection be accorded by the Turkish authorities to American missions, schools, and hospitals in Turkey. They supported the principle of the "Open Door" and the equality of economic opportunity. They advocated freedom of navigation and passage through the Straits and associated themselves heartily with the representatives of the Allied Powers in impressing upon the Turkish Government the necessity of agreeing to adequate measures for the protection of the non-Turkish minorities in Turkish territory and for the extension to such minorities of the rights and privileges believed to be essential to their well-being.

During the first phase of the Conference agreement was reached between the Allies and Turks with regard to many important features of the peace settlement, but as there was lack of accord on certain points at issue, an adjournment took place, during which the Turkish delegates returned to Angora to ascertain the views of the Grand National Assembly. The second phase of the Conference, which began on April 23, 1923, terminated on July 24, 1923, with the signature of a treaty of peace and several other instruments, including a commercial convention, a convention regarding residence, business, and jurisdiction, and a convention relating to the régime of the Straits. Copies of these instruments are enclosed for your information (Enclosure 2).9

The arrangements thus concluded provided for the acceptance by the Allied Powers of the complete abolition of the Capitulations from every point of view. The Turkish Government, however, agreed for a period of five years to certain limitations in matters of taxation and customs dues, and it undertook for a period of seven years to permit all questions involving the civil status of Allied nationals to be determined by courts sitting within the territory of the countries to which such nationals belonged. Certain assurances were, moreover, given by declaration in regard to the employment of legal advisers to collaborate in the administration of justice as it affects foreigners in Turkey and to assist in making reforms which might be deemed necessary to modernize the administration of justice, as well as in regard to the execution of awards made upon the voluntary arbitration of controversies concerning civil or commercial matters.

The status of Allied charitable, educational, and philanthropic institutions in Turkey was dealt with in a letter addressed by the Turkish representatives to the British, French, and Italian Delega-

^{*}Enclosures not printed. Texts of agreements signed at Lausanne July 24, 1923, are printed in the League of Nations Treaty Series, vol. xxvIII, and British Cmd. 1929, Treaty Series No. 16 (1923): Treaty of Peace with Turkey, and Other Instruments, Signed at Lausanne, July 24, 1923, etc.

tions at Lausanne, and in the convention relating to the régime of the Straits recognition was given to the principle of the freedom of navigation and passage for commercial vessels and aircraft and war vessels and aircraft both in time of peace and in time of war, subject to certain limitations in the case of war vessels and to certain restrictions in the event of Turkey or the country to which the vessels or aircraft belong being engaged in the war.

The Treaty of Peace incorporated provisions assuring to the non-Moslem minorities in Turkey, among other rights or privileges, the full and complete protection of life and property; the free exercise of creed, religion, or belief; freedom of movement and of emigration; equality with Moslems in civil and political rights; the right to maintain charitable, religious, social and scholastic institutions and to use their own language and exercise their own religion therein; and the right to determine questions of personal status and domestic relations in accordance with their own usages. These provisions the Turks undertook to recognize as fundamental laws. Representatives of the United States who were present at the meetings of the committee which framed and adopted these provisions, played an important part in their elaboration.

In the second phase of the Conference at Lausanne the Government of the United States was represented by the American Minister to Switzerland, the Honorable Joseph C. Grew. Shortly after the beginning of this phase of the Conference Mr. Grew was approached by Ismet Pasha, the head of the Turkish Delegation, with the suggestion that a new treaty should be made between the United States and Turkey. In response to inquiries as to the basis upon which the Turkish Delegation envisaged the making of a new treaty, Ismet Pasha stated that a new treaty or treaties should be, in general, upon the fully reciprocal basis which he regarded as alone compatible with the sovereignty of Turkey and the changed conditions in the country, but that Turkey was prepared to grant to the United States any privilege which she granted to any other Power.

The negotiations which followed between the American and Turkish Delegations at Lausanne resulted in the conclusion of the treaties of August 6, 1923 which are now before the Committee on Foreign Relations. By way of general observation, I may state that these treaties are in essential respects of the same character as the treaties usually concluded concerning similar matters between the United States and other sovereign States. As will appear from the parallel summaries which I attach (Enclosure 3), 10 the provisions of the new treaties are much more detailed and definite than those of the Treaty

¹⁰ Not printed.

of Commerce and Navigation of 1830 11 and the Extradition Treaty of 1874 12 with the Ottoman Empire.

The provisions concerning the capitulatory régime in the treaty of general relations merit further comment. Many of the rights enjoved by foreigners in Turkey under the capitulations were such as are enjoyed by foreigners in other countries under international law or under treaties of a reciprocal character. To the maintenance of such rights the Turkish Government had no objection, as is evidenced by the fact that in the Treaty of Peace and other instruments concluded with the Allies at Lausanne, as well as in the treaty with the United States, the Turkish representatives readily agreed to the introduction of provisions of a reciprocal character granting to foreigners the right to enter and establish themselves in Turkey, subject to the observance of the laws and regulations in force therein, and assuring to them the most constant protection and security for their persons and their property in accordance with generally recognized international law. The special privileges, of a juridical and economic character, conferred upon foreigners by the Capitulations were, however, considered by the Turkish Government to be burdensome and unfair.

The Turkish National Pact which was adopted on January 28, 1920 and which was stated by the Turkish Government before the convening of the Lausanne Conference to embody the conditions upon which alone a durable peace could be made, contained a declaration that the restrictions imposed upon Turkey by the Capitulations could no longer be tolerated. In the negotiations with the Allies at Lausanne the Turkish representatives steadfastly adhered to that The result of the negotiations between the Turks and declaration. the Allies with reference to the Capitulations has already been noted. The negotiations between the United States and Turkey could have been conducted on no other basis than the agreement of this country to take towards the Capitulations an attitude similar to that adopted by the other Powers in dealing with Turkey.

The treaties which I am transmitting to you were supplemented by assurances in a formal communication to Mr. Grew from Ismet Pasha regarding the recognition and protection of American educational, charitable, and philanthropic institutions in Turkey.18 In substance the communication provides that such American institutions as had been recognized prior to October 30, 1914 shall continue to be recognized and that the situation of such of them as have been established subsequently shall be favorably examined. This communication was transmitted with the treaties.

Miller, Treaties, vol. 3, p. 541.
 Malloy, Treaties, 1776-1909, vol. 11, p. 1341.
 Note of Aug. 4 and its enclosure, Foreign Relations, 1923, vol. 11, pp. 1141-1142.

On the date of the signature of the treaties Ismet Pasha formally communicated to Mr. Grew copies of the declarations of the Turkish Delegation regarding the administration of justice and regarding sanitary affairs in Turkey. Copies of these declarations and translations thereof, with a copy and translation of the transmitting letters, were also submitted with the Treaties.14 The declarations were made under authorization of the Grand National Assembly at Angora and may doubtless be regarded as constituting international commitments. It is believed that their formal communication to the American representative was desirable in order to emphasize the interest of the United States in the matters to which they relate.

A question which it was found impracticable to settle at Lausanne was subsequently dealt with by an exchange of notes at Constantinople. This was the question of the disposition of the pecuniary claims of American citizens against Turkey. On the date of the signature of the treaties at Lausanne this question was formally reserved by an exchange of notes of which copies and translations are attached (Enclosure 4). 15 In the subsequent negotiations at Constantinople it became apparent that the Turkish Government, having in mind the disturbed conditions of the last fifteen years in Turkey, as well as the financial problems incidental to the establishment of a new Government, was indisposed to make any formal commitment regarding the final settlement of claims in advance of the examination of the claims themselves. It was finally deemed to be the most feasible method of procedure to effect an agreement by an exchange of notes for the examination of all claims by a Mixed Committee which will endeavor to determine the merits of the claims examined, and to agree upon modes of settling such claims as may be deemed to possess merit. Copies and translations of the notes on this subject exchanged at Constantinople on December 24, 1923, between Rear Admiral Mark L. Bristol, United States High Commissioner, and Dr. Adnan Bev, Representative of the Ministry of Foreign Affairs of the Republic of Turkey, are attached (Enclosure 5).16

With reference to assurances regarding the treatment of minorities in Turkey, I desire to recall the part played by representatives of the United States in connection with the framing of the provisions regarding minorities contained in the Allied Treaty with Turkey. The interest of the United States in the welfare of the Minorities was appropriately expressed at both phases of the Lausanne Conference. This Government, however, in dealing with this subject has avoided the advocacy of measures impossible of realization by methods short of war or of measures which would only be calculated to make more

Ibid., pp. 1139–1141.
 Ibid., p. 1143.
 Ibid., p. 1190.

difficult the reaching of adjustments between the Minorities and the authorities in control of the country. In the long run the protection of Minorities has rarely been furthered by foreign interference on their behalf and often the result of such interference has been quite the opposite of that sought to be achieved. Further, in this connection it was necessary to give consideration to the traditional policy of the United States against intervention in behalf of the nationals of other countries or the assumption of treaty obligations in such matters.

It is my deliberate opinion, predicated upon a careful consideration of the situation in Turkey, that the rights and activities of American citizens in that country can best be protected through the adoption of the new treaties which, while consenting to the abrogation of the Capitulations, assure to American citizens and concerns in Turkey rights and privileges as great as those accorded to citizens and concerns of any other Power in Turkey. Those who might be disposed to advocate an attempt to maintain the pre-war status should remember that the rights enjoyed by American citizens under the régime of the Capitulations were for the most part specifically granted to other Powers and applied to American citizens by virtue of most-favored-nation provisions in our Treaty of 1830. The Powers concerned agreed at Lausanne to surrender these capitulatory rights and the practical value of the Treaty of 1830 has therefore been seriously impaired. Unless we are willing to go to war with Turkey, a persistence on our part in claiming capitulatory rights formerly enjoyed would simply expose our Government to a series of futile negotiations and would render most arduous, if not altogether impossible, the continuance of the philanthropic, educational and commercial activities of our citizens in Turkey; instead of the substantial rights provided under the new treaties, this Government would have no recourse but to illusory claims based on a régime which the United States would be alone in endeavoring to maintain.

This is also the opinion of Americans at present actually engaged in such activities in Turkey. These Americans, who will be most directly affected by the new treaties and those interests were carefully borne in mind throughout the negotiations at Lausanne, have expressed the view that the results secured afford the only practicable basis for the carrying on of their activities in Turkey under present conditions.

Before submitting the treaties to the Senate, which as you will note were negotiated nine months ago, it was considered important, (1) to conclude the negotiations with Turkey with reference to the formation of a committee to consider outstanding claims between the two countries and their nationals, (2) to ascertain the attitude of the Allied Powers toward the treaty of peace concluded between those powers and Turkey at Lausanne shortly before the signature of the

treaty between the United States and Turkey and (3) to secure all available information as to whether the government with which the United States had negotiated was willing and able to carry out its international obligations.

With regard to these three points the first, the question of claims, has already been dealt with in this letter. With reference to the attitude of other powers towards Turkey I may state that Italy, Greece and Rumania have ratified the treaty of peace between the Allied Powers and Turkey. This treaty has been approved by the British Parliament and has been favorably reported by the appropriate committee of the French Chamber of Deputies and the French Senate. There is every reason to believe therefore that the Allied Powers will establish peace with Turkey at an early date on the basis of the agreements negotiated by those Powers at Lausanne.

The fact that the Turkish Government has during the last nine months maintained and consolidated its position is prima facial evidence of stability but to secure the latest information, Admiral Bristol the American Representative in Turkey has recently made a trip throughout Anatolia, visiting Angora, Konia, Tarsus, Adana, Mersina and other points. According to his report the Turkish Government is stable, is in control of the country and is believed to be in a position to assume on behalf of Turkey, and to carry out, international obligations.

Further, the constitutional changes which have taken place in Turkey during the last nine months, the separation of church and state, the adoption of a new constitution, and the establishment of a republic have indicated a desire on the part of Turkey to modernize its institutions, and thereby to facilitate an administration of law more in conformity with western ideas of justice.

I have desired to set forth in this letter and its enclosures the information which appeared to be necessary to an understanding of the treaties and of the circumstances which preceded and attended their negotiation and conclusion. If further information is desired I shall be happy to furnish it.

I am [etc.]

CHARLES E. HUGHES

711.672/306a

The Secretary of State to Senator Henry Cabot Lodge

Washington, June 7, 1924.

MY DEAR SENATOR LODGE: My attention has been called to a resolution introduced into the Senate by Senator King (Congressional Record of June 3, page 10571 ff.¹⁷) with regard to the Lausanne

¹⁷ Vol. Lxv, pt. 10, p. 10292, in bound edition.

Treaty and the so-called Chester concession. The treaties concluded with Turkey are now before the Foreign Relations Committee of the Senate together with the information which I felt might be useful to the Committee in its consideration of these instruments. I do not feel therefore that it would be appropriate for me at this time to enter into any detailed discussion of the various allegations contained in the statement accompanying Senator King's resolution. At the appropriate time and as desired by the Foreign Relations Committee I shall be glad to give full information with regard to any matters pertinent to the consideration of these treaties.

Certain of the statements of Senator King are of such a character, however, that I did not feel that I should allow them to pass unnoticed, although their inaccuracy has been indicated in the information which I have already laid before the Committee.

1. The charge "that the United States participated in the Lausanne Conference apparently for the sole purpose of securing and confirming the Chester oil concession and that in pursuance of that purpose, vested and essential rights of American nationals in Turkey were sacrificed and Armenia forsaken, if not betrayed," is absolutely unfounded. As I stated in January last, "At no stage in the negotiations was the American position determined by the so-called Chester concession. This had been granted before negotiations of our treaty with Turkey had been begun. This Government took no part in securing it; this Government made no barter of any of its rights for this or any other concession."

Senator King in referring to the date of our negotiations with Turkey has apparently confused the negotiations between the Allied Powers and Turkey with the negotiations of the American Plenipotentiary at Lausanne and the Turkish representatives. The latter negotiations were not initiated until subsequent to May 1, 1923. While the United States was represented at Lausanne during the earlier phases of the conference it had not prior to May 1923 undertaken the negotiation of a Treaty.

- 2. Senator King contrasts the action of this Government in 1920 with respect to the Sèvres Treaty with that of 1923, indicating that there was in 1923 a reversal of the earlier attitude toward Turkey. It is possible that the Senator does not recall that the United States was represented at the San Remo Conference in 1920, which had under consideration the Treaty of Sèvres, in the same capacity as at Lausanne. The United States, however, was neither a party to the Treaty of Sèvres nor to the Lausanne Treaty of Peace between the Allied Powers and Turkey.
- 3. In view of the fact that the reference in Senator King's statement to my memorandum of October 30, 1922, with regard to the Near Eastern Settlement is inaccurate I beg to enclose a copy of the

full text of this memorandum which was given to the Press at that At the Lausanne Conference this Government stood for the principles outlined in this memorandum and was able to obtain substantial guarantees with respect to the points of interest which this communication outlined.

4. Senator King states:

"The Allies declined to make concessions to the Turks, both on the subject of the capitulations and upon the Armenian case. The conference was deadlocked largely upon these two points, and it was

finally suspended on February 4, 1923. "Meanwhile, on April 10, 1923, the crafty Turks ratified the Chester concession. The conference was resumed on April 23, 1923, and the American observers, who, during the first session of the conference, had supported the Allies, whole-heartedly in some matters, half-heartedly in others, transferred their support in all matters to the Turks, with the result that the Turks were enabled to impose their views and will upon the Allies."

This statement is totally inaccurate. In the draft treaty of peace as communicated to the Turks by the Allies on January 31, 1923 it is provided in Article 26:

"The High Contracting Parties agree to abrogate the capitulations relating to the regime of foreigners in Turkey both as regards conditions of entry and residence and as regards fiscal and judicial questions."

Thus prior to the adjournment of the Conference on February 4th, the Allies had agreed to abrogate the capitulations. This was not one of the points which brought about the interruption of the Conference. Nor was the issue with respect to the Armenians instrumental in deadlocking the Conference in February 1923 since the Turkish plenipotentiary had agreed to the provisions of the Allied treaty as communicated on January 31, which related to the protection of minorities. The statement that the American representatives after the adjournment "transferred their support in all matters to the Turks with the result that the Turks were enabled to impose their views and will upon the Allies" is utterly false.

- 5. In answer to the allegation that the treaty surrenders American rights and interests I would call your attention to the fact that the Americans who have interests in Turkey, whether philanthropic or commercial, have urged its ratification.
- 6. Senator King's remarks with regard to the status of American philanthropic and missionary work in Turkey are both inaccurate and misleading. In this connection it is significant that the Americans who are responsible for carrying on this work in Turkey have

¹⁸ See telegram no. 344, Oct. 27, 1922, to the Ambassador in France, Foreign Relations, 1923, vol. 11, p. 884.

indicated their view that their work could best be aided by the ratification of the treaty with Turkey and have submitted encouraging reports of recent progress.

In case there are further points in Senator King's statement on which the Committee might desire to obtain additional information,

I shall be most happy to furnish it.

I am [etc.]

CHARLES E. HUGHES

711.672/306a: Telegram

The Secretary of State to the High Commissioner in Turkey (Bristol)

[Paraphrase]

Washington, June 12, 1924—11 a.m.

106. On June 7 the Senate adjourned sine die. No action had been taken on Lausanne treaty.

It does not seem at all likely now that Congress will meet again before the regular December session. Department will send written instructions.

HUGHES

711.672/325a

The Secretary of State to Senator William E. Borah

Washington, December 8, 1924.

My Dear Senator Borah: It is my understanding that the Treaties concluded between the United States and Turkey on August 6, 1923 are now before the Committee on Foreign Relations.

In a letter to the late Senator Lodge dated May 5th last, of which I attach a copy, ¹⁹ I described the negotiations which led up to the conclusions of these treaties and outlined the considerations which led me to believe that American interests would best be served by prompt ratification.

The events which have occurred during the past six months have confirmed this view. During this period the treaties concluded by the Allied Powers at Lausanne with the new Turkish Republic have been ratified and have gone into effect and Turkey has negotiated additional treaties with most of the other Powers of Europe. Further, since the date of my letter to Senator Lodge Turkey has carried out substantial reforms in her judicial organization and in administrative matters as provided for under the new Constitution of the Turkish Republic of April 20, 1924.

American citizens who have interests in Turkey, whether of a philanthropic, educational or commercial character, have consistently

¹⁹ Ante, p. 715.

urged the early ratification of the Treaties. It is now sixteen months since our treaty with Turkey was signed at Lausanne and in view of recent developments this Government will be at a serious disadvantage in safeguarding these legitimate American interests unless early action is taken to regularize our relations with that country. The Treaty of August 6th furnishes what I consider to be an appropriate, and the only present available, basis for so doing.

I should be very glad at any time to take up with you any phase of this matter in greater detail or to lay before the Committee any information which might be helpful in connection with the consideration of the treaties with Turkey.

The matter is one which I consider to be of real urgency.

I am [etc.]

CHARLES E. HUGHES

711.672/326

Senator William E. Borah to the Secretary of State

Washington, December 8, 1924.

My Dear Mr. Secretary: I have your letter of December 8th relative to the Treaties concluded between the United States and Turkey on August 6, 1923.

I have already made some inquiry among the Members of the Committee relative to taking up these Treaties. I find considerable opposition and I doubt if we shall be able to do anything with them before the holidays. I hope, however, to bring them up for consideration at the next meeting after the session on Thursday.

I have not myself concluded my study of these Treaties and cannot express a view, but I am thoroughly in sympathy with the proposition of disposing of them. I see no reason why longer delay should be had.

Very respectfully,

WM. E. BORAH

711.672/328: Telegram

The High Comissioner in Turkey (Bristol) to the Secretary of State

Constantinople, December 12, 1924—3 p. m. [Received December 13—6:53 a. m.]

232. Minister of Foreign Affairs intimated informally day before yesterday to delegate at Angora that our treaties would not be presented to Assembly for ratification until our Senate had ratified or at least seemed to be on the point of ratifying them. It would be most helpful if I could have exact present status of treaties before Senate.

Bristol

711.672/329a

The Secretary of State to President Coolidge

Washington, December 18, 1924.

My Dear Mr. President: As you will recall, the Treaty concluded on August 6, 1923, between the United States and Turkey was transmitted by you to the Senate during the last session of Congress and was referred to the Foreign Relations Committee, but did not come up for consideration prior to the Senate's adjournment.

Since the submission of this Treaty to the Senate the treaties concluded by the Allied Powers with Turkey at Lausanne have been ratified and formal diplomatic relations have been resumed by these Powers as well as by many of the other Powers of Europe which have also concluded treaties with the new Turkish Government. In view of this situation it has become increasingly important that this Government should secure a proper basis upon which to protect American interests in Turkey through early ratification of our Treaty.

I have brought this situation briefly to the attention of Senator Borah, who has replied that while he finds considerable opposition to the Turkish Treaty he hopes to bring it up for early consideration.

While the United States never declared war on Turkey we have had no formal diplomatic or consular relations with that country since April 1917, and the present Treaty has been negotiated for the purpose of facilitating the resumption of relations on a secure basis, taking into account the changes which have resulted from the events of the past seven years. The Treaty is, in effect, the last of the series of treaties we have negotiated with the Central Powers to regularize the situation resulting from the World War. Under this Treaty we secure substantially all the privileges which the Allies obtained under their peace settlement with Turkey, but without incurring the political obligations relating to the Near East which those Powers have assumed.

We can hardly expect to receive more favorable treatment than the Allied Powers. In fact, I do not believe that it would be conducive to friendly international relations or consistent with our general policy to endeavor to secure a régime of special privileges in Turkey. The Turks have indicated their willingness and desire for friendly relations with the United States. American citizens who have interests in Turkey have very emphatically indicated the importance which they place upon the early ratification of the Treaty. If ratification should be unduly delayed we would have to face the possibility that the Turkish Government would not extend indefinitely to the United States the benefits of the régime which other Powers have

secured by treaty. In fact, two cases have already arisen in which the Turkish authorities have declined to extend to American citizens the privileges secured to nationals of the Allied powers under their treaty settlement with Turkey. I cannot view without very serious concern the situation in which this Government would be placed with respect to the protection of American interests in Turkey in the event that the present anomalous situation should be continued for any great length of time.

I venture to bring this matter to your attention in the hope that you may deem it proper, should the occasion be presented, to emphasize to members of the Senate the importance of early action on the Turkish Treaty.

In the event that you should desire to have available further information on the subject of the Treaty, I enclose with this letter a copy of a communication which I addressed to the late Senator Lodge on May 5, 1924,20 outlining in some detail the negotiation of the Treaty, its provisions, its relation to the Allied settlement, and the importance of favorable action by the Senate.

Faithfully yours,

CHARLES E. HUGHES

711.672/335

The Secretary of Commerce (Hoover) to the Secretary of State 21

Washington, December 29, 1924.

DEAR MR. SECRETARY: I want to call your attention to the importance, from the viewpoint of American commerce, of the prompt ratification of the treaty with Turkey, concluded at Lausanne on August 6, 1923. Whatever differences of opinion there may have been with regard to the desirability of the major changes of a noncommercial character involved in the treaty, it appears that the broad alterations in the political and legal relations and powers of the Turkish Government are now accomplished facts, the original treaty of July 24, 1923, between the Allied Powers and Turkey having been ratified by the governments of the United Kingdom, France, Italy, Japan, Rumania, and Greece, and actually brought into operation.

Since the treaty between Turkey and the United States consists essentially of an exchange of assurances of most-favored-nation treatment, there are involved no specific new obligations upon the United States, but until a treaty with Turkey is ratified by the United States, the benefits of any concessions or privileges established by Turkey in

Ante, p. 715.
 Copy transmitted by the Secretary of State to Senator William E. Borah, Jan. 3, 1925.

favor of any of the treaty countries under the new régime may be denied to the United States and its nationals. In fact, a tariff discrimination has already been established, through an order issued by the Angora Government to its customs officials on October 9, putting into effect as from August 6 the provisions of the Lausanne Commercial Convention granting reduced import duties on certain products from the treaty countries. The benefits of these concessions are not being extended to similar products from the United States.

I inclose copy of a report on the situation received from Trade Commissioner Gillespie at Constantinople,²² and would call your particular attention to the statement that he has investigated and found correct the complaints, brought to his attention by a local merchant who had endeavored to import leather from the United States, that "because the United States has not ratified the treaty negotiated with Turkey at Lausanne on August 23 [6], 1923, the importation of American leather into Turkey at the present time is virtually prohibited, in view of the discriminatory attitude of the Turkish Government." A note of protest against this situation presented to the Turkish Government has thus far received no reply.

The particular difficulty in the case of leather has also been brought to our attention through recent inquiries from several prominent American leather exporters, whether they could possibly obtain a certificate of origin through the Turkish consul at London for transshipment of their merchandise to Turkey. While a certificate of British origin naturally can not be obtained on American goods, the fact that an extreme alternative of this sort is being considered is significant of the difficulty in which that trade finds itself. American exporters of wheat flour and of edible oils, trades formerly of considerable volume, have for some time been complaining of the tariff treatment of their products in Turkey, but I understand that it has not been possible to approach the Turkish Government in these matters until there had been recognition in the form of a treaty.

Should the disposition of this treaty be postponed until the next session of Congress, a year hence, increasing handicaps may be imposed on American commerce with Turkey through the establishment of preferential duties or other privileges, which it would be later more difficult to remove than now to anticipate through a treaty assuring the United States automatically of most-favored-nation treatment.

There is involved in this situation not only the trade with Turkey, but with all the areas surrounding the Black Sea, for one of the important provisions embodied in the original treaty, which is ex-

²² Not printed.

tended freely and without obligation to the United States by our treaty, is the assurance to ships of treaty nations of the freedom of the straits, through which vessels for Black Sea ports must pass. The interests of our shipping as well as our trade, therefore, make desirable the early ratification of the treaty with Turkey in the form essentially as concluded.

Yours faithfully,

HERBERT HOOVER

711.672/337

The Secretary of State to Senator William E. Borah

Washington, January 10, 1925.

MY DEAR SENATOR BORAH: I wish to inform you that I am in receipt of a telegram from the American High Commissioner at Constantinople, dated January 6, 1925,28 in which he informs me that he has had a discussion with the chief representatives of American business and philanthropic organizations in Turkey and that he is in a position to state that they unanimously favor immediate ratification of the Turkish Treaty. Admiral Bristol reports the general consensus of opinion to be:

(1) That with regular relations between the two countries American interests could be more effectively supported;

(2) That present difficulties concerning the transfer of property

would automatically be done away with;

(3) That Article 29 of the Treaty is necessary to protect corporations and individuals from the retroactive application of new

and possibly excessive taxes;
(4) That since many Turkish officials are now proceeding on the assumption that the Treaty will be ratified, a rejection of the Treaty would incur their ill will and expose our institutions to unfavorable

(5) That if the Treaty fails of ratification American nationals will not be in a position of equality with European competitors.

Admiral Bristol reports that this opinion is supported by the President of Robert College, the President of Constantinople Woman's College, the representatives of the American Board of Commissioners for Foreign Missions, as well as by the representatives of prominent American business organizations in Turkey and the Levant Chamber of Commerce.

I am [etc.]

CHARLES E. HUGHES

²³ Not printed.

EFFORTS TO PROTECT AMERICAN INTERESTS IN TURKEY PENDING RATIFICATION OF THE TREATY OF AUGUST 6, 1923

123 B 773/73: Telegram

The High Commissioner in Turkey (Bristol) to the Secretary of State

[Extract-Paraphrase]

Constantinople, April 15, 1924—11 a.m. [Received April 16—9:38 a. m.]

71. Following message received from Admiral Bristol who is in Anatolia:

I visited Angora from April 7 to 13. Representative of Foreign Office met me and, during my entire stay, I was cordially received by Turkish officials. I had a long conference April 6 with Ismet Pasha in which we discussed in a general way American and Turkish interests with respect to business and benevolent institutions. I conferred with the President of the Assembly, Fethi Bey, and attended a session of the Assembly. By appointment I conferred with Ministers of Finance, Interior, Education, and Health. I discussed in these conferences the great necessity of having all present and future issues settled by investigation and on the principle of a square deal from the Government without such arbitrary actions as the closing of institutions thus adversely affecting public opinion in the United States. I believe the relations which I have established will in the future facilitate the protection of American interests.

For Bristol:

SCOTTEN

711.672/280a: Telegram

The Secretary of State to the High Commissioner in Turkey (Bristol)

[Paraphrase]

Washington, April 21, 1924-4 p. m.

- 69. For the High Commissioner: It is the Department's wish that as soon as you return to Constantinople you telegraph a summary of your observations and conclusions regarding the following subjects:
- 1. The attitude toward American interests shown by the Turkish authorities.

2. Stability of existing government and its ability and willingness to fulfill international obligations.

3. The attitude which the Turkish authorities show toward the treaty with America and the likelihood that it will be ratified by Turkey at an early date.

The Department is considering submitting this treaty to the Senate soon and wishes your report so that before doing so it may have the benefit of the observations which you made on your trip. You should

stress, of course, besides the above points anything else which you believe should be considered by the Department in connection with the treaty.

The Department does not desire you at present, with reference to point 3, to do anything which might be interpreted as urging ratification by the Turks. When the situation has clarified here you will be given further instructions on this point. However, you should report, with reference to your telegram no. 71 of April 15, 11 a. m., any information you receive as to time when Angora Assembly will probably adjourn.

Telegraph Department if Bristol has been delayed in returning to Constantinople.

HUGHES

711.672/283 : Telegram

The High Commissioner in Turkey (Bristol) to the Secretary of State

[Paraphrase]

Constantinople, April 27, 1924—noon. [Received 10:45 p. m.]

81. Your 69 of April 21, 4 p. m.

- 1. Friendly attitude toward American interests was expressed by Turkish representative[s?] with whom I conferred at Angora. However, the medical department of Constantinople College was closed within a week of my conversations with the Minister of Public Instruction and with Ismet. [Garbled sentence omitted.] Marash school has been refused permission to reopen. The Standard Oil Company has encountered a series of obstacles. Difficulties have arisen concerning the military transport tax. A resentment has been produced among Americans, and even more markedly among other foreigners, by the accumulation of such acts . . . However, Turkish legislation has not become harmful to American interests. Also due consideration should be given to the fact that certain outstanding issues have recently been settled.
- 2. I believe the Turkish Government is stable and can fulfill its international obligations.
- 3. I see no reason to think Turkey will not ratify treaties as soon as the United States has done so. No action can be taken for 6 months, however, as Assembly has recessed for that length of time.
- 4. British representative has informed me that the royal signature of the treaty with Great Britain is being delayed. The Department might learn the details through British Embassy in Washington or through our Embassy in London.
- 5. I strongly favor submission of our treaties to the Senate at the earliest really opportune moment and their ratification as soon as

possible. I hope to be able to adjust the various matters referred to in my paragraph 1, especially as Angora Ministers can give more time to such questions now that the Assembly has recessed. I leave it to the judgment of the Department whether the wiser course is to submit the treaties to the Senate now with existing issues still unadjusted, or delay until an effort to settle these issues has resulted one way or the other. Due consideration should be given in this connection to the possibility that new incidents or difficulties may arise.

Bristol

711.672/285: Telegram

The High Commissioner in Turkey (Bristol) to the Secretary of State

[Paraphrase]

Constantinople, May 6, 1924—10 a.m.

[Received 8:30 p. m.]

92. My 81 of April 27, noon, which I assume Department has received, answers your paragraph 1. With reference to your paragraph 2, my feeling is that should the Senate ratify the treaty soon the effect would be to give some added weight, at least, to representations by me concerning treaty rights of Americans. I do not, however, believe that the assistance which might be given this mission, pending ratification by the Turkish Government, by such early ratification on our part, is important enough to lead the Department to send the treaty to the Senate before the Department considers such action to be opportune, in view of the political situation in the United States. In my opinion it is doubtful whether the rise of new incidents, such as those discussed in my telegram no. 81 of April 27, noon, will be at all affected by the ratification of our treaty. If the Senate, however, should ratify the treaty before [adjournment?], I think prompt ratification by the Turkish Assembly would be thus insured when it meets again on November 22, and, in this way, the delay which would result if the treaty were not ratified by the Senate before the opening of the next session in December would be obviated.

Pending the ratification of the treaty there is no plan which I can suggest to protect American interests other than the essentially opportunist and defensive policy being now pursued. However, I urge that the recommendation in my telegram 88 of April 30, 2 p. m.,²⁴ be accepted by the Department and that the Department aid the Turkish Government in securing American advisers.²⁵ . . .

BRISTOL

²⁴ Not printed.

²⁵The Department suggested Sidney de la Rue, formerly General Receiver of Customs and Financial Adviser of the Liberian Republic, for the position of customs adviser to the Turkish Government, and, in Sept. 1924, De la Rue visited Turkey in that capacity.

711.672/308: Telegram

The High Commissioner in Turkey (Bristol) to the Secretary of State

[Paraphrase]

Constantinople, July 9, 1924—3 p. m. [Received July 12—6:40 p. m.]

- 148. My telegram 81 of April 27, noon, paragraph 1. None of questions mentioned have been settled. Indeed the situation has become worse, as will be shown by following brief summaries of matters immediately pending.
- 1. Case of George W. McCarthy.²⁶ I communicated to the Turkish Government substance of the note proposed in your telegram 111, June 17, 3 [6] p. m.²⁷ I am informed now that as the views of the Foreign Office in regard to according diplomatic immunity to McCarthy are not shared by the Minister of Justice, the Turkish Government cannot act in accordance with the assurances which were given previously to [by?] the Under Secretary.
- 3. On June 26 Barnes ²⁸ was informed by the Minister of National Defense that Adamopoulos ²⁹ would be freed within a week and that orders had been sent to Smyrna for his release under general amnesty. Bird ³⁰ reported on July 7 that corps commander had received no such orders.
- 4. Report from head of Tarsus school says that orders prohibiting reopening of school have just come from Angora.

I have instructed Barnes to make categorical protests on the first two points. To date repeated representations on the last two points have had no results.

I request in view of this accumulation of serious difficulties that the Department authorize me to go to Angora and confer with Ismet Pasha, if that is necessary. At the same time I would like instructions as to just how far I can go in informing Ismet of the consequences which will result from the unfriendly attitude which appar-

²⁸ Maynard B. Barnes, delegate at Angora of the American High Commission at Constantinople.

²⁰ Adam Adamopoulos, a naturalized American citizen born in Greece, who had been residing in Smyrna, was arrested by the Turkish authorities on charges of high treason and other crimes allegedly committed during the Greek occupation of Smyrna. The treason charge was dropped and Adamopoulos was acquitted on other charges and released Aug. 18, 1924, after being held in jail for more than six months.

⁴⁰ Frederick O. Bird, vice consul at Smyrna.

²⁶ A petty officer in the U. S. Navy on duty with the High Commission at Constantinople. On May 22, 1924, while on guard, he discharged his pistol, fatally wounding a Turk. The Navy board of inquiry found the shooting to be accidental. McCarthy was arrested by the Turkish authorities on a charge of murder and held in jail for about three weeks, after which he was released on bail. The United States claimed diplomatic immunity for McCarthy and demanded that the charge be withdrawn. This was refused. McCarthy forfeited bail and left Turkey without awaiting trial.

ently the Turkish Government is intent upon taking. It is my belief that it would not be of value to me to receive detailed or mandatory instructions, but I should wish to be able, if I find Ismet indifferent or hostile, to state with authority the extent to which the American Government would be prepared to go, in addition to remonstrating and placing diplomatic protests on record.

In my opinion the situation is graver than it has been at any time during my service as High Commissioner. I suggest possibility of conferring in London with you to give you complete information but do not wish this proposal to delay your immediate instructions.

BRISTOL

711.672/308: Telegram

The Acting Secretary of State to the High Commissioner in Turkey (Bristol)

[Paraphrase]

Washington, July 17, 1924-6 p. m.

130. Your telegram no. 148 of July 9, 3 p. m. You are authorized in your discretion to visit Angora for the purposes outlined in your telegram under reference.

The representations to be made are left largely to your discretion but the views of the Department on some of the points at issue will be indicated by the following:

- 1. The Department in earlier telegrams has already given its views on such questions as the Adamopoulos and McCarthy cases, the closing of the school at Tarsus, and the issues presented in your telegram no. 81 of April 27. Besides what has been said already on these points, you may suggest to Ismet that the influence upon the relations of the United States and Turkey of the accumulation of unsettled issues of this kind cannot fail to be unfortunate and that the way seems open to settle these issues promptly to the mutual satisfaction of the two countries.
- 2. . . . 3. You may tell Ismet that you will soon take leave of absence and that if when you return you find the same unsatisfactory situation, your Government would not consider itself justified in retaining in Turkey a person of your rank and importance to this Government in other branches of its service. Reluctant as it would be to take such a course, this Government might find it necessary to have a subordinate official temporarily as its representative in Turkey.
- 4. In your discretion you may add a personal message from me to Ismet. You may state that it is a matter of personal regret after our association at Lausanne for me to see the unsatisfactory turn which events have taken in Turkey, that pending issues are being followed most closely, and that the attitude of the Turkish Government is making it most difficult to assist in placing our mutual relations on a satisfactory basis although we would welcome any opportunity to do so.

The instructions given above are not mandatory but are to be used in your discretion. In applying them you may be guided by the status when you meet Ismet of the various points at issue which

you have outlined in your telegram.

This telegram and your 148 of July 9 are being repeated to London for the information of Secretary Hughes. Considering the short time he will be abroad it is probable that arrangements cannot be made for you to meet him but further instructions will be sent should such a meeting prove possible. It seems important that there should be no undue delay in your visit to Angora. You may, therefore, go at any time after July 24. This will give the Department ample time to give you further instructions before you start if Secretary Hughes should send any telegram from London making this desirable.

Grew

711.672/311: Telegram

The High Commissioner in Turkey (Bristol) to the Secretary of State

[Paraphrase]

Constantinople, August 9, 1924—3 p. m. [Received 6:18 p. m.]

166. On August 7 I had a conference with Ismet lasting 5 hours and 45 minutes. I took up cases of Adamopoulos, Fisher, 31 and Mc-Carthy, and also the closing of Marash, Mersina and Tarsus schools. At the end of conference I handed Ismet memoranda of the most important cases pending and also the following aide-mémoire: 32

Admiral Bristol has sought a personal interview with His Excellency Ismet Pasha, for the purpose of pointing out that his Government considers that the relations between the United States and Turkey have reached so unsatisfactory a state as to arouse serious anxiety

as to the future.

A number of important matters affecting American interests, notably the Adamopoulos and McCarthy cases and the closing of the American schools at Marash and Tarsus, have been repeatedly brought to the attention of the Turkish Government. Throughout the representations which have been made the utmost patience and forbearance have been shown but on none of the matters in question have results been secured. The general situation as a whole, therefore, has steadily grown worse and Admiral Bristol has felt bound so to inform his Government. He is now in possession of instructions adapted to whatever developments the situation may take in

³¹ Edgar J. Fisher, professor at Robert College. The Turkish Director of Public Education had demanded his dismissal, under threat of closing the college, the reason given being alleged remarks made by him during a lecture on board a tourist ship. On representations by the High Commissioner and by the college authorities, Professor Fisher was reinstated in October 1924.

** Aide-mémoire not paraphrased.

the more immediate future. Admiral Bristol, however, is confident that the personal intervention of His Excellency Ismet Pasha will insure a prompt adjustment of the settlement of matters at present at issue between the United States and Turkey and that there will therefore be no need for taking measures other than an appeal to His Excellency Ismet Pasha's sense of justice and to the watchful regard for Turkey's international interests of which he has given proof on so many occasions. Admiral Bristol has been granted a month's leave of absence by his Government, of which he proposes to avail himself immediately. He feels certain that upon his return he will have abundant proof that the confidence which he has reposed in His Excellency Ismet Pasha has not been misplaced and that the results hoped for will have been achieved.

Although the results of my conference with Ismet are not immediately apparent I hope that he has been led to see how serious is the present situation and that favorable action may be secured within the next few weeks by his personal intervention. I am leaving the office of delegate at Angora vacant for a short time to emphasize the idea that the period when I will be on leave from Constantinople is a period of probation during which we expect results.

On August 12 I will leave Constantinople for Venice.

I will mail full report of my conference.

BRISTOL

365.115 D 58/78: Telegram

The High Commissioner in Turkey (Bristol) to the Secretary of State

[Paraphrase]

Constantinople, October 2, 1924—1 p. m.

[Received 8:05 p. m.]

194. Have received note dated September 28 from Turkish Foreign Office which is substantially as follows:

As the treaty between the United States and Turkey signed at Lausanne has not as yet gone into effect and as it has not yet been decided to apply certain provisions before the treaty takes effect, authority shall not be given American citizens to purchase ³³ real property. Pending the taking effect of said treaty they may, however, mortgage or transfer property which they already own either to Turkish citizens or to foreign nationals who have the right to own property in Turkey.

I believe the Department should authorize me to answer the note outlined above by referring to the protocol of 1874 34 and reserving the rights of citizens of the United States under that protocol to hold property. The Turkish Government made clear at Lausanne

 $^{^{33}}$ In telegram 215, Oct. 31, 1924, the High Commissioner stated that the French word in the note was "acquérir" (file no. 365.115 D 58/80). 24 Malloy, Treaties, 1776–1909, vol. 11, p. 1344.

its position with respect to the abrogation of all previous treaties but I think it unwise to acquiesce in the Foreign Office note of September 28, tacitly or otherwise.

Of course I will continue my efforts to have the Turkish Government reverse its decision in the matter.

BRISTOL

711.67/51: Telegram

The High Commissioner in Turkey (Bristol) to the Secretary of State

[Paraphrase]

Constantinople, October 7, 1924—10 a.m.

[Received 5:40 p. m.]

196. Having returned from leave I submit the following estimation of the situation and recommendations as to policy:

- 1. I give the present status of the more important questions pending, most of which I discussed on August 7 in my conference with Ismet, as follows: (a) the Adamopoulos and Fisher cases have been settled and the McCarthy case has been arranged; (b) there has been no change in the situation regarding the schools at Marash, Mersine, and Tarsus; (c) see my telegram 194 of October 2, 1 p. m., regarding transfers of property.
- 2. The representations which I made to Ismet nearly two months ago have been only partially successful, therefore, as far as tangible results go. There are two possible policies which we can follow: A. Take issue with the Turks on any or all of the unsettled questions mentioned above, my recall being used as an extra sanction. B. Act on the theory that the Turkish Government with its nationalistic temper will not be affected by the taking of drastic measures, avoid giving offense, and continue policy of patience and plain speaking.
- 3. There is little to be said at present for policy A except that judged by the standards of normal diplomatic practice or by the irritation and impatience which at times, with feelings as they are now, it is difficult to avoid, such a course is always obvious and tempting.

With respect to policy B there are three points which should be stressed: (a) Other foreign governments having interests in Turkey more extensive than our own are renewing diplomatic relations and are taking care to avoid issues even in the face of greater difficulties than we face. In view of this, for us to follow a directly opposite policy would be anomalous at least. (b) It is impossible to know at all accurately the character and importance of the opposition until the Assembly reconvenes on October 23. It would be a serious matter to embark upon anything like policy A in the absence of this information. . . .

5. I strongly recommend for the present that we follow policy B. I would like as soon as possible to receive the comments and instructions of the Department.

BRISTOL

711.67/51: Telegram

The Acting Secretary of State to the High Commissioner in Turkey (Bristol)

[Paraphrase]

Washington, October 10, 1924—6 p. m.

174. Your telegram 196 of October 7, 10 a. m. The recommendations in your telegram in general meet the views of the Department, which is led by the satisfactory settlement of the Fisher incident to hope that other outstanding questions may be solved by patient but persistent endeavor.

For the moment, certainly, pending the next meeting of the Turkish Assembly and until the situation in this country with respect to our Lausanne Treaty can be more accurately gauged by the Department, it would serve no useful purpose to make an immediate issue of the pending questions named by you. All of these questions the Department believes are susceptible of adjustment.

GREW

365.115 D 58/79 : Telegram

The Acting Secretary of State to the High Commissioner in Turkey (Bristol)

[Paraphrase]

Washington, October 27, 1924-6 p.m.

182.

(2) Please instruct delegate at Angora to take up orally with appropriate Turkish officials question of transfer of real property. The delegate should state that our Government is loath to believe that, at a time when neither Turkey nor the United States has ratified the treaty signed at Lausanne, the Turkish Government will desire by an arbitrary decision to raise openly an issue as to American rights in this matter which existing agreements between Turkey and the United States clearly define. The delegate may add that Turkish nationals are freely given the right to acquire and own real property in the United States, despite the breaking of diplomatic relations, to the extent that other friendly aliens enjoy this right and that the American Government has observed with concern that Tur-

key has continued restrictions against citizens of this country, which the state of relations between the two countries at no time justified and which Turkey has now withdrawn as applied to nationals of states with which Turkey has recently been at war. Under these circumstances it would obviously be a discrimination against citizens of the United States to continue these restrictions.

GREW

365.115 D **58/81** : Telegram

The High Commissioner in Turkey (Bristol) to the Secretary of State

Constantinople, November 3, 1924—noon.

[Received 8 p. m.]

218. Department's 182, October 27, 6 p. m. Delegate at Angora on November 2nd made representations as instructed in above-mentioned telegram and reports as follows:

"November 2, 3 p. m. Discussed at length this morning with Tewfik Kiamil Bey ³⁵ property transfer question, using arguments outlined in High Commission's 86, October 30, 3 p. m. He stated the Turkish Government considers protocol of 1874 ³⁶ and Ottoman law of 1873 [1867?] ³⁷ as null and void and right to acquire real property therefore non-existent until coming into effect of Turkish-American treaty. I replied that my Government did not accept this point of view and I urged him to examine the question in a practical way with a view to avoiding an issue. He undertook to do this but he holds out little if any hope of satisfactory adjustment."

BRISTOL

ASSURANCES TO GREAT BRITAIN THAT THE AMERICAN GOVERN-MENT WOULD DISCOUNTENANCE THE SHIPMENT OF ARMS TO TURKEY

867.113/30

The British Chargé (Chilton) to the Secretary of State

No. 965

Washington, November 13, 1923.

Sir: I have the honour to inform you, under instructions from His Majesty's Principal Secretary of State for Foreign Affairs, that since peace between Turkey and Greece was concluded by the signature of the Treaty of Lausanne, His Majesty's Government have been in receipt of applications for licences to export to Turkey arms and war material generally, and for support in obtaining concessions from

³⁶ Malloy, *Treaties*, 1776–1909, vol. 11, p. 1344.

37 Ibid., p. 1346.

E Turkish Under Secretary of State for Foreign Affairs.

¹⁰⁸⁸⁴⁻Vol. II-39-53

the Turkish Government for the erection in Turkey of plant for the manufacture of munitions.

As you are aware, the whole of Turkey, except European Turkey, lies within the prohibited zone as defined in Article 6 of the Arms Traffic Convention of September 10th, 1919.³⁸ It was so included because it was generally agreed that if Turkey could become an arms exporting state, such arms would inevitably reach areas from which the Arms Traffic Convention was specially designed to exclude them. Though the Convention has not been ratified, it is, as you are aware, in force, so far as the prohibited zone is concerned, by informal agreement between His Majesty's Government and the Governments of France, Italy, Belgium and Japan, all of which are interested in areas where the importation of arms would be bound to prove a source of uneasiness. I am therefore to inform you that it is the present policy of His Majesty's Government to refuse applications for the export of arms to the region of the former Ottoman Empire.

His Majesty's Government are of opinion that the co-operation of the French, Italian, Japanese and Belgian Governments in loyally observing by an informal agreement the spirit of the Arms Traffic Convention in so far as it affects Turkey, would lead to no useful result should the Government of the United States feel themselves free to export arms to Turkey or to encourage United States citizens to seek for concessions for their manufacture in that country.

It will be remembered that in May, 1922, when the Government of British Honduras wished to dispose of certain arms to one or other of the Central American Governments, permission to do so was withheld out of deference to the wishes of the United States Government, and in the note which you were so good as to address to Sir Auckland Geddes on June 22nd, 1922, you informed His Excellency that it was the view of the Government of the United States that the sale of arms to a country where political conditions were known to be unstable, might create embarrassment to foreign governments whose nationals have property interests in the countries concerned and might indeed prove a factor in making the political situation still more unstable. It is the policy, therefore, of His Majesty's Government to refuse licences for the export of military arms to the Central American Republics.

I am instructed to point out that the situation at present existing in Turkey and the adjacent countries is, in many respects, similar to that in Central America, and the arms traffic in such areas is, in the opinion of His Majesty's Government, no less immoral and destructive of life than the opium traffic elsewhere. His Majesty's Government, therefore, feel justified in hoping that the United States Government,

80 Not printed.

³⁸ Foreign Relations, 1920, vol. I, p. 180.

ernment will do what may be in their power to prevent arms reaching or being manufactured in Turkey through the action of United States citizens, both on grounds of reciprocity, and in pursuance of their declared policy, as set forth in the statement issued to the press by the Department of State on September 27th last, 40 in making public the text of a communication to the League of Nations 41 with regard to the Arms Traffic Convention, not to allow arms to be exported to areas where disturbed conditions exist.

I should be glad to receive in due course an expression of the views of the United States Government in regard to this matter for communication to His Majesty's Principal Secretary of State for Foreign Affairs.

I have [etc.]

H. G. CHILTON

867.113/30

The Secretary of State to the British Chargé (Chilton)

Washington, December 6, 1923.

Sir: I beg to acknowledge the receipt of your note of November 13, 1923, informing me that since the conclusion of peace between Turkey and Greece by the signature of the Treaty of Lausanne, the British Government has been in receipt of applications for licenses to export to Turkey arms and war material generally, and for support in obtaining concessions from the Turkish Government for the erection in Turkey of a plant for the manufacture of munitions. You point out that the whole of Turkey, except European Turkey, lies within the prohibited zone as defined in Article 6 of the Arms Traffic Convention of September 10, 1919, which, although not ratified, you state to be in force, so far as this zone is concerned, by informal agreement between the British, French, Italian, Japanese and Belgian Governments. You indicate the opinion of the British Government that this agreement, in so far as it affects Turkey, would lead to no useful result should the Government of the United States feel itself free to export arms to Turkey or to encourage United States citizens to seek for concessions for their manufacture in that country. You state that the British Government feels justified in hoping that the Government of the United States will do what may be in its power to prevent arms reaching Turkey or being manufactured in Turkey through the action of United States citizens, both on grounds of reciprocity and in pursuance of its policy as set forth in a statement issued to the press on September 27, 1923. In con-

p. 38.

⁴⁰ See telegram no. 61, Sept. 27, 1923, to the Minister in Switzerland, Foreign Relations, 1923, vol. 1, p. 42.

See telegram no. 53, Sept. 12, 1923, to the Minister in Switzerland, ibid.,

clusion you request an expression of the views of the Government of the United States for communication to your Government.

With regard to the informal agreement between the British, French, Italian, Japanese and Belgian Governments, to which you refer, it is not entirely clear to what extent such an agreement would be effective in preventing arms from reaching Asiatic Turkey as long as European Turkey is not included within its scope. Further, I should be glad to be informed whether in the view of His Britannic Majesty's Government this informal agreement has been effective in preventing the shipment of arms to Turkey on the part of the nationals of the governments which you indicate have cooperated in its observance.

However, in view of the policy which was outlined in the statement of September 27, 1923, to which you refer, this Government under existing conditions will decline to sell government war supplies of the character of instruments of destruction to countries in the troubled areas of the Near East, and it will not extend support to its nationals in any effort to promote the manufacture in Turkey or the shipment and sale to Turkey of such supplies. Further, under present conditions this Government would not favor the flotation of a foreign loan in this country of which the proceeds would be utilized for armament.

I may add that I am not informed that United States nationals have been engaged to any appreciable extent in the traffic in arms with Turkey.

Accept [etc.]

CHARLES E. HUGHES

867.113/33

The British Ambassador (Howard) to the Secretary of State

No. 314

Washington, April 5, 1924.

Sir: With reference to Mr. Chilton's note No. 1052 of December 10th last,⁴² regarding the prohibition of the export of arms and munitions to Turkey, I have the honour, under instructions from my Government, to inform you that, notwithstanding their efforts to obtain an agreement on this subject, they have not secured unanimity among the various governments concerned. His Majesty's Government have therefore been reluctantly obliged to postpone any further attempt to secure the provisional application to Turkey of the arrangements contemplated in Article 6 of the Arms Traffic Convention of September 1919. In these circumstances my Government propose to remove the embargo on the export of arms and munitions from Great Britain to Turkey which has hitherto been enforced.

² Not printed.

Similar communications are being made by His Britannic Majesty's Representatives at Tokio, Brussels, Paris, Rome and Prague to the Governments to which they are accredited.

I have [etc.]

ESME HOWARD

867.113/33

The Secretary of State to the Ambassador in Great Britain (Kellogg)

No. 155

Washington, April 15, 1924.

Sir: With reference to the Department's instruction No. 1053 of December 10, 1923,⁴³ there is enclosed, for your confidential information, a copy of a note from the British Embassy dated April 5, 1924 ⁴⁴ with reference to the removal by the British Government of the embargo on the export of arms and munitions from Great Britain to Turkey. The Department has acknowledged the receipt of this note without comment.

The Department perceives no reason for altering at the present time the policy set forth in its note of December 6, 1923 to the British Embassy, a copy of which was enclosed with the instruction referred to above.

I am [etc.]

CHARLES E. HUGHES

APPOINTMENT OF AN AMERICAN REPRESENTATIVE TO PARTICIPATE IN A CONSULTATIVE CAPACITY IN THE WORK OF THE SANITARY COMMISSION FOR TURKEY

867.12/26

The British Ambassador (Howard) to the Secretary of State 45

No. 636

Manchester, Mass., July 21, 1924.

[Received July 22.]

SIR: Under instructions from my Government, I have the honour to call your attention to the provisions of Article 116 of the Treaty of Peace signed between Turkey and the Allied Powers on July 24, 1923 at Lausanne which reads as follows:⁴⁶

"All questions relating to . . . the final liquidation of the former sanitary administration, as well as all other similar or cognate questions, shall be regulated by a commission ad hoc which shall be composed of a representative of each of the Powers represented on the Superior Council of Health of Constantinople, except Germany, Austria and Hungary."

⁴⁸ Not printed.

⁴ Supra.

⁴⁶ Identic notes were received from the French and Italian Charges.

⁴⁶ For full text of art. 116, see League of Nations Treaty Series, vol. xxvin, p. 97.

In the opinion of His Majesty's Government it is most desirable for practical reasons that this commission should meet as soon as possible after the coming into force of the treaty—an event which may now be expected shortly.

In these circumstances and in concert with my French and Italian Colleagues I have the honour to invite the United States Government to appoint a delegate to represent them on this Commission at an early date.

I have [etc.]

ESME HOWARD

867.12/30

The Secretary of State to the British Ambassador (Howard) 47

Washington, August 29, 1924.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of July 21, 1924, in which, acting in behalf of the Government of His Britannic Majesty and in concert with your French and Italian colleagues, you invited the Government of the United States to appoint a delegate to represent it on the Commission to be established, under Article 116 of the Treaty of Peace signed at Lausanne on July 24, 1923, between Turkey and the Allied Powers, for the settlement of questions incident to the liquidation of the former sanitary administration in Turkey.

I desire to express to you my appreciation of your courtesy in inviting the Government of the United States to designate a member of the Commission to which you refer. Having regard to the circumstances of the former participation of the United States with other Powers in the regulation of sanitary affairs in the Ottoman Empire, this Government would naturally desire to observe the work of the Commission and to have such voice in its decisions as American interests may seem to require. It is noted, however, that under the Treaty Article mentioned above the final authority on the questions presented to the Commission is to be the Council of the League of Nations, a body on which the United States is not represented. Such being the case, this Government could not appropriately designate a member of the Commission with authority to participate in its decisions. I shall be pleased, however, if such a course is agreeable to the Governments concerned, to designate a representative to sit with the Commission in a consultative capacity and should occasion arise to enter appropriate reservations regarding any American interests that may be disclosed.

Accept [etc.]

CHARLES E. HUGHES

[&]quot;The same, mutatis mutandis, to the French and Italian Chargés.

867.12/41

The British Ambassador (Howard) to the Secretary of State 48

No. 891

Washington, October 2, 1924.

Sir: I have the honour to refer to the note which you were so good as to address to me on August 29th last in regard to the possible appointment of an American delegate to the Commission to be set up under Article 116 of the Lausanne Treaty for the liquidation of the former sanitary administration in Turkey, and to inform you, under instructions from Mr. Secretary MacDonald, that His Majesty's Government would welcome the appointment of a representative of the United States Government to participate in the Commission in a consultative capacity, as suggested in the last paragraph of your note under reference.

I understand that my French and Italian colleagues are also communicating with you in regard to this question and are informing you that their Governments share the desire of His Majesty's Government for the appointment of the American delegate above referred to.

I have [etc.]

ESME HOWARD

867.12/45: Telegram

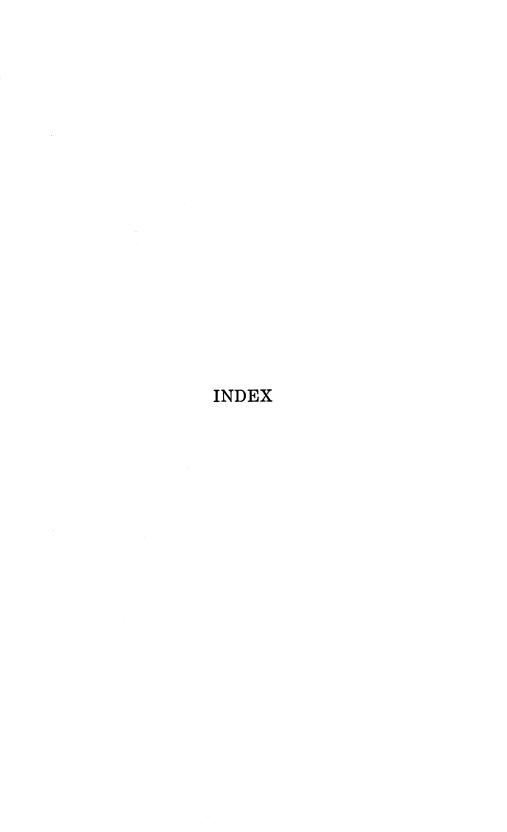
The Acting Secretary of State to the Consul General at Constantinople (Ravndal)

Washington, October 23, 1924-5 p. m.

Surgeon W. W. King of the United States Public Health Service, now at Paris, has been designated to participate in a consultative capacity in the meeting of the proposed Sanitary Commission which the Department understands will take place shortly at Constantinople. The Department desires that you should cooperate with Dr. King in his work with the Commission. The Department has been in correspondence with the High Commission on this subject and it is suggested that you confer with the latter. In the event that any questions should arise which might require this Government's consideration, they should be referred to the Department through the High Commission.

GREW

⁴⁸ Similar notes of the same date were received from the French and Italian Chargés.



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